

LEGISLATURE OF NEBRASKA
ONE HUNDRED NINTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 409

Introduced by Cavanaugh, J., 9.

Read first time January 17, 2025

Committee:

- 1 A BILL FOR AN ACT relating to the Nebraska Power Review Board; to amend
- 2 section 70-1003, Revised Statutes Cumulative Supplement, 2024; to
- 3 change provisions relating to membership of the board; and to repeal
- 4 the original section.
- 5 Be it enacted by the people of the State of Nebraska,

1 **Section 1.** Section 70-1003, Revised Statutes Cumulative Supplement,
2 2024, is amended to read:

3 70-1003 (1)(a) There is hereby established an independent board to
4 be known as the Nebraska Power Review Board. The board shall consist of
5 five members, including (i) at least one engineer, (ii) at least one
6 attorney, and (iii) three additional persons until, after the effective
7 date of this act, one such person appointed pursuant to this subdivision
8 (1)(a)(iii) of this section vacates his or her position or his or her
9 term expires, whichever occurs first, at which time the board shall
10 consist of the members provided pursuant to subdivision (b) of this
11 subsection.

12 (b) Upon the first vacation of the position or expiration of the
13 term of one of the members serving under subdivision (1)(a)(iii) of this
14 section that occurs after the effective date of this act, the board shall
15 consist of five members, including (i) at least one engineer, (ii) at
16 least one attorney, (iii) at least one licensed journeyman electrician
17 who shall be affiliated with a nonprofit labor organization for
18 electrical workers holding a certificate of exemption under section
19 501(c)(5) of the Internal Revenue Code and shall be selected from a list
20 of licensed journeyman electricians recommended by such organization, and
21 (iv) two additional persons.

22 (c) No more than one person who is or who has within four years
23 preceding such person's appointment been either a director, an officer,
24 or an employee of any electric utility or an elective state officer shall
25 serve on the board at the same time. Any board member who previously was
26 either a director, an officer, or an employee of any electric utility
27 within four years preceding such board member's appointment shall refrain
28 from taking any action or making any decision in any proceeding before
29 the board that involves such electric utility for a period of four years
30 after the date such board member ceased being a director, an officer, or
31 an employee of such electric utility.

1 (d) ~~(b)~~ Members of the board shall be appointed by the Governor
2 subject to the approval of the Legislature. Upon expiration of the terms
3 of the members first appointed, the successors shall be appointed for
4 terms of four years. No member of the board shall serve more than three
5 consecutive terms. Any vacancy on the board arising other than from the
6 expiration of a term shall be filled by appointment for the unexpired
7 portion of the term, and any person appointed to fill a vacancy on the
8 board shall be eligible for reappointment for two more consecutive terms.
9 No more than three members of the board shall be registered members of
10 that political party represented by the Governor.

11 (2) Each member of the board shall receive one hundred dollars per
12 day for each day actually and necessarily engaged in the performance of
13 his or her duties, but not to exceed seven thousand dollars in any one
14 year, except for the member designated to represent the board on the
15 Southwest Power Pool Regional State Committee or its equivalent
16 successor, who shall receive two hundred fifty dollars for each day
17 actually and necessarily engaged in the performance of his or her duties,
18 not to exceed thirty-five thousand dollars in any one year. If the member
19 designated to represent the board on the Southwest Power Pool Regional
20 State Committee should for any reason no longer serve in that capacity
21 during a year, the pay received while serving in such capacity shall not
22 be used for purposes of calculating the seven-thousand-dollar limitation
23 for board members not serving in that capacity. When another board member
24 acts as the proxy for the designated Southwest Power Pool Regional State
25 Committee member, he or she shall receive the same pay as the designated
26 member would have for that activity. Pay received while serving as proxy
27 for such designated member shall not be used for purposes of determining
28 whether the seven-thousand-dollar limitation has been met for board
29 members not serving as such designated member. Total pay to board members
30 for activities related to the Southwest Power Pool shall not exceed an
31 aggregate total of forty thousand dollars in any one year. Each member

1 shall be reimbursed for expenses while so engaged as provided in sections
2 81-1174 to 81-1177. The board shall have jurisdiction as provided in
3 Chapter 70, article 10.

