

HOUSE BILL No. 2249

AN ACT concerning certain property issues; relating to historic preservation, taxation and solid waste; amending K.S.A. 2012 Supp. 12-546 and 75-2724 and repealing the existing sections.

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

New Section 1. (a) Except as provided by subsection (b), no city or county shall adopt by ordinance, resolution or in a solid waste management plan under K.S.A. 65-3405 or 65-3410, and amendments thereto, restrictions for any solid waste disposal area within its boundaries if such restrictions supersede or impair the local legislation of another city or county being serviced by the same solid waste disposal area or require another city or county to adopt new solid waste management requirements not currently required by statewide rules and regulations.

(b) A city or county may adopt restrictions for a solid waste disposal area under subsection (a) if:

- (1) The city or county owns the solid waste disposal area; or
- (2) such restrictions apply to the residents of such city or county but not to residents of another city or county being serviced by the same solid waste disposal area.

(c) This section shall be part of and supplemental to the provisions of article 34 of chapter 65 of the Kansas Statutes Annotated, and amendments thereto.

New Sec. 2. (a) On or before January 1, 2014, the secretary of health and environment shall prepare, with review and input from operators of municipal solid waste landfills, haulers of solid waste, business and residential consumers of haulers of solid waste, cities and counties, a report on solid waste management in Kansas for the senate committee on ethics, elections and local government and the house committee on local government. The report shall include, but not be limited to, the following:

(1) A review of statutes, rules and regulations and policies on solid waste management, including, but not limited to, details on yard waste, recycling, generation rates, composting, precipitation, source reduction efforts, population, landfill capacity and gas recovery in landfills; and

(2) recommendations for legislative changes and estimates of the cost of the state of implementing such changes.

(b) This section shall be part of and supplemental to the provisions of article 34 of chapter 65 of the Kansas Statutes Annotated, and amendments thereto.

Sec. 3. K.S.A. 2012 Supp. 12-546 is hereby amended to read as follows: 12-546. (a) If any land located within a fire district is annexed by a city and such land ~~remains a part of~~ *is not detached from* the fire district ~~beyond the current~~ *by the end of the* tax year, the owner of such land shall be entitled to a refund of all ad valorem taxes paid for fire service, ~~including any tax levy for bond and interest payments from either the city or excluding ad valorem taxes paid for general obligation bonds issued by~~ the fire district, *prior to annexation, to either the city or the fire district*, whichever entity levies taxes for fire service against the land but does not provide such service.

(b) Cities and fire districts shall establish procedures for landowners to obtain refunds of ad valorem property taxes as required by this section.

Sec. 4. K.S.A. 2012 Supp. 75-2724 is hereby amended to read as follows: 75-2724. (a) The state or any political subdivision of the state, or any instrumentality thereof, shall not undertake any project which will ~~encroach upon, damage or destroy any historic property included in the national register of historic places or the state register of historic places or the environs of such property~~ until the state historic preservation officer has been given notice, as provided herein, and an opportunity to investigate and comment upon the proposed project. Notice to the state historic preservation officer shall be given by the state or any political subdivision of the state when the proposed project, or any portion thereof, ~~is located within 500 feet of the boundaries of~~ directly involves a historic property ~~located within the corporate limits of a city, or within 1,000 feet of the boundaries of a historic property located in the unincorporated portion of a county.~~ Notwithstanding the notice herein required, nothing in this section shall be interpreted as limiting the authority of the state historic preservation officer to investigate, comment and make the determinations otherwise permitted by this section ~~regardless of the proximity of any proposed project to the boundaries of~~ *on a project directly*

involving a historic property. The state historic preservation officer may solicit the advice and recommendations of the historic sites board of review with respect to such project and may direct that a public hearing or hearings be held thereon. Any ~~such~~ public hearing or hearings held pursuant to this subsection or held pursuant to authority delegated by the state historical preservation officer under subsection (e) or (f) shall be held within 60 days from the date of receipt of notice by the state historical preservation officer from the state or any political subdivision of the state as provided herein. If the state historic preservation officer determines, with or without having been given notice of the proposed project, that ~~such the~~ proposed project will ~~encroach upon~~, damage or destroy any historic property included in the national register of historic places or the state register of historic places ~~or the environs of such property~~, ~~such the~~ project shall not proceed until:

(1) The governor, in the case of a project of the state or an instrumentality thereof, or the governing body of the political subdivision, in the case of a project of a political subdivision or an instrumentality thereof, has made a determination, based on a consideration of all relevant factors, that there is no feasible and prudent alternative to the proposal and that the program includes all possible planning to minimize harm to such historic property resulting from such use; and

(2) five days notice of such determination has been given, by certified mail, to the state historic preservation officer.

(b) Any person aggrieved by the determination of the governor pursuant to this section may seek review of such determination in accordance with the Kansas judicial review act. Any person aggrieved by the determination of a governing body pursuant to this section may seek review of such determination in accordance with K.S.A. 60-2101, and amendments thereto.

(c) The failure of the state historic preservation officer to initiate an investigation of any proposed project within 30 days from the date of receipt of notice thereof shall constitute such officer's approval of such project.

(d) Failure of any person or entity to apply for and obtain the proper or required building or demolition permit before undertaking a project that will ~~encroach upon~~, damage or destroy any historic property included in the national register of historic places or the state register of historic places, ~~or the environs of such property~~, shall be subject to a civil penalty not to exceed \$25,000 for each violation. The attorney general may seek such penalties and other relief through actions filed in district court.

(e) (1) The state historic preservation officer may enter into an agreement authorizing a city or county to make recommendations or to perform any or all responsibilities of the state historic preservation officer under subsections (a), (b) and (c) if the state historic preservation officer determines that the city or county has enacted a comprehensive local historic preservation ordinance, established a local historic preservation board or commission and is actively engaged in a local historic preservation program. The agreement shall specify the authority delegated to the city or county by the state historic preservation officer, the manner in which the city or county shall report its decisions to the state historic preservation officer, the conditions under which the city or county can request assistance from the state historic preservation officer in performing certain project reviews, the length of time the agreement is to be valid and provisions for termination of the agreement. Such agreement shall provide that the state historic preservation officer shall retain final authority to implement the provisions of this act. The state historic preservation officer shall adopt any rules and regulations necessary to implement the provisions of this subsection.

(2) An agreement with a city or county authorized by this subsection shall not be construed as limiting the authority of the state historic preservation officer to investigate, comment and make determinations otherwise permitted by this section.

(f) The state historic preservation officer may enter into agreements with the state board of regents or any state educational institution under the control and supervision of the state board of regents to perform any or all responsibilities of the state historic preservation officer under subsections (a), (b) and (c).

Sec. 5. K.S.A. 2012 Supp. 12-546 and 75-2724 are hereby repealed.

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

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

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.