

HOUSE BILL No. 2309

By Committee on Utilities

2-5

AN ACT concerning public utilities; relating to certain employee compensation; prohibiting inclusion in rates.

WHEREAS, Utilities regulated by the State of Kansas are obligated to serve the public interest; and

WHEREAS, Just and reasonable utility rates are in the interest of the State's ratepayers and the public generally; and

WHEREAS, It is the prerogative of the shareholders of utilities to determine the appropriate compensation for utility employees, but the approval of the shareholders does not ensure that the interest of the public was considered in determining such compensation; and

WHEREAS, Shareholders of utilities should bear the costs of utility employee compensation beyond what is just and reasonable because those costs do not benefit ratepayers; and

WHEREAS, Ratepayers should benefit from the labors of utility employees and should not bear the costs of their compensation beyond what is just and reasonable; and

WHEREAS, Ratepayers do not benefit from excessively generous compensation packages for utility employees, particularly those packages popularly called "golden parachutes," which are extremely generous compensation packages awarded to executives and senior managers when they terminate their employment with the utility; and

WHEREAS, The inclusion of excessive compensation in the cost of service for which ratepayers must pay does not benefit ratepayers or the public and is therefore not just and reasonable nor in the public interest; and

WHEREAS, It is the express intent of the Legislature to protect the public interest by ensuring that the State's ratepayers will not bear the costs of excessive compensation of current, former or departing utility employees: Now, therefore, *Be it enacted by the Legislature of the State of Kansas:*

Section 1. (a) As used in this section:

(1) "Excessive compensation" means any one or more of the following:

(A) The value of pension benefits, insurance policies, stock, stock

1 options, annuities or deferred compensation plans that exceeds the value
2 of similar benefits, policies, stock, stock options, annuities or other com-
3 pensation plans routinely offered to all the utility's fulltime employees,
4 or to its employees generally;

5 (B) the value of severance payments in excess of those routinely of-
6 fered to all the utility's fulltime employees, or to its employees generally,
7 when they terminate employment with the utility;

8 (C) the value of compensation for time spent on unregulated
9 activities;

10 (D) the value of compensation for time spent solely on behalf of
11 shareholders;

12 (E) the value of compensation that conceals profits;

13 (F) the value of management incentive or bonus payments which are
14 not in accordance with management's proportion of the payroll;

15 (G) the value of merit increases for executives or senior management
16 which are not supported by evidence of increased productivity, increased
17 cost savings, improved quality of service or improved financial stability
18 and performance of the utility;

19 (H) the value of compensation which is not proportionate to the com-
20 pensation of persons holding similar positions with other utilities in Kan-
21 sas and the surrounding four states;

22 (I) the value of compensation of any kind made during a test period
23 to any employee who was not employed by the utility during the test
24 period;

25 (J) the value of nonmonetary benefits paid for by the utility, or pro-
26 vided by the utility to executives, managers or their spouses or families,
27 which are not routinely provided to all the utility's fulltime employees, to
28 the utility's employees generally or to employees' spouses and families
29 generally, such as, but not limited to: Vehicles; club memberships; en-
30 hanced or luxury travel arrangements or accommodations; enhanced or
31 luxury living quarters; or any other such nonmonetary benefits that are
32 not essential for conducting business activities on behalf of ratepayers; or

33 (K) the value of any expenditure made by the utility for any insurance
34 policy in the name of a current, former or departing employee, if the
35 utility is a beneficiary of the policy, including any expenditures resulting
36 from any loan taken out on such a policy and any payments made by the
37 utility from the proceeds of such loans.

38 (2) "Public utility" has the meaning provided by K.S.A. 66-104, and
39 amendments thereto.

40 (b) No public utility providing excessive compensation to any em-
41 ployee shall recover the value of the excess from the utility's ratepayers.

42 (c) The state corporation commission shall allow a public utility to
43 recover from ratepayers only that employee compensation, including

1 compensation of executives and senior management employees, which
2 the commission finds:

3 (1) Benefits ratepayers;

4 (2) is justified by the productivity, cost savings, quality of service,
5 overall performance and financial condition of the utility;

6 (3) is reasonable compensation in comparison to regional norms in
7 the utility industry;

8 (4) was paid within any test period, for work performed during the
9 test period;

10 (5) will not result in unjust or unreasonable rates; and

11 (6) is otherwise not excessive compensation.

12 (d) The state corporation commission shall review compensation of a
13 public utility's employees as a part of any proceeding before the com-
14 mission which may result in an increase of the utility's rates. The com-
15 mission shall deny recovery from ratepayers that amount of the value of
16 any compensation which the commission finds is excessive compensation
17 or does not meet the conditions stated in subsection (c), by excluding that
18 amount from the utility's cost of service, or otherwise excluding it from
19 rates. Whether shareholders have approved the compensation in question
20 shall not be considered by the commission in determining whether com-
21 pensation is excessive compensation. A public utility shall have the burden
22 of proving that compensation of current, former and departing employ-
23 ees, including compensation of executives and senior management em-
24 ployees, is not excessive compensation and that such compensation meets
25 the conditions stated in subsection (c) before recovery of such compen-
26 sation shall be allowed in rates.

27 (e) Any federal or state tax liabilities of any employee or public utility
28 for compensation considered excessive under this section shall not reduce
29 the amount that is to be excluded from the utility's cost of service or
30 otherwise excluded from rates.

31 (f) The provisions of this section shall apply to any proceedings pend-
32 ing before the state corporation commission on the effective date of this
33 act and to all proceedings filed with the commission on or after that date.

34 Sec. 2. This act shall take effect and be in force from and after its
35 publication in the statute book.

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