

HOUSE BILL No. 2224

By Committee on Energy and Utilities

2-3

9 AN ACT concerning the state corporation commission; relating to com-
10 pressed air energy storage.

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

13 Section 1. Sections 1 through 7, and amendments thereto, shall be
14 known and may be cited as the compressed air energy storage act.

15 Sec. 2. As used in the compressed air energy storage act:

16 (a) "Commission" means the state corporation commission.

17 (b) "Department" means the department of health and environment.

18 Sec. 3. (a) On or before January 1, 2010, the commission shall es-
19 tablish rules and regulations establishing requirements, procedures and
20 standards for the safe and secure injection of compressed air into storage
21 wells, which shall include maintenance of underground storage of com-
22 pressed air. Such rules and regulations shall include, but not be limited
23 to:

24 (1) Site selection criteria;

25 (2) design and development criteria;

26 (3) operation criteria;

27 (4) casing requirements;

28 (5) monitoring and measurement requirements;

29 (6) safety requirements, including public notification;

30 (7) closure and abandonment requirements, including the financial
31 requirements of subsection (d); and

32 (8) long-term monitoring.

33 (b) The commission may adopt rules and regulations establishing fees
34 for permitting, monitoring and inspecting operators of compressed air
35 energy storage wells and underground storage. Fees collected by the com-
36 mission under this section shall be remitted by the commission to the
37 state treasurer in accordance with the provisions of K.S.A. 75-4215, and
38 amendments thereto. Upon receipt of each such remittance, the state
39 treasurer shall deposit the entire amount in the state treasury and credit
40 it to the compressed air energy storage fund.

41 (c) The commission or the commission's duly authorized represen-
42 tative may impose on any holder of a permit issued pursuant to this sec-
43 tion such requirements relating to inspecting, monitoring, investigating,

1 recording and reporting as the commission or representative deems nec-
2 essary to administer the provisions of this section and rules and regula-
3 tions adopted hereunder.

4 (d) Any company or operator receiving a permit under the provisions
5 of this act shall demonstrate annually to the commission evidence, satis-
6 factory to the commission, that the permit holder has financial ability to
7 cover the cost of closure of the permitted facility as required by the
8 commission.

9 (e) The commission may enter into contracts for services from con-
10 sultants and other experts for the purposes of assisting in the drafting of
11 rules and regulations pursuant to this section.

12 (f) Rules and regulations adopted under this act shall apply to any
13 compressed air energy storage well, whether in existence on the effective
14 date of this act or thereafter.

15 Sec. 4. On or before January 1, 2010, the department shall establish
16 rules and regulations establishing requirements, procedures and stan-
17 dards for the monitoring of air emissions coming from compressed air
18 energy storage wells and storage facilities to ensure the wells and facilities
19 comply with the Kansas air quality act.

20 Sec. 5. The commission and the department may enter into a mem-
21 orandum of understanding concerning implementation of the require-
22 ments and responsibilities under the compressed air energy storage act.

23 Sec. 6. (a) The commission, upon a finding that a person has violated
24 any provision of section 3, and amendments thereto, or rules and regu-
25 lations adopted thereunder, may impose a penalty not to exceed \$10,000
26 per violation which shall constitute an economic deterrent to the violation
27 for which it is assessed and, in the case of a continuing violation, every
28 day such violation continues shall be deemed a separate violation.

29 (b) No penalty shall be imposed pursuant to this section except after
30 an opportunity for hearing upon the written order of the commission to
31 the person who committed the violation. The order shall state the viola-
32 tion and the penalty to be imposed.

33 (c) Whenever the commission or the commission's duly authorized
34 representative find that the soil or waters of the state are not being pro-
35 tected from pollution resulting from the storage of compressed air, the
36 commission or the commission's duly authorized representative shall issue
37 an order prohibiting such storage. Any person aggrieved by such order
38 may request in writing, within 15 days after service of the order, a hearing
39 on the order. Upon receipt of a timely request, a hearing shall be con-
40 ducted in accordance with the provisions of the Kansas administrative
41 procedure act.

