

SESSION OF 2014

SUPPLEMENTAL NOTE ON HOUSE BILL NO. 2487

As Amended by Senate Committee on Utilities

Brief*

HB 2487, as amended, would make several changes to current law regarding issuance of certificates of public convenience by the Kansas Corporation Commission (KCC). The bill would do the following:

- Clarify that entities seeking to construct electric transmission lines in Kansas must obtain a certificate of public convenience and necessity prior to transacting business;
- Extend the time frame for the KCC to issue a decision on a common carrier or public utility's application for mergers and acquisitions from 180 days to 300 days, with provisions for a mutually agreed upon waiver or extension of the time period;
- Direct the KCC to expeditiously process every common carrier or public utility's application for a certificate of public convenience and necessity; and
- Modify the term "certificate of public convenience" in KSA 66-131 to read "certificate of public convenience and necessity".

In addition, the bill would give the KCC explicit authority, on its own or in association with others, to intervene or

*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>

otherwise participate in state or federal proceedings on any matter the KCC reasonably believes pertains to its official duties. In addition, the KCC would have discretion to file *amicus* briefs with any court in Kansas or the federal government, after conferring with the Attorney General.

Background

HB 2487 was introduced by the House Committee on Utilities and Telecommunications. At the House Committee hearing on the bill, a representative of the KCC testified in support of the bill, and the Citizens' Utility Ratepayer Board (CURB) submitted written testimony in support of the bill. Supporters indicated the KCC may need more than 180 days to render a decision on complex cases. The KCC representative proposed amendments to the bill that would retain the 180-day limit on decisions regarding issuance of a transmission-only certificate of public convenience and necessity, and replace the phrase "certificate of public convenience" in KSA 66-131 with "certificate of public convenience and necessity". The representative indicated this would be consistent with language used in other KCC statutes and Kansas case law.

A representative of ITC Great Plains, an independent transmission company, testified in opposition to the bill, as introduced. He stated that eliminating the 180-day limit for issuing a certificate of convenience for transmission-only utilities could create uncertainty in the regulatory process and potentially delay needed projects. ITC suggested decisions on mergers and acquisitions be subject to a longer time limit, such as 270 days with provisions for a mutually agreed upon extension, to retain regulatory certainty but allow more time for these often complex transactions.

The House Committee amended the bill to retain the 180-day time limit for decisions on transmission-only certificates of public convenience, to insert a requirement for

the KCC to issue a decision on mergers and acquisitions within 300 days and to modify language in a statute governing the transaction of business in Kansas and certificate of public convenience to read “certificate of public convenience and necessity”.

The Senate Committee on Utilities amendment inserts provisions relating to the KCC’s authority to intervene in proceedings related to its official duties (HB 2482, as amended by the House Committee on Utilities and Telecommunications) into HB 2487. Information about HB 2482 is printed below.

The fiscal note submitted by the Division of the Budget stated passage of HB 2487, as introduced, would have no fiscal effect for the KCC.

HB 2482 was introduced by the House Committee on Utilities and Telecommunications. At the House Committee hearing on the bill, a representative of the KCC testified in support of the bill, stating the agency requested introduction of the bill to clearly express the KCC’s existing authority to intervene in proceedings related to its official duties. A representative of the CURB submitted written testimony in support of the bill, noting that in some legal venues the authority of a state regulatory commission to participate at the federal level has been questioned. As a result, CURB supported both making the KCC’s authority explicit and broadening that authority.

The House Committee amended the bill to broaden the KCC’s authority by allowing it to participate in other ways, in addition to intervention; on its own, or in association with others with similar interests; and on any matter the KCC reasonably believes pertains to its official duties.

The fiscal note submitted by the Division of the Budget on HB 2482, as introduced, indicated passage of the bill would have no fiscal effect for the KCC.