

LEGISLATURE OF NEBRASKA
ONE HUNDRED SEVENTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 600

Introduced by Brandt, 32.

Read first time January 20, 2021

Committee: Transportation and Telecommunications

1 A BILL FOR AN ACT relating to broadband; to amend sections 18-2603,
2 18-2609, 70-625.01, 70-701, and 70-704, Reissue Revised Statutes of
3 Nebraska, and section 70-625, Revised Statutes Cumulative
4 Supplement, 2020; to redefine terms and change a bond issuance
5 provision under the Municipal Infrastructure Redevelopment Act; to
6 change powers of public power districts and electric cooperatives as
7 prescribed; to define terms; to state legislative findings and
8 declarations; to harmonize provisions; and to repeal the original
9 sections.

10 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 18-2603, Reissue Revised Statutes of Nebraska, is
2 amended to read:

3 18-2603 For purposes of the Municipal Infrastructure Redevelopment
4 Fund Act:

5 (1) Bond means any evidence of indebtedness, including, but not
6 limited to, bonds, notes including notes issued pending long-term
7 financing arrangements, warrants, debentures, obligations under a loan
8 agreement or a lease-purchase agreement, or any similar instrument or
9 obligation;

10 (2) Fund means the Municipal Infrastructure Redevelopment Fund;

11 (3) Infrastructure project means any of the following projects, or
12 any combination thereof, to be owned or operated by a municipality: (a)
13 Solid waste management facilities; (b) wastewater, storm water, and water
14 treatment works and systems, water distribution facilities, and water
15 resources projects, including, but not limited to, pumping stations,
16 transmission lines, and mains and their appurtenances; (c) hazardous
17 waste disposal systems; (d) resource recovery systems; (e) airports; (f)
18 port facilities; (g) buildings and capital equipment used in the
19 operations and activities of municipal government and to provide services
20 to the residents of the municipality; (h) broadband facilities and
21 infrastructure to support economic development and job creation projects
22 in rural areas; (i) convention and tourism facilities; (j) redevelopment
23 projects as defined in section 18-2103; and (k) mass transit and other
24 transportation systems, including parking facilities and excluding public
25 highways and bridges and municipal roads, streets, and bridges. For
26 purposes of subdivision (3)(h) of this section, broadband means advanced
27 telecommunications capability service as defined in section 86-103.01;

28 (4) Municipal allocation amount means, for each municipality, the
29 amount derived by multiplying the amount to be allocated by the fraction
30 determined by dividing the total population of the municipality by the
31 total population of the state living in municipalities, each as

1 determined by the most recent federal census figures certified by the Tax
2 Commissioner as provided in section 77-3,119; and

3 (5) Municipality means any city of the primary class, except that
4 for purposes of subdivision (3)(h) of this section, municipality means
5 any city of the first class, city of the second class, and village.

6 Sec. 2. Section 18-2609, Reissue Revised Statutes of Nebraska, is
7 amended to read:

8 18-2609 Any municipality may by ordinance issue bonds in one or more
9 series for the construction or acquisition of an infrastructure project
10 or any portion thereof and pay the principal of and interest on any such
11 bonds by pledging funds received from the fund. Such bonds shall have a
12 final maturity not later than thirty years after the date of issuance
13 ~~August 1, 2009~~, and the aggregate debt service payments and related
14 expenses with respect to all series of such bonds for any twelve-month
15 period during which such bonds are outstanding shall not exceed the
16 anticipated receipts from the fund by such municipality. For purposes of
17 this section, anticipated receipts means the amount received by the
18 municipality from the fund for the twelve-month period immediately
19 preceding the date of issuance of such bonds.

20 Any municipality which has or may issue bonds under this section may
21 dedicate a portion of its property tax levy authority as provided in
22 section 77-3442 to meet debt service obligations under the bonds, but
23 only to the extent the receipts from the fund pledged to the payment of
24 such bonds and any other money made available and used for that purpose
25 are insufficient to pay the principal of and interest on such bonds as
26 they mature.

