

SESSION OF 2012

SUPPLEMENTAL NOTE ON SENATE BILL NO. 405

As Amended by Senate Committee on Natural
Resources

Brief*

SB 405, as amended, would allow all existing private wastewater systems installed prior to January 1, 1992, to remain in use, as long as the systems are properly functioning. The existing private wastewater systems would be allowed to remain in use until a modification or replacement is required for the system to function properly.

A private wastewater system would be defined as a wastewater system serving a single-family residence designed and constructed to collect, store, and dispose of domestic waste, including systems which function by soil absorption, evaporation, transpiration, holding tanks, or any combination thereof. The bill would not apply to wastewater systems that directly discharge domestic waste onto the ground surface or into watercourses without a permit pursuant to KSA 65-165. In addition, the bill would define "modification" and "replacement," as used in the bill.

Background

The bill was introduced by Senator Ostmeyer. At the Senate Committee on Natural Resources hearing, proponents of the bill included an attorney from Goodland and the attorney's clients, who are residents of Edson. The proponents' testimony stated the Edson residents' cesspool had been grandfathered in by an agreement between the Kansas Department of Health and Environment (KDHE) and

*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>

the local county environmental protection group, which was now not being honored by the KDHE. Additionally, the proponents testified that under the agreement, they would not need to replace their sanitation system until it actually failed.

The Director of the Division of Environment, KDHE, provided neutral testimony on the bill stating the agency did not have a copy of the agreement between KDHE and the local county environmental protection group, which would have provided evidence of the grandfathering in of the cesspool. The Director also provided background information on cesspools in general, along with information regarding current rules and regulations.

The Kansas Association of Counties (KAC) spoke in opposition to the bill stating that changing the laws for all the counties would require time and funding that the counties do not have. The KAC stated the broad policy change was unnecessary and the issue should be resolved in a court of law.

Amendments to the bill that were adopted by the Senate Committee included defining a private wastewater system. Additionally, the Senate Committee added language to clarify that only wastewater systems that are allowed by a local environmental or sanitary code that has been approved by the KDHE would be covered by the proposed bill.

The fiscal note prepared by by the Division of the Budget on the original version of the bill noted that KDHE estimates costs of \$10,000 from the State General Fund in both FY 2013 and FY 2014 to print updated documents and for redrafting regulations. The League of Kansas Municipalities and the KAC state that any fiscal effect resulting from the passage of SB 405 would be negligible to local governments. An updated fiscal note was not available for SB 405 as amended by the Senate Committee.