

SESSION OF 2012

**CONFERENCE COMMITTEE REPORT BRIEF  
SENATE SUBSTITUTE FOR HOUSE BILL NO. 2597**

As Agreed to May 11, 2012

**Brief**

Senate Sub. for HB 2597 would enact provisions of law relating to the disposal of solid waste generated by drilling of oil and gas well, through land-spreading and would change the process for holding money in trust for individual counties in the Oil and Gas Valuation Depletion Trust Fund.

**Provisions Relating to the Disposal of Solid Waste  
Generated by Drilling of Oil and Gas Wells through  
Land-spreading**

Senate Sub. for HB 2597 would amend KSA 65-3407(c), which allows for the Secretary of Health and Environment to authorize persons to carry out activities without a solid waste permit, which would include allowing the disposal of solid waste generated by drilling oil and gas wells through land-spreading. The land-spreading would be done in accordance with best management practices and maximum loading rates developed by the Secretary. For areas that receive more than 25 inches of precipitation annually, the disposal of solid waste through land-spreading would be required to be incorporated into the soil. Additionally, no land-spreading would be allowed to occur on any area where the water table is less than ten feet below the surface, or on an area where there is documented groundwater contamination, as determined by the Kansas Department of Health and Environment (KDHE).

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\*Conference committee report briefs are prepared by the Legislative Research Department and do not express legislative intent. No summary is prepared when the report is an agreement to disagree. Conference committee report briefs may be accessed on the Internet at <http://www.kslegislature.org/kldr>

For each land-spreading location, an application would be filed with KDHE and contain the location, soil characteristics, waste characteristics, waste volumes, drilling mud additives, and land-spreading method to be used on the land. A fee of \$250 would be assessed for each application. A land-spreading application would not be approved for the same location unless a minimum of three years had passed since the previous land-spreading occurred on that location. In addition, a post-land-spreading report would need to be filed once the land-spreading had been completed.

The Secretary of Health and Environment would enter into an agreement with the Kansas Corporation Commission (KCC) to administer the program, monitor compliance, and establish mechanisms for enforcement and remedial action. In addition, on or before January 1, 2014, the Secretary of KDHE, in coordination with the KCC, would be required to adopt rules and regulations governing land-spreading. In the development of rules and regulations, the Secretary and the KCC would seek the advice and comments from groundwater management districts and from other groups or persons who are knowledgeable and experienced in this subject matter. The KCC would be required to present a report on or before January 30, 2013, and January 30, 2014. The report would include information on the costs associated with the regulation of land-spreading, but would not be limited to this type of information. The report would be presented to the Senate Committee on Natural Resources, the Senate Committee on Ways and Means, the House Committee on Agriculture and Natural Resources, and the House Committee on Appropriations.

These provisions would be in effect upon publication in the *Kansas Register*, with the provisions expiring on July 1, 2015.

**Provisions Relating to the Process for Holding Money in Trust for Individual Counties in the Oil and Gas Valuation Depletion Trust Fund**

The bill would change the process for holding money in trust for individual counties in the Oil and Gas Valuation Depletion Trust Fund. Under current law, money credited to those trust accounts is held in the State Treasury until a county meets the statutory criteria for a distribution from its trust account.

The bill would annually transfer to each affected county the funds held in its trust account in the State Treasury. The bill would require each county that is to receive moneys from the Oil and Gas Valuation Depletion Trust Fund to establish a county oil and gas valuation depletion trust fund, to be administered by the County Treasurer. On October 1 of each year, the Director of Taxation, Kansas Department of Revenue, would certify the amount in each county's trust account within the State Treasury, and the State Treasurer would issue a warrant to the county for deposit by the County Treasurer in the county's Oil and Gas Valuation Depletion Trust Fund. The statutory criteria for a county to receive a distribution from the Trust Fund would not change.

The Director of Taxation would be directed to impose and collect an administrative fee equal to two percent of the amount credited to the Oil and Gas Valuation Depletion Trust Fund, prior to crediting any amounts to the individual trust accounts in the Fund.

All moneys in the Oil and Gas Valuation Depletion Trust Fund trust accounts on the effective date of the Act would be distributed to the applicable counties within 30 days of the effective date, for deposit in each county's Oil and Gas Valuation Depletion Trust Fund.

These provisions of the bill would become effective upon publication in the *Kansas Register*.

## **Conference Committee Action**

The Conference Committee deleted a provision which would have required that before submission of an application for land-spreading of drilling waste on a location that lies wholly or partially within a groundwater management district (GMD), the applicant would be required to receive approval from the GMD board of directors.

