

Approved March 8, 1984
Date

MINUTES OF THE SENATE COMMITTEE ON TRANSPORTATION AND UTILITIES

The meeting was called to order by SENATOR JAN MEYERS, VICE-CHAIRPERSON at
Chairperson *Jan Meyers*

9:00 a.m. a.m./p.m. on Thursday, March 8, 1984 in room 254-E of the Capitol.

All members were present except:

Senators Rehorn, Hayden and Johnston

Committee staff present:

Fred Carman, Hank Avila, Rosalie Black

Conferees appearing before the committee:

None.

The meeting was called to order by Senator Meyers, Vice-Chairperson, who introduced Hank Avila from the legislative research department to review House bills in committee.

Hank Avila reviewed House Bill No.'s 2167, 2215, 2606, 2723, 2860, 2927, 3084, 3085, 2646, 3053, 3054, 3060, 3078, HCR 5017 and HCR 5038. (Attachment 1.)

In reference to hearings next week on SB 2927, the Wolf Creek bill, Senator Meyers and Senator Kerr asked staff to prepare a memorandum showing rationale of House amendments by Monday afternoon.

The meeting adjourned at 9:55 a.m.

MEMORANDUM

March 6, 1984

TO: Senate Transportation and Utilities Committee
FROM: Kansas Legislative Research Department
RE: House Bills Assigned to the Senate Transportation and Utilities Committee

H.B. 2167 (Committee on Local Government)

H.B. 2167, as amended by the House Committee on Communications, Computers and Technology, broadens the current statutory authority governing the use of funds collected from the tax imposed for emergency telephone service. The bill allows expenditure of funds for the following costs related to emergency telephone service:

1. monthly recurring charges billed by the service supplier;
2. initial installation, service establishment, nonrecurring startup charges;
3. charges for capital improvements and enhancements; or
4. any combination of the above.

The bill as introduced allowed expenditure of tax funds collected to pay any cost of providing emergency telephone service.

H.B. 2215 (Representative Buntten)

H.B. 2215 would amend K.S.A. 66-119 to provide that in the event a customer is charged or billed on the basis of the reading of a meter and the meter is erroneously read resulting in a charge or bill which is less than the bill would otherwise have been, the error would not be corrected unless corrected within four months of the time when the erroneous bill or charge was received by the customer.

The provisions of the amendment would apply to municipally-owned utilities and privately-owned one-city utilities as well as to public utilities whether regulated by the State Corporation Commission or not.

Atch. 1

H.B. 2606 (Representative Sprague et al)

H.B. 2606 relates to the unlawful obstruction of roads and highways. Language is included to make it unlawful to obstruct the entire right-of-way. A fine of \$200 for each offense is imposed for persons violating the provisions of the act. In addition, such persons shall pay the costs of the action and the cost of cleaning the public highway and restoring it to its prior condition.

H.B. 2723 (Committee on Public Health and Welfare)

H.B. 2723 amends the Child Passenger Safety Act. The bill provides that it shall be unlawful for a parent or legal guardian of a child under the age of four years to violate the provisions of K.S.A. 8-1344. Upon conviction, a legal guardian or parent would be fined \$10 per occurrence. The fine and court costs may be waived if the parent or legal guardian provides proof prior to the trial that an approved child safety restraint system was purchased or acquired. Language is also added that exempts legal guardians and parents from conviction if they produce proof in arresting officer's office or in court that the child is four years or older. As part of its program, the Kansas Department of Transportation is required to make available to law enforcement officers for dissemination, information concerning child passenger safety.

H.B. 2860 (Representative Crowell)

H.B. 2860, as introduced, would permit special fuel dealers to sell special fuels to unlicensed users, when the special fuel is to be used for the operation of motor vehicles on highways and the user pays the special fuels tax to the dealer at the time of purchase. The unlicensed user would not be required to submit a bond or reports required in the special fuel tax law. The licensed dealer would be responsible for paying the tax to the Department of Revenue.

The effective date of this bill would be from and after its publication in the Kansas Register.

The House Committee on Transportation's amendment provides that the provisions of the bill do not apply to sales made to interstate motor fuel users or to any special fuel user who purchases special fuels from a person who is not a special fuel dealer licensed by the state.

H.C.R. 5017 (Joint Committee on Administrative Rules and Regulations)

H.C.R. 5017 amends Kansas Administrative Regulation 36-34-1 - Child Passenger Safety Restraints, as adopted by the Secretary of Transportation on December 1, 1982. The resolution deletes statutory language from K.A.R. 36-34-1 so that child passenger restraining device specifications are clearly addressed.

During the course of reviewing administrative rules and regulations of the Department of Transportation, the Joint Committee on Administrative Rules and Regulations (JCARR) concluded that the recently adopted K.A.R. 36-34-1 exceeded the statutory direction for administrative regulation. The JCARR expressed concern that the regulation raises the standard of negligence per se, which is not mentioned in the statute. K.S.A. 8-1344 directs the Department to adopt regulations for the performance, design and installation of child passenger safety restraining systems in accordance with federal motor vehicle safety standards.

