

SESSION OF 2005

**SUPPLEMENTAL NOTE ON HOUSE BILL NO. 2461**

As Amended by House Committee on  
Utilities

**Brief\***

The bill would enact a new statute as part of the Kansas Emergency Management Act. Under the bill, the Division of Emergency Management would be authorized to declare a limited emergency related to utility services in certain circumstances. The Division could declare an emergency at the request of any utility when conditions exist that constitute an emergency as described in regulations of the Federal Motor Carrier Safety Administration of the U.S. Department of Transportation.

The bill would specify that an emergency could be declared only for the purpose of exempting drivers of utility service vehicles from limitations on hours of service prescribed by regulations of the Kansas Corporation Commission (KCC). The exemption would be further limited by federal regulations pertinent to such exemptions.

The Adjutant General would be authorized to adopt rules and regulations to implement the act.

The bill would become effective upon publication in the *Kansas Register*.

**Background**

The definition of "emergency" in the federal regulation cited in the bill (Sec. 1(a)) includes ". . . tornado, storm (e.g., thunderstorm, snowstorm, icestorm, blizzard, sandstorm, etc.), high water, wind-driven water, . . earthquake, . . . mud slide, drought, forest fire, explosion,

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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>

blackout or other occurrence, natural or man-made, which interrupts the delivery of essential services (such as, electricity, medical care, sewer, water, telecommunications, and telecommunication transmissions) or essential supplies (such as, food and fuel) or otherwise immediately threatens human life or public welfare, provided such . . . event results in: (1) A declaration of an emergency by . . . Federal, State or local government officials having authority to declare emergencies, . . .” (49 CFR 390.5 )

“Utility service vehicle” as defined in the federal regulation cited in the bill (Sec. 1(a)(1)) “means any commercial motor vehicle: (1) Used in the furtherance of repairing, maintaining, or operating any . . . physical facilities necessary for the delivery of public utility services, including the furnishing of electric, gas, water, sanitary sewer, telephone, and television cable or community antenna service; (2) While engaged in any activity necessarily related to the ultimate delivery of such public utility services to consumers, including travel or movement to, from, upon, or between activity sites (including occasional travel or movement outside the service area necessitated by any utility emergency as determined by the utility provider); and (3) Except for any occasional emergency use, operated primarily within the service area of a utility’s subscribers or consumers, without regard to whether the vehicle is owned, leased, or rented by the utility.” (49 CFR 395.2)

Conditions and limitations imposed by the federal regulation cited in the bill (Sec. 1(a)(2)) establish different lengths of time for emergency exemptions from hours of service regulations depending on the extent of the emergency. “(1) *Regional emergencies.* (I) The exemption provided [for regional emergencies] . . . [under most circumstances] shall not exceed the duration of the motor carrier’s or driver’s direct assistance in providing emergency relief, or 30 days from the date of the initial declaration of the emergency . . . , whichever is less. (2) *Local emergencies.* (I) The exemption provided [for local emergencies] . . . [under most circumstances] shall not exceed the duration of the motor carrier’s or driver’s direct assistance in providing emergency relief, or 5 days from the date of the initial declaration of the emergency . . . , whichever is less.” (49 CFR 390.23)

At the House Utilities Committee hearing, the bill was supported by representatives of Local 304 of the International Brotherhood of Electrical Workers, Topeka; Westar Energy; Kansas Gas Service; Kansas City Power and Light; Johnson County; the Citizens’ Utility

Ratepayer Board; and Sedgwick County. The Adjutant General presented testimony in opposition to the bill expressing concern about the implications of declaring a “disaster emergency” in the context of utility outages.

The House Committee amended the bill to delete the word “disaster.”

The fiscal note prepared by the Division of the Budget on the introduced version of the bill stated that enactment would have a fiscal effect on the Kansas Division of Emergency Management in the Adjutant General’s Office. The original estimate of expenditures and additional staff needed to implement the bill was for an additional 3.0 FTE positions, costing \$54,000 each, to handle the additional call load. The Office also estimated that an additional \$30,000 would have been needed to adopt new rules and regulations that would govern the new policies created as a result of the bill. Testimony provided by the Adjutant General to the House Committee indicated that the anticipated fiscal impact of the bill would be reduced by the Committee’s amendment.