

SESSION OF 2013

**SECOND CONFERENCE COMMITTEE REPORT BRIEF
HOUSE BILL NO. 2249**

As Agreed to April 5, 2013

Brief*

HB 2249 addresses property issues related to taxation, solid waste, and historic preservation.

Tax Refunds Related to Annexed Fire District Lands

The bill would permit a landowner to receive a property tax refund for fire services for any year when the property was not detached from a fire district after the property had been annexed by a city.

The refund would be paid by either the city or the fire district, whichever entity levied tax for fire service but did not provide the service.

The bill would specify that property taxes paid for general obligation bonds issued by a fire district prior to annexation would not be eligible for refund.

Solid Waste Disposal Limitations

The bill would create new law concerning solid waste disposal areas and restrictions. The bill would prohibit a city or county from adopting restrictions for solid waste disposal areas within its boundaries if the restrictions would supersede

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or impair the local legislation of another city or county served by the same solid waste disposal area, or if the restrictions required another city or county to adopt new solid waste management requirements not currently required by statewide rules and regulations.

The bill lists certain instances when such restrictions for solid waste disposal would be permitted. Restrictions on solid waste disposal areas would be allowed if the city or county owned the disposal site or if the restrictions applied only to the residents of the city or county enforcing the restrictions and not to residents of cities or counties outside the jurisdiction.

The bill also would require the Secretary of Health and Environment to prepare a report on solid waste management in Kansas for the Senate Committee on Ethics, Elections, and Local Government and for the House Committee on Local Government by January 1, 2014. The report must include:

- A review of statutes, rules, regulations, and policies related to solid waste disposal in the state. This would need to include, but would not be limited to, details on yard waste, recycling, generation rates, composting, precipitation, source reduction efforts, population, landfill capacity, and gas recovery in landfills; and
- Recommendations for legislative changes and the costs associated with the proposed changes.

The Secretary's report must be prepared with review and input from operators of municipal solid waste landfills, haulers of solid waste, customers of haulers of solid waste, and cities and counties when preparing the report.

Historic Property Reviews

The bill also would delete provisions related to environs restrictions from historic property reviews.

Under current law, proposed projects within 500 feet of the boundaries of a historic property located in a city or within 1,000 feet of the boundaries of a historic property located in the unincorporated portion of a county are subject to historic design and appearance restrictions.

The bill would limit historic reviews conducted under the act to proposed projects that would directly involve, damage, or destroy a property included in the National Register of Historic Places or the State Register of Historic Places.

Conference Committee Action

The second Conference Committee agreed to the Senate version of HB 2249 and incorporated the provisions of the House version of HB 2074 and the Senate version of HB 2118.

Background

HB 2249, as amended by Conference Committee, includes provisions of HB 2249, HB 2074, and HB 2118.

HB 2249

A representative of Johnson County Fire District No. 2 testified in support of the bill in the House Committee on Local Government. He explained the bill would eliminate “double taxation” on property annexed by a city, while providing necessary assurance to bond holders that a fire district would be able to repay its bonds.

There was no neutral testimony or testimony in opposition to the bill.

The House Committee of the Whole amended the bill to insert the modified contents of 2013 HB 2062, which dealt

with detachment procedures for fire districts with territory in more than one county. The modifications contained in the amendment included requiring the petition to be signed by at least 51 percent of electors and specifying that indebtedness included lease-purchase agreements.

The Senate Committee on Ethics, Elections and Local Government heard proponent testimony from a Douglas County commissioner who lives in an area where residents wish to detach from a fire district that includes parts of two counties. He testified the fire district has refused to allow the Douglas County area to detach and use closer fire services, and the bill would provide a remedy. Opponent testimony was given by a representative of the Kansas State Firefighters Association, who raised concerns about the consequences of the detachment procedure proposed in the bill.

The Senate Committee on Ethics, Elections and Local Government amended the bill to remove the House Committee of the Whole amendment regarding detachment procedures (the modified contents of 2013 HB 2062).

