

SESSION OF 2012

SUPPLEMENTAL NOTE ON SENATE BILL NO. 310

As Amended by House Committee on
Agriculture and Natural Resources

Brief*

SB 310 would establish a process by which a local enhanced management area (LEMA) could be established within a groundwater management district (GMD). The process for establishment of a LEMA would require a GMD to recommend a plan to the Chief Engineer of the Kansas Department of Agriculture's Division of Water Resources. The Chief Engineer would review the plan for clear geographic boundaries within the GMD, and ensure the plan includes a compliance monitoring and enforcement element, as well as proposed corrective control provisions that would meet the goals of the plan. The Chief Engineer would be required to conduct public hearings on the reasonableness of the geographic boundaries of the plan, whether public interest requires corrective control provisions be adopted, and whether groundwater conditions exist in the area so as to warrant a local enhanced management plan. The Chief Engineer then would have the option to accept the LEMA plan as submitted, reject it as insufficient to address the conditions, or return it with the option for the GMD to revise and resubmit the plan. The costs of these public hearings could be paid for by the GMD.

If the Chief Engineer accepts the local enhanced management plan, he then would issue an "order of designation" designating the area in question as a local enhanced management area. The designation order would define the boundaries of the LEMA and include the corrective control provisions as set forth in the local enhanced

*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>

management plan. Corrective control provisions could include the following:

- Closing the LEMA to any further appropriation of groundwater;
- Determining the permissible amount of groundwater to be withdrawn within the LEMA, with the permissible withdrawal amount to be apportioned by the Chief Engineer among groundwater right holders in accordance with priority dates;
- Reducing the permissible withdrawal of groundwater by any one or more appropriators within the LEMA;
- Requiring and specifying a system of rotation of groundwater use in the LEMA; or
- Any other provisions needed to protect the public interest.

A groundwater right holder could stay the order of designation by applying for a review of the order. Additionally, a public hearing to review the designation of a LEMA would be required to be conducted within seven years after the order of designation is final, with a subsequent review to occur no later than ten years after the initial review. The costs of these public hearings may be paid for by the local enhanced management area.

The bill would be in effect upon publication in the *Kansas Register*.

Background

Proponents of the bill included representatives from the Kansas Water Authority, Kansas Water Office, Northwest Kansas Groundwater Management District No. 4 (GMD 4),

Kansas Department of Agriculture's Division of Water Resources, Sheridan County High Priority Area landowners, Kansas Farm Bureau, Kansas Groundwater Management Districts, Kansas Livestock Association and the Kansas Corn Growers Association. The conferees stated SB 310 would create a program to implement a locally defined, mandatory conservation plan that would alleviate some of the risk to local stakeholders associated with establishing an enhanced management plan through an Intensive Groundwater Use Control Area (IGUCA). Representatives from GMD 4 noted SB 310 would provide incentives to start enhanced management plans and would be a more locally friendly process while still leaving the IGUCA statutes in place. The Kansas Farm Bureau noted LEMAs would provide an opportunity for locals to establish a plan to address issues such as over-development in a proactive way without the fear of receiving a final decision far beyond the scope of their initial efforts, which was often the fear in going through the IGUCA process.

At the hearing on the bill in the House Agriculture and Natural Resources Committee, proponents included representatives of the Kansas Farm Bureau, the Kansas Water Authority, and Northwest Kansas GMD #4. The Chief Engineer of the Division of Water Resources, Kansas Department of Agriculture, also spoke in favor of the bill. Written proponent testimony was provided by the Kansas Livestock Association and from the Groundwater Management Districts. No neutral or opponent testimony was provided.

The House Committee of Agriculture and Natural Resources amended the bill to provide that a groundwater management district could pay for the initial hearings to establish a local enhanced management area. In addition, the bill was amended to allow a LEMA to pay for any subsequent hearings.

The fiscal note prepared by the Division of the Budget indicates the passage of the bill would increase expenditures

from the State General Fund by \$31,338 for each hearing held and estimates that there would be two hearings in FY 2013 for a total additional cost of \$62,676. The Kansas Department of Agriculture would not be requesting funding to implement the bill.