

HOUSE BILL No. 2672

By Representatives Lusk, Good, Ballard, Bishop, Clayton, Crum, Curtis, Dierks, Finney, Henderson, Kuether, Neighbor, Ohaebosim, Ousley, Parker, Probst, Victors and Whipple

2-7

1 AN ACT concerning oil and gas; relating to the state corporation
2 commission, powers and duties; requirements for certain injection
3 wells; creating the citizens' injection well board; creating the injection
4 well induced seismicity fund; amending K.S.A. 2017 Supp. 55-151, 66-
5 1503 and 76-326b and repealing the existing sections.
6

7 *Be it enacted by the Legislature of the State of Kansas:*

8 New Section 1. (a) To protect Kansans from induced seismic activity
9 caused by injections of large volumes of saltwater or other waste fluids
10 from oil and gas operations:

11 (1) No operator of a class II injection disposal well shall inject more
12 than 8,000 barrels of saltwater or other waste fluid per day into any such
13 well; and

14 (2) no class II injection disposal well shall be drilled within 10 miles
15 of any known or suspected fault line.

16 (b) To protect Kansans from increased risks of groundwater
17 contamination from the operation of class II injection disposal wells, any
18 applicant to drill and any operator of a class II injection disposal well shall
19 conduct groundwater testing within a one-mile radius of the well location:
20 (1) Prior to drilling the well; (2) in each year during operation of the well;
21 and (3) in each year, for no less than five years, after the well has been
22 abandoned.

23 (c) After drilling of a class II injection disposal well has been
24 completed pursuant to an application approved under K.S.A. 55-151, and
25 amendments thereto, no injections of any saltwater or other waste fluids
26 shall commence into such well until the operator of the well submits to the
27 commission the results of a mechanical integrity test to verify that there
28 are no significant leaks in the well and that the mechanical components
29 function in a manner protective of the environment and human health. The
30 commission shall prohibit the operation of any class II injection well if:

31 (1) A mechanical integrity test is not submitted prior to the operation
32 of any class II injection disposal well approved pursuant to K.S.A. 55-151,
33 and amendments thereto; or

34 (2) a mechanical integrity test is submitted in accordance with the

1 provisions of this subsection, but the mechanical integrity test shows that:

2 (A) Significant leaks are present; or

3 (B) the mechanical components are not functioning in a manner
4 protective of the environment and human health.

5 (d) (1) The commission shall require every operator of a class II
6 injection disposal well to submit quarterly reports on such operator's daily
7 injection volume amounts for each class II injection disposal well. Such
8 quarterly reports shall be submitted to the commission within 30 days after
9 the quarter ending in March, June, September and December of each year
10 on a form approved by the commission and certified to be true and correct.
11 Such quarterly reports shall provide the operators' daily injection volume
12 amounts for each class II injection disposal well operated by the operator.

13 (2) Upon submission of a quarterly report to the commission, the
14 operator shall remit to the commission a fee in an amount of \$.01 per 100
15 barrels of total saltwater or other waste fluid injected in each class II
16 injection disposal well during the reporting period. All fees collected
17 pursuant to this subsection shall be remitted to the injection well induced
18 seismicity fund pursuant to section 2, and amendments thereto.

19 (3) If any such operator fails to submit a quarterly injection volume
20 amount report or fails to remit the required fee with such report, the
21 commission shall suspend the operator's license issued under K.S.A. 55-
22 155, and amendments thereto.

23 (e) The state corporation commission shall compile and maintain with
24 an easily identifiable link on the commission's website homepage a public
25 data repository of information on class II injection disposal wells in this
26 state that includes, but is not limited to:

27 (1) Locations of proposed wells and links to the current application
28 dockets of proposed wells;

29 (2) locations of operating and abandoned wells;

30 (3) class II injection disposal well data on each well that is operating
31 and each abandoned well that includes, but is not limited to:

32 (A) Operator contact information;

33 (B) water quality test results;

34 (C) the daily injection volume limit of such well;

35 (D) the actual amount of saltwater or other waste fluids injected on a
36 per day basis; and

37 (E) any complaints that have been filed against or fines that have
38 been imposed upon the well operator.

39 (f) The commission may promulgate rules and regulations to enforce
40 the provisions of this section.

41 (g) As used in K.S.A. 55-151 and sections 1, 2 and 3, and
42 amendments thereto:

43 (1) "Class II injection disposal well" means a well that is used to

1 inject saltwater or other waste fluids that are brought to the surface in
2 connection with oil or natural gas production.

3 (2) "Induced seismicity" means an earthquake event that is recorded
4 by the national seismic network and attributable to a class II injection
5 disposal well.

