

2017 Kansas Legislative Update

The 2016 elections resulted in a Kansas Legislature that swung more moderate, and if anyone thinks elections don't make a difference, you can look to Kansas as an example. A coming together of moderate Republicans, Democrats and even some conservatives late in the 2017 session, resulted in the Legislature rejecting most of Governor Sam Brownback's 2012 "real-live experiment" to make Kansas a zero-income tax state.

In the last weeks of a session that went 113 days – just shy of the record-setting 114-day session in 2015 –the Legislature overrode the Governor's veto of its tax plan. Most legislators ultimately concluded that there was no other way to solve the state's fiscal challenges (\$900 million in the hole), restore some structural balance to the budget and fund schools and roads, among other things.

Leading up to passage of a tax plan and a school finance plan, the state's utilities had been very much in play. A Kansas City-area legislator had proposed during debate on the tax and education bills a \$2.25 fee each on electric, gas and water bills to fund education. The utilities banded together to emphasize that placing a fee on a utility bill unrelated to the cost of service was confusing to customers and would disproportionately impact lower income customers. A hearing with much opposition to the idea from even non-industry groups, resulted in that section of the bill being eventually removed in committee.

And although the legislature was mandated by the state supreme court to provide more funding for schools in Kansas, many think the amount in the final bill, signed by the Governor on June 15, will not be enough to satisfy the court's requirement. A special session is a possibility, and at that point, the utility fee idea or placing state sales tax back on residential gas and electric bills, may again come into play.

The following bills and issues kept us busy during the regular session, but none made it out of committee:

SB 183 – De-regulation. Americans for Electricity Choice introduced identical de-reg bills in Kansas and Nebraska this year. AFEC is headed by Gary Aksamit, a native Nebraskan now living in Texas, who owns Aksamit Resource Management, a fully integrated energy company which includes (i) development of approximately 900 MWs of wind energy in Nebraska, (ii) a retail electricity and natural gas business in Nebraska and neighboring states, (iii) a power marketing & trading organization, and (iv) an asset acquisition initiative. Founded in 2009.

SB 209 – Unbundling. Also an AFEC bill, requiring utilities to further break out a bill's components. Considered a precursor to electric de-regulation. The same bill was introduced in Nebraska this year and did not make it out of committee.

HB 2060 – Raising registration fees on EVs.

HB 2166 - We participated in a hearing on a bill that would allow businesses who have EV charging stations to charge customers to "fill up" at those locations. We opposed the bill on the grounds that 1) regulators should gather more information for analysis before charging stations are deployed randomly across the state in a cherry-picked fashion by unregulated entities in the evolving EV industry; and 2) the proposed legislation did not allow electric public utilities a level playing field in that public utilities are required to serve the underprivileged regions in their certified territories while unregulated entities may install EV charging stations in more desirable locations. KCPL offered that valuable data would be available soon from its Clean Charge Network of 1000+ EV charging stations so that lawmakers and regulators would have more data before enacting legislation.

HB 2190 – Third-party power purchase agreements. The same lawmaker has brought this legislation for the last several sessions, ostensibly on behalf of Wal-Mart. The bill would allow any electric customer with aggregate electric demand equal to or greater than 200 KW to purchase electricity directly from a renewable energy supplier after giving 180-day notice and demonstrating to the incumbent public utility that the electricity will be used to meet and not exceed the customer's expected need.

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The bill would allow the renewable energy customer to receive electricity at multiple, separately metered locations and to aggregate multiple, separately metered renewable energy suppliers. The renewable energy provided could be delivered from facilities located both on and off the customer's premises.

HB 2273 - We also weighed in on a bill that would have placed further restrictions on automatic dialing services or "robo-calls." The wording in the bill could have limited Westar's ability to continue using its autodialer service, which allows us to quickly and efficiently notify customers of changes in their electric service or billing. It clashed with regulations we follow within the Telephone Consumer Protection Act. The section of the bill that would have impacted us was stripped out in conference committee.

Two non-controversial bills we supported this session did pass. **SB184** governs the ongoing operations of the Kansas Intelligence Fusion Center (KIFC), a collaboration among federal (DHS), state, local, and tribal agencies, as well as certain private-sector entities, on physical and cybersecurity threats. The KIFC is already functioning within the Adjutant General's Department of the Kansas National Guard and is one of the most oft-cited examples of a well-run FC in the nation.

HB2109 allows Westar and Wichita State University to engage in a mutually beneficial exchange of land that allows us to replace an aging substation. Legislation was required for this land swap because it involves the Kansas Board of Regents, a state agency.

In Summary

Except for the utility fee issue that surfaced during veto session, the 2017 session was relatively quiet for utilities. Lawmakers were more concerned with extricating the state from its budget woes and crafting a new school finance formula to satisfy the state court's concerns. With passage of a two-year budget and a tax plan that will pump much-needed revenue into state coffers, the Legislature will likely be able to turn its attention to other matters in the 2018 session. We expect many of the issues that didn't make it out of committee this year to surface again in 2018.

Miscellaneous

Death of a legislator - As excited as lawmakers were to finally end the 2017 legislative session, that euphoria was tempered in the final week of the session as legislators were also mourning the tragic and unexpected loss of a colleague, Representative Patsy Terrell (D-Hutchinson), who was found deceased of natural causes June 7 at the hotel where she stayed during the session – just hours after the historic tax bill override vote.

Departure of our Governor? – Rumors have swirled all session regarding Governor Brownback's potential appointment to a role in the Trump administration. Early reports were he'd be named Ambassador to the U.N. for food and agriculture in Rome. In the last weeks of the session, those rumors changed to his pending appointment as Ambassador for Religious Freedom. As of this writing, the latest rumor was that he was close to accepting a position at a Washington, D.C. think tank.

Great Plains Energy (KCP&L) acquisition of Westar Energy - In May 2016, Great Plains, parent company of KCP&L, announced its intention to acquire Westar Energy. After months of integration activities and hearings at the state corporation commission, staff recommended a denial of the merger application and the three Commissioners concurred with that recommendation, voting unanimously in April to reject the joint applicants' application, citing an excessive purchase price and concern with the proposed capital structure and how that might impact ratepayers in the future. A Petition for Reconsideration was also denied in May. As of June 16, the two companies were still in discussion to attempt to reach an agreement that might satisfy Commission concerns so a new docket could be filed and a second attempt made.