

As Amended by House Committee

Session of 2024

HOUSE BILL No. 2589

By Committee on Energy, Utilities and Telecommunications

Requested by Representative Delperdang

1-24

1 AN ACT concerning utility pole-mounted law enforcement equipment;  
2 relating to public utilities and law enforcement agencies; authorizing  
3 public utilities to enter into pole attachment agreements to allow for the  
4 attachment and operation of law enforcement equipment on utility  
5 poles located in the public right-of-way; exempting public utilities from  
6 civil liability relating thereto.

7  
8 *Be it enacted by the Legislature of the State of Kansas:*

9 Section 1. (a) A public utility may enter into a pole attachment  
10 agreement with any law enforcement agency to authorize the law  
11 enforcement agency to attach~~and~~, **access**, operate, **maintain or remove**  
12 law enforcement equipment on any utility pole that is owned or operated  
13 by the public utility and located in the public right-of-way. A pole  
14 attachment agreement shall:

15 (1) Identify the utility poles in the public right-of-way where the law  
16 enforcement equipment may be attached pursuant to such agreement;

17 (2) specify the nature of the law enforcement equipment to be  
18 attached, including, but not limited to, the size and weight of the  
19 equipment, **where on a utility pole the law enforcement equipment may**  
20 **be installed**, the power supply **required and whether electric service is**  
21 **needed** and any other provisions relating to the safe **installation and** use  
22 of the equipment and the utility pole;

23 (3) establish the utility's safety **and security** specifications for  
24 attaching, accessing, operating, **maintaining** and removing the law  
25 enforcement equipment;~~and~~

26 (4) **provide the public utility the sole discretion to require that the**  
27 **law enforcement equipment be attached, accessed, operated,**  
28 **maintained or removed by the public utility or a contractor who the**  
29 **public utility determines is qualified to perform such work; and**

30 (5) consistent with the provisions of subsection (b), require the law  
31 enforcement agency to indemnify, defend and hold harmless the public  
32 utility from and against all liability relating to the public utility's actions to  
33 enter into a pole attachment agreement pursuant to this section.

34 (b) **A pole attachment agreement may contain other terms,**  
35 **conditions or provisions that are reasonable or necessary to facilitate**

1 **the pole attachment agreement or to protect the public utility's**  
2 **systems and infrastructure.**

3 (c) Pursuant to a pole attachment agreement, a public utility may  
4 assess reasonable fees or charges to recover the actual costs incurred by  
5 the public utility for ~~the attachment, maintenance or removal of~~ **attaching,**  
6 **accessing, operating, maintaining or removing** the law enforcement  
7 equipment. A public utility shall not ~~rent, lease or otherwise assess any~~  
8 ~~other fees or charges~~ **charge a law enforcement agency** for the use of the  
9 space required for the attachment of such law enforcement equipment. **If**  
10 **the law enforcement equipment requires electricity to be supplied by**  
11 **the public utility, such public utility may charge the law enforcement**  
12 **agency for the electric service. Nothing in this section shall prohibit a**  
13 **public utility from charging any other person or entity for the space**  
14 **required to attach other equipment on utility poles.**

15 (d) Any law enforcement agency that enters into a pole  
16 attachment agreement with a public utility shall warrant and  
17 guarantee to the public utility that the attachment, access, operation,  
18 maintenance or removal of any and all law enforcement equipment  
19 complies with all applicable laws, rules and regulations and  
20 ordinances. A law enforcement agency shall be solely responsible for  
21 determining the need for any court order before attaching, accessing,  
22 operating, maintaining or removing any law enforcement equipment  
23 and for securing such court order when necessary or appropriate. A  
24 public utility that enters into a pole attachment agreement pursuant to  
25 this section shall not be liable for any failure of a law enforcement  
26 agency to secure a court order when necessary or appropriate for any  
27 activity conducted pursuant to the pole attachment agreement.

28 ~~(e)~~(e) Any public utility that enters into a pole attachment agreement  
29 with a law enforcement agency pursuant to this section shall be considered  
30 an instrumentality of a governmental entity for the purposes of the Kansas  
31 tort claims act, K.S.A. 75-6101 et seq., and amendments thereto, and  
32 entitled to any limitations on liability therein with respect to any claim  
33 arising pursuant to such pole attachment agreement. ~~To the extent that a~~  
34 ~~law enforcement agency is found to be liable for any claim relating to law~~  
35 ~~enforcement activities conducted pursuant to a pole attachment agreement~~  
36 ~~authorized by this section,~~ The law enforcement agency shall indemnify,  
37 **defend and hold harmless** the public utility for ~~any and all~~ **reasonable**  
38 **costs and expenses, including attorney fees, that are associated with**  
39 **any and all:**

40 (1) ~~Claims or court actions~~ arising out of the attachment ~~or operation~~  
41 ~~of the law enforcement equipment pursuant to such agreement~~ **access,**  
42 **operation, maintenance or removal of law enforcement equipment or**  
43 **law enforcement activities conducted pursuant to such agreement,**

1 including, but not limited to, claims or court actions relating to  
2 crossing or remaining on private property to access the public right-  
3 of-way; and

4 (2) damages to utility systems or infrastructure caused by the law  
5 enforcement equipment or attachment, access, operation, maintenance  
6 or removal of such equipment, except that if any such damage to the  
7 utility's systems or infrastructure is determined to have been caused  
8 solely by the public utility, the law enforcement agency shall not be  
9 liable for such damages.

10 ~~(d)~~(f) As used in this section:

11 (1) "Law enforcement agency" means any public agency that  
12 employs law enforcement personnel as defined in K.S.A. 60-473, and  
13 amendments thereto, or the federal bureau of investigation.

14 (2) "Public right-of-way" means only the area of real property in  
15 which a city, county or the state has a dedicated or acquired public right-  
16 of-way interest in the real property. "Public right-of-way" includes the area  
17 on, below or above the present and future streets, alleys, avenues, roads,  
18 highways, parkways or boulevards dedicated or acquired as right-of-way.  
19 **"Public right-of-way" does not include a public or private easement**  
20 **that has not been designated a public right-of-way.**

21 (3) "Public utility" means any public utility as defined in K.S.A. 66-  
22 104, and amendments thereto, municipally owned or operated public  
23 utility or electric cooperative public utility.

24 (4) "Utility pole" means a structure owned or operated by a public  
25 utility that is designed and used to carry lines, cables or wires for  
26 telecommunications, electricity or cable or to provide lighting.

27 Sec. 2. This act shall take effect and be in force from and after its  
28 publication in the statute book.