

HOUSE BILL No. 2768

By Committee on Energy, Utilities and Telecommunications

Requested by Representative Schreiber

2-8

1 AN ACT concerning energy; relating to certain electric generation
2 facilities; providing a property tax exemption for new electric
3 generation facilities and new pollution control devices and additions
4 constructed or installed at electric generation facilities; sunsetting the
5 current property tax exemptions for certain existing electric generation
6 facilities; removing the commission's consideration of a utility
7 assuming the cost of decommissioning, waste disposal and clean up
8 when determining prudent investments; removing the requirement that
9 the state corporation commission disallow cost recovery for certain
10 nuclear facilities that provide excess capacity; amending K.S.A. 66-
11 128g, 66-1,158, 79-257 and 79-258 and repealing the existing sections;
12 also repealing K.S.A. 66-128h.
13

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

15 New Section 1. (a) The following described property, to the extent
16 herein specified, shall be exempt from all property or ad valorem taxes
17 levied under the laws of the state of Kansas:

- 18 (1) Any new electric generation facility.
19 (2) Any new addition to a new or existing electric generation facility.
20 (3) Any new pollution control device constructed or installed on or
21 after January 1, 2025, at a new or existing electric generation facility.

22 (b) The provisions of this section shall apply from and after
23 commencement of construction or installation of such property and for the
24 10 taxable years immediately following the taxable year in which
25 construction or installation of such property is completed.

26 (c) As used in this section:

27 (1) "Existing electric generation facility" means an electric generation
28 facility described in K.S.A. 66-104(e) or 66-128(b)(2)(C), and
29 amendments thereto, that is in existence on December 31, 2024. "Existing
30 electric generation facility" does not include an electric generation facility
31 that converts wind, solar, biomass, landfill gas or any other renewable
32 source of energy to electricity.

33 (2) "New addition" means any real or tangible personal property
34 constructed or installed on or after January 1, 2025, for incorporation in
35 and use as part of a new or existing electric generation facility.

1 (3) "New electric generation facility" means an electric generation
2 facility described in K.S.A. 66-104(e) or 66-128(b)(2)(C), and
3 amendments thereto, and the commencement of construction of such
4 facility began on or after January 1, 2025. "New electric generation
5 facility" includes any electric generation facility that utilizes nuclear
6 energy for the generation of electricity. "New electric generation facility"
7 does not include any electric generation facility that converts wind, solar,
8 biomass, landfill gas or any other renewable source of energy to electricity.

9 (d) The provisions of this section shall apply to all taxable years
10 commencing after December 31, 2024.

11 Sec. 2. K.S.A. 66-128g is hereby amended to read as follows: 66-
12 128g. (a) The factors which shall be considered by the commission in
13 making the determination of "prudence" or lack thereof in determining the
14 reasonable value of electric generating property, as contemplated by this
15 act shall include without limitation the following:

16 (1) A comparison of the existing rates of the utility with rates that
17 would result if the entire cost of the facility were included in the rate base
18 for that facility;

19 (2) a comparison of the rates of any other utility in the state which has
20 no ownership interest in the facility under consideration with the rates that
21 would result if the entire cost of the facility were included in the rate base;

22 (3) a comparison of the final cost of the facility under consideration
23 to the final cost of other facilities constructed within a reasonable time
24 before or after construction of the facility under consideration;

25 (4) a comparison of the original cost estimates made by the owners of
26 the facility under consideration with the final cost of such facility;

27 (5) the ability of the owners of the facility under consideration to sell
28 on the competitive wholesale or other market electrical power generated
29 by such facility if the rates for such power were determined by inclusion of
30 the entire cost of the facility in the rate base;

31 (6) a comparison of any overruns in the construction cost of the
32 facility under consideration with any cost overruns of any other electric
33 generating facility constructed within a reasonable time before or after
34 construction of the facility under consideration;

35 ~~(7) whether the utility having an ownership interest in the facility~~
36 ~~being considered has provided a method to ensure that the cost of any~~
37 ~~decommissioning, any waste disposal or any cost of clean up of any~~
38 ~~incident in construction or operation of such facility is to be paid by the~~
39 ~~utility;~~

40 (8) inappropriate or poor management decisions in construction or
41 operation of the facility being considered;

42 ~~(9)~~(8) whether inclusion of all or any part of the cost of construction
43 of the facility under consideration, and the resulting rates of the utility

1 therefrom, would have an adverse economic impact upon the people of
2 Kansas;

3 ~~(10)(9)~~ whether the utility acted in the general public interest in
4 management decisions in the acquisition, construction or operation of the
5 facility;

6 ~~(11)(10)~~ whether the utility accepted risks in the construction of the
7 facility which were inappropriate to the general public interest to Kansas;

8 ~~(12)(11)~~ any other fact, factor or relationship which may indicate
9 prudence or lack thereof as that term is commonly used.

10 (b) The portion of the cost of a plant or facility which exceeds 200%
11 of the "original cost estimate" thereof shall be presumed to have been
12 incurred due to a lack of prudence. The commission may include any or all
13 of the portion of cost in excess of 200% of the "original cost estimate" if
14 the commission finds by a preponderance of the evidence that such costs
15 were prudently incurred. As used in this act "original cost estimate" means:

16 (1) For property of an electric utility which has been constructed
17 without obtaining an advance permit under K.S.A. 66-1,159 et seq., and
18 amendments thereto, the "definitive estimate"; and

19 (2) for property of an electric utility which has been constructed after
20 obtaining an advance permit under K.S.A. 66-1,159 et seq., and
21 amendments thereto, the cost estimate made by the utility in the process of
22 obtaining the advance permit.

