

SESSION OF 2006

SUPPLEMENTAL NOTE ON HOUSE BILL NO. 2867

As Amended by House Committee of the Whole

Brief*

HB 2867 would amend a section of law dealing with dams and water obstructions to require that safety inspections be paid for by the Department of Agriculture, Division of Water Resources.

Another provision of the bill would require the Chief Engineer to utilize all maps available from state or federal sources to create breach inundation maps for existing dams in order to facilitate dam safety compliance and conduct accurate dam risk analyses.

A provision of the bill would require the Chief Engineer to inspect, but not require the correction of any violation or existing condition of a dam, if the only lives or property regularly and frequently endangered in the breach inundation zone of the dam are the lives or property of the dam owner or operator, or the immediate family of such persons. Owners of these dams would be required to inform buyers of the condition of these dams prior to transfer. New owners would be required to notify the Chief Engineer of the transfer. The results of the inspection would be required to be filed with the register of deeds in the appropriate county and the results attached to the title of the property affected by the dam.

The bill would also require the Chief Engineer to obtain written certification of the dam owner's acknowledgment of the risk and the acceptance of such risk.

Background

This bill was introduced at the request of a spokesperson from the Kansas Livestock Association. At the hearing on the original bill, a spokesperson from the Kansas Livestock Association offered changes to the bill and expressed concern with the cost of dam inspections and repairs caused by third party downstream

*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>

development. Written testimony in support of the bill was received from the Kansas Farm Bureau. Appearing as opponents to the original bill was a representative of the Kansas Society of Professional Engineers and the Kansas Department of Agriculture. Written opposition was provided by the Kansas Association of Watershed Districts.

The House Committee on Environment amended the bill to eliminate the language requiring the Chief Engineer to not change the size or hazard class; requiring the Chief Engineer to reclassify to a larger size or hazard class due to downstream development or construction; and requiring the notification of local emergency. The Committee also added language dealing with the creation of breach inundation maps. The Committee clarified language in the bill that requires inspection of the dam if the only lives or property normally endangered in the breach inundation zone is that of the dam owner or operator. Finally, The Committee added language that requires the Chief Engineer to obtain written certification of the dam owner's acknowledgment of the risk and the acceptance of such risk.

The House Committee of the Whole amended the bill to:

- Require that the Department of Agriculture, Division of Water Resources, pay for dam inspections;
- Eliminate conflicting language which permitted certain dams to not have a safety inspection;
- Clarify that the dams not required to be corrected are those which "regularly and frequently" endanger lives or property of dam owners in the breach inundation zone rather than those "normally" in the zone;
- Require that owners of dams in need of correction who are the owners or operators notify the buyer of the dam of the condition before transfer; and
- Require that the results of the inspection of these dams be filed with the appropriate register of deeds and the results attached to the title.

The fiscal note on the original bill states there is no fiscal impact.