



States' Biofuels Statutes

STATE OF NEBRASKA

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Current through the 2013 Legislative Session of the Nebraska General Assembly.

70-1401. Act, how cited

Sections 70-1401 to 70-1423 shall be known and may be cited as the Joint Public Power Authority Act.

Credits: Laws 1982, LB 852, § 1.

70-1402. Terms, defined

As used in the Joint Public Power Authority Act, unless the context otherwise requires:

- (1) Agency shall mean any public body, authority, or commission which is engaged in the generation, transmission, or distribution of electric power and energy and which issues indebtedness;
- (2) Bonds shall mean electric revenue bonds, notes, warrants, certificates, or other obligations of indebtedness of a joint authority issued under the Joint Public Power Authority Act and shall include refunding bonds and notes issued pending permanent revenue bond financing;
- (3) Cost or cost of a project shall mean, but shall not be limited to, the cost of acquisition, construction, reconstruction, improvement, enlargement, or extension of any project, including the cost of studies, plans, specifications, surveys, and estimates of related costs and revenue; the cost of land, land rights, rights-of-way, easements, water rights, fees, permits, approvals, licenses, certificates, franchises, and the preparation of applications for and securing the same; administrative, legal, engineering, and inspection expenses; financing fees, expenses, and costs; working capital; initial fuel costs; interest on the bonds during the period of construction and for such reasonable period thereafter as may be determined by the joint authority; establishment of reserves; and all other expenditures of the joint authority incidental, necessary, or convenient to the acquisition, construction, reconstruction, improvement, enlargement, or extension of any project and the placing of such project in operation;
- (4) Governing body shall mean the board of directors of a public power district;

(5) Joint authority shall mean a public body and body corporate and politic organized in accordance with the Joint Public Power Authority Act;

(6) Public power district shall mean a public power district organized under or subject to Chapter 70, article 6; and

(7) Project shall mean any system or facilities for the generation, transmission, and transformation, or any combination thereof, of electric power and energy by any means whatsoever including, but not limited to, any one or more electric generating units situated at a particular site or any interest in any of the foregoing or any right to the output, capacity, use, or services of such units, any system or facilities for the production, storage, or distribution of hydrogen, or any system or facilities for the production or distribution of ethanol.

Credits: Laws 1982, LB 852, § 2; Laws 1986, LB 1230, § 51; Laws 2005, LB 139, § 19.

70-1403. Legislative findings

The Legislature hereby finds and determines that:

(1) Certain public power districts in this state which are empowered severally to engage in the generation, transmission, and distribution of electric power and energy have for many years owned and operated systems for the distribution of electric power and energy to customers in their respective service areas, have the resources and ability to facilitate the development of a hydrogen production and distribution industry, and have the resources and ability to facilitate the development of an ethanol production and distribution industry;

(2) Such public power districts owning electric distribution systems have an obligation to provide the inhabitants and customers of the district an adequate, reliable, and economical source of electric power and energy in the future;

(3) In order to enhance the economy within the state, to achieve the economies and efficiencies made possible by the proper planning, financing, and location of facilities for the generation and transmission of electric power and energy, the production, storage, and distribution of hydrogen, and the production and distribution of ethanol which are not practical for any public power district acting alone, and to ensure an adequate, reliable, and economical supply of electric power and energy, hydrogen, and ethanol to the people of this state, it is desirable for the state to authorize public power districts to jointly plan, finance, develop, own, and operate electric generation and transmission facilities, hydrogen production, storage, or distribution facilities, and ethanol production and distribution facilities appropriate to their needs in order to provide for their present and future power requirements for all uses without supplanting or displacing the service at retail of other electric suppliers operating in this state;

(4) In order for public power districts of this state to secure long-term, supplemental, short-term, and interim financing for both capital projects and operational purposes, it is also desirable to authorize

public power districts to join together to create joint authorities which can issue revenue bonds and other obligations and make loans to its member public power districts at less cost than if the individual public power district secured its own financing; and

(5) The creation of joint authorities by public power districts which own electric distribution systems, hydrogen production, storage, or distribution facilities, and ethanol production and distribution facilities for the joint planning, financing, development, ownership, and operation of electric generation and transmission facilities, hydrogen production, storage, or distribution facilities, and ethanol production and distribution facilities and the issuance of revenue bonds by such joint authorities for such purposes as provided by the Joint Public Power Authority Act is for a public use and for public purposes and is a means of achieving economies, adequacy, and reliability in the generation or transmission of electric power and energy and in the meeting of future needs of this state and its inhabitants.

