

SESSION OF 2002

**SUPPLEMENTAL NOTE ON HOUSE BILL NO. 2661**

As Recommended by House Committee on  
Utilities

**Brief\***

HB 2661 deals with the selection procedure for a franchise agreement. The bill would amend the Kansas Retail Electric Suppliers Act as follows:

- ! The bill requires a city which proposes to annex land that is located within the certified territory of a retail electric supplier as defined by KSA 66-1,170, to provide notice to the retail electric supplier in the manner prescribed by KSA 12-520a a part of the city annexation law. KSA 12-520a requires a copy of the city resolution providing for the public hearing on the proposed annexation to be mailed not more than 10 days following the resolution adoption to various parties listed.
  
- ! The bill requires that whenever the city annexes land that is located within the certified territory of a retail electric supplier as defined by KSA 66-1,170, the city shall negotiate for the issuance of a franchise agreement pursuant to KSA 12-2001 *et seq.* (the city franchise law) with a retail electric supplier holding a certificate within the annexed area.
  
- ! The city must consider certain factors when making the electric supplier selection including, but not limited to: (1) the public convenience and necessity; (2) rates of various providers; (3) desires of the customer or customers to be served; (4) economic impact on the suppliers; (5) economic impact on the customers of the suppliers; (6) the utility's operation ability to serve the annexed area; (7) avoiding the wasteful duplication of facilities; (8) avoiding

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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/cgi-bin/fulltext/bills.cgi>

unnecessary encumbrance on the landscape; (9) preventing the waste of materials and natural resources.

- ! The bill shall not be construed, however, to require a supplier holding both a certificate of convenience and a franchise for the area annexed to obtain a new franchise.

The bill clarifies that the city shall have the final selection of which provider receives a franchise to operate with the annexed area.

- ! Any supplier aggrieved within 30 days of the final decision of the city, may maintain an action in the district court of the county in which the annexed area is located to determine the reasonableness of the final decision. In the event that an appeal of the decision is filed in the district court, the retail electric supplier providing services at the time of annexation shall continue to provide service until such time as the appeal has been concluded.

- ! A factor in the compensation formula is changed under both KSA 66-1,176(c) and KSA 66-1,176(b) to provide that an amount equal to two times (currently not doubled) the gross revenues attributed to customers in the terminated territory during the 12 preceding months be paid.

## **Background**

Proponents of HB 2661 included the Kansas Electric Cooperatives, Inc., Westar Energy, and the League of Kansas Municipalities.

UtiliCorp United Inc. was the only opponent.

The Division of Budget's fiscal note states that the Office of Judicial Administration does not know the number of cases that would be filed, so it is not possible to estimate the fiscal effect.