

AMENDMENTS TO LB243

Introduced by Sanders, 45.

1 1. Strike the original sections and insert the following new
2 sections:

3 **Section 1.** Section 31-727.02, Revised Statutes Cumulative
4 Supplement, 2024, is amended to read:

5 31-727.02 (1) Except as provided in subsection (5) ~~(6)~~ of section
6 84-1411, the clerk or administrator of each sanitary and improvement
7 district shall notify any municipality or county within whose zoning
8 jurisdiction such district is located of all meetings of the district
9 board of trustees or called by the administrator by sending a notice of
10 such meeting to the clerk of the municipality or county not less than
11 seven days prior to the date set for any meeting. In the case of meetings
12 called by the administrator, notice shall be provided to the clerk of the
13 district not less than seven days prior to the date set for any meeting.

14 (2) Except as provided in subsection (5) ~~(6)~~ of section 84-1411,
15 within thirty days after any meeting of a sanitary and improvement
16 district board of trustees or called by the administrator, the clerk or
17 administrator of the district shall transmit to the municipality or
18 county within whose zoning jurisdiction the sanitary and improvement
19 district is located a copy of the minutes of such meeting.

20 **Sec. 2.** Section 70-1014, Revised Statutes Cumulative Supplement,
21 2024, is amended to read:

22 70-1014 (1) After hearing, the board shall have authority to approve
23 or deny the application. Except as provided in section 70-1014.01 for
24 special generation applications, before approval of an application, the
25 board shall find that:

26 (a) The application will serve the public convenience and necessity,
27 and that the applicant can most economically and feasibly supply the

1 electric service resulting from the proposed construction or acquisition
2 without unnecessary duplication of facilities or operations; and

3 (b)(i) For any proposed electric generation facility that has a
4 generating capacity that is greater than ten megawatts, the applicant has
5 held at least one public meeting with advanced publicized notice in one
6 of the counties in which the proposed facility will be located at which
7 (A) at least fifty percent of the governing body of the electric supplier
8 attends either in person or by videoconference, but with not less than
9 one member of the governing body physically present, (B) the applicant
10 explains the need for the proposed facility and the type of facility, and
11 (C) real property owners in any of the counties in which the proposed
12 facility will be located are provided an opportunity to comment on the
13 proposed facility. The applicant shall provide a report to the board
14 containing the minutes of any such meeting and how many people commented
15 on the proposed facility. Documentation received at any such meeting
16 shall be made available to the board upon its request. A meeting
17 described in this subdivision is not subject to the requirements
18 described in subdivision (2)(b)(iv) ~~(3)(b)(iv)~~ of section 84-1411.

19 (ii) This subdivision (b) shall not apply if the proposed facility
20 will be located on real property owned by the applicant at the time of
21 application.

22 (2) If the application involves a transmission line or related
23 facilities planned and approved by a regional transmission organization
24 and the regional transmission organization has issued a notice to
25 construct or similar notice or order to a utility to construct the line
26 or related facilities, the board shall also consider information from the
27 regional transmission organization's planning process and may consider
28 the benefits to the region, which shall include Nebraska, provided by the
29 proposed line or related facilities as part of the board's process in
30 determining whether to approve or deny the application.

31 (3) A privately developed renewable energy generation facility is

1 exempt from this section if it complies with section 70-1014.02.

2 **Sec. 3.** Section 70-1014.02, Revised Statutes Cumulative Supplement,
3 2024, is amended to read:

4 70-1014.02 (1) The Legislature finds that:

5 (a) Nebraska has the authority as a sovereign state to protect its
6 land, natural resources, and cultural resources for economic and
7 aesthetic purposes for the benefit of its residents and future
8 generations by regulation of energy generation projects;

9 (b) The unique terrain and ecology of the Nebraska Sandhills provide
10 an irreplaceable habitat for millions of migratory birds and other
11 wildlife every year and serve as the home to numerous ranchers and
12 farmers;

13 (c) The grasslands of the Nebraska Sandhills and other natural
14 resources in Nebraska will become increasingly valuable, both
15 economically and strategically, as the demand for food and energy
16 increases; and

17 (d) The Nebraska Sandhills are home to priceless archaeological
18 sites of historical and cultural significance to American Indians.