Credits: Laws 1982, LB 852, § 3; Laws 1986, LB 1230, § 52; Laws 2005, LB 139, § 20.

70-1404. Public power district; joint project authorized; limitation; study

(1) A public power district may plan, finance, develop, acquire, purchase, construct, reconstruct, improve, enlarge, own, operate, and maintain an undivided interest as a tenant in common in a project situated within or without the state jointly with one or more public power districts in this state owning electric distribution facilities, hydrogen production, storage, or distribution facilities, or ethanol production or distribution facilities or with any political subdivision or agency of this state or of any other state and may make such plans and enter into such contracts not inconsistent with the Joint Public Power Authority Act as are necessary or appropriate, except that membership of public power districts in a joint authority shall consist only of public power districts located within this state.

(2) Nothing in the Joint Public Power Authority Act shall prevent public power districts from undertaking studies to determine whether there is a need for a project or whether such project is feasible.

Credits: Laws 1982, LB 852, § 4; Laws 1986, LB 1230, § 53; Laws 2005, LB 139, § 21.

70-1405. Creation of joint authority; procedure; resolution; membership; considerations; notice; challenge

(1) The governing body of two or more public power districts may by resolution determine that it is in the best interests of the respective public power districts and their electric customers to create a joint authority. Such resolution shall be approved by a majority of the members of the governing body of the public power district. Each public power district which will be a member of the joint authority must approve for membership every other district that will be a member of the joint authority.

(2) In determining whether or not the creation of a joint authority for such purpose is in the best interests of the public power districts and their electric customers, the governing body shall take into consideration, but shall not be limited to:

- (a) Whether or not a separate entity may be able to finance the costs of a project or projects or provide financing for its members in a more efficient and economical manner;
- (b) Whether or not a better financial market acceptance may result if one entity is responsible for issuing all of the bonds required for a project or projects or providing financing for its members in a timely and orderly manner; and
- (c) Whether or not savings and other advantages may be obtained by providing a separate entity responsible for the acquisition, purchase, construction, ownership, and operation of a project or projects or for issuing bonds in order to make loans to its member districts.

(3) If the proposed creation of a joint authority is found to be in the best interests of two or more public power districts, the governing body of each public power district shall cause notice of its action to be published once a week for two consecutive weeks in a newspaper of general circulation within the operating area of each public power district. Any elector of the district affected by the action of the governing body of such public power district may, by action de novo, instituted in the district court for the county in which the principal office of such public power district is located, within twenty days following the last publication of the prescribed notice, challenge the action of the public power district on the grounds that creation of a joint authority is not in the best interest of that public power district.

Credits: Laws 1982, LB 852, § 5.

70-1406. Proposed joint authority; members; application; Nebraska Power Review Board; duties; proof of authority’s establishment

(1) Upon fulfilling the requirements set forth in section 70-1405, the governing body of each public power district which determines that its participation in the proposed joint authority is in its best interest shall by resolution appoint one representative to the proposed joint authority. Any two or more representatives so appointed shall file with the Nebraska Power Review Board an application signed by a representative of each proposed member public power district setting forth:

- (a) The names of all the proposed member public power districts and their respective appointed representatives;
- (b) A certified copy of the resolution of each member public power district determining it is in its best interest to participate in the proposed joint authority and the resolution appointing such representative;
- (c) The desire that the joint authority be organized as a public body and a body corporate and politic under sections 70-1401 to 70-1423; and
- (d) The name which is proposed for the joint authority.

(2) The Nebraska Power Review Board shall examine the application and shall determine whether the application complies with the requirements set forth in subsection (1) of this section and that the

proposed name of the joint authority is not identical with that of any other corporation of the state or any state agency or instrumentality, or so nearly similar as to lead to confusion and uncertainty. The Nebraska Power Review Board shall then receive and file the application.

