

SESSION OF 2008

**SUPPLEMENTAL NOTE ON
SENATE SUBSTITUTE FOR HOUSE BILL NO. 2802**

As Amended by the Senate on Final Action

Brief*

Senate Sub. for HB 2802 would, if the veto of H. Sub. for SB 148 is overridden:

- Require the Sunflower Electric Power Corporation (Sunflower) to offer the Kansas City Board of Public Utilities (BPU) an option to own up to 200 MW of the plant, to purchase up to 200 MW of power not currently allocated to Kansas customers from the proposed expansion units, or a combination of the two. If BPU does not exercise its option in the time established by the bill, or only purchases a portion of the amount available to it, Kansas electric cooperatives and Kansas municipal electric utilities would have the same alternatives available to BPU for any amount not purchased by BPU. In regard to the secondary option, the minimum allowable purchase by a municipal utility or by a cooperative would be 25 MW.
- Establish a separate renewable resource standard for Sunflower which would be required to achieve the renewable portfolio standards established in House Sub. for SB 148 four years earlier than other utilities: with 10 percent of its three-year average peak load required to be from renewable resources in 2008; 15 percent by 2012; and 20 percent by 2016.
- Require Sunflower to develop and implement, no later than 2010, an enhanced energy efficiency and load

*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>

management program which would provide information, technical assistance, and incentives to reduce total power generation requirements. The company would be required to consider utilizing the energy efficiency financing program established in current law as well as other energy education and conservation promotion programs that are consistent with goals developed by the Kansas Corporation Commission (KCC).

- Require Sunflower to become a member of The Climate Registry, prepare a carbon dioxide gas emissions inventory using the protocols developed by The Climate Registry, and submit a report of its inventory to the Legislature no later than December 1, 2008.
- Require the Kansas Department of Health and Environment (KDHE) to propose and submit to the Legislature by January 12, 2009 carbon dioxide air emission requirements. The bill also would restore on January 10, 2011 the authority of the Secretary of KDHE to promulgate rules and regulations under the Kansas Air Quality Act that are more stringent, restrictive or expansive than required by the Federal Clean Air Act.
- Require the schools of engineering at any Regents' institution, upon a request from the Kansas Electric Generation Science and Technology Commission, Kansas Energy Council, Kansas Bioscience Authority, KCC, or KDHE, to evaluate innovative renewable or distributed electricity generation or transmission technologies patented by Kansans and report on the technological feasibility to the requesting entity. If the project is determined to be feasible, the requesting entity would be required to refer the project to the Kansas Technology Enterprise Corporation and Kansas Department of Commerce for possible commercial development. At the start of each regular Legislative Session the engineering schools would be required to report their activities pursuant to this provision to the standing committees on energy and utilities.

- Establish a Weatherization Assistance Program Account in the Housing Trust Fund. Revenue received by the account would come from electric utilities and from the Systems Benefit Fund established by the bill. Moneys credited to the Account would be used to fund grants under the Weatherization Assistance Program to increase energy efficiency of housing. In order to be eligible to receive a grant from the Program, persons must be current in payment of their utility bills or in an approved payment schedule. The agency administering the Weatherization Assistance Program would be required to submit an annual report to the standing committees on energy and utilities on or before the first day of the 2009, 2010, and 2011 Legislative Sessions. The Director of Accounts and Reports would be required to annually transfer any unencumbered balance in the Weatherization Assistance Program Account in excess of \$3 million to the Housing Energy Efficiency Loan Fund.
- Authorize the KCC to approve recovery in electricity rates an amount equal to two times the amount that a utility chooses to pay into the Weatherization Assistance Program Account of the State Housing Trust Fund. The amount that a utility could pay into that Fund could not exceed 5 percent of the utility's uncollectible customer bills.
- Require each retail electric utility, between January 1, 2009 and January 1, 2013 to pay \$0.02 per month for each retail meter served by the supplier. Amounts generated would be deposited by the KCC into the Systems Benefit Fund that would be created by the bill. The fund also would be the repository for transfers from the State General Fund equal to the average daily balance in the State Housing Energy Efficiency Loan and System Benefit funds and the interest earned on those funds during the preceding month. The Systems Benefit Fund would be administered by the KCC. Annually, the KCC

would be required to report to the standing committees on energy and utilities regarding uses of the Benefit Fund.

Annually, \$250,000 from the Benefit Fund would be expended to match dollar-for-dollar any private contributions to the National Institute for Strategic Technology Acquisition and Commercialization for the development of the Sunflower Integrated Bioenergy Center. The balance of the money in the Fund received shall be allocated as follows:

- 20 percent for clean energy research, evaluation, assessments and technical assistance programs;
- 20 percent for energy efficiency education, training and demonstration, and technical assistance programs; and
- Sixty percent would be transferred to the Weatherization Assistance Program Account in the State Housing Trust Fund.

The bill would become effective upon publication in the *Kansas Register* and the effective date of House Sub. for SB 148.

Background

HB 2802, as passed by the House, would have created the Kansas Performance Measurement Commission, an 11-member body authorized to contract with a private consultant to design a performance measurement management system for the State. Provisions creating the Performance Measurement Commission were included in Sub. for Sub. for SB 316. That bill was signed by the Governor on April 22, 2008.

The Senate Committee on Federal and State Affairs substituted the provisions described above for the language passed by the House.

The Senate amended the bill to remove a subsection that would have limited the amount of uncollectible bills that the KCC could authorize an electric utility to recover in its rates and to give the KCC discretionary authority regarding recovery in electric rates of amounts contributed by utilities to the Weatherization Assistance Program Account. The Senate also amended the bill to require a dollar-for-dollar match of private funds for the annual \$250,000 grant to the National Institute for Strategic Technology Acquisition and Commercialization.

Other Senate amendments are technical and clarifying.

H. Sub. for SB 148, as passed by the Legislature:

- Establishes maximum nitrogen oxides and sulfur dioxide emissions levels for the proposed Sunflower power plant expansion near Holcomb;
- Requires investor-owned and cooperative electric utilities to:
 - Develop and submit to the Kansas Corporation Commission (KCC), by July 1, 2009, a retail tariff for electricity generated from wind, under certain circumstances;
 - Develop an energy efficiency and load management program to provide information, technical assistance and incentives to customers; and
 - Develop and implement a program to assist businesses and institutions with inventorying and assessing greenhouse gas emissions and developing means of reducing those emissions;

- Requires Sunflower to request that the Southwest Power Pool (SPP) determine whether transmission line upgrades are necessary to deliver electricity that would be purchased from Sunflower by any requesting municipal electric utility or electricity distribution cooperative and the appropriate cost recovery mechanism under SPP tariffs and rules;
- Establishes energy efficiency standards for state buildings and equipment;
- Enacts the Net Metering and Easy Connection Act;
- Provides tax incentives for energy efficiency improvements in multi-family residential rental property;
- Establishes the Kansas Electric Generation Science and Technology Commission;
- Creates a renewable resources requirement for electric utilities;
- Requires certain electric generation facilities to utilize carbon dioxide capture or reduction technologies;
- Amends existing law regarding regulation of air quality and certain utilities;
- Enacts a provision requiring reduction of mercury emissions from certain electricity generating units; and
- Requires the Kansas Corporation Commission (KCC) and the Kansas Department of Health and Environment (KDHE) annually to identify operators of electric utilities with coal-fired generating capacity greater than 350 MW in Kansas with carbon dioxide emissions in excess of 110 percent of the statewide average emissions from coal-fired plants in Kansas with a capacity greater than 350 MW.