19 (2)(a) A privately developed renewable energy generation facility
20 that meets the requirements of this section is exempt from sections
21 70-1012 to 70-1014.01 if, no less than thirty days prior to the
22 commencement of construction, the owner of the facility:

23 (i) Notifies the board in writing of its intent to commence
24 construction of a privately developed renewable energy generation
25 facility;

26 (ii) Certifies to the board that the facility will meet the
27 requirements for a privately developed renewable energy generation
28 facility;

29 (iii) Certifies to the board that the private electric supplier will
30 (A) comply with any decommissioning requirements adopted by the local
31 governmental entities having jurisdiction over the privately developed

1 renewable energy generation facility and (B) except as otherwise provided
2 in subdivision (b) of this subsection, submit a decommissioning plan to
3 the board obligating the private electric supplier to bear all costs of
4 decommissioning the privately developed renewable energy generation
5 facility and requiring that the private electric supplier post a security
6 bond or other instrument, no later than the sixth year following
7 commercial operation, securing the costs of decommissioning the facility
8 and provide a copy of the bond or instrument to the board;

9 (iv) Certifies to the board that the private electric supplier has
10 entered into or prior to commencing construction will enter into a joint
11 transmission development agreement pursuant to subdivision (c) of this
12 subsection with the electric supplier owning the transmission facilities
13 of sixty thousand volts or greater to which the privately developed
14 renewable energy generation facility will interconnect;

15 (v) Certifies to the board that the private electric supplier has
16 consulted with the Game and Parks Commission to identify potential
17 measures to avoid, minimize, and mitigate impacts to species identified
18 under subsection (1) or (2) of section 37-806 during the project planning
19 and design phases, if possible, but in no event later than the
20 commencement of construction;

21 (vi) Certifies in writing to the board that the facility, if located
22 within a ten-mile radius of a military installation:

23 (A) Contains no materials, electronics, or other components
24 manufactured by any foreign government or foreign nongovernment person
25 determined to be a foreign adversary pursuant to 15 C.F.R. 7.4; or

26 (B) Is in compliance with the critical infrastructure protection
27 requirements issued by the North American Electric Reliability
28 Corporation if connected to the transmission grid at one hundred
29 kilovolts or higher voltage and has to have a nameplate rating of twenty
30 megavolt amperes for a single generation unit or injecting at an
31 aggregate of seventy-five megavolt amperes or greater. The private

1 electric supplier shall also submit written notice to the board at any
2 time such private electric supplier is no longer in such compliance; and

3 (vii) For a proposed privately developed renewable energy generation
4 facility that has a generating capacity that is greater than ten
5 megawatts, certifies to the board that the private electric supplier has
6 held at least one public meeting with advanced publicized notice in one
7 of the counties in which the proposed facility will be located at which
8 (A) the private electric supplier explains the need for the proposed
9 facility and the type of facility and (B) real property owners in any of
10 the counties in which the proposed facility will be located are provided
11 an opportunity to comment on the proposed facility. The private electric
12 supplier shall provide a report to the board containing the minutes of
13 any such meeting and how many people commented on the proposed facility.
14 Documentation received at any such meeting shall be made available to the
15 board upon its request. A meeting described in this subdivision is not
16 subject to the requirements described in subdivision (2)(b)(iv) ~~(3)(b)~~
17 ~~(iv)~~ of section 84-1411.

18 (b) The board may bring an action in the name of the State of
19 Nebraska for failure to comply with subdivision (a)(iii)(B) of this
20 subsection, except that such subdivision does not apply if a local
21 government entity with the authority to create requirements for
22 decommissioning has enacted decommissioning requirements for the
23 applicable jurisdiction.

24 (c) A joint transmission development agreement shall be entered into
25 to address construction, ownership, operation, and maintenance of such
26 additions or upgrades to the transmission facilities as required for the
27 privately developed renewable energy generation facility. The joint
28 transmission development agreement shall be negotiated and executed
29 contemporaneously with the generator interconnection agreement or other
30 directives of the applicable regional transmission organization with
31 jurisdiction over the addition or upgrade of transmission, upon terms

1 consistent with prudent electric utility practices for the
2 interconnection of renewable generation facilities, the electric
3 supplier's reasonable transmission interconnection requirements, and
4 applicable transmission design and construction standards. The electric
5 supplier shall have the right to purchase and own transmission facilities
6 as set forth in the joint transmission development agreement. The private
7 electric supplier of the privately developed renewable energy generation
8 facility shall have the right to construct any necessary facilities or
9 improvements set forth in the joint transmission development agreement
10 pursuant to the standards set forth in the agreement at the private
11 electric supplier's cost.

