

SESSION OF 2026

SUPPLEMENTAL NOTE ON HOUSE BILL NO. 2433

As Recommended by House Committee on
Local Government

Brief*

HB 2433 would add an exception to county home rule regarding regulation of the transfer or appropriation of water.

The bill would prohibit a county from enacting or enforcing any resolution or other action regulating the transfer or appropriation of water that conflicts with, interferes with, is more stringent than, or would duplicate the control, regulation, enforcement, or oversight of the Chief Engineer or the Water Transfer Hearing Panel regarding the transfer or appropriation of water per continuing law.

The bill would prohibit a county from:

- Requiring any license, permit, or conditional use permit to transfer or appropriate water; or
- Imposing any condition, restriction, limitation, requirement, fee, or charge related to transfer or appropriation of water.

The bill would retroactively and prospectively apply to all existing and future county resolutions that affect past, present, or future transfer or appropriations of water.

The bill would not prohibit a county from utilizing zoning or sanitary code requirements to regulate the location or use of domestic water wells.

*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 <https://klrd.gov/>

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

Background

The bill was introduced by Representative Wasinger.

House Committee on Local Government

In the House Committee hearing, **proponent** testimony was provided by Representative Wasinger, the Mayor of the City of Hays, the City Manager of the City of Russell, and a representative of the Kansas Rural Water Association. The proponents generally stated that because water in Kansas is owned by the State and the State sells rights to use the water, counties should not regulate access to water because water location and use does not always align with county boundaries.

Written-only proponent testimony was provided by the Mayor and a council member of the City of Russell, the superintendent of USD 407 (Russell), a former state senator, and representatives of Agrilead Inc.; the Chamber in Hays, Kansas; Fort Hays State University Foundation; Grows Hays, Inc.; HaysMed; John O. Farmer, Inc.; Kansas Municipal Utilities; Purefield Ingredients LLC; Russell Economic Development and Convention and Visitors Bureau; Russell Regional Hospital; and Sierra Club Executive Committee.

Neutral testimony was provided by the Chairman of the Prairie Band Potawatomi Nation Tribal Council. The Chairman stated that the Winters Doctrine of 1908 set forth that when the federal government reserves land for a federal purpose, such as creating Indian reservations, it implicitly reserves enough water to fulfill that purpose, meaning tribal rights to water take priority over rights established later by a state. He also stated that the 9th Circuit Court decision in *Agua Caliente Band of Cahuilla Indians v. Coachella Valley*

Water District in 2017 expanded the right to include both surface and groundwater in the tribal water right calculation.

Opponent testimony was provided by a representative of the Kansas Natural Resources Coalition. The opponent generally stated that the bill seems to be an overreach of state authority on county home rule powers.

Written-only opponent testimony was provided by the County Attorney of Edwards County.

No other testimony was provided.

Fiscal Information

According to the fiscal note provided by the Division of the Budget on the bill, the Kansas Department of Agriculture indicates that while the bill would not affect agency expenditures or revenues, it could limit future litigation costs for the agency. The Kansas Department of Health and Environment and the Kansas Water Office indicate that enactment of the bill would not have a fiscal effect on expenditures, revenues, or operations.

The Kansas Association of Counties indicates enactment of the bill could increase expenditures for counties if there is a need to contract for additional expertise to ensure compliance with the law, but a precise legal effect cannot be estimated.

County home rule; water; water transfer; water appropriation