

As Amended by House Committee

Session of 2014

HOUSE BILL No. 2488

By Committee on Energy and Environment

1-23

1 AN ACT concerning the Kansas electric transmission authority; purpose
2 and composition of authority; creation of transmission advisory
3 council; amending K.S.A. 2013 Supp. 74-99d01, 74-99d03, 74-99d04
4 and 74-99d07 and repealing the existing sections.

5
6 *Be it enacted by the Legislature of the State of Kansas:*

7 Section 1. K.S.A. 2013 Supp. 74-99d01 is hereby amended to read as
8 follows: 74-99d01. (a) K.S.A. 2013 Supp. 74-99d01 through 74-99d13,
9 and amendments thereto, may be cited as the Kansas electric transmission
10 authority act.

11 (b) The purpose for which the Kansas electric transmission authority
12 is created is to further ensure *planning and* reliable operation of the
13 integrated electrical transmission system, diversify and expand the Kansas
14 economy and facilitate the ~~consumption~~ *delivery and utilization* of Kansas
15 energy through improvements in the state's electric transmission
16 infrastructure *and related policy initiatives*.

17 Sec. 2. K.S.A. 2013 Supp. 74-99d03 is hereby amended to read as
18 follows: 74-99d03. (a) There is hereby created a body politic and corporate
19 to be known as the Kansas electric transmission authority. The authority is
20 hereby constituted a public instrumentality and the exercise by the
21 authority of the powers conferred by this act in the construction, operation
22 and maintenance of electric transmission projects shall be deemed and
23 held to be the performance of an essential governmental function.

24 (b) (1) The authority shall be governed by a board of directors
25 consisting of ~~seven~~ *nine* members.

26 (2) ~~Three~~ *Five* members shall be appointed by the governor, subject to
27 confirmation by the senate as provided by K.S.A. 75-4315b, and
28 amendments thereto. Except as provided by K.S.A. 46-2601, and
29 amendments thereto, no person appointed to the board shall exercise any
30 power, duty or function as a member of the board until confirmed by the
31 senate. The terms of members first appointed to the board shall be as
32 follows: One shall be appointed ~~for terms expiring the second March 15~~
33 ~~following appointment, one~~ for a term expiring the third March 15
34 following appointment and one for ~~terms~~ *a term* expiring the fourth March
35 15 following appointment. Thereafter, members shall be appointed for
36 terms of four years and until their successors are appointed and confirmed.

1 All persons appointed by the governor and serving as members shall be
2 qualified voters of the state of Kansas with special knowledge, as
3 evidenced by college degrees or courses, or with at least five years'
4 experience in managerial positions, in the field of electric transmission or
5 ~~generation~~*energy infrastructure* development. Not more than ~~two~~*three*
6 of the members appointed by the governor shall be members of the same
7 political party. A person appointed by the governor to fill a vacancy on the
8 board shall be appointed to serve for the unexpired term. A member
9 appointed to the board by the governor shall be eligible for reappointment.
10 A member of the board appointed by the governor may be removed by the
11 governor for misfeasance, malfeasance or willful neglect of duty, but only
12 after reasonable notice and a public hearing conducted in accordance with
13 the provisions of the Kansas administrative procedure act.

14 (3) The following shall be ex officio of the board: The chairperson
15 and ranking minority member of the senate standing committee on utilities
16 or its successor and the chairperson and ranking minority member of the
17 house standing committee on utilities or its successor. Members ex officio
18 shall be entitled to vote and participate as full members of the board.

19 (c) Each member of the board, before entering upon the member's
20 duties, shall take and subscribe an oath or affirmation as required by law.

21 (d) Members of the board attending meetings of the board, or
22 attending a subcommittee meeting thereof authorized by the board, shall
23 be paid compensation, subsistence allowances, mileage and other expenses
24 as provided in K.S.A. 75-3223, and amendments thereto.