In addition, the Conference Committee added language which would require the Secretary of KDHE, in coordination with the KCC, to adopt rules and regulations governing land-spreading of waste generated by drilling oil and gas wells. The rules and regulations would be developed with the advice and comments from GMDs and other groups or persons who are knowledgeable and experienced in this subject area.

Further, the Conference Committee clarified that the report to the specified legislative committees not be limited to information concerning the implementation and status of land-spreading procedures and the costs associated with the regulation of land-spreading.

Finally, the Conference Committee added the provisions of HB 2624, relating to changing the process for holding money in trust for individual counties in the Oil and Gas Valuation Depletion Trust Fund.

## **Background**

### ***Background Relating to Senate Sub. for HB 2597***

The original HB 2597, as recommended by the Senate Committee on Agriculture, would have repealed statutes concerning agricultural seeds. The contents of the original version of HB 2597 were amended into HB 2604 by the Senate Committee of the Whole. HB 2597 was then referred to the Senate Committee on Natural Resources; the Senate Committee removed the original contents of the bill and

inserted the language of SB 375, as it left the Senate, into HB 2597.

SB 375 was introduced in anticipation of the increased horizontal drilling activity expected in Kansas. Proponents of SB 375 at the Senate Committee on Natural Resources hearing included the Director of the Bureau of Waste Management, KDHE, and the Director of the Conservation Division, KCC. The KDHE official stated the best management practices and maximum loading rates are already in place at the agency based on chloride levels, which have been developed in consultation with Kansas State University. Established best management practices include having adequate buffer zones and taking into account property lines, slope of land, waterways, and the drainage of the land. The maximum loading rate would be 900 parts per million, or a maximum application of two inches, with land-spreading not allowed on land that has a base load rate of approximately 500 parts per million. In addition, KDHE would identify irrigation water locations to ensure the irrigation water would not add chlorides to the field. Land-spreading would not be allowed if chloride levels in the irrigation water is over 300 parts per million.

The KCC official testified the Division of Conservation has the manpower to manage the program and perform the necessary inspections. The KCC official also noted the large amount of waste that horizontal drilling creates, which is often twice as much as the waste a vertical well creates. Both proponents noted other states have switched to land-spreading as an optimal method of dealing with the large quantities of waste, with the traditional methods being a large earthen pit or hauling the waste to a landfill site that would accept it.

There was no neutral or opponent testimony at the time of the Senate Committee hearing.

The Senate Committee added several amendments to the bill, which included:

- Updating language that describes the solid waste generated by drilling oil and gas wells;
- Adding language which states for any area that annually receives more than 25 inches of precipitation, as determined by KDHE, the solid waste disposed of by land-spreading shall be incorporated into the soil. No land-spreading may occur on any area where the water table is less than ten feet or on any area where there is documented groundwater contamination, as determined by KDHE;
- Including "drilling mud additives" as part of the content required on an application to KDHE for land-spreading;
- Requiring the KCC to present a report on the costs associated with the regulation of land-spreading to various committees;
- Changing the effective date to upon publication in the *Kansas Register*, and
- Technical amendments.

The Senate Committee on Natural Resources removed the contents of HB 2597, inserted the contents of SB 375 as it left the Senate, and adopted the bill as a substitute bill.

The Senate Committee of the Whole amended the bill to include approval of a GMD board of directors before submitting an application for land-spreading waste on a location that lies wholly or partially within a GMD.

The fiscal note provided by the Division of the Budget on SB 375 states the KCC estimates that 100 applications would be received in FY 2013. This would result in \$25,000 in revenue that would be deposited to the Conservation Fee Fund and \$25,000 in expenditures to ensure prevention of

surface and subsurface water pollution and soil pollution from land-spreading activities. Any fiscal effect associated with the bill is not reflected in *The FY 2013 Governor's Budget Report*. The fiscal note on HB 2597 is not applicable to the substitute bill.

***Background Relating to HB 2624***

A Thomas County Commissioner testified in support of the bill in his capacity as President of the Kansas Legislative Policy Group. He discussed the history and purpose of the Oil and Gas Valuation Depletion Trust Fund and stated that the bill would protect and reserve the funds for their intended purpose, secure their long-term future, and separate them from potential fund sweeps. The Kansas Association of Counties provided written testimony in support of the bill.

There was no testimony in opposition to the bill.

The fiscal note prepared by the Division of the Budget estimated the bill would have no fiscal effect on State General Fund revenues. The fiscal note further indicated the Department of Revenue would collect approximately \$404,000 in fee revenue on the current balance of \$20.2 million in the Trust Fund, and would collect two percent of any future distributions.

disposal of solid waste; oil and gas wells; land-spreading; Oil and Gas Valuation Depletion Trust Fund; groundwater contamination;

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