(3) Upon receipt of such application, it shall be the duty of the Nebraska Power Review Board at once to make an investigation of the proposed joint authority to determine whether the application complies with the requirements set forth in subsection (1) of this section and that the proposed name of the joint authority is not identical with the name of any other corporation of the state or any state agency or instrumentality, or so nearly similar as to lead to confusion and uncertainty. If the board determines that the joint authority is in the best interest of each of the public power districts, the board or its successor by its executive board shall, within thirty days of receipt of such application, execute a certificate in duplicate, setting forth a true copy of the application and declaring that the application has been approved.

(4) The Nebraska Power Review Board shall immediately cause one copy of the certificate to be forwarded to and filed with the Secretary of State and the other one in the office of the county clerk of the county where the principal place of business of each member of the joint authority is located. Thereupon such joint authority under its designated name shall constitute a body politic and corporate.

(5) In any suit, action, or proceeding involving the validity or enforcement of, or relating to, any contract of the joint authority, the joint authority, in the absence of the establishment of fraud, shall be conclusively deemed to have been established in accordance with sections 70-1401 to 70-1423 upon proof of the issuance of the prescribed certificate by the Secretary of State. A copy of such certificate, duly certified by the Secretary of State, shall be admissible in evidence in any such suit, action, or proceeding, and shall be conclusive proof of the filing and contents of such certificate.

Credits: Laws 1982, LB 852, § 6.

70-1407. Joint authority; board of directors; appointment; votes; oath; officers; quorum; expenses; additional districts; withdrawal; dissolution

(1) The management and control of a joint authority shall be vested in a board of directors. The governing body of each member public power district of a joint authority shall appoint a representative who shall be a director of the joint authority. The representative, at the discretion of the public power district, may be an officer or employee of the public power district. Each director shall have not less than one vote and may have such additional votes as a two-thirds majority of the members of the joint authority shall determine. In determining any such additional votes of each director, consideration shall be given to the financial obligations to the joint authority of each member. Each director shall serve at the pleasure of the governing body by which he or she was appointed. Each appointed director, before entering upon his or her duties, shall take and subscribe to an oath before a person authorized by law to administer oaths to execute the duties of his or her office faithfully and impartially, and a record of each such oath shall be filed with the governing body of the appointing public power district.

The board of directors of the joint authority shall annually elect, with each representative of member public power districts having one vote, one of the directors as chairperson, another as vice-chairperson,

and another person or persons who may but need not be directors as treasurer, secretary, and, if desired, assistant secretary. The office of treasurer may be held by the secretary or assistant secretary. The board of directors may also appoint such additional officers as it deems necessary. The secretary or assistant secretary of the joint authority shall keep a record of the proceedings of the joint authority, and the secretary shall be the custodian of all books, records, documents, and papers filed with the joint authority, the minute book or journal of the joint authority, and its official seal, in compliance with the provisions of section 70-622.

A majority of the directors of the joint authority then in office shall constitute a quorum. A vacancy on the board of directors of the joint authority shall not impair the right of a quorum to exercise all rights and perform all the duties of a joint authority. Any action taken by the joint authority under the provisions of sections 70-1401 to 70-1423 may be authorized by resolution at any regular or special meeting held pursuant to notice in accordance with the bylaws of the joint authority, and each such resolution shall take effect immediately and need not be published or posted. Three-fourths of the votes which the directors present are entitled to cast, with a quorum present, shall be necessary and sufficient to take any action or to pass any resolution. No director of a joint authority shall receive any compensation for the performance of duties provided under sections 70-1401 to 70-1423, except that each director may be paid his or her actual and necessary expenses incurred while engaged in the performance of such duties.

(2) After the creation of a joint authority, any other public power district may become a member (a) upon application to such joint authority, and (b) with the unanimous consent of the members of the joint authority evidenced by the resolutions of their respective governing bodies. Notice of additional members shall be given to the Secretary of State and the Nebraska Power Review Board.

(3) Any public power district may withdraw from the joint authority at any time, except that all contractual rights acquired and contractual obligations incurred by a public power district while such public power district was a member shall remain in full force and effect.

Whenever the board of directors of a joint authority and the governing body of each of its member public power districts shall by resolution determine that the purposes for which the joint authority was formed have been substantially fulfilled and that all bonds issued and all other obligations incurred by the joint authority have been fully paid or satisfied, such board of directors and governing bodies may declare the joint authority to be dissolved. On the effective date of such resolution, the title to all funds and other property owned by the joint authority at the time of such dissolution shall vest in the member public power districts of the joint authority as provided in sections 70-1401 to 70-1423 and the bylaws of the joint authority.