27 Sec. 3. Section 70-625, Revised Statutes Cumulative Supplement,
28 2020, is amended to read:

29 70-625 (1) Subject to the limitations of the petition for its
30 creation and all amendments to such petition, a public power district has
31 all the usual powers of a corporation for public purposes and may

1 purchase, hold, sell, and lease personal property and real property
2 reasonably necessary for the conduct of its business. No district may
3 sell household appliances at retail if the retail price of any such
4 appliance exceeds fifty dollars, except that newly developed electrical
5 appliances may be merchandised and sold during the period of time in
6 which any such appliances are being introduced to the public. New models
7 of existing appliances shall not be deemed to be newly developed
8 appliances. An electrical appliance shall be considered to be in such
9 introductory period of time until the particular type of appliance is
10 used by twenty-five percent of all the electrical customers served by
11 such district, but such period shall in no event exceed five years from
12 the date of introduction by the manufacturer of the new appliance to the
13 local market.

14 (2) In addition to its powers authorized by Chapter 70 and specified
15 in its petition for creation, as amended, a public power district may
16 sell, lease, and service satellite television signal descrambling or
17 decoding devices, satellite television programming, and equipment and
18 services associated with such devices and programming, except that this
19 section does not authorize public power districts (a) to provide signal
20 descrambling or decoding devices or satellite programming to any location
21 (i) being furnished such devices or programming on April 24, 1987, or
22 (ii) where community antenna television service is available from any
23 person, firm, or corporation holding a franchise pursuant to sections
24 18-2201 to 18-2206 or a permit pursuant to sections 23-383 to 23-388 on
25 April 24, 1987, or (b) to sell, service, or lease C-band satellite dish
26 systems or repair parts.

27 (3) In addition to the powers authorized by Chapter 70 and specified
28 in its petition for creation as amended, the board of directors of a
29 public power district may apply for and use funds available from the
30 United States Department of Agriculture or other federal agencies for
31 grants or loans to promote economic development and job creation projects

1 in rural areas as permitted under the rules and regulations of the
2 federal agency from which the funds are received, including, but not
3 limited to, the development of broadband facilities and infrastructure.

4 Any loan to be made by a district shall only be made in participation
5 with a bank pursuant to a contract. The district and the participating
6 bank shall determine the terms and conditions of the contract. In
7 addition, in rural areas of the district, the board of directors of such
8 district may provide technical or management assistance to prospective,
9 new, or expanding businesses, including home-based businesses, provide
10 assistance to a local or regional industrial or economic development
11 corporation or foundation located within or contiguous to the district's
12 service area, and provide youth and adult community leadership training.

13 (4) In addition to the powers authorized by Chapter 70 and specified
14 in its petition for creation as amended, a public power district may sell
15 or lease its dark fiber as permitted by law and except as provided in
16 section 86-595, own, construct, operate or contract to operate, or lease
17 broadband facilities and infrastructure to promote economic development
18 and job creation projects in rural areas pursuant to sections 86-574 to
19 86-578.

20 (5) In addition to the powers authorized by Chapter 70 and specified
21 in its petition for creation as amended, a public power district may
22 develop, manufacture, use, purchase, or sell at wholesale advanced
23 biofuels and biofuel byproducts and other fuels and fuel byproducts so
24 long as the development, manufacture, use, purchase, or sale of such
25 biofuels and biofuel byproducts and other fuels and fuel byproducts is
26 done to help offset greenhouse gas emissions.

27 (6) Notwithstanding any law, ordinance, resolution, or regulation of
28 any political subdivision to the contrary, each public power district may
29 receive funds and extend loans pursuant to the Nebraska Investment
30 Finance Authority Act or pursuant to this section. In addition to the
31 powers authorized by Chapter 70 and specified in its petition for

1 creation, as amended, and without the need for further amendment thereto,
2 a public power district may own and operate, contract to operate, or
3 lease energy equipment and provide billing, meter reading, surveys, or
4 evaluations and other administrative services, but not to include natural
5 gas services, of public utility systems within a district's service
6 territory.

7 (7) For purposes of this section, broadband means advanced
8 telecommunications capability service as defined in section 86-103.01.

