

SESSION OF 2014

SUPPLEMENTAL NOTE ON HOUSE BILL NO. 2636

As Amended by Senate Committee of the Whole

Brief*

HB 2636 would allow the Secretary of Health and Environment to establish separate performance standards for carbon dioxide emissions for coal-fired and natural gas electric generating units that have been constructed or received a prevention of significant deterioration permit by July 1, 2014. The bill would allow the Secretary to use flexible regulatory mechanisms, including the averaging of emissions, emissions trading, or other alternative implementation measures, and to enter into voluntary agreements with utilities that operate fossil-fuel-based electric generating units within Kansas to implement the standards.

The standards would be based upon the following:

- The best system of emission reduction that has been adequately demonstrated while considering the cost of achieving such reduction;
- Reductions in emissions of carbon dioxide that can reasonably be achieved through measures taken at each electric generation unit; and
- Efficiency and other measures that can be undertaken at each electric generating unit to reduce carbon dioxide emissions without any requirements for fuel switching, co-firing with other fuels, or limiting the utilization of the unit.

*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>

The Secretary would be allowed to consider alternative standards and metrics or to provide alternative compliance schedules than those provided by federal rules or regulations by evaluating the following:

- Unreasonable costs of achieving an emission limitation due to plant age, location or design of an electric generating unit;
- Any unusual physical or compliance schedule difficulties or impossibility of implementing emission reduction measures;
- The cost of applying the performance standard to an electric generating unit;
- The remaining useful life of an electric generating unit;
- Any economic or electric transmission and distribution impacts resulting from closing the electric generating unit if compliance with the performance standard is not possible; and
- The potential for a standard of performance relating to unit efficiency.

Background

Proponents of the bill were representatives of Americans for Prosperity, Partnership for a Better Energy Future, and Sunflower Electric Power Corporation. Proponents stated it would be beneficial for Kansans if the Kansas Department of Health and Environment (KDHE) would establish air quality standards regarding carbon dioxide emissions from existing units before the Environmental Protection Agency issues its guidance. Representatives from KDHE and Westar provided neutral testimony. A representative from Kansans for Clean Energy provided testimony in opposition to the bill and stated

the bill as written would limit Kansas' flexibility to exercise its full authority to implement the Clean Air Act.

The House Committee on Energy and Environment made technical amendments to the bill that would clarify the citation to the Clean Air Act and that the language in the bill would be part of and supplemental to the Kansas Air Quality Act.

The House Committee of the Whole made a technical amendment to the bill.

The Senate Committee of the Whole amended the bill to allow, rather than require, the Secretary of Health and Environment to establish separate standards of performance for carbon dioxide emissions.

A fiscal note was not available at the time of the Senate Committee of the Whole's action.