

AMENDMENTS TO LB752

Introduced by Brewer, 43.

1 1. Insert the following new section:

2 Sec. 2. Section 70-1014.02, Revised Statutes Cumulative Supplement,
3 2016, is amended to read:

4 70-1014.02 (1)(a) A privately developed renewable energy generation
5 facility that meets the requirements of this section is exempt from
6 sections 70-1012 to 70-1014.01 if no less than thirty days prior to the
7 commencement of construction the owner of the facility:

8 (i) Notifies the board in writing of its intent to commence
9 construction of a privately developed renewable energy generation
10 facility;

11 (ii) Certifies to the board that the facility will meet the
12 requirements for a privately developed renewable energy generation
13 facility;

14 (iii) Certifies to the board that the private electric supplier will
15 (A) comply with any decommissioning requirements adopted by the local
16 governmental entities having jurisdiction over the privately developed
17 renewable energy generation facility and (B) except as otherwise provided
18 in subdivision (b) of this subsection, submit a decommissioning plan to
19 the board obligating the private electric supplier to bear all costs of
20 decommissioning the privately developed renewable energy generation
21 facility and requiring that the private electric supplier post a security
22 bond or other instrument, no later than the tenth year following
23 commercial operation, securing the costs of decommissioning the facility
24 and provide a copy of the bond or instrument to the board;

25 (iv) Certifies to the board that the private electric supplier has
26 entered into or prior to commencing construction will enter into a joint
27 transmission development agreement pursuant to subdivision (c) of this

1 subsection with the electric supplier owning the transmission facilities
2 of sixty thousand volts or greater to which the privately developed
3 renewable energy generation facility will interconnect; and

4 (v) Certifies to the board that the private electric supplier has
5 consulted with the Game and Parks Commission to identify potential
6 measures to avoid, minimize, and mitigate impacts to species identified
7 under subsection (1) or (2) of section 37-806 during the project planning
8 and design phases, if possible, but in no event later than the
9 commencement of construction.

10 (b) The board may bring an action in the name of the State of
11 Nebraska for failure to comply with subdivision (a)(iii)(B) of this
12 subsection. Subdivision (a)(iii)(B) of this subsection does not apply if
13 a local government entity with the authority to create requirements for
14 decommissioning has enacted decommissioning requirements for the
15 applicable jurisdiction.

16 (c) The joint transmission development agreement shall address
17 construction, ownership, operation, and maintenance of such additions or
18 upgrades to the transmission facilities as required for the privately
19 developed renewable energy generation facility. The joint transmission
20 development agreement shall be negotiated and executed contemporaneously
21 with the generator interconnection agreement or other directives of the
22 applicable regional transmission organization with jurisdiction over the
23 addition or upgrade of transmission, upon terms consistent with prudent
24 electric utility practices for the interconnection of renewable
25 generation facilities, the electric supplier's reasonable transmission
26 interconnection requirements, and applicable transmission design and
27 construction standards. The electric supplier shall have the right to
28 purchase and own transmission facilities as set forth in the joint
29 transmission development agreement. The private electric supplier of the
30 privately developed renewable energy generation facility shall have the
31 right to construct any necessary facilities or improvements set forth in

1 the joint transmission development agreement pursuant to the standards
2 set forth in the agreement at the private electric supplier's cost.

3 (2) Within ten days after receipt of a written notice complying with
4 subsection (1) of this section, the executive director of the board shall
5 issue a written acknowledgment that the privately developed renewable
6 energy generation facility is exempt from sections 70-1012 to 70-1014.01.

7 (3) The exemption allowed under this section for a privately
8 developed renewable energy generation facility shall extend to and exempt
9 all private electric suppliers owning any interest in the facility,
10 including any successor private electric supplier which subsequently
11 acquires any interest in the facility.

12 (4) No property owned, used, or operated as part of a privately
13 developed renewable energy generation facility shall be subject to
14 eminent domain by a consumer-owned electric supplier operating in the
15 State of Nebraska. Nothing in this section shall be construed to grant
16 the power of eminent domain to a private electric supplier or limit the
17 rights of any entity to acquire any public, municipal, or utility right-
18 of-way across property owned, used, or operated as part of a privately
19 developed renewable energy generation facility as long as the right-of-
20 way does not prevent the operation of or access to the privately
21 developed renewable energy generation facility.

22 (5) Only a consumer-owned electric supplier operating in the State
23 of Nebraska may exercise eminent domain authority to acquire the land
24 rights necessary for the construction of transmission lines and related
25 facilities. ~~The exercise of eminent domain to provide needed transmission~~
26 ~~lines and related facilities for a privately developed renewable energy~~
27 ~~generation facility is a public use.~~

28 (6) Nothing in this section shall be construed to authorize a
29 private electric supplier to sell or deliver electricity at retail in
30 Nebraska.

31 (7) Nothing in this section shall be construed to limit the

1 authority of or require a consumer-owned electric supplier operating in
2 the State of Nebraska to enter into a joint agreement with a private
3 electric supplier to develop, construct, and jointly own a privately
4 developed renewable energy generation facility.

5 2. Renumber the remaining section and correct the repealer
6 accordingly.