

SESSION OF 2020

**SUPPLEMENTAL NOTE ON SUBSTITUTE FOR HOUSE
BILL NO. 2536**

As Recommended by House Committee on
Appropriations

Brief*

Sub. for HB 2536 would amend law concerning the filing of complaints and investigations pertaining to abandoned wells, responsible parties for plugging abandoned wells, and funds used by the Kansas Corporation Commission (KCC) for plugging abandoned wells.

Responsibility for Abandoned Well Plugging

Definitions

The bill would amend the definition of “well” to include a penetration of the surface of the earth. The bill would also amend the purpose of drilling a well to include providing cathodic protection to prevent corrosion to tanks or structures.

With regard to KCC investigations of abandoned wells, the bill would define “abandoned well” as a well that is not claimed on an operator’s license that is active with the KCC and is unplugged, improperly plugged, or no longer effectively plugged.

*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>

Filing of Complaints

The bill would amend the reasons to file a complaint with the KCC's secretary to include abandoned wells that are causing or likely to cause:

- Loss of any usable water;
- Pollution of any usable water strata;
- Imminent loss of any usable water; or
- Imminent pollution of any usable water.

The bill would require the KCC to investigate such complaints and would also authorize the KCC to take appropriate action or issue any order according to the Kansas Administrative Procedure Act (KAPA).

Responsibility for Plugging Abandoned Wells

The bill would require the KCC to hold proceedings in accordance with KAPA if the KCC determines a well is abandoned and has reason to believe that a person is legally responsible for the proper care and control of such well. After such proceedings, the bill would allow the KCC to issue orders obligating a person to plug the well or to cause the well to be brought into compliance, if the KCC finds that such person is legally responsible.

The bill would limit persons that could be held legally responsible for proper care and control of an abandoned well to one or more of the following:

- Any person, including any operator, causing pollution or loss of usable water through the well;
- The most recent operator to produce from or inject or dispose into the well; however, if no production

or injection has occurred, the person that caused the well to be drilled;

- The person that most recently accepted responsibility for the well through written documentation that adequately identifies the well and expressly transfers responsibility for such well;
- The operator that most recently filed a completed transfer report with the KCC in which such operator accepted responsibility for the well;
- The operator that most recently plugged the well if no KCC funds were used; or
- Any person that does any of the following to an abandoned well without KCC authorization:
 - Any person who tampers with or removes surface or downhole equipment attached to the well;
 - Any person who intentionally destroys, buries, or damages the well;
 - Any person who intentionally alters the physical status of the well in such a way that will result in an increase in plugging costs; or
 - Any person who conducts any physical operations upon the well.

In addition, any well that has been abandoned and has not been plugged pursuant to rules and regulations in effect at the time of the well plugging would be considered likely to cause pollution of any usable water strata or supply.

The bill would also allow any person who has no obligation to plug, replug, or repair a well to seek reimbursement for plugging a well from the Abandoned Oil and Gas Well Fund if such well has been abandoned for five or more years. The bill would allow the KCC to promulgate rules and regulations for the reimbursement process.

The bill would state a person who plugs, replugs, or repairs an abandoned well shall not become legally responsible for the care and control of that well. The bill would allow any abandoned well to be plugged by any person if such person has written consent from a surface owner of the land upon which the well is located and if such person is licensed by the KCC in accordance with all rules and regulations of the KCC.

The bill would also clarify that individuals would not be entitled to reimbursement for plugging of an abandoned well unless approved by the KCC.

Abolishing the Well Plugging Assurance Fund

The bill would amend law concerning funds used by the KCC to plug abandoned wells.

The bill would allow for the deposit of all moneys previously credited to the Well Plugging Assurance Fund to be credited to the Abandoned Oil and Gas Well Fund and the bill would remove the limitation of the Abandoned Oil and Gas Well Fund to be used for the purpose of only investigating abandoned wells and well sites of which the drilling began before July 1, 1996.

The bill would transfer all moneys in and liabilities of the Well Plugging Assurance Fund to the Abandoned Oil and Gas Well Fund and abolish the Well Plugging Assurance Fund on July 1, 2020.

The bill would also delete the transfers from the Conservation Fee Fund and the State General Fund to the Abandoned Oil and Gas Well Fund.

Repealing an Interagency Agreement

Finally, the bill would repeal KSA 55-163, which pertains to an interagency agreement between the KCC and the Secretary of Health and Environment for the management plan for integrating field operations for the regulation of oil and gas operations.

Background

The substitute bill contains the contents of HB 2536 as amended, HB 2534, and HB 2535. All three bills were introduced by the House Committee on Appropriations at the request of Representative Waymaster. The House Committee held a hearing on each bill on February 13, 2020.

HB 2536 (Responsibility for Plugging Abandoned Wells)

In the House Committee hearing, a KCC Commissioner and representatives of the KCC provided proponent testimony. The KCC representatives stated the bill would provide the KCC with statutory direction necessary to make regulatory decisions regarding the plugging of abandoned wells. They also stated the bill would allow for more wells to be plugged through the added reimbursement program. Proponent testimony was also provided by representatives of the Kansas Independent Oil and Gas Association (KIOGA) and McGown Drilling, Inc. Written-only proponent testimony was provided by representatives of the Kansas Farm Bureau and John O. Farmer, Inc. Opponent testimony was provided by two private individuals. Neutral testimony was provided by a representative of the Sierra Club.

The House Committee amended the bill to:

- Include wells that are likely to cause the loss of any usable water, pollution of any usable water strata, or the imminent loss or pollution of any usable

water as reason to file a complaint with the KCC Secretary and require the KCC to investigate such complaints;

- State that any well that has been abandoned and has not been plugged pursuant to KCC rules and regulations shall be considered likely to cause pollution of any usable water strata or supply; and
- Include the contents of HB 2534 and HB 2535.

The House Committee recommended the amended contents of HB 2536 be placed into a substitute bill.

HB 2534 (Abolishing the Well Plugging Assurance Fund)

In the House Committee hearing, a KCC Commissioner and representatives of the KCC provided proponent testimony. The KCC representatives stated the bill would allow access to additional funds to address funding needs in the near future. They also stated that an increasing number of qualified contractors will increase the number of wells being plugged, creating a need for additional funds. Proponent testimony was also provided by representatives of KIOGA and McGown Drilling, Inc. Written-only proponent testimony was provided by a representative of John O. Farmer, Inc. Opponent testimony was provided by two private individuals. Neutral testimony was provided by a representative of the Sierra Club.

HB 2535 (Repealing an Interagency Agreement)

In the House Committee hearing, a KCC Commissioner and representatives of the KCC provided proponent testimony. The KCC representatives stated KSA 74-623 granted the KCC full jurisdiction over the regulation of oil and gas activities beginning in 1986, making the previous agreement between the KCC and KDHE obsolete. Written-only proponent testimony was provided by a representative of

John O. Farmer, Inc. Opponent testimony was provided by a private individual. Neutral testimony was provided by a representative of the Sierra Club.

Fiscal Effect

According to the fiscal notes prepared by the Division of the Budget on HB 2534, HB 2535, and HB 2536 as introduced, the KCC states enactment of the bills would have no fiscal effect on the agency.