

LEGISLATIVE BILL 479

Approved by the Governor May 8, 1993

Introduced by Natural Resources Committee: Beutler, 28, Chairperson;
Bohlke, 33; Bromm, 23; Elmer, 38; Hartnett, 45;
Jones, 43; McKenzie, 34; Preister, 5

AN ACT relating to energy projects; to amend sections 66-1009, 81-1632, and 81-1638, Reissue Revised Statutes of Nebraska, 1943, and section 81-1633, Revised Statutes Supplement, 1992; to change provisions relating to loans from utilities for energy conservation measures and loans from the School Weatherization Fund; to authorize political subdivisions to apply for and receive disbursements for energy projects; and to repeal the original sections.

Be it enacted by the people of the State of Nebraska,

Section 1. That section 66-1009, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

66-1009. (1) A customer borrowing from a utility under a plan adopted pursuant to the Nebraska Investment Finance Authority Act or sections ~~58-201 to 58-272~~ or 66-1001 to 66-1011 shall be allowed to contract with the utility for a repayment plan and shall be offered a repayment period of not less than three years and not more than twenty years.

(2) Upon default on a loan by a customer, after expending reasonable efforts to collect, a utility may treat the entire unpaid contract amount as due, but services to a residential, agricultural, or commercial customer may not be terminated as a result of such default. Default occurs when any amount due a utility under a plan adopted pursuant to sections 66-1001 to 66-1011, 70-625, 70-704, 81-161, 81-1602, 81-1606 to 81-1626, and 84-162 to 84-167 is not paid within sixty days of the due date.

(3) Any customer obtaining a loan pursuant to ~~sections 58-201 to 58-272~~ the act or section 66-1007 shall only use the funds to accomplish the purposes agreed upon at the time of the loan. If the borrower of any funds obtained pursuant to the act or sections ~~58-201 to 58-272~~ or 66-1001 to 66-1011 uses such funds in a manner or for a purpose not authorized by this section, the total amount of the loan shall immediately become due and payable.

(4) Any amount due a utility on a loan pursuant to the act or sections ~~58-201 to 58-272~~ or 66-1001 to 66-1011 which is not paid in full within sixty days of the due date shall become a lien as provided in this section on the real property concerned as to the full unpaid balance. No lien under this section shall be valid unless (a) the loan was signed by the party or parties shown on the indexes of the register of deeds to be the

owners of record of such real property on the date of the loan and (b) the lien is filed not more than four months after the date of default, in the same office and in the same manner as mortgages in the county in which the real property is located. Such lien shall take effect and be in force from and after the time of delivering the same to the register of deeds for recording, and not before, as to all creditors and subsequent purchasers in good faith without notice, and such lien shall be adjudged void as to all such creditors and subsequent purchasers without notice whose deeds, mortgages, or other instruments shall be first recorded, except that such lien shall be valid between the parties. A publicly owned utility shall not maintain possession of any property which it may acquire pursuant to a lien authorized by this section for a period of time longer than is reasonably necessary to dispose of such property.

(5) Any loan made under a plan adopted pursuant to sections 66-1001 to 66-1011 shall not exceed ~~three~~ ten thousand dollars, subject to any existing limitations under federal law.

(6) The State Energy Office may adopt and promulgate rules and regulations to carry out sections 66-1001 to 66-1011.

Sec. 2. That section 81-1632, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

81-1632. (1) Any school district may apply to the State Energy Office for an energy efficiency loan from the School Weatherization Fund. Loans received pursuant to this subsection shall only be used for energy efficiency projects which are approved by the State Energy Office at the time the loan is approved. Energy efficiency projects may include studies, programs, building and equipment improvements, the purchase or conversion of vehicles to operate on alternate fuel, and the purchase and installation of fueling facilities for alternate-fuel vehicles. For purposes of this subsection, alternate fuel shall mean ethanol, methanol, electricity, compressed natural gas, liquefied natural gas, propane, and any other alternative fuel approved and recognized by the United States Department of Energy.

(2) The State Energy Office shall approve energy efficiency loan applications for proposed ~~programs or~~ projects which will reduce energy use or result in a more efficient use of available energy resources. Any such loan not denied within forty-five days of its submission shall be considered approved. In determining whether to approve, reduce, or deny such application, the State Energy Office shall consider the type of project ~~or program proposed; the life expectancy of the building; the projected energy savings; and the simple payback period for the project~~ proposed and, when applicable, the life expectancy, projected energy savings, and simple payback. For purposes of this subsection, simple payback shall mean the cost of the project divided by the first year's estimated savings resulting from the project.

(3) Upon ~~Following~~ approval of an energy efficiency loan application pursuant to this section, the State Energy Office shall submit ~~its voucher~~ vouchers against the School Weatherization Fund to the Director of Administrative Services for the amount of the approved

loan as requests are received. The Director of Administrative Services shall, on a monthly basis or more frequently if requested, notify the State Energy Office of the balance available in the School Weatherization Fund.

