

February 12, 2015

The Honorable Sharon Schwartz, Chairperson
House Committee on Agriculture and Natural Resources
Statehouse, Room 149-S
Topeka, Kansas 66612

Dear Representative Schwartz:

SUBJECT: Fiscal Note for HB 2245 by House Committee on Federal and State Affairs

In accordance with KSA 75-3715a, the following fiscal note concerning HB 2245 is respectfully submitted to your committee.

HB 2245 would amend the Water Appropriation Act administered by the Kansas Department of Agriculture (KDA) regarding cases that involve groundwater. For groundwater cases, no party could receive a temporary injunction when the later in time water right is being exercised within the requirements of the Division of Water Resources of the KDA. The bill would require that the person operating the water right is doing so at an approved point of diversion; for an approved use; within the maximum flow rate; and, is within the approved quantity of water.

Any person seeking a temporary injunction would have to show proof that the party being enjoined has violated the water right operating requirements listed above. No person would be able to receive a permanent injunction until the party could prove that the well and pump system is operating properly and fully penetrates the aquifer; and that the party has exhausted all reasonable economic means to satisfy the party's water right prior to seeking injunctive relief. This proof must be established through the use of expert testimony that is presented in a report made by a licensed well driller, a professional engineer, or a licensed geologist. HB 2245 would also clarify that nothing regarding the overall lowering of the static water level could prohibit the Division of Water Resources from administering water rights in Kansas. The bill would limit Kansas courts' ability to provide relief through temporary and permanent injunctions.

The Kansas Department of Agriculture indicates that passage of the bill would have no fiscal effect on agency operations. HB 2245 could have an effect on Kansas court expenditures since the ability to process temporary and permanent injunctions would be limited by the bill. It

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is not possible to estimate any change in court costs. Any fiscal effect associated with HB 2245 is not reflected in *The FY 2016 Governor's Budget Report*.

Sincerely,

A handwritten signature in black ink, appearing to read "Shawn Sullivan", with a horizontal line extending to the right.

Shawn Sullivan,
Director of the Budget

cc: Justin Law, Agriculture
Mary Rinehart, Judiciary