

SESSION OF 2024

SUPPLEMENTAL NOTE ON SENATE BILL NO. 162

As Amended by Senate Committee on Local
Government

Brief*

SB 162, as amended, would create the Riley County Unincorporated Area Nuisance Abatement Act and the Crawford County Unincorporated Area Nuisance Abatement Act. The acts would be identical except as to county name. The acts would not apply to land, structures, or equipment used for agricultural activity or oil and gas exploration and development activity.

Determination of Nuisance and Order for Abatement

The bill would require the county to have obtained a conviction for a county code violation resulting from the nuisance within the prior 12 months before any nuisance abatement process could begin. The bill would authorize the board of county commissioners (Board) to order the removal or abatement of any nuisance within the unincorporated area of the county and the demolition of any structure or the removal or abatement of any other type of nuisance. The bill would require the Board order to require the owner of the property to pay all costs associated with the abatement.

The bill would authorize the Board to make the determination of nuisance and issue an order, by resolution, requiring the nuisance to be removed or abated, if the Commission or other agency designated by the Commission files a statement in writing with the county clerk describing the

*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>

nuisance and declaring the nuisance a menace and dangerous to the health of county residents.

The bill would direct the Board to order the owner of the property to remove and abate the nuisance within not less than ten days; the bill would authorize the Board to grant extensions of time. The bill would empower the property owner to request a hearing before the Board if the request is made during the waiting period or any extension.

The bill would authorize the Board to notify the property owner of the order by various means, including by certified mail, return receipt requested, but would require notice be given by telephone or first-class mail if the property is unoccupied and the owner is a nonresident. The bill would require all orders and notices to be served on the owner of record or, if there is more than one owner of record, then on at least one of those owners.

Abatement and Payment

If the owner fails to comply with the order, the bill would authorize the Board to order the repair or demolition of any structure and have the items described in the order removed and abated from the property. The bill would require the county to notify the owner by certified mail, return receipt requested, of the total cost incurred for the abatement or removal and to state in the notice that payment of the cost is due and payable within 60 days of the mailing of the notice. If the payment is not paid within the 60-day period, the bill would require the cost to be assessed against the lot or parcel of land and the county clerk to certify the costs and extend the cost on the tax roll, to be collected by the county treasurer.

In determining the cost, the county would be required to subtract the value of the property removed or abated and, if that value is greater than the cost incurred, pay the owner the difference. The bill would authorize the property owner to

request a hearing before the Board prior to the deadline for payment of removal or abatement costs.

The bill would make any decision of the Board subject to review in accordance with the Kansas Judicial Review Act (KSA 77-601 *et seq.*).

Motor Vehicles

The bill would authorize these counties to remove and abate a motor vehicle determined to be a nuisance, except when the vehicle is on public property or property that is not open to the public. The bill would require disposition of these vehicles to comply with procedures for impoundment, notice, and public auction in continuing law for vehicles abandoned on public highways or other property open to use by the public (KSA 8-1102), which include public auction. If a public auction is conducted but no responsible bid is received, the bill would authorize the county to file proof with the Division of Vehicles (Division), Kansas Department of Revenue, and require the Division to issue a certificate of title to the vehicle to the county.

Any person whose motor vehicle is disposed of under these provisions would be eligible for a refund of motor vehicle tax, with the amount to be determined as provided in continuing law.

Acts Not Applicable to Agricultural Activity or Oil and Gas Exploration and Development Activity

The bill would state the Legislature declares it is the policy of Kansas to protect and encourage the production and processing of food and other agricultural products, and it is the intent of these acts to protect agricultural and agribusiness activities from public and private nuisance actions.

The bill would state the acts would not apply to land, structures, machinery and equipment, or motor vehicles used for an agricultural activity or an oil or natural gas exploration and development activity. “Agricultural activity” would have the meaning in continuing law applicable to protection of farmland and agricultural activities, and also include real and personal property, machinery, equipment, stored grain, and agricultural input products owned or maintained by commercial grain elevators and agribusiness facilities.

Sunset

The acts would expire on July 1, 2027.

Background

The bill was introduced by the Senate Committee on Local Government at the request of a representative of the Riley County Board of County Commissioners.

Senate Committee on Local Government

In the Senate Committee hearing on February 14, 2023, a representative of the Riley County Board of Commissioners, the Riley County Counselor, the Deputy Riley County Counselor, and the Crawford County Counselor provided **proponent** testimony. They described nuisance properties and the steps taken to try to effect cleanup, and discussed a 2012 Kansas Court of Appeals ruling in *Barnes v. Board of County Commissioners of Cowley County* that determined a county could not use its home rule powers to abate nuisances.

A representative of the Kansas Association of Counties provided written-only proponent testimony.

No other testimony was provided.

On January 23, 2024, the Senate Committee reviewed the bill, received an update from the Riley County Counselor,

and received neutral testimony from a representative of the Kansas Grain and Feed Association and the Kansas Agribusiness Retailers Association.

On February 8, 2024, the Senate Committee amended the bill to:

- Add a statement of legislative intent regarding protecting agricultural and agribusiness activities from nuisance actions;
- Add land, structures, machinery and equipment, or motor vehicles used for oil and gas exploration and development activity to the exemptions; and
- Add the identical (except for county designation) Crawford County Unincorporated Area Nuisance Abatement Act.

Fiscal Information

In the fiscal note provided by the Division of the Budget on the bill as introduced, the Kansas Department of Revenue estimates enactment of the bill could result in administrative expenditures of \$250 to update policies and procedures if the nuisance involves a motor vehicle. The Office of Judicial Administration stated enactment of the bill could increase the number of cases filed in district court because decisions made by the Board would be subject to the Kansas Judicial Review Act and also could result in collection of docket fees for those cases; however, a fiscal effect cannot be determined.

Any fiscal effect associated with enactment of the bill is not reflected in *The FY 2024 Governor's Budget Report*.

The Kansas Association of Counties states the bill could have an effect on Riley County due to costs for repair or removing the nuisance and a loss to the county if the value of the property exceeds removal costs.

Nuisance abatement; Riley County; Crawford County; county commission;
agricultural activity