

**CONFERENCE COMMITTEE REPORT BRIEF  
HOUSE BILL NO. 2279**

As Agreed to April 4, 2023

**Brief\***

HB 2279 would add sections to the Kansas Groundwater Management District Act to require groundwater management districts (GMDs) to submit annual reports to the Legislature and conservation and stabilization action plans to the Chief Engineer, Division of Water Resources, Kansas Department of Agriculture (KDA). The bill would be part of and supplemental to the Kansas Groundwater Management Act.

***Annual Report (Section 1)***

The bill would add provisions to require each GMD board to submit a written report on the budget, finances, and activities of the GMD to the House Committee on Water, House Committee on Agriculture and Natural Resources and the Senate Committee on Agriculture and Natural Resources by January 25 of each year. The bill would require a representative of the GMD board to appear before a legislative committee if requested.

The annual report would include, but would not be limited to:

- An itemized list of all income and the source from which the income was received, including any grants and interest income earned;
- An itemized list of all expenditures by the GMD board;
- An accounting of all assets held by the GMD board;
- The most recent approved audit prepared in accordance with current law;
- The budget adopted for the current year pursuant to current law;
- A detailed description of the activities of the GMD; and
- A detailed statement explaining how the expenditures by the GMD board serve to further the conservation and reduced consumptive use of groundwater, the prevention

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\*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. Conference committee report briefs may be accessed on the Internet at <http://www.kslegislature.org/kIRD>

of economic deterioration, and the stabilization of agriculture in the district or otherwise supported implementation of the GMD's management program.

The bill would require, beginning in January 2025, the report to summarize the action plans and activities undertaken pursuant to Section 2 of the bill.

The bill would also require each GMD to annually publish on the GMD's website the annual written report.

### ***Action Plan and Priority Areas of Concern (Section 2)***

The bill would require, by July 1, 2024, the board of each GMD to identify all priority areas of concern within each GMD board's district and to set reasonable boundaries for those areas using data from the Kansas Geological Survey (KGS) or other source approved by the Chief Engineer.

The bill would define "priority areas of concern" to include areas where:

- The estimated usable lifetime of groundwater is 50 years or less or a similar measure of future water availability can be determined based on local water use and water level data; or
- An unreasonable deterioration of the quality of groundwater is occurring.

Priority areas of concern could also include areas where:

- Groundwater levels are declining or have declined excessively;
- The rate of withdrawal of groundwater equals or exceeds the rate of recharge;
- Preventable waste of water is occurring or may occur;
- An unreasonable deterioration of the quality of groundwater may occur; or
- Other areas identified by the GMD board and approved by the Chief Engineer.

The bill would require the GMD board to submit a report to the Chief Engineer after the priority areas of concern are identified. The report would detail:

- The priority areas of concern;
- The nature of such concerns; and
- How the areas were identified and developed.

The bill would require each GMD board to conduct public education and outreach in each priority area so the GMD board can develop an action plan to reasonably address the identified concerns in each area based on input from water right owners and users in the area. The bill would require the action plan to be submitted to the Chief Engineer by July 1, 2026.

Once the action plan or subsequent updates to the action plan are submitted, the bill would allow the Chief Engineer up to 90 days to review the action plan and identify priority areas of concern.

If the action plan is approved by the Chief Engineer, the Chief Engineer would be required to implement any action plan that requires action from the Chief Engineer. Once the GMD's action plan is approved by the Chief Engineer, the GMD board of each district would implement the action plan as soon as practicable and incorporate the action plan and priority areas into the GMD's management program at the next annual review.

The bill would require the GMD boards, at least every five years, to review existing priority areas of concern, any action plans previously adopted, and the district at large to identify any new areas that meet the priority area conditions. Upon such review, the GMD board would update its priority areas of concern and its action plan as necessary and would be required to submit the findings and any updates to the Chief Engineer.

If the GMD board fails to identify priority areas of concern within the district, fails to submit an action plan to address the concerns or subsequent updates to action plans, or submits a plan that fails to reasonably address the problems within each identified area, the Chief Engineer could:

- Designate priority areas of concern in accordance with Section 2;
- Create an action plan in accordance with Section 2; and
- Take such corrective actions necessary under the authority granted to the Chief Engineer pursuant to the Kansas Water Appropriations Act and the Kansas Groundwater Management Act to carry out the action plan.

The bill would allow the GMD board to request the Chief Engineer review the activities previously completed by the GMD board to determine compliance with some or all of the requirements of Section 2. The bill would allow all areas within a district that have adopted a local enhanced management area (LEMA) on July 1, 2023, to be considered in compliance with the requirements of Section 2 until the first action plan review.

All areas within a GMD that have an established intensive groundwater use control area (IGUCA) on July 1, 2023, would be considered to be a priority area of concern with an approved action plan in compliance with the requirements of Section 2 until reviewed by the Chief Engineer pursuant to a schedule established through rules and regulations.

