

SESSION OF 2005

**CONFERENCE COMMITTEE REPORT BRIEF
HOUSE BILL NO. 2018**

As Agreed to March 29, 2005

Brief *

HB 2018 would make several changes to water-related statutes, including:

- establishing an alternative procedure for the consolidation of rural water districts;
- revising rules regarding multi-year water flex accounts; and
- effective July 1, 2007, reallocating the clean drinking water fee imposed by KSA 2004 Supp 82a-2101.

Specifically, the bill would provide the following.

Rural Water District Consolidation Alternative

The bill would establish a new procedure for the acquisition of rural water districts' water supply, distribution systems, and land area by other rural water districts. This new procedure would be an alternative to the current law which requires an election in both rural water districts concerned. The new procedure would be founded upon a memorandum of understanding between the two rural water districts in question, the adoption of which would be subject to a protest petition and election procedure within the district to be acquired.

The alternative acquisition procedure would:

- Permit the boards of directors of two districts (one to acquire the assets, liabilities, and customers of the other) to enter into a memorandum of understanding to accomplish the transfer.

*Conference committee report briefs are prepared by the Legislative Research Department and do not express legislative intent. No summary is prepared when the report is an agreement to disagree. The conference committee summary report may be accessed on the Internet at <http://www.kslegislature.org>

- Specify the contents of the memorandum, which must include terms and conditions for:
 - transfer of control and ownership of water supply and distribution system;
 - continued service to customers served by the system, at an agreed upon rate;
 - assumption of all of the revenue bond liability and other outstanding obligations of the district being acquired;
 - establishment of a policy for connecting new customers;
 - acquisition of the area within the acquired district's boundaries.

- Require the memorandum to take effect by operation of law after the following:
 - Both boards of directors adopt a resolution approving the terms of the memorandum.
 - A copy of the memorandum is filed with the county clerk of each county in which is located a portion of the area served by the district to be acquired.
 - The board of directors of the district to be acquired:
 - notifies its participating members of the memorandum and related details; and
 - publishes notice of the memorandum's approval and other details in a newspaper or newspapers of general circulation.

- Provide a protest petition procedure regarding the memorandum as follows:
 - Within 60 days after publication of the required notice, at least 10 percent of the total number of participating members of the district to be acquired sign a petition requesting an election on whether the memorandum is to take effect. If a petition is

submitted to require a vote, a majority of the participating members of the district to be acquired must approve the memorandum.

- The election may be held at a water district meeting called for this purpose or by mail ballot.
- Require, on the effective date of the memorandum, the following:
 - all the acquired district's property be combined and administered as one unit with that of the acquiring district;
 - all liabilities incurred by the acquired district be paid from the revenues and facilities of the combined districts; and
 - a copy of the memorandum, along with a map showing the new boundaries, be filed with the Chief Engineer of the Division of Water Resources of the Department of Agriculture and the Secretary of State.

Multi-Year Water Flex Accounts

HB 2018 also would revise state law dealing with a multi-year water use flexibility program for holders of groundwater water rights which has not been deposited or placed in a safe deposit account in a chartered water bank. Specifically, it would:

- Expand the number of years used to determine the "base average usage" from the current five-year period including calendar years 1996 through 2000 to an eleven-year period including calendar years 1992 through 2002.
- Potentially reduce the amount of water that must be deposited in the flex account. Current law requires the amount to be 90 percent of the amount of the holder's base average usage, multiplied by five. The bill would require the amount not exceed 90 percent of the holder's base average usage times five.

The bill also would make technical amendments by correcting a statutory citation contained in KSA 82a-647.

Reallocation of Clean Drinking Water Fee

HB 2018 would reallocate the clean drinking water fee imposed by KSA 2004 Supp 82a-2101. Under current law, 5/106 of the fee goes to the State Highway Fund and the remainder goes to the State General Fund. On and after July 1, 2007, 5/106 would continue to go to the State Highway Fund and the remainder would go to the State Water Plan Fund.

