

LEGISLATURE OF NEBRASKA
ONE HUNDRED EIGHTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 725

Introduced by Dungan, 26.

Read first time January 18, 2023

Committee:

1 A BILL FOR AN ACT relating to power districts and corporations; to amend
2 sections 70-407, 70-408, 70-409, 70-701, 70-702, 70-705, 70-707,
3 70-712, 70-718, 70-724, 70-727, 70-728, 70-729, 70-730, 70-732,
4 70-736, 70-737, and 70-738, Reissue Revised Statutes of Nebraska; to
5 change provisions relating to electric companies and electric
6 cooperative corporations; to define and redefine terms; to restrict
7 the use of ratepayer proceeds relating to certain activities; to
8 provide penalties; to harmonize provisions; and to repeal the
9 original sections.
10 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 70-407, Reissue Revised Statutes of Nebraska, is
2 amended to read:

3 70-407 For purposes of sections 70-407 to 70-409 and section 3 of
4 this act the purpose of Chapter 70 the following words shall be construed
5 to mean as follows:

6 (1) Kilowatt A kilowatt hour means shall be deemed and considered to
7 equal one thousand watts, or the energy resulting from an activity of one
8 kilowatt continued for one hour, which equals about one and one-third
9 horsepower hours;

10 (2) Watt means The word watt shall be construed to mean the
11 practical unit of electric power, activity, or rate of work equivalent to
12 107 ergs or one joule per second, or approximately one seven-hundred-
13 forty-sixth of a horsepower; -

14 (3) Ratepayer means any person, firm, corporation, company,
15 cooperative, membership organization, municipality, political
16 subdivision, electric supplier, partnership, or other organization that
17 pays money for electrical energy, demand, or capacity received for
18 residential, commercial, industrial, agricultural, or resale purposes;
19 and

20 (4) Ratepayer proceeds means any money, funds, compensation,
21 property, or other thing of value received from a ratepayer.

22 Sec. 2. Section 70-408, Reissue Revised Statutes of Nebraska, is
23 amended to read:

24 70-408 All charges, made for electrical energy for residential,
25 commercial, industrial, and agricultural farm purposes by any person,
26 firm, corporation, or municipality engaged in the sale of electrical
27 energy in cities of the first class having a population of more than five
28 thousand and less than twenty-five thousand inhabitants as determined by
29 the most recent federal decennial census or the most recent revised
30 certified count by the United States Bureau of the Census, cities of the
31 second class, villages, and unincorporated areas in Nebraska, shall be

1 based on the amount of such energy actually furnished by the kilowatt-
2 hour meter, together with such demand as may be registered or indicated
3 by a demand meter, or as may be contracted for, to such purchaser. Such
4 person, firm, corporation, or municipality may provide for either a
5 penalty on or a discount from the amount of any bill to promote prompt
6 payment thereof under uniform rules and regulations governing such
7 penalty or discount. A reasonable minimum charge may be collected from
8 purchasers of electrical energy by any such person, firm, corporation, or
9 municipality, even though the charge for the amount of electrical energy
10 actually furnished by the kilowatt-hour to such purchaser or user does
11 not equal such minimum charge for the designated period of service. The
12 provisions of sections 70-407 to 70-409 and section 3 of this act shall
13 not be construed to affect any contract or franchise in existence at the
14 time of the passage and approval of this section.

15 Sec. 3. A recipient of ratepayer proceeds shall not use such
16 proceeds for the purpose of campaigning for or against, or seeking in any
17 way to influence, the nomination or election of a candidate for elective
18 office or the qualification, passage, or defeat of a ballot question.
19 Such prohibition includes, but is not limited to, transferring ratepayer
20 proceeds to another person, firm, corporation, company, cooperative,
21 membership organization, municipality, political subdivision, electric
22 supplier, partnership, or other organization for the purpose of
23 campaigning for or against, or seeking in any way to influence, the
24 nomination or election of a candidate for elective office or the
25 qualification, passage, or defeat of a ballot question.

