

SESSION OF 2006

**CONFERENCE COMMITTEE REPORT BRIEF  
HOUSE BILL NO. 2710**

As Agreed to April 28, 2006

**Brief\***

HB 2710, if enacted, would establish a Water Right Transition Assistance Pilot Project Program to be administered by the State Conservation Commission. The purpose of the Pilot Project Program is the permanent retirement of all or part of landowner historic consumptive use water rights through grants to water rights holders.

The Commission would be authorized to enter into contracts with water rights holders when such grants result in the permanent retirement of consumptive use water rights. Grants to acquire water rights would be allowed only in areas of the state that have been designated as target or high priority areas by groundwater management districts and the Chief Engineer of the Division of Water Resources, State Department of Agriculture. Priority areas outside the boundaries of a groundwater management area would be those designated by the Chief Engineer. The bill would require that priority be given to the most senior right where applications for participation in the pilot project have similar hydrologic impacts. Two of the target or high priority areas would be the Prairie Dog Creek area located in a specified hydrologic area in north central Kansas and the Rattlesnake Creek subbasin located in a hydrologic area specified in the bill. Partial retirement of water rights would be authorized only when approved by the Chief Engineer and only when a groundwater management district has the capability to meter and monitor compliance. No more than 30 percent of the total funds for the Water Right Assistance Pilot Program could be expended for partial water rights retirement. Grant amounts from state and federal funds would be limited to \$1.5 million annually, but the State Conservation Commission and participating groundwater management districts would be required to carry over unexpended funds from one fiscal year to the next.

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\*Conference committee report briefs are prepared by the Legislative Research Department and do not express legislative intent. No summary is prepared when the report is an agreement to disagree. The conference committee summary report may be accessed on the Internet at <http://www.kslegislature.org>

The State Conservation Commission would be required to hold at least two meetings in each Water Right Transition Assistance Pilot Project area prior to entering into contracts for the permanent retirement of all or part of historic consumptive use water rights. Such meetings would be for the purpose of informing the public of the possible economic and hydrologic impact of the Program. Notice of the meetings would be required to be published in local newspapers and the *Kansas Register*.

The bill would require the State Conservation Commission to promulgate rules and regulations necessary for the administration of the pilot program. When adopting regulations, the agency would be required to consider cropping, system design, metered water use, and all other pertinent information that will permit a verifiable reduction in annual water consumptive use, permit alternative crops or other use of the land, and insure the landowner's economic opportunities are taken into account. The State Conservation Commission would report annually to the Senate Natural Resources Committee and to the House Environment Committee concerning the economic impact studies being conducted on reduction of water consumption and the financial impact on communities.

Violation of any of the provisions of the Program or associated rules and regulations could subject a person to a civil penalty of not less than \$100 nor more than \$1,000 per violation or repayment of the grant amount plus a penalty of 6 percent of the grant amount. Penalties or reimbursements would be reappropriated for use in the Program.

Under the provisions of the bill, no expenditures could be made for the Conservation Reserve Enhancement Pilot Program during the fiscal year ending June 30, 2007, unless authorized by the 2007 Session of the Legislature. The State Conservation Commission and Kansas Water Office would be required to prepare a program for the retirement of water rights under the Program and submit it to the Senate Committee on Natural Resources and the House Committee on Environment during the 2000 Session prior to expenditures of any funds for the Program.

The Program would expire five years from the effective date of the fiscal year for which state moneys are appropriated and approval of program rules and regulations.

## **Conference Committee Action**

The Conference Committee agreed to add restore stricken language that authorizes the retirement of partial water rights, and to add a restriction that expenditures for the retirement of partial water rights could not exceed 30 percent of the total amount of the funds for the Program.

The conferees agreed to add the requirement that the State Conservation Commission hold at least two meetings in each Water Right Transition Assistance Pilot Program area prior to entering into any transition contracts.

