

SESSION OF 2018

**CONFERENCE COMMITTEE REPORT BRIEF
HOUSE BILL NO. 2577**

As Agreed to April 4, 2018

Brief*

HB 2577 would require all fees collected by the Right-to-Know Program (Program) within the Kansas Department of Health and Environment (KDHE) to be deposited into the State Treasury and credited to the Kansas Right-to-Know Fee Fund (Fund), which is created by the bill. Currently, these fees are deposited in the State General Fund (SGF). Expenditures from the Fund would be used for the administration of the Program, to provide and maintain the reporting system as necessary to comply with KSA 65-5704, and to provide training to the owners or operators of Kansas facilities, Kansas first responders and Kansas emergency management officials on the existence, access, and use of the reporting system established pursuant to the Kansas Emergency Planning and Community Right-to-Know Act.

The bill would establish statutory maximum fees for the Program, as follows.

Sum of the Maximum Daily Amounts of all Extremely Hazardous Substances reported (in pounds) on the Kansas Tier II Form	Annual Fee
1-9,999	\$25
10,000-999,999	\$50
1.0 million or greater	\$150

*Conference committee report briefs are prepared by the Legislative Research Department and do not express legislative intent. No summary is prepared when the report is an agreement to disagree. Conference committee report briefs may be accessed on the Internet at <http://www.kslegislature.org/kldr>

Sum of the Maximum Daily Amounts of all Hazardous Chemicals reported (in pounds) on the Kansas Tier II Form	Annual Fee
10,000-99,999	\$25
100,000-999,999	\$50
1.0 million-9,999,999	\$150
10.0 million or greater	\$300
Sum of the Total Chemical Releases reported (in pounds) on the Federal Form R	Annual Fee
100-19,999	\$250
20,000-99,999	\$700
100,000-999,999	\$1,700
1.0 million or greater	\$3,000

The bill would also give the Secretary of Health and Environment (Secretary) the authority to reduce the fees by adopting administrative rules and regulations if the Secretary determines such fees are yielding more than is necessary for the purposes of the Program outlined in the bill. In addition, the bill would give authority to the Secretary to increase the fees by adopting administrative rules and regulations if the Secretary finds an increase is necessary to produce sufficient revenue for purposes of the Program. The fees would not be increased in excess of the total cost of operation of the Program.

Conference Committee Action

The Conference Committee agreed to provisions in the bill, as amended, by the Senate Committee on Agriculture and Natural Resources. The Conference Committee further agreed to add in New Section 1, subsection (b) language to allow expenditures from the Fund to be used by the Secretary to:

- Provide and maintain the reporting system necessary to comply with KSA 65-5704; and
- Provide training to owners or operators of Kansas facilities, Kansas first responders, and Kansas emergency management officials on the existence, access, and use of the reporting system established by the bill.

The Conference Committee further agreed to technical conforming amendments dealing with the transfer of powers, duties, and functions of the Secretary regarding the oversight and administration activities of the State Emergency Response Commission to the Adjutant General.

Background

The bill was introduced by the House Committee on Water and Environment at the request of a representative of KDHE.

In the House Committee hearing, the Director of the Radiation Control Program, Bureau of Public Health, KDHE, provided the history of the Program, stating, under the federal Emergency Planning and Community Right-To-Know Act, the Legislature designated KDHE as the responsible entity for Tier II hazardous chemicals and Toxic Release Inventory. KDHE's role is to collect data regarding hazardous chemicals at defined thresholds, which are kept on site at facilities, and also collect data on toxic release inventories. This information is then used by local authorities to prepare for and respond to incidents.

The Director noted that over the past 30 years, KDHE Program staff has been reduced from ten to one and because of the decrease, the Program cannot provide the services the agency believes are critical to public safety. The Director explained that approximately \$313,000 in annual average fees collected by the Program are deposited into the SGF, but

the budgeted amount for the Program's operations is \$86,847.

A representative of the Kansas Agribusiness Retailers Association also provided proponent testimony stating the Association's members pay the fees to help cover the costs involved in the administration of the Program's regulations and those fees should be used specifically for that purpose. Written-only proponent testimony was provided by a representative of the Kansas Cooperative Council.

Neutral testimony was provided by the Executive Director of the Petroleum Marketers and Convenience Store Association of Kansas. The Executive Director expressed concern that the fees assessed for the Program were being deposited into the SGF and not being fully used for administering the Program.

No opponent testimony was provided.

In the Senate Committee on Agriculture and Natural Resources hearing, representatives of the Kansas Agribusiness Retailers Association, the Kansas Cooperative Council, and KDHE appeared in support of the bill.

No neutral or opponent testimony was provided.

The Senate Committee amended the bill to:

- Clarify that money in the Fund is to be spent only for the administration of the Program (not for support of training first responders and emergency management officials as proposed in the original version of the bill);
- Establish maximum fees for extremely hazardous substances reported on the Kansas Tier II form, hazardous chemicals reported on the Kansas Tier II form, and the total quantity of chemical releases reported on Federal Form R; and

- Give authority to the Secretary to raise and lower the fees through administrative rules and regulations depending upon a determination by the Secretary of the amount of money necessary to administer the program.

According to the fiscal note prepared by the Division of the Budget on the bill, as introduced, enactment of the bill would have a fiscal effect on the agency and the SGF. Currently, these fees are deposited into the SGF. The Fund would be used to support and enhance the Program. Beginning in FY 2019, the revenue into the SGF would decrease by an estimated \$311,633 and revenue to the Fund would increase by the same amount. A decrease in SGF expenditures of \$89,051 would occur as Program expenditures would be paid out of the Fund. KDHE notes its intention to add 1.0 FTE position and to increase Program expenditures in FY 2019. Any fiscal effect associated with enactment of the bill is not reflected in *The FY 2019 Governor's Budget Report*.

Kansas Right-to-Know Fee Fund; emergency planning; emergency response

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