

SESSION OF 2012

SUPPLEMENTAL NOTE ON SENATE BILL NO. 357

As Amended by Senate Committee of the Whole

Brief*

SB 357, as amended, would revise KSA 2-2004 to allow a local conservation district to serve as an advisory board to the board of county commissioners regarding complaints of wind erosion. Additionally, the bill would require local conservation districts, when making recommendations, to use the Natural Resource Conservation Service's (NRCS) field office technical guide. At their discretion, local conservation districts also could request technical assistance from the NRCS.

Upon receiving a complaint that dust, any plant, or weed is blowing from any particular land in the county, a board of county commissioners would first inspect the land to determine if there is any extreme and immediate physical danger to public safety. If an extreme and immediate physical danger is found, the board of county commissioners would order corrective action, which would include any recognized method of dust control in NRCS's field office technical guide. If no danger were found, the board of county commissioners would refer the complaint to the local conservation district.

The local conservation district then would have the authority to hear any complaint and any response from the owner or tenant of the land at issue. The local conservation district would be allowed to act only in an advisory capacity and would make a recommendation based on any consultation it chose to have with NRCS and on the NRCS field office technical guide. A conservation district also would be required to look at whether the land at issue is in

*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>

compliance with a conservation plan promulgated by the owner under federal law. The conservation district would recommend no corrective action if the land in question already was in compliance with a federally-created conservation plan.

Upon receipt of a written recommendation from the conservation district, the board of county commissioners would schedule to review the recommendation at a regularly scheduled meeting. All parties involved would be notified in writing of the meeting with no less than ten days' notice. The board of county commissioners then would accept or reject the recommendation of the conservation district. If the recommendation is rejected, the board of county commissioners could request the conservation district to develop an alternative recommendation which the board could accept or reject. If the board of county commissioners orders corrective action, it would be required to work with the landowner to a reasonable extent and, if needed, would have the authority to do the work itself or employ another individual.

Background

The bill arose out of a situation in Riley County where county commissioners were frustrated with current law, as there are no science-based standards in the statutes which could provide commissioners in more urban counties with some guidance. Proponents of the bill included the Riley County Counselor; Chairman of the Riley County Commissioners; and representatives of the Division of Conservation at the Kansas Department of Agriculture, Kansas Farm Bureau, Kansas Association of Conservation Districts, and the Kansas Association of Counties.

Proponents of the bill stated incorporating scientific standards into the process would protect local county commissioners and local agricultural producers, as it would give the county commissioners some authority and basis

upon which to make decisions. The Kansas Farm Bureau noted farmers would benefit from using scientific methods as, currently, numerous boards of county commissioners do not have farming expertise, whereas local conservation districts already provide comprehensive planning and guidance to landowners and other entities on soil erosion.

Additionally, a representative of the Division of Conservation with the Kansas Department of Agriculture noted conservation districts already serve in an advisory role and assigning them the task of making recommendations would fit into their existing duties. The actual regulatory authority would be left with the boards of county commissioners. The representative of the Kansas Association of Conservation Districts also noted its membership had voted unanimously to support the bill.

A representative of the Kansas Livestock Association testified in opposition to the bill, stating the organization does support the bill, as amended, but it opposes environmental regulation not based on sound science. Their support of the amendments stem from their belief that most farmers today already have conservation plans in place.

The Senate Committee on Agriculture amended the bill to allow any recognized method of dust control contained in the NRCS field office technical guide to be used as corrective action. Additionally, the Committee added language to require a conservation district to first look at whether a land owner is in compliance with a federal conservation plan before making recommendations. The language would also prohibit a conservation district from recommending corrective action if the landowner were in compliance with the conservation plan. Finally, the Committee added language which would give the board of county commissioners the option of requesting an alternative recommendation from the local conservation board if they felt that corrective action was necessary, but not the corrective action originally recommended by the conservation district.

The Senate Committee of the Whole adopted two amendments to the bill. The first amendment was technical in nature, striking reference to a fund that no longer exists. The second amendment added language stating the board of county commissioners may assess the costs of any corrective action ordered against the owner, the complaining party, or both the owner and complaining party. In addition, for good cause shown, the board may divide the costs between the land owner, the complaining party, and the county.

The Division of the Budget's fiscal note stated SB 357 addresses local issues and would have no fiscal effect on state operations.