

House Substitute for SENATE BILL No. 91

By Committee on Energy and Environment

5-5

1 AN ACT concerning renewable energy; relating to the renewable energy
2 standards act, electric generation standard; relating to property tax;
3 concerning exemptions for property used for renewable energy
4 resources; relating to property tax on public utilities, definitions and
5 exceptions; amending K.S.A. 2014 Supp. 66-1256, 66-1257, 66-1259,
6 79-201 and 79-5a01 and repealing the existing sections; also repealing
7 K.S.A. 2014 Supp. 66-1258, 66-1260, 66-1261 and 66-1262.
8

9 *Be it enacted by the Legislature of the State of Kansas:*

10 Section 1. On and after January 1, 2016, K.S.A. 2014 Supp. 66-1256
11 is hereby amended to read as follows: 66-1256. (a) K.S.A. 2014 Supp. 66-
12 1256 through 66-1262, 66-1257 and 66-1259, and amendments thereto,
13 shall be known and may be cited as the renewable energy standards act.

14 (b) *The legislature declares that it is in the public interest to promote*
15 *renewable energy development in order to best utilize the abundant*
16 *natural resources found in this state. There is hereby established a*
17 *renewable energy standard for the state. The renewable energy standard*
18 *shall be a voluntary goal that 20% of a utility's peak demand within the*
19 *state be generated from renewable energy resources by the year 2020.*

20 Sec. 2. On and after January 1, 2016, K.S.A. 2014 Supp. 66-1257 is
21 hereby amended to read as follows: 66-1257. As used in the renewable
22 energy standards act:

23 (a) "Affected utility" means any electric public utility, as defined in
24 K.S.A. 66-101a, and amendments thereto, but does not include any portion
25 of any municipally owned or operated electric utility.

26 (b) "Commission" means the state corporation commission.

27 (c) ~~"Net renewable generation capacity" means the gross generation~~
28 ~~capacity of the renewable energy resource over a four-hour period when~~
29 ~~not limited by ambient conditions, equipment, operating or regulatory~~
30 ~~restrictions less auxiliary power required to operate the resource, and~~
31 ~~refers to resources located in the state or resources serving ratepayers in~~
32 ~~the state.~~

33 (d) "Peak demand" means the demand imposed by the affected
34 utility's retail load in the state.

35 (e) ~~"Renewable energy credit" means a credit representing energy~~
36 ~~produced by renewable energy resources issued as part of a program that~~

1 ~~has been approved by the state corporation commission.~~

2 ~~(f) (d)~~ "Renewable energy resources" means net renewable generation
3 capacity from:

4 (1) Wind;

5 (2) solar thermal sources;

6 (3) photovoltaic cells and panels;

7 (4) dedicated crops grown for energy production;

8 (5) cellulosic agricultural residues;

9 (6) plant residues;

10 (7) methane from landfills or from wastewater treatment;

11 (8) clean and untreated wood products such as pallets;

12 (9) (A) existing hydropower;

13 (B) new hydropower;

14 (10) fuel cells using hydrogen produced by one of the above-named
15 renewable energy resources; *and*

16 (11) energy storage that is connected to any renewable generation by
17 means of energy storage equipment including, but not limited to, batteries,
18 fly wheels, compressed air storage and pumped hydro; ~~and~~

19 ~~(12) other sources of energy, not including nuclear power, that~~
20 ~~become available after the effective date of this section, and that are~~
21 ~~certified as renewable by rules and regulations established by the~~
22 ~~commission pursuant to K.S.A. 2014 Supp. 66-1262, and amendments~~
23 ~~thereto.~~

24 Sec. 3. K.S.A. 2014 Supp. 66-1259 is hereby amended to read as
25 follows: 66-1259. (a) The commission shall allow affected utilities to
26 recover reasonable costs incurred to meet the new renewable energy
27 resource requirements required in ~~the renewable energy standards act~~
28 *K.S.A. 2014 Supp. 66-1258, as in effect on December 31, 2015. All rules*
29 *and regulations and orders of the state corporation commission that relate*
30 *to allowing a utility to recover costs incurred to meet such requirement,*
31 *and that are in effect on June 30, 2015, shall continue to be effective.*

32 (b) *Nothing in this act shall be construed to impair any existing*
33 *contracts, leases or agreements.*

34 Sec. 4. K.S.A. 2014 Supp. 79-201 is hereby amended to read as
35 follows: 79-201. The following described property, to the extent herein
36 specified, shall be and is hereby exempt from all property or ad valorem
37 taxes levied under the laws of the state of Kansas:

