LEGISLATURE ADDS NEW TOOLS TO PROTECT KS ENVIRONMENT

Despite some exceptions, 2021 Session offered promise and progress on environmental issues.

As the Kansas Legislature nears the conclusion of its business for 2021, it may come as a surprise to some that lawmakers added more policy tools to help the environment in Kansas. Don’t get me wrong – the Legislative Session still had bad moments that included fossil fuel industries’ pursuit of unnecessary policies to protect their business interests and some repudiation of Kansas’ clean energy success. Yet, overall, State leaders – both masked and maskless – enacted a variety of legislation that promises to prevent pesticide pollution, plug abandoned oil wells, lower electric rates when retiring coal plants, add charging stations for electric vehicles, and more. While there is certainly more to be done (to improve water policy, expand solar and efficiency for businesses and households, address fracking’s manmade earthquakes, and more), we can be grateful for the Legislature’s positive actions this year.

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ANTI-WIND BILL GETS ITS OWN SETBACK

A proposal to dramatically increase regulations and setback distances on wind farms faced popular opposition from industry and citizen groups.

The Wind Generation Permit and Property Protection Act blew back into the Kansas Statehouse, this time for a hearing in the Senate. This year’s legislation was similar to a bill that was voted down 15-2 in a House committee to 2019, only worse in terms of heavy regulation dealing with spacing of turbines, sound output, and much greater setback distance requirements (such as a mile and a half away from residential property or public buildings). The bill, SB 279 includes some of the most restrictive regulations on the wind farms in the U.S.; a shame because the wind industry has been a reliable economic power economically for Kansas and its rural communities when other staple economic sectors (agriculture, oil & gas, aviation) have been up and down over the last decade. Kansas wind power continues to be very productive environmentally and for our state and the nation’s energy supply (with a 40% decline in carbon emissions for Kansas and $1.51 Billion dollars in direct economic benefits for landowners and counties.

Kansas has benefitted from 9,000 direct jobs during construction and operation and another 12,000 indirect jobs thanks to this growing industry. In sum, wind power lowers electric prices, creates jobs, helps rural communities, and significantly benefits our environment. We’re glad to see that the members of the Senate Utilities understood this and that they kept the bill in Committee. While the bill is technically still viable for next year, there’s not much more that can be done to forward a bill this bad.
GOOD:
SB 38 - Creating the Pesticide Waste Disposal Program [Passed Senate 35-2, House 121-1]
HB 2022 - Clarifying Liability for Plugging Abandoned Wells [Passed House 123-0, Senate 23-0]
S Sub for HB 2072 – (formerly SB 245) – Lowering Utility Rates with Securitized Ratepayer-Backed Bonds [Passed Senate 33-7, House 113-9]
HB 2145 - Exempting Electric Vehicle Charging from Utility Classification [Passed House 124-0, Senate 38-2]
HB 2321 - Requiring electric utilities to notify cities before constructing urban power lines [Passed Senate 40-0, House 122-2]
SB 145 – Adding land in Kingman County as State Public Land [Passed Senate 33-7; not enacted/ awaits House]

NOT GOOD:
SB 24 – ‘Gas Protection Act’ - prohibits cities from banning utility gas service [Passed House 93-29, Senate 30-10]

STILL IN COMMITTEE / READY FOR NEXT YEAR:
HB 2291 - "Let Solar Shine Act" - Expanding Net Metering and Eliminating Fees on Solar
HB 2310 – Creating the Healthy Soils Fund and Initiative
HB 2320 – ‘CPACE’ for Business Upgrades for Water & Energy Conservation, Air Filtration
HB 2330 – Third Party Power Purchase Agreements for Solar (for Nonprofits)
HB 2381 – Creating the State Energy Plan Task Force
SB 112 / HB 2352 – Sales Tax Exemption on farm products at Farmers’ Markets

IN COMMITTEE & SHOULD STAY PUT:
SB 279 – Increasing Wind Setback Distances [OPPOSE]
   Bill had 2 days of hearings; lack of support kept bill in committee

