

LEGISLATIVE BILL 62

Approved by the Governor March 7, 1975

Introduced by Executive Board, Mahoney, 5, Chmn.;
Goodrich, 20; Kremer, 34; Savage, 10; Schmit,
23

AN ACT to amend section 70-628.01, Reissue Revised Statutes of Nebraska, 1943, relating to public power districts; to provide additional powers; to remove the prohibition against the delegation of powers; to repeal the original section; and to declare an emergency.

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

Section 1. That section 70-628.01, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

70-628.01. (1) Such district shall have and may exercise any one or more of the powers, rights, privileges, and franchises mentioned in sections 70-625 to 70-628, either alone or jointly with one or more other such district. In any joint exercise of powers, rights, privileges and franchises with respect to the construction, operation and maintenance of electric generation or transmission facilities, each district shall own an undivided interest in such facility and be entitled to the share of the output or capacity therefrom attributable to its undivided interest. Each district may enter into an agreement or agreements with respect to any electric generation or transmission facility with the other district or districts participating therein, and any such agreement shall contain such terms, conditions and provisions consistent with the provisions of this section as the board of directors of the district shall deem to be in the interests of the district.

(2) The agreement may include, but not be limited to, (a) provisions for the construction, operation, and maintenance of an electric generation or transmission facility by any one of the participating districts, which shall be designated in or pursuant to such agreement as agent, on behalf of itself and the other participating districts or by such other means as may be determined by the participating districts, and (b) provisions for a uniform method of determining and allocating among participating districts the costs of construction, operation, maintenance, renewals, replacements, and improvements with respect to such facility. In carrying out its functions and activities as the agent with

respect to construction, operation and maintenance of a facility, such agent shall be governed by the laws and regulations applicable to such agent as a separate legal entity and not by any laws or regulations which may be applicable to any of the other participating districts.

(3) Notwithstanding the provisions of any other law to the contrary, pursuant to the terms of the agreement any participating district or districts may delegate its powers and duties with respect to the construction, operation, and maintenance of a facility to the participating district acting as agent, and all actions taken by such agent in accordance with the provisions of the agreement shall be binding upon each of such participating districts without further action or approval by their respective boards of directors. The district acting as the agent shall be required to exercise all such powers and perform its duties and functions under the agreement in a manner consistent with prudent utility practice. As used in this section, prudent utility practice shall mean any of the practices, methods, and acts at a particular time which, in the exercise of reasonable judgment in the light of the facts, including but not limited to the practices, methods, and acts engaged in or approved by a significant portion of the electrical utility industry prior thereto, known at the time the decision was made, would have been expected to accomplish the desired result at the lowest reasonable cost consistent with reliability, safety and expedition. In no event shall anything in this section be deemed to authorize any district to become liable for and to pay for any costs, expenses, or liabilities attributable to the undivided interest of any other district participating in such electric generation or transmission facility. Any district that is interested by ownership, lease, or otherwise in the operation of electric power plants, distribution systems, or transmission lines, either alone or in association with another district or districts, in thirteen or more counties in the state may sell, lease, combine, merge, or consolidate all or a part of its property with the property of any other district or districts. ~~Provided, that nothing in this act shall permit the board of directors of any such district to delegate its duties to any other district or group of districts.~~

Sec. 2. That original section 70-628.01, Reissue Revised Statutes of Nebraska, 1943, is repealed.

Sec. 3. Since an emergency exists, this act shall be in full force and take effect, from and after its passage and approval, according to law.