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MEMORANDUM

To: House Committee on Appropriations
From: Office of Revisor of Statutes
Date: February 13, 2020
Subject: House Bill 2536

House Bill 2536 makes amendments to statutes relating to the Kansas corporation commission's (KCC) oversight and operations concerning abandoned oil and gas wells.

Section 1 amends the definition of well within K.S.A. 55-150(j) to add that, in addition to a hole, a penetration of the surface of the earth may be deemed to be a well if done for the purposes listed in paragraphs (1) through (6). One of such purposes includes a well drilled to provide cathodic protection to prevent corrosion to lines. HB 2536 would add prevention of corrosion to tanks and structures to this purpose.

HB 2536 defines "abandoned well" in sections 2 through 4 of the bill. An abandoned well would be defined as a well that is not claimed on an operator's license that is active with the commission and is unplugged, improperly plugged or no longer effectively plugged.

Section 2 would amend K.S.A. 55-178 regarding investigations of abandoned wells by the KCC. Current law provides that the KCC must investigate any complaint alleging that a well is causing or likely to cause the pollution of any usable water strata or supply or loss of any usable water through downward drainage.

HB 2536 would amend this section to authorize the KCC to investigate any complaint alleging that an abandoned well is causing loss of usable water, pollution of any usable water strata, or the imminent loss or pollution of any usable water. As a result of an investigation, HB 2536 would authorize the KCC to take administrative action under the Kansas administrative procedure act.

Section 3 would amend K.S.A. 55-179 relating to determinations of persons who are legally responsible for abandoned wells. Under current law, the KCC has authority to determine persons who are legally responsible for an abandoned well. Such persons include, but are not limited to: Any operator of a waterflood or pressure maintenance program causing pollution or loss of usable water; the current or last operator of the lease; the original operator who plugged or abandoned the well; and any person who tampers with the well or removes equipment from the well without authorization. Also, no landowner or surface owner can be deemed a legally responsible person unless such person has operated or produced the well, has deliberately altered or tampered with such well, or has assumed responsibility through a written contract.

HB 2536 would remove the current provisions relating to legally responsible persons and would provide that a person who is legally responsible for an abandoned well shall be limited to one or more of the following:

1. Any person, including any operator of an injection well, disposal well or pressure maintenance program, causing pollution or loss of usable water through the well;
2. The most recent operator to produce from or inject or dispose into the well or the person that caused the well to be drilled if no production or injection occurred unless such person or operator demonstrates the well was properly transferred to another operator;
3. The person that most recently accepted responsibility for the well through an express assignment or lease that adequately identified the well;
4. The operator that most recently filed a completed report of transfer or the operator that most recently filed a well inventory with the KCC in which such operator accepted responsibility for the well;
5. The operator that most recently plugged the well, if no commission funds were used; and
6. Any person who intentionally tampers with, removes, destroys, buries, damages, alters or conducts any physical operations upon the well.

If the KCC determines that any person is legally responsible for the abandoned well, the KCC shall cause any such person to come before the commission for an

administrative hearing. Upon a finding of legal responsibility, the KCC would be authorized to order the plugging of the well or take other administrative actions. If the KCC determines that no person is legally responsible for the abandoned well, HB 2536 authorizes the KCC to cause such well to be plugged using funds from the abandoned oil and gas well fund.

Section 4 amends 55-180 by adding new provisions relating to plugging and reimbursements from the KCC funds for plugging. HB 2536 provides that an abandoned well may be plugged by any person if such person has written consent from the surface owner and the plugging is done by a person licensed by the commission.

If a well has been abandoned for five years or more, HB 2536 authorizes any person who plugs an abandoned well without an obligation to plug such well to seek reimbursement from the abandoned oil and gas well fund. This provision requires the KCC to adopt rules and regulations to govern reimbursements and the approval process.

HB 2536 also provides that no person shall become legally responsible for a well solely on the basis of having appropriately plugged such well.

Section 5 amends K.S.A. 55-192 and allows the KCC to use moneys from the abandoned oil and gas well fund for the expenditures authorized pursuant to the provisions of HB 2536.