

## HOUSE BILL No. 2711

By Committee on Energy and Utilities

2-9

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1 AN ACT concerning oil and gas; counties; relating to licensure of  
2 operators and contractors; well plugging assurance; amending K.S.A.  
3 55-166 and K.S.A. 2011 Supp. 19-101a, 55-151 and 55-155 and  
4 repealing the existing sections.  
5

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

7 New Section 1. (a) The board of county commissioners of each  
8 county shall establish a county well plugging assurance trust fund to  
9 receive moneys from the well plugging assurance fund established by  
10 K.S.A. 55-166, and amendments thereto. Within such county fund, the  
11 county shall maintain a separate trust account for each well located in the  
12 county for which the county receives moneys from the well plugging  
13 assurance fund. The county treasurer shall be responsible for the  
14 administration of the county well plugging assurance trust fund. Moneys in  
15 each trust account may be invested in accordance with the provisions of  
16 K.S.A. 10-131, and amendments thereto, with interest thereon credited to  
17 the corresponding trust account.

18 (b) Upon notification from the state corporation commission of the  
19 completion of the plugging of a well, in accordance with rules and  
20 regulations of the commission applicable thereto, the county in which the  
21 well is located shall pay all the moneys credited to the trust account for  
22 that well in the county well plugging assurance trust fund of the county to  
23 the operator, state agency or other entity that plugged such well, as  
24 certified by the commission.

25 Sec. 2. K.S.A. 2011 Supp. 19-101a is hereby amended to read as  
26 follows: 19-101a. (a) The board of county commissioners may transact all  
27 county business and perform all powers of local legislation and  
28 administration it deems appropriate, subject only to the following  
29 limitations, restrictions or prohibitions:

30 (1) Counties shall be subject to all acts of the legislature which apply  
31 uniformly to all counties.

32 (2) Counties may not affect the courts located therein.

33 (3) Counties shall be subject to acts of the legislature prescribing  
34 limits of indebtedness.

35 (4) In the exercise of powers of local legislation and administration  
36 authorized under provisions of this section, the home rule power conferred

1 on cities to determine their local affairs and government shall not be  
2 superseded or impaired without the consent of the governing body of each  
3 city within a county which may be affected.

4 (5) Counties may not legislate on social welfare administered under  
5 state law enacted pursuant to or in conformity with public law No. 271—  
6 74<sup>th</sup> congress, or amendments thereof.

7 (6) Counties shall be subject to all acts of the legislature concerning  
8 elections, election commissioners and officers and their duties as such  
9 officers and the election of county officers.

10 (7) Counties shall be subject to the limitations and prohibitions  
11 imposed under K.S.A. 12-187 to 12-195, inclusive, and amendments  
12 thereto, prescribing limitations upon the levy of retailers' sales taxes by  
13 counties.

14 (8) Counties may not exempt from or effect changes in statutes made  
15 nonuniform in application solely by reason of authorizing exceptions for  
16 counties having adopted a charter for county government.

17 (9) No county may levy ad valorem taxes under the authority of this  
18 section upon real property located within any redevelopment project area  
19 established under the authority of K.S.A. 12-1772, and amendments  
20 thereto, unless the resolution authorizing the same specifically authorized  
21 a portion of the proceeds of such levy to be used to pay the principal of  
22 and interest upon bonds issued by a city under the authority of K.S.A. 12-  
23 1774, and amendments thereto.

24 (10) Counties shall have no power under this section to exempt from  
25 any statute authorizing or requiring the levy of taxes and providing  
26 substitute and additional provisions on the same subject, unless the  
27 resolution authorizing the same specifically provides for a portion of the  
28 proceeds of such levy to be used to pay a portion of the principal and  
29 interest on bonds issued by cities under the authority of K.S.A. 12-1774,  
30 and amendments thereto.

31 (11) Counties may not exempt from or effect changes in the  
32 provisions of K.S.A. 19-4601 through 19-4625, and amendments thereto.

33 (12) Except as otherwise specifically authorized by K.S.A. 12-1,101  
34 through 12-1,109, and amendments thereto, counties may not levy and  
35 collect taxes on incomes from whatever source derived.

36 (13) Counties may not exempt from or effect changes in K.S.A. 19-  
37 430, and amendments thereto.

