

SESSION OF 2025

SUPPLEMENTAL NOTE ON HOUSE BILL NO. 2109

As Amended by Senate Committee on Utilities

Brief*

HB 2109, as amended, would require public utilities to enter into pole attachment agreements upon the request of a law enforcement agency to allow the requesting agency to install equipment on utility poles in the public right-of-way. The bill would also exempt the public utilities from civil liability.

The bill would require the pole attachment agreements to:

- Identify the utility poles authorized for attachment;
- Specify the nature and placement of the equipment to be attached, including whether electric service is needed;
- Establish safety and security specifications;
- Provide the public utility the sole discretion to require that the work be done by the public utility or a qualified contractor; and
- Require the law enforcement agency to indemnify, defend, and hold harmless the public utility from liability.

The bill would also permit the agreements to include other terms, conditions, or provisions as are reasonable or necessary.

*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 <https://klrd.gov/>

The bill would permit the public utility to issue charges to recover costs for attaching, accessing, operating, maintaining, removing, or providing power to the law enforcement equipment. The utility may not otherwise charge the agency for the use of space, but the bill would not preclude the utility from charging other entities for space to attach other equipment.

The bill would make the law enforcement agency responsible for compliance with all laws, rules, regulations, and ordinances, and for determining the need for and securing court orders.

Public utilities that enter into pole attachment agreements would be considered an instrumentality of a governmental entity for the purposes of the Kansas Tort Claims Act and would be entitled to liability limitations therein. The bill would require the law enforcement agency to indemnify, defend, and hold harmless the utility for any and all reasonable costs and expenses, including, but not limited to, attorney fees that are associated with any and all:

- Claims or court actions arising out of the attachment, access, operation, maintenance, or removal of law enforcement equipment or law enforcement activities conducted pursuant to such agreement; and
- Damages to utility systems or infrastructure caused by law enforcement equipment or action except if damage has been caused solely by the public utility.

The bill would also define relevant terms, which include “law enforcement agency” as a public agency that employs law enforcement officers or the Federal Bureau of Investigation, “public right-of-way,” “public utility,” and “utility pole.”

The provisions of the bill would sunset on July 1, 2027.

Background

The bill was introduced by the House Committee on Energy, Utilities and Telecommunications at the request of Representative Hoheisel.

House Committee on Energy, Utilities and Telecommunications

In the House Committee hearing, **proponent** testimony was provided by representatives of the Kansas State Lodge Fraternal Order of Police and the Kansas Association of Chiefs of Police, Kansas Peace Officers Association, and Kansas Sheriffs Association. The proponents generally stated that pole cameras are an often-utilized strategic asset to law enforcement and discussed examples of technology being used to solve criminal investigations. It was also stated that utilities have historically allowed law enforcement to attach cameras to utility poles but have moved away from the practice due to liability concerns.

Written-only proponent testimony was provided by the State Fire Marshal and a representative of the Wichita Police Department.

Written-only neutral testimony was provided by representatives of the Citizens' Utility Ratepayer Board (CURB) and the Kansas Department of Transportation (KDOT).

No other testimony was provided.

Senate Committee on Utilities

In the Senate Committee hearing, **proponent** testimony was provided by representatives of the Kansas State Lodge Fraternal Order of Police and the Kansas Association of Chiefs of Police, Kansas Peace Officers Association, and

Kansas Sheriffs Association that was substantially similar to the testimony provided to the House Committee.

Written-only neutral testimony was provided by representatives of CURB, Evergy, and KDOT.

No other testimony was provided.

The Senate Committee amended the bill to implement a sunset date of July 1, 2027.

Fiscal Information

According to the fiscal note prepared by the Division of Budget on the bill, as introduced, CURB indicates that enactment of the bill would increase expenditures by \$3,000 in FY 2026 from fee funds due to the anticipated increase in workload. CURB notes that the Kansas Corporation Commission (KCC) could also be required to review and approve the utility agreements prior to usage. The bill would increase expenditures to CURB from hours billed with in-house staff related to docket work to create, review, and approve these contracts. CURB states enactment of the bill would also increase revenues to its fee funds by \$3,000 from fees paid by public utilities for individual dockets.

The KCC and the Kansas Highway Patrol indicate that enactment of the bill would not have a fiscal effect on the agencies. Any fiscal effect associated with the bill is not reflected in *The FY 2026 Governor's Budget Report*.

The Kansas Association of Counties indicates that enactment of the bill would increase expenditures for the cost of equipment and maintenance; however, the amount would be negligible. The League of Kansas Municipalities indicates that enactment of the bill would have a fiscal effect on their operations, but the amount cannot be estimated.

Public utilities; utility pole; pole attachment agreement; law enforcement; liability