25 Sec. 3. K.S.A. 2013 Supp. 74-99d04 is hereby amended to read as
26 follows: 74-99d04. (a) The board shall elect annually from among its
27 members a chairperson, vice-chairperson and secretary. ~~Four~~*Five* members
28 of the board shall constitute a quorum and the affirmative vote of ~~four~~*five*
29 members shall be necessary for any action taken by the board. No vacancy
30 in the membership of the board shall impair the right of a quorum to
31 exercise all the rights and perform all the duties of the board.

32 (b) Notwithstanding any provision of K.S.A. 75-4317 et seq., and
33 amendments thereto, in the case of the authority, discussion, consideration
34 and action on any of the following may occur in executive session when in
35 the opinion of the board disclosure of the items would be harmful to the
36 competitive position of third parties or to the security of transmission
37 facilities:

38 (1) Proprietary information gathered by or in the possession of the
39 authority from third parties pursuant to a promise of confidentiality;

40 (2) information regarding the location of transmission facilities and
41 security measures that protect such facilities; or

42 (3) information which is related to transmission capacity or
43 availability and is not otherwise available to all electric energy market

1 participants.

2 (c) Notwithstanding any provision of this section to the contrary, the
3 authority may claim the benefit of any other exemption to the Kansas open
4 meetings act listed in K.S.A. 75-4317 et seq., and amendments thereto.

5 Sec. 4. K.S.A. 2013 Supp. 74-99d07 is hereby amended to read as
6 follows: 74-99d07. (a) Except as otherwise provided by this act, the
7 authority shall have all the powers necessary to carry out the purposes and
8 provisions of this act, including, without limitation:

9 (1) Having the duties, privileges, immunities, rights, liabilities and
10 disabilities of a body corporate and a political instrumentality of the state;

11 (2) having perpetual existence and succession;

12 (3) adopting, having and using a seal and altering the same at its
13 pleasure;

14 (4) suing and being sued in its own name;

15 (5) adopting bylaws for the regulation of its affairs and the conduct of
16 its business;

17 (6) adopting such rules and regulations as the authority deems
18 necessary for the conduct of the business of the authority;

19 (7) employing consulting engineers, attorneys, accountants,
20 construction and financial experts, superintendents, managers and such
21 other employees and agents as the authority deems necessary and fixing
22 the compensation thereof;

23 (8) making and executing all contracts and agreements necessary or
24 incidental to the performance of the authority's duties and the execution of
25 the authority's powers under this act;

26 (9) receiving and accepting from any federal agency grants, or any
27 other form of assistance, for or in aid of the planning, financing,
28 construction, development, acquisition or ownership of any property,
29 structures, equipment, facilities and works of public improvement
30 necessary or useful for the accomplishment of the purposes for which the
31 authority was created and receiving and accepting aid or contributions
32 from any source of either money, property, labor or other things of value,
33 to be held, used and applied only for the purposes for which such grants
34 and contributions may be made;

35 (10) borrowing funds to carry out the purposes of the authority and
36 mortgaging and pledging any lease or leases granted, assigned or
37 subleased by the authority;

38 (11) purchasing, leasing, trading, exchanging or otherwise acquiring,
39 maintaining, holding, improving, mortgaging, selling, leasing and
40 disposing of personal property, whether tangible or intangible, and any
41 interest therein; and purchasing, leasing, trading, exchanging or otherwise
42 acquiring real property or any interest therein, and maintaining, holding,
43 improving, mortgaging, leasing and otherwise transferring such real

1 property, so long as such transactions do not conflict with the mission of
2 the authority as specified in this act;

3 (12) as provided by K.S.A. 2013 Supp. 74-99d09, and amendments
4 thereto, incurring or assuming indebtedness and entering into contracts
5 with the Kansas development finance authority, which is authorized to
6 borrow money, issue bonds and provide financing for: (A) The
7 construction, upgrading or repair of transmission facilities of the Kansas
8 electric transmission authority or the acquisition of right-of-way for such
9 facilities, or both, and any such bonds shall be payable from and be
10 secured by the pledge of revenues derived from the operation of such
11 electric transmission facilities; or (B) making loans to finance the
12 construction, upgrading or repair of transmission facilities not owned by
13 the Kansas electric transmission authority or the acquisition of right-of-
14 way for such facilities, or both, upon such terms and conditions as required
15 by the authority, including a requirement that any entity receiving a loan
16 under this act shall maintain records and accounts relating to receipt and
17 disbursements of loan proceeds, transportation costs and information on
18 energy sales and deliveries and make the records available to the authority
19 for inspection, and any such bonds shall be payable from and be secured
20 by the pledge of revenues derived from the operation of such electric
21 transmission facilities;