Credits: Laws 1982, LB 852, § 7.

70-1408. Executive committee; creation; exercise powers of board

The board of directors of a joint authority may create an executive committee the composition of which shall be set forth in the bylaws of the joint authority. The executive committee shall have and shall exercise the powers and authority of the board of directors during intervals between the board's

meetings in accordance with the board's bylaws, rules, motions, or resolutions. The terms of office of the members of the executive committee and the method of filling vacancies shall be fixed by the bylaws of the joint authority.

Credits: Laws 1982, LB 852, § 8.

70-1409. Joint authority; rights and powers; enumerated

Each joint authority shall have all the rights and powers necessary or convenient to carry out and effectuate the purposes and provisions of the Joint Public Power Authority Act including, but not limited to, the right and power:

- (1) To adopt bylaws for the regulation of the affairs and the conduct of its business and to prescribe rules, regulations, and policies in connection with the performance of its functions and duties;
- (2) To adopt an official seal and alter the same at pleasure;
- (3) To maintain an office at such place or places as it may determine;
- (4) To sue and be sued in its own name and to plead and be impleaded;
- (5) To receive, administer, and comply with the conditions and requirements respecting any gift, grant, or donation of any property or money;
- (6) To acquire by purchase, lease, gift, or otherwise, or to obtain options for the acquisition of, any property, real or personal, improved or unimproved, including an interest in land less than an interest in fee;
- (7) To sell, lease, exchange, transfer, or otherwise dispose of, or to grant options for any such purposes with respect to, any real or personal property or interest in such property;
- (8) To pledge or assign any money, rents, charges, or other revenue and any proceeds derived by the joint authority from the sales of property, insurance, or condemnation awards;
- (9) To issue bonds of the joint authority for the purpose of providing funds for any of its corporate purposes;
- (10) To authorize the construction, operation, or maintenance of any project or projects by any person, firm, or corporation, including political subdivisions and agencies of any state or of the United States;
- (11) To acquire by negotiated purchase or lease an existing project, a project under construction, or other property, either individually or jointly, with one or more public power districts in this state or with any political subdivisions or agencies of this state or any other state or with other joint authorities created pursuant to the Joint Public Power Authority Act;

(12) To dispose of by negotiated sale or lease an existing project, a project under construction, or other property, either individually or jointly, with one or more public power districts in this state, with any political subdivisions or agencies of this state or any other state or, with other joint authorities created pursuant to the Joint Public Power Authority Act, except that no such sale or lease of any project located in this state shall be made to any private person, firm, or corporation engaged in the business of generating, transmitting, or distributing electricity for profit;

(13) To fix, charge, and collect rents, rates, fees, and charges for electric power or energy, hydrogen, or ethanol and other services, facilities, and commodities sold, furnished, or supplied through any project;

(14) To generate, produce, transmit, deliver, exchange, purchase, or sell for resale only electric power or energy, to produce, store, deliver, or distribute hydrogen for use in fuel processes, or to produce, deliver, or distribute ethanol and to enter into contracts for any or all such purposes, subject to sections 70-1410 and 70-1413;

(15) To negotiate and enter into contracts for the purchase, exchange, interchange, wheeling, pooling, or transmission of electric power and energy with any public power district, any other joint authority, any political subdivision or agency of this state or any other state, any electric cooperative, or any municipal agency which owns electric generation, transmission, or distribution facilities in this state or any other state;

(16) To negotiate and enter into contracts for the sale or use of electric power and energy, hydrogen, or ethanol with any joint authority, electric cooperative, any political subdivision or agency or any public or private electric utility of this state or any other state, any joint agency, electric cooperative, municipality, public or private electric utility, or any state or federal agency or political subdivision, subject to sections 70-1410 and 70-1413;

(17) To make and execute contracts and other instruments necessary or convenient in the exercise of the powers and functions of the joint authority under the Joint Public Power Authority Act, including contracts with persons, firms, corporations, and others;

(18) To apply to the appropriate agencies of the state, the United States, or any other state and to any other proper agency for such permits, licenses, certificates, or approvals as may be necessary to construct, maintain, and operate projects in accordance with such licenses, permits, certificates, or approvals, and to obtain, hold, and use the same rights granted in any licenses, permits, certificates, or approvals as any other person or operating unit would have under such documents;