Of the amount going to the State Water Plan Fund after July 1, 2007, 15 percent would be used to provide on-site technical assistance for public water supply systems to aid these systems in conforming to responsible management practices and complying with regulations from the U.S. Environmental Protection Agency and rules and regulations of the Kansas Department of Health and Environment. The remainder would be used to renovate and protect lakes which are used directly as a source of water for public water supply systems, so long as where appropriate, watershed restoration and protection practices are in place. The State Conservation Commission, in coordination with the Kansas Water Office, would promulgate rules and regulations establishing the project application criteria for the moneys used for renovations and protections of public water supply lakes.

Conference Committee Action

In Conference Committee, the Senate conferees agreed to the House amendments to the bill, with the following exceptions and addition:

- Add the contents of HB 2017 (as amended by the House Committee on Environment), related to reallocating the clean drinking water fee, and make these provisions effective July 1, 2007.
- Make technical corrections.

Background

Representative Tom Sloan, the Kansas Rural Water Association, and a representative of the Kansas Water Office testified in favor of the original HB 2018. The proponents indicated members of several

rural water districts have requested an alternative procedure for combining rural water districts. The Senate Committee on Elections and Local Government, among other changes, amended the bill to change the multi-year water flex account program.

With respect to HB 2017, the bill was introduced by Representative Sloan. At the hearing on the bill, Representative Sloan indicated that until a few years ago, drinking water systems were required to pay sales tax on all purchases while wastewater systems were exempt from the tax. He indicated this caused problems for communities that provided both drinking water and wastewater services. He noted the Legislature recognized this problem and authorized drinking water systems the option of paying an in lieu of tax payment called the "clean drinking water fee." He stated this made the accounting process for drinking water systems much easier. Further, Representative Sloan stated that the bill attempts to help small water systems meet water treatment requirements and to help preserve and restore drinking water storage availability in water structures.

A number of conferees supported HB 2017, including representatives of the Kansas Biological Survey, the Kansas Rural Water Association, the City of Olathe, and the State Conservation Commission. Also appearing in support of the bill was the Mayor of the City of Horton. Written testimony in support of the bill was received from the City of Holton and from the Kansas Lower Republican River Basin Advisory Committee. The Director of the Kansas Water Office appeared, providing comments and expressing general support for the concepts of the bill.

The House Committee on Environment amended HB 2017 to begin the reallocation of the money received through the clean drinking water fee on July 1, 2006 rather than on January 1, 2006 so that it would begin at the start of a state fiscal year. (Note: The Conference Committee agreed to change the effective date to July 1, 2007.) The House Committee also clarified that language regarding the use of the money for renovation and restoration of lakes so that it would be used only directly for the purposes intended and appropriate and where watershed restoration and protection practices are planned or in place. Further, the Committee amended the bill so that the State Conservation Commission, in coordination with the Kansas Water Office, would be required to promulgate rules and regulations which would establish the project application evaluation criteria for the use of money for lake renovation or protection.

HB 2018, as introduced, has no fiscal effect.

The fiscal note on HB 2017, as introduced, states that in FY 2004, the clean drinking water fee generated \$2,594,571 for the State General fund and \$139,434 for the State Highway Fund, and it is estimated that receipts for FY 2005 should be the same. The fiscal note indicates the bill, in its original form, would reduce State General Fund revenue by \$1,297,285 and State Highway Fund revenue by \$69,717 in FY 2006 because the bill would go into effect on January 1, halfway through FY 2006. The same amount would be deposited in the State Water Plan Fund instead. The note further states that for FY 2007 and beyond, the passage of the bill would reduce State General Fund revenue by \$2.6 million and State Highway Fund revenue by \$139,434 each year, while increasing revenue to the State Water Plan Fund by \$3,094,005. According to the fiscal note, the Kansas Water Office would be able to manage the administrative changes required by the bill within existing resources. Any fiscal effect resulting from enactment of HB 2017 is not accounted for in *The FY 2006 Governor's Budget Report*.