

SENATE Substitute for HOUSE BILL No. 2802

AN ACT concerning energy; relating to conservation and electric generation and efficiency and air emissions; imposing certain charges and providing for distribution thereof.

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

Section 1. Any electric public utility, as defined in K.S.A. 66-101a, and amendments thereto, which after the effective date of this act is developing a pulverized coal electricity generating facility in Kansas that is electrically connected to the eastern power grid and which is co-located with an existing coal-fired electric generating unit in western Kansas that has greater than 325 megawatts nameplate capacity shall provide to the board of public utilities of the city of Kansas City, Kansas (BPU), a first option to own up to 200 megawatts or enter into a power purchase agreement to purchase up to 200 megawatts of power, or a combination thereof, which is not presently dedicated to Kansas consumers, from the new pulverized coal electricity generating facility. If the facility developer proceeds with construction of such generating facility, BPU shall have six months from the date of issuance of the construction permit under the Kansas air quality act for such generating facility or nine months from the effective date of this act, whichever occurs first, to exercise the BPU's option by executing an agreement to purchase an ownership interest in or to enter into a power purchase agreement for up to 200 megawatts, or a combination thereof, from the facility developer upon the same terms and conditions as participants in the facility other than the facility developer. In addition thereto, if the facility developer proceeds with construction of such generating facility, the facility developer shall also provide to any municipally owned or operated electric utility in Kansas or corporation organized under the electric cooperative act, K.S.A. 17-4601, et seq., and amendments thereto, a secondary option to own or enter into a power purchase agreement, or a combination thereof, for any amount of the 200 megawatts of power not taken by BPU under its first option. The secondary option shall be exercised in the same manner as provided for BPU. The secondary option afforded municipal utilities and cooperatives to own or purchase power shall be for their own use and shall be upon the same terms and conditions as participants in the facility other than the facility developer. Subject to the prior option right of BPU, the municipal utilities and cooperatives shall have six months from the date of issuance of the construction permit under the Kansas air quality act for such generating facility or nine months from the effective date of this act, whichever occurs first, to exercise the secondary option. If more than one municipal utility or cooperative exercises the secondary option, the available megawatts, in the absence of a mutual agreement otherwise, shall be allocated equally among the municipal utilities and cooperatives but no municipal utility or cooperative may exercise an option for less than 25 megawatts.

Sec. 2. Notwithstanding the provisions of section 11 of 2008 House Substitute for Senate Bill No. 148, and amendments thereto, any electric public utility, as defined in K.S.A. 66-101a, and amendments thereto, which operates a pulverized coal electricity generating facility that is constructed in Kansas after the effective date of this act, has 1400 megawatts or more nameplate capacity and is co-located with an existing coal-fired electric generating unit in western Kansas that has greater than 325 megawatts nameplate capacity shall be required to meet the percentages set forth in such section at least four years before such utility would be otherwise required to meet such percentages. For purposes of this section, the percentage shall be based on the utility's peak load, expressed in megawatts, in the state of Kansas, for a three-year average for the 2nd, 3rd and 4th calendar years preceding the year such percentage is required to be met pursuant to this section.

Sec. 3. Any electric public utility, as defined in K.S.A. 66-101a, and amendments thereto, which operates a pulverized coal electricity generating facility that is constructed in Kansas after the effective date of this act, has 1400 megawatts or more nameplate capacity and is co-located with an existing coal-fired electric generating unit in western Kansas that has greater than 325 megawatts nameplate capacity shall develop and implement not later than 2010 an enhanced energy efficiency and load management program which shall provide information, technical assistance and incentives to each customer and customer class, the annual cumulative effect of which shall have the potential to reduce such utility's

total power generation requirements. To achieve the reduction, such utility shall consider the PAYS program authorized by the provisions of K.S.A. 2007 Supp. 66-1248, and amendments thereto, as well as other energy education and conservation promotion programs that are consistent with any goals which may be developed by the Kansas energy office of the state corporation commission.

Sec. 4. Any electric public utility, as defined in K.S.A. 66-101a, and amendments thereto, which operates a pulverized coal electricity generating facility that is constructed in Kansas after the effective date of this act, has 1400 megawatts or more nameplate capacity and is co-located with an existing coal-fired electric generating unit in western Kansas which has greater than 325 megawatts nameplate capacity shall become a member of the climate registry (TCR) and prepare a carbon dioxide gas emissions inventory using the protocols developed by TCR that were in effect on October 9, 2007, at the unit level for electricity generating units owned by such utility. The completed inventory for all generating plants will be submitted to the legislature not later than December 1, 2008. If the TRC's October 29, 2007, general reporting protocols, principles, goals or mission change significantly, the public utility may withdraw from the TRC.

Sec. 5. (a) Not later than January 12, 2009, the secretary of health and environment shall propose and submit to the legislature carbon dioxide air emission requirements.

(b) On and after January 10, 2011, the provisions of subsection (b)(1) of K.S.A. 65-3005, as amended by section 30 of 2008 House Substitute for Senate Bill No. 148, shall expire and be of no force or effect.

Sec. 6. (a) The Kansas energy council, the Kansas bioscience authority, the state corporation commission, the secretary of health and environment or the Kansas electric generation, science and technology commission may request the school of engineering of any institution under the supervision and control of the state board of regents to evaluate any innovative renewable or distributive generation technology, or innovative transmission technology, patented by a Kansas resident. Upon such request, the school shall conduct an evaluation of the technology and report the technological feasibility of the technology to the requesting entity. If the school or authority identifies the technology as feasible, the requesting entity shall refer the technology to the department of commerce and to the Kansas technology enterprise corporation for possible commercial development.