26 Sec. 4. Section 70-409, Reissue Revised Statutes of Nebraska, is
27 amended to read:

28 70-409 ~~(1) Any person, firm or corporation, their employees, agents~~
29 ~~or servants, who violates section shall violate any of the provisions of~~
30 ~~sections 70-407 and 70-408 shall be guilty of a Class V misdemeanor.~~

31 (2) Any person who violates section 3 of this act shall be guilty of

1 a Class III misdemeanor.

2 Sec. 5. Section 70-701, Reissue Revised Statutes of Nebraska, is
3 amended to read:

4 70-701 Sections 70-701 to 70-738 and section 7 of this act may be
5 cited as the Electric Cooperative Corporation Act.

6 Sec. 6. Section 70-702, Reissue Revised Statutes of Nebraska, is
7 amended to read:

8 70-702 For purposes of the Electric Cooperative Corporation Act,
9 unless the context otherwise requires:

10 (1) Acquire means and includes construct, acquire by purchase,
11 lease, devise, gift, or other mode of acquisition;

12 (2) Board means a board of directors of a corporation organized
13 under the act;

14 (3) Corporation means a corporation organized pursuant to the act;

15 (4) Federal agency includes the United States of America and any
16 department administration, commission, board, bureau, office,
17 establishment, agency, authority, or instrumentality of the United States
18 of America heretofore or hereafter ordered;

19 (5) Member means the incorporators of a corporation and each person
20 thereafter lawfully admitted to membership therein;

21 (6) Obligations include bonds, notes, debentures, interim
22 certificates or receipts, and all other evidences of indebtedness issued
23 by a corporation;

24 (7) Person includes any natural person, firm, association,
25 corporation, business trust, partnership, limited liability company,
26 federal agency, state, or political subdivision thereof, or any body
27 politic;

28 (8) Ratepayer means any person, firm, corporation, company,
29 cooperative, membership organization, municipality, political
30 subdivision, electric supplier, partnership, or other organization that
31 pays money for electrical energy, demand, or capacity received for

1 residential, commercial, industrial, agricultural, or resale purposes;

2 (9) Ratepayer proceeds means any money, funds, compensation,
3 property, or other thing of value received from a ratepayer; and

4 (10) Rural area means any area not included within the boundaries of
5 any incorporated city, town, or village.

6 ~~(1) Corporation means a corporation organized pursuant to the act;~~

7 ~~(2) board means a board of directors of a corporation organized under the~~

8 ~~act; (3) member means the incorporators of a corporation and each person~~

9 ~~thereafter lawfully admitted to membership therein; (4) federal agency~~

10 ~~includes the United States of America and any department administration,~~

11 ~~commission, board, bureau, office, establishment, agency, authority, or~~

12 ~~instrumentality of the United States of America heretofore or hereafter~~

13 ~~ordered; (5) person includes any natural person, firm, association,~~

14 ~~corporation, business trust, partnership, limited liability company,~~

15 ~~federal agency, state, or political subdivision thereof, or any body~~

16 ~~politic; (6) acquire means and includes construct, acquire by purchase,~~

17 ~~lease, devise, gift, or other mode of acquisition; (7) obligations~~

18 ~~include bonds, notes, debentures, interim certificates or receipts, and~~

19 ~~all other evidences of indebtedness issued by a corporation; and (8)~~

20 ~~rural area means any area not included within the boundaries of any~~

21 ~~incorporated city, town, or village.~~

22 Sec. 7. (1) A corporation shall not use any funds for the purpose

23 of campaigning for or against, or seeking in any way to influence, the

24 nomination or election of a candidate for elective office or the

25 qualification, passage, or defeat of a ballot question. Such prohibition

26 includes, but is not limited to, transferring ratepayer proceeds to

27 another person, firm, corporation, company, cooperative, membership

28 organization, municipality, political subdivision, electric supplier,

29 partnership, or other organization for the purpose of campaigning for or

30 against, or seeking in any way to influence, the nomination or election

31 of a candidate for elective office or the qualification, passage, or

1 defeat of a ballot question.

2 (2) Any person who violates this section shall be guilty of a Class
3 III misdemeanor.