9 Sec. 4. Section 70-625.01, Reissue Revised Statutes of Nebraska, is
10 amended to read:

11 70-625.01 The Legislature finds and declares that:

12 (1) There are rural areas in the state which are experiencing
13 declines in economic activity and the outmigration of rural residents
14 which is eroding the tax base of those rural areas and undermining the
15 ability of the state and local governments to provide essential public
16 services;

17 (2) Rural economic development efforts can increase the productivity
18 of economic resources, create and enhance employment opportunities,
19 increase the level of income and quality of life for rural residents,
20 assist in slowing or reversing the outmigration of rural residents, and
21 help maintain essential public services to the advantage not only of
22 those rural areas but also of the state as a whole and the electric
23 utilities serving those rural areas;

24 (3) Funds may be available from the United States Department of
25 Agriculture or other federal agencies to suppliers of electricity in
26 rural areas to promote economic development and job creation projects;

27 (4) It is the policy of this state to promote economic development
28 and job creation projects in rural areas through the use of federal funds
29 and other funds which may be available as authorized in subsection (3) of
30 section 70-625;

31 (5) Public power districts operating in rural areas of this state

1 are uniquely situated through their boards of directors to know and
2 understand the need to promote economic development and job creation
3 projects in their service areas; and

4 (6) Involvement by publicly owned electric utilities operating in
5 rural areas in such economic development activities serves a public
6 purpose and it is the public policy of this state to allow public power
7 districts to promote economic development and job creation projects in
8 rural areas as provided in subsections ~~subsection~~ (3) and (4) of section
9 70-625.

10 Sec. 5. Section 70-701, Reissue Revised Statutes of Nebraska, is
11 amended to read:

12 70-701 Sections 70-701 to 70-738 and section 7 of this act may be
13 cited as the Electric Cooperative Corporation Act.

14 Sec. 6. Section 70-704, Reissue Revised Statutes of Nebraska, is
15 amended to read:

16 70-704 (1) Each corporation shall have power: (a) ~~(1)~~ To sue and be
17 sued, complain, and defend, in its corporate name; (b) ~~(2)~~ to have
18 perpetual succession unless a limited period of duration is stated in its
19 articles of incorporation; (c) ~~(3)~~ to adopt a corporate seal, which may
20 be altered at pleasure, and to use it or a facsimile thereof, as required
21 by law; (d) ~~(4)~~ to generate, manufacture, purchase, acquire, and
22 accumulate electric energy and to transmit, distribute, sell, furnish,
23 and dispose of such electric energy; (e) ~~(5)~~ to acquire, own, hold, use,
24 exercise and, to the extent permitted by law, to sell, mortgage, pledge,
25 hypothecate, and in any manner dispose of franchises, rights, privileges,
26 licenses, rights-of-way, and easements necessary, useful, or appropriate;
27 (f) ~~(6)~~ to purchase, receive, lease as lessee, or in any other manner
28 acquire, own, hold, maintain, sell, exchange, and use any and all real
29 and personal property or any interest therein for the purposes expressed
30 herein; (g) ~~(7)~~ to borrow money and otherwise contract indebtedness, to
31 issue its obligations therefor, and to secure the payment thereof by