(19) To employ engineers, architects, attorneys, appraisers, financial advisors, and such other consultants and employees as may be required in the judgment of the joint authority and to fix and pay their compensation from funds available to the joint authority. The joint authority may employ technical experts and such other officers, agents, and employees as it may require and shall assess their qualifications, duties, compensation, and term of office. The board may delegate to one or more of the joint authority's employees or agents such powers and duties as the board may deem proper;

(20) To make loans or advances for long-term, supplemental, short-term, and interim financing for both capital projects and operational purposes to those member districts on such terms and conditions as the board of directors of the joint authority may deem necessary and to secure such loans or advances by assignment of revenue, receivables, or other sums of the member district and such other security as the board of directors of the joint authority may determine; and

(21) To sell or lease its dark fiber pursuant to sections 86-574 to 86-578.

Any joint authority shall have the same power of eminent domain as the public power districts have under section 70-670.

Credits: Laws 1982, LB 852, § 9; Laws 1986, LB 1230, § 54; Laws 2001, LB 827, § 17; Laws 2002, LB 1105, § 479; Laws 2005, LB 139, § 22.

70-1410. Joint authority; statutory restrictions applicable; when

Any joint authority created pursuant to sections 70-1401 to 70-1423 which is itself engaged in the generation, transmission, or sale of electrical energy, at wholesale or retail, or which is itself engaged in the construction, maintenance, expansion, improvement, or operation of a power generating plant or other facility for the production or transmission of electrical energy shall comply with the restrictions contained in Chapter 70, articles 10 and 13, and the provisions of sections 70-624 to 70-680.

Credits: Laws 1982, LB 852, § 10.

70-1411. Joint authority; annual audit

Any joint financing authority created pursuant to sections 70-1401 to 70-1423 shall be required to submit to an annual audit in the same manner as a public power district pursuant to sections 70-623 to 70-623.03.

Credits: Laws 1982, LB 852, § 11.

70-1412. Joint authority member; power and energy contracts; conditions; payments; member; furnish authority money, property, and services; authority; lend member funds

(1) Any public power district which is a member of the joint authority may contract to buy from the joint authority power and energy required for its present or future requirements, including the capacity and output of one or more specified projects. As the creation of a joint authority is an alternative method whereby a public power district may obtain the benefits and assume the responsibilities of ownership in a project, any such contract may provide that the public power district so contracting shall be obligated to make the payments required by the contract whether or not a project is completed, operable, or operating notwithstanding the suspension, interruption, interference, reduction, or curtailment of the

output of a project or the power and energy contracted for, and that such payments under the contract shall not be subject to any reduction, whether by offset or otherwise, and shall not be conditioned upon the performance or nonperformance of the joint authority or any other member of the joint authority under the contract or any other instrument. Any contract with respect to the sale or purchase of capacity or output of a project entered into between a joint authority and its member public power districts may also provide that if one or more of such public power districts shall default in the payment of its or their obligations with respect to the purchase of such capacity or output, then the remainder of the member public power districts, which are purchasing capacity and output under the contract, shall be required to accept and pay for and shall be entitled proportionately to use or otherwise dispose of the capacity or output which was to be purchased by the defaulting public power district.

Any such contracts with respect to the sale or purchase of capacity, output, power, or energy from a project may extend for a period not exceeding fifty years from the date a project is estimated to be placed in normal continuous operation; and the execution and effectiveness of such contract shall not be subject to any authorizations or approvals by the state or any agency, commission, or instrumentality, or political subdivision thereof.

(2) Payments by a public power district under any contract for the purchase of capacity and output from a joint authority shall be made from the revenue derived from the ownership and operation of the electric system of such public power district. A public power district shall be obligated to fix, charge, and collect rents, rates, fees, and charges for electric power and energy and other services, facilities, and commodities sold, furnished, or supplied through its electric system sufficient to provide revenue adequate to meet its obligations under any such contract and to pay any and all other amounts payable from or constituting a charge and lien upon such revenue, including amounts sufficient to pay the principal of and interest on bonds, if any, issued by the public power district for purposes related to its electric system.

(3) Any public power district which is a member of a joint authority may furnish the joint authority with money derived from the ownership and operation of its electric system or facilities and provide the joint authority with personnel, equipment, and property, both real and personal. Any public power district may also provide any services to a joint authority.

