

Senate Substitute for HOUSE BILL No. 2597

AN ACT concerning oil and gas; amending K.S.A. 2011 Supp. 19-101a, 65-3407c and 79-4231 and repealing the existing sections.

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

Section 1. K.S.A. 2011 Supp. 65-3407c is hereby amended to read as follows: 65-3407c. (a) The secretary may authorize persons to carry out the following activities without a solid waste permit issued pursuant to K.S.A. 65-3407, and amendments thereto:

(1) Dispose of solid waste at a site where the waste has been accumulated or illegally dumped. Disposal of some or all such waste must be identified as an integral part of a site cleanup and closure plan submitted to the department by the person responsible for the site. No additional waste may be brought to the site following the department's approval of the site cleanup and closure plan.

(2) Perform temporary projects to remediate soils contaminated by organic constituents capable of being reduced in concentration by biodegradation processes or volatilization, or both. Soil to be treated may be generated on-site or off-site. A project operating plan and a site closure plan must be submitted to the department as part of the project approval process.

(3) Dispose of demolition waste resulting from demolition of an entire building or structure if such waste is disposed of at, adjacent to or near the site where the building or structure was located. Prior to the department's authorization, written approval for the disposal must be obtained from the landowner and the local governmental or zoning authority having jurisdiction over the disposal site. The disposal area must be covered with a minimum of two feet of soil and seeded, rocked or paved. The final grades for the disposal site must be compatible with and not detract from the appearance of adjacent properties. In addition to the factors listed in subsection (b), the secretary shall consider the following when evaluating requests for off-site disposal of demolition waste:

(A) Public safety concerns associated with the building or structure proposed to be demolished.

(B) Proposed plans to redevelop the building site which would be impacted by on-site disposal of debris.

(C) The disposal capacity of any nearby permitted landfill.

(4) Dispose of solid waste generated as a result of a transportation accident if such waste is disposed of on property adjacent to or near the accident site. Prior to the department's authorization, written approval for the disposal must be obtained from the landowner and the local governmental or zoning authority having jurisdiction over the disposal site. A closure plan must be submitted to the department as part of the authorization process.

(5) Dispose of whole unprocessed livestock carcasses on property at, adjacent or near where the animals died if: (A) Such animals died as a result of a natural disaster or their presence has created an emergency situation; and (B) proper procedures are followed to minimize threats to human health and the environment. Prior to the department's authorization, written approval for the disposal must be obtained from the landowner and the local governmental or zoning authority having jurisdiction over the disposal site.

(6) Dispose of solid waste resulting from natural disasters, such as storms, tornadoes, floods and fires, or other such emergencies, when a request for disposal is made by the local governmental authority having jurisdiction over the area. Authorization shall be granted by the department only when failure to act quickly could jeopardize human health or the environment. Prior to the department's authorization, written approval for the disposal must be obtained from the landowner and the local governmental or zoning authority having jurisdiction over the disposal site. The local governmental authority must agree to provide proper closure and postclosure maintenance of the disposal site as a condition of authorization.

(7) Store solid waste resulting from natural disasters, such as storms, tornadoes, floods and fires, or other such emergencies, at temporary waste transfer sites, when a request for storage is made by the local governmental authority having jurisdiction over the area. Authorization shall be granted by the department only when failure to act quickly could jeopardize human health or the environment. Prior to the department's authorization, written approval for the storage must be obtained from the

landowner and the local governmental or zoning authority having jurisdiction over the storage site. The local governmental authority must agree to provide proper closure of the storage and transfer site as a condition of authorization.