H.C.R. 5038 (Representative Walker et al)

H.C.R. 5038 urges Amtrak to resume the Lone Star Passenger Service to connect with the Southwest Limited passing through the state of Kansas. The resolution was introduced because:

1. In October, 1979, Amtrak's "Lone Star" trains were discontinued through Kansas eliminating passenger train service to certain points in Oklahoma and Texas.
2. The loss of this transportation system was a devastating blow to the overall economy of Kansas.
3. Many Kansas citizens seeking an affordable and dependable mode of transportation to travel to points in Oklahoma and Texas were left with few alternatives after the 1979 discontinuance.
4. The resumption of this service would benefit the overall economy of Kansas and Kansas citizens who would take advantage of a modern Amtrak Superliner service.

The Secretary of State is directed to send an enrolled copy of this resolution to Mr. W. Graham Claytor, President of Amtrak, Washington, D.C., and to each member of the Kansas congressional delegation.

H.B. 2927 (Representative Fox et al)

H.B. 2927, as amended by the Committee, would amend K.S.A. 66-128 by providing that the State Corporation Commission determine the reasonable value of all "or whatever fraction or percentage" of the property of any common carrier or public utility which property is used and required to be used in serving the public. The bill would also authorize the Commission to require any common carrier or public utility to defer inclusion of all or any portion of the reasonable value as so determined by the Commission and permit the phase-in of such value over any period of time and in such increments as determined appropriate. If the Commission required the deferral of any portion of such reasonable value and ordered a phase-in of such value, the Commission could exclude the carrying or finance costs incurred after the date of its determination and throughout the deferral or phase-in period.

New section 2 of H.B. 2927, as amended, provides that in its determination of the reasonable value of property under K.S.A. 66-128, the Commission has the power to evaluate the efficiency or prudence of acquisition, construction or operating practices of a utility. If the Commission determined that a portion of the costs of acquisition, construction, or operating were incurred due to a lack of efficiency or prudence, or were incurred in the acquisition or construction of excess capacity, it would have the authority to exclude all or a portion of the costs from the reasonable value of the property of the utility.

Under the bill, excess capacity is defined as capacity in excess of the amount used and required to be used to provide adequate and reliable service as determined by the Commission. The Commission would have discretion to prohibit or reduce the return on costs which were incurred in constructing, maintaining, or operating excess capacity.

New section 3 of H.B. 2927, as amended, authorizes the Commission, at any time, and in its sole discretion even if a facility is still under construction, to initiate on its own motion a proceeding to determine in advance whether the costs of such facility were reasonably or prudently incurred, or whether all or a portion of the costs of such a facility were incurred in producing excess capacity. The proceeding would be commenced by the Commission giving 30 days' notice of the setting of the hearing to the public utility, and appeal rights would be as specified in the Kansas Electric Generation Facility Siting Act.

New section 4 of the bill, as amended, would provide that if the Commission found that a portion of the costs were incurred due to lack of prudence in plant acquisition, construction, or operation and were incurred to build a facility which in whole or in part represented excess capacity, the Commission would be required to exclude that portion of the carrying or finance charges incurred after the date of its finding. No part of the carrying or finance costs excluded by the Commission could ever become part of the reasonable value of public utility property used or required to be used. In addition, the Commission could not authorize the recovery as operating expense, or in any other manner, the carrying or finance costs which had been excluded.

Nothing in the Act, however, would limit the Commission's authority to adjust revenue requirements of any common carrier or public utility if the Commission determined the revenue requirement requested was either a return of or a return on costs which resulted from inefficiency or a lack of prudence.

New section 5 of the bill, as amended, provides for the severing of the provisions of the Act if any section, sentence, clause, or phrase of the Act were held to be invalid or unconstitutional.

The House Committee of the Whole amendments clarify the provision that the State Corporation Commission could exclude "any or all" of the carrying or finance costs incurred in any deferral or phase-in of the reasonable value of a public utility property. Application of the deferral or phase-in of reasonable value of property to common carriers was deleted.

A new section 5, inserted by the House Committee of the Whole, provides that any common carrier or public utility subject to the provisions of the Act that constructs a facility would have to make and send monthly financial reports to the State Corporation Commission. The reports would include: (a) actual costs incurred; (b) total estimated cost of the facility; (c) percentage of the facility which was actually completed; (d) estimated date of first commercial operation; and (e) any other information required by the Commission.