(4) Any member of a joint authority may contract for, advance, or contribute funds derived solely from the ownership and operation of its electric system or facilities to a joint authority as may be agreed upon by the joint authority and the member, and the joint authority shall repay such advances or contributions from proceeds of bonds, from operating revenue, or from other funds of the joint authority, together with interest at a rate agreed upon by the member and the joint authority.

(5) The joint authority may advance and lend to its members funds derived from the issuance of its bonds as may be agreed upon by the joint authority and the member, and such member shall repay such advances or contributions together with interest at a rate agreed upon by the members and the joint authority.

Credits: Laws 1982, LB 852, § 12.

70-1413. Joint authority project; sale of excess capacity; limitations; applicability

Excess capacity or output of a project not then required by any of the members of a joint authority shall be first offered for sale or exchange pursuant to section 70-626.01. Any sale of available capacity and energy from the joint authority's project shall only be for the period required for the joint authority to fully utilize the amount of capacity and energy originally purchased in the project. The limitations provided in this section shall not apply to the temporary sale of excess capacity and energy without the state in cases of emergency or when required to fulfill obligations under any pooling or reserve-sharing agreements, except that sales of excess capacity or output of a project to electric cooperatives, electric or public utilities, and other persons, the interest on whose securities and other obligations is not exempt from taxation by the federal government, shall not be made in such amounts, for such periods of time, and under such terms and conditions as will cause the interest on bonds issued to finance the cost of a project to become taxable by the federal government. This section shall not apply to sales of ethanol or hydrogen.

Credits: Laws 1982, LB 852, § 13; Laws 1986, LB 1230, § 55; Laws 2005, LB 139, § 23.

70-1414. Joint authority; issue bonds; pledge revenue; restrictions

A joint authority may issue bonds and pledge the revenue, or any portion thereof, derived or to be derived from all or any of its projects, and any additions and improvements to or extensions of such projects, or contributions or advances from or loans to its members to pay for the principal and interest of such bonds. Bonds of a joint authority shall be authorized by resolution adopted by its board of directors. Any bonds so issued shall be subject to the restrictions contained in sections 70-644 to 70-648.

Credits: Laws 1982, LB 852, § 14.

70-1415. Joint authority projects; bonds; issuance; proceeds; uses

(1) No joint authority shall undertake any project required to be financed, in whole or in part, with the proceeds of bonds without the approval of two-thirds of its members. A joint authority is hereby authorized to issue at one time or from time to time its bonds to pay all or any part of the cost of any of the authorized purposes. The principal of, premium, if any, and the interest on such bonds shall be payable solely from the funds provided for such payment. The bonds of each issue may be sold at public or private sale, may be sold at such price, and shall bear interest at such rate or rates, as may be determined by the board of directors of the joint authority. The bonds of each issue shall be dated and shall mature in such amounts and at such time or times, not exceeding fifty years from their respective date or dates, as may be determined by the board of directors of the joint authority and may be made redeemable before maturity at such price or prices and under such terms and conditions as may be fixed by the board of directors of the joint authority prior to issuing the bonds. The board of directors of the joint authority shall determine the form and the manner of execution of the bonds, including any interest coupons to be attached, and shall fix the denomination or denominations of the bonds and the place or places of payment of principal and interest, which may be at any bank or trust company within or without the state. In case any officer whose signature or a facsimile of whose signature shall appear on

any bonds or coupons shall cease to be such officer before the delivery of such bonds, such signature or such facsimile shall nevertheless be valid and sufficient for all purposes as if he or she had remained in office until such delivery. The board of directors of the joint authority may also provide for the authentication of the bonds by a trustee or fiscal agent. The bonds may be issued in coupon or in fully registered form, or both, as the directors of the joint authority may determine, and provisions may be made for the registration of any coupon bonds as to principal alone and also as to both principal and interest, and for the reconversion into coupon bonds of any bonds registered as to both principal and interest, and for the interchange of registered and coupon bonds.

(2) The proceeds of the bonds of each issue shall be used solely for the purposes for which such bonds have been issued, and shall be disbursed in such manner and under such restrictions, if any, as the board of directors of the joint authority may provide in the resolution authorizing the issuance of such bonds or in any trust agreement securing the same. The joint authority may issue interim receipts or temporary bonds, with or without coupons, exchangeable for definitive bonds when such bonds shall have been executed and are available for delivery. The joint authority may also provide for the replacement of any bonds which shall have become mutilated or shall have been destroyed or lost.