38 (14) Counties may not exempt from or effect changes in K.S.A. 19-  
39 302, 19-502b, 19-503, 19-805 or 19-1202, and amendments thereto.

40 (15) Counties may not exempt from or effect changes in K.S.A. 19-  
41 15,139, 19-15,140 and 19-15,141, and amendments thereto.

42 (16) Counties may not exempt from or effect changes in the  
43 provisions of K.S.A. 12-1223, 12-1225, 12-1225a, 12-1225b, 12-1225c

1 and 12-1226, and amendments thereto, or the provisions of K.S.A. 12-  
2 1260 through 12-1270 and 12-1276, and amendments thereto.

3 (17) Counties may not exempt from or effect changes in the  
4 provisions of K.S.A. 19-211, and amendments thereto.

5 (18) Counties may not exempt from or effect changes in the  
6 provisions of K.S.A. 19-4001 through 19-4015, and amendments thereto.

7 (19) Counties may not regulate the production or drilling of any oil or  
8 gas well in any manner which would result in the duplication of regulation  
9 by the state corporation commission and the Kansas department of health  
10 and environment pursuant to chapter 55 and chapter 65 of the Kansas  
11 Statutes Annotated, and amendments thereto, and any rules and regulations  
12 adopted pursuant thereto. Counties may not require any license or permit  
13 for the drilling or production of oil and gas wells. Counties may not  
14 impose any fee or charge for the drilling or production of any oil or gas  
15 well.

16 (20) Counties may not exempt from or effect changes in K.S.A. 79-  
17 41a04, and amendments thereto.

18 (21) Counties may not exempt from or effect changes in K.S.A. 79-  
19 1611, and amendments thereto.

20 (22) Counties may not exempt from or effect changes in K.S.A. 79-  
21 1494, and amendments thereto.

22 (23) Counties may not exempt from or effect changes in subsection  
23 (b) of K.S.A. 19-202, and amendments thereto.

24 (24) Counties may not exempt from or effect changes in subsection  
25 (b) of K.S.A. 19-204, and amendments thereto.

26 (25) Counties may not levy or impose an excise, severance or any  
27 other tax in the nature of an excise tax upon the physical severance and  
28 production of any mineral or other material from the earth or water.

29 (26) Counties may not exempt from or effect changes in K.S.A. 79-  
30 2017 or 79-2101, and amendments thereto.

31 (27) Counties may not exempt from or effect changes in K.S.A. 2-  
32 3302, 2-3305, 2-3307, 2-3318, 17-5904, 17-5908, 47-1219, 65-171d, 65-  
33 1,178 through 65-1,199, 65-3001 through 65-3028, and amendments  
34 thereto.

35 (28) Counties may not exempt from or effect changes in K.S.A. 2011  
36 Supp. 80-121, and amendments thereto.

37 (29) Counties may not exempt from or effect changes in K.S.A. 19-  
38 228, and amendments thereto.

39 (30) Counties may not exempt from or effect changes in the wireless  
40 enhanced 911 act, in the VoIP enhanced 911 act or in the provisions of  
41 K.S.A. 12-5301 through 12-5308, and amendments thereto.

42 (31) Counties may not exempt from or effect changes in K.S.A. 2011  
43 Supp. 26-601, and amendments thereto.

1 (32) (A) Counties may not exempt from or effect changes in the  
2 Kansas liquor control act except as provided by paragraph (B).

3 (B) Counties may adopt resolutions which are not in conflict with the  
4 Kansas liquor control act.

5 (33) (A) Counties may not exempt from or effect changes in the  
6 Kansas cereal malt beverage act except as provided by paragraph (B).

7 (B) Counties may adopt resolutions which are not in conflict with the  
8 Kansas cereal malt beverage act.

9 (34) Counties may not exempt from or effect changes in the Kansas  
10 lottery act.

11 (35) Counties may not exempt from or effect changes in the Kansas  
12 expanded lottery act.

13 (36) Counties may neither exempt from nor effect changes to the  
14 eminent domain procedure act.

15 (37) Any county granted authority pursuant to the provisions of  
16 K.S.A. 19-5001 through 19-5005, and amendments thereto, shall be  
17 subject to the limitations and prohibitions imposed under K.S.A. 19-5001  
18 through 19-5005, and amendments thereto.

