

SESSION OF 2002

SUPPLEMENTAL NOTE ON SENATE BILL NO. 547

As Amended by Senate Committee on
Utilities

Brief*

SB 547 would enact the Rural Kansas Self-Help Gas Act. Under the bill, any rural gas user who desires to construct their own pipeline connection to a gas supply system and any gas provider assisting the rural gas user, would not be considered a public utility. If the rural gas service is provided within an area where a public utility holds a certificate, the rural gas user or its gas provider would first notify the existing gas service utility of their intent to provide a rural gas service. Under the bill a "rural gas user" would mean any person currently using natural gas from a wellhead or gathering facility for agricultural purposes on property they own, lease, or operate that is located outside city limits and not presently receiving gas service from an existing gas service utility.

When notified, an existing gas service utility would have 30 days to develop plans and propose an offer to the potential rural gas user for providing rural gas service. The proposed plan would include plans for installing facilities, price of natural gas, and projected completion date. Failure of the existing gas service utility to propose an offer or complete the project by the projected completion date, unless otherwise agreed to by the rural gas user and the existing gas service utility, would cause the existing gas service utility to waive its exclusive right to serve the rural user. If the potential rural gas user does not accept the offer presented by the existing gas service utility, the existing gas service utility would release the rural gas user from the certificated area or may request from the State Corporation Commission (KCC) a determination to approve the utility's plan or allow the rural gas user to use a different public utility or gas provider to provide rural gas service. The KCC

*Supplemental notes are prepared by the Legislative Research Department and do not express legislative intent. The supplemental note and fiscal note for this bill may be accessed on the Internet at <http://www.kslegislature.org/cgi-bin/fulltext/bills.cgi>

would have 30 days to complete the determination. The KCC could suspend its determination for an additional 60 days for sufficient cause.

The bill also would require that all facilities comply with all applicable pipeline safety law.

The bill would become effective upon publication in the *Kansas Register*.

Background

Several days of hearings were held on this bill. At the first hearing a conferee appearing at the request of the Southwest Kansas Irrigation Association indicated that the bill was designed to allow Kansans living in rural areas to help themselves by constructing the pipeline infrastructure, at their own risk and expense, required to access secure gas supplies. This conferee indicated that those wishing to engage in this activity do not want to be deemed a "public utility." In addition, several agricultural producers from southwest Kansas appeared in support of the bill. Generally, they explained that as the gas supply in that part of the state declines so does the pressure and that adequate pressure is needed to run irrigation pumps. Often there is no alternative energy supply economically available. They indicated that the proposed legislation would permit a rural gas user or a nonprofit utility to construct a pipeline connection to a gas supply system without becoming a "public utility." One of these conferees was a Haskell County Commissioner. Also appearing on the bill in opposition were representatives of Midwest Energy and Utilicorp United. Two conferees from the KCC expressed concerns with the bill as introduced. The Kansas Farm Bureau, the Kansas Corn Growers, and the Southwest Kansas Royalty Owners Association submitted written testimony in support of the original bill.

At a later hearing on the bill, testimony in opposition to the bill was presented by a representative of Kansas Gas Service. This testimony indicated that this situation was an economic one and that it should be taken care of through an analysis that makes sure other customers of the utility are not subsidizing the facilities that need to be installed. The testimony noted that without the benefit of new revenue to gain a return on the investment the new facilities would be paid for entirely by the existing customer, since little new load is realized. Written support

for the original bill was received from the Kansas Livestock Association.

At this hearing, additional testimony was received from the conferees from the KCC expressing concerns with the bill. Ultimately, the members of the Senate Utilities Committee received amendments from the KCC in an attempt to make the bill workable. The Chairperson of the Committee asked the various parties to work together in an attempt to resolve differences. At the time of action on the bill by the Committee the parties had not resolved all differences.

The fiscal note on the original bill states that there would be no fiscal effect resulting from the passage of SB 547.