

SESSION OF 2021

SUPPLEMENTAL NOTE ON SENATE BILL NO. 143

As Amended by House Committee on
Agriculture

Brief*

SB 143, as amended, would update and rearrange definitions regarding grain and grain warehouses, clarify when applications for licenses should be made, remove a reference regarding an independent public accountant, clarify the fee for a functional unit license, increase the maximum fee caps for storage fees, increase the allowable examination period for grain warehouses, and make technical changes.

Definitions

The bill would update references in continuing law regarding “grain” and “secretary” and remove definitions from three statutes and place them in KSA 2020 Supp. 34-223, the definitions section of Chapter 34, Article 2 of the *Kansas Statutes Annotated* regarding inspecting, sampling, storing, weighing, and grading grain and terminal and local warehouses.

The definitions that would be moved are “functional unit,” “open storage,” “owner,” “deferred payment,” “delayed pricing,” “financial institution,” “standby letter of credit,” and “unpaid balance.”

*Supplemental notes are prepared by the Legislative Research Department and do not express legislative intent. The supplemental note and fiscal note for this bill may be accessed on the Internet at <http://www.kslegislature.org>

Application for License

The bill would clarify that any person desiring to engage in business as a public warehouseman would, before transacting business, apply in writing to the Secretary of Agriculture (Secretary) for a license; such persons would be required to apply on an annual basis.

Accountant Reference

Current law requires an applicant for a license to provide a financial statement along with the license application. The financial statement is required to include certain documents, including a report of audit or review conducted by an independent certified public accountant or an independent public account. The bill would remove the reference to the independent public accountant.

License Fees

The bill would update the terms “license fee” to “functional unit license fee” and “annual fee” to “storage fee.” The bill would clarify the functional unit license fee could not exceed \$500 for each functional unit and this fee would continue to be set by the Secretary through rules and regulations.

[*Note:* The current definition for “functional units” is a public warehouse that has the capacity to store, weigh in, and weigh out grain. The storage capacity of any outlying storage facility of a public warehouse that is not a functional unit itself shall be included as part of the combined capacity of the warehouseman’s nearest functional unit.]

The bill would increase the maximum fee caps for storage fees, as follows:

Total Grain Warehouse Capacity in Bushels	Current Law "Annual Fee" Maximum Cap	SB 143 "Storage Fee" Maximum Cap
1 to 100,000	\$500	\$740
100,001 to 150,000	\$525	\$800
150,001 to 250,000	\$550	\$850
250,001 to 300,000	\$600	\$910
300,001 to 350,000	\$625	\$960
350,001 to 400,000	\$650	\$1,020
400,001 to 450,000	\$700	\$1,060
450,001 to 500,000	\$725	\$1,120
500,001 to 600,000	\$775	\$1,160
600,001 to 700,000	\$800	\$1,220
700,001 to 800,000	\$850	\$1,570
800,001 to 900,000	\$875	\$1,620
900,001 to 1,000,000	\$900	\$1,660
1,000,001 to 1,750,000	\$1,225	\$2,260
1,750,001 to 2,500,000	\$1,400	\$2,590
2,500,001 to 5,000,000	\$1,750	\$3,230
5,000,001 to 7,500,000	\$2,100	\$3,880
7,500,001 to 10,000,000	\$2,375	\$4,390
10,000,001 to 12,500,000	\$2,600	\$4,810
12,500,001 to 15,000,000	\$2,800	\$5,180
15,000,001 to 17,500,000	\$3,000	\$5,550

17,500,001 to 20,000,000	\$3,225	\$5,960
For each 2,500,000 bushels or fraction over 20,000,000	\$350	\$650

Examination Period

The bill would increase, from 12 months to 18 months, the period of time in which the Secretary would examine, at least once, each grain warehouse operated by a licensed public warehouseman. The bill would also state the examinations could be conducted more frequently as the Secretary determines is necessary to protect the public.

Effective Date

The bill would be in effect upon publication in the *Kansas Register*.

Background

The bill was introduced by the Senate Committee on Agriculture and Natural Resources at the request of Senator Kerschen.

Senate Committee on Agriculture and Natural Resources

In the Senate Committee hearing, the Grain Warehouse Program Manager, Kansas Department of Agriculture (KDA), provided **proponent** testimony, stating the grain warehouse statutes needed to be updated and the definitions needed to be consolidated. The conferee stated the Grain Warehouse Program was transferred to the KDA in 1997 and in 2004, the fees were raised to the statutory maximum limit and fees have remained flat since then, resulting in annual deficits in the majority of the last 10 years. The conferee stated that in

conversations with stakeholders about the funding deficit, the stakeholders expressed support for continuing the program and adjusting the maximum cap on fees. The conferee added that although the bill would increase the time period in which grain warehouses are examined, the KDA plans on inspecting each grain warehouse at least once a year and with sufficient revenue, it could hire another grain inspector.

Additional **proponent** testimony was provided by a representative of the Kansas Grain and Feed Association, who expressed support for the bill and a willingness of industry to absorb a reasonable fee increase. The representative also stated a request has been made through the budget process for additional State General Fund moneys for the program. Other proponent testimony was provided by representatives of the Kansas Cooperative Council and the Kansas Farm Bureau.

No other testimony was provided.

The Senate Committee amended the bill to clarify that any person desiring to engage in business as a public warehouseman would, before transacting business, apply in writing to the Secretary of Agriculture (Secretary) for a license and on an annual basis thereafter.

House Committee on Agriculture

In the House Committee hearing, **proponent** testimony was provided by the Grain Warehouse Program Manager, KDA, and representatives of the Kansas Cooperative Council, Kansas Farm Bureau, and Kansas Grain and Feed Association.

No other testimony was provided.

The House Committee amended the bill to change its effective date to upon publication in the *Kansas Register*.

Fiscal Information

According to the fiscal note prepared by the Division of the Budget on the bill as introduced, the KDA states the bill does not change the statutory functional fee of \$500. The bill would increase the maximum storage fee per total warehouse capacity in bushels by approximately 85.0 percent. The agency intends to spread the full increase, which would amount to \$117,000, over FY 2022 and FY 2023; therefore, only half of the increased revenue would be captured in FY 2022. While the agency indicates enactment of the bill would not directly result in additional expenditures, the program has been functioning at a net loss and the revenue would be used to offset that loss for program operations. Any fiscal effect associated with the bill is not reflected in *The FY 2022 Governor's Budget Report*.

Kansas Department of Agriculture; grain warehouses; inspections; fees