

SESSION OF 2017

SUPPLEMENTAL NOTE ON SENATE BILL NO. 46

As Amended by Senate Committee on
Agriculture and Natural Resources

Brief*

SB 46 would amend law that relates to water conservation areas (WCAs).

Posting Applications and Orders; Notice

The bill would require the Kansas Department of Agriculture (KDA) to post all complete applications and orders issued by the Division of Water Resources (DWR) regarding WCAs on its official website. The bill also would require the DWR, in conjunction with the groundwater management district (GMD) within which a water right is situated, to notify appropriate water right owners of a water right pending request or application relating to WCAs.

Management Plan to Establish a WCA

The bill would require the following to be included in the management plan of a WCA, in addition to what is already required by current law: a finding or findings that the area within the geographic boundaries listed in the water management plan has been closed to new appropriations by rule, regulation, or order of the Chief Engineer of the DWR.

The bill would clarify that one or more of the corrective control provisions provided in current law would need to be included in the management plan.

*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>

Flexibility in Water Authorized

The bill would allow the Chief Engineer to authorize a management plan that allots water authorized by existing water rights in order to provide flexibility in the management of water resources. This would be subject to the following limitations:

- The management plan would be limited to the WCA term;
- The management plan could allow, in any given calendar year, the water use of an individual water right or rights to exceed the annual authorized quantity of the individual water right or rights participating in the management plan, provided that the water use would not exceed the total annual authorized aggregate quantity and rate of all the water rights participating in the management plan in any given year;
- The authority granted through the management plan would supersede the participating water rights during the term of the WCA or until the management plan is suspended by the Chief Engineer; and
- For purposes of determining priority, the management plan would be assigned the priority date of its effectiveness.

The bill would provide that, as a part of the consent agreement and order of designation, the Chief Engineer could include use of multi-year flex accounts.

Water Right Impairment

The bill would prohibit a management plan authorized under a WCA from impairing any water right. If an impairment

occurs, the Chief Engineer, following a complaint and investigation, would be authorized to suspend operation of the WCA. In this event, each participating water right could be operated in accordance with its permitted terms and conditions as in effect prior to the operation of the WCA. Upon conclusion of the Chief Engineer's investigation and finding of impairment, the Chief Engineer could terminate the WCA or modify the WCA, subject to consent of the participating water right owners.

WCA Boundary Notification

The Chief Engineer would be required to provide notification to all water right owners with a point of diversion within half a mile, or farther if necessary, of the boundaries of a WCA. Notification would include a reference to an electronic publication of the management plan and any relevant technical analysis.

Perfecting Water Rights; GMDs

The bill would prohibit a water right from being perfected pursuant to a WCA. In addition, nothing in Section 2 of the bill would be construed as limiting or affecting any duty or power of a GMD granted to a district by the Kansas Groundwater Management District Act.

Background

The bill was introduced by the Senate Committee on Agriculture and Natural Resources at the request of a representative of the KDA. In the Senate Committee hearing, representatives of the KDA, Groundwater Management District No. 3, Kansas Farm Bureau, and Kansas Livestock Association, and Kansas Water Office testified in favor of the bill. Representatives of the Kansas Corn Growers Association and Groundwater Management District No. 1 provided written-only testimony in favor of the bill. Proponents stated

stakeholders met with state officials during the 2016 Interim and discussed the changes to WCAs proposed in the bill. No other testimony was provided.

The Senate Committee on Agriculture and Natural Resources amended the bill to clarify language regarding goals and corrective control provisions for the management plan; require notification of an electronic publication by the Chief Engineer of WCA boundaries; require the Chief Engineer to adopt rules and regulations to effectuate and administer the provisions in the bill (to return the language to current law); and add that the bill language would not be construed as limiting or affecting any GMD powers or duties granted by the Kansas Groundwater Management District Act.

According to the fiscal note prepared by the Division of the Budget on the bill as introduced, KDA states enactment of the bill would have no fiscal effect.