

SENATE BILL No. 488

By Committee on Federal and State Affairs

3-7

1 AN ACT concerning economic development; relating to redevelopment
2 districts encompassing federal enclaves; authorization of franchises for
3 the provision of utilities; amending K.S.A. 66-1,170 and K.S.A. 2015
4 Supp. 12-2022 and 66-104 and repealing the existing sections.

5
6 *Be it enacted by the Legislature of the State of Kansas:*

7 Section 1. (a) The board of county commissioners of any county that
8 has established a redevelopment district which includes property located
9 within a federal enclave in the county pursuant to K.S.A. 19-4901 et seq.,
10 and amendments thereto, hereafter referred to as the redevelopment
11 district, may, by resolution, authorize any person, firm or corporation to
12 install, maintain, and operate utilities serving the redevelopment district,
13 including, but not limited to:

14 (1) The construction, operation and maintenance of:

15 (A) Water lines and water treatment facilities;

16 (B) sewer and waste water lines and treatment facilities;

17 (C) electrical lines and distribution facilities;

18 (D) gas lines and storage and transmission facilities;

19 (E) telecommunications services; and

20 (F) rail lines, sidings and rail switching services; and

21 (2) the use of roads within the confines of the redevelopment district
22 so long as such use is not prohibited by law.

23 (b) If the board of county commissioners of the county has, by
24 resolution, established a redevelopment authority as a body corporate and
25 politic to oversee economic development in the redevelopment district, the
26 board of county commissioners may, by resolution, delegate the powers
27 granted in subsection (a) to the board of directors of such redevelopment
28 authority.

29 (c) If the board of county commissioners of the county or the board of
30 directors of the redevelopment authority authorizes any activity specified
31 in subsection (a), the grant of authority to engage in any such activity shall
32 be subject to the following:

33 (1) All contracts granting or giving any such original franchise, right
34 or privilege, or extending or renewing or amending any existing grant,
35 franchise, right or privilege to engage in such an activity shall be made by
36 a resolution duly adopted by the board of county commissioners of the

1 county, or by a resolution duly adopted by the board of directors of the
2 development authority and approved by a resolution duly adopted by the
3 board of county commissioners;

4 (2) no contract, grant, franchise, right or privilege to engage in such
5 an activity shall be extended for any longer period of time than twenty
6 years from the date of such grant or extension;

7 (3) no person, firm or corporation shall be granted any exclusive
8 franchise, right or privilege whatsoever;

9 (4) no such grant, franchise, right or privilege shall be made to any
10 person, firm, corporation or association unless it provides for adequate
11 compensation or consideration therefor to be paid to the county or to the
12 development authority, as the case may be, and, regardless of whether or
13 not other or additional compensation is provided for, such grantee shall
14 pay such fixed charge as may be prescribed in the franchise agreement;

15 (5) no such grant, franchise, right or privilege shall be effective until
16 the resolution of the board of county commissioners approving the same
17 has been adopted as provided by law with all expenses of publishing any
18 resolution adopted pursuant to this section being paid by the proposed
19 grantee; and

20 (6) all contracts, grants, franchises, rights or privileges for the use of
21 the roads of the redevelopment district, not herein mentioned, shall be
22 governed by all the provisions of this act.

23 (d) Any franchise fees collected from any utility with respect to the
24 provision of utilities within the redevelopment district shall be paid to the
25 county treasurer. The county treasurer shall deposit franchise fees and
26 other revenues received pursuant to subsection (a) to the credit of the
27 redevelopment authority for use by the development authority as provided
28 in this section. Any such franchise fees shall be specifically restricted for
29 the payment of direct and indirect costs of installation, maintenance, and
30 operation of utilities serving the redevelopment district, including, but not
31 limited to:

32 (1) The construction, operation and maintenance of:

33 (A) Water lines and treatment facilities;

34 (B) sewer and waste water lines and treatment facilities;

35 (C) electrical lines and distribution facilities;

36 (D) gas lines and storage and transmission facilities; and

37 (E) roads and bridges, railway improvements;

38 (2) the demolition of existing obsolete or otherwise unusable
39 structures;

40 (3) the disposal of construction and demolition waste on-site and
41 otherwise;

42 (4) the construction of capital improvements within the
43 redevelopment district;

1 (5) the costs of developing, improving, managing and marketing
2 properties within the redevelopment district; and

3 (6) the payment of bonds issued with respect to any of the foregoing.

4 (e) This section shall be a part of and supplemental to the provisions
5 of article 1 of chapter 19 of the Kansas Statutes Annotated, and
6 amendments thereto.

