

SESSION OF 2020

SUPPLEMENTAL NOTE ON SENATE BILL NO. 423

As Recommended by Senate Committee on
Ethics, Elections and Local Government

Brief*

SB 423 would establish the Sedgwick County Urban Area Nuisance Abatement Act (Act). The bill would state Sedgwick County has been declared an urban area.

The bill would authorize the board of county commissioners (board) to order the removal or abatement of any nuisance from any property in the unincorporated area of Sedgwick County (county). All costs associated with the abatement would be the responsibility of the property owner. Before the abatement process could begin, the bill would require the county to first obtain a conviction for a county code violation regarding the nuisance no more than 12 months before the issuance of the abatement order.

The bill would state the Act shall not apply to any land, structures, machinery, equipment, or vehicles used for agricultural purposes.

Abatement Process

To begin the abatement process, the bill would require the board, or board-designated agency, to file a statement with the Sedgwick County clerk describing the nuisance and declaring it a menace and health risk to county residents. The bill would authorize the board to issue an order requiring the nuisance to be removed or abated. The bill would require the order to provide a minimum of ten days (as specified in the

*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>

order) for the owner to remove and abate the nuisance; the board would be empowered to grant extensions to the time period in question. The property owner would also be provided the right to request a hearing before the board if the request is made prior to the end of the waiting period or any extension.

The abatement order would be sent to the owner or agent of the property by certified mail or by personal service. Certified mail to the last known address of the property owner would be required if the property is unoccupied and the owner is a nonresident. The bill would, if the owner or agent fails to accept delivery or effectuate receipt during a preceding 24-month period, authorize the board to use alternative notification methods such as, but not limited to, door hangers, telephone communications, or first class mail. Telephone communication or first class mail would be required if the property is unoccupied and the owner is a nonresident.

If the owner or agent of the property fails to abate the nuisance before the time limit stated in the abatement order, the board would be authorized to order the repair or demolition of any structure and have items described in the order removed and provide notice to the owner or agent of the owner by certified mail that the abatement has occurred and include the total cost of the abatement incurred by the county. The bill would require the notice to state payment for the abatement to the county would be due and payable no later than 60 days of the mailing of the notice. If payment is not made within the 60-day period, the county would be authorized to assess the cost of the abatement to the lot or parcel of land on which the nuisance was located. The bill would require the county clerk to certify the costs and extend the cost on the tax roll against the lot or parcel of land.

County Abatement Costs

The bill would state, when assessing the cost of removal or abatement of a nuisance, the county shall subtract the

value of the property that was removed or abated from the total cost of the abatement or removal. If the value of the property removed or abated is greater than the total cost of the removal or abatement, the bill would require the county to pay the property owner the difference.

A property owner who contests the value of the property would be allowed to request a hearing before the board or its designated representative prior to the deadline for payment of removal or abatement costs to the county.

Motor Vehicles

The bill states the county would be authorized to remove a motor vehicle determined to be a nuisance except when the vehicle is on public property or property open to the public. The county would be authorized to impound and auction vehicles removed by this process under provisions of continuing law. The bill would state an individual who purchases a vehicle in this manner may file proof of purchase with the Division of Vehicles (Division) in order to receive the title to the vehicle purchased. If no bid is received during the auction, the county is authorized to file proof with the Division and be issued the title in the county's name.

Any individual whose vehicle is sold *via* this process would be eligible for a refund of the tax imposed and the refund would be determined as provided in continuing law.

Background

The bill was introduced by the Senate Committee on Ways and Means.

In the Senate Committee on Ethics, Elections and Local Government hearing, a Sedgwick County commissioner and a representative of the Wichita-Sedgwick County Metropolitan Area Building and Construction Department provided

proponent testimony. They stated the bill was necessary to allow Sedgwick County to address nuisances that are within urban areas but outside the jurisdiction of the City of Wichita. They further stated the bill is similar to the powers currently provided within the Kansas statutes for cities. No other testimony was provided.

The *Kansas Constitution*, in Article 2, Section 17, a section stating all laws of a general nature shall have uniform operation throughout the state, authorizes the Legislature to designate as urban areas counties that have become urban in character and to enact special laws giving to any one or more of those counties powers the Legislature may deem proper.

According to the fiscal note prepared by the Division of the Budget on the bill, the Kansas Association of Counties states enactment of the bill could have a fiscal effect on Sedgwick County, but the costs are unknown.