4 (3) The board shall elect from their members a chairperson and a
5 vice-chairperson. Decisions of the board shall require the approval of a
6 majority of the members of the board.

7 (4) The board shall employ an executive director and may employ such
8 other staff necessary to carry out the duties pursuant to Chapter 70,
9 article 10. The executive director shall serve at the pleasure of the
10 board and shall be solely responsible to the board. The executive
11 director shall be responsible for the administrative operations of the
12 board and shall perform such other duties as may be delegated or assigned
13 to him or her by the board. The board may obtain the services of experts
14 and consultants necessary to carry out the board's duties pursuant to
15 Chapter 70, article 10.

16 (5) The board shall publish and submit a biennial report with annual
17 data to the Governor, with copies to be filed with the Clerk of the
18 Legislature and with the Department of Environment and Energy. The report
19 submitted to the Clerk of the Legislature shall be submitted
20 electronically. The department shall consider the information in the
21 Nebraska Power Review Board's report when the department prepares its own
22 reports pursuant to sections 81-1606 and 81-1607. The report of the board
23 shall include:

24 (a) The assessments for the fiscal year imposed pursuant to section
25 70-1020;

26 (b) The gross income totals for each category of the industry and
27 the industry total;

28 (c) The number of suppliers against whom the assessment is levied,
29 by category and in total;

30 (d) The projected dollar costs of generation, transmission, and
31 microwave applications, approved and denied;

1 (e) The actual dollar costs of approved applications upon
2 completion, and a summary of an informational hearing concerning any
3 significant divergence between the projected and actual costs;

4 (f) A description of Nebraska's current electric system and
5 information on additions to and retirements from the system during the
6 fiscal year, including microwave facilities;

7 (g) A statistical summary of board activities and an expenditure
8 summary;

9 (h) A roster of power suppliers in Nebraska and the assessment each
10 paid; and

11 (i) Appropriately detailed historical and projected electric supply
12 and demand statistics, including information on the total generating
13 capacity owned by Nebraska suppliers and the total peak load demand of
14 the previous year, along with an indication of how the industry will
15 respond to the projected situation.

16 (6) The board may, in its discretion, hold public hearings
17 concerning the conditions that may indicate that retail competition in
18 the electric industry would benefit Nebraska's citizens and what steps,
19 if any, should be taken to prepare for retail competition in Nebraska's
20 electricity market. In determining whether to hold such hearings, the
21 board shall consider the sufficiency of public interest.

22 (7) The board may, at any time deemed beneficial by the board,
23 submit a report to the Governor with copies to be filed with the Clerk of
24 the Legislature and the Natural Resources Committee of the Legislature.
25 The report filed with the Clerk of the Legislature and the committee
26 shall be filed electronically. The report may include:

27 (a) Whether or not a viable regional transmission organization and
28 adequate transmission exist in Nebraska or in a region which includes
29 Nebraska;

30 (b) Whether or not a viable wholesale electricity market exists in a
31 region which includes Nebraska;

1 (c) To what extent retail rates have been unbundled in Nebraska;

2 (d) A comparison of Nebraska's wholesale electricity prices to the
3 prices in the region; and

4 (e) Any other information the board believes to be beneficial to the
5 Governor, the Legislature, and Nebraska's citizens when considering
6 whether retail electric competition would be beneficial, such as, but not
7 limited to, an update on deregulation activities in other states and an
8 update on federal deregulation legislation.

9 (8) The board may establish working groups of interested parties to
10 assist the board in carrying out the powers set forth in subsections (6)
11 and (7) of this section.

12 **Sec. 2.** Original section 70-1003, Revised Statutes Cumulative
13 Supplement, 2024, is repealed.