6 New Sec. 2. (a) There is hereby created in the state treasury the
7 injection well induced seismicity fund. The commission shall remit all
8 moneys received from the class II injection disposal well application fees
9 collected pursuant to K.S.A. 55-151(b), and amendments thereto, and the
10 injection volume fees collected pursuant to section 1(c), and amendments
11 thereto, to the state treasurer in accordance with the provisions of K.S.A.
12 75-4215, and amendments thereto. Upon each such remittance, the state
13 treasurer shall deposit the entire amount in the state treasury to the credit
14 of the injection well induced seismicity fund. All expenditures from the
15 injection well induced seismicity fund shall be made in accordance with
16 appropriation acts upon warrants of the director of accounts and reports
17 issued pursuant to vouchers approved by the commission or the
18 commission's designee.

19 (b) Expenditures from the injection well induced seismicity fund may
20 be expended for the following purposes:

21 (1) Reimbursing Kansas citizens who suffer damages from induced
22 seismicity events;

23 (2) providing funding for the commission to administer, monitor and
24 enforce the administrative provisions relating to class II injection disposal
25 wells in K.S.A. 55-151(b) and section 1, and amendments thereto; and

26 (3) providing operational moneys for the citizens' injection well board
27 created pursuant to section 3, and amendments thereto.

28 (c) The commission shall promulgate rules and regulations that allow
29 Kansas citizens, entities, counties, cities and townships to apply for funds
30 from the injection well induced seismicity fund for damages caused by an
31 induced seismicity event. Such rules and regulations shall presume
32 damages caused by an earthquake were caused by an induced seismicity
33 event, unless proven otherwise.

34 New Sec. 3. (a) There is hereby established a citizens' injection well
35 board, which shall consist of five members appointed by the governor.
36 Subject to the provisions of K.S.A. 75-4315c, and amendments thereto, the
37 governor shall appoint one member from each congressional district and
38 the remainder from the state at-large. The members of the board shall serve
39 for a term of four years. No more than three members shall be from the
40 same political party. All vacancies in office of members so appointed shall
41 be filled by appointment by the governor for the unexpired term of the
42 member creating the vacancy. The citizens' injection well board shall
43 protect the interests of Kansas citizens, businesses, counties, cities and

1 townships in any proceedings before the state corporation commission
2 concerning class II injection disposal wells.

3 (b) The board shall organize annually from its membership by the
4 election of a chairperson and shall adopt such rules of procedure as the
5 board deems necessary for conducting its business.

6 (c) The board shall hold such meetings as in its judgment may be
7 necessary for the performance of its powers, duties and functions.
8 Appointive members of the board shall receive compensation, subsistence
9 allowances, mileage and other expenses for attending meetings of the
10 board as provided by K.S.A. 75-3223, and amendments thereto.

11 (d) The state corporation commission shall provide such technical
12 and clerical staff assistance as may be requested by the board.

13 (e) The board shall have and may exercise the following powers,
14 duties and functions:

15 (1) Employ an attorney as a consumer counsel;

16 (2) guide the activities of the consumer counsel; and

17 (3) recommend legislation to the legislature, which in the board's
18 judgment, would positively affect the interests of Kansas citizens with
19 respect to class II injection disposal wells.

20 (f) The consumer counsel may do the following:

21 (1) Represent the interests of Kansas citizens, businesses, counties,
22 cities and townships in any proceedings before the state corporation
23 commission concerning class II injection disposal wells;

24 (2) function as an official intervenor in cases filed with the state
25 corporation commission;

26 (3) initiate actions before the state corporation commission;

27 (4) represent Kansas citizens, businesses, counties, cities and
28 townships that file formal injection well complaints with the state
29 corporation commission;

30 (5) intervene in formal complaint cases; and

31 (6) make application for a rehearing or seek judicial review of any
32 order or decision of the state corporation commission.

33 (g) All budgeting, purchasing and related management functions of
34 the citizens' injection well board shall be administered under the direction
35 and supervision of the board. All vouchers for expenditures from
36 appropriations made for the use of the board shall be approved by the
37 chairperson of the board or by a person or persons designated by the
38 chairperson for such purpose. The budget of the board shall be financed in
39 the same manner as the budget of the state corporation commission is
40 financed pursuant to K.S.A. 66-1503, and amendments thereto.

41 Sec. 4. K.S.A. 2017 Supp. 55-151 is hereby amended to read as
42 follows: 55-151. (a) *Except as provided in subsection (b):*

43 (1) Prior to the drilling of any well, every operator shall file an

1 application of intent to drill with the commission. Such application shall
2 include such information as required by the commission, including the
3 name and address of the surface owner, and shall be on a form prescribed
4 by the commission. Such application shall also include non-binding
5 preliminary estimates of the location of roads of ingress or egress, any tank
6 battery and any pipeline or electrical line. The commission shall, upon
7 receipt of such application, send a copy of such application to the named
8 surface owner, as well as the contact information, including name, address,
9 phone number, fax or email address, for a designated representative of the
10 applicant. The commission need not send such information if the operator
11 verifies that the application filed with the commission has been delivered
12 to the surface owner.

