

MINUTES OF THE SENATE NATURAL RESOURCES COMMITTEE

The meeting was called to order by Chairman Carolyn McGinn at 8:34 a.m. on January 26, 2006, in Room 423-S of the Capitol.

All members were present.

Committee staff present:

Lisa Montgomery, Revisor of Statutes Office
Raney Gilliland, Legislative Research Department
Emalene Correll, Legislative Research Department
Judy Holliday, Committee Secretary

Conferees appearing before the committee:

Lane Letourneau, Kansas Department of Agriculture's Division of Water Resources
Kyle Kessler, Kansas Department of Social and Rehabilitation Services

Others attending:

See attached list.

Chairman McGinn asked for bill introductions. She introduced Kyle Kessler who introduced a bill relating to Recreational Licenses and Repeal of the Child Support Enforcement 1997 Automatic Sunset Provision (Attachment 1). This bill would assure compliance with federal child support enforcement requirements by expanding sanctions against recreational licenses for nonpayment of support. It also repeals a 1997 provision that could automatically sunset many laws to general application related to child support enforcement. Senator McGinn clarified the proposal by stating that if a person was on record as being in arrears on child support, they probably won't be able to get a vehicle permit or hunting or fishing license.

Senator Teichman moved to introduce the bill, seconded by Senator Bruce. The motion passed.

Lane Letourneau, Kansas Department of Agriculture, Division of Water Resource, provided an update on K.S.A. 2005 Supp. 82a-734 and K.S.A. 2005 Supp. 82a-738 pertaining to sand pit legislation. This 2004 legislation required the Department to study water banking, evapotranspiration as it relates to sand pits with emphasis on tamarisk, and impacts of storm water runoff into sand pits, even though the study was unfunded. Senator McGinn shared that there are four sites in the Wichita area but no water quality data available yet due to lack of funding. Mr. Letourneau noted that state and local entities working on this issue would like to see testing for two and five years. There is no nationwide information available on this activity. The Bureau of Reclamation drilled the wells.

Senator Huelskamp asked about the position of the task force and if the federal government put any money into this study. Senator McGinn said the diversity of the task force was a positive and that all involved are interested in the results. There were no additional questions or comments.

Chairman McGinn asked the Committee to hear and work **SB 362, solid waste, industrial facilities, permits**. A hearing was held the previous week and Chairman McGinn asked the will of the Committee regarding discussion or action. She directed the Committee's attention to a balloon requested by KDHE (Attachment 2). She stated that KDHE and Sunflower were both fine with the balloon, and a question from last week remained regarding LLC and further liability.

Senator Francisco stated that the amendments assuring the resources of the LLC would limit the liability of the LLC to its assets, but questioned from where that letter of credit would come. Steve Miller from Sunflower responded that the terms of the financial arrangements would be dictated by the Secretary of Environment, and that by the time the final arrangements were made it is possible there may not be an LLC.

Senator Francisco responded that it makes no difference that the owners of the LLC are the owners of the corporation. She asked if one corporation can provide the assurance for another corporation, and Mr. Miller responded that the Department dictated that it could and would be done in this issue.

Mr. Bider provided further clarification by stating that the current law would be changed and this would take

CONTINUATION SHEET

MINUTES OF THE Senate Natural Resources Committee at 8:34 a.m. on January 26, 2006, in Room 423-S of the Capitol.

out the risky financial liability. Sunflower would not own the land but would be the operator and would post the financial assurance.

Senator Taddiken stated that this provides three mechanisms to provide security, and says "or." He asked if the Department would have the ability to determine which would be used, and Mr. Bider responded that it would be their choice among the three, but KDHE would have the authority to tell them what the amount would be for based on a yearly assessment of what their liability for post closure would be. Senator Taddiken asked if KDHE had control to revoke the permit if adequate assurances are not met, and Mr. Bider responded that the Department would have that authority.

Senator Francisco stated that she sat in on the water briefing and that water is a concern to Western Kansas. Her understanding is that the electricity is not from burning coal, but from heating water to make steam. She found out the water rights they are purchasing would be reduced from the water rights available to agriculture users. She asked if everyone went down to 60% across the board for water usage, would that solve the problem with water. She mentioned the fight with Colorado over water rights and the fact that now we have the water and we are making electricity and planning to send it back to Colorado, and asked if it is because they do not have the water to do this themselves. She stated we are taking laws that were in place for municipalities to provide electricity to their local business and consumers and using those laws as opportunities for sales of electricity. She further stated that we do not want to change rules if we don't know the direction the state wants to go. Chairman McGinn stated that is something the committee certainly should be thinking about.

Senator Lee expressed concern that cutting back on water rights could affect the future of the plant and all of the people using water rights, and Mr. Miller responded that it has not happened before and should not be a concern. Senator Taddiken brought up the issue of minimum stream flow, and Mr. Letourneau responded that the cuts are across-the-board and have been in place since 1984 with regard to minimum stream flow.

