

HOUSE BILL No. 2531

By Committee on Agriculture

1-24

Proposed Amendment for HB2531
For Committee on Agriculture
February 21, 2022
Office of Revisor of Statutes

1 AN ACT concerning counties and townships; relating to rights-of-way;
2 authorizing certain persons to use the right-of-way of any county road
3 or township road to install, maintain and operate a pipeline for
4 agricultural activities.
5

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

7 Section 1. (a) Upon approval by the board of county commissioners,
8 any person engaged in an agricultural activity may construct, maintain and
9 operate pipelines in pursuit of an agricultural activity along, upon, under
10 and across the right-of-way of any county road, as defined in K.S.A. 68-
11 101(c), and amendments thereto, or any township road, as defined in
12 K.S.A. 68-101(e), and amendments thereto, in conformity with the laws
13 and regulations of the state of Kansas and the county in which the pipeline
14 is located.

15 (b) Except for pipelines installed in violation of an express
16 prohibition of the board of county commissioners in effect at the time of
17 such installation, all pipelines for use in an agricultural activity installed
18 along, upon, under and across a right-of-way of county or township road
19 prior to the effective date of this section are deemed to have been
20 authorized by the board of county commissioners and are ratified as
21 permitted uses of such rights-of-way.

22 (c) Any person engaged in an agricultural activity may request the
23 board of county commissioners to approve a pipeline described in
24 subsection (a) by submitting a written application to the county clerk. The
25 application shall provide the location, design and specifications of the
26 pipeline. Any application to use or occupy a specific portion of a road
27 right-of-way shall not be denied or approved with conditions without
28 reasonable notice and an opportunity for a public hearing before the board
29 of county commissioners. The board of county commissioners shall
30 approve or deny the application by resolution within 60 days of receipt by
31 the county clerk. A failure to approve or deny the application by resolution
32 within 60 days shall be deemed the approval of the application. Any
33 approval or denial may be appealed pursuant to K.S.A. 19-223, and
34 amendments thereto.

35 (d) Any decision made by the board of county commissioners
36 pursuant to subsection (c) shall be:

The application shall also provide the location of all locatable underground facilities in the area of the work and in the vicinity of the excavation, and the applicant shall notify each owner of such underground facilities.

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1 (1) Limited to whether the pipeline interferes with public travel upon
2 the road or the ability of the county or township to maintain the road or
3 road right-of-way, and

the management of conflicting uses of the
road right-of-way

4 (2) reasonable and not arbitrary, capricious or discriminatory.

5 (e) Any pipeline permitted under this section shall be maintained by
6 and at the expense of the owner installing or operating such pipeline.

7 (f) (1) A county commission or board of township trustees may
8 require the owner of a pipeline approved under this section to:

Such owner shall provide notice to the county
of any maintenance activity that may require
the temporary closing of a road or obstruction
of traffic.

9 (A) Repair all damage to a road or road right-of-way caused by the
10 activities of such owner, or of any agent, affiliate, employee or
11 subcontractor of such owner, while occupying, installing, repairing or
12 maintaining the pipeline in a road or road right-of-way; and

13 (B) return the road and road right-of-way to its functional equivalence
14 before the damage pursuant to the reasonable requirements and
15 specifications of the county or township.

16 (2) If the owner fails to make the repairs required by the county or
17 township, the county or township may make such repairs and charge the
18 owner the cost of such repairs.

19 (3) If a county or township incurs damages as a result of a violation
20 of this subsection, then the county or township shall have a cause of action
21 against the owner for such violation of this subsection and may recover the
22 county's of township's damages, including reasonable attorney fees, if the
23 owner is found liable by a court of competent jurisdiction.

24 (g) If requested by a county commission or board of township
25 trustees, in order to accomplish construction and maintenance activities
26 directly related to improvements to the road or road right-of-way, an
27 owner of a pipeline approved under this section shall promptly relocate or
28 adjust the pipeline within the road or road right-of-way at no cost to the
29 county or township. Such relocation or adjustment shall be completed as
30 soon as reasonably possible within the time set forth in any request by the
31 county or township for such relocation or adjustment. Any damages
32 suffered by the county, township, or its contractors as a result of such
33 pipeline owner's failure to timely relocate or adjust its facilities shall be
34 paid by such owner.

(h) Any pipeline permitted under this act and
installed on or after the effective date of this act
shall be a locatable facility as defined in K.S.A.
66-1802(g), and amendments thereto.

35 (4) For the purposes of this section, "agricultural activity" means the
36 same as in K.S.A. 2-3203, and amendments thereto.

37 (4) Nothing in this act shall supplant any local, state or federal law
38 regulating the transportation of any substance.

39 Sec. 2. This act shall take effect and be in force from and after its
40 publication in the statute book.