

PUBLIC POLICY STATEMENT

SENATE COMMITTEE ON AGRICULTURE

Re: SB 357; Wind Erosion; Duties of County Commissioners, Conservation Districts.

February 08, 2012
Topeka, Kansas

Testimony Provided by:
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Chairman Taddiken and members of the Senate Agriculture Committee, thank you for the opportunity to share our thoughts on SB 357 which would address blowing dirt and soil erosion statutes contained in K.S.A. 2-2001 et seq. These laws were codified in the nineteen thirties.

As you know, KFB is the state's largest general farm organization representing more than 40,000 farm and ranch families through our 105 county Farm Bureau Associations. Our members, who are directly engaged in agricultural pursuits, have a substantial economic and legal interest in this matter, since it could significantly impact their farming and ranching operations.

The current statutes require County Commissioners to investigate complaints filed by individuals, regarding blowing dirt and soil erosion that are caused by wind. Upon being advised that dust, plants or weeds are blowing from any particular land the commissioners are authorized and directed to immediately inspect such land.

If it is shown that wind erosion on a parcel of land poses a potential danger to others or to the land, the Commissioners are to hold a hearing with the landowner and complaining party. Ultimately the Commissioners are authorized to enforce farming practices, which include the time and type of work to be completed.

It is important to understand that our member-adopted policy is committed to the concept that enacted legislation should be based on: factual information, scientific knowledge and economic impact studies. We also vigorously support landowners' rights and have significant concerns with any legislation that will create or enhance the burdens or liabilities imposed on owners of land.

Our members fully comprehend the value the economics of conserving their natural resources and preventing dirt from blowing from their property. This notion can't be expressed enough -- no one knows this better than a farmer.

This matter was triggered by an event that occurred in Riley County, Kansas. Our members own land in the KAW valley next to the Kansas River just inside Riley County. In April 2010, they were reported to Riley County officials by a neighbor for blowing dirt.

The Riley County Commissioners had a duty to investigate the complaint, pursuant to K.S.A. 2-2001 et. seq. (similar to a fence viewing requirement). On May 24, 2010 the Commissioners inspected the properties and allowed the parties to visit with them during a work session on June 7, 2010.

Based on evidence received at the hearing, the Commissioners determined “there is soil blowing from the land ‘in sufficient quantity’ to injure that land through erosion; and there is a ‘sufficient quantity’ of dirt blowing... to injure the neighbor’s land.”

The landowners argued they were in a non-highly erodible area and were in compliance with their local NRCS conservation plan.

Regardless, the Commissioners outlined steps to be in compliance within their findings (based on information from NRCS) to “prevent or materially lessen” such blowing soil:

- ✓ 30% crop residue,
- ✓ Avoid fall tillage, and
- ✓ Water with the center pivot at first sign of blowing soil to reduce dust and crust soil.

No date was ever given when these requirements will end and in fact this matter is still under the control of the Riley County Commission.

Simply put, we are a **proponent** of SB 357. This bill still provides the Commissioners emergency powers to act in urgent situations. However, the bill provides a process that will allow parties that are disputing blowing dirt (non-emergency situation) to seek assistance from the local conservation district boards, who can then tap into the assistance of the NRCS experts. This provides the sound science and a reasonable process that our organization seeks instead of potentially arbitrary decision rendered by Commissioners.

Thank you for the opportunity to share the policy of our members. We stand ready to assist as you discuss this important topic.

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Kansas Farm Bureau represents grass roots agriculture. Established in 1919, this non-profit advocacy organization supports farm families who earn their living in a changing industry.