Senator Ostmeyer stated that Colorado put the transmission line in, so with the electricity going there Kansas would be making money from that. He conceded that although the shortage of water is an issue, he can see what Sunflower's operation means to Western Kansas, and he feels we are going in the right direction.

Steve Miller stated that a study is about to be released which shows an \$8 billion economic impact and over 2600 jobs in Western Kansas. On the issue of exporting electricity, he compared it to taking resources and exporting outside as with corn, wheat or other commodities and getting a return on it, and because they are a cooperative, the money stays in Kansas.

Senator Ostmeyer told the Committee that, in his opinion, if Bill Bider signs off on the bill he does not feel there would be a problem. Senator Huelskamp expressed confidence that Sunflower had performed due diligence with regard to water rights and in meeting the requirements necessary to comply with regulations.

Senator Pyle mentioned the concerns of the Moms Against Mercury, and Mr. Miller replied that the Department of Energy would be instituting rules with regard to mercury testing, but at the present time the technology to test the small amounts of mercury is not available. He stated that Sunflower would be investing a substantial amount of money within the next year or two to do this testing.

Senator Pyle asked Mr. Miller to restate the investors in the plant, and Mr. Miller stated that the current plant is owned by six distribution rural electric cooperatives, the second and third plants will be owned by Tri-State Generation and Electric in Colorado, and the fourth unit will be owned half by Sunflower and half by another cooperative outside the State of Kansas. Senator Pyle asked how many of those are in-state, brick and mortar, and Mr. Miller stated that Sunflower and its cooperatives are in-state.

Chairman McGinn asked if the mercury is measured in air particulate or some other method, and asked Mr. Miller to provide her with information on the testing procedure.

In the absence of further questions, Chairman McGinn asked for a motion to adopt the balloon amendment as an amendment to the bill. Senator Huelskamp made a motion to adopt the balloon amendment, seconded

CONTINUATION SHEET

MINUTES OF THE Senate Natural Resources Committee at 8:34 a.m. on January 26, 2006, in Room 423-S of the Capitol.

by Senator Lee. The motion was made by Senator Ostmeyer to move this bill out as amended, seconded by Senator Huelskamp. The motion carried, with Senator Francisco abstaining.

With no further business to come before the Committee, the meeting adjourned at 9:25 a.m.



K A N S A S

GARY J. DANIELS, ACTING SECRETARY

SOCIAL AND REHABILITATION SERVICES

KATHLEEN SEBELIUS, GOVERNOR

January 26, 2006

Honorable Carolyn McGinn, Chair
Natural Resources Committee
Kansas Senate
Room 222-E, Statehouse
Topeka, Kansas 66612

Dear Senator McGinn:

I would like to request the introduction of one legislative proposal, Recreational Licenses and Repeal of the Child Support Enforcement 1997 Automatic Sunset Provision. This proposal assures compliance with federal child support enforcement requirements by expanding sanctions against recreational licenses for nonpayment of support. It also repeals a 1997 provision that could automatically sunset many laws of general application related to child support enforcement.

I appreciate your Committee's introduction of this bill and will be glad to provide additional information as requested.

Sincerely,

Gary J. Daniels
Secretary

cc: Susan Kannar, KLRD
Jill Wolters, Office of Revisor of Statutes
Julie Thomas, Budget Division

Senate Natural Resources
1-24-06
Attachment 1

DOCKING STATE OFFICE BUILDING, 915 SW HARRISON ST., ROOM 603-N, TOPEKA, KS 66612-1570

Voice 785-296-3271

Fax 785-296-4685

www.srskansas.org

PROPOSED BILL NO. _____

By

AN ACT concerning wildlife and parks; relating to the issuance of licenses.

Be it enacted by the Legislature of the State of Kansas:

Section 1. (a) Upon request of the secretary of social and rehabilitation services, the secretary of wildlife and parks shall not allow any license, permit, stamp, tag or other issue of the department of wildlife and parks to be purchased by any applicant except as provided in this section. The secretary of social and rehabilitation services may make such a request by providing the secretary of wildlife and parks, on a quarterly basis, a listing of names and other information sufficient to allow the secretary of wildlife and parks to match applicants against the list with reasonable accuracy. The secretary of social and rehabilitation services may include an individual on the listing if, at the time the listing is compiled, the individual owes arrearages under a support order in a title IV-D case or has failed, after appropriate notice, to comply with an outstanding warrant or subpoena directed to the individual in a title IV-D case.

(b) If any applicant for a license, permit, stamp, tag or other issue of the department of wildlife and parks is not allowed to complete a purchase pursuant to this section, the vendor of the license, permit, stamp, tag or other issue of the department of wildlife and parks shall immediately deliver to the applicant a written notice, furnished by the state of Kansas, stating the basis for the action and how the applicant may dispute the action or request other relief.