12 (3) Within ten days after receipt of a written notice complying with
13 subsection (2) of this section, the executive director of the board shall
14 issue a written acknowledgment that the privately developed renewable
15 energy generation facility is exempt from sections 70-1012 to 70-1014.01
16 if such facility remains in compliance with the requirements of this
17 section.

18 (4) The exemption allowed under this section for a privately
19 developed renewable energy generation facility shall extend to and exempt
20 all private electric suppliers owning any interest in the facility,
21 including any successor private electric supplier which subsequently
22 acquires any interest in the facility.

23 (5) No property owned, used, or operated as part of a privately
24 developed renewable energy generation facility shall be subject to
25 eminent domain by a consumer-owned electric supplier operating in the
26 State of Nebraska. Nothing in this section shall be construed to grant
27 the power of eminent domain to a private electric supplier or limit the
28 rights of any entity to acquire any public, municipal, or utility right-
29 of-way across property owned, used, or operated as part of a privately
30 developed renewable energy generation facility as long as the right-of-
31 way does not prevent the operation of or access to the privately

1 developed renewable energy generation facility.

2 (6) Only a consumer-owned electric supplier operating in the State
3 of Nebraska may exercise eminent domain authority to acquire the land
4 rights necessary for the construction of transmission lines and related
5 facilities. There is a rebuttable presumption that the exercise of
6 eminent domain to provide needed transmission lines and related
7 facilities for a privately developed renewable energy generation facility
8 is a public use.

9 (7) Nothing in this section shall be construed to authorize a
10 private electric supplier to sell or deliver electricity at retail in
11 Nebraska.

12 (8) Nothing in this section shall be construed to limit the
13 authority of or require a consumer-owned electric supplier operating in
14 the State of Nebraska to enter into a joint agreement with a private
15 electric supplier to develop, construct, and jointly own a privately
16 developed renewable energy generation facility.

17 **Sec. 4.** Section 84-1411, Reissue Revised Statutes of Nebraska, is
18 amended to read:

19 84-1411 ~~(1) Until January 1, 2025:~~

20 ~~(a) Except as provided in subsection (10) of this section, each~~
21 ~~public body shall give reasonable advance publicized notice of the time~~
22 ~~and place of each meeting as provided in this subsection. Such notice~~
23 ~~shall be transmitted to all members of the public body and to the public.~~

24 ~~(b)(i) Except as provided in subdivision (1)(b)(ii) of this section,~~
25 ~~in the case of a public body described in subdivision (1)(a)(i) of~~
26 ~~section 84-1409 or such body's advisory committee, such notice shall be~~
27 ~~published in a newspaper of general circulation within the public body's~~
28 ~~jurisdiction and, if available, on such newspaper's website.~~

29 ~~(ii) In the case of the governing body of a city of the second class~~
30 ~~or village or such body's advisory committee or the governing body of a~~
31 ~~rural or suburban fire protection district, such notice shall be~~

1 ~~published by:~~

2 ~~(A) Publication in a newspaper of general circulation within the~~
3 ~~public body's jurisdiction and, if available, on such newspaper's~~
4 ~~website; or~~

5 ~~(B) Posting written notice in three conspicuous public places in~~
6 ~~such city, village, or district. Such notice shall be posted in the same~~
7 ~~three places for each meeting.~~

8 ~~(iii) In the case of a public body not described in subdivision (1)~~
9 ~~(b)(i) or (ii) of this section, such notice shall be given by a method~~
10 ~~designated by the public body.~~

11 ~~(iv) In case of refusal, neglect, or inability of the newspaper to~~
12 ~~timely publish the notice, the public body shall (A) post such notice on~~
13 ~~its website, if available, and (B) post such notice in a conspicuous~~
14 ~~public place in such public body's jurisdiction. The public body shall~~
15 ~~keep a written record of such posting. The record of such posting shall~~
16 ~~be evidence that such posting was done as required and shall be~~
17 ~~sufficient to fulfill the requirement of publication.~~