(3) Bonds may be issued under sections 70-1401 to 70-1423 without obtaining the consent or approval of the state or any political subdivision or any agency, commission, or instrumentality thereof.

Credits: Laws 1982, LB 852, § 15.

70-1416. Bonds; secured by trust agreement; covenants authorized

In the discretion of the board of directors of the joint authority, any bonds issued under the Joint Public Power Authority Act may be secured by a trust agreement by and between the joint authority and a corporate trustee, which may be any trust company or bank having the powers of a trust company within or without the state. Such trust agreement or the resolution providing for the issuance of such bonds may contain such provisions for protecting and enforcing the rights and remedies of the bondholders and of the trustee as may be reasonable and proper and not in violation of law and may restrict the individual right of action by bondholders. The trust agreement or the resolution providing for the issuance of such bonds may contain covenants including, but not limited to, the following:

- (1) The pledge of all or any part of the revenue derived or to be derived from the project or projects to be financed by the bonds or from the electric system or facilities, hydrogen production, storage, or distribution facilities, or ethanol production or distribution facilities of a joint authority;
- (2) The rents, rates, fees, and charges to be established, maintained, and collected and the use and disposal of revenue, gifts, grants, and funds received or to be received by the joint authority;
- (3) The setting aside of reserves and the investment, regulation, and disposition of such reserves;
- (4) The custody, collection, securing, investment, and payment of any money held for the payment of bonds;

- (5) Limitations or restrictions on the purposes to which the proceeds of sale of bonds to be issued may be applied;
- (6) Limitations or restrictions on the issuance of additional bonds, the terms upon which additional bonds may be issued and secured, or the refunding of outstanding or other bonds;
- (7) The procedure, if any, by which the terms of any contract with bondholders may be amended, the percentage of bonds the holders of which must consent to, and the manner in which such consent may be given;
- (8) Events of default and the rights and liabilities arising from such default, the terms and conditions upon which bonds issued under the Joint Public Power Authority Act shall become or may be declared due before maturity, and the terms and conditions upon which such declaration and its consequences may be waived;
- (9) The preparation and maintenance of a budget;
- (10) The retention or employment of consulting engineers, independent auditors, and other technical consultants;
- (11) Limitations on or the prohibition of free service to any person, firm, or corporation, public or private;
- (12) The acquisition and disposal of property, except that no project or part of such project shall be mortgaged by such trust agreement or resolution, except that the same may be mortgaged in the same manner as provided for a public power district by section 70-644;
- (13) Provisions for insurance and for accounting reports and the inspection and audit of such reports; and
- (14) The continuing operation and maintenance of the project.

Credits: Laws 1982, LB 852, § 16; Laws 1986, LB 1230, § 56; Laws 2005, LB 139, § 24.

70-1417. Directors; establish rates and fees; limitation; pledge; lien

A two-thirds majority vote of the directors of the joint authority present, with each member casting the number of votes to which he or she is entitled, is authorized to fix, charge, and collect rents, rates, fees, and charges for electric power and energy, hydrogen, ethanol, and other services, related to the generation, transmission, and sale of electric energy, to the production, storage, or distribution of hydrogen, or to the production or distribution of ethanol. For so long as any bonds of a joint authority are outstanding and unpaid, the rents, rates, fees, and charges shall be so fixed as to provide revenue at least sufficient, together with other available funds, to pay all costs of and charges and expenses in connection with the proper operation and maintenance of its projects and all necessary repairs, replacements, or renewals of such projects, to pay when due the principal of, premium, if any, and

interest on all bonds payable from such revenue, to create and maintain reserves and comply with such covenants as may be required by any resolution or trust agreement authorizing and securing bonds, and to pay any and all amounts which the joint authority may be obligated to pay from such revenue by law or contract.

Any pledge made by a joint authority pursuant to the Joint Public Power Authority Act shall be valid and binding from the date the pledge is made. The revenue, securities, and other money so pledged and then held or thereafter received by the joint authority or any fiduciary shall immediately be subject to the lien of the pledge without any physical delivery of such pledge or further act, and the lien of the pledge shall be valid and binding as against all parties having claims of any kind in tort, contract, or otherwise against the member district or joint authority without regard to whether such parties have notice of such lien.

