

State Sovereignty; Lesser and Greater Prairie Chickens; Senate Sub. for Sub. for HB 2051

Senate Sub. for Sub. for HB 2051 establishes the State Sovereignty Over Non-Migratory Wildlife Act.

The bill declares the authority for the State Sovereignty Over Non-Migratory Wildlife Act comes from the 10th Amendment to the *U.S. Constitution* and Article II, Section 1 of the *Kansas Constitution*.

The bill establishes the state as having the sole regulatory authority to govern the management, habitats, hunting, and possession of lesser and greater prairie chickens that exist within the state. In addition, the bill establishes that lesser and greater prairie chickens and their habitats existing within the state are not subject to the Endangered Species Act of 1973 (Act) or to any federal regulations or executive actions related to the Act. Any federal regulation or executive action pertaining to the federal Act that purports to regulate the lesser or greater prairie chickens, their habitats, farming practices that affect these species, or other human activity that affect these species are to have no effect within Kansas.

The bill also allows the county or district attorney, or the Kansas Attorney General, to seek to enjoin any official, agent, employee of the federal government, or employees of corporations providing services on behalf of the federal government from enforcing any federal regulation or executive action pertaining to the Act that purports to regulate the lesser or greater prairie chickens, their habitats, farming practices that affect these species, or other human activity having an impact on these species within Kansas.

The bill must not be construed to infringe on the authority of the U.S. Department of Agriculture, the U.S. Environmental Protection Agency, or state agencies that have delegated authority to administer the federal Water Pollution Prevention and Control Act or the Clean Air Act when the entities are administering conservation programs or engaging in other activities that may apply to the lesser or greater prairie chickens, their habitats, farming practices that affect these species, or other human activity having an impact on these species or their habitats within Kansas.

In addition, the bill is not be construed to infringe on the authority of the Kansas Department of Wildlife, Parks and Tourism or any citizen participating in a management plan or a conservation plan pertaining to the lesser prairie chicken that may be developed in conjunction with the U.S. Fish and Wildlife Service and applies to the lesser or greater prairie chickens, their habitats, farming practices that affect these species, or other human activity having an impact on these species or their habitats within Kansas.

Further, the bill includes a severability clause, maintaining the remaining provisions of the bill in the event any of the sections of the bill are found to be invalid.