

SESSION OF 2011

**SUPPLEMENTAL NOTE ON  
SUBSTITUTE FOR SENATE BILL NO. 147**

As Recommended by Senate Committee on  
Agriculture

**Brief\***

Sub. for SB 147 would amend existing law which directs how water litigation moneys recovered by Kansas from Nebraska and Colorado through disputes under the Arkansas River Compact and the Republican River Compact are deposited in the State Treasury and how the moneys may be spent on various projects.

According to current law, moneys received from Colorado under the Arkansas River Compact are deposited in the State Treasury differently than moneys received from Nebraska and Colorado under the Republican River Compact. The bill would amend existing law to treat the depositing of moneys from both states under both compacts in the same way.

The bill would add language that all moneys received from either Nebraska or Colorado under any litigation arising under the Arkansas River Compact or the Republican River Compact would be distributed as follows:

- An amount equal to the total of five percent of the aggregate moneys received from Nebraska or Colorado as a result of litigation, plus the amount equal to the litigation expenses, certified by the Attorney General, incurred by Kansas defending its rights under each

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\*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>

Compact would be deposited in the Interstate Water Litigation Fund (IWLF); and

- After the initial transfer to the IWLF, one-third of all remaining moneys recovered from Nebraska or Colorado would be transferred to the State Water Plan Fund and the remaining two-thirds would be transferred to the Arkansas River Water Conservation Projects Fund, the Republican River Water Conservation Projects Nebraska Moneys Fund, or the Republican River Water Conservation Projects Colorado Moneys Fund.

All moneys transferred to the State Water Plan Fund would be used for water conservation projects, with priority given to those projects which would enhance directly the ability of the state to remain in compliance with the various compacts.

In addition, the bill would redesignate the Water Conservation Projects Fund as the Arkansas River Water Conservation Projects Fund. The bill would clarify existing law to state for what purposes the moneys transferred to the Arkansas River Water Conservation Projects Fund could be spent.

The bill would remove the transfer of moneys under the Republican River Compact from the IWLF to the Interstate Water Litigation Reserve Account of the State General Fund and the bill would eliminate the \$20 million cap on the account. In addition, the bill would eliminate language that references litigation filed by Kansas in 1985 and a sunset provision that expired in June 30, 2001.

## **Background**

The bill was introduced by the Senate Committee on Agriculture at the request of Senate Taddiken.

The proponents providing testimony in support of the bill included the Kansas Water Office, Kansas Department of Agriculture (KDA), Kansas Farm Bureau, Kansas Cooperative Council, Kansas Grain and Feed Association (KGFA), and the Kansas Agribusiness Retailers Association (KARA).

The Director of the Kansas Water Office testified that stakeholder committees in the upper and lower basins of the Republican River have begun the process of identifying projects that enhance water use efficiency or improve the overall management of water within the respective basins. In addition, a study was completed in the Upper Basin to identify possible options for the use of water should a pipeline proposed by Colorado be approved to meet its Republican River Compact obligations. In the Lower Basin, the stakeholders recommended increasing storage at Lovewell Reservoir and evaluating options for a new reservoir, along with enhancing storage opportunities at Jamestown Wildlife Area.

The Assistant Chief Engineer of the KDA testified that the Chief Engineer and the KDA support any efforts to establish and strengthen the IWLF. The KDA supports the bill, because it removes the previous cap of \$20 million on the IWLF, which strengthens Kansas' ability to defend its interests in interstate waters for the long-term benefit of Kansans who rely on these supplies.

A representative of the Kansas Farm Bureau stated the organization supports the bill because damaged producers in the areas affected by the compacts should be given a high priority for use of the water litigation funds for water conservation projects and the bill helps achieve this goal.

A representative of the Kansas Cooperative Council, who, in addition, appeared on behalf of the KGFA and KARA, testified that it is important to have funds available as water litigation becomes necessary to ensure that Kansans' rights to water under the compacts are protected.

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

The Senate Committee adopted a substitute bill, which included several amendments to the original version of SB 147. The amendments included striking all of Section 1(a) of SB 147 and striking the references in Section 1(b)(1)-(2) and Section 1(c)(1)-(2) with regard to how the moneys received through water litigation would be deposited into the various state funds.

The fiscal note prepared by the Division of the Budget on the original bill indicates that SB 147 could have a fiscal effect upon the Kansas Water Office as the bill would change the amount of funds that could be deposited in the Republican River Water Conservation Projects Nebraska Moneys Fund within the Kansas Water Office. However, the fiscal note states there is no data on which to base an accurate estimate.