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300 SW TENTH AVENUE ■ SUITE 24-E ■ TOPEKA, KS 66612 ■ (785) 296-2321

MEMORANDUM

To: House Committee on Water and Environment
From: Nick Myers, Office of Revisor of Statutes
Date: February 13, 2018
Subject: House Bill 2732

Current law contains the Kansas water banking act in K.S.A. 82a-761 et seq., which authorizes water bank charters to operate in the state after such bank charter is approved by the Chief Engineer of the Division of Water Resources. Such water banks can accept deposits of water rights from holders of such water rights and can then lease such water rights to other users. Certain statutory and regulatory requirements of the Kansas water banking act control deposits, leasing, and use of the water in a water bank.

HB 2732 would authorize the creation of water banks that are administered by the Division of Conservation. Such water banks would be subject to the provisions of the Kansas water banking act and rules and regulations of the Kansas water banking act except when such provisions conflict with the provisions of HB 2732 or when specifically exempted by HB 2732.

Section 1 authorizes the Division of Conservation to create and administer water banks pursuant to sections 1 through 4 of HB 2732 and the Kansas water banking act except that, unlike under the current water banking act, water banks administered by the Division of Conservation may not provide services to facilitate the sale of a water right.

Section 2 provides the statutory framework for bank charter approval. Bank charters may be approved by the Chief Engineer if the bank charter meets the 19 requirements listed in section 2, a petition is submitted that is signed by at least 5% of the water right owners within the bank boundaries, and comments regarding the proposed water bank charter are accepted from groundwater management districts, water assurance districts, and the Kansas Water Office.

Section 3 creates a water bank administration fee fund and requires that any money received by the Division of Conservation for the administration of water banks be deposited into the fund. Moneys in the fund could be expended by the Secretary of Agriculture for the purposes set forth in HB 2732.

Section 4 authorizes the Chief Engineer to act pursuant to K.S.A. 82a-1904 to exclude a water bank administered by the Division of Conservation from any rules and regulations promulgated pursuant to the Kansas water banking act.

Section 5 updates definitions of the Kansas water banking act to include definitions for the Division of Conservation and the Secretary of Agriculture.