

SESSION OF 2018

SUPPLEMENTAL NOTE ON HOUSE BILL NO. 2577

As Amended by Senate Committee on
Agriculture and Natural Resources

Brief*

HB 2577, as amended, would require all fees collected by the Right-To-Know Program (Program) within the Kansas Department of Health and Environment (KDHE) to be deposited into the State Treasury and credited to the Kansas Right-To-Know Fee Fund (Fund), which is created by the bill. Currently, these fees are deposited in the State General Fund (SGF). Expenditures from the Fund would be only for the administration of the Program.

The bill would establish statutory maximum fees for the Program, as follows.

Sum of the Maximum Daily Amounts of all Extremely Hazardous Substances reported (in pounds) on the Kansas Tier II Form	Annual Fee
1-9,999	\$25
10,000-999,999	\$50
1.0 million or greater	\$150
Sum of the Maximum Daily Amounts of all Hazardous Chemicals reported (in pounds) on the Kansas Tier II Form	Annual Fee
10,000-99,999	\$25
100,000-999,999	\$50
1.0 million-9,999,999	\$150
10.0 million or greater	\$300

*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>

Sum of the Total Chemical Releases reported (in pounds) on the Federal Form R	Annual Fee
100-19,999	\$250
20,000-99,999	\$700
100,000-999,999	\$1,700
1.0 million or greater	\$3,000

The bill also would give the Secretary of Health and Environment (Secretary) the authority to reduce the fees by adopting administrative rules and regulations if the Secretary determines such fees are yielding more than is necessary for the purposes of the Program. In addition, the bill would give authority to the Secretary to increase the fees by adopting administrative rules and regulations if the Secretary finds an increase is necessary to produce sufficient revenue for purposes of the Program. The fees would not be increased in excess of the total cost of operation of the Program.

Background

The bill was introduced by the House Committee on Water and Environment at the request of a representative of KDHE.

In the House Committee hearing, the Director of the Radiation Control Program, Bureau of Public Health, KDHE, provided the history of the Program, stating, under the federal Emergency Planning and Community Right-To-Know Act, the Legislature designated KDHE as the responsible entity for Tier II hazardous chemicals and Toxic Release Inventory. KDHE's role is to collect data regarding hazardous chemicals at defined thresholds, which are kept on site at facilities, and also collect data on toxic release inventories. This information is then used by local authorities to prepare for and respond to incidents.

The Director noted that over the past 30 years, KDHE Program staff has been reduced from ten to one and because

of the decrease, the Program cannot provide the services the agency believes are critical to public safety. The Director explained that approximately \$313,000 in annual average fees collected by the Program are deposited into the SGF, but the budgeted amount for the Program's operations is \$86,847.

A representative of the Kansas Agribusiness Retailers Association also provided proponent testimony stating the Association's members pay the fees to help cover the costs involved in the administration of the Program's regulations and those fees should be used specifically for that purpose. Written testimony in favor of the bill was provided by a representative of the Kansas Cooperative Council.

Neutral testimony was provided by the Executive Director of the Petroleum Marketers and Convenience Store Association of Kansas. The Executive Director expressed concern that the fees assessed for the Program were being deposited into the SGF and not being fully used for administering the Program.

No opponent testimony was provided.

In the Senate Committee on Agriculture and Natural Resources hearing, representatives of the Kansas Agribusiness Retailers Association, the Kansas Cooperative Council, and KDHE appeared in support of the bill.

No neutral or opponent testimony was provided.

The Senate Committee amended the bill to:

- Clarify that money in the Fund is to be spent only for the administration of the Program (not for support of training first responders and emergency management officials as proposed in the original version of the bill);

- Establish maximum fees for extremely hazardous substances reported on the Kansas Tier II form, hazardous chemicals reported on the Kansas Tier II form, and the total quantity of chemicals releases reported on Federal Form R; and
- Give authority to the Secretary to raise and lower the fees through administrative rules and regulations depending upon a determination by the Secretary of the amount of money necessary to administer the program.

According to the fiscal note prepared by the Division of the Budget on the bill, as introduced, enactment of the bill would have a fiscal effect on the agency and the SGF. Currently, these fees are deposited into the SGF. The Fund would be used to support and enhance the Program. Beginning in FY 2019, the revenue into the SGF would decrease by an estimated \$311,633 and revenue to the Fund would increase by the same amount. A decrease in SGF expenditures of \$89,051 would occur as Program expenditures would be paid out of the Fund. KDHE notes its intention to add 1.0 FTE position and to increase Program expenditures in FY 2019. Any fiscal effect associated with enactment of the bill is not reflected in *The FY 2019 Governor's Budget Report*.