

SESSION OF 2017

**CONFERENCE COMMITTEE REPORT BRIEF
HOUSE SUBSTITUTE FOR SENATE BILL NO. 60**

As Agreed to May 10, 2017

Brief*

House Sub. for SB 60 would extend the sunset for certain fees assessed by the Kansas Department of Agriculture (KDA) on pesticides, fertilizer, and milk, cream, and dairy products. Additionally, the bill would reinstate certain dam inspections fees and allow the KDA to assess a fee for processing certain paper documents when an electronic alternative for submission exists. Finally, the bill would require the Secretary of Agriculture (Secretary) to lower certain fees and potentially raise certain fees through rules and regulations, if certain criteria are met.

Pesticide and Fertilizer Fees

The bill would extend the sunset for certain pesticide and fertilizer fees from July 1, 2015, to July 1, 2023. The following table outlines the program, the specific fee, the amount the fee most would revert to on July 1, 2018, under current law and the fee amount which would be extended.

*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>

**Modifications to Certain Fees of the Kansas Department
of Agriculture**

Program	Service	Amount the Current Fee Would Revert to on July 1, 2018	Extended Fee under Bill
Pesticide & Fertilizer	Failure to file affidavit and pay inspection fees	\$5 per day	\$10 per day
Pesticide & Fertilizer	Business License Application	\$112 per category	\$140 per category
Pesticide & Fertilizer	Uncertified Applicator Registration	\$10	\$15
Pesticide & Fertilizer	Government Agency Registration	\$35 maximum	\$50 maximum
Pesticide & Fertilizer	Pest Control Technician Registration	\$25 maximum	\$40 maximum
Pesticide & Fertilizer	Commercial Certification Examination per category and re-exam per category	\$35 maximum	\$45 maximum
Pesticide & Fertilizer	Certified Private Applicator Certificates	\$10 maximum	Fee fixed by rule and regulation
Pesticide & Fertilizer	Chemigation User Permit	\$55	\$75
Pesticide & Fertilizer	Chemigation User Permit for additional points of diversion	\$10	\$15
Pesticide & Fertilizer	Chemigation Equipment Operator Certification or renewal	\$10	\$25
Water Appropriations	Application for a permit to appropriate water based on acre feet	\$100 \$150 \$150+\$10	\$200 \$300 \$300+\$20
Water Appropriations	Application for a permit to appropriate water for storage based on acre feet	\$100 \$100+\$10 for each additional 250	\$200 \$200+\$20 for each additional 250
Water Appropriations	Application to change a point of diversion less than 300 feet	\$50	\$100
Water Appropriations	Application to change a point of diversion more than 300 feet	\$100	\$200
Water Appropriations	Application to change the place of use	\$100	\$200

Program	Service	Amount the Current Fee Would Revert to on July 1, 2018	Extended Fee under Bill
Water Appropriations	Application to change the use made of water	\$150	\$300
Water Appropriations	Term permit based on acre feet	\$100 \$100 \$150+\$10 for each additional 100	\$200 \$300 \$300+\$20 for each additional 100
Water Appropriations	Term permit for storage based on acre feet	\$100 \$100+\$10 for each additional 250	\$200 \$200+\$20 for each additional 250
Water Appropriations	Reinstatement Request	\$100	\$200
Water Appropriations	Extension of time for diversion work or perfection of water right	\$50	\$100
Water Appropriations	Temporary permit or extension	\$100	\$200

The bill would require the Secretary, through rules and regulations, to reduce the fee for registrations of agricultural chemicals and commercial fertilizers whenever it is determined the fee is yielding more revenue than is necessary for the administration of the registration program for a period of not less than one year. It also would allow the Secretary to increase the fee through rules and regulations when the Secretary determines there is a need to produce sufficient revenue to administer the program. The bill would require \$100 of any registration fee be credited to the State Water Plan Fund regardless of the registration fee imposed by the Secretary.