(c) Immediately upon receiving a release executed by an authorized agent of the secretary of social and rehabilitation services, the secretary of wildlife and parks may allow the applicant to purchase any license, permit, stamp, tag or other issue of the department of wildlife and parks. The applicant shall have the burden of obtaining and delivering the release. The secretary of social and rehabilitation services may limit the

duration of the release.

(d) Upon request the secretary of social and rehabilitation services shall issue a release if, as appropriate:

(1) The arrearages are paid in full or a tribunal of competent jurisdiction has determined that no arrearages are owed;

(2) an income withholding order in the case has been served upon the applicant's current employer or payor;

(3) an agreement has been completed or an order has been entered setting minimum payments to defray the arrearages, together with receipt of the first minimum payment; or

(4) the applicant has complied with the warrant or subpoena or the warrant or subpoena has been quashed or withdrawn.

(e) Individuals previously included in a quarterly listing may be omitted from any subsequent listing by the secretary of social and rehabilitation services. When a new listing takes effect, the secretary of wildlife and parks may allow any individual not included in the new listing to purchase any license, permit, stamp, tag or other issue of the department of wildlife and parks, whether or not the applicant had been included in a previous listing.

(f) Nothing in this section shall be construed to require or permit the secretary of wildlife and parks to determine any issue related to the title IV-D case, including questions of mistaken identity or the adequacy of any notice provided pursuant to this section. The secretary of social and rehabilitation services shall provide an opportunity for fair hearing pursuant to K.S.A. 75-3306, and amendments thereto, to any person who has been denied any license, permit, stamp, tag or other issue of the department of wildlife and parks pursuant to this section, provided that the person complies with the requirements of the secretary of social and rehabilitation services for requesting such fair hearing.

(g) The term "title IV-D" has the meaning ascribed thereto in K.S.A. 32-930, and amendments thereto.

(h) The secretary of social and rehabilitation services and the secretary of wildlife and parks may enter into an agreement for administering the provisions of this section.

(i) The secretary of social and rehabilitation services and the secretary of wildlife and parks may each adopt rules and regulations necessary to carry out the provisions of this section.

Sec. 2. This act shall take effect and be in force from and after its publication in the statute book.

SENATE BILL No. 362

By Committee on Utilities

1-12

9 AN ACT concerning solid waste; relating to solid waste disposal areas;
10 amending K.S.A. 65-3407 and 65-3415b and K.S.A. 2005 Supp. 65-
11 3402 and repealing the existing sections.
12

13 *Be it enacted by the Legislature of the State of Kansas:*

14 Section 1. K.S.A. 2005 Supp. 65-3402 is hereby amended to read as
15 follows: 65-3402. As used in this act, unless the context otherwise
16 requires:

17 (a) "Solid waste" means garbage, refuse, waste tires as defined by
18 K.S.A. 65-3424, and amendments thereto, and other discarded materials,
19 including, but not limited to, solid, semisolid, sludges, liquid and con-
20 tained gaseous waste materials resulting from industrial, commercial, ag-
21 ricultural and domestic activities. Solid waste does not include hazardous
22 wastes as defined by subsection (f) of K.S.A. 65-3430, and amendments
23 thereto, recyclables or the waste of domestic animals as described by
24 subsection (a)(1) of K.S.A. 65-3409, and amendments thereto.

25 (b) "Solid waste management system" means the entire process of
26 storage, collection, transportation, processing, and disposal of solid wastes
27 by any person engaging in such process as a business, or by any state
28 agency, city, authority, county or any combination thereof.

29 (c) "Solid waste processing facility" means incinerator, composting
30 facility, household hazardous waste facility, waste-to-energy facility, trans-
31 fer station, reclamation facility or any other location where solid wastes
32 are consolidated, temporarily stored, salvaged or otherwise processed
33 prior to being transported to a final disposal site. This term does not
34 include a scrap material recycling and processing facility.

35 (d) "Solid waste disposal area" means any area used for the disposal
36 of solid waste from more than one residential premises, or one or more
37 commercial, industrial, manufacturing or municipal operations. "Solid
38 waste disposal area" includes all property described or included within
39 any permit issued pursuant to K.S.A. 65-3407, and amendments thereto.

40 (e) "Person" means individual, partnership, firm, trust, company, as-
41 sociation, corporation, individual or individuals having controlling or ma-
42 jority interest in a corporation, institution, political subdivision, state
43 agency or federal department or agency.

