

HOUSE BILL No. 2266

AN ACT concerning certain electric generation facilities; relating to regulation and taxation thereof; amending K.S.A. 2000 Supp. 66-104 and repealing the existing section.

Be it enacted by the Legislature of the State of Kansas:

Section 1. K.S.A. 2000 Supp. 66-104 is hereby amended to read as follows: 66-104. (a) The term "public utility," as used in this act, shall be construed to mean every corporation, company, individual, association of persons, their trustees, lessees or receivers, that now or hereafter may own, control, operate or manage, except for private use, any equipment, plant or generating machinery, or any part thereof, for the transmission of telephone messages or for the transmission of telegraph messages in or through any part of the state, or the conveyance of oil and gas through pipelines in or through any part of the state, except pipelines less than 15 miles in length and not operated in connection with or for the general commercial supply of gas or oil, and all companies for the production, transmission, delivery or furnishing of heat, light, water or power. No cooperative, cooperative society, nonprofit or mutual corporation or association which is engaged solely in furnishing telephone service to subscribers from one telephone line without owning or operating its own separate central office facilities, shall be subject to the jurisdiction and control of the commission as provided herein, except that it shall not construct or extend its facilities across or beyond the territorial boundaries of any telephone company or cooperative without first obtaining approval of the commission. As used herein, the term "transmission of telephone messages" shall include the transmission by wire or other means of any voice, data, signals or facsimile communications, including all such communications now in existence or as may be developed in the future.

(b) The term "public utility" shall also include that portion of every municipally owned or operated electric or gas utility located outside of and more than three miles from the corporate limits of such municipality, but nothing in this act shall apply to a municipally owned or operated utility, or portion thereof, located within the corporate limits of such municipality or located outside of such corporate limits but within three miles thereof except as provided in K.S.A. 66-131a, and amendments thereto.

(c) Except as herein provided, the power and authority to control and regulate all public utilities and common carriers situated and operated wholly or principally within any city or principally operated for the benefit of such city or its people, shall be vested exclusively in such city, subject only to the right to apply for relief to the corporation commission as provided in K.S.A. 66-133, and amendments thereto, and to the provisions of ~~K.S.A. 66-131a~~ and K.S.A. 2000 Supp. 66-104e, and amendments thereto. A transit system principally engaged in rendering local transportation service in and between contiguous cities in this and another state by means of street railway, trolley bus and motor bus lines, or any combination thereof, shall be deemed to be a public utility as that term is used in this act and, as such, shall be subject to the jurisdiction of the commission.

(d) The term "public utility" shall not include any activity of an otherwise jurisdictional corporation, company, individual, association of persons, their trustees, lessees or receivers as to the marketing or sale of compressed natural gas for end use as motor vehicle fuel.

(e) *At the option of an otherwise jurisdictional entity, the term "public utility" shall not include any activity or facility of such entity as to the generation, marketing and sale of electricity generated by an electric generation facility or addition to an electric generation facility which:*

(1) *Is newly constructed and placed in service on or after January 1, 2001; and*

(2) *is not in the rate base of: (A) An electric public utility that is subject to rate regulation by the state corporation commission; (B) any cooperative, as defined by K.S.A. 17-4603 and amendments thereto, or any nonstock member-owned cooperative corporation incorporated in this state; or (C) a municipally owned or operated electric utility.*

(f) *Additional generating capacity achieved through efficiency gains by refurbishing or replacing existing equipment at generating facilities placed in service before January 1, 2001, shall not qualify under subsection (e).*

New Sec. 2. As used in sections 2 and 3, and amendments thereto:

(a) “Independent power producer property” means all or any portion of property used solely in the generation, marketing and sale of electricity generated by an electric generation facility described in subsection (e) of K.S.A. 66-104, and amendments thereto. Independent power producer property shall not include property used in generating electricity by nuclear resources or technologies or by renewable energy resources or technologies, as defined in K.S.A. 79-201, and amendments thereto;

(b) “peak load plant” means an independent power plant used during maximum load periods.

New Sec. 3. The following described property, to the extent herein specified, shall be exempt from all property or ad valorem taxes levied under the laws of the state of Kansas:

(a) All electric generation facilities described in subsection (e) of K.S.A. 66-104, and amendments thereto.

(b) The provisions of subsection (a) shall apply:

(1) Except as provided in paragraph (2), from and after commencement of construction of such property and for the 12 taxable years immediately following the taxable year in which construction of such property is completed; or

(2) for peak load plants, from and after commencement of construction of such property and for the six taxable years immediately following the taxable year in which construction of such property is completed.

(c) All pollution control devices purchased for or constructed or installed at electric generation facilities described in subsection (e) of K.S.A. 66-104, and amendments thereto.

(d) The provisions of subsection (c) shall apply:

(1) Except as provided in paragraph (2), from and after purchase or commencement of construction or installation of such property and for the 12 taxable years immediately following the taxable year in which such property is purchased or construction or installation of such property is completed; or

(2) for a peak load plant, from and after purchase or commencement of construction or installation of such property and for the six taxable years immediately following the taxable year in which such property is purchased or construction or installation of such property is completed.

(e) The provisions of this section shall apply to all taxable years commencing after December 31, 2000.

New Sec. 4. (a) For the purpose of financing the construction, purchase and installation of pollution control devices at electric generation facilities and additions to electric generation facilities described in subsection (e) of K.S.A. 66-104, and amendments thereto, the Kansas development finance authority is hereby authorized to issue revenue bonds in amounts sufficient to pay the costs of such construction, purchase and installation, including any required interest on the bonds during construction and installation, plus all amounts required for the costs of bond issuance and any required reserves on the bonds. The bonds, and interest thereon, issued pursuant to this section shall be payable from revenues derived from sales of generation from the electric generation facility. As used in this subsection, “pollution control devices” means any device or structure required to meet air emission or water discharge standards imposed by state or federal law.

(b) The provisions of subsection (a) of K.S.A. 74-8905, and amendments thereto, shall not prohibit the issuance of bonds by the Kansas development finance authority for the purposes of this section and any such issuance of bonds is exempt from the provisions of subsection (a) of K.S.A. 74-8905, and amendments thereto, which would operate to preclude such issuance.

(c) Revenue bonds, including refunding revenue bonds, issued hereunder shall not constitute an indebtedness of the state of Kansas, nor shall they constitute indebtedness within the meaning of any constitutional or statutory provision limiting the incurring of indebtedness.

(d) Revenue bonds, including refunding revenue bonds, issued hereunder and the income derived therefrom are and shall be exempt from all state, county and municipal taxation in the state of Kansas, except Kansas estate taxes.

Sec. 5. K.S.A. 2000 Supp. 66-104 is hereby repealed.

Sec. 6. This act shall take effect and be in force from and after its publication in the statute book.

I hereby certify that the above BILL originated in the HOUSE, and passed that body

HOUSE adopted
Conference Committee Report _____

Speaker of the House.

Chief Clerk of the House.

Passed the SENATE
as amended _____

SENATE adopted
Conference Committee Report _____

President of the Senate.

Secretary of the Senate.

APPROVED _____

Governor.