(8) (A) *Dispose of solid waste generated by drilling oil and gas wells by land-spreading in accordance with best management practices and maximum loading rates developed by the secretary and published on the department website.*

(B) *For any area that annually receives more than 25 inches of precipitation, as determined by the department, any solid waste disposed of by land-spreading shall be incorporated into the soil. No land-spreading shall occur on any area where the water table is less than 10 feet or on any area where there is documented groundwater contamination as determined by the department.*

(C) (i) *Each separate land-spreading location shall require submission of an application to land-spread drilling waste, complete with all information required on the application form developed by the secretary. The contents of the application form shall include, but are not limited to, the land-spreading location, soil characteristics, waste characteristics, waste volumes, drilling mud additives, land-spreading method and post-land-spreading report. A separate land-spreading application and a post-land-spreading report shall be submitted for each location.*

(ii) *For the purposes of protecting the health, safety and property of the people of the state, and preventing surface and subsurface water pollution and soil pollution detrimental to public health or to the plant, animal and aquatic life of the state, a land-spreading application may not be approved for the same location unless a minimum of three years has passed since the previous land spreading occurred.*

(iii) *A fee of \$250 shall be paid to the state corporation commission with each drilling waste land-spreading application. The fee shall be remitted to the state treasurer in accordance with K.S.A. 75-4215, and amendments thereto, to be credited to the conservation fee fund.*

(D) *The secretary and the state corporation commission shall enter into a memorandum of agreement for the purposes of:*

(i) *Administering the land-spreading application and approval process;*

(ii) *monitoring compliance; and*

(iii) *establishing mechanisms for enforcement and remedial actions.*

(E) *On or before January 1, 2014, the secretary, in coordination with the state corporation commission, shall adopt rules and regulation governing land-spreading of waste generated by drilling oil and gas wells. In developing such rules and regulations, the secretary and the state corporation commission shall seek advice and comments from groundwater management districts and other groups or persons knowledgeable and experienced in areas related to this paragraph.*

(F) *On or before January 30, 2013 and 2014, the state corporation commission shall present a report to the senate standing committees on natural resources and ways and means and to the house standing committees on agriculture and natural resources and appropriations. Such report shall include, but not be limited to, information concerning the implementation and status of land-spreading procedures and the costs associated with the regulation of land-spreading pursuant to this paragraph.*

(G) *The provisions of this paragraph shall expire on July 1, 2015.*

(b) The secretary shall consider the following factors when determining eligibility for an exemption to the solid waste permitting requirements under this section:

- (1) Potential impacts to human health and the environment.
- (2) Urgency to perform necessary work.
- (3) Costs and impacts of alternative waste handling methods.
- (4) Local land use restrictions.
- (5) Financial resources of responsible parties.
- (6) Technical feasibility of proposed project.
- (7) Technical capabilities of persons performing proposed work.

(c) The secretary may seek counsel from local government officials prior to exempting activities from solid waste permitting requirements under this section.

New Sec. 2. (a) The board of county commissioners of each county shall establish a county oil and gas valuation depletion trust fund if the county is to receive moneys from the oil and gas valuation depletion trust fund created under the provisions of K.S.A. 2011 Supp. 79-4231, and amendments thereto. The county treasurer shall be responsible for the administration of such fund.

(b) Upon receipt of an authorization for distribution of county oil and gas valuation depletion trust fund moneys pursuant to K.S.A. 2011 Supp. 79-4231, and amendments thereto, the county treasurer shall release 20% of the moneys credited to such county's trust account to the county general fund for expenditure as directed by the board.

(c) Moneys credited to the county oil and gas valuation depletion trust fund shall be subject to the provisions of K.S.A. 79-2925 through 79-2937, and amendments thereto. In making the budgets of such county, the amounts credited to, and the amount on hand in, such fund and the amount expended therefrom shall be shown thereon for the information of the taxpayers of such county. Moneys in such fund may be invested in accordance with the provisions of K.S.A. 10-131, and amendments thereto, with interest thereon credited to such fund.

Sec. 3. K.S.A. 2011 Supp. 19-101a is hereby amended to read as follows: 19-101a. (a) The board of county commissioners may transact all county business and perform all powers of local legislation and administration it deems appropriate, subject only to the following limitations, restrictions or prohibitions:

(1) Counties shall be subject to all acts of the legislature which apply uniformly to all counties.

(2) Counties may not affect the courts located therein.

(3) Counties shall be subject to acts of the legislature prescribing limits of indebtedness.