7 Sec. 2. K.S.A. 2015 Supp. 12-2022 is hereby amended to read as
8 follows: 12-2022. For purposes of the video competition act:

9 (a) "Cable service" is defined as set forth in 47 U.S.C. § 522(6).

10 (b) "Cable operator" is defined as set forth in 47 U.S.C. § 522(5).

11 (c) "Cable system" is defined as set forth in 47 U.S.C. § 522(7).

12 (d) "Competitive video service provider" means an entity providing
13 video service that is not franchised as a cable operator in the state of
14 Kansas as of the effective date of this act and is not an affiliate, successor
15 or assign of such cable operator.

16 (e) "Franchise" means an initial authorization, or renewal of an
17 authorization, issued by a municipality, regardless of whether the
18 authorization is designed as a franchise, permit, license, resolution,
19 contract, certificate, agreement or otherwise, that authorizes the
20 construction and operation of a cable system.

21 (f) "Municipality" means a city or county.

22 (g) "Video programming" means programming provided by, or
23 generally considered comparable to programming provided by, a television
24 broadcast station, as set forth in 47 U.S.C. § 522(20).

25 (h) "Video service" means video programming services provided
26 through wireline facilities located at least in part in the public rights-of-
27 way without regard to delivery technology, including internet protocol
28 technology. This definition does not include any video programming
29 provided by a commercial mobile service provider defined in 47 U.S.C. §
30 332(d).

31 (i) "Video service authorization" means the right of a video service
32 provider to offer video programming to any subscribers anywhere in the
33 state of Kansas.

34 (j) "Video service provider" means a cable operator or a competitive
35 video service provider, *but shall not include an entity within a*
36 *redevelopment district established pursuant to section 1, and amendments*
37 *thereto, that is authorized pursuant to section 1, and amendments thereto,*
38 *to provide video service within the redevelopment district.*

39 (k) "Video service provider fee" means the fee imposed upon video
40 service providers pursuant to K.S.A. 2015 Supp. 12-2024, *and*
41 *amendments thereto.*

42 Sec. 3. K.S.A. 2015 Supp. 66-104 is hereby amended to read as
43 follows: 66-104. (a) The term "public utility," as used in this act, shall be

1 construed to mean every corporation, company, individual, association of
2 persons, their trustees, lessees or receivers, that now or hereafter may own,
3 control, operate or manage, except for private use, any equipment, plant or
4 generating machinery, or any part thereof, for the transmission of
5 telephone messages or for the transmission of telegraph messages in or
6 through any part of the state, or the conveyance of oil and gas through
7 pipelines in or through any part of the state, except pipelines less than 15
8 miles in length and not operated in connection with or for the general
9 commercial supply of gas or oil, and all companies for the production,
10 transmission, delivery or furnishing of heat, light, water or power. No
11 cooperative, cooperative society, nonprofit or mutual corporation or
12 association which is engaged solely in furnishing telephone service to
13 subscribers from one telephone line without owning or operating its own
14 separate central office facilities, shall be subject to the jurisdiction and
15 control of the commission as provided herein, except that it shall not
16 construct or extend its facilities across or beyond the territorial boundaries
17 of any telephone company or cooperative without first obtaining approval
18 of the commission. As used herein, the term "transmission of telephone
19 messages" shall include the transmission by wire or other means of any
20 voice, data, signals or facsimile communications, including all such
21 communications now in existence or as may be developed in the future.

22 (b) The term "public utility" shall also include that portion of every
23 municipally owned or operated electric or gas utility located in an area
24 outside of and more than three miles from the corporate limits of such
25 municipality, but regulation of the rates, charges and terms and conditions
26 of service of such utility within such area shall be subject to commission
27 regulation only as provided in K.S.A. 2015 Supp. 66-104f, and
28 amendments thereto. Nothing in this act shall apply to a municipally
29 owned or operated utility, or portion thereof, located within the corporate
30 limits of such municipality or located outside of such corporate limits but
31 within three miles thereof except as provided in K.S.A. 66-131a, and
32 amendments thereto.

33 (c) Except as herein provided, the power and authority to control and
34 regulate all public utilities and common carriers situated and operated
35 wholly or principally within any city or principally operated for the benefit
36 of such city or its people, shall be vested exclusively in such city, subject
37 only to the right to apply for relief to the corporation commission as
38 provided in K.S.A. 66-133, and amendments thereto, and to the provisions
39 of K.S.A. 66-104e, and amendments thereto. A transit system principally
40 engaged in rendering local transportation service in and between
41 contiguous cities in this and another state by means of street railway,
42 trolley bus and motor bus lines, or any combination thereof, shall be
43 deemed to be a public utility as that term is used in this act and, as such,

1 shall be subject to the jurisdiction of the commission.