19 (38) Except as otherwise specifically authorized by K.S.A. 19-5001  
20 through 19-5005, and amendments thereto, counties may not exercise any  
21 authority granted pursuant to K.S.A. 19-5001 through 19-5005, and  
22 amendments thereto, including the imposition or levy of any retailers' sales  
23 tax.

24 (39) *Counties may not exempt from or effect changes in the*  
25 *provisions of section 1, and amendments thereto.*

26 (b) Counties shall apply the powers of local legislation granted in  
27 subsection (a) by resolution of the board of county commissioners. If no  
28 statutory authority exists for such local legislation other than that set forth  
29 in subsection (a) and the local legislation proposed under the authority of  
30 such subsection is not contrary to any act of the legislature, such local  
31 legislation shall become effective upon passage of a resolution of the  
32 board and publication in the official county newspaper. If the legislation  
33 proposed by the board under authority of subsection (a) is contrary to an  
34 act of the legislature which is applicable to the particular county but not  
35 uniformly applicable to all counties, such legislation shall become  
36 effective by passage of a charter resolution in the manner provided in  
37 K.S.A. 19-101b, and amendments thereto.

38 (c) Any resolution adopted by a county which conflicts with the  
39 restrictions in subsection (a) is null and void.

40 Sec. 3. K.S.A. 2011 Supp. 55-151 is hereby amended to read as  
41 follows: 55-151. (a) Prior to the drilling of any well, every operator shall  
42 file an application of intent to drill with the commission. Such application  
43 shall include such information as required by the commission, including

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

11 (b) No change in the use of a well shall be made without express  
12 approval of the commission. *Except as required by subsection (e) of K.S.A.*  
13 *55-155, and amendments thereto*, the state corporation commission shall  
14 have the authority to adopt rules and regulations to fix, charge and collect  
15 a fee for an application of intent to drill a well, ~~except that such fee for an~~  
16 ~~application of intent to drill a well shall~~ *in an amount not to exceed \$300.*  
17 No drilling shall be commenced until the authorized agents of the  
18 commission have approved the application. The agent, in giving approval,  
19 shall determine that the proposed construction of the well will protect all  
20 usable waters. Such approval shall include the amount of pipe necessary to  
21 protect all usable water, plugging requirements upon abandonment and  
22 such other requirements deemed appropriate by the commission. The  
23 commission may refuse to process any application submitted pursuant to  
24 this section unless the applicant has been in compliance with all rules and  
25 regulations adopted pursuant to this act.

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

31 Sec. 4. K.S.A. 2011 Supp. 55-155 is hereby amended to read as  
32 follows: 55-155. (a) Operators and contractors shall be licensed by the  
33 commission pursuant to this section.

34 (b) Every operator and contractor shall file an application or a  
35 renewal application with the commission. Application and renewal  
36 application forms shall be prescribed, prepared and furnished by the  
37 commission.

38 (c) No application or renewal application shall be approved until the  
39 applicant has:

40 (1) Provided sufficient information, as required by the commission,  
41 for purposes of identification;

42 (2) submitted evidence that all current and prior years' taxes for  
43 property associated with the drilling or servicing of wells have been paid;

1 (3) demonstrated to the commission's satisfaction that the applicant  
2 complies with all requirements of chapter 55 of the Kansas Statutes  
3 Annotated, and amendments thereto, all rules and regulations adopted  
4 thereunder and all commission orders and enforcement agreements, if the  
5 applicant is registered with the federal securities and exchange  
6 commission;

7 (4) demonstrated to the commission's satisfaction that the following  
8 comply with all requirements of chapter 55 of the Kansas Statutes  
9 Annotated, and amendments thereto, all rules and regulations adopted  
10 thereunder and all commission orders and enforcement agreements, if the  
11 applicant is not registered with the federal securities and exchange  
12 commission: (A) The applicant; (B) any officer, director, partner or  
13 member of the applicant; (C) any stockholder owning in the aggregate  
14 more than 5% of the stock of the applicant; and (D) any spouse, parent,  
15 brother, sister, child, parent-in-law, brother-in-law or sister-in-law of the  
16 foregoing;

17 (5) paid an annual license fee of \$100, except that an applicant for a  
18 license who is operating one gas well used strictly for the purpose of  
19 heating a residential dwelling shall pay an annual license fee of \$25;

20 (6) complied with ~~subsection~~ *subsections (d) and (e)*; and

21 (7) paid an annual license fee of \$25 for each rig operated by the  
22 applicant. The commission shall issue an identification tag for each such  
23 rig which shall be displayed on such rig at all times.