22 (13) depositing any moneys of the authority in any banking
23 institution within or without the state or in any depository authorized to
24 receive such deposits, one or more persons to act as custodians of the
25 moneys of the authority, to give surety bonds in such amounts in form and
26 for such purposes as the board requires;

27 (14) recovering its costs through tariffs of the southwest power pool
28 regional transmission organization, or its successor, and, if all costs are not
29 recovered through such tariffs, through assessments against all electric
30 public utilities, electric municipal utilities and electric cooperative utilities
31 receiving benefits of the construction or upgrade and having retail
32 customers in this state. Each such utility's assessment shall be based on the
33 benefits the utility receives from the construction or upgrade, as
34 determined by the state corporation commission upon application by the
35 authority. In determining allocation of benefits and costs to utilities, the
36 commission may take into account funding and cost recovery mechanisms
37 developed by regional transmission organizations and shall take into
38 account financial payments by transmission users and approved by the
39 federal energy regulatory commission or regional transmission
40 organization. Each electric public utility shall recover any such assessed
41 costs from the utility's customers in a manner approved by the commission
42 and each electric municipal or cooperative utility shall recover such
43 assessed costs from the utility's customers in a manner approved by the

1 utility's governing body;

2 (15) participating in and coordinating with the planning activities of
3 the southwest power pool regional transmission organization, or its
4 successor, and adjoining regional transmission organizations, or their
5 successors;

6 (16) participating in and coordinating with the planning activities of
7 the southwest power pool regional reliability organization, or its successor,
8 and adjoining regional reliability organizations, or their successors; ~~and~~

9 (17) establish and charge reasonable fees, rates, tariffs or other
10 charges, unless costs are recoverable under paragraph (14), for the use of
11 all facilities owned, financed or administered by it and for all services
12 rendered by it, and, if all costs are not recovered under paragraph (14),
13 such costs shall be recovered through assessments against any entity or
14 entities requesting use of facilities owned, financed or administered by the
15 authority or for all requested services provided by the authority, or both-;
16 *and*

17 (18) *create an electric transmission advisory council, all members of*
18 *which shall be reviewed annually and serve at the pleasure of the*
19 *authority; to be comprised of a representative for each of the following*
20 *groups: (A) Renewable energy companies;*

21 ~~(B) transmission-owning utilities serving retail customers;~~

22 ~~(C) transmission dependent utilities;~~

23 ~~(D) Kansas department of commerce;~~

24 ~~(E) Kansas department of transportation; and~~

25 ~~(F) Kansas department of wildlife, parks and tourism.~~

26 (b) On or before the first day of the regular legislative session each
27 year, the authority shall submit to the governor and to the legislature a
28 written report of the authority's activities for the preceding fiscal year.
29 Such report shall include the report of any audit conducted pursuant to
30 K.S.A. 2013 Supp. 74-99d10, and amendments thereto, of the preceding
31 fiscal year.

32 (c) The authority shall continue until terminated by law. No such law
33 terminating the authority shall take effect while the authority has bonds,
34 debts or obligations outstanding unless adequate provision has been made
35 for the payment or retirement of such bonds, debts or obligations. Upon
36 dissolution of the authority, all property, funds and assets thereof shall be
37 disposed of as provided by law.

38 Sec. 5. K.S.A. 2013 Supp. 74-99d01, 74-99d03, 74-99d04 and 74-
39 99d07 are hereby repealed.

40 Sec. 6. This act shall take effect and be in force from and after its
41 publication in the statute book.