

2016 Kansas Legislative Update

Capital City: Topeka

Primary Election: August 2, 2016 (All House and Senate seats)

General Election: November 8, 2016

Legislature convenes the second Monday in January for a 90-day session. 2016 session lasted 74 days, but then Legislature was called back the end of June for a special session to address equity in school funding.

Governor: Sam Brownback (R). First elected Nov. 2010. Four-year term. Won re-election in 2014 (50% - 46%)
Limited to two terms. No term limits for legislators.

Senate: 32 R, 8 D

Term 4 years. Senate election this year

Senate President – Susan Wagle (R - Wichita), ALEC board member

Minority Leader – Anthony Hensley (D - Topeka)

Major Utility Committee – Senate Utilities Committee (11 members)

Chair – Rob Olson (R - Olathe)

House: 97 R and 28 D

Term 2 years

Speaker – Ray Merrick (R - Stilwell), ALEC board member (retiring this year)

Minority Leader – Tom Burroughs (D – Kansas City).

Major Utility Committees – House Energy and Environment (19 members)

Chair – Dennis Hedke (R - Wichita) (not running in 2016)

- House Utilities and Telecommunications (19 members)

Chair – Joe Seiwert (R – Pretty Prairie)

Regulatory Body: Kansas Corporation Commission

Three-person commission appointed by the Governor. No more than two can be of the same party as the governor. Confirmed by the Senate.

Chairwoman Shari Feist-Albrecht appointed in 2014. Past chairman and executive director resigned. The two most recent chairmen of the Senate Utilities committee are now commissioners. Shari up for re-appointment, but Governor has not announced.

Has transmission siting authority.

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The following utility-related bills were enacted during the 2016 Session of the Kansas Legislature.

SB 318 – Kansas Electric Transmission Authority; Federal Clean Power Plan

SB318 repealed the Kansas Electric Transmission Authority Act statutes that established the Kansas Electric Transmission Authority (KETA), a back-stop source of funding established 10 years ago when transmission construction was needed in the state. The utilities supported the underlying bill, believing KETA had served its purpose.

When an amendment was added to 318 to suspend all state agency activities, studies, and investigations in furtherance of the preparation of an initial submittal, or the evaluation of any options for the submission of a final state plan pursuant to the U.S. Environmental Protection Agency (EPA) docket EPA-HQ-OAR-2013-0602, codified as 40 CFR part 60 (Clean Power Plan), the utilities switched to a neutral position. The suspension of state agency activities continues until the stay of the implementation of the Clean Power Plan is lifted. State agencies are allowed to communicate with, or to provide information amongst each other, in furtherance of any of the agency's statutory obligations.

SB 319 – Creates and amends law related to civil procedure (including drones).

The bill makes changes to the "Protection from Stalking Act." Under the bill, the definition of "harassment" is expanded to include any course of conduct carried out through the use of an unmanned aerial system, commonly known as drones, over or near any dwelling, occupied vehicle, or other place where one may reasonably expect to be safe from uninvited intrusion or surveillance. The bill defines "unmanned aerial system" to mean a powered, aerial vehicle that:

- Does not carry a human operator;
- Uses aerodynamic forces to provide vehicle lift;
- May fly autonomously or be piloted remotely;
- May be expendable or recoverable; and
- May carry a lethal or nonlethal payload.

Other Issues

Right of First Refusal – This is an issue Westar had pursued in 2014. For our 2016 attempt, we pursued ROFR for voltages 100-200 (we had in '14 lobbied for voltages up to 300) and argued that it was a matter of reliability and customer service – that we wanted to maintain responsibility for those lines that are closest to our customers. We were on opposite sides of KCP&L on this issue, who argued from its transmission company vantage point. The chair was kind enough to give us our day in the sun. And, in what was eventually dubbed "utility cage fighting," we succeeded in packing the committee room and setting the record for longest committee hearing during the regular 2016 session. Conferees included the IOUs, the munis, the co-ops, and an out-of-state transmission company.

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Franchise Fees – The utilities met with the League of Municipalities in April to discuss our concern over rising franchise fees and to let them know we were considering introducing legislation to cap franchise fees. Several cities in Westar territory are at 7%; several in KCP&L territory are at 10% and others are seeking increases. With the pending merger, we may hold this issue until 2018 session.

PACE – A Property Assessed Clean Energy bill was debated in House Utilities, but the state banking organization strongly lobbied against, and the bill died in committee. Several environmental groups lobbied in support, saying PACE is an attractive financing tool for businesses seeking to invest in clean energy and efficiency improvements. HB 2649 would have allowed cities and counties around the state to create energy districts with the power to issue loans to cover the cost of an energy project. The energy efficiency unit is installed immediately, and the business repays the cost back over time at a low interest rate. The PACE loan is tied to the property itself, and continues to be paid off if the property is sold to a new owner. This minimizes risk for investors and encourages investment from companies in clean energy. (Interesting side note: One of the advocates on this bill, Alan Cobb, was later hired as Trump's director of coalitions.)

In Summary

It ended up a pretty quiet session this year for utilities in Kansas. Our state is mired in budget woes with a governor whose approval ratings continue to tank. Lawmakers were focused on the state's revenues, which month after month came in at less than expected, leaving legislators scrambling at session's end for a solution to balance the budget. Then, the Supreme Court released its ruling declaring the state had not equitably funded education, so the legislature was called back for a special session at the end of June. They solved that issue in less than a week, and went home to campaign. The Supreme Court has yet to rule on the adequacy of school funding in Kansas; so legislators in 2017 have that issue to deal with next year ... in addition to tax policy.