(4) Any school district may apply to the State Energy Office for a technical analysis study grant. The State Energy Office shall adopt and promulgate, ~~not later than January 1, 1985~~, rules and regulations pertaining to the application procedures, approval criteria, funding based on building floor area, and the required contents of a technical analysis study. The funds distributed in any fiscal year for such studies shall not exceed three percent of the funds available from the School Weatherization Fund during that fiscal year. No technical analysis study grant shall exceed two thousand five hundred dollars for any one building. Grants received pursuant to this subsection shall only be used for technical analysis studies which are approved by the State Energy Office at the time the grant is approved. The school district shall submit a copy of the technical analysis report and an expense voucher to the State Energy Office as a request for payment. The State Energy Office shall submit ~~its~~ a voucher to the Director of Administrative Services upon approval of the technical analysis study by the State Energy Office.

(5) Approved loan or grant applications shall be effected by contract or such other form or method as shall be provided by the State Energy Office. Loans shall be repaid in semiannual payments, with the first payment due six months after the date the project ~~or program~~ is completed. Loans shall carry no interest or finance charge, and payments made prior to July 1, 1996, shall be deposited in the School Weatherization Fund. The amount of each semiannual payment on loans for studies, alternate-fuel vehicles, and fueling facilities shall be established by the State Energy Office. The amount of each semiannual payment for all other loans shall be ~~one-fourth~~ no less than one-fourth and no greater than one-half of the estimated first-year savings resulting from the project as established in the approved loan application, except that no ~~such~~ loan entered into prior to the effective date of this act shall be made for a term longer than fourteen years after the completion of the project. Any loan made on or after the effective date of this act for energy studies shall be repaid within five years from the date of such loan. Any loan made on or after the effective date of this act for alternate-fuel vehicles or fueling facilities shall be repaid within ten years from the date of such loan. Any other loan made on or after the effective date of this act shall be repaid within fourteen years from the date of such loan. ~~or program.~~

(6) ~~For purposes of this section simple payback period shall mean the cost of the project divided by the first year's savings resulting from the project.~~

(6) (7) The State Energy Office shall provide forms on which loan and grant applications may be made. The State Energy Office shall record and compile a complete list of all loan and grant applications and shall make an equitable geographic distribution of loans and grants as nearly as possible among the congressional districts provided in section 32-1501.

Sec. 3. That section 81-1633, Revised Statutes Supplement, 1992, be amended to read as follows:

81-1633. (1) Each school district receiving a loan pursuant to section 81-1632 shall submit to the State Energy Office an annual energy consumption report on the funded project. ~~Each school district receiving a grant or loan pursuant to section 81-1632 shall, on an annual basis, submit a report to the State Energy Office detailing any changes in energy consumption for each school in which an energy efficiency project or program was funded pursuant to section 81-1632. The report shall also include a detailed breakdown of project expenditures for the previous twelve months.~~

~~(2) The State Energy Office shall prepare a report for the Legislature by November 1, 1989, assessing (a) the current energy efficiency status of Nebraska public schools, (b) the cost effective opportunities for further public school weatherization, and (c) the adequacy of current funds to accomplish weatherization opportunities identified in the report.~~

(2) ~~(3)~~ The Legislature's Appropriations Committee shall annually review and assess the need for continuation of the School Weatherization Fund and the appropriateness of the administration expenses provided for this program.

(3) ~~(4)~~ The State Energy Office may adopt and promulgate rules and regulations necessary to ensure the effectiveness of this section and section 81-1632. For each fiscal year, the Legislature shall designate, by appropriation, an amount from the School Weatherization Fund for the State Energy Office for administration of each new loan or grant and any outstanding loans.

Sec. 4. That section 81-1638, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

81-1638. (1) The State Energy Office shall, as the representative of and under the direction of the Governor, be the administrative agency for the selection of projects pursuant to section 81-1636, allocation of funds to the projects, and monitoring of the uses of the funds so allocated.

(2) The State Energy Office shall contract with any and all grantees of funds in and recipients of loans from the fund. The contracts shall include provisions for reporting on and accounting for the use of the funds by the grantee or loan recipient to the State Energy Office, and any contracts or agreements entered into before appropriations are made by the Legislature shall recite that they are subject to appropriations of the fund by the Legislature.

(3) Any political subdivision of this state may apply for, and shall be eligible to receive, a disbursement for a project pursuant to section 81-1636, including a disbursement of loan proceeds.

Sec. 5. That original sections 66-1009, 81-1632, and 81-1638, Reissue Revised Statutes of Nebraska, 1943, and section 81-1633, Revised Statutes Supplement, 1992, are repealed.