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4 **SENATE BILL No. 51**

5  
6 By Senators Buntten and Clark

7  
8 1-22

9  
10 AN ACT concerning public utilities; relating to certain employee com-  
11 pensation; prohibiting inclusion in rates.

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

14 Section 1. (a) As used in this section:

15 ~~(1) "Excessive compensation" means any one or more of the~~  
16 ~~following:~~

17 ~~—(A) The value of pension benefits, insurance policies, stock, stock~~  
18 ~~options, annuities or deferred compensation plans that exceeds the value~~  
19 ~~of similar benefits, policies, stock, stock options, annuities or other com-~~  
20 ~~penation plans routinely offered to all the utility's fulltime employees,~~  
21 ~~or to its employees generally;~~

22 ~~—(B) the value of severance payments in excess of those routinely of-~~  
23 ~~fered to all the utility's fulltime employees, or to its employees generally,~~  
24 ~~when they terminate employment with the utility;~~

25 ~~—(C) the value of compensation for time spent on unregulated~~  
26 ~~activities;~~

27 ~~—(D) the value of compensation for time spent solely on behalf of~~  
28 ~~shareholders;~~

29 ~~—(E) the value of compensation that conceals profits;~~

30 ~~—(F) the value of management incentive or bonus payments which are~~  
31 ~~not in accordance with management's proportion of the payroll;~~

32 ~~—(G) the value of merit increases for executives or senior management~~  
33 ~~which are not supported by evidence of increased productivity, increased~~  
34 ~~cost savings, improved quality of service or improved financial stability~~  
35 ~~and performance of the utility;~~

36 ~~—(H) the value of compensation which is not proportionate to the com-~~  
37 ~~penation of persons holding similar positions with other utilities in Kan-~~  
38 ~~sas and the surrounding four states;~~

39 ~~—(I) the value of compensation of any kind made during a test period~~  
40 ~~to any employee who was not employed by the utility during the test~~  
41 ~~period;~~

42 ~~—(J) the value of nonmonetary benefits paid for by the utility, or pro-~~  
43 ~~vided by the utility to executives, managers or their spouses or families;~~

1 which are not routinely provided to all the utility's fulltime employees, to  
2 the utility's employees generally or to employees' spouses and families  
3 generally, such as, but not limited to: Vehicles, club memberships, en-  
4 hanced or luxury travel arrangements or accommodations; enhanced or  
5 luxury living quarters; or any other such nonmonetary benefits that are  
6 not essential for conducting business activities on behalf of ratepayers, or  
7 —(K)— the value of any expenditure made by the utility for any insurance  
8 policy in the name of a current, former or departing employee, if the  
9 utility is a beneficiary of the policy, including any expenditures resulting  
10 from any loan taken out on such a policy and any payments made by the  
11 utility from the proceeds of such loans.

12 **(1) "Excessive compensation" shall have the meaning ascribed**  
13 **to such term as provided in rules and regulations adopted by the**  
14 **state corporation commission.**

15 (2) "Public utility" has the meaning provided by K.S.A. 66-104, and  
16 amendments thereto.

17 **(3) "Compensation" has the same meaning as provided by 17**  
18 **CFR 229.402, as in effect on July 1, 2003, or any later version as**  
19 **established in rules and regulations adopted by the state corpora-**  
20 **tion commission.**

21 (b) No public utility providing excessive compensation to any em-  
22 ployee shall recover the value of the excess from the utility's ratepayers.

23 (c) The state corporation commission shall allow a public utility to  
24 recover from ratepayers only that employee compensation, including  
25 compensation of executives and senior management employees, which  
26 the commission finds:

27 (1) Benefits ratepayers;

28 (2) is justified by the productivity, cost savings, quality of service,  
29 overall performance and financial condition of the utility;

30 (3) is reasonable compensation in comparison to regional norms in  
31 the utility industry;

32 (4) was paid within any test period, for work performed during the  
33 test period;

34 (5) will not result in unjust or unreasonable rates; and

35 (6) is otherwise not excessive compensation.

36 (d) The state corporation commission shall review compensation of a  
37 public utility's employees as a part of any proceeding before the com-  
38 mission which may result in ~~an increase~~ **a change** of the utility's rates.  
39 The commission shall deny recovery from ratepayers that amount of the  
40 value of any compensation which the commission finds is excessive com-  
41 pensation or does not meet the conditions stated in subsection (c), by  
42 excluding that amount from the utility's cost of service, or otherwise ex-  
43 cluding it from rates. Whether shareholders have approved the compen-

1 sation in question shall not be considered by the commission in deter-  
2 mining whether compensation is excessive compensation. A public utility  
3 shall have the burden of proving that compensation of current, former  
4 and departing employees, including compensation of executives and sen-  
5 ior management employees, is not excessive compensation and that such  
6 compensation meets the conditions stated in subsection (c) before recov-  
7 ery of such compensation shall be allowed in rates.

8 ***(e) A publicly traded public utility shall file a clear, concise and***  
9 ***understandable disclosure statement on or before April 1 of each***  
10 ***year with the state corporation commission disclosing the compen-***  
11 ***sation ranges of the officers of the public utility for the preceding***  
12 ***calendar year. The disclosure statement required to be filed under***  
13 ***this subsection shall be open for inspection by any person in ac-***  
14 ***cordance with K.S.A. 45-218, and amendments thereto.***

15 ~~(f)~~ ***(f)*** Any federal or state tax liabilities of any employee or public  
16 utility for compensation considered excessive under this section shall not  
17 reduce the amount that is to be excluded from the utility's cost of service  
18 or otherwise excluded from rates.

19 ~~(g)~~ ***(g)*** The provisions of this section shall apply to any proceedings  
20 pending before the state corporation commission on the effective date of  
21 this act and to all proceedings filed with the commission on or after that  
22 date.

23 ***(h) The state corporation commission may adopt reasonable***  
24 ***rules and regulations to implement the provisions of this section.***

25 Sec. 2. This act shall take effect and be in force from and after its  
26 publication in the statute book.

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