13 ~~(b)~~(2) No change in the use of a well shall be made without express
14 approval of the commission. The state corporation commission shall have
15 the authority to adopt rules and regulations to fix, charge and collect a fee
16 for an application of intent to drill a well, except that such fee for an
17 application of intent to drill a well shall not exceed \$300. No drilling shall
18 be commenced until the authorized agents of the commission have
19 approved the application. The agent, in giving approval, shall determine
20 that the proposed construction of the well will protect all usable waters.
21 Such approval shall include the amount of pipe necessary to protect all
22 usable water, plugging requirements upon abandonment and such other
23 requirements deemed appropriate by the commission. The commission
24 may refuse to process any application submitted pursuant to this section
25 unless the applicant has been in compliance with all rules and regulations
26 adopted pursuant to this act.

27 ~~(e)~~(3) The commission shall make available to the secretary of the
28 department of health and environment information related to all
29 notifications of intents to drill. The commission shall make available to the
30 clerk of any county in which a well will be drilled information related to
31 the intent to drill for such well.

32 *(b) Prior to the drilling of any class II injection disposal well:*

33 *(1) Every operator shall file an application of intent to drill a class II*
34 *injection disposal well with the commission. Such application shall be on*
35 *a form prescribed by the commission that shall include, but not be limited*
36 *to: (A) Such information as required by the commission, including the*
37 *name and address of the surface owner and the names and addresses of all*
38 *landowners with land within one mile of the surface owner's land; (B)*
39 *non-binding preliminary estimates of the location of roads of ingress or*
40 *egress, any tank battery and any pipeline or electrical line; (C)*
41 *information regarding potential seismic concerns and a risk assessment of*
42 *the potential for induced seismicity based on the proposed location, depth*
43 *of the well and proposed daily injection volume; and (D) the name and*

1 address of the entity that will conduct the required groundwater testing
2 pursuant to section 1, and amendments thereto.

3 (2) Upon receipt of an application, the commission shall send:

4 (A) To the named surface owner and all landowners with land within
5 one mile of the proposed well: (i) A copy of such application; (ii) the
6 contact information for a designated representative of the applicant,
7 including the name, address, phone number and email address; (iii) the
8 contact information for the commission; and (iv) information for the
9 landowner regarding the hearing process and how a landowner can
10 submit a letter of protest to the application that includes, but is not limited
11 to, the time that such landowner has to submit a protest letter, the website
12 link to the application docket that would allow the landowner to monitor
13 the status of the application and hearing process, the anticipated date for
14 a public hearing on the application and how to stay informed of any
15 changes that are made to such application and hearing date; and

16 (B) to the clerk of each governing body of any county, city or
17 township within 15 miles of the proposed well: (i) A copy of such
18 application; (ii) the contact information for a designated representative of
19 the applicant, including the name, address, phone number and email
20 address; (iii) the contact information for the commission; and (iv)
21 information for the city, county or township regarding the hearing process
22 and submission of protest letters.

23 (3) The commission shall hold a public hearing upon each
24 application to drill a class II injection disposal well. Prior to holding such
25 public hearing, the commission shall allow any interested person to submit
26 electronic or written protest letters to the well application docket. Letters
27 of protest shall be accepted by the commission for no less than 90 days
28 prior to the date of the public hearing. If any interested person requests to
29 intervene as a participant to the proceeding in any such letter of protest
30 submitted to the commission, admission as an intervenor shall be granted
31 by the commission without any further requirements that would bar the
32 landowner or entity from intervening.

33 (4) The state corporation commission shall fix, charge and collect a
34 fee for an application of intent to drill a class II injection disposal well
35 that shall be no less than \$1,000. All such application fees collected
36 pursuant to this subsection shall be remitted to the injection well induced
37 seismicity fund pursuant to section 2, and amendments thereto.

