

**Pesticide Waste Disposal; Division of Conservation; State Conservation
Commission;
SB 38**

SB 38 establishes a pesticide waste disposal program and adds and amends law regarding the roles of the Division of Conservation (Division) within the Kansas Department of Agriculture (KDA) and the State Conservation Commission (Commission).

The bill takes effect upon publication in the *Kansas Register*.

Kansas Pesticide Waste Disposal Program

The bill establishes the Kansas Pesticide Waste Disposal Program (Program) that will be administered by the Secretary of Agriculture (Secretary) for the collection and disposal of pesticide waste in the state. The bill also creates in the State Treasury the Kansas Pesticide Waste Disposal Fund (Disposal Fund) to be used for the Program.

The bill requires all moneys credited to the Disposal Fund to be used by the Secretary for the Program and all expenditures from the Disposal Fund will be made in accordance with appropriation acts upon warrants of the Director of Accounts and Reports issued after vouchers are approved by the Secretary.

The bill authorizes the Kansas Agricultural Remediation Board (Board) to approve an annual transfer of moneys from the Kansas Agricultural Remediation Fund (Remediation Fund) to the Disposal Fund in an amount not exceeding \$50,000 in any calendar year.

The bill requires the Secretary to submit to the Board on or before January 1 of each year a report regarding the annual expenditures made from the Disposal Fund.

The bill also requires the Director of Accounts and Reports to transfer from the State General Fund to the Disposal Fund interest earnings based on the average daily balance of moneys in the Disposal Fund for the preceding month and the net earnings rate of the pooled money investment portfolio for the preceding month.

The bill adds definitions for “Kansas Pesticide Waste Disposal Fund,” “Kansas Pesticide Waste Disposal Program,” “pesticide,” and “pesticide waste.” The bill also amends law regarding the Remediation Reimbursement Program to allow that program to provide funding to the new Program.

Division of Conservation and State Conservation Commission Statutory Changes

The bill adds and amends law regarding the roles of the Division within the KDA and the Commission.

[*Note:* In 2011, Executive Reorganization Order No. 40 moved the Commission within the KDA.]

Definitions

The bill amends the definitions of “Commission,” “Division,” and “United States or agencies of the United States” and adds definitions of “Director,” “invasive plant species,” and “Secretary.”

State Conservation Commission Membership and Oversight

The bill requires the Dean of the Kansas State University College of Agriculture to appoint two designees to serve on the Commission as non-voting members, with one representing an agricultural experiment station and the other representing the cooperative extension service. The Secretary is required to request the U.S. Secretary of Agriculture appoint one resident of Kansas to serve as a non-voting member of the Commission.

The bill requires the Commission to work with the Division to make certain conservation program policy decisions to be approved by the Secretary, including on current and new programs and annual budget recommendations.

Rules and Regulations

The bill requires the Division to submit rules and regulations to the Commission for consideration and comment before officially submitting the rules and regulations in accordance with state law. The bill also requires the Commission to review all rules and regulations proposed by the Division that are necessary for the Division to execute its functions under the law.

Conservation Districts

The bill allows for the removal of a conservation district supervisor by the Secretary in consultation with the Commission, after certain actions found in continuing law.

The bill authorizes conservation districts to control invasive species and operate projects for soil and grassland health and water quality. The bill also allows appropriations to be made for grants out of state funds for these added powers. The bill allows the Director of the Division (Director) to update any applicable standards as necessary for continued success of the federal Conservation Reserve Program.

In addition, the bill authorizes conservation districts to take over projects *via* gift or donation. The bill clarifies that in these projects, the conservation district’s action will be subject to the authority of the authorizing state or federal agency.

Program Oversight

The bill makes the following changes regarding various program oversight responsibilities, replacing certain references to reflect the current structure of the Commission within the KDA:

- “Commission” to “Director”;
- “Commission” to “Division”;
- “Commission” to “Division, in consultation with the Commission”;
- “Commission” to “KDA Division”;
- “Commission” to “Secretary”;
- “Director” to “Secretary”;
- “His or her office,” in reference to the Secretary of State, to the “Secretary of State’s office”;
- “Kansas Department of Agriculture Division of Conservation” to “Division”;
- “State Soil Conservation Committee” and “committee” changed to “Division”; and
- “With the approval of the Commission” changed to “Secretary, at the request of the Director.”

The bill also requires the Division to consult with the Commission regarding an annual base rate for the Water Right Transition Assistance Program.

Penalties, Violations, and Final Orders

The bill prohibits any civil penalties or orders for repayment to be imposed for violations of the Kansas Water Right Transition Program except under written order of the Secretary or the Secretary’s designee. The bill requires the order to state the violation, imposed penalty, and the right to an appeal. Within 15 calendar days of notification, any person could make a written request to the Secretary for a hearing in accordance with the Kansas Administrative Procedure Act. The Secretary will affirm, reverse, or modify the order and specify the reason for the decision. Any person aggrieved by an order of the Secretary under this section of the bill can appeal the order to the district court in a manner provided by the Kansas Judicial Review Act.

The bill requires the Secretary, upon the Director’s request, to issue a written order stating the nature of the violation, the imposed penalty, and the right of the person to appeal to the Secretary for violations of surface mining land conservation and reclamation laws.

In addition, the bill requires the Secretary, upon the Director’s request, to institute a proceeding for forfeiture of a bond posted by an operator to guarantee reclamation of a site where the operator is in violation of surface mining land conservation reclamation laws once an issued order becomes a final order.

Statutory Repeal

The bill repeals KSA 49-619, which concerns surface mining land conservation and reclamation violation hearings, conduct, bond forfeiture proceedings, and duties of the Attorney General. [Note: Provisions for violation hearings and bond forfeiture proceedings are moved within the bill.]