



States' Biofuels Statutes

STATE OF NEBRASKA

This project was undertaken in partnership with the USDA Office of the Chief Economist, The Office of Energy Policy and New Uses. For information on the full project, visit [States' Biofuels Statutory Citations](#).

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

70-628.01. Joint exercise of powers by districts; agreement; terms and conditions; agent; powers and duties; prudent utility practice, defined; liabilities; sale, lease, merger, or consolidation; procedure

(1) Such district shall have and may exercise any one or more of the powers, rights, privileges, and franchises mentioned in sections 70-625 to 70-628, either alone or jointly with one or more other districts. In any joint exercise of powers, rights, privileges, and franchises with respect to the construction, operation, and maintenance of electric generation or transmission facilities, hydrogen production, storage, or distribution facilities, or ethanol production or distribution facilities, each district shall own an undivided interest in each such facility and be entitled to the share of the output or capacity therefrom attributable to its undivided interest. Each district may enter into an agreement or agreements with respect to any electric generation or transmission facility, hydrogen production, storage, or distribution facility, or ethanol production or distribution facility with the other district or districts, and such agreement shall contain such terms, conditions, and provisions consistent with this section as the board of directors of the district shall deem to be in the interests of the district.

(2) The agreement may include, but not be limited to, (a) provisions for the construction, operation, and maintenance of an electric generation or transmission facility, a hydrogen production, storage, or distribution facility, or an ethanol production or distribution facility by any one of the participating districts, which shall be designated in or pursuant to such agreement as agent, on behalf of itself and the other participating districts or by such other means as may be determined by the participating districts and (b) provisions for a uniform method of determining and allocating among participating districts the costs of construction, operation, maintenance, renewals, replacements, and improvements with respect to such facility. In carrying out its functions and activities as the agent with respect to construction, operation, and maintenance of a facility, such agent shall be governed by the laws and regulations applicable to such agent as a separate legal entity and not by any laws or regulations which may be applicable to any of the other participating districts.

(3) Notwithstanding the provisions of any other law to the contrary, pursuant to the terms of the agreement any participating district or districts may delegate its powers and duties with respect to the

construction, operation, and maintenance of a facility to the participating district acting as agent, and all actions taken by such agent in accordance with the provisions of the agreement shall be binding upon each of such participating districts without further action or approval by their respective boards of directors. The district acting as the agent shall be required to exercise all such powers and perform its duties and functions under the agreement in a manner consistent with prudent utility practice. For purposes of this section, prudent utility practice shall mean any of the practices, methods, and acts at a particular time which, in the exercise of reasonable judgment in the light of the facts, including, but not limited to, the practices, methods, and acts engaged in or approved by a significant portion of the electrical utility industry prior thereto, known at the time the decision was made, would have been expected to accomplish the desired result at the lowest reasonable cost consistent with reliability, safety, and expedition. In no event shall anything in this section be deemed to authorize any district to become liable for and to pay for any costs, expenses, or liabilities attributable to the undivided interest of any other district participating in such electric generation or transmission facility. Any district that is interested by ownership, lease, or otherwise in the operation of electric power plants, distribution systems, or transmission lines, hydrogen production, storage, or distribution facilities, or ethanol production or distribution facilities, either alone or in association with another district or districts, may sell, lease, combine, merge, or consolidate all or a part of its property with the property of any other district or districts with the approval of a majority of the board of directors of each district involved in the sale, lease, combination, merger, or consolidation.

Credits: Laws 1943, ch. 146, § 3(5), p. 523; Laws 1955, ch. 267, § 3, p. 844; Laws 1975, LB 62, § 1; Laws 1986, LB 1230, § 38; Laws 1990, LB 907, § 2; Laws 2005, LB 139, § 7.

70-628.02. Joint exercise of powers with municipalities and public agencies; authority

The Legislature declares that it is in the public interest of the State of Nebraska that public power districts and public power and irrigation districts be empowered to participate jointly or in cooperation with municipalities and other public agencies in the establishment and operation of facilities for the generation or transmission of electric power and energy located within or outside this state, for the production, storage, and distribution of hydrogen located within this state, or for the production and distribution of ethanol located within this state in order to achieve economies and efficiencies in meeting the future energy needs of the people of the State of Nebraska. In furtherance of such need and in addition to but not in substitution for any other powers granted such districts, each such district shall have and may exercise its power and authority to plan, finance, acquire, construct, own, operate, maintain, and improve electric generation or transmission facilities located within or outside this state, hydrogen production, storage, or distribution facilities located within this state, or ethanol production or distribution facilities within this state jointly and in cooperation with one or more other such districts, cities, or villages of this state which own or operate electrical facilities or municipal corporations or other governmental entities of other states which own or operate electrical facilities. The powers granted under this section may be exercised with respect to any electric generation or transmission facility, hydrogen production, storage, or distribution facility, or ethanol production or distribution facility jointly with the powers granted under any other provision of sections 18-412.07 to 18-412.09 and 70-628.02 to 70-628.04.