24 (d) In order to assure financial responsibility, each operator shall  
25 demonstrate annually compliance with one of the following provisions:

26 (1) The operator has obtained an individual performance bond or  
27 letter of credit, in an amount equal to \$.75 times the total aggregate depth  
28 of all wells (including active, inactive, injection or disposal) of the  
29 operator.

30 (2) The operator has obtained a blanket performance bond or letter of  
31 credit in an amount equal to the following, according to the number of  
32 wells (including active, inactive, injection or disposal) of the operator:

33 (A) Wells less than 2,000 feet in depth: ~~+~~ *One through 5 five* wells,  
34 \$7,500; ~~6 six~~ *through 25* wells, \$15,000; and over 25 wells, \$30,000.

35 (B) Wells 2,000 or more feet in depth: ~~+~~ *One through 5 five* wells,  
36 \$15,000; ~~6 six~~ *through 25* wells, \$30,000; and over 25 wells, \$45,000.

37 (3) The operator: (A) Has an acceptable record of compliance, as  
38 demonstrated during the preceding 36 months, with commission rules and  
39 regulations regarding safety and pollution or with commission orders  
40 issued pursuant to such rules and regulations; (B) has no outstanding  
41 undisputed orders issued by the commission or unpaid fines, penalties or  
42 costs assessed by the commission and has no officer or director that has  
43 been or is associated substantially with another operator that has any such

1 outstanding orders or unpaid fines, penalties or costs; and (C) pays a  
2 nonrefundable fee of \$100 per year.

3 (4) The operator pays a nonrefundable fee equal to 6% of the amount  
4 of the bond or letter of credit that would be required by subsection (d)(2).

5 (5) The state has a first lien on tangible personal property associated  
6 with oil and gas production of the operator that has a salvage value equal  
7 to not less than the amount of the bond or letter of credit that would be  
8 required by subsection (d)(1) or by subsection (d)(2).

9 (6) The operator has provided other financial assurance approved by  
10 the commission.

11 *(e) Each operator shall annually pay to the commission, for each  
12 well that the operator maintains control of, an amount equal to 5% of the  
13 total projected cost of plugging the well, as determined by the commission  
14 at the time of the initial application of intent to drill such well. For all  
15 wells for which an operator has already filed an application of intent to  
16 drill, the commission shall determine the projected cost of plugging each  
17 such well prior to renewal of the operator's license and shall require the  
18 annual payment of the amount equal to 5% of those projected costs as part  
19 of the operator's renewal application. The annual payments shall continue  
20 until an operator has paid an aggregate amount equal to 100% of the  
21 projected costs of plugging each well under the operation or supervision  
22 of that operator as determined by the commission under this section.*

23 ~~(f)~~ (f) Upon the approval of the application or renewal application,  
24 the commission shall issue to such applicant a license which shall be in  
25 full force and effect until one year from the date of issuance or until  
26 surrendered, suspended or revoked as provided in K.S.A. 55-162, and  
27 amendments thereto. No new license shall be issued to any applicant who  
28 has had a license revoked until the expiration of one year from the date of  
29 such revocation.

30 ~~(g)~~ (g) If an operator transfers responsibility for the operation of a  
31 well or gas gathering system or for underground porosity storage of natural  
32 gas to another person, such operator shall file a notice of transfer of  
33 operator with the commission in accordance with rules and regulations of  
34 the commission. The commission shall, upon receipt of such notice, send a  
35 copy of such notice to the surface owner, as well as the contact  
36 information, including name, address, phone number, fax or email address,  
37 for a designated representative of the operator. The commission need not  
38 send such information if the operator verifies that the notice filed with the  
39 commission has been delivered to the surface owner. The commission  
40 need not send a copy of notice to the surface owner for transfers of  
41 responsibility for the operation of a gas gathering system or for  
42 underground porosity storage of natural gas to another person.

