

MINUTES OF THE SENATE UTILITIES COMMITTEE

The meeting was called to order by Chairman Jay Emler at 9:30 A.M. on January 18, 2006 in Room 526-S of the Capitol.

Committee members absent: Senator Mark Taddiken- excused

Committee staff present: Athena Andaya, Kansas Legislative Research Department  
Raney Gilliland, Kansas Legislative Research Department  
Bruce Kinzie, Revisor of Statutes' Office  
Ann McMorris, Committee Secretary

Conferees appearing before the committee:

Others in attendance: See attached list

Bill introduction

Susan Lay of the Kansas Department of Health and Environment explained the amendments concerning air contaminant emission sources in 5rs1662 as drafted by the Revisors Office. (Attachment 1)

Moved by Senator Reitz, seconded by Senator Petersen, bill draft 5rs1662 be introduced. Motion carried.

Senator Emler explained the intent of 5rs1490 was to clarify the authority of county commissioners by adding the following language: "The board of county commissioners may require the owner or owners of property exempt under this subsection to provide for payments in lieu of taxes under K.S.A. 12-147, and amendments thereto." (Attachment 2)

Moved by Senator Lee, seconded by Senator Reitz, bill draft 5rs1490 be introduced. Motion carried.

Approval of Minutes

Moved by Senator Apple, seconded by Senator Lee, the minutes of the meetings of the Senate Utilities Committee held on January 11, 2006 and January 17, 2006 be approved. Motion carried.

Adjournment.

Respectfully submitted,

Ann McMorris  
Secretary

Attachments - 2



By

AN ACT concerning air contaminant emission sources; amending K.S.A. 65-3002 and 65-3005 and repealing the existing sections.

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

Section 1. K.S.A. 65-3002 is hereby amended to read as follows: 65-3002. As used in this act, unless the context clearly requires otherwise:

(a) "Air contaminant" means dust, fumes, smoke, other particulate matter, vapor, gas, odorous substances, or any combination thereof, but not including water vapor or steam condensate.

(b) "Air contamination" means the presence in the outdoor atmosphere of one or more air contaminants.

(c) "Air pollution" means the presence in the outdoor atmosphere of one or more air contaminants in such quantities and duration as is, or tends significantly to be, injurious to human health or welfare, animal or plant life, or property, or would unreasonably interfere with the enjoyment of life or property, or would contribute to the formation of regional haze.

(d) "Alter" means any physical change in, or change in the method of operation of, an air contaminant emission stationary source which increases the amount of any regulated air pollutant emitted by such source or which results in the emission of any regulated air pollutant not previously emitted.

(e) "Emission" means a release into the outdoor atmosphere of air contaminants.

(f) "Facility" means any building, structure, machine, equipment, device or installation (or group of buildings, structures, machines, equipment, devices or installations), whether temporary or permanent, located on one or more contiguous or adjacent properties and under common control of the same person (or persons under common control). Such term shall not include locomotives, diesel trucks or truck tractors unless otherwise required by the federal clean air act, as amended in

November 1990.

(g) "Modify" or "modification," when used in conjunction with an approval or permit action, means an amendment to an existing approval or permit initiated by the permittee. When used to describe a change in any air contaminant emission stationary source, "modify" shall have the same meaning as the term "alter."

(h) "Permittee" means the holder of an approval or the holder of a permit and includes both the owner and the operator of any approved or permitted air contaminant emission source.

(i) "Person" means any individual, partnership, firm, association, municipality, public or private corporation, subdivision or agency of the state or federal government, trust, estate or any other legal entity.

(j) "Regional haze" means visibility impairment that is caused by the emission of air contaminants from numerous sources located over a wide geographic area.

~~(j)~~ (k) "Reopen" means to seek an amendment to an existing approval or permit initiated by any person other than the permittee.

~~(k)~~ (l) "Secretary" means the secretary of health and environment.

~~(l)~~ (m) "Stationary source" means any building, structure, facility or installation which emits or may emit any air contaminant.

