

LEGISLATURE OF NEBRASKA  
ONE HUNDRED SECOND LEGISLATURE  
FIRST SPECIAL SESSION  
**LEGISLATIVE BILL 4**

Final Reading

Introduced by Langemeier, 23; Haar, 21.

Read first time November 02, 2011

Committee: Natural Resources

A BILL

1 FOR AN ACT relating to oil pipelines; to amend sections 73-307,  
2 73-507, and 81-1701, Reissue Revised Statutes of  
3 Nebraska; to state findings and intent; to provide powers  
4 and duties for the Department of Environmental Quality  
5 and the Governor relating to supplemental environmental  
6 impact statements; to provide for applicability of  
7 statutes; to harmonize provisions; to repeal the original  
8 sections; and to declare an emergency.  
9 Be it enacted by the people of the State of Nebraska,

1           Section 1. The Legislature finds that:

2           (1) The State of Nebraska is responsible for protecting  
3 its natural resources, agricultural resources, aesthetics, economy,  
4 and communities through reasonable regulation for the common good and  
5 welfare. As such, the state is responsible for ensuring that an oil  
6 pipeline proposed to be located within, through, or across Nebraska  
7 is in compliance with all state laws, rules, and regulations relating  
8 to water, air, and wildlife under the Constitution of Nebraska and  
9 state law;

10           (2) Public policy should reflect this responsibility  
11 while simultaneously recognizing the necessity for energy use and the  
12 economic benefits to Nebraska of transporting oil within, through, or  
13 across the state, the need for economic development in Nebraska, and  
14 the opportunities for jobs and revenue that new development brings to  
15 the state;

16           (3) The United States has the important ability to work  
17 with foreign suppliers of crude oil to meet our overall energy needs  
18 and to further our national security interests; and

19           (4) The economic benefits of oil pipeline construction  
20 projects are important to the state, including the creation of jobs.  
21 Nevertheless, the benefits of any proposed oil pipeline project must  
22 be weighed against any concerns brought by the residents of Nebraska.

23           Sec. 2. For purposes of sections 1 to 3 of this act:

24           (1) Department means the Department of Environmental  
25 Quality;

1           (2) Oil pipeline means a pipeline which is larger than  
2 eight inches in inside diameter and which is constructed in Nebraska  
3 for the transportation of petroleum, or petroleum components,  
4 products, or wastes, including crude oil or any fraction of crude  
5 oil, within, through, or across Nebraska, but does not include in-  
6 field and gathering lines; and

7           (3) Pipeline carrier means an individual, a company, a  
8 corporation, an association, or any other legal entity that engages  
9 in owning, operating, or managing an oil pipeline.

10           Sec. 3. (1) The department may collaborate with a federal  
11 agency or agencies in a review under the National Environmental  
12 Policy Act involving a supplemental environmental impact statement  
13 for oil pipeline projects within, through, or across the state. Prior  
14 to entering into such shared jurisdiction and authority with a  
15 federal agency or agencies, the department shall enter into a  
16 memorandum of understanding with such federal agency or agencies that  
17 sets forth the responsibilities and schedules that will lead to an  
18 effective and timely review under the National Environmental Policy  
19 Act involving a supplemental environmental impact statement.

20           (2) Since the objectives of the process are to ensure  
21 adequate information gathering, full and careful agency and public  
22 review, objective preparation of a supplemental environmental impact  
23 statement, adherence to a defined schedule, and an appropriate role  
24 for a pipeline carrier which avoids the appearance of conflicts of  
25 interest, it is the intent of the Legislature that the state fully

1 fund the process of preparation of a supplemental environmental  
2 impact statement and that no fees will be required of an applicant.  
3 The department may contract with outside vendors in the process of  
4 preparation of a supplemental environmental impact statement. The  
5 department shall make every reasonable effort to ensure that each  
6 vendor has no conflict of interest or relationship to any pipeline  
7 carrier that applies for an oil pipeline permit.

8 (3) In order for the process to be efficient and  
9 expeditious, the department's contracts with vendors pursuant to this  
10 section for a supplemental environmental impact statement shall not  
11 be subject to the Nebraska Consultants' Competitive Negotiation Act  
12 or sections 73-301 to 73-306 or 73-501 to 73-509.