18 ~~(c) In addition to a method of notice required by subdivision (1)(b)~~
19 ~~(i) or (ii) of this section, such notice may also be provided by any~~
20 ~~other appropriate method designated by such public body or such advisory~~
21 ~~committee.~~

22 ~~(d) Each public body shall record the methods and dates of such~~
23 ~~notice in its minutes.~~

24 ~~(e) Such notice shall contain an agenda of subjects known at the~~
25 ~~time of the publicized notice or a statement that the agenda, which shall~~
26 ~~be kept continually current, shall be readily available for public~~
27 ~~inspection at the principal office of the public body during normal~~
28 ~~business hours. Agenda items shall be sufficiently descriptive to give~~
29 ~~the public reasonable notice of the matters to be considered at the~~
30 ~~meeting. Except for items of an emergency nature, the agenda shall not be~~
31 ~~altered later than (i) twenty-four hours before the scheduled~~

1 ~~commencement of the meeting or (ii) forty-eight hours before the~~
2 ~~scheduled commencement of a meeting of a city council or village board~~
3 ~~scheduled outside the corporate limits of the municipality. The public~~
4 ~~body shall have the right to modify the agenda to include items of an~~
5 ~~emergency nature only at such public meeting.~~

6 ~~(2) Beginning January 1, 2025:~~

7 (1)(a) ~~(a)~~ Except as provided in subsection (9) ~~(10)~~ of this
8 section, each public body shall give reasonable advance publicized notice
9 of the time and place of each meeting as provided in this subsection.
10 Such notice shall be transmitted to all members of the public body and to
11 the public.

12 (b)(i) Except as provided in subdivision (1)(b)(ii) ~~(2)(b)(ii)~~ of
13 this section, in the case of a public body described in subdivision (1)
14 (a)(i) of section 84-1409 or such body's advisory committees, such notice
15 shall be given by:

16 (A)(I) Publication in a newspaper of general circulation within the
17 public body's jurisdiction that is finalized for printing prior to the
18 time and date of the meeting, (II) posting on such newspaper's website,
19 if available, and (III) posting on a statewide website established and
20 maintained as a repository for such notices by a majority of Nebraska
21 newspapers. Such notice shall be placed in the newspaper and on the
22 websites by the newspaper; or

23 (B)(I) Posting to the newspaper's website, if available, and (II)
24 posting to a statewide website established and maintained as a repository
25 for such notices by a majority of Nebraska newspapers if no edition of a
26 newspaper of general circulation within the public body's jurisdiction is
27 to be finalized for printing prior to the time and date of the meeting.
28 Such notice shall be placed in the newspaper and on the websites by the
29 newspaper.

30 (ii) In the case of the governing body of a city of the second class
31 or village, any advisory committee of such governing body, or the

1 governing body of a rural or suburban fire protection district, such
2 notice shall be given by:

3 (A)(I) Publication in a newspaper of general circulation within the
4 public body's jurisdiction that is finalized for printing prior to the
5 time and date of the meeting, (II) posting on such newspaper's website,
6 if available, and (III) posting on a statewide website established and
7 maintained as a repository for such notices by a majority of Nebraska
8 newspapers. Such notice shall be placed in the newspaper and on the
9 websites by the newspaper;

10 (B)(I) Posting to the newspaper's website, if available, and (II)
11 posting on a statewide website established and maintained as a repository
12 for such notices by a majority of Nebraska newspapers if no edition of a
13 newspaper of general circulation within the public body's jurisdiction is
14 to be finalized for printing prior to the time and date of the meeting.
15 Such notice shall be placed in the newspaper and on the websites by the
16 newspaper; or

17 (C) Posting written notice in three conspicuous public places in
18 such city, village, or district. Such notice shall be posted by the
19 public body in the same three places for each meeting.

20 (iii) In the case of a public body not described in subdivision (1)
21 (b)(i) ~~(2)(b)(i)~~ or (ii) of this section, such notice shall be given by a
22 method designated by the public body.

