

SESSION OF 2016

SUPPLEMENTAL NOTE ON SENATE BILL NO. 337

As Amended by Senate Committee on Natural
Resources

Brief*

SB 337 would amend the section of law dealing with the requirement for owners of water rights or permits to appropriate water for beneficial use to file annual water use permits with the Chief Engineer of the Division of Water Resources in the Kansas Department of Agriculture (KDA). Clarifying 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 for two or more consecutive calendar years to a civil penalty in an amount not to exceed \$1,000. The civil penalty maximum for those who fail to file the water use report for one year would remain at \$250.

Further, the bill would add a new provision which 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. The suspension of the water right could continue until the water use report is filed or the Chief Engineer determines water use has been sufficiently documented.

*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 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 on Natural Resources 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.

The fiscal note 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 is not reflected in *The FY 2017 Governor's Budget Report*.