

SESSION OF 2004

SUPPLEMENTAL NOTE ON HOUSE BILL NO. 2531

As Amended by Senate Committee on
Agriculture

Brief*

HB 2531 would add to and amend the Historic Preservation Act to provide certain protection to land used for agricultural purposes within the environs of a historic property. The bill would establish that land used for agricultural purposes which is located within 500 feet of a historic property would be deemed to be located within the environs of the historic property.

The bill would provide that no provision of the Act, or any rule and regulation promulgated under the Act, would prohibit, hinder or otherwise restrict the agricultural use of any land used for agricultural purposes when the land is located within the environs of a historic property, whether proposed or established. In addition, no provision of the Act would prohibit, hinder or otherwise restrict an owner of any land used for agricultural purposes from constructing, erecting, remodeling or maintaining any agriculturally-related building or structure located on the land. Finally, no provision of the Act would require an owner of any land used for agricultural purposes, or the owner's authorized agent, to change or modify the agricultural use of the land.

Under the bill "land used for agricultural purposes" would mean:

land devoted to the production of plants, animals or horticultural products, including but not limited to forages; grains and feed crops; dairy animals and dairy products; poultry and poultry products; beef cattle, sheep, swine and horses; bees and apiary products; trees and forest products; fruits, nuts and berries; vegetables; or nursery, sod, floral, ornamental and greenhouse products. The term would include any road,

*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>

water, watercourse and private way located upon or within the boundaries of the land and buildings, structures and machinery or equipment when attached to the land; and include any farm home, including any associated farmyard. The term would include, among other things, land used for an agriculturally-related business and land used incidentally for recreational purposes. Not included in the definition would be land which is used for recreational purposes, suburban residential acreages, rural homes, including any associated farmyards, whose primary function is for residential or recreational purposes even though the properties may produce or maintain some of those plants or animals listed in the definition.

Another provision of the bill would prohibit the State Historic Sites Board of Review from considering or approving any nomination of historic property located in an unincorporated area of any county to either the state register of historic places or the national register of historic places unless owners of land located within 500 feet of the boundaries of a proposed historic property have been notified of the time and place of the board meeting at which the nomination is to be considered or approved. Notification would be by mail and publication notice. The notice would be published at least once each week for two consecutive weeks in a newspaper of general circulation in each county in which all, or any part, of the proposed historic property is located. The last publication would be at least 30 days, but not more than 50 days, prior to the date of the board meeting. Another provision of the bill would require that whenever the State Historic Sites Board of Review submits a notice to a newspaper for publication, the Board would be required at the same time to submit a copy of the notice to the Secretary of the Department of Wildlife and Parks.

An additional amendment would subject the decision of the Secretary of State when eminent domain has been used by an agency or political subdivision of the state with respect to any property under the Historical Society's jurisdiction and control to an appeal in accordance with the provision of the Act for Judicial Review and Civil Enforcement of Agency Actions.

Background

The issue being addressed by this bill was discussed last legislative Session and involved the issue of potential historic properties in Douglas County. Conferees testifying in support of the bill included representatives of the Kansas Farm Bureau and the Kansas Livestock Association. Also appearing in support of the bill was an individual from Baldwin and a representative of the Lawrence Chamber of Commerce AgriBusiness Network. Written testimony in support of the bill was distributed by Representative Tom Sloan. Also commenting on the bill was Mary Allman-Koernig, the Executive Director of the Historical Society. She indicated that the Society had no objections to the bill. There were no opponents to the bill.

The House Committee on Agriculture amended the bill by modifying the definition of "land used for agricultural purposes" by eliminating language that made it apply to land located only in the unincorporated portion of a county.

The Senate Committee on Agriculture amended the bill to require the State Historic Sites Board of Review to provide notice to the Secretary of the Kansas Department of Wildlife and Parks at the same time when newspaper publication is given; to eliminate the word "agricultural" from the language concerning notice so that all landowners would be provided notice; and to provide that landowner notice be by mail as well as by publication in a local newspaper. Other amendments were technical or clarifying in nature.

The fiscal note on the original bill indicates that the Historical Society states that the notification requirement regarding the approval of historic property nominations would cost \$2,080 from agency fee funds and federal funds in FY 2005.