23 (iv) In case of refusal, neglect, or inability of the newspaper to
24 publish the notice, the public body shall (A) post such notice on its
25 website, if available, (B) request the newspaper to submit a post on a
26 statewide website established and maintained as a repository for such
27 notices by a majority of Nebraska newspapers, and (C) post such notice in
28 a conspicuous public place in such public body's jurisdiction. The public
29 body shall keep a written record of such posting pursuant to subdivision
30 (1)(b)(iv)(A) and (C) of this section and a written record of the request
31 to the newspaper pursuant to subdivision (1)(b)(iv)(B) of this section.

1 The record of such posting shall be evidence that such posting was done
2 as required and shall be sufficient to fulfill the requirement of
3 publication.

4 (c) In addition to a method of notice required by subdivision (1)(b)
5 (i) or (ii) of this section, such notice may also be provided by any
6 other appropriate method designated by such public body or such advisory
7 committee.

8 (d) Each public body shall record the methods and dates of such
9 notice in its minutes.

10 (e) Such notice shall contain an agenda of subjects known at the
11 time of the publicized notice or a statement that the agenda, which shall
12 be kept continually current, shall be readily available for public
13 inspection at the principal office of the public body during normal
14 business hours. Agenda items shall be sufficiently descriptive to give
15 the public reasonable notice of the matters to be considered at the
16 meeting. Except for items of an emergency nature, the agenda shall not be
17 altered later than (i) twenty-four hours before the scheduled
18 commencement of the meeting or (ii) forty-eight hours before the
19 scheduled commencement of a meeting of a city council or village board
20 scheduled outside the corporate limits of the municipality. The public
21 body shall have the right to modify the agenda to include items of an
22 emergency nature only at such public meeting.

23 (2)(a) {3}(a) The following entities may hold a meeting by means of
24 virtual conferencing if the requirements of subdivision (2)(b) {3}(b) of
25 this section are met:

26 (i) A state agency, state board, state commission, state council, or
27 state committee, or an advisory committee of any such state entity;

28 (ii) An organization, including the governing body, created under
29 the Interlocal Cooperation Act, the Joint Public Agency Act, or the
30 Municipal Cooperative Financing Act;

31 (iii) The governing body of a public power district having a

1 chartered territory of more than one county in this state;

2 (iv) The governing body of a public power and irrigation district
3 having a chartered territory of more than one county in this state;

4 (v) An educational service unit;

5 (vi) The Educational Service Unit Coordinating Council;

6 (vii) An organization, including the governing body, of a risk
7 management pool or its advisory committees organized in accordance with
8 the Intergovernmental Risk Management Act;

9 (viii) A community college board of governors;

10 (ix) The Nebraska Brand Committee;

11 (x) A local public health department;

12 (xi) A metropolitan utilities district;

13 (xii) A regional metropolitan transit authority; and

14 (xiii) A natural resources district.

15 (b) The requirements for holding a meeting by means of virtual
16 conferencing are as follows:

17 (i) Reasonable advance publicized notice is given as provided in
18 subsection (1) ~~subsections (1) and (2)~~ of this section, including
19 providing access to a dial-in number or link to the virtual conference;

20 (ii) In addition to the public's right to participate by virtual
21 conferencing, reasonable arrangements are made to accommodate the
22 public's right to attend at a physical site and participate as provided
23 in section 84-1412, including reasonable seating, in at least one
24 designated site in a building open to the public and identified in the
25 notice, with: At least one member of the entity holding such meeting, or
26 his or her designee, present at each site; a recording of the hearing by
27 audio or visual recording devices; and a reasonable opportunity for
28 input, such as public comment or questions, is provided to at least the
29 same extent as would be provided if virtual conferencing was not used;

30 (iii) At least one copy of all documents being considered at the
31 meeting is available at any physical site open to the public where

1 individuals may attend the virtual conference. The public body shall also
2 provide links to an electronic copy of the agenda, all documents being
3 considered at the meeting, and the current version of the Open Meetings
4 Act; and

5 (iv) Except as otherwise provided in this subdivision, subsection
6 (1) of section 70-1014, subsection (2) of section 70-1014.02, or
7 subsection (4) of section 79-2204, no more than one-half of the meetings
8 of the state entities, advisory committees, boards, councils,
9 organizations, or governing bodies are held by virtual conferencing in a
10 calendar year. In the case of (A) an organization created under the
11 Interlocal Cooperation Act that sells electricity or natural gas, (B) an
12 organization created under the Municipal Cooperative Financing Act, (C) a
13 governing body of a risk management pool and any advisory committee of
14 such governing body, or (D) any advisory committee of any state entity
15 created in response to the Opioid Prevention and Treatment Act, such
16 organization, governing body, or committee may hold more than one-half of
17 its meetings by virtual conferencing if such organization holds at least
18 one meeting each calendar year that is not by virtual conferencing.

