

SESSION OF 2014

**CONFERENCE COMMITTEE REPORT BRIEF
HOUSE BILL NO. 2551**

As Agreed to April 30, 2014

Brief*

HB 2551 would amend requirements for the Secretary of Health and Environment to establish a statewide atmospheric mercury monitoring network to measure mercury deposition in Kansas. Requirements for a certain number of monitoring sites and the frequency of collecting samples would be removed. In addition, the Secretary would no longer be required to submit annual reports to the Governor and Legislature regarding the findings and analysis of the monitoring.

The bill also would repeal a series of statutes that had required the Kansas Department of Health and Environment (KDHE) to regulate polychlorinated biphenyls (PCBs) processing and disposal facilities. (PCBs are a type of nonflammable and stable synthetic oil historically used in electrical transformers and in other products including paint, caulk, and various hydraulic and insulating oils. Production was banned in 1979 based upon toxicity and suspicion that it was a carcinogen.)

The bill also would modify requirements regarding plastic resin codes on plastic bottles and rigid plastic containers. In addition, it would amend solid waste plan restrictions enacted by the Legislature in 2013.

The bill would require plastic bottles and rigid plastic containers distributed, sold, or offered for sale in Kansas to

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be labeled, on or near the bottom, with a nationally recognized code indicating the plastic resin used to produce the bottle or container. Current law specifies the graphic symbol and the resin coding numbers to be used.

The bill would specify that solid waste plan restrictions adopted by the 2013 Legislature would apply to any landfill, including those in operation before July 1, 2014. It also would require a city or county to meet both conditions in law for adopting restrictions, rather than just one of the conditions. (The 2013 legislation prohibits a city or county from adopting restrictions for a landfill within its boundaries if those restrictions would impair the legislation of another city or county that also uses the landfill, or if the restrictions would require the other city or county to adopt solid waste management requirements not required by statewide rules or regulations.)

Conference Committee Action

The Conference Committee agreed to the Senate Committee of the Whole version of the bill. The Conference Committee then added to the bill the contents of Sub. for HB 2541, as recommended by the House Committee on Local Government, which would modify requirements regarding plastic resin codes on plastic bottles and rigid plastic containers and amend solid waste plan restrictions enacted by the Legislature in 2013.

The Conference Committee amended the contents of Sub. for HB 2541 to apply to any solid waste disposal area, including those in operation prior to July 1, 2014, instead of July 1, 2013. In addition, the Conference Committee adopted upon publication in the statute book as the effective date for the amended bill.

Background

The bill, as amended by the Conference Committee, contains the provisions of HB 2550 (mercury monitoring; previously amended into HB 2551), HB 2551 (PCBs), and Sub. for HB 2541 (plastic resin codes and solid waste).

HB 2551 Background

HB 2551 was introduced by the House Committee on Agriculture and Natural Resources at the request of KDHE.

At the House Committee hearing on the bill, the only conferee was a proponent from the agency. The Committee was told the agency was asking for the repeal of these statutes to avoid the unnecessary duplication of effort by KDHE and the U.S. Environmental Protection Agency (EPA) and to minimize regulatory burden on the affected industry. The Committee learned that currently, Kansas has two commercial PCBs processing facilities, Clean Harbors in Coffeyville and Solomon Electric in Solomon. The Committee was told the repeal of these statutes would eliminate permit application fees related to future facility modification without adversely impacting public health or the environment, since EPA approval of facility modifications does not require fee payment.

The House Committee on Agriculture and Natural Resources amended the effective date of the bill to publication in the *Kansas Register*.

The Senate Committee amended the bill to include the provisions of HB 2550, as recommended by the House Committee. A description of HB 2550 is printed later in this Conference Committee Report Brief.

The Senate Committee of the Whole amended the bill to reinstate existing law establishing a statewide atmospheric mercury deposition monitoring network to measure mercury

deposition in the state; however, the amendment would strike provisions requiring a certain number of monitoring sites, frequency of collecting samples, and reports due to the Governor and Legislature.

The fiscal note on the original version of HB 2551 indicates the fiscal effect on KDHE would be negligible. The fiscal note also states the bill would eliminate permit fees related to industry regulation; however, during the past 30 years that this statute has been in effect, KDHE has received only two permit applications.

HB 2550 Background

HB 2550 was introduced by the House Committee on Agriculture and Natural Resources at the request of KDHE.

At the House Committee hearing on the bill, the only conferee was a representative of KDHE, who indicated the statute was enacted in response to concerns regarding air pollution from mercury emissions, primarily from coal-burning electricity generating units. The Committee was told that KDHE has conducted wet deposition mercury monitoring and has reported the results to the Kansas Legislature in an annual report and posted the results on the agency's website. The Committee was informed that the total mercury wet deposition has been relatively consistent at each site in the monitoring network, with no clear signs of increasing or decreasing trend. The Committee also learned the agency does not intend to cease testing for mercury, but rather the agency will determine which monitors provide useful data. The conferee stated the agency will determine the number and location of the mercury monitors.

At the Senate Committee hearing on the bill, the Sierra Club provided testimony in opposition to the bill, recommending amendments to the bill to reduce the number of monitors in the state and to use the cost savings to fund a study regarding mercury contamination. (The Senate

Committee deleted the contents of HB 2550 and added these provisions to the contents of HB 2551.)

According to the fiscal note, passage of HB 2550 as introduced would reduce expenditures and fee revenue by \$20,000 in FY 2015. It also states KDHE would retire at least one monitor, and the reduction in fee revenue would be offset by a corresponding reduction in expenditures for sampling and analysis related to the monitor.

HB 2541 Background

HB 2541 was introduced by the House Committee on Local Government. At the House Committee hearing on the bill, the Director of the Bureau of Waste Management, KDHE, testified in support of the original bill, which would have repealed the statute that requires plastic resin content to be stamped on plastic bottles and rigid plastic containers, and that details how that content should be displayed. He said the industry standard for displaying resin content is being changed and would conflict with Kansas law.

A representative of the Kansas Organization of Recyclers testified in opposition to the bill as introduced, suggesting current law be amended to delete references to a specific graphic symbol and coding scheme, while retaining the requirement to display a plastic resin code. He indicated the code is used by some recycling companies and by consumers to identify products that can be recycled.

Written testimony in opposition to the bill, as introduced, was submitted by a recycling center in Wichita and by a family that has started several recycling programs in Wichita.

The House Committee on Local Government adopted a substitute bill that would strike references to a specific graphic symbol and coding scheme from current law. The substitute bill also would amend state law enacted in 2013 regarding solid waste plan restrictions to specify the law

would apply to any solid waste disposal area, including those in operation prior to July1, 2013. The substitute bill would further require a city or county to meet both conditions specified in law for adopting landfill restrictions, rather than meeting one or the other condition.

The fiscal note prepared by the Division of the Budget states passage of the bill, as introduced, would have no effect on the office of Attorney General. The fiscal note further indicates there could be an effect on counties, which currently, after repeated violations, receive a civil penalty of \$50 for each violation. The amount of revenue lost by the counties could not be determined.

Kansas Department of Health and Environment; mercury monitoring; regulating polychlorinated biphenyls (PCBs); plastic resin codes; solid waste disposal

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