

SESSION OF 2009

## SUPPLEMENTAL NOTE ON SENATE BILL NO. 253

As Amended by House Committee on  
Agriculture and Natural Resources

### **Brief\***

SB 253 addresses the issue of modifying zoning regulations in cities and counties (*i.e.*, rezoning).

### **Rezoning in All Cities and Counties**

In laws applicable to all cities and counties, the bill would exempt rezoning related to mining operations, subject to the Surface-Mining Land Conservation and Reclamation Act (KSA 49-601 *et seq.*), from any super-majority vote requirement of the city or county governing body. Specific details of these sections follow.

- Current law requires the same procedure for rezoning proposals as is required for consideration and adoption of the original zoning regulations. The planning commission must recommend by simple majority vote approval or disapproval of the rezoning proposal to the governing body (inaction presumes disapproval), and the governing body may only override the planning commission's recommendation if done by a 2/3 majority vote. The bill would exempt mining operation rezoning proposals from this 2/3 majority vote requirement. The bill would require instead only a simple majority vote of the governing body on these rezoning proposals.
- Current law provides for a protest petition process which, if the protest petition conditions are met, prohibits the governing body from approving a rezoning amendment

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\*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>

unless 3/4 of the governing body members vote in favor of the proposed zoning change. The bill would exempt mining operation rezoning proposals from this 3/4 majority vote requirement. The bill would require instead only a simple majority vote of the governing body on these rezoning proposals.

- The bill also would prohibit a city or county from establishing procedures regarding the adoption of special use or conditional use permits for mining operations that require the approval of more than a majority of governing body members.

### **Rezoning in Johnson County**

The bill also addresses the issue of rezoning in Johnson County's unincorporated areas. The section of the bill dealing only with Johnson County would exempt rezoning related to mining operations, subject to the Surface-Mining Land Conservation and Reclamation Act (KSA 49-601 *et seq.*), from the super-majority vote requirement of the Board of County Commissioners.

Current law sets up a process whereby the Board of County Commissioners requires the Johnson County Planning Commission to make recommendations regarding zoning classifications which are uniform by zoning class. All zoning classifications, including conditional use permits which may be issued providing exceptions to these uniform regulations, must adhere to the same notice, hearing and voting requirements. The law provides for a protest petition process which, if the protest petition conditions are met, prohibits the governing body from approving a rezoning amendment unless 4/5 of the members of the Board of County Commissioners vote in favor of the proposed zoning change. The bill would exempt mining operation rezoning proposals from this 4/5 majority vote requirement. The bill would require instead only a simple majority vote of the Board on these rezoning proposals.

## **Background**

The original bill addressed rezoning laws applicable to all cities and counties. The House Committee on Agriculture and Natural Resources amended the bill to add the contents of SB 254, which deals with rezoning in Johnson County.

SB 254 arose as a partner bill to SB 253, since both bills address rezoning similarly. The bill hearings were held in tandem.

Testimony in support of SB 253 was provided by representatives of the Kansas Aggregate Producers Association, the Alsop Sand Company, Inc. (Concordia), and the Salina Chamber of Commerce. Opponents included the Saline County Commissioners, the Saline County Planning Director, a representative of the Dickinson County Board of County Commissioners, and the Riley County Planning and Development Director.

The Senate Local Government Committee amended the bill to extend the simple-majority requirement to special use or conditional use permits for mining operations.

Testimony in support of SB 254 was provided by representatives of the Kansas Aggregate Producers Association and the Alsop Sand Company, Inc. (Concordia). Opponents included a representative of the Johnson County Board of County Commissioners and the Saline County Board of County Commissioners.

According to the fiscal notes on both bills, passage of the original bills would have no apparent state fiscal effect.