23 Sec. 3. K.S.A. 66-1,158 is hereby amended to read as follows: 66-
24 1,158. As used in this act:

25 (a) "Addition to an existing nuclear generation facility" means any
26 addition of nuclear generation capacity to an existing nuclear generation
27 facility.

28 (b) "Commission" means the state corporation commission.

29 (c) "Electric utility" means every public utility, as defined by K.S.A.
30 66-104, and amendments thereto, which owns, controls, operates or
31 manages any equipment, plant or generating machinery for the production,
32 transmission, delivery or furnishing, of electricity or electric power.

33 (d) "Existing nuclear generation facility" means a nuclear generation
34 facility which is in existence on January 1, 2007.

35 (e) "Landowner" means any person having an estate or interest in any
36 land, which land is proposed to be acquired by an electric utility in
37 connection with the construction, operation and maintenance of a nuclear
38 generation facility.

39 (f) (1) ~~"Nuclear generation facility" means any physical plant~~
40 ~~utilizing electric generation facility that utilizes nuclear energy as the~~
41 ~~primary fuel for the production or generation of electricity or electric~~
42 ~~power.~~

43 (2) "Nuclear generation facility" does not include: (A) Remodeling,

1 reconditioning or retrofitting of a nuclear generation facility; (B)
2 construction of nonnuclear generation capacity at the site of a nuclear
3 generation facility; (C) an addition to an existing nuclear generation
4 facility which is within three miles of the reactor of an existing nuclear
5 generation facility; (D) construction of a nuclear generation facility which
6 is within three miles of the reactor of an existing nuclear generation
7 facility; or (E) any facility proposed to be located outside this state if: (i)
8 The need for the facility and the reasonableness of its proposed siting is
9 subject to review by the utility regulatory authority of that state; (ii) less
10 than 10% of the retail customers on the electric system intended to be
11 served by such facility are located in this state; and (iii) such retail
12 customers located in this state number no more than 15,000.

13 (g) "Party" means any landowner, electric utility, governmental board
14 or agency; or any other person allowed to intervene in any proceeding
15 under this act.

16 (h) "Person" means any individual, partnership, corporation or other
17 association of persons.

18 Sec. 4. K.S.A. 79-257 is hereby amended to read as follows: 79-257.
19 The following described property, to the extent herein specified, shall be
20 exempt from all property or ad valorem taxes levied under the laws of the
21 state of Kansas:

22 (a) All electric generation facilities described in subsection (e) of
23 K.S.A. 66-104, and amendments thereto.

24 (b) The provisions of subsection (a) shall apply:

25 (1) Except as provided in paragraph (2), from and after
26 commencement of construction of such property and for the 12 taxable
27 years immediately following the taxable year in which construction of
28 such property is completed; or

29 (2) for peak load plants, from and after commencement of
30 construction of such property and for the six taxable years immediately
31 following the taxable year in which construction of such property is
32 completed.

33 (c) All pollution control devices purchased for or constructed or
34 installed at electric generation facilities described in subsection (e) of
35 K.S.A. 66-104, and amendments thereto.

36 (d) The provisions of subsection (c) shall apply:

37 (1) Except as provided in paragraph (2), from and after purchase or
38 commencement of construction or installation of such property and for the
39 12 taxable years immediately following the taxable year in which such
40 property is purchased or construction or installation of such property is
41 completed; or

42 (2) for a peak load plant, from and after purchase or commencement
43 of construction or installation of such property and for the six taxable

1 years immediately following the taxable year in which such property is
2 purchased or construction or installation of such property is completed.

3 (e) The provisions of this section shall apply to all taxable years
4 commencing after December 31, 2000, *but only to property for which the*
5 *applicant filed an application for exemption pursuant to this section on or*
6 *before December 31, 2024. No application for exemption pursuant to this*
7 *section shall be filed after December 31, 2024.*

8 Sec. 5. K.S.A. 79-258 is hereby amended to read as follows: 79-258.
9 The following described property, to the extent herein specified, shall be
10 exempt from all property taxes levied under the laws of the state of
11 Kansas:

12 (a) All electric generation facilities and additions to electric
13 generation facilities described in subsection (b)(2)(C) of K.S.A. 66-128,
14 and amendments thereto.

15 (b) The provisions of subsection (a) shall apply: (1) Except as
16 provided in paragraph (2), from and after commencement of construction
17 of such property and for the 10 taxable years immediately following the
18 taxable year in which construction of such property is completed; or (2)
19 for a peak load plant, from and after commencement of construction of
20 such peak load plant and for the four taxable years immediately following
21 the taxable year in which construction of such property is completed.

22 (c) All pollution control devices purchased for or constructed or
23 installed at electric generation facilities described in subsection (b)(2)(C)
24 of K.S.A. 66-128, and amendments thereto.

25 (d) The provisions of subsection (c) shall apply: (1) Except as
26 provided in paragraph (2), from and after purchase or commencement of
27 construction or installation of such property and for the 10 taxable years
28 immediately following the taxable year in which such property is
29 purchased or construction or installation of such property is completed; or
30 (2) for a peak load plant, from and after purchase or commencement of
31 construction or installation of such property and for the four taxable years
32 immediately following the taxable year in which such property is
33 purchased or construction or installation of such property is completed.

34 (e) As used in this section, "peak load plant" means an electric
35 generation facility used during maximum load periods.

36 (f) The provisions of this section shall apply to all taxable years
37 commencing after December 31, 2000, *but only to property for which the*
38 *applicant filed an application for exemption pursuant to this section on or*
39 *before December 31, 2024. No application for exemption pursuant to this*
40 *section shall be filed after December 31, 2024.*

41 Sec. 6. K.S.A. 66-128g, 66-128h, 66-1,158, 79-257 and 79-258 are
42 hereby repealed.

43 Sec. 7. This act shall take effect and be in force from and after its

- 1 publication in the statute book.