

SESSION OF 2012

**SUPPLEMENTAL NOTE ON SENATE SUBSTITUTE FOR  
HOUSE BILL NO. 2526**

As Recommended by Senate Committee on  
Utilities

**Brief\***

Senate Sub. for HB 2526 would amend several statutes regarding energy and the powers and duties of the Kansas Corporation Commission (KCC). The bill would provide explicit authority for the KCC to regulate hydraulic fracturing, would impose a time limit of 180 days for the KCC to act on applications for certificates of public convenience, would broaden the definition of renewable energy resources in the Renewable Energy Standards Act to include storage connected to any renewable generation by means of energy storage equipment, and would require the KCC to annually determine and report the statewide retail rate impact of compliance with the Renewable Energy Standards Act.

***Regulation of Hydraulic Fracturing***

The bill would amend KSA 55-152 to allow the KCC to promulgate rules and regulations necessary for the supervision and disclosure of any hydraulically fractured well. Current law authorizes the KCC to promulgate rules and regulations for the construction, operation, and abandonment of any well and the protection of the usable water in this state from any well. This bill would give the KCC explicit authority to regulate wells that have been hydraulically fractured.

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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>

### ***Time Limit for Issuance of Certificate of Convenience***

KSA 66-131 would be amended to impose a 180-day time limit for the KCC to act on applications for certificates of public convenience. (Any common carrier or public utility that wishes to operate in Kansas is required to obtain such a certificate from the KCC.) Upon mutual agreement between the KCC and the carrier or utility, the deadline may be waived. Currently, there is no requirement for the KCC to act on an application within a specific time frame.

### ***Energy Storage as a Renewable Resource***

The bill would amend KSA 66-1257 by broadening the definition of renewable energy resources in the Renewable Energy Standards Act. Energy storage connected to any renewable generation by means of energy storage equipment would be considered a renewable resource for purposes of the Act. In addition, the bill would remove existing limitations on the type of new hydropower that could qualify as a renewable energy resource.

Under current law, utilities (except those owned by municipalities) are required to have net renewable generating capacity constituting a certain percentage of their peak demand. This bill would allow utilities to count energy produced by renewable sources and stored for later use toward the utility's net renewable generation capacity in order to comply with the renewable portfolio standards.

### ***Statewide Retail Impact of Compliance with the Renewable Energy Standards Act***

The bill would amend KSA 66-1260 to require the KCC to annually determine the annual statewide retail rate impact that results from affected utilities meeting the renewable portfolio requirements of the Act. The KCC would establish the requirements for submission of necessary information either in rules and regulations or by order of the Commission.

The KCC would be required to submit an annual report of the retail rate impact for the previous year to the Governor, the Senate Committee on Utilities, and the House Committee on Energy and Utilities by March 1 of each year, beginning in 2013.

## **Background**

The Senate Utilities Committee placed the contents of four bills into Senate Sub. for HB 2526. They include HB 2526 (regulation of hydraulic fracturing), HB 2436 (time limit for acting on a certificate of convenience), HB 2708 (energy storage as a renewable resource), and SB 419 (report of the retail impact of compliance with renewable energy standards). A description of committee action on those bills follows.

### ***HB 2526***

During the hearing in the House Energy and Utilities Committee on the original version of HB 2526, a representative of the KCC testified in support of the bill stating that hydraulic fracturing was best regulated at the state level. Representatives of the Eastern Kansas Oil and Gas Association and of the Kansas Independent Oil and Gas Association testified the KCC was the ideal place to address any hydraulic fracturing concerns. A representative from the Kansas Chapter of the Sierra Club further testified the bill represented a smart, safe approach to regulating hydraulic fracturing. Additional written testimony in support of the bill was provided by Chesapeake Energy and the Kansas Petroleum Council. There was no testimony in opposition to the bill. Similar testimony was presented in the Senate Utilities Committee.

The fiscal note prepared by the Division of the Budget on the original version of HB 2526 indicates the bill would have no fiscal effect.

### **HB 2436**

Testimony by the KCC in support of HB 2436 in the House Energy and Utilities Committee indicated the 180-day time line would ensure a predictable turnaround and would give a measure of confidence to new companies seeking certification in Kansas. The Citizens' Utility Ratepayer Board (CURB) testified the 180-day time limit is arbitrary and may hinder the KCC's public interest obligations by allowing insufficient time for full consideration of relevant information. The CURB representative recommended that if the time line is enacted, language should be included that allows the applicant to waive the time line.

The House Energy and Utilities Committee made technical and clarifying amendments to the bill and added a provision allowing the time limit to be waived upon agreement of the KCC and the applicant.

The KCC provided similar testimony in support of HB 2436 in the Senate Utilities Committee. There was no opposition testimony.

The fiscal note prepared by the Division of the Budget on HB 2436 indicates the bill would have no fiscal effect.

### **HB 2708**

HB 2708 contains the contents of the introduced version of HB 2446 as amended by the House Energy and Utilities Committee. The following actions were taken on the introduced version of HB 2446 in the House Committee:

- Representative Tom Sloan testified the bill would be important to renewable energy developers, electric utilities, the Southwest Power Pool, and electric customers as they seek to move renewable energy from simply being energy to capacity

available for dispatch. There was no testimony in opposition to the bill; and

- The House Energy and Utilities Committee amended the introduced version of HB 2446 to remove language that defined new hydropower as a renewable energy resource only if the hydropower had a nameplate rating of 10 megawatts or less.

The Senate Utilities Committee heard testimony in support of HB 2708 from Representative Tom Sloan and from the Sierra Club. There was no testimony in opposition.

The fiscal note prepared by the Division of the Budget on HB 2708 indicates that the bill would have no fiscal effect.

#### **SB 419**

Senator Mike Petersen testified in support of SB 419 in Senate Utilities Committee. He stated that the retail rate impact of the renewable portfolio requirement currently is not available, and the report required by the bill would provide reliable information on this segment of the portfolio requirement. The Kansas Electric Power Cooperative submitted written testimony in support of the bill. There was no opposition testimony on the bill.

Westar Energy provided neutral testimony on SB 419 and offered an amendment that would delete language in the bill that described how information would be submitted to the KCC. The amendment would instead direct the Commission to adopt a process for submitting information, either through rules and regulations or by Commission order. The KCC also submitted written neutral testimony.

The Senate Committee on Utilities amended the bill to direct the KCC to determine the process for submission of information, either by rules and regulations or by Commission order.

During a hearing on SB 419 in the House Committee on Energy and Utilities the Committee tabled the bill after considering two amendments.

The fiscal note prepared by the Division of the Budget on SB 419 stated that the activities required by the bill would be within the normal scope of responsibilities of the KCC.