38 (5) The commission shall not approve an application to drill a class
39 II injection disposal well until the following conditions are met:

40 (A) A public hearing has been conducted upon such application;

41 (B) the letters of protest, testimony and all evidence presented during
42 the hearing has been duly considered by the commission;

43 (C) groundwater testing has been completed within one mile of the

1 *proposed drilling site prior to the commencement of drilling operations;*

2 *(D) the commission has determined that the proposed construction of*
3 *the well will protect all usable waters, including the amount of pipe*
4 *necessary to protect all usable waters;*

5 *(E) the commission has determined that the proposed location is not*
6 *within 10 miles of any known or suspected fault line; and*

7 *(F) an assessment of induced seismic risk has been conducted.*

8 *(6) No drilling of a class II injection disposal well shall be*
9 *commenced until an application is approved by the commission and the*
10 *approved application sets forth all plugging requirements upon*
11 *abandonment, the water testing requirements pursuant to section 1, and*
12 *amendments thereto, and such other requirements deemed appropriate by*
13 *the commission.*

14 *(7) The commission shall make available to the secretary of the*
15 *department of health and environment information related to notifications*
16 *of intents to drill any class II injection disposal well.*

17 *(8) The commission may promulgate rules and regulations to*
18 *administer the provisions of this subsection.*

19 Sec. 5. K.S.A. 2017 Supp. 66-1503 is hereby amended to read as
20 follows: 66-1503. (a) (1) The state corporation commission shall determine
21 within 15 days after each quarter-year for each such quarter-year, the total
22 amount of its expenditures during such period of time and the total amount
23 of expenditures of the citizens' utility ratepayer board and the citizens'
24 injection well board during such period of time. The total amount shall
25 include the salaries of members and employees and all other lawful
26 expenditures of the commission and the ~~board~~ boards, including all
27 expenditures in connection with investigations or appraisals made under
28 the provisions of K.S.A. 66-1502, and amendments thereto, except that
29 there shall not be included in such total amount of expenditures for the
30 purpose of this section the expenditures during such period of time which
31 are otherwise provided for by fees and assessments made under other
32 existing laws for the regulation of motor carriers or for administering the
33 oil proration and the oil and gas conservation laws.

34 (2) From the amount determined under paragraph (1) of this
35 subsection, the commission shall deduct: (A) All amounts collected under
36 K.S.A. 66-1502, and amendments thereto, during such period of time; and
37 (B) the amounts of all fees collected during such period of time under the
38 provisions of ~~subsection (b)(1) of~~ K.S.A. 66-1a01(b)(1), and amendments
39 thereto.

40 (3) To the remainder after making the deductions under paragraph (2)
41 ~~of this subsection~~, the commission shall add such amount as in its
42 judgment may be required to satisfy any deficiency in the prior assessment
43 period's assessment and to provide for anticipated increases in necessary

1 expenditures for the current assessment period.

2 (b) The amount determined under subsection (a) shall be assessed by
3 the commission against all public utilities and common carriers subject to
4 the jurisdiction of the commission and shall not exceed, during any fiscal
5 year, the greater of \$100 or 0.2% of the respective utility's or common
6 carrier's gross operating revenues derived from intrastate operation as
7 reflected in the last annual report filed with the commission pursuant to
8 K.S.A. 66-123, and amendments thereto, prior to the beginning of the
9 commission's fiscal year or made available to the commission upon
10 request. Such assessment shall be paid to the commission within 15 days
11 after the notice of assessment has been mailed to such public utilities and
12 common carriers, which notice of assessment shall constitute demand of
13 payment thereof.

14 (c) The commission shall remit all moneys received by or for it for
15 the assessment imposed under this section to the state treasurer in
16 accordance with the provisions of K.S.A. 75-4215, and amendments
17 thereto. Upon receipt of each such remittance, the state treasurer shall
18 deposit the entire amount in the state treasury. Ten percent of each such
19 deposit shall be credited to the state general fund and the balance shall be
20 credited to the public service regulation fund.

21 Sec. 6. K.S.A. 2017 Supp. 76-326b is hereby amended to read as
22 follows: 76-326b. The state corporation commission shall remit all moneys
23 received by or for it from fees collected under K.S.A. 55-151(a), and
24 amendments thereto, to the state treasurer in accordance with the
25 provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of
26 each such remittance, the state treasurer shall deposit the entire amount in
27 the state treasury to the credit of the geological survey fund. Because the
28 operation of the state geological survey provides a direct benefit to the oil
29 and gas industry of Kansas, expenditures from the geological survey fund
30 shall be for the construction, renovation, reconstruction and maintenance
31 of buildings and facilities for the geological survey and for the acquisition
32 and replacement of equipment for the state geological survey.
33 Expenditures from the geological survey fund shall be made in accordance
34 with appropriation acts upon warrants of the director of accounts and
35 reports issued pursuant to vouchers approved by the chancellor of the
36 university of Kansas or by a person or persons designated by the
37 chancellor.

38 Sec. 7. K.S.A. 2017 Supp. 55-151, 66-1503 and 76-326b are hereby
39 repealed.

40 Sec. 8. This act shall take effect and be in force from and after its
41 publication in the statute book.