

SESSION OF 2016

**SUPPLEMENTAL NOTE ON HOUSE SUBSTITUTE FOR  
SENATE BILL NO. 337**

As Recommended by House Committee on  
Agriculture and Natural Resources

**Brief\***

House Sub. for SB 337 would amend the section of law dealing with the requirement that owners of water rights or permits to appropriate water for beneficial use must file annual water use permits with the Chief Engineer of the Division of Water Resources in the Kansas Department of Agriculture (KDA). Language would be added to make it clear that a water right owner could “cause” the water use report to be filed, in addition to the owner filing the report individually.

In addition, the bill would subject an owner of a water right or permit to appropriate water for beneficial use who fails to file a water use report to a civil penalty in an amount not to exceed \$1,000 per water right (current law is a civil penalty not to exceed \$250).

Further, the bill would add a provision that would permit the Chief Engineer to issue an order indefinitely suspending water rights of water right holders or those holding permits to appropriate water for beneficial use if the water use report has not been filed by June 1 of the calendar year in which it is due, in addition to incurring the civil penalty for failing to submit a water use permit outlined above. In addition to the civil penalty and the authority to issue an order of indefinite suspension of a water right, the Chief Engineer also could require the use of telemetry in order to ascertain information on water use.

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\*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>

Finally, the bill would make the provisions of the section of law being amended (KSA 2015 Supp. 82a-732) a part of and supplemental to the Water Appropriations Act.

## **Background**

SB 337 was introduced at the request of the KDA. At the Senate Committee on Natural Resources hearing on the bill, a spokesperson from the KDA indicated the agency supported the bill because it allowed for better management of groundwater resources and would extend the useful life of the Ogallala High Plains Aquifer. The spokesperson also stated the information gathered from water use reports was critical to proper management. Also appearing in support of the bill was a spokesperson from the Southwest Kansas Groundwater Management District (GMD) No. 3. In addition, a spokesperson appeared in support of the bill from the Kansas GMD No. 1. This spokesperson indicated GMD No. 1 was particularly interested in the group of people who failed to ever file a water use report.

Other proponents submitting written testimony included representatives of the Kansas Farm Bureau; the Kansas Grain and Feed Association, the Kansas Cooperative Council, and the Kansas Agribusiness Retailers Association; and the Kansas Corn Growers Association.

The Senate Committee amended the bill to provide that the maximum \$1,000 civil penalty apply to those water right owners or holders of permits to appropriate water who have failed to submit water use reports for two or more consecutive years. The Committee, through amendment, restored the maximum \$250 civil penalty for those who fail to file water use reports for one year. In addition, the Committee amended the bill to make the section of law being amended by the bill supplemental to and a part of the Kansas Water Appropriation Act.

At the hearing on the bill before the House Committee on Agriculture and Natural Resources, proponents included representatives of KDA and the Kansas Farm Bureau.

Other proponents submitting written testimony included representatives of the Kansas Grain and Feed Association, the Kansas Cooperative Council, and the Kansas Agribusiness Retailers Association; the Kansas Corn Growers Association; Groundwater Management Area # 1; and Groundwater Management Area #3. No one provided neutral testimony or testimony in opposition to the bill.

During action on the bill, the House Committee deleted the provisions of SB 337, as amended by Senate Committee on Natural Resources, and inserted provisions of HB 2491, as amended by House Committee on Agriculture and Natural Resources, to create a substitute bill. Both bills deal with the issue of penalties associated with the failure to submit a water use report to the Division of Water Resources of the KDA.

The fiscal note prepared by the Division of the Budget on the original bill states, according to the KDA, there are approximately ten cases each year where an owner of a water right or permit does not file annual water use reports by June 1 of the calendar year in which the reports were due. The fiscal note states owners do, however, pay the current \$250 fine each year. Increasing the penalty to \$1,000 would initially result in additional annual revenue for the agency of \$7,500. The agency anticipates the number of cases will decline over time due to the higher penalty. Any fiscal effect associated with the bill as introduced is not reflected in *The FY 2017 Governor's Budget Report*.