

LEGISLATURE OF NEBRASKA
ONE HUNDRED EIGHTH LEGISLATURE
SECOND SESSION

LEGISLATIVE BILL 1119

Introduced by Dungan, 26.

Read first time January 10, 2024

Committee: Judiciary

1 A BILL FOR AN ACT relating to solar and wind energy; to amend sections
2 66-901 and 66-914, Reissue Revised Statutes of Nebraska; to restate
3 legislative findings; to prohibit certain restrictions relating to
4 solar and wind energy devices; to provide a cause of action; to
5 harmonize provisions; to provide severability; and to repeal the
6 original sections.

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

1 Section 1. Section 66-901, Reissue Revised Statutes of Nebraska, is
2 amended to read:

3 66-901 The Legislature hereby finds and declares that:

4 (1) The use of solar energy and wind energy in Nebraska (a)
5 can ~~;(1) Can~~ help reduce the nation's reliance upon irreplaceable
6 domestic and imported fossil fuels, (b) ;-(2) can reduce air and water
7 pollution resulting from the use of conventional energy sources, (c) ;
8 ~~(3)~~ requires effective legislation and efficient administration of state
9 and local programs to be of the greatest value to its residents,
10 ~~citizens;~~ and (d) (4) is of such importance to the public health, safety,
11 and welfare that the state should take appropriate action to encourage
12 its use; and -

13 (2) There is an increasing need for the use of solar energy and wind
14 energy devices as an alternative to domestic and imported fossil fuels.
15 Distributed generation is one form of solar energy generation that
16 contributes positively to future energy production. The ~~As the use of~~
17 ~~solar energy and wind energy devices increases, the possibility of future~~
18 ~~shading and obstruction of such devices by structures or vegetation will~~
19 ~~also increase. The Legislature therefor declares that the purpose of~~
20 sections 66-901 to 66-914 is to promote the public health, safety, and
21 welfare by protecting access to solar energy and wind energy ~~as provided~~
22 ~~in sections 66-901 to 66-914.~~

23 Sec. 2. Section 66-914, Reissue Revised Statutes of Nebraska, is
24 amended to read:

25 66-914 (1) When the application of any zoning or subdivision
26 regulation or ordinance would prevent or unduly restrict the use of solar
27 energy systems or wind energy conversion systems, the governing body of
28 the county or municipality having zoning or subdivision jurisdiction is
29 authorized to grant a variance or exception from the strict application
30 of such regulation or ordinance thereof so as to relieve the such
31 restriction and protect access to solar energy or wind energy if such

1 relief may be granted without substantial detriment to the public good
2 and without substantially impairing the intent and purpose of such
3 regulation or ordinance.

4 (2) No homeowner's association as defined in section 18-3102 or
5 similar mutual benefit association or corporation organized for the
6 purpose of enforcing restrictive covenants established on real property
7 shall adopt or enforce any instrument governing or regulating the
8 ownership or use of real property which purports to prohibit or outright
9 restrict the installation or use of a solar energy collector or solar
10 energy system or the building of structures that facilitate the
11 collection of solar energy in any form, including, but not limited to,
12 any covenant, declaration, bylaw, deed, contract or other agreement,
13 term, provision, or condition. Any such instrument shall be void and
14 unenforceable.

15 (3) No homeowner's association as defined in section 18-3102 or
16 similar mutual benefit association or corporation organized for the
17 purpose of enforcing restrictive covenants established on real property
18 shall assess or charge a homeowner any fee for the placement of any solar
19 energy collector or solar energy system.

20 (4) Any existing covenant, declaration, bylaw, deed, contract or
21 other agreement, term, provision, or condition that violates subsection
22 (2) of this section is void and unenforceable.

23 (5) A homeowner shall have a civil cause of action against any
24 homeowner's association or similar mutual benefit association or
25 corporation described in subsections (2) and (3) of this section, or any
26 other person for a violation of this section.

27 Sec. 3. If any section in this act or any part of any section is
28 declared invalid or unconstitutional, the declaration shall not affect
29 the validity or constitutionality of the remaining portions.

30 Sec. 4. Original sections 66-901 and 66-914, Reissue Revised
31 Statutes of Nebraska, are repealed.