In addition, the bill would authorize fees for inspection of Class 1 and Class 2 dams that are conducted by the Chief Engineer or an authorized representative in the amount of \$1,500.

Milk, Cream, and Dairy Fees

The bill also would extend the sunset to June 30, 2023, on several fees imposed by the Secretary in relation to milk, cream, and dairy businesses. The following table outlines the fee, the amount the fee would revert to on July 1, 2018, and the fee amount that would be extended.

Modifications to Statutory Language Imposing Certain Fees by the Kansas Department of Agriculture

Fee	Amount the Current Fee Would Revert to on July 1, 2018	Extended Fee under Bill
Dairy Manufacturing Plant License	\$120	\$200
Milk Distributor License	\$120	\$200
Milk Hauler License	\$25	\$35
Milk or Cream Transfer Station License	\$50	\$100
Single Service Manufacturing License	\$50	\$100
Grade A Inspection - Milk Producer	\$.01 per 100 pounds of milk produced	\$.015 per 100 pounds of milk produced
Grade A Inspection - Packaged Milk or Milk Products Sold in Kansas at Retail	\$.01 per 100 pounds	\$.02 per 100 pounds
Grade A Raw Milk for Pasteurization	\$.01 per 100 pounds	\$.02 per 100 pounds
Milk or Cream for Manufacturing Purposes - Produced by Milk Producers	\$.01 per 100 pounds	\$.015 per 100 pounds
Milk or Cream for Manufacturing Purposes - Delivered to Dairy Manufacturing Plant	\$.0075 per 100 pounds	\$.02 per 100 pounds
Kansas-Manufactured Frozen Dairy Dessert or Frozen Dairy Dessert Mix	\$1 per 1,000 gallons	\$2 per 1,000 gallons
Imported Frozen Dairy Dessert or Frozen Dairy Dessert Mix	\$1 per 1,000 gallons	\$2 per 1,000 gallons

The bill also would amend two current exemptions from inspection fees. Under current law, any manufacturing plant located on a dairy is exempted from paying the fees for delivering Grade A raw milk for pasteurization or for delivering milk or cream for manufacturing purposes. The bill would

amend that exemption to include only dairies where less than 7.0 million pounds of milk is processed annually. This revised exemption would go into effect on January 1, 2018.

The bill would require the Secretary, through rules and regulations, to reduce any dairy license or inspection fee whenever it is determined the fee is yielding more revenue than is necessary for the administration of the registration program. It also would allow the Secretary to increase the fee through rules and regulations when the Secretary determines there is a need to produce sufficient revenue to administer the program.

Paper Document Processing Fee

Finally, the bill would authorize the Secretary to charge and collect, by order, a fee necessary for administering and processing paper documents, but only if an electronic option is available for submitting the documents. The fee would be in addition to any fee the Secretary is authorized to charge by law and would be equal to 6.0 percent of the cost to obtain a specific license, but could not exceed \$50.

Conference Committee Action

The Conference Committee agreed to the following:

- Include the provisions of House Sub. for SB 60 (which includes provisions introduced in SB 61);
- Reinsert language and make consistent throughout the bill language regarding the requirement of the Secretary to lower certain fees when it is determined the fee is producing more revenue than is needed and potentially raise certain fees if it is determined additional revenue is necessary to administer provisions of statute;

- Require \$100 of any chemical registration fee be credited to the State Water Plan Fund regardless of the registration fee imposed by the Secretary; and
- Set the fee for the processing of a paper document to equal 6.0 percent of the cost to obtain a specific license, with a maximum fee of \$50.

Background

SB 60

Senate

The bill was introduced by the Senate Committee on Agriculture and Natural Resources at the request of a spokesperson from the KDA.

