

SESSION OF 2014

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

As Amended by House Committee of the Whole

Brief*

House Sub. for SB 147 would permit the Division of Conservation of the Department of Agriculture, in consultation with the State Conservation Commission, to take action necessary to restore, establish, enhance, and protect natural resources for the purpose of compensatory mitigation required under Section 404 of the Federal Clean Water Act in addition to other current powers and duties authorized under existing law. This authority would permit the acceptance, purchase, or other acquisition of conservation easements for the purpose of protecting compensatory mitigation sites; contracts with engineering consultants, surveyors, and construction contractors for the purpose of restoration, establishment, and enhancement of natural resources; and the establishment of fees for the administration of compensatory mitigation credits, acceptance of fees from state and local government agencies, and the assumption of responsibility to ensure the mitigation projects are in existence, as approved by the Department, for the length of the term of the easement for the fees which were accepted.

In addition, the bill would create the Conservation Fund where fees for the administration of mitigation credits would be deposited. The Fund would be administered by the Secretary of Agriculture and all expenditures would be for conservation.

*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>

Background

This bill was introduced by the House Agriculture and Natural Resources Committee at the request of Representative Moxley. At the hearing on the bill, Representative Moxley explained the Kansas watershed districts are struggling with new rules for the U.S. Army Corps of Engineers (Corps) regarding “compensating mitigation” requirements before a permit is issued to construct a new water retention structure (dam). Representative Moxley explained the establishment of conservation easements was the remedy developed by the various stakeholders including watershed district officials and representatives of farm organizations, the Department of Agriculture, and the Corps in order to address the compensating mitigation requirements. A representative of the Department of Agriculture, also appearing as a proponent, explained the bill would authorize the agency to hold the mitigation sites (conservation easements) since the Corps requires these to be legally protected by a third party. Other proponents included representatives of the State Association of Watershed Districts and the Kansas Livestock Association. Written testimony in support of the bill from the Kansas Farm Bureau was distributed. There were no neutral or opponent conferees on the bill.

The House Committee on Agriculture and Natural Resources removed the original contents of SB 147 dealing with the regulation of anhydrous ammonia and replaced them with an amended version of HB 2654.

The House Committee of the Whole amended the bill to create the Conservation Fund where the fees for mitigation credits would be deposited.

The fiscal note on the original version of HB 2654 states the Department of Agriculture believes the passage of the bill would have no fiscal effect for either FY 2014 or FY 2015. The note also states when the Department of Agriculture establishes a fee fund, the fee revenue covers the costs to

create and administer the Conservation Program's mitigation and restoration projects. It is not known whether the amendments to the original version of HB 2654 have any fiscal impact. The League of Kansas Municipalities indicates it is not possible to estimate the fiscal effect this bill would have on Kansas cities.