



*Testimony Submitted to the
Senate Utilities Committee
February 14th, 2023*

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Kansas Municipal Utilities*

Testimony in Opposition to SB 88

Kansas Municipal Utilities (KMU) is the statewide association representing Kansas cities and other public or not-for-profit agencies involved in the ownership and operation of municipal utilities across Kansas. Formed in 1928, KMU provides assistance and information to members with regard to legislative and regulatory issues, training and educational programs, and numerous other services toward the advancement of municipal utilities to achieve maximum benefits for the customer-owners served by our utilities. Our membership ranges in size from some of the largest utilities in the state such as those operated by the Kansas City Board of Public Utilities and the City of Wichita down to some of the smallest utility systems in the state serving fewer than 100 customers.

Our comments regarding SB 88 are primarily focused on New Section 3 which would create in the Office of Attorney General, the Utilities Regulation Division. KMU is in regular communication with Kansas Corporation Commission (KCC) staff on a host of issues including Mutual Aid events, system resiliency, pipeline safety, one-call and underground damage prevention, transmission matters, questions about Southwest Power Pool ongoings, water utility matters, low-income energy assistance programming, workforce training programmatic offerings, new or changes to federal and state regulations that impact our electric, natural gas or water utilities and many of the program offerings under the Kansas Energy Office.

A brief overview of the role of the Attorney General across the United States as well as the Office of the Attorney General is outlined by the National Association of Attorneys General on their website. KMU highlights the role of Attorneys General only to underscore the statutorily defined different focus and posture of the Attorney Generals versus utility commission staff. KMU and Commission staff frequently deliberate on pipeline safety matters. Will the ability to collaborate with staff be allowed when transferred to a more litigation or prosecution focused agency rather than an agency statutorily tasked to carry out a “multi-faceted mission” that is designed to protect environmental resources, fresh water supplies, ensure pipeline safety, provide for rate regulation, regulatory oversight to protect the public interest and promote safety? In addition, promoting energy efficiency and conservation is a key component of the KCC’s Energy Division as well as providing for educational opportunities and interaction with federal policy. While KMU and utility commission staff do not always see eye to eye on certain policies, we are all committed to providing for the safest, most reliable

and affordable utility systems for our customers. That is a critical relationship to preserve to fulfill our customers needs. It is our strong hope that in its deliberations about Corporation Commission, the Kansas Legislature will recognize the importance of KCC staff and the municipal utilities' ability to consult and collaborate with them in a non-litigious capacity.

In most states, an attorney general's power and authority come from the common law (custom and judicial precedent) rather than statutes. Under common law precedent, attorneys general have the authority to represent, defend, and enforce the legal interests of both the state itself and of the public. The jurisdiction's constitution and statutes also establish the attorney general's authority in other areas.

Depending on the decisions of the state's courts, attorneys general may have common law authority to:

- Protect the public interest.
- Control litigation and appeals on behalf of the state or territory.
- Appear for and defend the state or territory and its agencies.
- Determine the legal policy of the state or territory.
- Intervene in legal proceedings on behalf of the public interest.
- Prosecute criminal activity (in the absence of express legislative restrictions).
- Seek abatement of a public nuisance.
- Seek writs of prohibition against judicial actions.
- Enforce charitable trusts.

Attorneys general also have many other duties and responsibilities that are assigned by state constitutions and statutes. Although the functions and priorities of the attorney general vary depending on the jurisdiction, actions taken by attorneys general in every state include:

- **Issuing legal opinions which interpret state laws.**
- Filing amicus briefs in the U.S. Supreme Court.
- Bringing civil enforcement actions.

Additionally, the attorneys general of Alaska, Delaware, and Rhode Island have the authority to prosecute any state criminal law violations within their state.

Thank you for the opportunity to speak in opposition to HB 2154 and I am happy to answer questions at the appropriate time.