2 (d) The term "public utility" shall not include any activity of an
3 otherwise jurisdictional corporation, company, individual, association of
4 persons, their trustees, lessees or receivers as to the marketing or sale of
5 compressed natural gas for end use as motor vehicle fuel.

6 (e) At the option of an otherwise jurisdictional entity, the term "public
7 utility" shall not include any activity or facility of such entity as to the
8 generation, marketing and sale of electricity generated by an electric
9 generation facility or addition to an electric generation facility which:

10 (1) Is newly constructed and placed in service on or after January 1,
11 2001; and

12 (2) is not in the rate base of: (A) An electric public utility that is
13 subject to rate regulation by the state corporation commission; (B) any
14 cooperative, as defined by K.S.A. 17-4603, and amendments thereto, or
15 any nonstock member-owned cooperative corporation incorporated in this
16 state; or (C) a municipally owned or operated electric utility.

17 (f) Additional generating capacity achieved through efficiency gains
18 by refurbishing or replacing existing equipment at generating facilities
19 placed in service before January 1, 2001, shall not qualify under
20 subsection (e).

21 (g) For purposes of the authority to appropriate property through
22 eminent domain, the term "public utility" shall not include any activity for
23 the siting or placement of wind powered electrical generators or turbines,
24 including the towers.

25 *(h) The term "public utility" shall not include any activity of an*
26 *otherwise jurisdictional "public utility" within the boundaries of a*
27 *redevelopment district established pursuant to section 1, and amendments*
28 *thereto, and operating therein under the authority granted by such*
29 *redevelopment district as provided by section 1, and amendments thereto.*
30 *Nothing in this paragraph shall be construed to affect the authority of the*
31 *commission, as otherwise provided by law, over an electric or natural gas*
32 *public utility within such a redevelopment district with respect to charges*
33 *for transmission services, sales of power for resale, wire stringing,*
34 *transmission line siting, pipeline safety and underground utility damage*
35 *prevention, pursuant to K.S.A. 66-131, 66-183, 66-1,150 et seq., 66-1,177*
36 *et seq. and 66-1801 et seq., and amendments thereto.*

37 Sec. 4. K.S.A. 66-1,170 is hereby amended to read as follows: 66-
38 1,170. As used in this act:

39 (a) "Distribution line" means an electric line used to furnish retail
40 electric service, including any line from a distribution substation to an
41 electric consuming facility; but such term does not include a transmission
42 facility used for the bulk transfer of energy even if such energy is reduced
43 in voltage and used as station power.

1 (b) "Electric consuming facility" means any entity which utilizes
2 electric energy from a central station service.

3 (c) "Commission" means the state corporation commission of the
4 state of Kansas.

5 (d) "Retail electric supplier" means any person, firm, corporation,
6 municipality, association or cooperative corporation engaged in the
7 furnishing of retail electric service, *except that "retail electric supplier"*
8 *shall not include any entity within the boundaries of a redevelopment*
9 *district established pursuant to section 1, and amendments thereto, and*
10 *operating therein under the authority granted by such redevelopment*
11 *district as provided by section 1, and amendments thereto.*

12 (e) "Certified territory" means an electric service territory certified to
13 a retail electric supplier pursuant to this act.

14 (f) "Existing distribution line" means a distribution line which is in
15 existence on the effective date of this act, and which is being or has been
16 used as such.

17 (g) "Single certified service territory" means that service area in
18 which only one retail electric supplier has been granted a service
19 certificate by the commission.

20 (h) "Dual certified service territory" means that service area where
21 more than one retail electric supplier has been granted a service certificate
22 by the commission.

23 (i) "Station power" means electric energy used for operating
24 equipment necessary for the process of generating electricity at any
25 generating plant owned by a utility or a generating plant specified in
26 ~~subsection (e) of K.S.A. 66-104(e)~~, and amendments thereto, and placed in
27 use on or after January 1, 2002, whether such electrical energy is generated
28 at such generating plant or provided through the adjacent transformation
29 and transmission interconnect, but does not include electric energy used
30 for heating, lighting, air conditioning and office needs of the buildings at a
31 generating plant site.

32 Sec. 5. K.S.A. 66-1,170 and K.S.A. 2015 Supp. 12-2022 and 66-104
33 are hereby repealed.

34 Sec. 6. This act shall take effect and be in force from and after its
35 publication in the Kansas register.