13 (4) After the supplemental environmental impact statement  
14 is prepared, the department shall submit it to the Governor. Within  
15 thirty days after receipt of the supplemental environmental impact  
16 statement from the department, the Governor shall indicate, in  
17 writing, to the federal agency or agencies involved in the review as  
18 to whether he or she approves any of the routes reviewed in the  
19 supplemental environmental impact statement.

20 Sec. 4. Section 73-307, Reissue Revised Statutes of  
21 Nebraska, is amended to read:

22 73-307 Sections 73-301 to 73-306 shall not apply to the  
23 Nebraska Consultants' Competitive Negotiation Act or section 3 of  
24 this act.

25 Sections 73-301 to 73-306 shall not be construed to apply

1 to renewals of contracts already approved pursuant to or not subject  
2 to such sections, to amendments to such contracts, or to renewals of  
3 such amendments unless the amendments would directly cause or result  
4 in the replacement by the private entity of additional permanent  
5 state employees or positions greater than the replacement caused by  
6 the original contract.

7 Sec. 5. Section 73-507, Reissue Revised Statutes of  
8 Nebraska, is amended to read:

9 73-507 (1) Subject to review by the Director of  
10 Administrative Services, the materiel division shall provide  
11 procedures to grant limited exceptions from the provisions of  
12 sections 73-504, 73-508, and 73-509 for:

13 (a) Sole source and emergency contracts; and

14 (b) Other circumstances or specific contracts when any of  
15 the requirements of sections 73-504, 73-508, and 73-509 are not  
16 appropriate for or are not compatible with the circumstances or  
17 contract. The materiel division shall provide a written rationale  
18 which shall be kept on file when granting an exception under this  
19 subdivision.

20 (2) The following types of contracts for services are not  
21 subject to sections 73-504, 73-508, and 73-509:

22 (a) Contracts for services subject to the Nebraska  
23 Consultants' Competitive Negotiation Act;

24 (b) Contracts for services subject to federal law,  
25 regulation, or policy or state statute, under which a state agency is

1 required to use a different selection process or to contract with an  
2 identified contractor or type of contractor;

3 (c) Contracts for professional legal services and  
4 services of expert witnesses, hearing officers, or administrative law  
5 judges retained by state agencies for administrative or court  
6 proceedings;

7 (d) Contracts involving state or federal financial  
8 assistance passed through by a state agency to a political  
9 subdivision;

10 (e) Contracts with direct providers of medical,  
11 behavioral, or developmental health services, child care, or child  
12 welfare services to an individual;

13 (f) Agreements for services to be performed for a state  
14 agency by another state or local government agency or contracts made  
15 by a state agency with a local government agency for the direct  
16 provision of services to the public;

17 (g) Agreements for services between a state agency and  
18 the University of Nebraska, the Nebraska state colleges, the courts,  
19 the Legislature, or other officers or agencies established by the  
20 Constitution of Nebraska;

21 (h) Department of Insurance contracts for financial or  
22 actuarial examination, for rehabilitation, conservation,  
23 reorganization, or liquidation of licensees, and for professional  
24 services related to residual pools or excess funds under the agency's  
25 control;

1                   (i) Department of Roads contracts for all road and bridge  
2 projects; ~~and~~

3                   (j) Nebraska Investment Council contracts; ~~and -~~

4                   (k) Contracts under section 3 of this act.

5                   Sec. 6. Section 81-1701, Reissue Revised Statutes of  
6 Nebraska, is amended to read:

7                   81-1701 The purpose of ~~sections 81-1701 to 81-1721~~ the  
8 Nebraska Consultants' Competitive Negotiation Act is to provide  
9 managerial control over competitive negotiations by the state for  
10 acquisition of professional architectural, engineering, landscape  
11 architecture, or land surveying services. The act does not apply to  
12 contracts under section 3 of this act.

13                   Sec. 7. Original sections 73-307, 73-507, and 81-1701,  
14 Reissue Revised Statutes of Nebraska, are repealed.

15                   Sec. 8. Since an emergency exists, this act takes effect  
16 when passed and approved according to law.