Sec. 2. K.S.A. 65-3005 is hereby amended to read as follows:  
65-3005. The secretary shall have the power to:

(a) Adopt, amend and repeal rules and regulations implementing and consistent with this act.

(b) Hold hearings relating to any aspect of or matter in the administration of this act concerning air quality control, and in connection therewith, compel the attendance of witnesses and the production of evidence.

(c) Issue such orders, permits and approvals as may be necessary to effectuate the purposes of this act and enforce the same by all appropriate administrative and judicial proceedings.

(d) Require access to records relating to emissions which cause or contribute to air pollution.

(e) Prepare and develop a comprehensive plan or plans for the prevention, abatement and control of air pollution ~~in this~~ state originating in Kansas that affects air quality in Kansas or in other states or both.

(f) Adopt rules and regulations governing such public notification and comment procedures as authorized by this act.

(g) Encourage voluntary cooperation by persons or affected groups to achieve the purposes of this act.

(h) (1) Encourage local units of government to handle air pollution problems within their respective jurisdictions and on a cooperative basis; (2) provide technical and consultative assistance therefor; and (3) enter into agreements with local units of government to administer all or part of the provisions of the Kansas air quality act in the units' respective jurisdictions.

(i) Encourage and conduct studies, investigations and research relating to air contamination and air pollution and their causes, effects, prevention, abatement and control.

(j) Encourage air contaminant emission sources to voluntarily implement strategies, including the development and use of innovative technologies, market-based principles and other private initiatives to reduce or prevent pollution.

(k) Determine by means of field studies and sampling the degree of air contamination and air pollution in the state and the several parts thereof.

(l) Establish ambient air quality standards for the state as a whole or for any part thereof.

(m) Collect and disseminate information and conduct educational and training programs relating to air contamination and air pollution.

(n) Advise, consult and cooperate with other agencies of the state, local governments, industries, other states, interstate or interlocal agencies, and the federal government, and with

interested persons or groups.

(o) Accept, receive and administer grants or other funds or gifts from public and private entities, including the federal government, for the purpose of carrying out any of the functions of this act. Such funds received by the secretary pursuant to this section shall be deposited in the state treasury to the account of the department of health and environment.

(p) Enter into contracts and agreements with other state agencies or subdivisions, ~~municipalities~~ local governments, other states, interstate or interlocal agencies, the federal government or its agencies or private entities as is necessary to accomplish the purposes of the Kansas air quality act.

(q) Implement or participate in intrastate or interstate emissions trading programs or other programs that demonstrate equivalent air quality benefits for the prevention, abatement and control of air pollution in Kansas or in other states or both.

Sec. 3. K.S.A. 65-3002 and 65-3005 are hereby repealed.

Sec. 4. This act shall take effect and be in force from and after its publication in the statute book.

Draft

By Committee on Utilities  
(By request of Select Joint Committee on Energy)

AN ACT concerning property taxation; providing for payment in lieu of taxes; amending K.S.A. 2005 Supp. 79-201 and repealing the existing section.

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

Section 1. K.S.A. 2005 Supp. 79-201 is hereby amended to read as follows: 79-201. The following described property, to the extent herein specified, shall be and is hereby exempt from all property or ad valorem taxes levied under the laws of the state of Kansas:

First. All buildings used exclusively as places of public worship and all buildings used exclusively by school districts and school district interlocal cooperatives organized under the laws of this state, with the furniture and books therein contained and used exclusively for the accommodation of religious meetings or for school district or school district interlocal cooperative purposes, whichever is applicable, together with the grounds owned thereby if not leased or otherwise used for the realization of profit, except that: (a) (1) Any school building, or portion thereof, together with the grounds upon which the building is located, shall be considered to be used exclusively by the school district for the purposes of this section when leased by the school district to any political or taxing subdivision of the state, including a school district interlocal cooperative, or to any association, organization or nonprofit corporation entitled to tax exemption with respect to such property; and (2) any school building, together with the grounds upon which the building is located, shall be considered to be used exclusively by a school district interlocal cooperative for the purposes of this section when being acquired pursuant to a lease-purchase agreement; and (b) any building, or portion thereof, used as a place of worship, together with the grounds upon which the building is located, shall be considered to be used exclusively for the religious purposes of this section when used as a not-for-profit day care center for children which is

licensed pursuant to K.S.A. 65-501 et seq., and amendments thereto, or when used to house an area where the congregation of a church society and others may purchase tracts, books and other items relating to the promulgation of the church society's religious doctrines.

