

SESSION OF 2006

SUPPLEMENTAL NOTE ON SENATE BILL NO. 386

As Amended by House Committee of the Whole

Brief*

SB 386, if enacted, would amend statutes dealing with air quality. The bill would create new definitions for "regional haze" and "deceivew," and augment the definition of "air pollution."

Other amendments would authorize the Secretary of Health and Environment to:

- Prepare and develop plans that address air pollution originating in Kansas that affects air quality in Kansas or other states, or both;
- Expand the authority of the Secretary to enter into agreements to include local governments, other states, and interstate agencies;
- Conduct or participate in intrastate or interstate emissions trading programs that demonstrate equivalent air quality benefits for the prevention, abatement, and control of air pollution in Kansas or other states, or both;
- Prepare and adopt a regional haze plan that is no more stringent than required by federal law as necessary to prevent, abate, and control air pollution originating in Kansas that affects Kansas or other states, or both; and
- Participate in the activities of any visibility transport commission established under federal law.

The Secretary would be required to report annually to the Governor and the Legislature on the activities of any visibility transport commission.

*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>

Background

The bill was introduced at the request of a spokesperson from the Department of Health and Environment who indicated at the hearing on the bill, that over the last decade, air pollution regulation in the United States has changed from a focus on controlling pollutants on the local level to requiring control decisions on a regional or multi-state basis. The Committee was told that on March 15, 2005, the US Environmental Protection Agency issued a rule to reduce mercury emissions from coal-fired power plants. In order to implement the Rule in Kansas, the state air pollution agency will be required to adopt the federal regulations regarding a cap-and-trade program and prepare a State Implementation Plan. The proposed legislation addresses the participation by Kansas utilities in the cap-and-trade program. The due date for the submission of the state implementation plan is November 17, 2006.

Others appearing in support of the bill included a representative of the Sierra Club. Another conferee represented the Empire District Company and six other electric utilities. A spokesperson from the Kansas Livestock Association also appeared before the Committee and indicated the organization does not oppose the bill.

The House Committee amendments were developed by a member of the Committee working with representatives of the Department of Health and Environment. Those amendments modified the definition of "regional haze;" created a definition of "deciview;" allowed the Secretary to prepare and adopt a regional haze plan under certain circumstances; allowed the Secretary to participate in the activities of any visibility transport commission; required the report on any visibility transport commission activities to the Governor and Legislature; and allowed the Secretary to "conduct" rather than "implement" intrastate or interstate emissions trading programs.

The House Committee of the Whole further amended the bill to delete new authority the bill would have given the Secretary of Health and Environment to enter into contracts or agreements with interlocal agencies.

The fiscal note on the bill indicates the Department of Health and Environment believes the passage of the bill would require the addition of 1.00 Environmental Scientist IV FTE position at \$68,177 to prepare state implementation plans; \$14,350 for communication equipment and travel; \$5,125 for professional and office supplies; and \$3,500 for

one-time expenditures for capital outlay, for a total of \$91,152. The Department would fund the FTE position and operating expenditures from the Air Quality Fee Fund. Any fiscal effect resulting from the passage of this bill would be in addition to amounts recommended in *The FY 2007 Governor's Budget Report*.