(b) Annually on or before the first day of the regular legislative session, the school of engineering of each institution under the supervision and control of the state board of regents shall submit to the house standing committee on energy and utilities and the senate standing committee on utilities, or their successors, a written report of all requests made to the school pursuant to this section and the school's report on the technological feasibility of the technology.

Sec. 7. (a) There is hereby created the weatherization assistance program account within the state housing trust fund established by K.S.A. 2007 Supp. 74-8959, and amendments thereto. All moneys credited to the weatherization assistance program account shall be used to fund grants under the weatherization assistance program to increase housing energy efficiency and may be used to match federal moneys available for that purpose. If on January 1 of any year the unencumbered balance in the weatherization assistance program account exceeds \$3,000,000, the director of accounts and reports shall transfer the excess from the weatherization assistance program account to the state housing energy efficiency loan fund established by section 8, and amendments thereto.

(b) Persons eligible to receive assistance from the weatherization assistance program must be current in their utility bills, or current in a commission approved payment schedule.

(c) The head of the agency administering the weatherization assistance program shall submit a written annual accountability report to the senate committee on utilities and the house committee on energy and utilities, or their successors, on or before the first day of the 2009 regular session of the legislature, and on or before the first day of each ensuing regular session of the legislature through 2011. The report shall include, but not be limited to, the following: (1) The number of homes weather-

ized by each sub-grantee of the weatherization assistance program, and whether those homes were owner-occupied or rental properties; (2) whether actual utility usage was factored into the scoring that determined whether to grant assistance; (3) whether each county in the state has a waiting list for the weatherization assistance program, and the number on those waiting lists; and (4) the progress each sub-grantee has made in working with local utilities to identify applicants' homes with the highest usage, using the customer billing information waiver in the application for assistance.

Sec. 8. (a) The state housing energy efficiency loan fund is hereby established in the state treasury.

(b) Moneys in the state housing energy efficiency loan fund shall be administered by the Kansas housing resources corporation. Such moneys shall be expended only for the purpose of making loans pursuant to the Kansas energy efficiency program of the corporation.

(c) On or before the 10th of each month, the director of accounts and reports shall transfer from the state general fund to the systems benefit fund interest earnings based on: (1) The average daily balance of moneys in the state housing energy efficiency loan fund for the preceding month; and (2) the net earnings rate for the pooled money investment portfolio for the preceding month.

(d) All expenditures from the state housing energy efficiency loan fund shall be made in accordance with appropriation acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the president of the Kansas housing resources corporation or the president's designee for the purposes set forth in this section.

Sec. 9. If an electric public utility elects to pay into the weatherization assistance program account within the state housing trust fund, the state corporation commission may authorize the utility to recover in rates an amount equal to two times the amount paid into the account, but not more than an amount equal to 5% of the utility's uncollectible customer bills.

Sec. 10. (a) On and after January 1, 2009, and prior to January 1, 2013, each retail electric supplier, as defined in K.S.A. 66-1,170, and amendments thereto, is hereby assessed an amount equal to \$.02 per month for each retail meter in this state which connects to the supplier's delivery system. The supplier shall pay such amount to the state corporation commission on or before the 15th day of the month following the month the amount is assessed.

(b) The commission shall remit to the state treasurer, in accordance with the provisions of K.S.A. 75-4215, and amendments thereto, all moneys received by the commission for assessments imposed by this section. Upon receipt of the remittance, the state treasurer shall deposit the entire amount in the state treasury and credit it to the systems benefit fund which is hereby created in the state treasury.

(c) Moneys in the systems benefit fund shall be administered by the energy programs division in the state corporation commission. Such moneys shall be expended only as follows:

(1) An amount not more than \$250,000 annually shall be expended to match dollar-for-dollar private contributions to the national institute for strategic technology acquisition and commercialization for the development of the Sunflower integrated bioenergy center project;

(2) of the remaining amount credited to the fund: (A) 20% shall be expended to fund clean energy research, evaluation, assessments and technical assistance programs; (B) 20% shall be expended to fund energy efficiency education, training and demonstration and technical assistance programs; and (C) 60% shall be transferred to the weatherization assistance program account within the state housing trust fund.

(d) On or before the 10th of each month, the director of accounts and reports shall transfer from the state general fund to the systems benefit fund interest earnings based on: (1) The average daily balance of moneys in the systems benefit fund for the preceding month; and (2) the net earnings rate for the pooled money investment portfolio for the preceding month.

(e) All expenditures from the systems benefit fund shall be made in accordance with appropriation acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the chair-

person of the state corporation commission or the chairperson's designee for the purposes set forth in this section.

(f) Annually on or before the first day of the regular legislative session, the state corporation commission shall submit to the house standing committee on energy and utilities and the senate standing committee on utilities, or their successors, a written report of the purposes for which moneys in the systems benefit fund were expended during the preceding fiscal year.

Sec. 11. This act shall take effect and be in force from and after its publication in the Kansas register and the date 2008 House Substitute for Senate Bill No. 148 takes effect.

I hereby certify that the above BILL originated in the HOUSE, and passed that body

HOUSE concurred in
SENATE amendments _____

Speaker of the House.

Chief Clerk of the House.

Passed the SENATE
as amended _____

President of the Senate.

Secretary of the Senate.

APPROVED _____

Governor.