

ONE HUNDRED FIFTH LEGISLATURE - SECOND SESSION - 2018
COMMITTEE STATEMENT
LB1008

Hearing Date: Wednesday February 14, 2018
Committee On: Natural Resources
Introducer: Bostelman
One Liner: Increase amounts of liquidated damages for certain violations of the Game Law

Roll Call Vote - Final Committee Action:
Advanced to General File with amendment(s)

Vote Results:

Aye: 8 Senators Albrecht, Bostelman, Geist, Hughes, Kolowski, McCollister, Quick, Walz
Nay:
Absent:
Present Not Voting:

Verbal Testimony:

Proponents:

Senator Bruce Bostelman
Scott Smathers

Tim McCoy
Craig Stover

Opponents:

Neutral:

Roger Roberts

Representing:

Introducer
Nebraska Sportsmen Foundation, Nebraska Wildlife Federation, Big Game Conservation Association - Nebraska
Nebraska Game and Parks Commission
Nebraska Game and Parks Commission

Representing:

Representing:

Nebraska Wildlife Protectors Association

Summary of purpose and/or changes:

LB 1008 would increase the liquidated damages limits for certain wildlife violations under the Game Law.

Explanation of amendments:

LB 1008, as amended, contains 5 bills that were heard in front of the Natural Resources Committee:

1. LB 1008, which raises liquidated damages caps on certain game;
 2. LB 713, which raises the per diem for Oil & Gas Conservation Commissioners from \$50 to not more than \$400, with an annual \$4000 cap;
 3. LB 822, as amended. The committee held a public hearing on AM 2191 on March 7th, which proposed removing the original content of LB 822 and replacing it with language that would allow public power entities to deny public records requests if proprietary information is sought and releasing the records would give competitors an advantage. AM2191 was revised. The resulting language is in LB 1008 and is described below.
-

4. LB 820, which authorizes the Power Review Board to assess a fine on a private electric supplier who fails to notify of new construction;

5. LB 762, which extends the sunset date of the scrap tire program to 2024;

Section-by-section explanation of AM 2292 to LB 1008:

Section 1 - LB 1008

Page 1, line 3 to page 3, line 4:

Section 1 amends 37-613, which lists the liquidated damages for wildlife violations in the Game Law, by increasing the amount for mountain sheep from \$15,000 to \$25,000; for 12-point elk from \$5,000 to \$10,000; for all other elk from \$1,500 to \$3,000; for 8-point whitetail deer with at least a 16 inch spread between beams and for each mule deer between 8-16 spread from \$5,000 to \$10,000; for other antlered whitetail deer from \$1,000 to \$2,000; for antlerless whitetail and whitetail doe deer from \$250 to \$500; for mountain lions, lynx, bobcats, river otters, or raw pelt from \$500 to \$5,000; for wild turkey from \$100 to \$500.

Also decreases the spread between beams from 24 to 22 inches for 8-point mule deer that are subject to damages, and increases the amount from \$1,000 to \$2,000 for any other mule deer.

Section 2 - LB 713

Page 3, line 5 to line 31

Section 2 amends 57-904, which creates the Nebraska Oil and Gas Conservation Commission and contains provisions relating to commissioners, by changing the amount of compensation from \$50 to not more than \$400 per day for each day spent conducting commission business. Also raises the annual cap on compensation from \$2,000 to \$4,000.

LB 713 - Hearing was held on 2-22-2018

Introducer:

Senator Steve Erdman

Proponents:

Jodi Keeler, Antelope Energy Company LLC

Dana Wreath, Berexco

John Rundel, self

Thomas Oliver, self

Opponents:

-NONE-

Neutral:

Bill Sydow, NE Oil and Gas Conservation Commission

Section 3 - LB 822 as amended

Page 4, line 1 to line 10

Section 3 would add new language to Chapter 70, article 6, the statutes governing public power and public power and irrigation districts, stating that the public power industry may withhold competitive or proprietary information that would give an advantage to business competitors. The language defines competitive information as that which a reasonable person, knowledgeable of the electric utility industry, could conclude gives competitors an advantage. New language also clarifies that records requests under Chapter 70 are to be procedurally treated the same as public records requests under the Chapter 84 public records statutes.