1 mortgage, pledge, or deed of trust of all or any of its property, assets,
2 franchises, revenue, or income; ~~(h) (8)~~ to sell and convey, mortgage,
3 pledge, lease as lessor, and otherwise dispose of all or any part of its
4 property and assets; ~~(i) (9)~~ to have the same powers now exercised by law
5 by public light and power districts or private corporations to use any of
6 the streets, highways, or public lands of the state or its political
7 subdivisions in the manner provided by law; ~~(j) (10)~~ to have and exercise
8 the power of eminent domain for the purposes expressed in section 70-703
9 in the manner set forth in sections 76-704 to 76-724 and to have the
10 powers and be subject to the restrictions of electric light and power
11 corporations and districts as regards the use and occupation of public
12 highways and the manner or method of construction and physical operation
13 of plants, systems, and transmission lines; ~~(k) (11)~~ to accept gifts or
14 grants of money, services, or property, real or personal; ~~(l) (12)~~ to
15 make any and all contracts necessary or convenient for the exercise of
16 the powers granted herein; ~~(m) (13)~~ to fix, regulate, and collect rates,
17 fees, rents, or other charges for electric energy furnished by the
18 corporation; ~~(n) (14)~~ to elect or appoint officers, agents, and employees
19 of the corporation and to define their duties and fix their compensation;
20 ~~(o) (15)~~ to make and alter bylaws not inconsistent with the articles of
21 incorporation or with the laws of this state for the administration and
22 regulation of the affairs of the corporation; ~~(p) (16)~~ to sell or lease
23 its dark fiber as permitted by law pursuant to sections 86-574 to 86-578;
24 and ~~(q) (17)~~ to do and perform, either for itself or its members or for
25 any other corporation organized under the Electric Cooperative
26 Corporation Act or for the members thereof, any and all acts and things
27 and to have and exercise any and all powers as may be necessary,
28 convenient, or appropriate to effectuate the purpose for which the
29 corporation is organized. Notwithstanding any law, ordinance, resolution,
30 or regulation of any political subdivision to the contrary, each
31 corporation may receive funds and extend loans pursuant to the Nebraska

1 Investment Finance Authority Act.

2 (2) In addition to the powers authorized by Chapter 70 and specified
3 in its petition for creation as amended, the board of directors of a
4 corporation may apply for and use funds available from the United States
5 Department of Agriculture or other federal agencies for grants or loans
6 to promote economic development and job creation projects in rural areas
7 as permitted under the rules and regulations of the federal agency from
8 which the funds are received including, but not limited to, the
9 development of broadband facilities and infrastructure. Any loan to be
10 made by a corporation shall only be made in participation with a bank
11 pursuant to a contract. The corporation and the participating bank shall
12 determine the terms and conditions of the contract. In addition, in rural
13 areas of the corporation, the board of directors of such corporation may
14 provide technical or management assistance to prospective, new, or
15 expanding businesses, including home-based businesses, provide assistance
16 to a local or regional industrial or economic development corporation or
17 foundation located within or contiguous to the corporation's service
18 area, and provide youth and adult community leadership training.

19 (3) In addition to the powers authorized by Chapter 70 and specified
20 in its articles of incorporation, the board of directors of a corporation
21 may own, construct, operate or contract to operate, or lease broadband
22 facilities and infrastructure to promote economic development and job
23 creation projects in rural areas.

24 (4) For purposes of this section, broadband means advanced
25 telecommunications capability service as defined in section 86-103.01.

26 Sec. 7. The Legislature finds and declares that:

27 (1) There are rural areas in the state which are experiencing
28 declines in economic activity and the outmigration of rural residents
29 which is eroding the tax base of those rural areas and undermining the
30 ability of the state and local governments to provide essential public
31 services;

1 (2) Rural economic development efforts can increase the productivity
2 of economic resources, create and enhance employment opportunities,
3 increase the level of income and quality of life for rural residents,
4 assist in slowing or reversing the outmigration of rural residents, and
5 help maintain essential public services to the advantage not only of
6 those rural areas but also of the state as a whole and the electric
7 utilities serving those rural areas;

8 (3) Funds may be available from the United States Department of
9 Agriculture or other federal agencies to suppliers of electricity in
10 rural areas to promote economic development and job creation projects;

11 (4) It is the policy of this state to promote economic development
12 and job creation projects in rural areas through the use of federal funds
13 and other funds which may be available as authorized in subsection (2) of
14 this section 70-704;

15 (5) Corporations operating in rural areas of this state are uniquely
16 situated through their boards of directors to know and understand the
17 need to promote economic development and job creation projects in their
18 service areas; and

19 (6) Involvement by corporations operating in rural areas in such
20 economic development activities serves a public purpose and it is the
21 public policy of this state to allow corporations to promote economic
22 development and job creation projects in rural areas as provided in
23 subsections (2) and (3) of section 70-704.

24 Sec. 8. Original sections 18-2603, 18-2609, 70-625.01, 70-701, and
25 70-704, Reissue Revised Statutes of Nebraska, and section 70-625, Revised
26 Statutes Cumulative Supplement, 2020, are repealed.