

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; **also repealing**
5 **K.S.A. 2013 Supp. 74-99d09.**
6

7 *Be it enacted by the Legislature of the State of Kansas:*

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

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

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

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

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

1 following appointment and one for ~~terms~~ *term* expiring the fourth March
2 15 following appointment. Thereafter, members shall be appointed for
3 terms of four years and until their successors are appointed and confirmed.
4 All persons appointed by the governor and serving as members shall be
5 qualified voters of the state of Kansas with special knowledge, as
6 evidenced by college degrees or courses, or with at least five years'
7 experience in managerial positions, in the field of electric transmission or
8 ~~generation~~ *energy infrastructure* development. Not more than ~~two~~ *three*
9 of the members appointed by the governor shall be members of the same
10 political party. A person appointed by the governor to fill a vacancy on the
11 board shall be appointed to serve for the unexpired term. A member
12 appointed to the board by the governor shall be eligible for reappointment.
13 A member of the board appointed by the governor may be removed by the
14 governor for misfeasance, malfeasance or willful neglect of duty, but only
15 after reasonable notice and a public hearing conducted in accordance with
16 the provisions of the Kansas administrative procedure act.

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

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

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

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

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

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

43 (2) information regarding the location of transmission facilities and

1 security measures that protect such facilities; or

2 (3) information which is related to transmission capacity or
3 availability and is not otherwise available to all electric energy market
4 participants.

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

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

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

14 (2) having perpetual existence and succession;

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

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

18 (5) adopting bylaws for the regulation of its affairs and the conduct of
19 its business;

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

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

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

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

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

41 (11) purchasing, leasing, trading, exchanging or otherwise acquiring,
42 maintaining, holding, improving, mortgaging, selling, leasing and
43 disposing of personal property, whether tangible or intangible, and any

1 interest therein; and purchasing, leasing, trading, exchanging or otherwise
2 acquiring real property or any interest therein, and maintaining, holding,
3 improving, mortgaging, leasing and otherwise transferring such real
4 property, so long as such transactions do not conflict with the mission of
5 the authority as specified in this act;

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

25 ~~(13)~~ (12) depositing any moneys of the authority in any banking
26 institution within or without the state or in any depository authorized to
27 receive such deposits, one or more persons to act as custodians of the
28 moneys of the authority, to give surety bonds in such amounts in form and
29 for such purposes as the board requires;

30 ~~(14)~~ (13) recovering its costs through tariffs of the southwest power
31 pool regional transmission organization, or its successor, and, if all costs
32 are not recovered through such tariffs, through assessments against all
33 electric public utilities, electric municipal utilities and electric cooperative
34 utilities receiving benefits of the construction or upgrade and having retail
35 customers in this state. Each such utility's assessment shall be based on the
36 benefits the utility receives from the construction or upgrade, as
37 determined by the state corporation commission upon application by the
38 authority. In determining allocation of benefits and costs to utilities, the
39 commission may take into account funding and cost recovery mechanisms
40 developed by regional transmission organizations and shall take into
41 account financial payments by transmission users and approved by the
42 federal energy regulatory commission or regional transmission
43 organization. Each electric public utility shall recover any such assessed

1 costs from the utility's customers in a manner approved by the commission
 2 and each electric municipal or cooperative utility shall recover such
 3 assessed costs from the utility's customers in a manner approved by the
 4 utility's governing body;

5 ~~(15)~~ **(14)** participating in and coordinating with the planning activities
 6 of the southwest power pool regional transmission organization, or its
 7 successor, and adjoining regional transmission organizations, or their
 8 successors;

9 ~~(16)~~ **(15)** participating in and coordinating with the planning activities
 10 of the southwest power pool regional reliability organization, or its
 11 successor, and adjoining regional reliability organizations, or their
 12 successors; ~~and~~

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

21 ~~(18)~~ **(17)** *create an electric transmission advisory council, all*
 22 *members of which shall be reviewed annually and serve at the pleasure of*
 23 *the authority; to be comprised of a representative for each of the following*
 24 *groups: (A) Renewable energy companies;*

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

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

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

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

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

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

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

42 Sec. 5. K.S.A. 2013 Supp. 74-99d01, 74-99d03, 74-99d04 ~~and~~, 74-
 43 99d07 **and 74-99d09** are hereby repealed.

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