

# Report of the Special Committee on Water to the 2023 Kansas Legislature

**CHAIRPERSON:** Senator Dan Kerschen

**VICE-CHAIRPERSON:** Representative Ron Highland

**OTHER MEMBERS:** Senators Carolyn McGinn, Ronald Ryckman, Alicia Straub, and Mary Ware;  
and Representatives Cyndi Howerton, Jim Minnix, Joe Newland, Lindsay Vaughn, and Rui Xu

## **STUDY TOPIC**

The Committee is directed to study issues related to Kansas aquifers, dam storage capacity, and funding.



# Special Committee on Water

## REPORT

### Conclusions and Recommendations

The Special Committee on Water did not make formal recommendations. The Committee requested additional information regarding the following funding options: utilizing 0.1 percent of sales and use taxes without increasing the current rate of 6.5 percent state sales and use tax, and a water bottle fee of \$.04 per bottle of water sold in Kansas. [Note: Approximately \$67.6 million would be raised from a 0.1 percent sales and use tax in FY 2024, and \$688,000 would have been raised in calendar year 2021 from the bottle fee.]

*Proposed Legislation:* None.

### BACKGROUND

The Legislative Coordinating Council (LCC) appointed the Special Committee on Water (Committee), composed of 11 members of the House Committee on Agriculture, the House Committee on Water, and the Senate Committee on Agriculture and Natural Resources. The LCC directed the Committee to study issues related to Kansas aquifers, dam storage capacity, and funding.

### COMMITTEE ACTIVITIES

The LCC approved two meeting days for the Committee during the 2022 Interim. The Committee met August 29 and August 30, 2022, in the Statehouse.

#### August 29, 2022, Meeting

##### *Staff Overview*

Research analysts from the Kansas Legislative Research Department (KLRD) provided a review of the Committee's study topic and additional resources.

##### *Overview of the Division of Water Resources*

The Chief Engineer of the Division of Water Resources (DWR), Kansas Department of Agriculture (KDA), provided an overview of

DWR. The Chief Engineer noted DWR has been part of KDA since 1927. He stated DWR administers 30 laws and has responsibility for allocation and use of water, water structures, and interstate compacts.

The Chief Engineer provided a funding overview. He stated funding for DWR is \$11.0 million to \$12.0 million annually and noted federal funding provides the largest amount of revenue.

The Chief Engineer then provided information regarding interstate water compacts, dam safety, the National Flood Insurance Program, and permitting of water structures.

The Chief Engineer discussed how water is used throughout the state, including industrial, irrigation, municipal, recreation, and stock uses. Irrigation uses the most water. The Chief Engineer also provided an overview of water right development and flexibility and conservation tools, such as multi-year flex accounts, water conservation areas, and local enhanced management areas (LEMAs).

##### *Overview of the Kansas Water Office*

The Director of the Kansas Water Office (Water Office) provided an overview of the Water Office. The Director noted that DWR is responsible for the quantity of water in Kansas; the Kansas Department of Health and Environment

(KDHE) is responsible for the quality of the water, and the Water Office, established in 1981, is responsible for water planning, coordination, and marketing. The Water Office is required to develop a comprehensive State Water Plan, with the most recent update approved in August 2022. The Water Office is also responsible for drought monitoring and response and for securing contracts for public water storage that is bought by municipalities.

The Director provided information about the Kansas Water Authority (KWA) and the 2022 State Water Plan.

The Director also discussed three major areas of concern: current and future reservoir sedimentation, declining water availability from the High Plains Aquifer, and water quality.

### ***Overview of the Division of Conservation, Kansas Department of Agriculture***

The Director of Conservation (Director), KDA, provided the mission statement of the Division of Conservation (Division) and its objectives, which include protecting federal reservoirs and other public water supplies, reducing flood damage, reducing pollutants to meet total maximum daily load and water quality standards, improving the health of wetlands and riparian stream areas, improving soil health and reducing soil erosion, improving wildlife habitat, and reducing the consumptive use of groundwater supplies.

The Director said that to achieve these objectives, the State partners with stakeholders, including 105 conservation districts; 88 organized watershed districts; other local, state, and federal nongovernmental organizations; and private industry partners.

He indicated more partnership opportunities are becoming available. The Division aids conservation districts by providing matching funds to deliver local, state, and federal conservation programs. Each conservation district has a volunteer five-member board.

The Director also provided an overview of the Division's programs and discussed the Division's challenges and opportunities.

### ***Overview of the Division of Environment, Kansas Department of Health and Environment***

The Deputy Secretary of Environment (Deputy Secretary), KDHE, reported the agency's mission is to protect and improve the health and environment of all Kansans and, specifically, the KDHE Division of Environment protects Kansans by ensuring clean air, clean water, and clean soil.

