

LEGISLATURE OF NEBRASKA  
ONE HUNDRED EIGHTH LEGISLATURE  
SECOND SESSION

**LEGISLATIVE BILL 866**

Introduced by Bostelman, 23.

Read first time January 03, 2024

Committee: Natural Resources

- 1 A BILL FOR AN ACT relating to the Nebraska Power Review Board; to amend
- 2 section 70-1003, Revised Statutes Cumulative Supplement, 2022; to
- 3 change provisions relating to board composition, eligibility, terms,
- 4 and compensation; and to repeal 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 2022, is amended to read:

3 70-1003 (1)(a) ~~(1)~~ There is hereby established an independent board  
4 to be known as the Nebraska Power Review Board. The board shall ~~to~~  
5 consist of five members, at least one of whom shall be an engineer and at  
6 least  ~~,~~ one of whom shall be an attorney. No more than one  ~~, one an~~  
7 ~~accountant, and two laypersons.~~ No person who is or who has within four  
8 years preceding such person's ~~his or her~~ appointment been either a  
9 director, an officer, or an employee of any electric utility or an  
10 elective state officer shall serve ~~be eligible for membership~~ on the  
11 board at the same time. Any board member who previously was either a  
12 director, an officer, or an employee of any electric utility within four  
13 years preceding such board member's appointment shall refrain from taking  
14 any action or making any decision in any proceeding before the board that  
15 involves such electric utility for a period of four years after the date  
16 such board member ceased being a director, an officer, or an employee of  
17 such electric utility.

18 (b) Members of the board shall be appointed by the Governor subject  
19 to the approval of the Legislature. Upon expiration of the terms of the  
20 members first appointed, the successors shall be appointed for terms of  
21 four years. No member of the board shall serve more than three ~~two~~  
22 consecutive terms. Any vacancy on the board arising other than from the  
23 expiration of a term shall be filled by appointment for the unexpired  
24 portion of the term, and any person appointed to fill a vacancy on the  
25 board shall be eligible for reappointment for two more consecutive terms.  
26 No more than three members of the board shall be registered members of  
27 that political party represented by the Governor.

28 (2) Each member of the board shall receive one hundred sixty ~~sixty~~ dollars  
29 per day for each day actually and necessarily engaged in the performance  
30 of his or her duties, but not to exceed seven ~~six~~ thousand dollars in any  
31 one year, except for the member designated to represent the board on the

1 Southwest Power Pool Regional State Committee or its equivalent  
2 successor, who shall receive two hundred fifty dollars for each day  
3 actually and necessarily engaged in the performance of his or her duties,  
4 not to exceed thirty-five thousand dollars in any one year. If the member  
5 designated to represent the board on the Southwest Power Pool Regional  
6 State Committee should for any reason no longer serve in that capacity  
7 during a year, the pay received while serving in such capacity shall not  
8 be used for purposes of calculating the seven-thousand-dollar ~~six-~~  
9 ~~thousand-dollar~~ limitation for board members not serving in that  
10 capacity. When another board member acts as the proxy for the designated  
11 Southwest Power Pool Regional State Committee member, he or she shall  
12 receive the same pay as the designated member would have for that  
13 activity. Pay received while serving as proxy for such designated member  
14 shall not be used for purposes of determining whether the seven-thousand-  
15 dollar ~~six-thousand-dollar~~ limitation has been met for board members not  
16 serving as such designated member. Total pay to board members for  
17 activities related to the Southwest Power Pool shall not exceed an  
18 aggregate total of forty thousand dollars in any one year. Each member  
19 shall be reimbursed for expenses while so engaged as provided in sections  
20 81-1174 to 81-1177. The board shall have jurisdiction as provided in  
21 Chapter 70, article 10.

22 (3) The board shall elect from their members a chairperson and a  
23 vice-chairperson. Decisions of the board shall require the approval of a  
24 majority of the members of the board.

25 (4) The board shall employ an executive director and may employ such  
26 other staff necessary to carry out the duties pursuant to Chapter 70,  
27 article 10. The executive director shall serve at the pleasure of the  
28 board and shall be solely responsible to the board. The executive  
29 director shall be responsible for the administrative operations of the  
30 board and shall perform such other duties as may be delegated or assigned  
31 to him or her by the board. The board may obtain the services of experts

1 and consultants necessary to carry out the board's duties pursuant to  
2 Chapter 70, article 10.

3 (5) The board shall publish and submit a biennial report with annual  
4 data to the Governor, with copies to be filed with the Clerk of the  
5 Legislature and with the Department of Environment and Energy. The report  
6 submitted to the Clerk of the Legislature shall be submitted  
7 electronically. The department shall consider the information in the  
8 Nebraska Power Review Board's report when the department prepares its own  
9 reports pursuant to sections 81-1606 and 81-1607. The report of the board  
10 shall include:

11 (a) The assessments for the fiscal year imposed pursuant to section  
12 70-1020;

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

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

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

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

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

25 (g) A statistical summary of board activities and an expenditure  
26 summary;

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

29 (i) Appropriately detailed historical and projected electric supply  
30 and demand statistics, including information on the total generating  
31 capacity owned by Nebraska suppliers and the total peak load demand of

1 the previous year, along with an indication of how the industry will  
2 respond to the projected situation.

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

9 (7) The board may, at any time deemed beneficial by the board,  
10 submit a report to the Governor with copies to be filed with the Clerk of  
11 the Legislature and the Natural Resources Committee of the Legislature.  
12 The report filed with the Clerk of the Legislature and the committee  
13 shall be filed electronically. The report may include:

14 (a) Whether or not a viable regional transmission organization and  
15 adequate transmission exist in Nebraska or in a region which includes  
16 Nebraska;

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

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

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

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

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

30 Sec. 2. Original section 70-1003, Revised Statutes Cumulative  
31 Supplement, 2022, is repealed.