The fiscal note submitted by the Division of the Budget for the introduced version of HB 2249 indicates the League of Kansas Municipalities believes the bill could increase costs for Kansas cities. However, because the League does not know how many annexations would or will be affected by the bill and how often annexed property does not get detached from a fire district, it is unable to estimate the costs associated with the bill.

HB 2074

A representative from the Bureau of Waste Management and a citizen of Overland Park testified in favor of the bill, saying that it was an appropriate limit on cities and counties that might enact restrictions affecting other customers in other cities and counties.

Three private citizens submitted written testimony in favor of the bill, supporting making the provisions of the bill apply retroactively.

A representative from the Johnson County Department of Health and Environment testified in opposition of the bill. He stated that the restrictions adopted by Johnson County in their solid waste management plan were intended to preserve the life of the county's landfill. He said that he did not think it made sense to require the counties to create waste management plans if the counties were not allowed to implement its requirements.

Representatives from the Kansas Association of Counties and the National Solid Wastes Management Association testified as neutrals. The National Solid Wastes Management Association advocated requiring a county to own a landfill before it could enact any restrictions on solid waste disposal.

The House Committee on Local Government amended the bill to prohibit enactment of new solid waste disposal area requirements that are not currently required by statewide rules and regulations. The Committee also removed a provision that would have allowed the adoption of restrictions on solid waste disposal areas if the city or county received the consent of each governing body of cities or counties outside its corporate boundaries which may be affected by the restrictions.

According to the fiscal note, the Kansas Department of Health and Environment has indicated the bill, as introduced, would have no fiscal effect on the agency. The required study would be completed by existing staff as part of routine oversight of waste management issues.

HB 2118

Representative Bideau testified in support of the bill at the House Committee on Local Government hearing. He

described the adverse effects on private property owners within a 500-foot (city) or 1,000-foot (county) radius of an historic property, who are subject to design and appearance restrictions in constructing a new improvement or modifying an existing structure on their own properties. Other conferees speaking in support of the bill included representatives of the City of Chanute and the Kansas Association of Realtors. Written testimony in support of the bill was received from representatives of the City of Humboldt; joint testimony from representatives of the Kansas Cooperative Council, Kansas Grain and Feed Association, and Kansas Agribusiness Retailers Association; and from several members of the public.

Testimony in opposition to the bill was presented by a representative of William Morris Associates, who stated the bill would dilute the protection for an historic property by endangering its environment. Others testifying in opposition to the bill included representatives of the Burlingame Santa Fe Trail Association and the Lawrence Preservation Alliance. Written testimony in opposition was received from the American Institute of Architects.

A representative of the Kansas Historical Society provided neutral testimony on the bill.

The Senate Committee on Ethics, Elections, and Local Government heard testimony from the following:

- Proponent testimony from Representative Bideau and a representative of the Kansas Association of Realtors;
- Written-only proponent testimony from a representative of the League of Kansas Municipalities; a University of Houston Law Center professor; and representatives (jointly) of the Kansas Cooperative Council, Kansas Grain and Feed Association, and Kansas Agribusiness Retailers Association;

- Opponent testimony from representatives of American Institute of Architects Kansas, Hernly Associates, and the Kansas Preservation Alliance, and from four private citizens.
- Written-only opponent testimony from representatives of the Lawrence Preservation Alliance, the Shawnee County Historical Society, Treanor Associates, the Wichita Historic Landmark Board, and the Wichita Historic Preservation Alliance; and
- Neutral testimony from a representative of the Kansas Historical Society.

The Senate Committee on Ethics, Elections, and Local Government made a technical change to the bill.

The fiscal note prepared by the Division of the Budget on the original bill indicated the Kansas Historical Society said passage of the bill would have no fiscal effect on the state budget.

city annexation, fire district, taxation, property tax, tax refund, solid waste disposal, recycling, yard waste, Health and Environment, historic property, environs, historic reviews, Kansas Historical Society

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