The Deputy Secretary described governing federal legislation, such as the Clean Air Act, the Clean Water Act, and the Safe Drinking Water Act.

The Deputy Secretary provided information about the bureaus within the Division of Environment and an overview of district office operations, livestock waste management, and non-point source water pollution.

The Deputy Secretary provided information about the State Revolving Fund. The Deputy Secretary stated the Kansas Water Pollution Control Revolving Fund issues loans to municipalities for clean water projects.

### ***Introduction to the Kansas Geological Survey***

The Director of the Kansas Geological Survey (KGS) stated KGS does not have regulatory responsibility and does not take a position on policy, but the KGS does collect, correlate, preserve, and disseminate information about the geological resources of Kansas. The Director noted about 20.0 percent of the KGS workforce is focused on water.

### ***Aquifer History, Rates of Decline, and Life Expectancy***

The Manager of Geohydrology Services, KGS, provided an overview of groundwater resources in Kansas including information about the range of precipitation across the state, the use of groundwater in the western part of the state and surface water in the east, and how water is used throughout the state.

The KGS conferee described the nine aquifers in the state and gave an example of the

assessment of groundwater resources in the Missouri Planning Area.

The KGS conferee stated the Legislature provided funds to establish a well network to develop a groundwater model, and more than 95.0 percent of the wells in Kansas High Plains Aquifer have flow meters.

The KGS conferee also presented a map illustrating how long water will be available from the High Plains Aquifer and explained that portions of the aquifer are already at a minimum threshold of saturated thickness, which means water is becoming less available.

### ***Pumping Reductions***

A senior scientist with the KGS provided information on water pumping and said that based on past water pumping data of the High Plains Aquifer, water availability can only be maintained by reducing pumping.

The senior scientist stated that using 25 years of data collected from Groundwater Management District (GMD) 4 informs predictions of the amount of water use reduction necessary to extend the viability of the High Plains Aquifer; those data indicate an average decrease of 19.0 percent would be necessary. The KGS conferee provided data showing pumping reductions in the Sheridan-6 LEMA and Wichita County LEMA.

The KGS conferee also provided information regarding water quality concerns between Lakin and Garden City.

### ***Funding Overview***

A senior fiscal analyst with KLRD provided a funding overview for each of the state water agencies. The analyst stated the funding total for FY 2021 was \$243.4 million, and 63.0 percent of the total came from federal funds. The analyst also reviewed how the State Water Plan Fund is allocated and its revenue sources.

### **August 30, 2022, Meeting**

#### ***Overview of Kansas Water Laws***

A Washburn University School of Law professor provided information about Kansas

water laws. The professor discussed the history of Kansas water laws, water quality issues, water as a public resource, and voting in GMDs.

The professor also reviewed ways Kansas water law could be reformed, including:

- Implementing a quasi-judicial process to help protect water rights and prevent overuse;
- Clarifying the duties of the chief engineer;
- Restoring the independence of the chief engineer and DWR; and
- Reforming the representation of GMDs so all water users are eligible voters.

### ***Overview of Financial Plan from the 2017 Blue Ribbon Funding Task Force for Water Resource Management***

Representative Joe Newland provided an overview of the 2017 Blue Ribbon Funding Task Force for Water Resource Management (Task Force). Representative Newland stated the Task Force found that roughly \$55.0 million in annual funding is needed to implement its “Long Term Vision for the Future of Water Supply in Kansas” and recommended that 0.1 percent of state sales tax be dedicated to meeting the annual funding needs. He also noted a fee on bottled water was considered.

### **Additional Information**

KLRD staff provided additional information after the Committee’s meetings regarding the fiscal impacts of the funding options discussed.

Currently, the state sales and use tax is 6.5 percent; directing a 0.1 percent sales and use tax in FY 2024 would yield \$67.6 million. Funds from the remaining 6.4 percent state sales and use tax would be available for the State General Fund and State Highway Fund purposes to which the tax is directed in current law.

KLRD staff noted that if a fee of \$.04 per bottle of water had been assessed in calendar year 2021, an estimated \$688,000 of additional funding

would have been available for water agencies and programs, based on data from the Beverage Marketing Corporation.

## **CONCLUSIONS AND RECOMMENDATIONS**

The Committee made no recommendations. The Committee requested additional information regarding the following funding options for water agencies and programs:

- Utilizing 0.1 percent of state sales and use taxes without increasing the current rate of 6.5 percent sales and use tax; and
- Assessing a water bottle fee of \$.04 per bottle of water sold in Kansas.