

SESSION OF 2011

**SUPPLEMENTAL NOTE ON HOUSE
SUBSTITUTE FOR SENATE BILL NO. 214**

As Recommended by House Committee on
Agriculture and Natural Resources

Brief*

House Sub. for SB 214 would change the existing definition of “person” for the purposes of the Groundwater Management District Act to mean any natural person, public or private corporation, municipality, or any other legal commercial entity. In addition, the term “eligible voter” would be modified to reflect the new definition of “person.”

The existing definition of “person” or “eligible voter” does not include the term “or any other legal commercial entity.”

In addition, the bill would make other technical corrections to the language of KSA 2010 Supp. 82a-1021.

Further, the bill would make modifications to the section of law which requires prior written consent or permit of the Chief Engineer of the Division of Water Resources of the Kansas Department of Agriculture. Specifically, the bill would provide that the prior written consent or permit would not apply to a water obstruction that meets the following:

- The water obstruction is not a dam as defined by law;
- The water obstruction is not located within an incorporated area;

*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>

- Every part of the water obstruction is located more than 300 feet from any property boundary; and
- The watershed area above the water obstruction is 640 acres or less.

In addition, if the water obstruction is not 300 feet or more from any property boundary, the water obstruction may be exempted from the permitting requirements if the Chief Engineer determines that the water obstruction has minimal impact upon safety and property based on a review of information provided including:

- An aerial photo or topographic map depicting the location of the proposed project; and
- The principal dimension of the project including the height above the streambed.

Regardless of whether a water obstruction meets the requirements of being exempt from the permitting requirements, the bill would provide authority to the Chief Engineer to require a permit for any water obstruction if it is determined it is necessary for the protection of life or property.

Background

The original SB 214 was introduced by the Senate Committee on Ways and Means at the request of Senator Ruth Teichman.

During the hearing before the Senate Natural Resources Committee, Senator Ruth Teichman stated that the idea for the bill was brought to her by Groundwater Management District (GMD) No. 5. The purpose of the bill is to clarify the definition of “person” to ensure that all land and water right owner entities within the boundaries of a GMD may be recognized as a voting member and participate in the activities of the GMD.

An official representing the five Kansas GMDs provided written testimony in support of the bill. In addition, the Kansas GMDs recommended an amendment to the language of the bill that would strike “an individual, corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, government; governmental subdivision, agency or instrumentality; public corporation” and insert “any natural person, public or private corporation, municipality” in its place.

The Senate Committee on Natural Resources amended SB 214 to include the amendment proposed by the Kansas GMDs.

At the hearing on the original SB 214 before the House Agriculture and Natural Resources Committee, Senator Teichman appeared to explain the bill. A representative of the Kansas GMDs answered questions.

The House Agriculture and Natural Resources Committee adopted a substitute bill containing SB 214 with technical amendments, including modification to the term “eligible voter” in order to mirror the changes in the definition of “person.” In addition, the substitute bill contains concepts contained in HB 2272 as proposed by Senator Dennis Pyle. Those concepts deal with provisions of the substitute bill relating to the exemption of certain water obstructions from the normal permitting process of the Chief Engineer of the Division of Water Resources, Kansas Department of Agriculture.

The fiscal note prepared by the Division of the Budget on the original version of SB 214 indicates the bill would have no fiscal effect for the Kansas Department of Agriculture or the Kansas Association of Counties. No fiscal information is available for the new provisions of the substitute bill relating to exemptions from the permitting process for water obstructions.