Senate Natural Resources
1-26-06
Attachment 2

- 1 (f) "Waters of the state" means all streams and springs, and all bodies
2 of surface or groundwater, whether natural or artificial, within the bound-
3 aries of the state.
- 4 (g) "Secretary" means the secretary of health and environment.
- 5 (h) "Department" means the Kansas department of health and
6 environment.
- 7 (i) "Disposal" means the discharge, deposit, injection, dumping, spill-
8 ing, leaking or placing of any solid waste into or on any land or water so
9 that such solid waste or any constituent thereof may enter the environ-
10 ment or be emitted into the air or discharged into any water.
- 11 (j) "Open dumping" means the disposal of solid waste at any solid
12 waste disposal area or facility which is not permitted by the secretary
13 under the authority of K.S.A. 65-3407, and amendments thereto, or the
14 disposal of solid waste contrary to rules and regulations adopted pursuant
15 to K.S.A. 65-3406, and amendments thereto.
- 16 (k) "Generator" means any person who produces or brings into ex-
17 istence solid waste.
- 18 (l) "Monitoring" means all procedures used to (1) systematically in-
19 spect and collect data on the operational parameters of a facility, an area
20 or a transporter, or (2) to systematically collect and analyze data on the
21 quality of the air, groundwater, surface water or soils on or in the vicinity
22 of a solid waste processing facility or solid waste disposal area.
- 23 (m) "Closure" means the permanent cessation of active disposal op-
24 erations, abandonment of the disposal area, revocation of the permit or
25 filling with waste of all areas and volume specified in the permit and
26 preparing the area for the long-term care.
- 27 (n) "Postclosure" means that period of time subsequent to closure of
28 a solid waste disposal area when actions at the site must be performed.
- 29 (o) "Reclamation facility" means any location at which material con-
30 taining a component defined as a hazardous substance pursuant to K.S.A.
31 65-3452a and amendments thereto or as an industrial waste pursuant to
32 this section is processed.
- 33 (p) "Designated city" means a city or group of cities which, through
34 interlocal agreement with the county in which they are located, is dele-
35 gated the responsibility for preparation, adoption or implementation of
36 the county solid waste plan.
- 37 (q) "Nonhazardous special waste" means any solid waste designated
38 by the secretary as requiring extraordinary handling in a solid waste dis-
39 posal area.
- 40 (r) "Recyclables" means any materials that will be used or reused, or
41 prepared for use or reuse, as an ingredient in an industrial process to
42 make a product, or as an effective substitute for a commercial product.
43 "Recyclables" includes, but is not limited to, paper, glass, plastic, munic-

1 ipal water treatment residues, as defined by K.S.A. 65-163 and amend-
2 ments thereto, and metal, but does not include yard waste.

3 (s) "Scrap material processing industry" means any person who ac-
4 cepts, processes and markets recyclables.

5 (t) "Scrap material recycling and processing facility" means a fixed
6 location that utilizes machinery and equipment for processing only
7 recyclables.

8 (u) "Construction and demolition waste" means solid waste resulting
9 from the construction, remodeling, repair and demolition of structures,
10 roads, sidewalks and utilities; untreated wood and untreated sawdust from
11 any source; treated wood from construction or demolition projects; small
12 amounts of municipal solid waste generated by the consumption of food
13 and drinks at construction or demolition sites, including, but not limited
14 to, cups, bags and bottles; furniture and appliances from which ozone
15 depleting chlorofluorocarbons have been removed in accordance with the
16 provisions of the federal clean air act; solid waste consisting of motor
17 vehicle window glass; and solid waste consisting of vegetation from land
18 clearing and grubbing, utility maintenance, and seasonal or storm-related
19 cleanup. Such wastes include, but are not limited to, bricks, concrete and
20 other masonry materials, roofing materials, soil, rock, wood, wood prod-
21 ucts, wall or floor coverings, plaster, drywall, plumbing fixtures, electrical
22 wiring, electrical components containing no hazardous materials, nonas-
23 bestos insulation and construction related packaging. "Construction and
24 demolition waste" shall not include waste material containing friable as-
25 bestos, garbage, furniture and appliances from which ozone depleting
26 chlorofluorocarbons have not been removed in accordance with the pro-
27 visions of the federal clean air act, electrical equipment containing haz-
28 ardous materials, tires, drums and containers even though such wastes
29 resulted from construction and demolition activities. Clean rubble that is
30 mixed with other construction and demolition waste during demolition
31 or transportation shall be considered to be construction and demolition
32 waste.

33 (v) "Construction and demolition landfill" means a permitted solid
34 waste disposal area used exclusively for the disposal on land of construc-
35 tion and demolition wastes. This term shall not include a site that is used
36 exclusively for the disposal of clean rubble.

37 (w) "Clean rubble" means the following types of construction and
38 demolition waste: Concrete and concrete products including reinforcing
39 steel, asphalt pavement, brick, rock and uncontaminated soil as defined
40 in rules and regulations adopted by the secretary.

41 (x) "Industrial waste" means all solid waste resulting from manufac-
42 turing, commercial and industrial processes which is not suitable for dis-
43 charge to a sanitary sewer or treatment in a community sewage treatment

1 plant or is not beneficially used in a manner that meets the definition of
2 recyclables. Industrial waste includes, but is not limited to: Mining wastes
3 from extraction, beneficiation and processing of ores and minerals unless
4 those minerals are returned to the mine site; fly ash, bottom ash, slag and
5 flue gas emission wastes generated primarily from the combustion of coal
6 or other fossil fuels; cement kiln dust; waste oil and sludges; waste oil
7 filters; and fluorescent lamps.

