

February 5, 2019

The Honorable Joe Seiwert, Chairperson
House Committee on Energy, Utilities and Telecommunications
Statehouse, Room 481-W
Topeka, Kansas 66612

Dear Representative Seiwert:

SUBJECT: Fiscal Note for HB 2081 by House Committee on Energy, Utilities and Telecommunications

In accordance with KSA 75-3715a, the following fiscal note concerning HB 2081 is respectfully submitted to your committee.

The Kansas Electric Transmission Authority (KETA) was created by 2005 HB 2263 to ensure reliable operation of the integrated electrical transmission system, diversify and expand the Kansas economy, and facilitate the consumption of Kansas energy through improvements in the state's electric transmission infrastructure. It was expected to fulfill this purpose through building electric transmission facilities or facilitating the construction, upgrade, and repair of third-party transmission facilities. The Authority was terminated by the 2016 Legislature in 2016 SB 318.

HB 2081 would reestablish the Authority with essentially the same purpose and methods of fulfillment and would restore all the rights and responsibilities previously assigned to it. The Authority would be governed by a Board of Directors consisting of nine members, five of which would be appointed by the Governor and subject to confirmation by the Senate. No more than three of the appointees could be of the same political party and all appointees must be qualified voters of the state 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 energy infrastructure development. *Ex officio* members of the Board would be the chairperson and ranking minority member of the Senate Standing Committee on Utilities and the chairperson and ranking minority member of the House Standing Committee on Energy, Utilities and Telecommunications. These members would be entitled to vote and participate as full members of the Board.

The Authority would have all the powers necessary to carry out the purposes and provisions of the bill without limitation, including:

1. Adopting rules and regulations for conduct of business;

2. Planning, financing, constructing, developing, acquiring, owning, disposing of, entering into contract for maintenance of and contract with electric public utilities, electric corporative utilities or electric municipal utilities for operation of transmission facilities of the Authority, and participating in partnerships and joint ventures to facilitate activities or programs consistent with the public purpose and intent of the bill;
3. Making and executing all contracts and agreements necessary for the conduct of the business of the Authority;
4. Employing consulting engineers, attorneys, accountants, construction and financial experts, superintendents, managers and other employees as deemed necessary;
5. Making and executing all contracts and agreements necessary;
6. Receiving and accepting federal grants;
7. Borrowing funds to carry out its purposes and mortgaging and pledging any lease or leases granted, assigned or subleased by the Authority;
8. Obtaining, maintaining and disposing of personal and real property as long as such transactions do not conflict with the mission of the Authority;
9. Depositing monies of the Authority into any banking institution within or outside of the state;
10. Participating in and coordinating with the planning activities of the Southwest Power Pool Regional Transmission Organization and the Southwest Power Pool Regional Reliability Organization or their successors, and adjoining regional transmission and reliability organizations or their successors;
11. Establishing an advisory council, all members of which would serve at the pleasure of the Authority; and
12. Submitting to the Governor and the Legislature a written report of the Authority's activities for the preceding fiscal year, on or before the first day of the regular legislative session.

The Authority would be financed through tariffs on the Southwest Power Pool Regional Transmission Organization or its successor. If all costs are not recovered through the tariffs, assessments could be made against all electric public utilities, electric municipal utilities and electric cooperative utilities based on the benefits the utility receives from the construction or upgrades as determined by the Kansas Corporation Commission (KCC). The electric utilities would be allowed to recover these assessments from their customers. The Authority would not be subject to supervision or regulation by the KCC except as a public utility. The Authority would be allowed the power of eminent domain, and its employees would be allowed to enter upon any lands, waters and premises in the state as the Authority deems necessary.

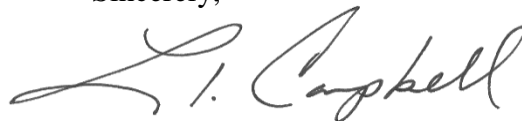
Under the provisions of the bill, the Authority could enter into agreements with the Kansas Development Finance Authority (KDFFA) to issue revenue bonds or provide other financing for construction, upgrading and repair of transmission facilities owned and not owned by KETA; and for the acquisition of right-of-way for transmission facilities. These bonds would be exempt from many of the ordinary statutory requirements for bonds issued by the KDFFA. The Authority would be exempt from all taxes. The bill would establish the circumstances under which KETA would be exempt from the Kansas Open Meetings Act and would prohibit the Authority from exercising

the rights and powers granted to it if private entities are performing the duties and acts and are willing to finance and own new infrastructure.

The League of Kansas Municipalities reports that enactment of HB 2081 could have a fiscal effect on cities in Kansas with an electric municipal utility if the cities receive benefits from the construction or upgrades implemented by KETA, as they may be required to pay assessments for any costs not recovered through tariffs. The cities may also receive funds from KETA through the acquisition of right-of-way for transmission facilities in the form of revenue bonds. The League is unable to estimate what those costs or revenues might amount to as they would be dependent on specific circumstances. The KCC indicates that enactment of HB 2081 would have no fiscal effect on the agency. Because KETA would be a tax-exempt entity, the Kansas Association of Counties states that enactment of the bill could result in a narrowing of a county's tax base, resulting in reduced local revenues. The KDFA states that it offsets its expenses with fees it collects in connection with facilitation of finance transactions so that fees generated through agreements with KETA would be sufficient to support agency expenses. Kansas Division of Legislative Post Audit reports that all of its audit work is directed by the Legislative Post Audit Committee, and thus there would be no fiscal impact if an audit of this authority was selected by the Committee. The Citizens' Utility Ratepayers Board (CURB) indicates that it would not have an active role in any function of KETA; therefore, enactment of HB 2081 would have no fiscal effect on agency operations.

Although the Authority would be created by statute and required to report to the Legislature and Governor, it would exist outside of state government and its expenses would be funded through tariffs and assessments on utility companies. Because the utility companies would be allowed to recover those assessments from their customers, enactment of HB 2081 would have a fiscal effect on ratepayers in Kansas.

Sincerely,



Larry L. Campbell
Director of the Budget

cc: Bonnie Hawkins, KDFA
Chris Clarke, Post Audit
Lynn Robinson, Department of Revenue
Chardae Caine, League of Municipalities
Jay Hall, Association of Counties
Shonda Rabb, CURB
Jake Fisher, KCC