Second. All real property, and all tangible personal property, actually and regularly used exclusively for literary, educational, scientific, religious, benevolent or charitable purposes, including property used exclusively for such purposes by more than one agency or organization for one or more of such exempt purposes. Except with regard to real property which is owned by a religious organization, is to be used exclusively for religious purposes and is not used for a nonexempt purpose prior to its exclusive use for religious purposes which property shall be deemed to be actually and regularly used exclusively for religious purposes for the purposes of this paragraph, this exemption shall not apply to such property, not actually used or occupied for the purposes set forth herein, nor to such property held or used as an investment even though the income or rentals received therefrom is used wholly for such literary, educational, scientific, religious, benevolent or charitable purposes. In the event any such property which has been exempted pursuant to the preceding sentence is not used for religious purposes prior to its conveyance which results in its use for nonreligious purposes, there shall be a recoupment of property taxes in an amount equal to the tax which would have been levied upon such property except for such exemption for all taxable years for which such exemption was in effect. Such recoupment tax shall become due and payable in such year as provided by K.S.A. 79-2004, and amendments thereto. A lien for such taxes shall attach to the real property subject to the same on November 1 in the year such taxes become due and all such taxes remaining due and unpaid after the date prescribed for the payment thereof shall be collected in the manner provided by law for the collection of delinquent taxes. Moneys collected from the



recoupment tax hereunder shall be credited by the county treasurer to the several taxing subdivisions within which such real property is located in the proportion that the total tangible property tax levies made in the preceding year for each such taxing subdivision bear to the total of all such levies made in that year by all such taxing subdivisions. Such moneys shall be credited to the general fund of the taxing subdivision or if such taxing subdivision is making no property tax levy for the support of a general fund such moneys may be credited to any other tangible property tax fund of general application of such subdivision. This exemption shall not be deemed inapplicable to property which would otherwise be exempt pursuant to this paragraph because an agency or organization: (a) Is reimbursed for the provision of services accomplishing the purposes enumerated in this paragraph based upon the ability to pay by the recipient of such services; or (b) is reimbursed for the actual expense of using such property for purposes enumerated in this paragraph; or (c) uses such property for a nonexempt purpose which is minimal in scope and insubstantial in nature if such use is incidental to the exempt purposes of this paragraph; or (d) charges a reasonable fee for admission to cultural or educational activities or permits the use of its property for such activities by a related agency or organization, if any such activity is in furtherance of the purposes of this paragraph.

Third. All moneys and credits belonging exclusively to universities, colleges, academies or other public schools of any kind, or to religious, literary, scientific or benevolent and charitable institutions or associations, appropriated solely to sustain such institutions or associations, not exceeding in amount or in income arising therefrom the limit prescribed by the charter of such institution or association.

Fourth. The reserve or emergency funds of fraternal benefit societies authorized to do business under the laws of the state of Kansas.

Fifth. All buildings of private nonprofit universities or

colleges which are owned and operated by such universities and colleges as student union buildings, presidents' homes and student dormitories.

Sixth. All real and tangible personal property actually and regularly used exclusively by the alumni association associated by its articles of incorporation with any public or nonprofit Kansas college or university approved by the Kansas board of regents to confer academic degrees or with any community college approved by its board of trustees to grant certificates of completion of courses or curriculum, to provide accommodations and services to such college or university or to the alumni, staff or faculty thereof.

Seventh. All parsonages owned by a church society and actually and regularly occupied and used predominantly as a residence by a minister or other clergyman of such church society who is actually and regularly engaged in conducting the services and religious ministrations of such society, and the land upon which such parsonage is located to the extent necessary for the accommodation of such parsonage.

