

SESSION OF 2021

SUPPLEMENTAL NOTE ON HOUSE BILL NO. 2022

As Amended by Senate Committee of the Whole

Brief*

HB 2022 would amend law concerning the filing of complaints and investigations pertaining to abandoned wells, responsible parties for plugging abandoned wells, and funds used by the Kansas Corporation Commission (KCC) for plugging abandoned wells.

Definitions

The bill would amend the definition of “well” to include “penetration of the surface of the earth.” In that definition, the bill would also amend the purpose of drilling a well to include providing cathodic protection to prevent corrosion to tanks or structures.

With regard to KCC investigations of abandoned wells, the bill would define “abandoned well” as a well that is not claimed on an operator’s license that is active with the KCC and is unplugged, improperly plugged, or no longer effectively plugged.

Filing of Complaints

The bill would amend the reasons to file a complaint with the KCC’s secretary to include abandoned wells that are causing or likely to cause:

- Loss of any usable water;

*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>

- Pollution of any usable water strata;
- Imminent loss of any usable water; or
- Imminent pollution of any usable water.

The bill would require the KCC to investigate such complaints and would also authorize the KCC to take appropriate action or issue any order according to the Kansas Administrative Procedure Act (KAPA).

Responsibility for Plugging Abandoned Wells

The bill would require the KCC to hold proceedings in accordance with KAPA if the KCC determines a well is abandoned and has reason to believe that a person is legally responsible for the proper care and control of such well. After such proceedings, the bill would allow the KCC to issue orders obligating a person to plug the well or to cause the well to be brought into compliance, if the KCC finds that such person is legally responsible.

The bill would limit persons that could be held legally responsible for proper care and control of an abandoned well to one or more of the following:

- Any person, including any operator, causing pollution or loss of usable water through the well;
- The most recent operator to produce from or inject or dispose into the well; however, if no production or injection has occurred, the person that caused the well to be drilled;
- The person that most recently accepted responsibility for the well through written documentation that adequately identifies the well and expressly transfers responsibility for such well;

- The operator that most recently filed a completed transfer report with the KCC in which such operator accepted responsibility for the well;
- The operator that most recently plugged the well if no KCC funds were used; and
- Any person that does any of the following to an abandoned well without KCC authorization:
 - Tampers with or removes surface or downhole equipment attached to the well;
 - Intentionally destroys, buries, or damages the well;
 - Intentionally alters the physical status of the well in such a way that will result in an increase in plugging costs; or
 - Conducts any physical operations upon the well.

The bill would also allow any person who has no obligation to plug, replug, or repair a well to seek reimbursement for plugging a well from the Abandoned Oil and Gas Well Fund if such well has been abandoned for five or more years. The bill would require the KCC to promulgate rules and regulations for the reimbursement process.

The bill would state a person who plugs, replugs, or repairs an abandoned well shall not become legally responsible for the care and control of that well. The bill would allow any abandoned well to be plugged by any person if such person has written consent from a surface owner of the land upon which the well is located and if such person is licensed by the KCC in accordance with the KCC's rules and regulations.

The bill would also clarify individuals would not be entitled to reimbursement for plugging of an abandoned well unless approved by the KCC.

Abolishing the Well Plugging Assurance Fund

The bill would amend law concerning funds used by the KCC to plug abandoned wells.

The bill would allow for the deposit of all moneys previously credited to the Well Plugging Assurance Fund to be credited to the Abandoned Oil and Gas Well Fund, and the bill would remove the limitation of the Abandoned Oil and Gas Well Fund to be used for the purpose of only investigating abandoned wells and well sites of which the drilling began before July 1, 1996.

The bill would transfer all moneys in and liabilities of the Well Plugging Assurance Fund to the Abandoned Oil and Gas Well Fund and abolish the Well Plugging Assurance Fund on July 1, 2021.

The bill would also delete the transfers from the Conservation Fee Fund and the State General Fund to the Abandoned Oil and Gas Well Fund.

Repealing an Interagency Agreement

The bill would repeal KSA 55-163, which pertains to an interagency agreement between the KCC and the Secretary of Health and Environment for the management plan for integrating field operations for the regulation of oil and gas operations.

Effective Date

The bill would be in effect upon publication in the *Kansas Register*.

Background

The bill was introduced by Representative Waymaster.

House Committee on Appropriations

In the House Committee hearing on January 21, 2021, a KCC Commissioner and a representative of the KCC provided **proponent** testimony. The KCC representatives noted the extensive stakeholder vetting process used to create the bill. They stated the bill would clarify, enhance, and expedite statewide oil and gas well plugging and remediation efforts including the identification of the legally responsible party.

Proponent testimony was also provided by a representative of the Kansas Independent Oil and Gas Association (KIOGA). He stated the bill would give the KCC a more defined and clear set of regulations that have been vetted by stakeholders. **Proponent** testimony was also provided by a representative of McGown Drilling, Inc. He stated the oil and gas industry is in favor of the bill as it would provide certainty and efficiency for the well-plugging process.

Opponent testimony was provided by a representative of the Sierra Club. He proposed several amendments to the bill, including requiring an abandoned well to be deemed likely to cause pollution of any usable water strata or supply. He also expressed concern about funding, noting the combined balance in the proposed fund would be insufficient to plug the number of wells in need of plugging.

Senate Committee on Ways and Means

In the Senate Committee hearing on February 11, 2021, a KCC Commissioner and a representative of the KCC provided **proponent** testimony. **Proponent** testimony was also provided by a representative of KIOGA. A representative of the Eastern Kansas Oil and Gas Association provided **proponent** testimony. He stated the bill provides clarity, certainty, and efficiency for the well-plugging process. **Proponent** testimony was also provided by a representative

of the Sierra Club. He stated the bill would expand and expedite the plugging of abandoned oil and gas wells.

No other testimony was provided.

The Senate Committee amended the bill to change its effective date to publication in the *Kansas Register*.

Senate Committee of the Whole

The Senate Committee of the Whole made a technical amendment to the bill.

Fiscal Information

According to the fiscal note prepared by the Division of the Budget on the bill, as introduced, the KCC states enactment of the bill would have no fiscal effect on the agency.

Abandoned well; abandoned oil and gas well; Kansas Corporation Commission