

SESSION OF 2011

SUPPLEMENTAL NOTE ON SENATE BILL NO. 124

As Amended by Senate Committee on
Natural Resources

Brief*

SB 124, as amended, would create the Lower Smoky Hill Water Supply Access District, the Lower Smoky Hill Water Supply Access Program, the Lower Smoky Hill Special Irrigation District, and the Lower Smoky Hill Water Supply Access Fund.

Definitions

Among the definitions, which would be established by the bill, are the following:

- “Access water” would mean water stored in water supply access storage of a reservoir under a water reservation right and provided as supplemental water to eligible water right holders;
- “District” would mean the Lower Smoky Hill Water Supply Access District;
- “Eligible water right holder” would mean a person holding a right or permit to appropriate surface water from the program area for municipal, industrial, irrigation (limited to the Lower Smoky Hill River Special Irrigation District), or recreation purposes;
- “Landowner” would mean a person who is the record owner of any real estate within the boundaries of the Access District or who has an interest as a contract

*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>

purchaser or 40 or more contiguous acres in the district not within the corporate limits of any municipality, excluding owners of oil leases, gas leases, mineral rights, easements, and mortgages;

- “Program” would mean the Lower Smoky Hill Water Supply Access Program;
- “Program area” would mean the area of the Smoky Hill River below the Kanopolis Reservoir Dam to the confluence of the Smoky Hill and Saline rivers;
- “Special Irrigation District” would mean the Lower Smoky Hill River Special Irrigation District; and
- “Water supply access storage” would mean water held by the Kansas Water Office in Kanopolis Reservoir under contract with the U.S. Army Corps of Engineers and designated by the Kansas Water Office as water supply access storage for the purposes of the Lower Smoky Hill Water Supply Access Program.

Lower Smoky Hill Water Supply Access Program

The bill would create the Lower Smoky Hill Water Supply Access Program within the Kansas Water Office. The agency, with the approval of the Kansas Water Authority, would have the authority to negotiate and enter into contracts for water supply access storage to be used for the purposes outlined in the bill. The agency also could designate all or any portion of the water held in Kanopolis Reservoir to water supply access storage to meet the needs of the Lower Smoky Hill Water Supply Access District.

Lower Smoky Hill Water Supply Access Fund

The bill would create the Lower Smoky Hill Water Supply Access Fund within the State Treasury, which would be administered by the Kansas Water Office. All expenditures from the Fund shall be for purposes of the

provisions of the bill and made in accordance with appropriations acts.

Lower Smoky Hill Water Supply Access District

The bill would create the Lower Smoky Hill Water Supply Access District and authorize the establishment of an incorporating governing body.

Prospective members of the Access District may join if they apply to the Kansas Water Office for water supply access storage, for the purposes of this act, and would apply for a water right which makes them eligible for membership under this act.

The Director of the Kansas Water Office, in consultation with the Chief Engineer, would approve prospective members under certain conditions.

The Access District would have authority to impose charges against members of the Access District to pay the Kansas Water Office the full annual amortized cost incurred for the operation, administration, and enforcement of the program. In addition, the Access District would have authority to impose additional charges for repayment of bonds used for certain projects or to finance the purchase of water storage in Kanopolis Reservoir and to cover district operating costs. All moneys would be remitted to the Kansas Water Office for deposit in the Lower Smoky Hill Water Supply Access Fund.

The bill would authorize the Director of the Kansas Water Office to request releases of water supply access water by the federal government from the Kanopolis Reservoir and would communicate to the Chief Engineer the date and quantity of requests for releases.

Each member of the Access District would adopt conservation plans and practices, which would be consistent with the guidelines maintained by the Kansas Water Office.

If the Access District is not formed by December 31, 2020, the provisions of the act that pertain to the Access District would expire.

Lower Smoky Hill Special Irrigation District

The bill would authorize the creation of the Lower Smoky Hill Special Irrigation District for the purpose of participating in the Lower Smoky Hill Water Supply Access District. The Special Irrigation District would be a single member of the Lower Smoky Hill Water Supply Access District.

The Special Irrigation District would be formed upon petition by eligible irrigation water right holders to the Director of the Kansas Water Office.

All members of the Special Irrigation District would be able to use water supply access storage under the rules and by-laws of the Lower Smoky Hill Water Supply Access District and the Special Irrigation District.

The bill would create a governing board of the Special Irrigation District. The governing board would have the authority to purchase, allocate, determine, and charge fees and assessments for, and allow the use of, water supply access storage; contract for property; contract with employees and consultants; and buy, sell, lease, rent, and purchase water supply access storage.

In addition, the bill would authorize the governing board of the Special Irrigation District to designate at least one representative to serve as a member of the Lower Smoky Hill Water Supply Access District Board of Directors; provide for a fee structure sufficient to pay for water supply access storage and any additional costs as determined by the Special Irrigation District and set a fee schedule for all members of the Special Irrigation District; and create an agreement to be entered into with each person who desires to become a member of the Special Irrigation District.

If the Special Irrigation District is not formed by December 31, 2020, the provisions of the act that pertain to the Special Irrigation District would expire.

Rules and Regulations

The bill would authorize the Director of the Kansas Water Office and the Chief Engineer to adopt any rules and regulations necessary to carry out the purposes and procedures of the act. In addition, the bill would direct the Director and the Chief Engineer to consider the advice of the Kansas Water Authority and stakeholders in the program area when preparing any rules and regulations. The bill also would authorize the Kansas Water Office to adopt rules and regulations to implement the Lower Smoky Hill Water Supply Access Program.

Background

The bill was introduced by the Senate Committee on Natural Resources at the request of the Kansas Water Office.

The proponents that provided testimony in support of the bill included the Kansas Water Office, Lower Smoky Valley Irrigators Association, Kansas Livestock Association, Kansas Farm Bureau, and the City of Salina.

An official with the Kansas Water Office stated that SB 124 would allow the Kansas Water Office to provide access to water storage owned by the state in Kanopolis Reservoir to downstream users. The bill is the result of on-going discussion and review by stakeholders in the area since 2006. The bill would allow downstream surface water right holders to voluntarily form a special district for the purpose of purchasing storage in Kanopolis Reservoir.

There were no opponents to the bill at the time of the Senate Committee hearing.

The Senate Committee approved two amendments to the bill. The first amendment included language that states that the Board of Directors for the Access District shall have an odd number of directors and clarifies that at least one member of the Special Irrigation District shall serve as a director on the Board of Directors, if the Special Irrigation District is formed. The second amendment included a technical adjustment to the bill.

The fiscal note prepared by the Division of the Budget indicates that passage of SB 124, as introduced, would require an increase in State General Fund expenditures of \$15,892 in FY 2012 for the Kansas Department of Agriculture, due to 428 additional staff hours to comply with all aspects of the bill. The Kansas Water Office indicates SB 124 would not have a fiscal effect upon its expenditures; however, depending on the agreement reached with the Access District, the bill could shift expenditures from the Kansas Water Office to the Access District. Any fiscal effect would be in addition to any recommendations in *The FY 2012 Governor's Budget Report*.