

SESSION OF 2015

SUPPLEMENTAL NOTE ON SENATE BILL NO. 156

As Amended by House Committee on
Agriculture and Natural Resources

Brief*

SB 156 would provide for the operation and maintenance of groundwater gage sites in the Arkansas Basin, prescribe testing methods for agricultural liming material, and establish water conservation areas.

Groundwater Gages in the Arkansas River Basin

The bill would add the operation and maintenance of stateline groundwater gage sites in the Arkansas River basin as a priority expenditure from the Arkansas River Gaging Fund (Fund).

In addition, the bill would increase the cap on the amount of funding received from oil and gas lease royalties in five counties from \$75,000 to \$95,000.

Agricultural Liming Material Testing

The bill would eliminate the reference to the testing methods prescribed by the Association of Official Analytical Chemists with regard to the testing of agricultural liming materials sold, offered, or exposed for sale in Kansas.

*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>

Water Conservation Areas

The bill also would permit a water right owner or a group of water right owners in a designated area to enter into a consent agreement and order with the Chief Engineer to establish a water conservation area. The bill would require the water right owner or owners to submit a management plan to the Chief Engineer. The management plan would be the basis of the consent agreement and order and would:

- Include geographic boundaries;
- Include the written consent of all water right owners in the area;
- Include a finding that one or more of the following circumstances exist: groundwater levels are declining or have declined, the rate of withdrawal equals or exceeds the rate of recharge, preventable waste of water is occurring or may occur, or unreasonable deterioration of water quality is occurring or likely to occur;
- Include the proposed duration of the water conservation area and any process by which water right owners may request to be added or removed;
- Include goals and corrective control provisions to address declining water levels, withdrawal rates which equal or exceed the rate of recharge, preventing waste of water, or water quality deterioration;
- Give due consideration to water users who have implemented voluntary reductions in water use; and
- Include compliance monitoring and enforcement and be consistent with state law.

The bill would provide that if the corrective control provisions of a water conservation area conflict with rules and regulations of a groundwater management district (GMD) or the requirements of a local enhanced management area (LEMA) or intensive groundwater use control area (IGUCA) that result in greater overall conservation of water, then the Chief Engineer is authorized to amend the provisions of the water conservation area to conform to any rules and regulations or requirements that result in greater conservation of water.

Prior to execution of the consent agreement and order of designation, the bill would require the Chief Engineer to notify in writing the GMD within which any participating water right is situated. The GMD would be given an opportunity to provide a written recommendation regarding the water conservation area and management plan within 45 days of notification by the Chief Engineer.

In addition, the bill would require periodic review of the consent agreement and order of designation which may be initiated by the Chief Engineer or upon request of the water right owners in the water conservation area. The review would be conducted at least once every ten years. Further, the Chief Engineer could, with the consent of all participating water right owners, amend a consent agreement or order of designation for a water conservation area.

The bill also would give rule and regulation authority to the Chief Engineer and make these provisions part of and supplemental to the Kansas Water Appropriation Act.

Background

The House Committee on Agriculture and Natural Resources added the contents of HB 2278 (dealing with testing methods for agricultural liming materials) and SB 275 (dealing with the establishment of water conservation areas) to SB 156.

SB 156

The original bill (dealing with Arkansas River groundwater gages) was introduced by the Senate Committee on Natural Resources.

At the Senate Committee hearing on the bill, proponents included a representative of the Kansas Department of Agriculture (KDA) and the Executive Director of GMD No. 3. A representative of the Kansas Livestock Association (KLA) provided testimony in opposition to the bill.

The Executive Director of GMD No. 3 stated there are gages already in the Arkansas River basin that measure Kansas water supply, but the addition of stateline groundwater gages would provide further data regarding water quality and quantity. The Executive Director stated the GMD has a strong interest in monitoring the water coming from Colorado because of recent groundwater developments in the southeast part of the state that may impact the water that Kansas is due from the Arkansas River Compact.

The KLA representative stated the KLA was not opposed to adding additional gages in the Arkansas River basin, but the KLA opposed the possibility of losing funding for livestock auction market reports, which would have a lower funding priority from the Fund as a result of the passage of the bill. The KLA representative stated the livestock auction market reports cost approximately \$20,000, all from the Fund, per year.

The Senate Committee amended the bill to increase the cap on the Fund from \$75,000 to \$95,000.

At the hearing in the House Committee on Agriculture and Natural Resources, representatives from the Department of Agriculture, Southwest Kansas GMD No. 3, and the KLA appeared in support of the bill. There was no neutral or opponent testimony on the bill.

As noted above, the House Committee on Agriculture and Natural Resources amended the bill by including the provisions of HB 2278 (dealing with testing methods for agricultural liming materials) and SB 275 (dealing with the establishment of water conservation areas).

The fiscal note prepared by the Division of the Budget states the KDA indicates the passage of SB 156, as introduced, could increase expenditures from the Fund by \$22,896 in FY 2016. This estimate is based on the current cost-share funding agreement between the U.S. Geological Survey (USGS) and GMD No. 3 for operating three existing gages at \$7,632. The KDA could take over the responsibility for funding these gages from GMD No. 3; however, it is unclear whether USGS would continue the cost-share agreement with the KDA. If the KDA did assume responsibility for funding the gages and the USGS discontinued the cost-share agreement, the cost to the Fund would total \$35,001, based on a cost of \$11,667 per gage. Any fiscal effect associated with the bill is not reflected in *The FY 2016 Governor's Budget Report*.

HB 2278, Agricultural Liming Materials

At the hearing on HB 2278 before the House Committee on Agriculture and Natural Resources, the proponent was a spokesperson for the KDA. The conferee explained the KDA is in the process of updating the regulations governing agricultural lime testing protocol to match those of the Kansas State University Soils Testing Laboratory. The Committee was told the testing calculation was a more accurate method of testing agricultural liming materials than that contained in current regulations of the KDA. There was no other testimony.

According to the fiscal note prepared by the Division of the Budget, passage of HB 2278 would have no fiscal effect.

HB 2227, Establishment of Water Conservation Areas

The House Agriculture and Natural Resources Committee held a hearing on HB 2227, which contained provisions which would have provided for the establishment of water conservation areas. At the hearing on HB 2227, proponents included representatives of the KDA, the Kansas Farm Bureau, and the KLA. Neutral testimony was provided by a representative of the Kansas Water Congress. Testimony opposing the bill was provided by a representative of Groundwater Management Districts #1, #3, and #4.

Proponents indicated that two items of interest to water right owners heard by the Water Vision Team during 2014 were conservation and flexibility. A conferee indicated authority to establish water conservation areas would add another tool available to water right owners for water conservation. Opposition testimony indicated the manner in which the bill was written would make the groundwater management districts process and plans subservient to those of the newly established water conservation areas. The opponent stated this appeared to be inconsistent with existing law.

After the hearing on the bill, interested parties met and addressed the issues of concern. Subsequent to the hearings on HB 2227, SB 275, which represented the changes agreed upon by the interested parties, was introduced in the Senate. The House Committee on Agriculture and Natural Resources amended the provisions of SB 275 into SB 156.

The fiscal note on SB 275 states the KDA is unable to estimate the fiscal effect of the bill at this time; however, any fiscal effect would be limited and could be absorbed within existing resources. Any fiscal effect associated with the bill is not reflected in *The FY 2016 Governor's Budget Report*.