8 (y) "Composting facility" means any facility that composts wastes and
9 has a composting area larger than one-half acre.

10 (z) "Household hazardous waste facility" means a facility established
11 for the purpose of collecting, accumulating and managing household haz-
12 ardous waste and may also include small quantity generator waste or ag-
13 ricultural pesticide waste, or both. Household hazardous wastes are con-
14 sumer products that when discarded exhibit hazardous characteristics.

15 (aa) "Waste-to-energy facility" means a facility that processes solid
16 waste to produce energy or fuel.

17 (bb) "Transfer station" means any facility where solid wastes are
18 transferred from one vehicle to another or where solid wastes are stored
19 and consolidated before being transported elsewhere, but shall not in-
20 clude a collection box provided for public use as a part of a county-op-
21 erated solid waste management system if the box is not equipped with
22 compaction mechanisms or has a volume smaller than 20 cubic yards.

23 (cc) "Municipal solid waste landfill" means a solid waste disposal area
24 where residential waste is placed for disposal. A municipal solid waste
25 landfill also may receive other nonhazardous wastes, including commer-
26 cial solid waste, sludge and industrial solid waste.

27 (dd) "Construction related packaging" means small quantities of
28 packaging wastes that are generated in the construction, remodeling or
29 repair of structures and related appurtenances. "Construction related
30 packaging" does not include packaging wastes that are generated at retail
31 establishments selling construction materials, chemical containers gen-
32 erated from any source or packaging wastes generated during mainte-
33 nance of existing structures.

34 (ee) "Industrial facility" includes all operations, processes and struc-
35 tures involved in the manufacture or production of goods, materials, com-
36 modities or other products located on, or adjacent to, an industrial site
37 and is not limited to a single owner or to a single industrial process. For
38 purposes of this act, it includes all industrial processes and applications
39 that may generate industrial waste which may be disposed at a solid waste
40 disposal area which is permitted by the secretary and operated for the
41 industrial facility generating the waste and used only for industrial waste.

42 Sec. 2. K.S.A. 65-3407 is hereby amended to read as follows: 65-
43 3407. (a) Except as otherwise provided by K.S.A. 65-3407c, and amend-

2-9

1 ments thereto, no person shall construct, alter or operate a solid waste
2 processing facility or a solid waste disposal area of a solid waste manage-
3 ment system, except for clean rubble disposal sites, without first obtaining
4 a permit from the secretary.

5 (b) Every person desiring to obtain a permit to construct, alter or
6 operate a solid waste processing facility or disposal area shall make ap-
7 plication for such a permit on forms provided for such purpose by the
8 rules and regulations of the secretary and shall provide the secretary with
9 such information as necessary to show that the facility or area will comply
10 with the purpose of this act. Upon receipt of any application and payment
11 of the application fee, the secretary, with advice and counsel from the
12 local health authorities, and the county commission, shall make an inves-
13 tigation of the proposed solid waste processing facility or disposal area
14 and determine whether it complies with the provisions of this act and any
15 rules and regulations and standards adopted thereunder. The secretary
16 also may consider the need for the facility or area in conjunction with the
17 county or regional solid waste management plan. If the investigation re-
18 veals that the facility or area conforms with the provisions of the act and
19 the rules and regulations and standards adopted thereunder, the secretary
20 shall approve the application and shall issue a permit for the operation of
21 each solid waste processing or disposal facility or area set forth in the
22 application. If the facility or area fails to meet the rules and regulations
23 and standards required by this act the secretary shall issue a report to the
24 applicant stating the deficiencies in the application. The secretary may
25 issue temporary permits conditioned upon corrections of construction
26 methods being completed and implemented.

27 (c) Before reviewing any application for permit, the secretary shall
28 conduct a background investigation of the applicant. The secretary shall
29 consider the financial, technical and management capabilities of the ap-
30 plicant as conditions for issuance of a permit. The secretary may reject
31 the application prior to conducting an investigation into the merits of the
32 application if the secretary finds that:

33 (1) The applicant currently holds, or in the past has held, a permit
34 under this section and while the applicant held a permit under this section
35 the applicant violated a provision of subsection (a) of K.S.A. 65-3409, and
36 amendments thereto; or

37 (2) the applicant previously held a permit under this section and that
38 permit was revoked by the secretary; or

39 (3) the applicant failed or continues to fail to comply with any of the
40 provisions of the air, water or waste statutes, including rules and regula-
41 tions issued thereunder, relating to environmental protection or to the
42 protection of public health in this or any other state or the federal gov-
43 ernment of the United States, or any condition of any permit or license

2-5

1 issued by the secretary; or if the secretary finds that the applicant has
2 shown a lack of ability or intention to comply with any provision of any
3 law referred to in this subsection or any rule and regulation or order or
4 permit issued pursuant to any such law as indicated by past or continuing
5 violations; or

6 (4) the applicant is a corporation and any principal, shareholder, or
7 other person capable of exercising total or partial control of such corpo-
8 ration could be determined ineligible to receive a permit pursuant to
9 subsection (c)(1), (2) or (3) above.

