

April 5, 2016

The Honorable Larry Powell, Chairperson
Senate Committee on Natural Resources
Statehouse, Room 237-E
Topeka, Kansas 66612

Dear Senator Powell:

SUBJECT: Fiscal Note for SB 491 by Senate Committee on Ways and Means

In accordance with KSA 75-3715a, the following fiscal note concerning SB 491 is respectfully submitted to your committee.

SB 491 would amend the Groundwater Management Act concerning changes to groundwater management programs or water use in a groundwater management district. The bill would require the Secretary of the Kansas Department of Agriculture (KDA) and the Chief Engineer of the Division of Water Resources of the KDA to notify the groundwater management district board of directors of any proposed rules and regulations that would affect these programs or districts and to provide the board with a copy of the proposed changes. The board would, in turn, be required to develop a revised management program statement, along with any recommended rules and regulations necessary to implement the program, and submit it to the Chief Engineer for approval. The bill would prohibit any cause of action in court resulting from an order or decision of the Chief Engineer until a petition for reconsideration is filed and an order has been issued on the reconsideration by the Chief Engineer. An order made after reconsideration would have the same force as an original order.

The bill would also require the KDA Division of Water Resources to post on its website all filings and orders issued by the Division, all initial complaints filed in a Kansas court, and all opinions issued by a Kansas court concerning water rights, water appropriations, or the Division itself. The Division would be required to directly notify any person who has an interest that could be adversely affected by an order or formal action of the Division.

Persons with a vested right, a prior appropriation right, or an earlier permit who claim impairment as a result of the interference caused by the use of the water by a person without a prior right, would be required by the bill to submit a complaint to the Chief Engineer, who would then investigate the complaint, and could issue an order limiting the diversion. The bill addresses the amount of time that the Chief Engineer would have to complete such an investigation. The order would be subject to review under the Kansas Judicial Review Act. If the state is not a party to a suit brought before a Kansas court, current law allows the court to order a reference to the Division or the Chief Engineer. In cases involving groundwater within the confines of a groundwater management district, SB 491 would require the Chief Engineer to

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consult with the district. In making reports for cases involving groundwater, the bill could not be construed to allow the Division, the Chief Engineer, or the court to alter, amend, change, or modify any existing water or appropriation right. The bill would also remove the requirement that the Chief Engineer and the assistants to the Chief Engineer be classified employees and makes a number of technical corrections.

The Kansas Department of Agriculture reports that passage of SB 491 would result in additional expenditures in FY 2017 of approximately \$22,848. This amount is based on one hour of staff time per week ($\$24/\text{hour} \times 52 \text{ weeks} = \$1,248$) to post notices on the website and one hour of staff time for research, preparation, and mailing of notices to approximately 900 persons who would have an interest that could be adversely affected by an order or formal action ($\$24/\text{hour} \times 900 \text{ notices} = \$21,600$). The agency would pay for these costs from existing resources. Any fiscal effect associated with SB 491 is not reflected in *The FY 2017 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