A new section 6 provides that if any portion of an electric generating facility is determined to be excess capacity and if the facility is a nuclear fission power plant, the State Corporation Commission would have to determine whether there had been approved by the U.S. government a proven technology or means for the disposal of high level nuclear waste (which would include but not be limited to temporary on-site storage of high level nuclear waste or an approved

process for the retrieval of such waste) which was available for use at or by the power plant. If the Commission found that no such technology for disposal existed, it would be presumed that the costs of acquisition, construction, or operation of the facility were incurred due to lack of prudence, and the Commission could not include such costs in the reasonable value of the public utility property.

H.B. 3084 (Committee on Transportation)

H.B. 3084 amends K.S.A. 8-2204 by adding the definition of "interstate system." This bill was requested by the Kansas Highway Patrol because the interstate system had not been specifically included in the Uniform Act Regulating Traffic on Highways. This had caused application of the laws not to be uniform. The bill also contains technical amendments.

H.B. 3085 (Committee on Transportation)

H.B. 3085 amends K.S.A. 8-1725, the statute regulating at what distances drivers are required to dim the headlights of the vehicles they are operating. The bill changes the word "roadway" to "highway," which would make the requirements of K.S.A. 8-1725 applicable to divided highways. The bill was requested by the Kansas Highway Patrol because under the definition of "roadway" in Kansas statutes persons driving on divided highways were operating on separate roadways. Under the bill the provisions of K.S.A. 8-1725 will be applicable to drivers of vehicles on divided highways.

H.B. 2646 (Representative Walker)

H.B. 2646, as amended, would permit, beginning in the year in which new license plates are issued, the issuance of a special license plate and a permanent identification card to persons submitting satisfactory proof of disability, condition, or impairment.

The Committee also amended the bill to include a provision whereby the bottom of the signs which indicate spaces for handicapped parking are not to be less than 32 inches above the surface of the roadway. This concept had been contained in H.B. 2976.

H.B. 3053 (Committee on Transportation)

H.B. 3053 amends the definition of "city connecting link" in K.S.A. 1983 Supp. 68-406 to include a routing inside the city limits of a city which "begins and ends within a city's

limits and is designated as part of the national system of interstate and defense highways."

The Kansas Department of Transportation requested this bill because cities continue to expand their limits increasing the number of city connecting links which are actually a part of the interstate and defense highway system. The legislation would make it clear that the city connecting links within the city limits of a city are the responsibility of the Kansas Department of Transportation to maintain.

H.B. 3054 (Committee on Transportation)

H.B. 3054 would permit the head of any state agency requiring engineering services to establish time frames for the receipt of qualifications statements and performance data from any firm wishing to be considered for any proposed state project.

The Kansas Department of Transportation requested this bill so that once a project has been announced the Department would not have to delay the project by assessing the qualifications for firms wishing to be qualified to participate in the proposed project.

H.B. 3060 (Committee on Ways and Means)

H.B. 3060 would increase the taxes that are paid by individuals who operate motor vehicles on the public highways of the state which are propelled by LP-gas. The amounts of the taxes are based upon the gross weight of the motor vehicle and the number of miles it operated on the public highways of the state during the previous year. The increases are outlined in the bill.

The Department of Revenue testified that this was one particular section that was not increased by the 1983 Legislature, when the rest of the motor vehicle fuel taxes were increased.

H.B. 3078 (Committee on Judiciary)

H.B. 3078, as amended, establishes uniform restrictions that may be imposed on a person's driver's license in various driving offense statutes. New Section 1 provides that a district or municipal court may enter an order restricting the operation of a motor vehicle to the following circumstances:

1. going to or returning from the person's place of employment or schooling;
2. in the course of the person's employment;
3. during a medical emergency;
4. going to or returning from probation or parole meetings, drug or alcohol counseling or any place the person is required to go to attend an alcohol or drug safety action program;
5. at such times of the day as may be specified by the order; and
6. to such places as may be specified by the order.

These restrictions shall be effective for not less than 90 days nor more than one year. The person whose license is restricted shall surrender the license to the court which shall transmit the license to the Division of Vehicles, Department of Revenue. The Division of Vehicles will issue a license, at no charge, that indicates on its face that restrictions have been imposed and the licensee is required to carry a copy of these restrictions.

For nonresidents, the court will forward a copy of the order to the motor vehicle administrator of the person's state of residence.

The licensee is entitled to a copy of the order imposing restrictions. This copy will serve as a driver's license until the restricted license is issued.

Upon expiration of the restricted license, the licensee can apply for reinstatement or for a new license if the returned license has expired.

The bill further amends a number of other statutes which authorize the imposition of driver's license restrictions to make the restrictions established in Section 1 apply uniformly. Other statutes amended include the K.S.A. 1983 Supp. 8-254 dealing with persons convicted of vehicular homicide, failure to stop and render aid, three charges of reckless driving within 12 months, using a motor vehicle in the commission of a felony on fleeing or attempting to elude a police officer; K.S.A. 8-288 dealing with habitual violators; and K.S.A. 1983 Supp. 8-1567 dealing with driving under the influence of alcohol or drugs (DUI).