Credits: Laws 1982, LB 852, § 17; Laws 1986, LB 1230, § 57; Laws 2005, LB 139, § 25.

70-1418. Funds from bond issuance; investment authorized; conditions

The resolution authorizing the bonds of any issue or the trust agreement securing such bonds may provide that any of such money may be temporarily invested and reinvested pending disbursements of such money in such securities and other investments as shall be provided in such resolution or trust agreement, and shall provide that any bank or trust company with which such money shall be deposited shall act as trustee of such money and shall hold and apply the same for purposes pursuant to this section, subject to such regulation as sections 70-1401 to 70-1423 and such resolution or trust agreement may provide.

Credits: Laws 1982, LB 852, § 18.

70-1419. Bondholder; trustee; enforcement of rights

Any holder of bonds issued under sections 70-1401 to 70-1423 or any of the coupons appertaining thereto, and the trustee under any trust agreement, except to the extent the rights pursuant to this section may be restricted by such trust agreement or the resolution authorizing the issuance of such bonds, may, either at law or in equity, by suit, action, mandamus, or other proceeding, protect and enforce any and all rights under the laws of the state or granted in sections 70-1401 to 70-1423, or, to the extent permitted by law, under such trust agreement or resolution authorizing the issuance of such bonds or under any agreement or other contract executed by the joint authority pursuant to sections 70-1401 to 70-1423, and may enforce and compel the performance of all duties required by sections 70-1401 to 70-1423 or by such trust agreement or resolution to be performed by any joint authority or member district or by any officer of such joint authority, including the fixing, charging, and collecting of rents, rates, fees, and charges.

Credits: Laws 1982, LB 852, § 19.

70-1420. Refunding bonds; issuance; conditions

A joint authority is hereby authorized to provide by resolution for the issuance of refunding bonds of the joint authority for the purpose of refunding any bonds then outstanding, in advance of their maturity or earlier redemption date, which shall have been issued under sections 70-1401 to 70-1423, including the payment of any redemption premium on such bonds and any interest accrued or to accrue to the date of redemption of such bonds. The issuance of such bonds, the maturities, and other details of such bonds, the rights of the holders of such bonds, and the rights, duties, and obligations of the joint authority in respect to the same shall be governed by the appropriate provisions of sections 70-1401 to 70-1423 which relate to the issuance of bonds.

Credits: Laws 1982, LB 852, § 20.

70-1421. Board of directors; grants-in-aid and loans; authorized; powers

The board of directors of a joint authority is hereby authorized to make application and to enter into contracts for and to accept grants-in-aid and loans from the federal and state governments and their agencies for planning, acquiring, constructing, expanding, maintaining, and operating any project or facility, or participating in any research or development program, or performing any function which such joint authority may be authorized by general or local law to provide or perform.

In order to exercise the authority granted by this section, the board of directors of a joint authority may:

- (1) Enter into and carry out contracts with the state or federal government or any agency or institution thereof under which such government, agency, or institution grants financial or other assistance to the joint authority;
- (2) Accept such assistance or funds as may be granted or loaned by the state or federal government with or without such a contract;
- (3) Agree to and comply with any reasonable conditions which are imposed upon such grants or loans; and
- (4) Make expenditures from any funds so granted.

Credits: Laws 1982, LB 852, § 21.

70-1422. Sections, supplemental to other provisions

Sections 70-1401 to 70-1421 shall be deemed to provide an additional, alternative, and complete method for the doing of the things authorized thereby and shall be deemed and construed to be supplemental and additional to powers conferred by existing laws, and shall not be regarded as in degradation of any powers not existing, except that insofar as provisions of sections 70-1401 to 70-1423 are inconsistent

with the provisions of any other special or local law, the provisions of sections 70-1401 to 70-1423 shall be controlling. Nothing in sections 70-1401 to 70-1423 shall be construed to authorize the issuance of the bonds for the purpose of financing facilities to be owned wholly or in part by any private corporation.

Credits: Laws 1982, LB 852, § 22.

70-1423. Sections, how construed

In order to effectuate the purposes and policies prescribed in sections 70-1401 to 70-1423, the provisions of sections 70-1401 to 70-1423 shall be liberally construed.

Credits: Laws 1982, LB 852, § 23.