

SESSION OF 2018

**CONFERENCE COMMITTEE REPORT BRIEF
SENATE BILL NO. 331**

As Agreed to April 4, 2018

Brief*

SB 331 would add to the list of designated state parks the Flint Hills Trail State Park located in Miami, Franklin, Osage, Lyon, Morris, and Dickinson counties, and Little Jerusalem Badlands State Park located in Logan County.

In addition, the bill would establish the Flint Hills Advisory Council (Council), which would study and assess the development, staffing, maintenance, and promotion of the Flint Hills Nature Trail. The bill would provide that consideration be given to appointing individuals who own land adjoining the Flint Hills Nature Trail. The 14 members of the Council would include:

- Two members of the Legislature who reside in a district adjoining the Flint Hills Nature Trail, or the members' designees, with one appointed by the President of the Senate and one appointed by the Speaker of the House of Representatives;
- Six county commissioners, or the commissioners' designees, with one appointed by each board of county commissioners of Miami, Franklin, Osage, Lyon, Morris, and Dickinson counties; and
- Six residents within each of Miami, Franklin, Osage, Lyon, Morris, and Dickinson counties, with each appointed by the governing body of the respective county seat.

*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>

The bill would require the Council to meet quarterly, at the call of the chairperson or upon request of a majority of the Council, and provide a quarterly report of its findings and recommendations to the Kansas Department of Wildlife, Parks and Tourism (KDWPT). The legislative member appointed by the Speaker of the House of Representatives would serve as the first chairperson of the Council and the legislative member appointed by the President of the Senate would serve as the first vice-chairperson. The positions of chairperson and vice-chairperson would alternate annually upon the first meeting of the Council each calendar year.

The bill would also require members of the Council to be appointed by August 1, 2018, and any vacancy on the Council would be filled by appointment in the same manner as the original appointment. Members of the Council would be appointed for terms not to exceed three years and, with the exception of the chairperson and vice-chairperson, would not serve more than two consecutive terms. The initial terms for the members would be staggered according to the provisions of the bill. In addition, legislative members of the Council would receive compensation amounts provided in current law, subject to approval by the Legislative Coordinating Council.

All of the above provisions dealing with the Council would expire on July 1, 2021.

In addition, the bill would remove the Prairie Spirit Rail Trail State Park and the proposed Flint Hills Trail State Park from current setback requirements for swine confined animal feeding operations (CAFOs).

The bill would direct the KDWPT to carry out the requirements outlined in state law [KSA 58-3212(a)(1)-(a)(11)] regarding the duties of the responsible party, at all times, after a transfer of a deed for land or water recreational areas. This would apply to the state parks designated by the bill that are subject to federal law regarding interim use of railroad rights-of-way. Among the duties required to be performed by the

responsible party are safety, accessibility, litter control, and law enforcement.

Finally, the bill would clarify that property contained within or encumbered by any railroad rights-of-way that have been transferred or conveyed to the KDWPT for interim use as a rail trail under federal law and is part of a state park would be deemed to be acquired and used for state park purposes and would therefore be exempt from property or *ad valorem* taxation.

Conference Committee Action

The Conference Committee agreed to the contents of the bill, as amended by the House Committee of the Whole, with the following changes:

- Provided, with respect to the appointees of the Council, that consideration should be given to owners of land adjoining the rail trail park;
- Clarified that the appointees to the Council from the governing bodies of the county seats be residents of the named counties rather than residents of an incorporated city within each of the counties;
- Provided that property that is part of a state park and is within or encumbered by any railroad rights-of-way that have been transferred or conveyed to KDWPT be considered to be acquired and used for state park purposes and would therefore not be subject to property or *ad valorem* taxation; and
- Provided that the provisions dealing with the Council would expire on July 1, 2021.

Background

The bill was introduced by the Senate Committee on Agriculture and Natural Resources at the request of a representative of KDWPT.

Senate Action

In the Senate Committee hearing, Representative Hineman and representatives of KDWPT, the Kanza Rail-Trails Conservancy, and The Nature Conservancy in Kansas testified as proponents of the bill. Representatives of Scott County; the cities of Council Grove, Osawatomie, and Ottawa; Dirty Kansas Promotions; the Topeka Community Cycle Project; the Topeka Metropolitan Transit Authority; and several private citizens submitted written-only proponent testimony. The proponents generally expressed support for protecting Kansas natural resources and providing areas for public recreational use.

A representative of the Kansas Farm Bureau testified as an opponent of the bill. The representative stated concerns about using state or federal funds for privately-owned land and possible future negative impacts on adjacent landowners. No neutral testimony was provided.

House Action

In the House Committee on Agriculture hearing, Representative Hineman and representatives of KDWPT, the Kanza Rail-Trails Conservancy, and The Nature Conservancy in Kansas testified as proponents of the bill. Representatives of the City of Council Grove, Council Grove/Morris County Chamber of Commerce and Tourism, Flint Hills Tourism Coalition, and Ottawa Area Chamber of Commerce provided written-only testimony in favor of the bill.

Opponent testimony was provided by representatives of the Kansas Farm Bureau, Kansas Livestock Association, and four private citizens who own land near or adjacent to the proposed Flint Hills Trail State Park. Written-only opponent testimony was submitted by two additional private citizens.

The House Committee amended the bill to establish the Council; remove the authority of the chairperson to appoint residents of an incorporated city and allow those appointments to be made by the governing body of the respective county seat; require the Council to report quarterly to the KDWPT; and create an exception for CAFO setback requirements for swine facilities that could be expanded or built near the Prairie Spirit Rail Trail State Park in Franklin, Anderson, and Allen counties and the proposed Flint Hills Trail State Park. [Note: The Conference Committee retained these amendments.]

The House Committee of the Whole amended the bill to clarify that KDWPT is to carry out the requirements outlined in state law regarding the duties of the responsible party at all times after a transfer of a deed for land or water recreational areas created by the bill, pursuant to federal law on railroad rights-of-way. In addition, the Council membership was amended to add one legislator from the Senate, designate a first chairperson and vice-chairperson, allow for the resident members to select designees, and exclude the vice-chairperson from the term limits set by the bill. [Note: The Conference Committee retained these amendments with the exception of the one dealing with allowing resident members to select a designee.]

Fiscal Information

According to the fiscal note prepared by the Division of the Budget on the bill, as introduced, KDWPT indicates enactment of the bill would require expenditures from the KDWPT Parks Fee Fund in the amount of \$504,329, beginning in FY 2018. The expenditures would include

salaries and wages, contractual services, and capital outlay.
Any fiscal effect associated with enactment of the bill is not
reflected in *The FY 2019 Governor's Budget Report*.

wildlife and parks; boards; committees; commissions; taxation

ccrb_sb331_01_04042018.odt