42 (d) Any action of the commission pursuant to this section is subject
43 to review in accordance with the act for judicial review and civil enforce-

1 ment of agency actions.

2 Sec. 7. (a) In performing investigations or administrative functions
3 relating to prevention of pollution of the soil or waters of the state, the
4 commission or the commission's duly authorized representative may enter
5 any property or facility which is subject to the provisions of section 3, and
6 amendments thereto, for the purpose of observing, monitoring, collecting
7 samples, examining records and facilities to determine compliance or
8 noncompliance with state laws and rules and regulations relating to air
9 pollution, water pollution, soil pollution or public health or safety.

10 (b) The representatives of the commission shall have the right of in-
11 ingress and egress upon any lands to clean up pollution from the storage
12 of compressed air over which the commission has jurisdiction pursuant
13 to section 3, and amendments thereto. Such representatives shall have
14 the power to occupy such land if necessary to investigate and clean up
15 such pollution or to investigate and plug any such compressed air energy
16 storage well. Any representative entering upon any land to investigate and
17 clean up such pollution or to investigate and plug any such compressed
18 air energy storage well shall not be liable for any damages necessarily
19 resulting therefrom, except damages to growing crops, livestock or im-
20 provements on the land. Upon completion of activities on such land, such
21 representative shall restore the premises to the original contour and con-
22 dition as nearly as practicable.

23 Sec. 8. (a) (1) There is hereby established in the state treasury the
24 compressed air energy storage fund to administer the provisions of sec-
25 tions 1 through 7, and amendments thereto. Such fund shall be admin-
26 istered by the commission in accordance with the provisions of this
27 section.

28 (2) The commission shall remit to the state treasurer in accordance
29 with the provisions of K.S.A. 75-4215, and amendments thereto, all mon-
30 eys received by the commission for the purposes of sections 1 through 7,
31 and amendments thereto. Upon receipt of the remittance the state trea-
32 surer shall deposit the entire amount in the state treasury and credit it to
33 the fund. The commission is authorized to receive from any private or
34 governmental source any funds made available for the purposes of sec-
35 tions 1 through 7, and amendments thereto.

36 (3) All expenditures from the compressed air energy storage fund
37 shall be made in accordance with appropriation acts and upon warrants
38 of the director of accounts and reports issued pursuant to vouchers ap-
39 proved by the chairperson of the commission or a person designated by
40 the chairperson.

41 (b) The commission is authorized to use moneys from the com-
42 pressed air energy storage fund to pay the cost of:

43 (1) All activities related to permitting activities, including, but not

1 limited to, development and issuance of permits, compliance monitoring,
2 inspections, well closures, underground storage closure, long-term mon-
3 itoring and enforcement actions;

- 4 (2) review and witnessing of test procedures;
- 5 (3) review and witnessing of routine workover or repair procedures;
- 6 (4) investigation of violations, complaints, pollution and events af-
7 fecting public health;
- 8 (5) design and review of remedial action plans;
- 9 (6) contracting for services needed to supplement the commission's
10 staff expertise in facility investigations;
- 11 (7) consultation needed concerning remedial action at a permitted
12 facility;
- 13 (8) mitigation of adverse environmental impacts;
- 14 (9) emergency or long-term remedial activities;
- 15 (10) legal costs, including expert witnesses, incurred in administration
16 of the provisions of sections 1 through 7, and amendments thereto; and
17 (11) costs of program administration.

18 (c) On or before the 10th of each month, the director of accounts
19 and reports shall transfer from the state general fund to the compressed
20 air energy storage fund interest earnings based on:

- 21 (1) The average daily balance of moneys in the compressed air energy
22 storage fund for the preceding month; and
- 23 (2) the net earnings rate of the pooled money investment portfolio
24 for the preceding months.

25 Sec. 9. This act shall take effect and be in force from and after its
26 publication in the statute book.