4 Sec. 8. Section 70-705, Reissue Revised Statutes of Nebraska, is
5 amended to read:

6 70-705 Any twenty or more natural persons, residents of the
7 territory to be served by the corporation, of the age of twenty-one years
8 or more, residents of this state, may act as incorporators of a
9 corporation to be organized under the Electric Cooperative Corporation
10 Act ~~sections 70-701 to 70-738~~ by executing articles of incorporation as
11 provided in said sections.

12 Sec. 9. Section 70-707, Reissue Revised Statutes of Nebraska, is
13 amended to read:

14 70-707 The words electric cooperative shall not be used in the
15 corporate name of corporations organized under the laws of this state, or
16 authorized to do business herein, other than those organized pursuant to
17 the provisions of the Electric Cooperative Corporation Act ~~sections~~
18 ~~70-701 to 70-738~~.

19 Sec. 10. Section 70-712, Reissue Revised Statutes of Nebraska, is
20 amended to read:

21 70-712 All persons in rural areas proposed to be served by a
22 corporation shall be eligible to membership in a corporation. No person
23 shall become, be or remain a member of a corporation unless such person
24 shall use or agree to use electric energy furnished by the corporation. A
25 corporation organized under the Electric Cooperative Corporation Act
26 ~~sections 70-701 to 70-738~~ may become a member of another corporation, and
27 may avail itself fully of the facilities and services thereof.

28 Sec. 11. Section 70-718, Reissue Revised Statutes of Nebraska, is
29 amended to read:

30 70-718 The business and affairs of a corporation shall be managed by
31 a board of directors, not less than five in number, which shall exercise

1 all the powers of the corporation except such as are conferred upon the
2 members by the Electric Cooperative Corporation Act sections 70-701 to
3 ~~70-738~~, by the articles of incorporation, or by the bylaws of the
4 corporation. The bylaws may prescribe qualifications for directors.

5 Sec. 12. Section 70-724, Reissue Revised Statutes of Nebraska, is
6 amended to read:

7 70-724 Any corporation may, by its bylaws, provide for an executive
8 committee to be elected from and by its board of directors. To such
9 committee may be delegated the management of the current and ordinary
10 business of the corporation, and such other duties as the bylaws may
11 prescribe, but the designation of such committee, and the delegation
12 thereto of authority, shall not operate to relieve the board of
13 directors, or any member thereof, of any responsibility imposed upon it
14 or such director ~~him~~ by the Electric Cooperative Corporation Act sections
15 ~~70-701 to 70-738~~.

16 Sec. 13. Section 70-727, Reissue Revised Statutes of Nebraska, is
17 amended to read:

18 70-727 A corporation may amend its articles of incorporation by a
19 majority vote of the members present in person at any regular meeting, or
20 at any special meeting of its members called for that purpose. The power
21 to amend shall include the power to accomplish any desired change in the
22 provisions of its articles of incorporation, and to include any purpose,
23 power or provision which would be authorized to be included in original
24 articles of incorporation if executed at the time the amendment is made.
25 Articles of amendment signed by the president or vice president, and
26 attested by the secretary, certifying to such amendment and its lawful
27 adoption, shall be executed, acknowledged, filed and recorded in the same
28 manner as the original articles of incorporation of a corporation
29 organized under the Electric Cooperative Corporation Act sections 70-701
30 ~~to 70-738~~. As soon as the Secretary of State shall have accepted the
31 articles of amendment for filing and recording, and issued a certificate

1 of amendment, the amendment or amendments shall be in effect.

2 Sec. 14. Section 70-728, Reissue Revised Statutes of Nebraska, is
3 amended to read:

4 70-728 Any two or more corporations may enter into an agreement for
5 the consolidation of such corporations. The agreement shall set forth the
6 terms and conditions of the consolidation, the name of the proposed
7 consolidated corporation, the number of its directors, not less than
8 five, the time of the annual meeting and election, and the names of at
9 least five persons to be directors until the first annual meeting. If
10 such agreement is approved by the votes of a majority of the members of
11 each corporation present in person at any regular meeting, or at any
12 special meeting of its members called for that purpose, the directors
13 named in the agreement shall sign and acknowledge, as incorporators,
14 articles of consolidation conforming substantially to original articles
15 of incorporation of a corporation organized under the Electric
16 Cooperative Corporation Act ~~sections 70-701 to 70-738~~.