GOOD OR BAD? TIME WILL TELL:
SB 172 – Creating Trespassing Crimes & Increasing Penalties for Critical Infrastructure [Passed Senate 29-9, Set to Pass House]
HB 2155 – KDHE response operations for water and soil pollutant release/spill [Passed House 85-36, Passed Senate 36-4]
HB 2172 – Modifying multi-year flex accounts [Passed House 122-0, Senate 40-0]

OTHER:
HB 2025 – Protecting private property from certain unauthorized surveillance
   Motion to pass bill failed in House

HB 2290 – ‘Carbon Tax for Universal Basic Income’
   Amendment to add bill language to SB 24 failed (not germane)
MAJOR STORIES ON KANSAS ENVIRONMENTAL ISSUES:

KS LEADERS PASS SECURITIZATION TO LOWER UTILITY RATES
New financial instrument for Kansas investor-owned utilities will help save ratepayers millions

Securitization (S Sub for HB 2072) or ‘utility asset refinancing’ recently passed the House 113-9 and the Senate 33-7 vote. This voluntary financing tool for investor-owned utilities (both gas and electric) would allow for lower-interest capital to be accessed to pay debt on retiring power generation or for extraordinary costs (like that accrued by gas utilities during the recent price spike of gas during last month’s ‘Deep Freeze’). Practically, because many of our coal plants are dirty, expensive, and outdated in useful life, securitization can help reduce the cost of retiring these coal plants to Kansas ratepayers.

The major advantage of Securitization is that through bonding the debt with guaranteed ‘nonbypassable’ charges paid by ratepayers, the bonds receive optimal credit ratings and access lower-interest (3-4%) capital. Traditionally, debt on utility investments is paid back by customers in full with 8-9% return on equity. So, that difference in what's called the ‘weighted average cost of capital’ can mean significant ratepayer savings for customers. As a guarantee that this tool will be beneficial for ratepayer savings, the legislation includes that language that the utility's securitization application must provide quantifiable ratepayer benefits or avoid or mitigate rate impacts.

Here are some examples on how securitization can achieve ratepayers savings in Kansas.
Example #1: Extraordinary costs from recent February 2021 price spike for Kansas Gas Service customers: Because securitization can be used for other types of debt payback, including extraordinary costs, KS Gas customers may be able to achieve savings on rates from the recent Deep Freeze:
According to the 3/17 testimony of Patrick Vogelsberg of Kansas Gas Service:
Securitization could create savings of $50 million from its 2/21 Winter Event costs of $420 million.
Example #2: Evergy’s Lawrence Energy Center Unit 4.

Evergy’s Lawrence Energy Center 1960 Unit 4 (114MW) is Evergy’s oldest and smallest coal unit in KS, and in 2017, the unit ran only 48% of its capacity.

According to analysis by prominent energy research group, the Rocky Mountain Institute:
Annual Ratepayer Capital Costs (excluding Operations & Maintenance) in 2023 = ~$144.5 million
With 2023 Securitization (+ Decommissioning costs & 6% transition assistance), annual ratepayer capital costs = $104.9 million, or about $39.6 million in securitization savings for ratepayers.

If instead Lawrence Energy Center Unit 4 were to be securitized and retired in 2030, the marginal savings would be lower because there is less debt, thus less capital interest difference to be saved. Yet, securitization savings in 2030 would still save ratepayers money, $7.1 million, which is still advantageous.

Example #3: Evergy’s Jeffrey Coal Unit 1.

Evergy’s Jeffrey Energy Center 1978 Unit 1 (720MW) ran 50% of its capacity in 2017.
Securitizing and retiring the coal unit and replacing that generation with ¼ wind, ¼ solar, and ½ energy storage in 2023 would save customers almost $50 million in capital costs, including $14 million in fuel and operational savings. This scenario reduces the levelized cost of energy about 1 cent per kwh, but provides Kansas-based clean energy with lower fuel costs for decades to come.