(4) In the exercise of powers of local legislation and administration authorized under provisions of this section, the home rule power conferred on cities to determine their local affairs and government shall not be superseded or impaired without the consent of the governing body of each city within a county which may be affected.

(5) Counties may not legislate on social welfare administered under state law enacted pursuant to or in conformity with public law No. 271 — 74th congress, or amendments thereof.

(6) Counties shall be subject to all acts of the legislature concerning elections, election commissioners and officers and their duties as such officers and the election of county officers.

(7) Counties shall be subject to the limitations and prohibitions imposed under K.S.A. 12-187 to 12-195, inclusive, and amendments thereto, prescribing limitations upon the levy of retailers' sales taxes by counties.

(8) Counties may not exempt from or effect changes in statutes made nonuniform in application solely by reason of authorizing exceptions for counties having adopted a charter for county government.

(9) No county may levy *ad valorem* taxes under the authority of this section upon real property located within any redevelopment project area established under the authority of K.S.A. 12-1772, and amendments thereto, unless the resolution authorizing the same specifically authorized a portion of the proceeds of such levy to be used to pay the principal of and interest upon bonds issued by a city under the authority of K.S.A. 12-1774, and amendments thereto.

(10) Counties shall have no power under this section to exempt from any statute authorizing or requiring the levy of taxes and providing substitute and additional provisions on the same subject, unless the resolution authorizing the same specifically provides for a portion of the proceeds of such levy to be used to pay a portion of the principal and interest on bonds issued by cities under the authority of K.S.A. 12-1774, and amendments thereto.

(11) Counties may not exempt from or effect changes in the provisions of K.S.A. 19-4601 through 19-4625, and amendments thereto.

(12) Except as otherwise specifically authorized by K.S.A. 12-1,101 through 12-1,109, and amendments thereto, counties may not levy and collect taxes on incomes from whatever source derived.

(13) Counties may not exempt from or effect changes in K.S.A. 19-430, and amendments thereto.

- (14) Counties may not exempt from or effect changes in K.S.A. 19-302, 19-502b, 19-503, 19-805 or 19-1202, and amendments thereto.
- (15) Counties may not exempt from or effect changes in K.S.A. 19-15,139, 19-15,140 and 19-15,141, and amendments thereto.
- (16) Counties may not exempt from or effect changes in the provisions of K.S.A. 12-1223, 12-1225, 12-1225a, 12-1225b, 12-1225c and 12-1226, and amendments thereto, or the provisions of K.S.A. 12-1260 through 12-1270 and 12-1276, and amendments thereto.
- (17) Counties may not exempt from or effect changes in the provisions of K.S.A. 19-211, and amendments thereto.
- (18) Counties may not exempt from or effect changes in the provisions of K.S.A. 19-4001 through 19-4015, and amendments thereto.
- (19) Counties may not regulate the production or drilling of any oil or gas well in any manner which would result in the duplication of regulation by the state corporation commission and the Kansas department of health and environment pursuant to chapter 55 and chapter 65 of the Kansas Statutes Annotated, and amendments thereto, and any rules and regulations adopted pursuant thereto. Counties may not require any license or permit for the drilling or production of oil and gas wells. Counties may not impose any fee or charge for the drilling or production of any oil or gas well.
- (20) Counties may not exempt from or effect changes in K.S.A. 79-41a04, and amendments thereto.
- (21) Counties may not exempt from or effect changes in K.S.A. 79-1611, and amendments thereto.
- (22) Counties may not exempt from or effect changes in K.S.A. 79-1494, and amendments thereto.
- (23) Counties may not exempt from or effect changes in subsection (b) of K.S.A. 19-202, and amendments thereto.
- (24) Counties may not exempt from or effect changes in subsection (b) of K.S.A. 19-204, and amendments thereto.
- (25) Counties may not levy or impose an excise, severance or any other tax in the nature of an excise tax upon the physical severance and production of any mineral or other material from the earth or water.
- (26) Counties may not exempt from or effect changes in K.S.A. 79-2017 or 79-2101, and amendments thereto.
- (27) Counties may not exempt from or effect changes in K.S.A. 2-3302, 2-3305, 2-3307, 2-3318, 17-5904, 17-5908, 47-1219, 65-171d, 65-1,178 through 65-1,199, 65-3001 through 65-3028, and amendments thereto.
- (28) Counties may not exempt from or effect changes in K.S.A. 2011 Supp. 80-121, and amendments thereto.
- (29) Counties may not exempt from or effect changes in K.S.A. 19-228, and amendments thereto.
- (30) Counties may not exempt from or effect changes in the wireless enhanced 911 act, in the VoIP enhanced 911 act or in the provisions of K.S.A. 12-5301 through 12-5308, and amendments thereto.
- (31) Counties may not exempt from or effect changes in K.S.A. 2011 Supp. 26-601, and amendments thereto.
- (32) (A) Counties may not exempt from or effect changes in the Kansas liquor control act except as provided by paragraph (B).  
(B) Counties may adopt resolutions which are not in conflict with the Kansas liquor control act.
- (33) (A) Counties may not exempt from or effect changes in the Kansas cereal malt beverage act except as provided by paragraph (B).  
(B) Counties may adopt resolutions which are not in conflict with the Kansas cereal malt beverage act.
- (34) Counties may not exempt from or effect changes in the Kansas lottery act.
- (35) Counties may not exempt from or effect changes in the Kansas expanded lottery act.
- (36) Counties may neither exempt from nor effect changes to the eminent domain procedure act.
- (37) Any county granted authority pursuant to the provisions of K.S.A. 19-5001 through 19-5005, and amendments thereto, shall be subject to the limitations and prohibitions imposed under K.S.A. 19-5001 through 19-5005, and amendments thereto.
- (38) Except as otherwise specifically authorized by K.S.A. 19-5001

