

SESSION OF 2007

**SUPPLEMENTAL NOTE ON HOUSE BILL NO. 2576**

As Amended by House Committee on  
Energy and Utilities

**Brief\***

HB 2576 would amend existing law to place under limited jurisdiction of the Kansas Corporation Commission (KCC) any municipally owned or operated electric or gas utility with more than 50,000 customers. The KCC would be required to investigate rates, joint rates, tolls, charges and exactions, classifications or schedules of rates within a year of receiving a petition signed by at least 5 percent of all of the utility's customers, or 3 percent of the customers in a single rate class. Any such petition would have to be filed within a year of a rate change.

If the KCC investigation results in a finding that the rates being investigated are unjust, unreasonable, unjustly discriminatory, or unduly preferential, the KCC would be authorized to establish just and reasonable substitute rates. The municipal utility's original rates would remain in effect during the KCC investigation.

Customers who desire to start a petition drive could request from the utility the names, addresses and rate classification of the utility's customers. The utility would have 21 days to respond to a request for such customer information and would be authorized to charge the requesting customer reasonable cost for the information.

The bill specifically would not authorize the KCC to regulate payments by municipal utilities to the owning municipality. The KCC would be authorized to assess against

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\*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>

the investigated utility, the cost of the investigation. Under current law, municipal utilities are not regulated by the KCC, except in limited circumstances when services are provided outside the municipal boundaries.

## **Background**

The only municipal utility in Kansas that would be impacted by the bill currently is the Kansas City Board of Public Utilities. The petition procedure contained in the bill is identical to the procedure contained in current law for any cooperative with fewer than 15,000 customers if the cooperative is otherwise exempt from KCC regulation.

The bill was introduced by the House Committee on Federal and State Affairs at the request of the Chairperson of the House Committee on Energy and Utilities after identical provisions were passed by the Senate in HB 2032. At the House Committee hearing on the bill, Senators Chris Steineger and David Haley presented testimony in support of the bill as did a representative of the Kansas Chapter of the Sierra Club and three residents of Wyandotte County. Testimony in opposition to the bill was presented to the House Committee by Representative Mike Peterson, the Unified Government of Wyandotte County and Kansas City, the General Manager of the Kansas City Board of Public Utilities, the League of Kansas Municipalities, Kansas City Kansas Chamber of Commerce, and Kansas Municipal Utilities.

The fiscal note prepared by the Division of the Budget for the introduced version of the bill states that the KCC's staffing resources may not be adequate to handle the additional workload created by the regulation of another utility. The agency believes it could need up to \$173,394 to fund 3.00 additional FTE positions in its Utilities Division, because it has experienced a significant increase in workload as a result of more complex filings by regulated utilities.

If the KCC would identify questions about the municipal utility's management and cost controls, the agency would initiate an investigation to ascertain whether any improprieties existed. An investigation of this type would require a management audit of the municipal utility. Presently, the expertise to perform management audits on jurisdictional utilities does not exist within the staff of the KCC. Contractual arrangements would be required with outside consulting firms specializing in management audits to perform these functions. Management consultants would cost the KCC between \$100,000 and \$500,000. The agency indicates that additional consulting resources could be needed if an investigation were initiated.

The fiscal note for the introduced version of the bill also states that the Citizens' Utility Ratepayer Board might incur additional expenditures for its participation in any rate proceedings resulting from enactment of this bill. Those additional expenditures could be handled within existing resources.

The House Committee amendment to the bill appears to materially change the estimate of fiscal impact.