

SESSION OF 2017

SUPPLEMENTAL NOTE ON SENATE BILL NO. 48

As Amended by Senate Committee on
Agriculture and Natural Resources

Brief*

SB 48, as amended, would require any person with a valid water right or permit to divert and use water to first exhaust the administrative remedies available to the person before seeking a court-ordered injunction to stop the impairment of the person's water right by the activity of another entity without prior right to the same water.

Additionally, the bill would amend law pertaining to administrative remedies available to allow claimants to submit complaints to the Chief Engineer of the Division of Water Resources, Kansas Department of Agriculture (KDA), indicating their water rights are being impaired by an entity without prior right to the same water, and require the Chief Engineer to handle complaints in the following manner:

- Initiate an investigation within two weeks of a complaint and notify the parties so they may have an opportunity to submit relevant information; and
- Complete an investigation within 12 months of the date the complaint was received. The Chief Engineer would be authorized to extend the investigation for good cause by notifying the parties in writing of the amount of time needed to complete the investigation.

The bill would allow the Chief Engineer, following the investigation, to issue an order that limits, curtails, or prevents the diversion of water by any person without a prior right to the same water that otherwise disposes of the complainant.

*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 allow a complainant to petition the Chief Engineer to issue a temporary order, to be in effect until a final order is issued, to limit, curtail, or prevent the diversion and use of water by any person without a prior right to the same water as the complainant if the Chief Engineer finds limiting, curtailing, or preventing diversion and the use of water would not be adverse to public interest.

Background

The bill was introduced by the Senate Committee on Agriculture and Natural Resources at the request of a spokesperson from the KDA. In the Senate Committee hearing, representatives of the Kansas Corn Growers Association, Kansas Farm Bureau, the Kansas Livestock Association, the KDA, the Kansas Water Office, and Southwest Kansas Groundwater Management District No. 3 testified in favor of the bill. Written testimony in support of the bill was provided by the Southwest Kansas Irrigation Association. Proponents stated the bill would create a consistent administrative process that would be utilized before court action and create a consistent application for what constitutes a water impairment. Additionally, proponents stated the bill is a result of stakeholder working groups formed after the 2016 Session.

No opponent or neutral testimony was offered at the hearing.

The Senate Committee amended the bill to clarify the Chief Engineer would be required to initiate an investigation within two weeks of receiving a complaint and provide notice of the investigation to the involved parties. Additionally, the term “prevent” was added to “limit” and “curtail” when describing the type of order obtained from the Chief Engineer.

According to the fiscal note prepared by the Division of the Budget on the bill as introduced, enactment of the bill would have no fiscal effect on the KDA.