38 *First.* All buildings used exclusively as places of public worship and all
39 buildings used exclusively by school districts and school district interlocal
40 cooperatives organized under the laws of this state, with the furniture and
41 books therein contained and used exclusively for the accommodation of
42 religious meetings or for school district or school district interlocal
43 cooperative purposes, whichever is applicable, together with the grounds

1 owned thereby if not leased or otherwise used for the realization of profit,
2 except that: (a) (1) Any school building, or portion thereof, together with
3 the grounds upon which the building is located, shall be considered to be
4 used exclusively by the school district for the purposes of this section
5 when leased by the school district to any political or taxing subdivision of
6 the state, including a school district interlocal cooperative, or to any
7 association, organization or nonprofit corporation entitled to tax exemption
8 with respect to such property; and (2) any school building, together with
9 the grounds upon which the building is located, shall be considered to be
10 used exclusively by a school district interlocal cooperative for the
11 purposes of this section when being acquired pursuant to a lease-purchase
12 agreement; and (b) any building, or portion thereof, used as a place of
13 worship, together with the grounds upon which the building is located,
14 shall be considered to be used exclusively for the religious purposes of this
15 section when used as a not-for-profit day care center for children which is
16 licensed pursuant to K.S.A. 65-501 et seq., and amendments thereto, or
17 when used to house an area where the congregation of a church society
18 and others may purchase tracts, books and other items relating to the
19 promulgation of the church society's religious doctrines.

20 *Second.* All real property, and all tangible personal property, actually
21 and regularly used exclusively for literary, educational, scientific,
22 religious, benevolent or charitable purposes, including property used
23 exclusively for such purposes by more than one agency or organization for
24 one or more of such exempt purposes. Except with regard to real property
25 which is owned by a religious organization, is to be used exclusively for
26 religious purposes and is not used for a nonexempt purpose prior to its
27 exclusive use for religious purposes which property shall be deemed to be
28 actually and regularly used exclusively for religious purposes for the
29 purposes of this paragraph, this exemption shall not apply to such property,
30 not actually used or occupied for the purposes set forth herein, nor to such
31 property held or used as an investment even though the income or rentals
32 received therefrom is used wholly for such literary, educational, scientific,
33 religious, benevolent or charitable purposes. In the event any such
34 property which has been exempted pursuant to the preceding sentence is
35 not used for religious purposes prior to its conveyance which results in its
36 use for nonreligious purposes, there shall be a recoupment of property
37 taxes in an amount equal to the tax which would have been levied upon
38 such property except for such exemption for all taxable years for which
39 such exemption was in effect. Such recoupment tax shall become due and
40 payable in such year as provided by K.S.A. 79-2004, and amendments
41 thereto. A lien for such taxes shall attach to the real property subject to the
42 same on November 1 in the year such taxes become due and all such taxes
43 remaining due and unpaid after the date prescribed for the payment thereof

1 shall be collected in the manner provided by law for the collection of
2 delinquent taxes. Moneys collected from the recoupment tax hereunder
3 shall be credited by the county treasurer to the several taxing subdivisions
4 within which such real property is located in the proportion that the total
5 tangible property tax levies made in the preceding year for each such
6 taxing subdivision bear to the total of all such levies made in that year by
7 all such taxing subdivisions. Such moneys shall be credited to the general
8 fund of the taxing subdivision or if such taxing subdivision is making no
9 property tax levy for the support of a general fund such moneys may be
10 credited to any other tangible property tax fund of general application of
11 such subdivision. This exemption shall not be deemed inapplicable to
12 property which would otherwise be exempt pursuant to this paragraph
13 because an agency or organization: (a) Is reimbursed for the provision of
14 services accomplishing the purposes enumerated in this paragraph based
15 upon the ability to pay by the recipient of such services; or (b) is
16 reimbursed for the actual expense of using such property for purposes
17 enumerated in this paragraph; or (c) uses such property for a nonexempt
18 purpose which is minimal in scope and insubstantial in nature if such use
19 is incidental to the exempt purposes of this paragraph; or (d) charges a
20 reasonable fee for admission to cultural or educational activities or permits
21 the use of its property for such activities by a related agency or
22 organization, if any such activity is in furtherance of the purposes of this
23 paragraph; or (e) is applying for an exemption pursuant to this paragraph
24 for a motor vehicle that is being leased for a period of at least one year.

25 *Third.* All moneys and credits belonging exclusively to universities,
26 colleges, academies or other public schools of any kind, or to religious,
27 literary, scientific or benevolent and charitable institutions or associations,
28 appropriated solely to sustain such institutions or associations, not
29 exceeding in amount or in income arising therefrom the limit prescribed by
30 the charter of such institution or association.

31 *Fourth.* The reserve or emergency funds of fraternal benefit societies
32 authorized to do business under the laws of the state of Kansas.