Background: This amendment was introduced in response to a Nebraska Supreme Court case, Aksamit Resource Mgmt v. Nebraska Pub. Power Dist., 299 Neb. 114 (2018), that was issued on Friday, February 23, 2018. The case involved a potential competitor of a public power entity in Nebraska who was denied a request for records showing cost and revenue information, and rate outlooks for each of the entity's generation facilities. The potential competitor sued, and the district court ruled that the records should not be provided because of an exclusion in the public records statute, 84-712.05(3) for proprietary or commercial information which, if released, would give an advantage to competitors.

The state Supreme Court reversed the lower court, holding that the last part of 84-712.05(3), which states that public records are excluded "which, if released would give advantage to business competitors and serve no public purpose." The court found that the public power entity did not prove that the release of information would serve no public purpose. The court liberally construed the meaning of "public purpose" and that, absent a statute clarifying how competing policy interests should be balanced, a policy debate on fossil and renewable fuels was serving a public purpose.

LB 822 - Hearing was held on 1-18-2018

Introducer:

Laurie Lage, Legal Counsel for Natural Resources Committee

Proponents:

-NONE-

Opponents:

-NONE-

Neutral:

-NONE-

AM 2191 to LB 822 - Hearing was held on 3-6-2018

Introducer:

Senator Dan Hughes

Proponents:

Shelley Sahling-Zart, Nebraska Power Association, and Lincoln Electric System Tim Burke, Omaha Public Power District

Chris Dibbern, Nebraska Municipal Power Pool

John McClure, Nebraska Public Power District

Opponents:

Korby Gilbertson, Media of Nebraska, Inc

Dave Bundy, Media of Nebraska, and Lincoln Journal Star

Mikel Lauber, KOLN-KGIN - TV

Michael O'Hara, Sierra Club - Nebraska Chapter

Neutral:

Tim Texel, Nebraska Power Review Board

Section 4 - LB 820

Page 4, line 11 to page 6, line 17:

Section 4 amends 70-1015, which describes what happens when there is a violation of the law authorizing the construction of special generation facilities, by adding the following new language:

- Requires the Power Review Board Director to provide notice to a private electric supplier that has started construction less than 30 days before notifying the board that they are subject to a \$500 fine;
- Allows the private electric supplier 20 days after receiving notice to submit the required notice and pay the fine;
- Requires the board director to provide written acknowledgement of the conditions being met;
- Requires the private electric supplier, after failing to submit notice and pay the fine, to immediately cease construction and operation of their privately developed renewable energy generation facility;
- Allows the private developer to request a hearing for disputes;
- Requires the board to set a hearing date, within 60 days of the hearing request;
- Requires the board to issue a written decision within 60 days of the hearing;
- Requires the private electric supplier to pay the \$500 fine and submit the proper notice if found to have been in violation of 70-1014.02, or cease construction or operation of the facility.

LB 820 - Hearing was held on 1-31-2018

Introducer:

Senator Dan Hughes

Proponents:

Tim Texel, Nebraska Power Review Board

John Hansen, Nebraska Farmers Union

David Levy, BHE Renewables, Geronimo Energy, Sandhills Energy

Opponents:

-NONE-

Neutral:

-NONE-

Section 5 - LB 762

Page 6, line 18 to page 9, line 24:

Section 5 amends 81-15,160, which creates the Waste Reduction and Recycling Incentive Fund, by changing the sunset date of the scrap tire program from June 30, 2019 to June 30, 2024.

LB 762 - Hearing was held on 1-24-2018

Introducer:

Senator Dan Hughes

Proponents:

Andy Pollock, Waste Connections

Opponents:

-NONE-

Neutral:

-NONE-

Sections 1, 2, and 5 become operative 3 calendar months after the Legislature adjourns.

Sections 3 and 4 contain an emergency clause and become operative with the Governor's signature.

Dan Hughes, Chairperson