through 19-5005, and amendments thereto, counties may not exercise any authority granted pursuant to K.S.A. 19-5001 through 19-5005, and amendments thereto, including the imposition or levy of any retailers' sales tax.

(39) *Counties may not exempt from or effect changes in section 2, and amendments thereto.*

(b) Counties shall apply the powers of local legislation granted in subsection (a) by resolution of the board of county commissioners. If no statutory authority exists for such local legislation other than that set forth in subsection (a) and the local legislation proposed under the authority of such subsection is not contrary to any act of the legislature, such local legislation shall become effective upon passage of a resolution of the board and publication in the official county newspaper. If the legislation proposed by the board under authority of subsection (a) is contrary to an act of the legislature which is applicable to the particular county but not uniformly applicable to all counties, such legislation shall become effective by passage of a charter resolution in the manner provided in K.S.A. 19-101b, and amendments thereto.

(c) Any resolution adopted by a county which conflicts with the restrictions in subsection (a) is null and void.

Sec. 4. K.S.A. 2011 Supp. 79-4231 is hereby amended to read as follows: 79-4231. (a) There is hereby created in the state treasury the oil and gas valuation depletion trust fund. The director of taxation shall administer the oil and gas valuation depletion trust fund. All amounts credited to the oil and gas valuation depletion trust fund pursuant to the provisions of K.S.A. 79-4227, and amendments thereto, *less the administration fee imposed under subsection (c)*, shall be credited to a separate trust account which shall be established within such fund for each county which in ~~fiscal year 2005 or~~ any fiscal year thereafter had \$100,000 or more in receipts of the excise tax upon the severance and production of oil and gas. Each county's trust account shall be credited in the proportion that the amount of oil and gas valuation depletion trust fund receipts collected from that county bears to the total amount of moneys credited to the oil and gas valuation depletion trust fund pursuant to K.S.A. 79-4227, and amendments thereto. Commencing July 1, ~~2008~~ 2012, and thereafter on an annual basis, ~~such moneys shall remain credited in such account in trust for such county for distributions pursuant to this section~~ *the director of taxation shall certify to the director of accounts and reports the amount due the county from the county's oil and gas depletion trust account on October 1 based on all amounts credited thereto, and the director of accounts and reports shall draw a warrant upon the state treasurer in favor of each such county for the amount credited to such county's trust account. Upon receipt of such warrant, the treasurer of the county shall credit the same to the oil and gas valuation depletion trust fund of the county established in section 2, and amendments thereto. Except that the director of taxation shall transfer all of the moneys credited to the Wilson county trust account to the Wilson county capital improvement fund in any such tax year until the payment of all costs of financing projects authorized pursuant to K.S.A. 2011 Supp. 74-8961, and amendments thereto, has been completed, and at that time the provisions of this subsection related to distributions to the Wilson county treasurer shall be applicable as provided in this subsection.*