33 *Fifth.* All buildings of private nonprofit universities or colleges which
34 are owned and operated by such universities and colleges as student union
35 buildings, presidents' homes and student dormitories.

36 *Sixth.* All real and tangible personal property actually and regularly
37 used exclusively by the alumni association associated by its articles of
38 incorporation with any public or nonprofit Kansas college or university
39 approved by the Kansas board of regents to confer academic degrees or
40 with any community college approved by its board of trustees to grant
41 certificates of completion of courses or curriculum, to provide
42 accommodations and services to such college or university or to the
43 alumni, staff or faculty thereof.

1 *Seventh.* All parsonages owned by a church society and actually and
2 regularly occupied and used predominantly as a residence by a minister or
3 other clergyman of such church society who is actually and regularly
4 engaged in conducting the services and religious ministrations of such
5 society, and the land upon which such parsonage is located to the extent
6 necessary for the accommodation of such parsonage.

7 *Eighth.* All real property, all buildings located on such property and all
8 personal property contained therein, actually and regularly used
9 exclusively by any individually chartered organization of honorably
10 discharged military veterans of the United States armed forces or auxiliary
11 of any such organization, which is exempt from federal income taxation
12 pursuant to section 501(c)(19) of the federal internal revenue code of
13 1986, for clubhouse, place of meeting or memorial hall purposes, and real
14 property to the extent of not more than two acres, and all buildings located
15 on such property, actually and regularly used exclusively by any such
16 veterans' organization or its auxiliary as a memorial park.

17 *Ninth.* All real property and tangible personal property actually and
18 regularly used by a community service organization for the predominant
19 purpose of providing humanitarian services, which is owned and operated
20 by a corporation organized not for profit under the laws of the state of
21 Kansas or by a corporation organized not for profit under the laws of
22 another state and duly admitted to engage in business in this state as a
23 foreign not-for-profit corporation if: (a) The directors of such corporation
24 serve without pay for such services; (b) the corporation is operated in a
25 manner which does not result in the accrual of distributable profits,
26 realization of private gain resulting from the payment of compensation in
27 excess of a reasonable allowance for salary or other compensation for
28 services rendered or the realization of any other form of private gain; (c)
29 no officer, director or member of such corporation has any pecuniary
30 interest in the property for which exemption is claimed; (d) the corporation
31 is organized for the purpose of providing humanitarian services; (e) the
32 actual use of property for which an exemption is claimed must be
33 substantially and predominantly related to the purpose of providing
34 humanitarian services, except that, the use of such property for a
35 nonexempt purpose which is minimal in scope and insubstantial in nature
36 shall not result in the loss of exemption if such use is incidental to the
37 purpose of providing humanitarian services by the corporation; (f) the
38 corporation is exempt from federal income taxation pursuant to section
39 501(c)(3) of the internal revenue code of 1986 and; (g) contributions to the
40 corporation are deductible under the Kansas income tax act. As used in this
41 clause, "humanitarian services" means the conduct of activities which
42 substantially and predominantly meet a demonstrated community need and
43 which improve the physical, mental, social, cultural or spiritual welfare of

1 others or the relief, comfort or assistance of persons in distress or any
2 combination thereof including but not limited to health and recreation
3 services, child care, individual and family counseling, employment and
4 training programs for handicapped persons and meals or feeding programs.
5 Notwithstanding any other provision of this clause, motor vehicles shall
6 not be exempt hereunder unless such vehicles are exclusively used for the
7 purposes described therein, except that the use of any such vehicle for the
8 purpose of participating in a coordinated transit district in accordance with
9 the provisions of K.S.A. 75-5032 through 75-5037, and amendments
10 thereto, or K.S.A. 75-5051 through 75-5058, and amendments thereto,
11 shall be deemed as exclusive use.

12 *Tenth.* For all taxable years commencing after December 31, 1986, any
13 building, and the land upon which such building is located to the extent
14 necessary for the accommodation of such building, owned by a church or
15 nonprofit religious society or order which is exempt from federal income
16 taxation pursuant to section 501(c)(3) of the federal internal revenue code
17 of 1986, and actually and regularly occupied and used exclusively for
18 residential and religious purposes by a community of persons who are
19 bound by vows to a religious life and who conduct or assist in the conduct
20 of religious services and actually and regularly engage in religious,
21 benevolent, charitable or educational ministrations or the performance of
22 health care services.

