

SESSION OF 2015

**SUPPLEMENTAL NOTE ON SENATE BILL NO. 124**

As Amended by House Committee of the Whole

**Brief\***

SB 124 would authorize the Secretary of Health and Environment to adopt rules and regulations on the landspreading of solid waste generated by drilling oil and gas wells. The bill would extend indefinitely the land-spreading program managed jointly by the Kansas Department of Health and Environment (KDHE) and Kansas Corporation Commission (KCC).

The bill would require the seller of any property where land-spreading has occurred within the previous three years to disclose the land-spreading to any potential purchaser of the property prior to closing. In addition, the bill would require the KCC, in coordination with KDHE, to annually present a report on land-spreading to the Senate Committee on Natural Resources, Senate Committee on Utilities, Senate Committee on Ways and Means, House Committee on Agriculture and Natural Resources, House Committee on Energy and Utilities, and House Committee on Appropriations.

The bill would allow for the disposal of waste containing low concentration of naturally occurring radioactive materials (NORM) and technologically enhanced NORM (TENORM) by underground burial. Currently, the underground burial of all low-level radioactive waste is prohibited. The bill would authorize the Secretary of Health and Environment to promulgate rules and regulations on or before July 1, 2016, regarding the allowable concentrations and sources of NORM and TENORM waste.

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\*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>

The bill also would update the definition of “by-product material” with the language specified by the federal Nuclear Regulatory Commission. In addition, the bill would replace a reference to a Board that no longer exists with a reference to the Secretary of Health and Environment.

Finally, the bill would allow the Secretary of Health and Environment, through rules and regulations, to establish variances to water quality standards that may apply to specified pollutants, permittees, or waterbody segments that reflect the highest attainable condition during the specified time period for the variance.

## **Background**

The House Committee on Agriculture and Natural Resources added the provisions of SB 125 and HB 2303, with amendments, to the provisions of SB 124. The Committee also amended the provisions of SB 124 with regard to notice to a purchaser and also with regard to requiring coordination between the KCC and KDHE with respect to the annual report.

The House Committee of the Whole amended the bill by adding language requiring the KCC with KDHE to present a report on landspreading to the Senate Utilities Committee and the House Energy and Utilities Committee, in addition to those committees (Senate Committee on Natural Resources, Senate Committee on Ways and Means, House Committee on Agriculture and Natural Resources, and House Appropriations Committee) the bill had previously required KCC and KDHE to report to each year.

## **SB 124**

The bill was introduced by the Senate Committee on Natural Resources.

In the Senate Committee, the Director of the Bureau of Waste Management, KDHE, and the Director of the Conservation Division, KCC, provided testimony in favor of the bill. The proponents stated land-spreading has been utilized only in two cases; however, certain drilling companies active in other states prefer land-spreading and they may someday expand their business activity in Kansas.

A representative of the National Waste and Recycling Association presented testimony in opposition to the bill, stating the Association's members' concerns include the potential risk of soil contamination through land application of these wastes.

The Senate Committee amended the bill by adding a requirement for a seller of property where land-spreading has occurred to notify a potential buyer of the property of the date the landspreading occurred. In addition, the Committee added language requiring an annual report to several legislative committees by the KCC on land-spreading.

The Senate Committee of the Whole amended the bill by extending the current sunset of the land-spreading program from July 1, 2015, to July 1, 2018.

At the hearing in the House Agriculture and Natural Resources Committee, representatives of the Bureau of Waste Management, KDHE, and the Conservation Division of the KCC presented testimony in favor of the bill. The National Waste and Recycling Association submitted written testimony in opposition to the bill.

As noted above, the House Committee amended the bill to also include the contents of SB 125 and HB 2303. The Committee further amended the bill to require the seller of a property where land-spreading has occurred within the previous three years to disclose that fact and the date thereof to the potential purchasers prior to closing. The House Committee also adopted an amendment requiring the KCC to coordinate with the KDHE each year when presenting its

statutorily required report to certain committees of the Kansas Legislature. The Committee struck the sunset provision for the program and also adopted two technical amendments.

Also as noted above, the House Committee of the Whole amended the bill by adding language requiring the KCC with KDHE to present a report on landspreading to the Senate Utilities Committee and the House Energy and Utilities Committee in addition to those committees (Senate Committee on Natural Resources, Senate Committee on Ways and Means, House Committee on Agriculture and Natural Resources, and House Appropriations Committee) the bill had previously required KCC and KDHE to report to each year.

The fiscal note prepared by the Division of the Budget states enactment of the original bill would have no fiscal effect on KCC or KDHE operations.

## **SB 125**

At the Senate Committee on Natural Resources hearing on SB 125, the Director of the Bureau of Waste Management, KDHE; the Director of the Conservation Division, KCC; and representatives of the National Waste and Recycling Association and Waste Management of Kansas, Inc. provided testimony in favor of the bill. There was no neutral or opponent testimony at the hearing.

The Director of the Bureau of Waste Management stated when KDHE recently studied alternative methods for the disposal of oil and gas drilling waste, a sampling program revealed drill cuttings contained NORM at low concentrations similar to background levels found in common rocks and soils. The proponents stated the passage of the bill would allow the most common disposal method for drilling waste into pits permitted by the KCC to continue and authorize KDHE to develop regulations permitting both NORM and TENORM to be disposed of in certain permitted landfills that

satisfy the highest design and operating requirements. The proponents noted many other states are presently addressing this issue.

The Senate Committee of the Whole amended the bill to add “on or before July 1, 2016,” with regard to the Secretary of Health and Environment promulgating rules and regulations.

At the hearing in the House Committee on Agriculture and Natural Resources, the Bureau of Waste Management and the Conservation Division of the Kansas Corporation Commission presented testimony in support of the bill. Written testimony in support of the bill was submitted by the National Waste and Recycling Association. There was no neutral or opponent testimony on the bill.

The fiscal note prepared by the Division of the Budget on the bill, as introduced, states KDHE indicates the enactment of the bill would have no fiscal effect on agency operations.

### **HB 2303**

HB 2303 would allow the Secretary of Health and Environment to establish variances to water quality standards. At the hearing in the House Committee on Agriculture and Natural Resources, a representative of the Kansas Department of Agriculture appeared in support of the bill. There was no neutral or opponent testimony on the bill.

The House Committee adopted a technical amendment to the bill.

No fiscal note was available on HB 2303 when the House Committee amended the content into SB 124.