

SESSION OF 2012

**SUPPLEMENTAL NOTE ON SENATE SUBSTITUTE FOR
HOUSE BILL NO. 2597**

As Recommended by Senate Committee on
Natural Resources

Brief*

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).

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.

*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>

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, the KCC would be required to present a report on or before January 30, 2013, and January 30, 2014, on the costs associated with the regulation of land-spreading. 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.

The bill would be in effect upon publication in the *Kansas Register*.

Background

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 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.