23 *Eleventh.* For all taxable years commencing after December 31, 1998,
24 all property actually and regularly used predominantly to produce and
25 generate electricity utilizing renewable energy resources or technologies
26 *that is located on the property of any business organization and is*
27 *intended to offset the onsite electrical needs of the business organization*
28 *or when the applicant for such property, on or before December 31, 2016,*
29 *has filed an application for exemption pursuant to this subsection or has*
30 *received a conditional use permit to produce and generate electricity on*
31 *the property from the county in which the property is located. Any*
32 *exemption granted under the provisions of this subsection for property*
33 *primarily used for wholesale sale when the applicant, after December 31,*
34 *2016, has filed such application or filed such application and received a*
35 *conditional use permit, shall be in effect for the 10 taxable years*
36 *immediately following the taxable year in which construction or*
37 *installation of such property is completed.* For purposes of this section,
38 "renewable energy resources or technologies" shall include wind, solar,
39 photovoltaic, biomass, hydropower, geothermal and landfill gas resources
40 or technologies.

41 *Twelfth.* For all taxable years commencing after December 31, 2001, all
42 personal property actually and regularly used predominantly to collect,
43 refine or treat landfill gas or to transport landfill gas from a landfill to a

1 transmission pipeline, and the landfill gas produced therefrom.

2 The provisions of this section, except as otherwise more specifically
3 provided, shall apply to all taxable years commencing after December 31,
4 2009.

5 Sec. 5. K.S.A. 2014 Supp. 79-5a01 is hereby amended to read as
6 follows: 79-5a01. (a) As used in this act, the terms "public utility" or
7 "public utilities" means every individual, company, corporation,
8 association of persons, brokers, marketers, lessees or receivers that now or
9 hereafter own, broker or market natural gas inventories stored for resale in
10 an underground formation in this state, or now or hereafter are in control,
11 manage or operate a business of:

12 (1) A railroad or railroad corporation if such railroad or railroad
13 corporation owns or holds, by deed or other instrument, an interest in
14 right-of-way, track, franchise, roadbed or trackage in this state;

15 (2) transmitting to, from, through or in this state telegraphic
16 messages;

17 (3) transmitting to, from, through or in this state telephonic messages;

18 (4) transporting or distributing to, from, through or in this state
19 natural gas, oil or other commodities in pipes or pipelines, or engaging
20 primarily in the business of storing natural gas in an underground
21 formation;

22 (5) generating, conducting or distributing to, from, through or in this
23 state electric power;

24 (6) transmitting to, from, through or in this state water if for profit or
25 subject to regulation of the state corporation commission; and

26 (7) transporting to, from, through or in this state cargo or passengers
27 by means of any vessel or boat used in navigating any of the navigable
28 watercourses within or bordering upon this state.

29 (b) The terms "public utility" or "public utilities" shall not include:

30 (1) Rural water districts established under the laws of the state of Kansas;
31 or (2) any individual, company, corporation, association of persons, lessee
32 or receiver owning or operating an oil or natural gas production gathering
33 line which is situated within one county in this state and does not cross any
34 state boundary line; (3) any individual, company, corporation, association
35 of persons, lessee or receiver owning any vessel or boat operated upon the
36 surface of any manmade waterway located entirely within one county in
37 the state; ~~or~~ (4) for all taxable years commencing after December 31,
38 1998, any natural gas distribution system which is owned and operated by
39 a nonprofit public utility described by K.S.A. 66-104c, and amendments
40 thereto, and which is operated predominantly for the purpose of providing
41 fuel for the irrigation of land devoted to agricultural use; *or (5) any*
42 *individual, company, corporation, association of persons, lessees or*
43 *receivers to the extent any activity or facility of such entity generates,*

1 *markets or sells electricity generated by an electric generation facility or*
2 *addition to an electric generation facility that is actually and regularly*
3 *used predominantly to produce and generate electricity utilizing*
4 *renewable energy resources or technologies as defined in K.S.A. 79-201,*
5 *and amendments thereto, however, any taxpayer may opt out of the*
6 *provisions of subsection (b)(5).*

7 (c) The provisions of subsection (a) as amended by this act shall be
8 applicable to all taxable years commencing after December 31, 2008.

9 New Sec. 6. If any provision of this act or its application to any
10 person or circumstance is held invalid, the invalidity shall not affect any
11 other provision or application of the act which can be given effect without
12 the invalid provision or application. To this end the provisions of this act
13 are severable.

14 Sec. 7. K.S.A. 2014 Supp. 66-1259, 66-1260, 66-1261, 66-1262, 79-
15 201 and 79-5a01 are hereby repealed.

16 Sec. 8. On and after January 1, 2016, K.S.A. 2014 Supp. 66-1256, 66-
17 1257 and 66-1258 are hereby repealed.

18 Sec. 9. This act shall take effect and be in force from and after its
19 publication in the statute book.