(b) For any tax year that the oil and gas leasehold *ad valorem* valuation of any county, which has a trust account established and maintained ~~in the a county oil and gas valuation depletion trust fund as provided by this section 2, and amendments thereto,~~ is less than 50% of the oil and gas leasehold *ad valorem* valuation of such county for the second succeeding tax year which commences January 1 following the end of the fiscal year in which the county had \$100,000 or more in receipts of the excise tax upon the production of oil and gas ~~and the county had a trust account established in the oil and gas valuation depletion trust fund as provided by this section,~~ as certified by the property valuation division, on or before January 15 of the year following such tax year, the director of taxation shall ~~distribute~~ *certify the oil and gas leasehold ad valorem valuation amounts for each county and shall authorize the county treasurer to release 20% of the moneys credited to such county's trust account* ~~oil and gas valuation depletion trust fund to the county treasurer general~~

~~fund of such county, except that the director of taxation shall transfer all of the moneys credited to the Wilson county trust account to the Wilson county capital improvement fund in any such tax year until the payment of all costs of financing projects authorized pursuant to K.S.A. 2011 Supp. 74-8961, and amendments thereto, has been completed, and at that time the provisions of this subsection related to distributions to the Wilson county treasurer shall be applicable as provided in this subsection. In any year in which a county's oil and gas leasehold valuation is 50% or more of the oil and gas leasehold valuation of such county for tax year as described in this subsection, such county shall not receive an authorization for distribution of trust fund moneys pursuant to this section for such tax year. On an annual basis, the director of taxation shall certify to the director of accounts and reports the counties entitled to a distribution pursuant to this section. The director of accounts and reports shall draw warrants on the state treasurer payable to the county treasurer of each county entitled to payment from such county's trust account in the oil and gas valuation depletion trust fund upon vouchers approved by the director of taxation.~~

*(c) The director of taxation shall impose and collect an administration fee for the administration of the oil and gas valuation depletion trust fund, this section and the provisions of K.S.A. 2011 Supp. 79-4227, and amendments thereto, equal to 2% of the amount credited to the oil and gas valuation depletion trust fund. The administration fee shall be imposed and collected prior to crediting any amount to any trust account established and maintained for a county in the oil and gas valuation depletion trust fund. All amounts collected for the administration fee shall be transferred from the oil and gas valuation depletion trust fund to the state general fund.*

*(d) All moneys credited to the oil and gas valuation depletion trust fund upon the effective date of this act shall be distributed to each county not later than 30 days following the effective date of this act for deposit in the county's oil and gas valuation depletion trust fund established pursuant to the provisions of section 2, and amendments thereto.*

Sec. 5. K.S.A. 2011 Supp. 19-101a, 65-3407c and 79-4231 are hereby repealed.

Sec. 6. This act shall take effect and be in force from and after its publication in the Kansas register.

I hereby certify that the above BILL originated in the HOUSE, and was adopted by that body

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HOUSE adopted  
Conference Committee Report \_\_\_\_\_

\_\_\_\_\_  
*Speaker of the House.*

\_\_\_\_\_  
*Chief Clerk of the House.*

Passed the SENATE  
as amended \_\_\_\_\_

SENATE adopted  
Conference Committee Report \_\_\_\_\_

\_\_\_\_\_  
*President of the Senate.*

\_\_\_\_\_  
*Secretary of the Senate.*

APPROVED \_\_\_\_\_

\_\_\_\_\_  
*Governor.*