19 (3) ~~(4)~~ Virtual conferencing, emails, faxes, or other electronic
20 communication shall not be used to circumvent any of the public
21 government purposes established in the Open Meetings Act.

22 (4) ~~(5)~~ The secretary or other designee of each public body shall
23 maintain a list of the news media requesting notification of meetings and
24 shall make reasonable efforts to provide advance notification to them of
25 the time and place of each meeting and the subjects to be discussed at
26 that meeting.

27 (5) ~~(6)~~ When it is necessary to hold an emergency meeting without
28 reasonable advance public notice, the nature of the emergency shall be
29 stated in the minutes and any formal action taken in such meeting shall
30 pertain only to the emergency. Such emergency meetings may be held by
31 virtual conferencing. The provisions of subsection (4) ~~(5)~~ of this

1 section shall be complied with in conducting emergency meetings. Complete
2 minutes of such emergency meetings specifying the nature of the emergency
3 and any formal action taken at the meeting shall be made available to the
4 public by no later than the end of the next regular business day.

5 ~~(6)~~ ~~(7)~~ A public body may allow a member of the public or any other
6 witness to appear before the public body by means of virtual
7 conferencing.

8 ~~(7)(a)~~ ~~(8)(a)~~ Notwithstanding subsections ~~(2)~~ and ~~(5)~~ ~~(3)~~ and ~~(6)~~ of
9 this section, if an emergency is declared by the Governor pursuant to the
10 Emergency Management Act as defined in section 81-829.39, a public body
11 the territorial jurisdiction of which is included in the emergency
12 declaration, in whole or in part, may hold a meeting by virtual
13 conferencing during such emergency if the public body gives reasonable
14 advance publicized notice as described in subsection (1) ~~subsections (1)~~
15 ~~and (2)~~ of this section. The notice shall include information regarding
16 access for the public and news media. In addition to any formal action
17 taken pertaining to the emergency, the public body may hold such meeting
18 for the purpose of briefing, discussion of public business, formation of
19 tentative policy, or the taking of any action by the public body.

20 (b) The public body shall provide access by providing a dial-in
21 number or a link to the virtual conference. The public body shall also
22 provide links to an electronic copy of the agenda, all documents being
23 considered at the meeting, and the current version of the Open Meetings
24 Act. Reasonable arrangements shall be made to accommodate the public's
25 right to hear and speak at the meeting and record the meeting. Subsection
26 ~~(4)~~ ~~(5)~~ of this section shall be complied with in conducting such
27 meetings.

28 (c) The nature of the emergency shall be stated in the minutes.
29 Complete minutes of such meeting specifying the nature of the emergency
30 and any formal action taken at the meeting shall be made available for
31 inspection as provided in subsection (5) of section 84-1413.

1 ~~(8)~~ ~~(9)~~ In addition to any other statutory authorization for virtual
2 conferencing, any public body not listed in subdivision ~~(2)(a)~~ ~~(3)(a)~~ of
3 this section may hold a meeting by virtual conferencing if:

4 (a) The purpose of the virtual meeting is to discuss items that are
5 scheduled to be discussed or acted upon at a subsequent non-virtual open
6 meeting of the public body;

7 (b) No action is taken by the public body at the virtual meeting;
8 and

9 (c) The public body complies with subdivisions ~~(2)(b)(i)~~ ~~(3)(b)(i)~~
10 and (ii) of this section.

11 ~~(9)~~ ~~(10)~~ This section does not apply to a meeting of the Nebraska
12 Power Review Board or a public power district, a public power and
13 irrigation district, an electric membership association, an electric
14 cooperative company, a municipality having a generation and distribution
15 system, or a registered group of municipalities if such meeting is
16 subject to section 70-1034.

17 **Sec. 5.** Original section 84-1411, Reissue Revised Statutes of
18 Nebraska, and sections 31-727.02, 70-1014, and 70-1014.02, Revised
19 Statutes Cumulative Supplement, 2024, are repealed.