

SESSION OF 2015

SUPPLEMENTAL NOTE ON HOUSE BILL NO. 2193

As Amended by Senate Committee on Natural
Resources

Brief*

HB 2193, as amended, would establish the voluntary Risk Management Program and amend law regarding the Voluntary Cleanup and Property Redevelopment Act.

Voluntary Risk Management Program

The bill would establish the Voluntary Risk Management Program (Program), which would be administered by the Kansas Department of Health and Environment (KDHE) for low-risk contaminated sites. The bill also would create the Risk Management Fund (Fund).

Responsible parties who choose to participate in the Program would enter into an enforceable agreement with KDHE to carry out remediation activities agreed to in a risk management plan and would pay a one-time fee of at least \$2,500 which would be deposited in the Fund. The Fund could be used to administer the Program and perform necessary remediation activities if one of the sites in the Program were to become orphaned (no responsible party) in the future. A risk management plan could be terminated if KDHE determined the plan was no longer necessary.

The Secretary of Health and Environment would be required to adopt rules and regulations to implement the provisions of the Program.

*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>

Voluntary Cleanup and Property Redevelopment Act

The bill would amend the Voluntary Cleanup and Property Redevelopment Act (Act), which is administered by the KDHE, Bureau of Environmental Remediation. The bill would make the following changes:

- Allow KDHE to issue a determination that no further remedial action is needed at a site based on the results of a risk analysis that evaluates the property and surrounding properties as a whole. Under existing law sites cannot be closed if contamination exceeds state standards, regardless of the risk to human health or the environment;
- Add a requirement that the voluntary cleanup plans and associated documents be available for public review upon request, as well as indexed and posted on the KDHE website, upon determination by KDHE that a voluntary cleanup plan is acceptable, for at least five years after the determination that no further remedial action is needed at the site;
- Allow KDHE to issue a nearby, non-responsible property owner who had contamination migrate to their property, a determination that no further remedial action is needed even if the party responsible for the contamination is not in the state cleanup program; and
- Eliminate the requirement for KDHE to determine which environmental consulting companies are qualified to prepare environmental assessments for the Voluntary Cleanup Program.

Background

The Senate Committee on Natural Resources added the provisions of HB 2177, as amended by the Senate Committee, to the provisions of HB 2193.

HB 2193

The bill was introduced by the House Committee on Energy and Environment.

Proponents testifying on the bill in the House Committee included representatives of KDHE, the Kansas Grain and Feed Association, Boettcher Enterprises, Inc., and GSI Engineering, Inc. Written testimony in support of the bill was received from Shepard Engineering, Inc. The proponents stated the risk management plan would be a tool for closing low-risk sites that still have contamination above cleanup standards, but pose little risk to human health or the environment. The Program provides flexibility for responsible parties who, despite reasonable efforts, are unable to reduce contamination levels to the cleanup standard. There was no neutral or opponent testimony.

At the Senate Committee hearing on the bill, proponents included representatives of KDHE, Kansas Grain and Feed Association, Kansas Agribusiness Retailers Association, Kansas Cooperative Council, GSI Engineering, Boettcher Enterprises, Inc., Burns and McDonnell, Shepard Engineering, Inc., and Allied Environmental Consultants, Inc. There was no neutral or opponent testimony.

The Senate Committee amended the bill by adding the provisions of HB 2177, as amended by the Senate Committee. In addition, the Senate Committee gave latitude to the Office of the Revisor of Statutes staff to make any technical corrections needed.

The fiscal note prepared by the Division of the Budget on HB 2193, as introduced, states KDHE does not anticipate expenditures to increase in either FY 2016 or FY 2017 because expenditures would be made only if a site previously in the Program subsequently became orphaned. A fee fund revenue increase of \$60,000 is estimated for FY 2016, based on the assumption 20 properties would make a one-time payment of \$3,000 to enroll in the Program.

HB 2177

KSA 65-34,161, *et seq.*, the Voluntary Cleanup and Redevelopment Act, applies to property where environmental cleanup may be needed. Properties eligible for the Voluntary Cleanup Program generally do not represent an immediate danger to human health or the environment.

The bill was introduced by the House Committee on Energy and Environment. At the hearing in the House Committee on Local Government, testimony in support of the bill was provided by representatives of KDHE, the Kansas Grain and Feed Association, Boettcher Enterprises, Inc., and Kennedy/Jenks Consultants. Written testimony in support of the bill was provided by GSI Engineering, Shepard Engineering, Inc., Allied Environmental Consultants, Inc., and the American Council of Engineering Companies of Kansas.

Proponents said statutory changes were necessary to provide KDHE flexibility to issue a determination that no further action is needed for sites that pose little risk to human health or the environment. KDHE stated there has been little interest in the public notices posted in the last 14 years. A stakeholder group convened by KDHE to review the enabling act noted KDHE does not need to qualify the environmental professionals who perform environmental assessments for the Program, because those professionals are licensed by the Board of Technical Professions. There was no neutral or opponent testimony on the bill.

The House Local Government Committee amended the bill to require KDHE to index plans and associated documents and post the plans and documents on the KDHE website for at least five years after the determination that no further remedial action is needed at the site.

The Senate Committee received proponent testimony from representatives of KDHE, Kansas Grain and Feed Association, Kansas Agribusiness Retailers Association, Kansas Cooperative Council, GSI Engineering, Boettcher Enterprises, Inc., Kennedy/Jenks Consultants, American Council of Engineering Companies, Shepard Engineering, Inc., and Allied Environmental Consultants. There was no neutral or opponent testimony on the bill.

The Senate Committee amended the bill by adding language clarifying that cleanup plans and associated documents should be posted on the KDHE website upon determination by KDHE that a voluntary cleanup plan is acceptable. The Senate Committee also amended the bill to maintain existing law regarding public notice in local newspapers that had been stricken by the bill, as introduced. The contents of HB 2177 were then amended into HB 2193.

The fiscal note prepared by the Division of the Budget on the introduced version of HB 2177 indicates passage of the bill would have no fiscal effect on KDHE.