Credits: Laws 1975, LB 104, § 1; Laws 1986, LB 1230, § 39; Laws 1997, LB 658, § 9; Laws 2005, LB

70-628.03. Joint exercise of powers with electric cooperatives or corporations; authority

The Legislature declares that it is in the public interest of the State of Nebraska that public power districts and public power and irrigation districts be empowered to participate jointly or in cooperation with one or more electric cooperatives or electric membership corporations organized under the laws of this state or any other state in the establishment and operation of facilities for the generation or transmission of electric power and energy located within or outside this state, for the production, storage, and distribution of hydrogen located within this state, or for the production and distribution of ethanol located within this state in order to achieve economies and efficiencies in meeting the future energy needs of the people of the State of Nebraska. In furtherance of such end and in addition to but not in substitution for any other powers granted such districts, each such district shall have and may exercise its power and authority to plan, finance, acquire, construct, own, operate, maintain, and improve electric generation or transmission facilities, hydrogen production, storage, or distribution facilities, or ethanol production or distribution facilities located in this state jointly and in cooperation with one or more electric cooperatives or electric membership corporations organized under the laws of this state or any other state, and each district shall have and may exercise such power and authority with respect to electric generation or transmission facilities located outside of this state jointly or in cooperation with one or more electric cooperatives or electric membership corporations organized under the laws of this state or any other state. The power granted under this section may be exercised with respect to any electric generation or transmission facilities, hydrogen production, storage, or distribution facilities, or ethanol production or distribution facilities jointly with the powers granted under any other provision of sections 18-412.07 to 18-412.09 and 70-628.02 to 70-628.04.

Credits: Laws 1975, LB 104, § 2; Laws 1986, LB 1230, § 40; Laws 1997, LB 658, § 10; Laws 2005, LB 139, § 9.

70-628.04. Joint exercise of powers; agreement; terms and conditions; agent; powers and duties; liability of district

Any public power district or public power and irrigation district participating jointly and in cooperation with others in an electric generation or transmission facility, a hydrogen production, storage, or distribution facility, or an ethanol production or distribution facility shall own an undivided interest in such facility and be entitled to the share of the output or capacity from the facility attributable to such undivided interest. Such district may enter into an agreement or agreements with respect to each such electric generation or transmission facility, hydrogen production, storage, or distribution facility, or ethanol production or distribution facility with the other participants, and any such agreement shall contain such terms, conditions, and provisions consistent with the provisions of sections 13-803, 13-805, 13-2504, 13-2505, 70-628.02 to 70-628.04, and 70-1002.03 as the board of directors of such district shall deem to be in the interests of such district. The agreement may include, but not be limited to, provision for the construction, operation, and maintenance of such electric generation or transmission facility, hydrogen production, storage, or distribution facility, or ethanol production or distribution facility by any one of the participants, which shall be designated in or pursuant to such agreement as

agent, on behalf of itself and the other participants or by such other means as may be determined by the participants and provision for a uniform method of determining and allocating among participants costs of construction, operation, maintenance, renewals, replacements, and improvements with respect to such facility. In carrying out its functions and activities as such agent with respect to construction, operation, and maintenance of such a facility, including without limitation the letting of contracts therefor, such agent shall be governed by the laws and regulations applicable to such agent as a separate legal entity and not by any laws or regulations which may be applicable to any of the other participants. Notwithstanding the provisions of any other law to the contrary, pursuant to the terms of any such agreement in which or pursuant to which a public power district or a public power and irrigation district or a city or village of this state shall be designated as the agent thereunder for the construction, operation, and maintenance of such a facility, each of the participants may delegate its powers and duties with respect to the construction, operation, and maintenance of such facility to such agent and all actions taken by such agent in accordance with the provisions of such agreement shall be binding upon each of such participants without further action or approval by their respective boards of directors or governing bodies. Such agent shall be required to exercise all such powers and perform its duties and functions under the agreement in a manner consistent with prudent utility practice. For purposes of this section, prudent utility practice means any of the practices, methods, and acts at a particular time which, in the exercise of reasonable judgment in the light of the facts including, but not limited to, the practices, methods, and acts engaged in or approved by a significant portion of the electrical utility industry, hydrogen production industry, or ethanol production industry prior thereto, known at the time the decision was made, would have been expected to accomplish the desired result at the lowest reasonable cost consistent with reliability, safety, and expedition. In no event shall anything in sections 13-803, 13-805, 13-2504, 13-2505, 70-628.02 to 70-628.04, and 70-1002.03 be deemed to authorize any district to become liable for and to pay for any costs, expenses, or liabilities attributable to the undivided interest of any other participant in such electric generation or transmission facility, and no funds of such district may be used for any such purpose.

Credits: Laws 1975, LB 104, § 3; Laws 1986, LB 1230, § 41; Laws 1997, LB 658, § 11; Laws 1999, LB 87, § 82; Laws 2005, LB 139, § 10.