At the Senate Committee hearing on the bill, a spokesperson from KDA testified in support of the bill and described its original content. Appearing as a neutral conferee was a spokesperson jointly representing the following organizations: Kansas Agribusiness Retailers Association, Kansas Cooperative Council, and Kansas Grain and Feed Association. The conferee indicated the groups he represented were neutral on the bill, but had the following concerns: some of the fees were higher than some of those in surrounding states; the State Water Plan Fund has not been receiving statutory transfers from the State General Fund and the Economic Development Initiatives Fund; and the bill as introduced proposed to raise the amount of administrative fee that the KDA could receive for administration of the Agricultural Chemical Remediation Reimbursement Program. No opponent testimony was provided.

The Senate Committee on Agriculture and Natural Resources amended the bill to:

- Delete proposed language that would have given authority to the Secretary to charge and collect the amount of money necessary to administer the Fertilizer Registration Program [*Note*: The Conference Committee retained this amendment.];
- Delete provisions that would have allocated the fertilizer registration moneys on a percentage basis to the State Water Plan Fund, the Fertilizer Research Fund, and for administration of the agency's program [*Note*: The Conference Committee retained this amendment.];
- Add a provision that would allocate \$1.35 rather than \$1.40 of the fertilizer registration fee to the State Water Plan Fund;
- Add language that would require the Secretary to reduce the inspection fee on fertilizer whenever the fee is yielding more than is necessary for administration [*Note*: The Conference Committee retained this amendment.];
- Add language that would allow the Secretary to increase the inspection fee on fertilizer whenever the fee does not raise adequate revenue to administer the program [*Note*: The Conference Committee retained this amendment.];
- Add language similar to the language above to reduce and increase the fee on agricultural chemicals (pesticides) depending upon the ability of the Secretary to administer the program regarding agricultural chemicals [*Note*: The Conference Committee retained this amendment.];
- Add language requiring \$100 of the agricultural chemical registration fee be credited to the State Water Plan Fund regardless of the amount of the

registration fee [*Note*: The Conference Committee retained this amendment.];

- Delete proposed language that would have allowed the Secretary to charge and collect an amount necessary for the purpose of covering costs for the Agricultural Chemical Remediation Reimbursement Program;
- Add language to limit the maximum amount the Secretary may charge for administration of the Agricultural Chemical Remediation Reimbursement Program from \$150,000 to \$180,000; and
- Clarify the new inspection fees for Class 1 and Class 2 dams would be for those inspections conducted by the Chief Engineer or a designee of the Chief Engineer [*Note*: The Conference Committee retained this amendment.].

House

At the House Committee on Agriculture hearing, a spokesperson from KDA testified in support of the bill and described its content as amended by the Senate Committee.

Appearing as a neutral conferee was a spokesperson jointly representing the following organizations: Kansas Agribusiness Retailers Association, Kansas Cooperative Council, and Kansas Grain and Feed Association. The conferee stated the organizations were pleased with the Senate Committee changes to the bill pertaining to the Kansas Agricultural Remediation Board's authority to reimburse the KDA for administrative expenses. The League of Kansas Municipalities also presented neutral testimony, and a representative of WaterOne submitted written-only neutral testimony. No other testimony was provided.

During its work on the bill, the House Committee recommended the creation of House Sub. for SB 60, incorporating language pertaining to certain fertilizer tonnage fees, dam inspection fees, and fee sunset dates. Additionally, the House Committee amended House Sub. for SB 60 by inserting the contents of SB 61 as amended by the House Committee.

Unlike the original bill and the bill as amended by the Senate Committee, the substitute bill would make no changes to certain fund remittance amounts made by the State Treasurer for tons of commercial fertilizer sold. The bill, as introduced, would have changed the dollar amount defined in statute to percentages, and the bill as amended by the Senate Committee would have reduced the amount remitted to the State Water Plan Fund from \$1.40 per ton (current law) to \$1.35 per ton of commercial fertilizer sold.