Eighth. All real property, all buildings located on such property and all personal property contained therein, actually and regularly used exclusively by any individually chartered organization of honorably discharged military veterans of the United States armed forces or auxiliary of any such organization, which is exempt from federal income taxation pursuant to section 501(c)(19) of the federal internal revenue code of 1986, for clubhouse, place of meeting or memorial hall purposes, and real property to the extent of not more than two acres, and all buildings located on such property, actually and regularly used exclusively by any such veterans' organization or its auxiliary as a memorial park.

Ninth. All real property and tangible personal property actually and regularly used by a community service organization for the predominant purpose of providing humanitarian services, which is owned and operated by a corporation organized not for

profit under the laws of the state of Kansas or by a corporation organized not for profit under the laws of another state and duly admitted to engage in business in this state as a foreign not-for-profit corporation if: (a) The directors of such corporation serve without pay for such services; (b) the corporation is operated in a manner which does not result in the accrual of distributable profits, realization of private gain resulting from the payment of compensation in excess of a reasonable allowance for salary or other compensation for services rendered or the realization of any other form of private gain; (c) no officer, director or member of such corporation has any pecuniary interest in the property for which exemption is claimed; (d) the corporation is organized for the purpose of providing humanitarian services; (e) the actual use of property for which an exemption is claimed must be substantially and predominantly related to the purpose of providing humanitarian services, except that, the use of such property for a nonexempt purpose which is minimal in scope and insubstantial in nature shall not result in the loss of exemption if such use is incidental to the purpose of providing humanitarian services by the corporation; (f) the corporation is exempt from federal income taxation pursuant to section 501(c)(3) of the internal revenue code of 1986 and; (g) contributions to the corporation are deductible under the Kansas income tax act. As used in this clause, "humanitarian services" means the conduct of activities which substantially and predominantly meet a demonstrated community need and which improve the physical, mental, social, cultural or spiritual welfare of others or the relief, comfort or assistance of persons in distress or any combination thereof including but not limited to health and recreation services, child care, individual and family counseling, employment and training programs for handicapped persons and meals or feeding programs. Notwithstanding any other provision of this clause, motor vehicles shall not be exempt hereunder unless such vehicles are exclusively used for the purposes described therein, except

that the use of any such vehicle for the purpose of participating in a coordinated transit district in accordance with the provisions of K.S.A. 75-5032 through 75-5037, and amendments thereto, or K.S.A. 75-5051 through 75-5058, and amendments thereto, shall be deemed as exclusive use.

Tenth. For all taxable years commencing after December 31, 1986, any building, and the land upon which such building is located to the extent necessary for the accommodation of such building, owned by a church or nonprofit religious society or order which is exempt from federal income taxation pursuant to section 501(c)(3) of the federal internal revenue code of 1986, and actually and regularly occupied and used exclusively for residential and religious purposes by a community of persons who are bound by vows to a religious life and who conduct or assist in the conduct of religious services and actually and regularly engage in religious, benevolent, charitable or educational ministrations or the performance of health care services.

Eleventh. For all taxable years commencing after December 31, 1998, all property actually and regularly used predominantly to produce and generate electricity utilizing renewable energy resources or technologies. For purposes of this section, "renewable energy resources or technologies" shall include wind, solar, thermal, photovoltaic, biomass, hydropower, geothermal and landfill gas resources or technologies. The board of county commissioners may require the owner or owners of property exempt under this subsection to provide for payments in lieu of taxes under K.S.A. 12-147, and amendments thereto.

Twelfth. For all taxable years commencing after December 31, 2001, all personal property actually and regularly used predominantly to collect, refine or treat landfill gas or to transport landfill gas from a landfill to a transmission pipeline, and the landfill gas produced therefrom.

The provisions of this section, except as otherwise more specifically provided, shall apply to all taxable years commencing after December 31, 1995.

Sec. 2. K.S.A. 2005 Supp. 79-201 is hereby repealed.

Sec. 3. This act shall take effect and be in force from and after its publication in the statute book.