

SESSION OF 2004

**CONFERENCE COMMITTEE REPORT BRIEF ON
SENATE BILL NO. 309**

As Agreed to April 1, 2004

Brief*

The bill would amend two statutes regarding fines levied on public utilities, pipeline companies, or railroads for violations of law or of orders of the Corporation Commission. Maximum fines would be increased from levels initially established early in the last century. The bill also would increase fines for misdemeanors committed by railroads when trains illegally block streets or highways.

Civil fines. The maximum civil fine that could be imposed by the Corporation Commission for violation of laws and Commission orders under certain circumstances would be increased from \$1,000 to \$10,000. The fine schedule created by the bill would be as follows:

For violations of KSA 66-104 through 66-140:

Current range	New Range
\$100 - \$1,000	No change for: Traditional rate of return and out-of-state phone companies; and municipal, cooperative, non-profit, and water utilities.
	\$100 - \$5,000 for all other public utilities or common carriers (other than motor carriers)

*Conference committee report briefs are prepared by the Legislative Research Department and do not express legislative intent. No summary is prepared when the report is an agreement to disagree. The conference committee summary report may be accessed on the Internet at <http://www.kslegislature.org>

For willful violation or evasion of any law for which a specific penalty is not provided, the maximum fine would be reduced in some instances and increased in others as follows:

Current range	New Range
\$100 - \$5,000	\$100 - \$2,000 for traditional rate of return and out-of-state phone companies; and municipal, cooperative, non-profit, and water utilities.
	\$100 - \$10,000 for all other public utilities or common carriers (other than motor carriers)

Fines for illegally blocking streets and highways. The fine schedule for railroad companies whose trains illegally block streets or highways would be increased to \$100 (currently \$50) if the crossing is blocked from 10 to less than 20 minutes; \$300 (up from \$150) if the crossing is blocked for between 20 to 30 minutes; \$600 (up from \$300) if the crossing is blocked for 30 minutes, and \$600 for each additional 30 minutes.

Conference Committee Action

The Conference Committee agreed to decrease, from the levels passed by the House, the maximum civil fines that could be imposed on entities regulated by the Corporation Commission. The maximum fine that could be imposed by the Commission would be at the Senate-passed level of \$5,000. The maximum fine that could be imposed by a court for willful violations would be \$10,000 (maximum in current law is \$5,000). The maximum court-imposed fine for traditional rate of return and out-of-state phone companies; and municipal, gas or electric cooperative, non-profit, and water utilities would be lowered from the current \$5,000 to \$2,000.

The Conference Committee also agreed to include in the bill an amendment of current law regarding fines levied against railroad companies when trains illegally block street and highway crossings.

That provision was included in HB 2154 as that bill passed the Senate.

Background

SB 309 was introduced at the request of the Kansas Corporation Commission. The Special Committee on Utilities recommended at the end of the 2003 interim that “the Legislature consider increasing the maximum administrative fine that can be imposed by the KCC for violation of its orders.”

At the House and Senate Utilities Committees’ hearings on the bill, a representative of the Corporation Commission stated that the statutory maximum civil penalties under the two statutes that would be amended by SB 309 had not been changed for the last 92 years and no longer posed a serious deterrent to potential violators. The Commission arrived at \$20,000 as the maximum fine in the introduced version of the bill by applying an inflation factor to the current maximum of \$1,000 which was established in 1911. That amount also is similar to civil penalties that may be assessed under the state’s consumer protection laws. The representative of the Commission informed the Committees that fines have not been imposed on a regular basis for several years. No one presented testimony to either committee in opposition to the bill.

The Senate Committee amended the bill to reduce the maximum civil fine that could be imposed by the Commission to \$5,000 and to leave the maximum fine that could result from court action at \$5,000.

The House Committee amended the bill to retain the existing \$1,000 and \$5,000 maximums on fines that could be imposed on certain telephone companies; and municipal, cooperative, non-profit, and water utilities. The House Committee amendment also would increase the maximum Commission-imposed fine for all other utilities to \$20,000 as in the introduced version of the bill and increase the maximum court-imposed penalty to \$50,000 for those same entities.

The House Committee of the Whole amended the bill to specify that natural gas cooperatives would be treated the same as electric utilities under the bill’s provisions.

The provision that would increase fines assessed against railroads for illegally blocking street and highway crossings was an amendment to HB 2154 made in the Senate Committee of the Whole.

The Division of the Budget's fiscal note on the introduced version of SB 309 states that since fines have not been imposed in recent years, there is no reliable estimate of increased fine revenue. The fiscal note also states that there would be no fiscal impact on the judiciary or the Attorney General. The Division's fiscal note on the introduced version of HB 2154 is not pertinent to the section of that bill amended into SB 309 by the Conference Committee.