

SESSION OF 2014

SUPPLEMENTAL NOTE ON SENATE BILL NO. 323

As Amended by Senate Committee of the Whole

Brief*

SB 323, as amended, would revise current law with respect to conservation easements. Specifically, the bill would limit the duration of a conservation easement to 50 years, except for conservation easements executed on and after July 1, 2014, that would be created to buffer military installations and airplane runways on any active military installations.

These provisions would be subject to existing law that permits a court to modify or terminate a conservation easement in accordance with the principles of law and equity.

Background

At the hearing on the bill before the Senate Natural Resources Committee, proponents included representatives of Kansans for Liberty, the Kansas Natural Resource Coalition, and the State Association of Kansas Watersheds. Also appearing in support of the bill were landowners from Logan County and from Colorado; a county commissioner from Gove County; a citizen from Wichita (written testimony only); and a former state legislator from Wichita (written testimony only). Proponents indicated there were significant issues relating to tax valuations, implications for neighboring property owners, and future use limitations which should be addressed through this legislation.

*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>

Opponents to the bill included representatives of Audubon of Kansas, the Department of the Air Force, Department of the Army, the Governor's Military Council, The Nature Conservancy, the Ranchland Trust of Kansas, Pheasants Forever (written testimony only); Sierra Club—Kansas Chapter (written testimony only); and the Kansas Land Trust (written testimony only). Other opponents included landowners from Brookville, Council Grove, Emporia, Greenwood County, and Wabaunsee County. Opponents argued that the bill limited the ability of landowners to preserve the use of land which they own. Other opponents argued that there are impacts to military installations that may lead to an incompatible land use adjacent to military installations with implications on training and testing.

The Senate Committee on Natural Resources amended the bill to limit the length of time of a conservation easement to a duration of 50 years, or, if the grantor is a natural person, the conservation easement would then terminate upon the death of the grantor whichever is less. The Committee also amended the bill to stipulate that if the purpose of the conservation easement was for compensatory mitigation in order to obtain a Section 404 permit under the federal Clean Water Act, as in effect on July 1, 2014, then the conservation easement would be limited in duration to the life of the project.

The Senate Committee of the Whole amended the bill to delete references to the termination date if the grantor is a natural person and to conservation easements created for the purpose of compensatory mitigation required under Section 404 of the federal Clean Water Act. The Committee of the Whole added language providing for an exception for conservation easements created to buffer military installations and airplane runways on any active military installations. All other conservation easements would be limited to a duration of 50 years.

The fiscal note on the original bill states that according to the League of Kansas Municipalities and the Kansas

Association of Counties, passage of the bill would have no fiscal effect.