

SESSION OF 2019

SUPPLEMENTAL NOTE ON HOUSE BILL NO. 2178

As Amended by House Committee on Judiciary

Brief*

HB 2178, as amended, would amend law concerning the duty of an operator to mark the tolerance zone (the area not less than 24 inches of the outside dimensions in all horizontal directions) around an underground facility within the Kansas Law Underground Utility Damage Prevention Act (Act). Specifically, the bill would exclude from the definition of “operator” any person who is providing electric service for that portion of an underground facility downstream of the point where ownership of the facility changes from an electric public utility to another person as determined by the electric public utility’s rules and regulations, tariffs, service or membership agreements or other similar documents. The bill would provide if the operator of a facility used for transporting, gathering, storing, conveying, transmitting or distributing gas, electricity, communications, crude oil, refined or reprocessed petroleum, petroleum products or hazardous liquids, is also a provider of electricity, the duty of the operator to mark the tolerance zone would not extend downstream of the point where ownership of the facility changes from the operator to another person as determined by the operator’s rules and regulations, tariffs, service, or membership agreements or similar documents. The bill would make a clarifying amendment to the definition of “operator” to include any person who leases (rather than operates) an underground Tier 1 or Tier 2 facility. Finally, the bill would add the definition of “electric public utility,” as defined by statutes governing the powers of the Kansas Corporation Commission (KCC), to the Act, and would make a technical amendment to a statutory reference.

*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 bill would be in effect upon publication in the *Kansas Register*.

Background

The bill was introduced by the House Committee on Judiciary at the request of Kansas Electric Cooperatives, Inc. (KEC). In the House Committee hearing, a representative of KEC and Midwest Energy, Inc. provided testimony in support of the bill on behalf of KEC, Sunflower Electric Power Corp., Kansas Electric Power Cooperative, Inc., and the Kansas Cooperative Council. A representative of Midwest Energy, Inc., also provided testimony in support of the bill. A representative of Pioneer Electric Cooperative, Inc. and Southern Pioneer Electric Company and a representative of Wheatland Electric Cooperative, Inc. submitted written-only proponent testimony. Proponents generally stated the bill is a response to a recent KCC order interpreting the definition of “operator” in the Act. A representative of the KCC provided neutral testimony and written-only neutral testimony was submitted by representatives of the City of Overland Park, the League of Kansas Municipalities, and WaterOne. Written-only opponent testimony was submitted by representatives of the American Council of Engineering Companies of Kansas and K&W Underground, Inc.

The House Committee amended the bill by adding the definition of “electric public utility” to the Act and replacing references to “operator” with “electric public utility” in the definition of “operator.”

According to the fiscal note prepared by the Division of the Budget on the bill, as introduced, the KCC indicates enactment of the bill would have no fiscal effect on the agency.