

## HOUSE BILL No. 2890

By Committee on Environment

2-13

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9 AN ACT concerning surface-mining; relating to establishment of a nat-  
10 ural resource development district.

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

13 Section 1. (a) As used in this act:

14 (1) "District" means a natural resource development district created  
15 pursuant to this section;

16 (2) "materials" shall have the same meaning prescribed to it in K.S.A.  
17 49-603, and amendments thereto;

18 (3) "mine" shall have the same meaning prescribed to it in K.S.A. 49-  
19 603, and amendments thereto;

20 (4) "operator" shall have the same meaning prescribed to it in K.S.A.  
21 49-603, and amendments thereto; and

22 (5) "surface-mining" shall have the same meaning prescribed to it in  
23 K.S.A. 49-603, and amendments thereto.

24 (b) A county commission may create, modify or dissolve a district in  
25 the manner provided by this section. Such district shall have a boundary  
26 of two miles from the property line of the mine.

27 (c) Any operator engaged in surface-mining may submit an applica-  
28 tion for the creation, modification or dissolution of a district to the county  
29 commission. Such application shall be on a form provided by the county  
30 commission. The application shall be accompanied by any information  
31 deemed necessary by the county commission. Such information shall con-  
32 stitute constructive notice of the activities and shall serve as an affirmative  
33 defense to any nuisance claim arising from the noticed activity.

34 (d) The governing body shall adopt such regulations as are necessary  
35 to implement the provisions of this section. Such regulations may include:

36 (1) The procedure for the approval of the creation, modification or  
37 dissolution of a district;

38 (2) the time limit within which action shall be taken by the county  
39 commission;

40 (3) a schedule of application fees;

41 (4) penalties for violations of restrictions imposed pursuant to this  
42 section; and

43 (5) any other provision deemed necessary by the governing body.

1 (e) The county commission shall hold a public hearing on the appli-  
2 cation and shall cause an accurate written summary to be made of the  
3 proceedings. Notice of such public hearing shall be published at least  
4 once in the official city newspaper if the property is located within the  
5 corporate limits of a city or in the official county newspaper if the property  
6 is located outside the corporate limits of a city. Such notice shall be pub-  
7 lished at least 20 days prior to the date of the hearing. Such notice shall  
8 include the time and place for such hearing and describe the proposal in  
9 general terms. In addition to such publication notice, written notice of  
10 the application shall be mailed at least 20 days before the hearing to all  
11 owners of record of property within the boundaries of the proposed dis-  
12 trict and to all owners of record of property located outside the bound-  
13 aries of the district but within 200 feet of such boundaries. All notices  
14 shall include a statement that a complete legal description of the proposed  
15 district is available for public inspection and shall indicate where such  
16 description is available. At any public hearing held to consider the creation  
17 or enlargement of a district, an opportunity to be heard shall be granted  
18 to interested parties.

19 (f) Following the public hearing, the county commission may approve  
20 or disapprove the creation or modification of the district as requested in  
21 the application or may approve the creation or modification of the district  
22 with such changes as made by the governing body. Action by the county  
23 commission approving or disapproving the creation or modification of a  
24 district shall be by resolution. A copy of any resolution approving the  
25 creation or modification of a district shall be filed in the office of the  
26 register of deeds of the county in which any part of the district is located.

27 (g) At the time a district is created or modified, the county commis-  
28 sion may exempt property located within the district from restrictions  
29 imposed on other property located within the district.

30 (h) Unless a waiver is granted for a new nonconforming condition in  
31 the district, the governing body shall require development of land or land  
32 use within a district to comply with the restrictions imposed by the res-  
33 olution creating the district. A waiver may be granted upon the written  
34 consent of the governing body, after consultation with the person sub-  
35 mitting the original application for the creation or modification of the  
36 district, or such person's successor or designee.

37 (i) The creation or modification of a district shall not preclude nor  
38 restrict any lawful activity of a public utility holding a certificate of con-  
39 venience and authority from the state corporation commission or lawful  
40 operations of a rural water district.

41 (j) The provisions of this section are permissive and nothing in this  
42 section shall be construed as repealing or voiding existing planning and  
43 zoning regulations if the governing body determines such regulations pro-

1 vide the same protection provided by this section. This section shall not  
2 preclude the adoption or enactment of alternative or conflicting regula-  
3 tions which provide the same protection provided by this section.  
4 Sec. 2. This act shall take effect and be in force from and after its  
5 publication in the statute book.