43 ~~(h)~~ (h) The commission shall remit all moneys received from fees

1 assessed pursuant to subsection (c)(7) of this section to the state treasurer  
2 in accordance with the provisions of K.S.A. 75-4215, and amendments  
3 thereto. Upon receipt of each such remittance, the state treasurer shall  
4 deposit the entire amount in the state treasury. Ten percent of each such  
5 deposit shall be credited to the state general fund and the balance shall be  
6 credited to the conservation fee fund created by K.S.A. 55-143, and  
7 amendments thereto.

8 ~~(h)~~ (i) The commission shall remit all moneys received pursuant to  
9 subsections (d)(3) and (d)(4) to the state treasurer in accordance with the  
10 provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of  
11 each such remittance, the state treasurer shall deposit the entire amount in  
12 the state treasury to the credit of the well plugging assurance fund.

13 (j) *The commission shall remit all moneys received pursuant to*  
14 *subsection (e) to the state treasurer in accordance with the provisions of*  
15 *K.S.A. 75-4215, and amendments thereto. Upon receipt of each such*  
16 *remittance, the state treasurer shall deposit the entire amount in the state*  
17 *treasury to the credit of the well plugging assurance fund.*

18 Sec. 5. K.S.A. 55-166 is hereby amended to read as follows: 55-166.

19 (a) There is hereby established in the state treasury the well plugging  
20 assurance fund. *All amounts credited to the well plugging assurance fund*  
21 *pursuant to the provisions of subsection (e) of K.S.A. 55-155, and*  
22 *amendments thereto, shall be certified and credited to a separate account*  
23 *which shall be established within the fund for each county in accordance*  
24 *with the certification by the commission. Each county's account shall be*  
25 *credited with the aggregate amount of well plugging assurance fund*  
26 *receipts received pursuant to subsection (e) of K.S.A. 55-155, and*  
27 *amendments thereto, from operators for wells located within that county.*

28 (b) Moneys in the well plugging assurance fund shall be used only for  
29 the purpose of paying the costs of: (1) Investigation of abandoned wells,  
30 and their well sites, drilling of which began on or after July 1, 1996; and  
31 (2) plugging, replugging or repairing abandoned wells, and remediation of  
32 the well sites, drilling of which began on or after July 1, 1996, in  
33 accordance with a prioritization schedule adopted by the state corporation  
34 commission and based on the degree of threat to public health or the  
35 environment. No moneys credited to the fund shall be used to pay  
36 administrative expenses of the commission or to pay compensation or  
37 other expenses of employing personnel to carry out the duties of the  
38 commission.

39 (c) *Notwithstanding the provisions of subsection (b), the commission*  
40 *shall determine and shall distribute quarterly all moneys credited to each*  
41 *county's well plugging assurance fund account in the well plugging*  
42 *assurance fund to the county treasurer of such county. On a quarterly*  
43 *basis, the commission shall certify to the director of accounts and reports*



1 *the counties entitled to a distribution pursuant to this section and section*  
2 *1, and amendments thereto. The director of accounts and reports shall*  
3 *draw warrants on the state treasurer payable to the county treasurer of*  
4 *each county entitled to payment from such county's account in the well*  
5 *plugging assurance fund upon vouchers approved by the chairperson of*  
6 *the commission or a person designated by the chairperson.*

7 ~~(e)~~ (d) On or before the 10<sup>th</sup> day of each month, the director of  
8 accounts and reports shall transfer from the state general fund to the well  
9 plugging assurance fund interest earnings based on: (1) The average daily  
10 balance of moneys in the well plugging assurance fund for the preceding  
11 month; and (2) the net earnings rate for the pooled money investment  
12 portfolio for the preceding month.

13 ~~(d)~~ (e) All expenditures from the well plugging assurance fund shall  
14 be made in accordance with appropriation acts upon warrants of the  
15 director of accounts and reports issued pursuant to vouchers approved by  
16 the chairperson of the state corporation commission or a person designated  
17 by the chairperson.

18 Sec. 6. K.S.A. 55-166 and K.S.A. 2011 Supp. 19-101a, 55-151 and  
19 55-155 are hereby repealed.

20 Sec. 7. This act shall take effect and be in force from and after its  
21 publication in the statute book.

22