17 Sec. 15. Section 70-729, Reissue Revised Statutes of Nebraska, is
18 amended to read:

19 70-729 The articles of consolidation shall be executed,
20 acknowledged, filed and recorded in the same manner as the original
21 articles of incorporation of a corporation organized under the Electric
22 Cooperative Corporation Act ~~sections 70-701 to 70-738~~. As soon as the
23 Secretary of State shall have accepted the articles of consolidation for
24 filing and recording, and issued a certificate of consolidation, the
25 proposed consolidated corporation, described in the articles under its
26 designated name, shall be a body corporate with all of the powers of a
27 corporation as originally organized hereunder.

28 Sec. 16. Section 70-730, Reissue Revised Statutes of Nebraska, is
29 amended to read:

30 70-730 Any corporation may dissolve by a majority vote of the
31 members in person at any regular meeting, or at any special meeting of

1 its members called for that purpose. A certificate of dissolution shall
2 be signed by the president or vice president, and attested by the
3 secretary, certifying to such dissolution, and stating that they have
4 been authorized to execute and file such certificate by votes cast in
5 person by a majority of the members of the corporation. A certificate of
6 dissolution shall be executed, acknowledged, filed and recorded in the
7 same manner as the original articles of incorporation of a corporation
8 organized under the Electric Cooperative Corporation Act ~~sections 70-701~~
9 ~~to 70-738~~, and as soon as the Secretary of State shall have accepted the
10 certificate of dissolution for filing and recording, and issued a
11 certificate of dissolution, the corporation shall be deemed to be
12 dissolved.

13 Sec. 17. Section 70-732, Reissue Revised Statutes of Nebraska, is
14 amended to read:

15 70-732 Any corporation which purports to have been incorporated or
16 reincorporated under the Electric Cooperative Corporation Act ~~sections~~
17 ~~70-701 to 70-738~~, but which has not complied with all of the requirements
18 for legal corporate existence, may nevertheless file a certificate of
19 dissolution in the same manner as a validly existing corporation. The
20 certificate of dissolution in such case may be authorized by a majority
21 of the incorporators or directors at a meeting called by any incorporator
22 upon ten days' notice mailed to the last-known post office address of
23 each incorporator or director, and held at the principal office of the
24 corporation named in the articles of incorporation.

25 Sec. 18. Section 70-736, Reissue Revised Statutes of Nebraska, is
26 amended to read:

27 70-736 Any existing cooperative or nonprofit corporation or
28 association, organized under any other law of this state for the purpose
29 of engaging in rural electrification, may, by a majority vote of the
30 members present in person at a meeting called for that purpose, amend its
31 articles of incorporation so as to comply with the Electric Cooperative

1 ~~Corporation Act sections 70-701 to 70-738.~~

2 Sec. 19. Section 70-737, Reissue Revised Statutes of Nebraska, is
3 amended to read:

4 70-737 The provisions of the Electric Cooperative Corporation Act
5 ~~Sections 70-701 to 70-738~~ shall be construed liberally. The enumeration
6 of any object, purpose, power, manner, method, or thing shall not be
7 deemed to exclude like or similar objects, purposes, powers, manners,
8 methods, or things.

9 Sec. 20. Section 70-738, Reissue Revised Statutes of Nebraska, is
10 amended to read:

11 70-738 The provisions of the Electric Cooperative Corporation Act
12 ~~Sections 70-701 to 70-738~~ are complete in themselves, and shall be
13 controlling. The provisions of any other law of this state, except as
14 provided in the Electric Cooperative Corporation Act ~~said sections~~, shall
15 not apply to a corporation organized under the act ~~said sections~~.

16 Sec. 21. Original sections 70-407, 70-408, 70-409, 70-701, 70-702,
17 70-705, 70-707, 70-712, 70-718, 70-724, 70-727, 70-728, 70-729, 70-730,
18 70-732, 70-736, 70-737, and 70-738, Reissue Revised Statutes of Nebraska,
19 are repealed.