

HOUSE BILL No. 2488

AN ACT concerning the Kansas electric transmission authority; purpose and composition of authority; creation of transmission advisory council; amending K.S.A. 2013 Supp. 74-99d01, 74-99d03, 74-99d04 and 74-99d07 and repealing the existing sections; also repealing K.S.A. 2013 Supp. 74-99d09.

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

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

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

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

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

(2) ~~Three~~ *Five* members shall be appointed by the governor, subject to confirmation by the senate as provided by K.S.A. 75-4315b, and amendments thereto. Except as provided by K.S.A. 46-2601, and amendments thereto, no person appointed to the board shall exercise any power, duty or function as a member of the board until confirmed by the senate. The terms of members first appointed to the board shall be as follows: One shall be appointed ~~for terms expiring the second March 15 following appointment, one~~ for a term expiring the third March 15 following appointment and one for ~~terms~~ *a term* expiring the fourth March 15 following appointment. Thereafter, members shall be appointed for terms of four years and until their successors are appointed and confirmed. All persons appointed by the governor and serving as members shall be qualified voters of the state of Kansas with special knowledge, as evidenced by college degrees or courses, or with at least five years' experience in managerial positions, in the field of electric transmission or ~~generation~~ *energy infrastructure* development. Not more than ~~two~~ *three* of the members appointed by the governor shall be members of the same political party. A person appointed by the governor to fill a vacancy on the board shall be appointed to serve for the unexpired term. A member appointed to the board by the governor shall be eligible for reappointment. A member of the board appointed by the governor may be removed by the governor for misfeasance, malfeasance or willful neglect of duty, but only after reasonable notice and a public hearing conducted in accordance with the provisions of the Kansas administrative procedure act.

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

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

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

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

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

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

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

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

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

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

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

(2) having perpetual existence and succession;

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

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

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

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

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

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

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

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

(11) purchasing, leasing, trading, exchanging or otherwise acquiring, maintaining, holding, improving, mortgaging, selling, leasing and disposing of personal property, whether tangible or intangible, and any interest therein; and purchasing, leasing, trading, exchanging or otherwise acquiring real property or any interest therein, and maintaining, holding, improving, mortgaging, leasing and otherwise transferring such real property, so long as such transactions do not conflict with the mission of the authority as specified in this act;

~~(12) as provided by K.S.A. 2013 Supp. 74-99d09, and amendments thereto, incurring or assuming indebtedness and entering into contracts with the Kansas development finance authority, which is authorized to borrow money, issue bonds and provide financing for: (A) The construction, upgrading or repair of transmission facilities of the Kansas electric transmission authority or the acquisition of right-of-way for such facilities; or both, and any such bonds shall be payable from and be secured by the pledge of revenues derived from the operation of such electric transmission facilities; or (B) making loans to finance the construction, upgrading or repair of transmission facilities not owned by the Kansas electric trans-~~

~~mission authority or the acquisition of right-of-way for such facilities, or both, upon such terms and conditions as required by the authority, including a requirement that any entity receiving a loan under this act shall maintain records and accounts relating to receipt and disbursements of loan proceeds, transportation costs and information on energy sales and deliveries and make the records available to the authority for inspection, and any such bonds shall be payable from and be secured by the pledge of revenues derived from the operation of such electric transmission facilities;~~

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

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

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

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

~~(17)~~(16) establish and charge reasonable fees, rates, tariffs or other charges, unless costs are recoverable under paragraph ~~(14)~~ (13), for the use of all facilities owned, financed or administered by it and for all services 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 entities requesting use of facilities owned, financed or administered by the authority or for all requested services provided by the authority, or both; *and*

(17) *create an electric transmission advisory council, all members of which shall be reviewed annually and serve at the pleasure of the authority.*

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

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

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

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

I hereby certify that the above BILL originated in the HOUSE, and passed that body

HOUSE concurred in
SENATE amendments _____

Speaker of the House.

Chief Clerk of the House.

Passed the SENATE
as amended _____

President of the Senate.

Secretary of the Senate.

APPROVED _____

Governor.