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LEGISLATURE *of* THE STATE *of* KANSAS  
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**MEMORANDUM**

To: House Committee on Agriculture

From: Kyle Hamilton, Assistant Revisor of Statutes

Date: March 13, 2017

Subject: Bill Brief on SB 46, as Amended by Senate Committee on Agriculture and Natural Resources

SB 46 would amend the procedures for establishing a water conservation area.

Section 1 would require the Kansas department of agriculture to post completed applications and orders for water conservation areas on its official website. It would also require the department to give notice of the application to all water right owners with a point of diversion within half a mile of the pending water conservation area.

Section 2 would amend the procedures for establishing a water conservation area. Water right owners are required to submit a management plan to the chief engineer before they can enter into a consent agreement with the chief engineer to establish a water conservation area. Currently, the management plan must indicate that at least one of four conditions<sup>1</sup> exists within the area, along with goals and a plan for addressing those conditions. Subsection (a) would be amended to allow water right owners to instead include a finding that the area within the boundaries of the water conservation area has been closed to new appropriations by the chief engineer. It would also be amended to require that one of the corrective goals in subsection (b) be included in the management plan.

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<sup>1</sup> (a) Groundwater levels in the area in question are declining or have declined excessively; or (b) the rate of withdrawal of groundwater within the area in question equals or exceeds the rate of recharge in such area; or (c) preventable waste of water is occurring or may occur within the area in question; or (d) unreasonable deterioration of the quality of water is occurring or may occur within the area in question;

Subsection (e) would be amended to allow the chief engineer to approve a management plan that allots the water authorized by the existing water rights. The management plan could allow an individual water right or rights to exceed its annual quantity as long as the water use does not exceed the aggregated total annual quantity of all the water rights participating in the management plan. Authority granted under the management plan would supersede the participating water rights. For determining priority, a management plan would be given the priority date of its effectuation.

Subsection (f) would allow the use of multi-year flex accounts in the water conservation area.<sup>2</sup>

Subsection (g) would provide that management plans authorized under a water conservation area could not be allowed to impair any water right.

Subsection (i) would require that when the department issues notice to surrounding water right owners of a proposed water conservation area, a reference to the electronic publication of the management plan be included in the notice.

Subsection (l) would provide that no water right could be perfected pursuant to a water conservation area.

Subsection (m) would clarify that the provisions in Section 2 would not limit the powers of a groundwater management district.

Subsection (n) would require the chief engineer to adopt rules and regulations to effectuate the provisions of the statute, as amended.

SB 46 would become effective upon publication in the statute book.

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<sup>2</sup> A multi-year flex account is a 5-year term permit that temporarily replaces an existing water right. This term permit allows the water right holder to exceed their annual authorized quantity in any year but restricts total pumping over the 5-year period.