LAWMAKERS PASSING GAS’ SB 24 STINKS FOR CITY RIGHTS

Industry’s preemption bill to ban cities from reducing natural gas use among residents comes after extraordinary high gas prices and regional short supply.

In other not-so-good news, SB 24 - Energy Choice Act or the "Gas Protection Act" was passed by the House on a 93-29 vote, meaning the bill now heads to the Governor. SB 24 was part of a national effort by gas companies to lock-in fossil fuel service at a fear of losing profits to more sustainable energy systems. In Sierra Club, we know fossil fuel utilities will become more expensive, particularly if environmental harms and emission prices are appropriately assigned. We warned Kansas lawmakers they should not trap Kansans into costly fossil fuel dependence by eliminating the opportunity for their elected local leaders to opt for a different direction. Ultimately, SB 24 backtracks the spirit of the Kansas Constitutional powers of Home Rule for Cities, which is why this bill stinks for city rights.

While this bill is bad policy for moving past fossil fuels and erodes home rule, practically it does not have much real effect in the near term. In an interesting event, freshman Rep. Aaron Coleman tried to amend the bill to include his carbon tax / universal basic income proposal of $500/month for KS adults based upon a $100 tax per ton of CO2. However, his amendment was ruled nongermane.

The failure of gas power in Texas and its price volatility even before the recent freeze – as well as its problems relating to inducing earthquakes, methane emissions, water contamination, and deadly explosions – highlights the trouble with mandating cities continue fossil gas service in the future, per SB 24, dubbed the Energy Choice Act. New technology has already made new all-electric homes cost-competitive, but the opportunity to utilize clean energy sources as a substitute for gas service can help communities be more resilient and better impact the environment. Unfortunately, the people of Kansas will have to be persuaded to move past gas on an individual level, instead of community level now that Gas’ SB 24 has been passed.
‘SPILL BILL’ PASSES BOTH CHAMBERS; HEADS TO GOVERNOR


HB 2155, known casually as the ‘Spill Bill’, would consolidate and clarify the statutory authority for the Kansas Department of Health & Environment (KDHE) to manage The Spill Response Program and immediately react and clean up accidental spills of pollutants. According to KDHE, the bill would give clear direction on the threshold for responding to a spill release, assign responsibility, and levy fees. However, the concern from House Democrats and Kansas Sierra Club was that the bill exempts animal or crop waste or manure from being considered a ‘pollutant’ when ‘on an agricultural operation or in an agricultural facility’ and excludes ‘normal agricultural activities’ as far as the Spill Response Program goes. Obviously, we all know that animal and crop waste can pollute water resources. Thus, we were glad to hear KDHE confirm the Clean Water Act and Safe Drinking Water Act would still be enforced should the animal or crop waste were to leave the farm and impair water resources. Any abnormal agricultural events, like leaks or breaks in animal waste lagoons, would also trigger an emergency spill response. Kansas Sierra Club testified neutral at the bill’s Senate hearing to remind lawmakers that nonpoint pollution (notably caused by agricultural runoff) is still one of the major causes of harm to Kansas waters.

THANK YOU FOR YOUR ATTENTION AND COMMITMENT TO OUR ENVIRONMENT

Legislators: I am at your service for accurate information, partnership, and constituent support on all issues affecting the environment. Please reach out to me at the contact info below if I can be of any help.

Sierra Club members/supporters: Let me thank you for your help in encouraging our legislators to consider our views and stand up for our environment. Your financial support to the Kansas Chapter directly benefits our work in the Statehouse. I appreciate each of you. Your membership and participation in Sierra Club really makes a difference. If you have any questions or advice for me, or if I ever can be of service, please give me a call at the phone number below.

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The Sierra Club is the oldest and largest grassroots environmental organization dedicated to enjoying, exploring, and protecting our great outdoors. The Kansas Chapter represents our state’s strongest grassroots voice on all environmental matters for over forty years.