

SESSION OF 2023

**SUPPLEMENTAL NOTE ON SENATE BILL NO. 271**

As Amended by Senate Committee on  
Transportation

**Brief\***

SB 271, as amended, would add law regarding the maximum length of a train, distances between railroad crossings and rail cars stored on sidings, and enforcement of those provisions.

***Train Length***

The bill would prohibit any railroad operating in Kansas from running, or permitting to be run, any train that exceeds 8,500 feet in length on any main line or branch line. These provisions would expire July 1, 2027. The bill would define a “main line” to mean a class I railroad, as documented in filings with the Federal Railroad Administration, that transports at least 5.0 million gross tons annually or is used for regularly scheduled intercity or commuter rail passenger services. Such services would exclude tourist or historic excursion operations.

***Distances from Crossings***

The bill would require a railroad to maintain a minimum distance of 250 feet between a near-edge railroad crossing and railroad rolling stock stored on sidings if the railroad crossing does not have electronic warning signals. For this purpose, the term “rolling stock” would include rolling stock not used for the pickup or delivery of freight and for which

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\*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>

placement on the railroad-owned siding by a railroad is for the sole convenience of the railroad.

### ***Enforcement***

The bill would authorize a law enforcement officer carrying out duties under the bill to enter railroad property and inspect railroad equipment, facilities, rolling stock, operations, and relevant records at reasonable times and in a reasonable way.

The bill would make a railroad liable for the actions of its officers and employees for violations of provisions regarding train length and distances between stored rolling stock and crossings.

A violation would be punishable by a fine of not less than \$500 or more than \$25,000, and each day that a violation occurs would be a separate violation. The bill would authorize a fine of up to \$100,000 if the railroad is found to have committed a grossly negligent violation or a pattern of repeated violations. Any fine or civil penalty collected would be directed to the State Highway Fund.

The bill would authorize a law enforcement officer to prepare and deliver a written notice of a violation to the registered agent of the railroad either personally or by first class mail if the officer witnesses the violation or receives a complaint with an accompanying affidavit containing sufficient information to determine that a violation was committed. The bill would specify elements of the notice of violation. The bill also would require that the time specified in the notice to appear (in the notice of violation) could not be less than five days after the alleged violation, unless a representative of the railroad demands an earlier hearing. The bill would require the court specified in the notice to appear to be the district court having jurisdiction where an alleged violation occurred.

### ***Additional Definitions***

For purposes of the bill, “railroad,” “branch line,” and “train” also would be defined.

### **Background**

The bill was introduced by the Senate Committee on Federal and State Affairs at the request of Senator Petersen.

### ***Senate Committee on Transportation***

In the Senate Committee hearing, **proponent** testimony was presented by Senator Petersen; Senator McGinn; a representative of the Kansas State Legislative Board of the International Association of Sheet Metal, Air, Rail, and Transportation Workers; a county commissioner from Marshall County; and three private citizens, one of them self-identified as a railroad employee. Written-only proponent testimony was provided by representatives of the Chicago Rock Island & Pacific Railroad and Working Kansas Alliance and by three private citizens, one of them self-identified as a railroad employee. The proponents stated trains have significantly increased in length in recent years, to as long as three miles, which has resulted in blocked crossings that prevent emergency and routine access to schools, agricultural fields, homes, and other destinations for prolonged periods. Examples were provided of harm caused when a motorist’s sight of an oncoming train traveling a second track was obstructed by a stopped train. According to proponent testimony, the Federal Railroad Safety Act leaves certain types of safety regulation to states.

A representative of the Kansas Department of Transportation (KDOT) provided neutral testimony, discussing KDOT’s current role as it relates to railroads.

**Opponent** testimony was provided by representatives of the BNSF Railway Company and the Kansas Railroad Association. The opponents described a focus on safety by the railroads, reductions in safety-related incidents, and benefits of moving freight by train. Also described was the role of the federal Surface Transportation Board and its authority to regulate the rail industry under the Interstate Commerce Commission Termination Act, which the opponents state grants exclusive jurisdiction over transportation by rail and operation of rail networks to the Surface Transportation Board.

The Senate Committee amended the bill to:

- Add a July 1, 2027, sunset date to the provisions regarding train length;
- Specify the requirement for a minimum distance between a railroad crossing and rolling stock stored on sidings would apply only if the railroad crossing does not have electronic warning signals; and
- Remove KDOT from provisions authorizing entry to railroad property and certain inspections.

### **Fiscal Information**

According to the fiscal note prepared by the Division of the Budget on the bill, as introduced, KDOT stated the bill could require KDOT staff to inspect railroad premises and participate in court proceedings. [*Note:* The Senate Committee on Transportation amended the bill to remove KDOT from this inspection process.] KDOT also states it is unable to estimate revenues that could be credited to the State Highway Fund from fines and civil penalties.

The Office of Judicial Administration states enactment of the bill could increase the number of cases filed in district

courts and collection of related docket fees and fines, but a fiscal effect cannot be estimated.

The Office of the Attorney General notes litigation at the state and federal level regarding the authority of states to regulate railroad safety and railroad traffic, and states it is possible the bill could result in additional legal challenges. The Office is unable to estimate a fiscal effect.

Any fiscal effect associated with enactment of the bill is not reflected in *The FY 2024 Governor's Budget Report*.

Railroad; safety; train; sidings; fines; notice of violation