Fiscal Information

The fiscal note prepared by the Division of the Budget on SB 60, as introduced, indicates enactment of the bill would give the KDA authority to directly offset administrative costs associated with the services described in the original bill from fee receipts. Currently, the agency is paying 100.0 percent of the charges assessed for online fees and registrations, although the agency's share of the fee receipts is much less. The fiscal note states the original bill would allow the agency to distribute the online charges to the other entities for which KDA is receipting money, such as the Kansas Water Office, Kansas State University, and the Kansas Agricultural Remediation Board. This would reduce KDA expenditures from its fee funds by \$54,507 in FY 2018 and \$81,761 in FY 2019. These amounts are based on a 50.0 percent online renewal adoption rate in FY 2018 and a 75.0 percent online renewal adoption rate in FY 2019. The agency estimates enactment of the bill would increase fee fund receipts for dam inspections by \$21,000 in FY 2018 and \$7,500 in FY 2019. An updated fiscal note on House Sub. for SB 60 was not immediately available.

SB 61

Senate

The bill was introduced by the Senate Committee on Agriculture and Natural Resources at the request of the KDA. At the Senate Committee hearing on the bill, a representative of KDA testified in support of the bill. According to the representative, the difference between the current fees and the sunset fees was approximately 21.0 percent of the Dairy and Feed Safety budget within KDA.

At the same hearing, a representative of the Kansas Livestock Association (KLA) testified in opposition to the bill, but stated KLA could support the bill, if amended. The

representative proposed reducing the extension of the sunsets from ten years (June 30, 2028) to five years (June 30, 2023). In addition, the representative proposed revising the current exemption for manufacturing plants located on dairies by allowing only small-scale producers to retain the exemption. No neutral testimony was offered at the hearing.

During its work on the bill, the Senate Committee adopted the following amendments:

- Reduce the time period of extension of sunsets from June 30, 2028, to June 30, 2023 [*Note*: The Conference Committee retained this amendment.];
- Amend existing fee exemption for manufacturing plants located on dairies to include only dairies producing less than 6.0 million pounds of milk annually;
- Specify the effective date of the amended exemption regarding manufacturing plants located on dairies as January 1, 2018;
- Require the Secretary to reduce any license or inspection fee through administrative rules and regulations if the fee is producing more revenue than is needed to administer the provisions of the statute [*Note*: The Conference Committee retained this amendment.];
- Clarify language regarding the Secretary's authority to raise a license or inspection fee through administrative rules and regulations [*Note*: The Conference Committee retained this amendment.]; and
- Eliminate Sec. 3 of the bill, which would have authorized the Secretary to collect a fee of up to \$50 for the processing of paper documents.

House

At the House Committee on Agriculture hearing, the KDA and KLA testified in favor of the bill. The KDA requested that language removed by the Senate pertaining to charging a fee for paper processing of applications be reinserted into the bill. The KLA representative noted they supported the bill, as amended by the Senate Committee. No other testimony was provided.

The House Committee adopted the following amendments:

- Change the sunset of several milk and dairy fees from June 30, 2028, to June 30, 2023 [*Note*: The Conference Committee retained this amendment];
- Insert language allowing the KDA to charge and collect a \$50 fee for the administration and processing of paper applications, registrations, permits, licenses, certifications, and renewals when an electronic option exists to submit such documents [*Note*: The Conference Committee retained and further amended this section.];
- Amend fee exemption for manufacturing plants located on dairies to include only dairies producing less than 7.0 million pounds of milk annually [*Note*: the Conference Committee retained this amendment.]; and
- Clarify that provisions of the act will take effect on or after January 1, 2018 [*Note*: The Conference Committee retained this amendment.].

Fiscal Information

According to the fiscal note prepared by the Division of the Budget on SB 61, as introduced, KDA indicates a failure

to extend the fee sunsets included in the bill would result in the loss of approximately \$278,000 in fee fund revenues, annually.

agriculture; pesticides; fertilizer; milk; cream; dairy; dam; inspection; pet animal; fees

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