The Conference Committee agreed to strike a section of the bill which would have prohibited the expenditure of funds by any state agency unless the acquisition or leasing was conducted in accordance with and subject to a program that was prescribed and specifically authorized by the Legislature. It was agreed the stricken section would be replaced by the language that prohibits any expenditures during fiscal year 2007 unless authorized by the 2007 Legislature and submission of a program to the specified committees of the Legislature.

## **Background**

Proponents of the original bill included representatives of the Kansas Water Congress, the Water Protection Association of Central Kansas, the Kansas Farm Bureau, the State Conservation Commission, Southwest Kansas Groundwater Management District # 3, the Kansas Chapter of the Sierra Club, the Kansas Water Office, Big Bend Groundwater Management District # 5, Northwest Kansas Groundwater Management District # 4, the Kansas Livestock Association, and the Kansas Department of Agriculture. Partial support for the measure was offered by a spokesperson from the Kansas Cooperative Council. Written support was provided by an individual. The opponent to the bill was a spokesperson from the Kansas Grain and Feed Association/Kansas Agribusiness Retailers Association.

The House Committee on Environment amended the bill to:

- Make the Program a pilot project limited to two areas;
- Allow the State Conservation Commission to seek to retire

permanently part or all of the water rights;

- Provide that permanent retirement of partial water rights would only be approved by the Division of Water Resources when the groundwater management district has the metering and monitoring capabilities necessary to ensure compliance with the Program;
- Require the State Conservation Commission to consider certain factors that would permit a verifiable reduction in annual water consumptive use and permit alternative crops or other use of the land;
- Require the State Conservation Commission to report annually to the Senate Natural Resources Committee and to the House Environment Committee concerning the results of economic impact studies conducted on the reduction of water consumption and the financial impact on communities;
- Stipulate that the number of areas would be not more than two;
- Limit the total amount of money annually to \$1.5 million; and
- Specify that one of the areas to be designated as a priority area would be the Prairie Dog Creek area in a specified hydrologic area of north central Kansas.

The House Committee of the Whole amendments added the Rattlesnake Creek subbasin to the target areas and a requirement for Legislative Coordinating Council review of a mandated economic impact study to be submitted to the Council prior to the purchase of any water rights.

The Senate Committee on Natural Resources amended the bill to:

- Allow the State Conservation Commission and participating groundwater management districts to carry over unexpended funds from one fiscal year to the next;
- Delete the provisions permitting the partial retirement of water rights;
- Clarify that the State Conservation Commission retire water rights and that the actual retirement occurs through the action of

the Chief Engineer;

- Provide that preference be given to the most senior rights where applications for the pilot project have similar hydrologic impact;
- Eliminate language which provided that not more than two areas be designated for the pilot project;
- Restore language that would provide that a priority area could be one designated by the Chief Engineer when not located within the area of a groundwater management district;
- Eliminate language that would have required the Commission to carry over unexpended funds from one fiscal year to the next;
- Provide that the State Conservation Commission report studies conducted to the Senate Natural Resources Committee and the House Environment Committee; and
- Add language to provide that notwithstanding the provisions of any other statute to the contrary, no moneys could be expended by any state agency for the purpose of water right purchase or lease unless the acquisition or lease is prescribed and specifically authorized by act of the Legislature. (This provision would not have applied to the Environmental Quality Incentives program or contract with the Alamena Irrigation District, or any other program or agreement that purchases or leases water rights in existence prior to January 1, 2006.)

The fiscal note on the original bill indicates that it would cost an additional \$1,175,332 from the State Water Plan Fund, including \$777,212 from the *Kansas v. Colorado* damage award that was deposited into the State Water Plan Fund. Expenditures of \$1,175,332 are included in *The FY 2007 Governor's Budget Report* in programs that implement permanent irrigation water use reductions. The SCC would need 1.00 additional Program Coordinator FTE position to manage the program, operating expenditures, and the remainder of the funds would be in grants to landowners. Total expenditures to implement the program include:

Salary and benefits	\$	51,000
Travel office and computer supplies		16,000
Grants		<u>1,108,332</u>
TOTAL	\$	<u><u>1,175,332</u></u>

Water Right Transition Assistance Pilot Program