10 (d) Before reviewing any application for a permit, the secretary may
11 request that the attorney general perform a comprehensive criminal back-
12 ground investigation of the applicant; or in the case of a corporate appli-
13 cant, any principal, shareholder or other person capable of exercising total
14 or partial control of the corporation. The secretary may reject the appli-
15 cation prior to conducting an investigation into the merits of the appli-
16 cation if the secretary finds that serious criminal violations have been
17 committed by the applicant or a principal of the corporation.

18 (e) (1) The fees for a solid waste processing or disposal permit shall
19 be established by rules and regulations adopted by the secretary. The fee
20 for the application and original permit shall not exceed \$5,000. Except as
21 provided by paragraph (2), the annual permit renewal fee shall not exceed
22 \$2,000. No refund shall be made in case of revocation. In establishing
23 fees for a construction and demolition landfill, the secretary shall adopt
24 a differential fee schedule based upon the volume of construction and
25 demolition waste to be disposed of at such landfill. All fees shall be de-
26 posited in the state treasury and credited to the solid waste management
27 fund. A city, county, other political subdivision or state agency shall be
28 exempt from payment of the fee but shall meet all other provisions of
29 this act.

30 (2) The annual permit renewal fee for a solid waste disposal area
31 which is permitted by the secretary, owned ~~and~~ operated by the facility
32 generating the waste and used only for industrial waste generated by such
33 facility shall be not less than \$1,000 nor more than \$4,000. In establishing
34 fees for such disposal areas, the secretary shall adopt a differential fee
35 schedule based upon the characteristics of the disposal area sites.

36 (f) Plans, designs and relevant data for the construction of solid waste
37 processing facilities and disposal sites shall be prepared by a professional
38 engineer licensed to practice in Kansas and shall be submitted to the
39 department for approval prior to the construction, alteration or operation
40 of such facility or area. In adopting rules and regulations, the secretary
41 may specify sites, areas or facilities where the environmental impact is
42 minimal and may waive such preparation requirements provided that a
43 review of such plans is conducted by a professional engineer licensed to

In line 31, delete "and" and in its place insert "or"

1 practice in Kansas.

2 (g) Each permit granted by the secretary, as provided in this act, shall
3 be subject to such conditions as the secretary deems necessary to protect
4 human health and the environment and to conserve the sites. Such con-
5 ditions shall include approval by the secretary of the types and quantities
6 of solid waste allowable for processing or disposal at the permitted
7 location.

8 (h) ~~As a condition of granting a permit to operate any processing~~
9 ~~facility or disposal area for solid waste, the secretary shall require the~~
10 ~~permittee to: (1) Provide a trust fund, surety bond guaranteeing pay-~~
11 ~~ment, irrevocable letter of credit or insurance policy, to pay the costs of~~
12 ~~closure and postclosure care, or (2) pass a financial test or obtain a finan-~~
13 ~~cial guarantee from a related entity, to guarantee the future availability~~
14 ~~of funds to pay the costs of closure and postclosure care. The secretary~~
15 ~~shall prescribe the methods to be used by a permittee to demonstrate~~
16 ~~sufficient financial strength to become eligible to use a financial test or a~~
17 ~~financial guarantee procedure in lieu of providing the financial instru-~~
18 ~~ments listed in (1) above. Solid waste processing facilities or disposal~~
19 ~~areas, except municipal solid waste landfills, may also demonstrate finan-~~
20 ~~cial assurance for closure and postclosure care costs by use of ad valorem~~
21 ~~taxing power. In addition, the secretary shall require the permittee to~~
22 ~~provide liability insurance coverage during the period that the facility or~~
23 ~~area is active, and during the term of the facility or area is subject to~~
24 ~~postclosure care, in such amount as determined by the secretary to insure~~
25 ~~the financial responsibility of the permittee for accidental occurrences at~~
26 ~~the site of the facility or area. Any such liability insurance as may be~~
27 ~~required pursuant to this subsection or pursuant to the rules and regu-~~
28 ~~lations of the secretary shall be issued by an insurance company author-~~
29 ~~ized to do business in Kansas or by a licensed insurance agent operating~~
30 ~~under authority of K.S.A. 40-246b, and amendments thereto, and shall~~
31 ~~be subject to the insurer's policy provisions filed with and approved by~~
32 ~~the commissioner of insurance pursuant to K.S.A. 40-216, and amend-~~
33 ~~ments thereto, except as authorized by K.S.A. 40-246b, and amendments~~
34 ~~thereto. Nothing contained in this subsection shall be deemed to apply~~
35 ~~to any state agency or department or agency of the federal government.~~

36 (i) (1) Permits granted by the secretary as provided by this act shall
37 not be transferable except as follows:

38 (A) A permit for a solid waste disposal area may be transferred if the
39 area is permitted for only solid waste produced on site from manufactur-
40 ing and industrial processes or on-site construction or demolition activi-
41 ties and the only change in the permit is a name change resulting from a
42 merger, acquisition, sale, corporate restructuring or other business
43 transaction.

