

SESSION OF 2012

**SUPPLEMENTAL NOTE ON HOUSE BILL NO. 2456**

As Recommended by House Committee on  
Energy and Utilities

**Brief\***

HB 2456 would amend the Kansas Underground Utilities Damage Prevention Act to institute requirements related to proxy voting involving a corporation that operates a notification center in accordance with the Act. Specifically, the bill would require that:

- No proxy could be appointed by or for a member based on inaction or other failure of the member to affirmatively appoint a proxy;
- To lawfully appoint a proxy, a member must appoint in accordance with KSA 17-6502 and amendments thereto; and
- A proxy not directly appointed by a member in this manner, or who cannot show direct evidence of appointment, is not allowed to vote on any matter that comes before the meeting of members.

**Background**

A representative of the Kansas Rural Water Association testified in support of the bill, as did Representative Tom Sloan, in his capacity as chairman of a rural water district. Four other rural water districts provided written testimony in support of the bill. Currently, if a voting proxy is not returned, the practice of Kansas One-Call System, Inc. (the non-profit

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\*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>

corporation that operates the one-call notification center) is to effect a "proxy by default" that grants all voting rights to the officers to address all business matters, or in the case of election of directors, to vote yes for all nominees shown on the ballot. Supporters of the bill object to non-responses being treated as affirmative votes by Kansas One-Call System, Inc.

The Executive Director of Kansas One-Call System, Inc. provided neutral testimony. He indicated the testimony would be in opposition to the bill, were it not for unsettled litigation between Kansas One-Call System, Inc. and the State of Kansas. He testified that prior to adopting the "proxy by default" practice, it often was difficult to obtain enough representation to meet the quorum requirements set out in the corporation's bylaws.

The fiscal note prepared by the Division of the Budget indicates passage of the bill would have no fiscal effect.