

SESSION OF 2021

SUPPLEMENTAL NOTE ON SENATE BILL NO. 52

As Amended by Senate Committee on Local
Government

Brief*

SB 52, as amended, would establish the Sedgwick County Urban Area Nuisance Abatement Act (Act).

The bill would authorize the Board of County Commissioners (Board) to order the removal or abatement of any nuisance from any property in the unincorporated area of Sedgwick County (County). All costs associated with the abatement would be the responsibility of the property owner. Before the abatement process could begin, the bill would require the County to first obtain a conviction for a county code violation regarding the nuisance no more than 12 months before the issuance of the abatement order.

The bill would state the Act shall not apply to any land, structures, machinery, equipment, or vehicles used for agricultural activity as defined in KSA 2020 Supp. 2-3203. The Act would also exclude all real and personal property, machinery, equipment, stored grain, and agricultural input products that are owned or maintained by either commercial grain elevators or agribusiness facilities. [*Note:* The definition of "agricultural activity" in KSA 2020 Supp. 2-3203 currently applies to sections of law on protection of farmland and agricultural activities.]

*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>

Abatement Process

To begin the abatement process, the bill would require the Board, or an agency designated by the Board, to file a statement with the Sedgwick County Clerk describing the nuisance and declaring it a menace and health risk to county residents. The bill would authorize the Board to issue an order requiring the nuisance to be removed or abated. The bill would require the order to provide a minimum of ten days (as specified in the order) for the owner to remove and abate the nuisance; the Board would be empowered to grant extensions to the time period in question. The property owner would also be provided the right to request a hearing before the Board if the request is made prior to the end of the waiting period or any extension. The bill would subject any decision made by the Board or its designated representative on this matter to review under the Kansas Judicial Review Act (KSA 77-601 *et seq.*).

The abatement order would be sent to the owner of record by personal service. [*Note: Methods of service of process are provided in KSA 2020 Supp. 60-303*]. The bill would, if the owner fails to accept delivery or effectuate receipt during a preceding 24-month period, authorize the Board to use alternative notification methods such as, but not limited to, door hangers, telephone communications, or first-class mail. Telephone communication or first-class mail would be required if the property is unoccupied and the owner is a nonresident.

If the owner of the property fails to abate the nuisance before the time limit stated in the abatement order, the Board would be authorized to order the repair or demolition of any structure and have items described in the order removed and provide notice to the owner by certified mail, with return receipt requested, that the abatement has occurred and include the total cost of the abatement incurred by the County. The bill would require the notice to state payment for the abatement to the County would be due and payable no later than 60 days after the mailing of the notice. If payment is

not made within the 60-day period, the County would be authorized to assess the cost of the abatement to the lot or parcel of land on which the nuisance was located. The bill would require the county clerk to certify the costs and extend the cost on the tax roll against the lot or parcel of land.

The bill would require all orders and notices to be served on the owner of record for the property. In the event of more than one owner of record, the County would be required to notify at least one of the owners of record.

County Abatement Costs

The bill would state, when assessing the cost of removal or abatement of a nuisance, the County shall subtract the value of the property that was removed or abated from the total cost of the abatement or removal. If the value of the property removed or abated is greater than the total cost of the removal or abatement, the bill would require the County to pay the property owner the difference.

A property owner who contests the value of the property would be allowed to request a hearing before the Board or its designated representative prior to the deadline for payment of removal or abatement costs to the County.

Motor Vehicles

The bill states the County would be authorized to remove a motor vehicle determined to be a nuisance, except when the vehicle is on public property or property open to the public. The County would be authorized to impound and auction vehicles removed by this process under provisions of continuing law. The bill would state an individual who purchases a vehicle in this manner may file proof of purchase with the Division of Vehicles (Division) in order to receive the title to the vehicle purchased. If no responsible bid is received during the auction, the County would be authorized to file

proof with the Division and be issued the title in the County's name.

Any individual whose vehicle is sold *via* this process would be eligible for a refund of motor vehicle tax imposed, and the amount of the refund would be determined as provided in continuing law.

Policies and Procedures

The Board would be allowed to adopt a resolution to establish policies, procedures, a designated body, or other matters for hearings that property owners or their agents may request pursuant to the Act.

Sunset

The Act would expire on July 1, 2024.

Background

The bill was introduced by the Senate Committee on Ways and Means at the request of Senator McGinn.

[*Note*: SB 52, as introduced, was identical to 2020 SB 423, as passed by the Senate.]

Senate Committee on Local Government

In the Senate Committee hearing, **proponent** testimony was provided by a member of the Board and the director of the Wichita-Sedgwick County Metropolitan Area Building and Construction Department. The conferees stated this legislation is necessary to allow only the County to address nuisance abatement issues in its unincorporated areas. Conferees noted KSA 19-2654 was amended in 2018 to designate the County as an urban area.

No neutral or **opponent** testimony was provided.

The Senate Committee adopted amendments to:

- Add “Abatement” to the name of the Act;
- Authorize personal service as the only manner in which the owner of record can be notified of an abatement order by the County;
- Remove the “agent of the owner” as an individual allowed to accept such notice and state that all orders and notices must be served to the owner of record. If there are multiple owners of record, only one owner must be served;
- State that decisions made by the Board or its designated representative are subject to review under the Kansas Judicial Review Act;
- Define “agricultural activity” to mean the same as in KSA 2020 Supp. 2-3203 and further include all real and personal property, machinery, equipment, stored grain, and agricultural input products that are owned or maintained by a commercial grain elevator or agribusiness facilities; and
- Add a sunset for the bill of July 1, 2024.

Fiscal Information

According to the fiscal note prepared by the Division of the Budget on the bill, as introduced, the Kansas Association of Counties states it is unable to estimate a fiscal effect, but any implementation and enforcement costs would impact only the County. Because it is assumed owners would pay costs, the effect of the bill would be cost neutral, except when the value of the property removed or abated is greater than the cost of removal or abatement. Any fiscal effect associated

with the bill is not reflected in *The FY 2022 Governor's Budget Report*.

Local government; Sedgwick County Urban Area Nuisance Abatement Act; counties