~~in line 8, delete "As a condition of granting" and insert in its place~~
~~"Before issuing or renewing" o.k.~~

Also in line 8, insert "a" to replace "any" and insert "solid waste"
before "processing"

In line 9, insert "solid waste" before "disposal" and delete
"for solid waste"

In line 10, delete the colon and insert "demonstrate that funds
are available to ensure payment of the cost of closure and
postclosure care and provide liability insurance for accidental
occurrences at the permitted facility." Following "(1)," insert
"If the permittee owns the land where the solid waste processing
facility or disposal area is located or the permit for the facility
was issued before the date this act is published in the Kansas
register, the permittee shall satisfy the financial assurance requirement
for closure and postclosure care by providing"

Also in line 10, delete "Provide" and insert "a" before "surety"

In line 11, insert "an" before "irrevocable"

In lines 11 and 12, delete "to pay the costs of closure
and postclosure care;"

In line 12, delete "(2) pass" and insert in its place "by passing"

Also in line 12, delete "obtain" and insert in its place "obtaining"

In line 14, delete "to pay the costs of closure and postclosure care"

In line 17, insert "other" between "the" and "financial"

In line 18, delete "listed in (1) above"

In line 20, delete "for closure and postclosure care"

In line 21, insert "(2) If the permittee does not own the land where the solid
waste processing facility or disposal area is located and the permit for the
facility is issued after the date this act is published in the Kansas register, the
permittee shall satisfy the financial assurance requirement for closure and
postclosure care by providing a trust fund, a surety bond guaranteeing
payment, or an irrevocable letter of credit."

In line 21, delete "In addition the" and insert in its place "(3) The"

Also in line 21, after "require" delete "the" and in its place insert "each" and
insert "of a solid waste processing facility or disposal area" following
"permittee"

1 (B) A permit for a solid waste disposal area or a solid waste processing
2 facility may be transferred if the secretary approves of the transfer based
3 upon information submitted to the secretary sufficient to conduct a back-
4 ground investigation of the new owner as specified in subsections (c) and
5 (d) of K.S.A. 65-3407, and amendments thereto, and a financial assurance
6 evaluation as specified in subsection (h) of K.S.A. 65-3407, and amend-
7 ments thereto. Such information shall be submitted to the secretary not
8 more than one year nor less than 60 days before the transfer. If the
9 secretary does not approve or disapprove the transfer within 30 days after
10 all required information is submitted to the secretary, the transfer shall
11 be deemed to have been approved.

12 (2) Permits granted by the secretary as provided by this act shall be
13 revocable or subject to suspension whenever the secretary shall determine
14 that the solid waste processing or disposal facility or area is, or has been
15 constructed or operated in violation of this act or the rules and regulations
16 or standards adopted pursuant to the act, or is creating or threatens to
17 create a hazard to persons or property in the area or to the environment,
18 or is creating or threatens to create a public nuisance, or upon the failure
19 to make payment of any fee required under this act.

20 (3) The secretary also may revoke, suspend or refuse to issue a permit
21 when the secretary determines that past or continuing violations of the
22 provisions of K.S.A. 65-3409, subsection (c)(3) of K.S.A. 65-3407 or
23 K.S.A. 65-3424b, and amendments thereto, have been committed by a
24 permittee, or any principal, shareholder or other person capable of ex-
25 ercising partial or total control over a permittee.

26 (j) Except as otherwise provided by subsection (i)(1), the secretary
27 may require a new permit application to be submitted for a solid waste
28 processing facility or a solid waste disposal area in response to any change,
29 either directly or indirectly, in ownership or control of the permitted real
30 property or the existing permittee.

31 (k) In case any permit is denied, suspended or revoked the person,
32 city, county or other political subdivision or state agency may request a
33 hearing before the secretary in accordance with K.S.A. 65-3412, and
34 amendments thereto.

35 (l) (1) No permit to construct or operate a solid waste disposal area
36 shall be issued on or after the effective date of this act if such area is
37 located within ½ mile of a navigable stream used for interstate commerce
38 or within one mile of an intake point for any public surface water supply
39 system.

40 (2) Any permit, issued before the effective date of this act, to con-
41 struct or operate a solid waste disposal area is hereby declared void if
42 such area is not yet in operation and is located within ½ mile of a navi-
43 gable stream used for interstate commerce or within one mile of an intake

1 point for any public surface water supply system.

2 (3) The provisions of this subsection shall not be construed to pro-
3 hibit: (A) Issuance of a permit for lateral expansion onto land contiguous
4 to a permitted solid waste disposal area in operation on the effective date
5 of this act; (B) issuance of a permit for a solid waste disposal area for
6 disposal of a solid waste by-product produced on-site; (C) renewal of an
7 existing permit for a solid waste area in operation on the effective date
8 of this act; or (D) activities which are regulated under K.S.A. 65-163
9 through 65-165 or 65-171d, and amendments thereto.

10 (m) Before reviewing any application for a solid waste processing fa-
11 cility or solid waste disposal area, the secretary shall require the following
12 information as part of the application:

13 (1) Certification by the board of county commissioners or the mayor
14 of a designated city responsible for the development and adoption of the
15 solid waste management plan for the location where the processing facility
16 or disposal area is or will be located that the processing facility or disposal
17 area is consistent with the plan. This certification shall not apply to a solid
18 waste disposal area for disposal of only solid waste produced on site from
19 manufacturing and industrial processes or from on-site construction or
20 demolition activities.

21 (2) If the location is zoned, certification by the local planning and
22 zoning authority that the processing facility or disposal area is consistent
23 with local land use restrictions or, if the location is not zoned, certification
24 from the board of county commissioners that the processing facility or
25 disposal area is compatible with surrounding land use.

26 (3) For a solid waste disposal area permit issued on or after July 1,
27 1999, proof that the *permittee applicant either* owns the land where the
28 disposal area will be located *or operates the solid waste disposal area for*
29 *an adjacent or on-site industrial facility*, if the disposal area is: (A) A
30 municipal solid waste landfill; or (B) a solid waste disposal area that has:
31 (i) A leachate or gas collection or treatment system; (ii) waste containment
32 systems or appurtenances with planned maintenance schedules; or (iii)
33 an environmental monitoring system with planned maintenance sched-
34 ules or periodic sampling and analysis requirements. This requirement
35 shall not apply to a permit for lateral or vertical expansion contiguous to
36 a permitted solid waste disposal area in operation on July 1, 1999, if such
37 expansion is on land leased by the permittee before April 1, 1999.

38 Sec. 3. K.S.A. 65-3415b is hereby amended to read as follows: 65-
39 3415b. (a) There is hereby imposed a state solid waste tonnage fee of
40 \$1.00 for each ton or equivalent volume of solid waste disposed of at any
41 solid waste disposal area in this state other than solid waste enumerated
42 in subsection (c) or solid waste disposal authorized by the secretary pur-
43 suant to subsection (a) of K.S.A. 65-3407c, and amendments thereto.

6-9

1 (b) There is hereby imposed a state solid waste tonnage fee of \$1.00
2 for each ton or equivalent volume of solid waste transferred out of Kansas
3 through a transfer station, other than waste enumerated in subsection (c).

4 (c) The fees imposed by this section shall not apply to:

5 (1) Any waste tire, as defined by K.S.A. 65-3424, and amendments
6 thereto, disposed in or at a permitted solid waste disposal area;

7 (2) sludges from public drinking water supply treatment plants, when
8 disposed of at a monofill permitted by the secretary;

9 (3) clean rubble;

10 (4) solid waste solely consisting of vegetation from land clearing and
11 grubbing, utility maintenance and seasonal or storm-related cleanup but
12 such exception shall not apply to yard waste;

13 (5) construction and demolition waste disposed of by the federal gov-
14 ernment, by the state of Kansas, or by any city, county or other unit of
15 local government in the state of Kansas, or by any person on behalf
16 thereof; and

17 (6) industrial waste disposed of at a solid waste disposal area which
18 is permitted by the secretary, ~~and is owned and operated by the or op-~~
19 ~~erated by or for the industrial~~ facility generating the waste and *which is*
20 *used only for industrial waste generated by such industrial facility.*

21 (d) The operator of a solid waste disposal area or transfer station shall
22 pay the fee imposed by this section.

23 (e) The secretary of health and environment shall administer, enforce
24 and collect the fee imposed by this section. The secretary shall have the
25 authority to waive such fee when large quantities of waste are generated
26 due to major natural disasters such as floods, tornados and fires unless
27 persons paying such fees are able to recover such fees from the federal
28 government. Except as otherwise provided by subsections (a) and (b), all
29 laws and rules and regulations of the secretary of revenue relating to the
30 administration, enforcement and collection of the retailers' sales tax shall
31 apply to such fee insofar as they can be made applicable. The secretary
32 of health and environment shall adopt any other rules and regulations as
33 necessary for the efficient and effective administration, enforcement and
34 collection thereof.

35 (f) The secretary of health and environment shall remit all moneys
36 collected from fees imposed pursuant to subsections (a) and (b) to the
37 state treasurer in accordance with the provisions of K.S.A. 75-4215, and
38 amendments thereto. Upon receipt of each such remittance, the state
39 treasurer shall deposit the entire amount in the state treasury to the credit
40 of the solid waste management fund created by K.S.A. 65-3415a, and
41 amendments thereto.

42 Sec. 4. K.S.A. 65-3407 and 65-3415b and K.S.A. 2005 Supp. 65-3402
43 are hereby repealed.

2-10

1 Sec. 5. This act shall take effect and be in force from and after its
2 publication in the Kansas register.

2-11