The bill would allow assistance and support from the following agencies to the GMD boards for the achievement of the goals of this section:

- KDA, including the Division of Water Resources, Division of Conservation, and the Chief Engineer;
- Kansas Water Office;
- Kansas Department of Health and Environment;
- Kansas Corporation Commission;

- University of Kansas;
- KGS;
- Kansas State University;
- Kansas State University Extension System; and
- Local conservation districts.

The bill would require the Kansas Water Authority to consider the efforts of the above agencies to assist the GMDs when recommending appropriations of the State Water Plan Fund.

***Land Acquired by a Groundwater Management District (New Section 3)***

The bill would prohibit, if a GMD owns, purchases, or otherwise acquires land, a member of the GMD board to farm the land for profit unless a request for proposal (RFP) is issued to the public.

**Conference Committee Action**

The Conference Committee agreed to the provisions of HB 2279, as amended by the Senate Committee on Agriculture and Natural Resources, with the following changes:

- Add additional information that the GMD’s annual report would be required to include:
  - An itemized list of all income and the source from which the income was received, including any grants and interest income earned;
  - An itemized list of all expenditures by the GMD board; and
  - An accounting of all assets held by the GMD board;
- Include in “priority areas of concern” the areas where the estimated usable lifetime of groundwater is 50 years or less or a similar measure of future water availability can be determined based on local water use and water level data; and
- Change the date by which the bill would require the GMD boards to identify all priority areas of concern within each GMD district from December 31, 2024, to July 1, 2024.

**Background**

The bill was introduced by the House Committee on Water at the request of Representative Vaughn.

## **House Committee on Water**

In the House Committee hearing, the managers of GMDs No. 1 and No. 4, representatives of Kansas Farm Bureau and Kansas Livestock Association, and two private citizens testified as **proponents** of the bill.

Written-only proponent testimony was provided by representatives of the Hy-Plains Feedyard, LLC, and Kansas Corn Growers Association, and by two private citizens.

Neutral testimony was provided by the managers of GMDs No. 2 and No. 5 and representatives of the Kansas Agriculture Retailers Association and KGS.

**Opponent** testimony was provided by a representative of GMD No. 3.

Written-only opponent testimony was submitted by a representative of the Southwest Kansas Irrigation Association.

No other testimony was provided.

The House Committee amended the bill to:

- Allow the annual financial report to be prepared pursuant to the uniform system of fiscal procedure, accounting, and reporting for municipalities per continuing law (KSA 75-1120a) [*Note*: The Conference Committee did not retain the amendment.];
- Specify the annual report shall include a detailed statement explaining how the expenditures by the GMD board serve to further the conservation and reduced consumptive use of groundwater, the prevention of economic deterioration, and the stabilization of agriculture [*Note*: The Conference Committee retained the amendment.];
- Remove language regarding the intent of the Legislature [*Note*: The Conference Committee retained the amendment.];
- Change the term “areas of concern” to “priority areas of concern” [*Note*: The Conference Committee retained the amendment.];
- Allow the GMD board to request an extension of time to identify priority areas of concern beyond the July 1, 2024, deadline if good cause is shown and with the approval of the Chief Engineer [*Note*: The Conference Committee retained the date of July 1, 2024, but did not retain the extension.];
- Add additional criteria for priority areas of concern [*Note*: The Conference Committee did not retain the amendment.];
- Require GMD boards to submit a report to the Chief Engineer after identifying priority areas of concern [*Note*: The Conference Committee retained the amendment.];
- Require GMD boards to incorporate the action plan and priority areas in the GMD’s management program at the next review [*Note*: The Conference Committee retained the amendment.];

- Require GMD boards to review the priority areas of concern and any action plans previously adopted every five years and update the action plan based on the review [*Note:* The Conference Committee did not retain the amendment.];
- Add two additional options for the Chief Engineer to undertake should a GMD board fail to submit the required reports [*Note:* The Conference Committee did not retain the amendment.];
- Add language that, on July 1, 2023, all areas within a LEMA shall be considered in compliance with the requirements of Section 2 until the first action plan review [*Note:* The Conference Committee retained the amendment.];
- Require the Kansas Water Authority to consider the efforts of specific state agencies to assist the GMDs when recommending appropriations of the State Water Plan Fund [*Note:* The Conference Committee retained the amendment.]; and
- Make additional wording and technical changes. [*Note:* The Conference Committee retained the amendment.]

### ***Senate Committee on Agriculture and Natural Resources***

In the Senate Committee hearing, Representatives Minnix and Vaughn; the managers of GMDs No. 1, No. 2, and No. 4; representatives of the Kansas Farm Bureau and Kansas Livestock Association; and two private citizens provided **proponent** testimony.

Written-only proponent testimony was provided by representatives of Circle Land and Cattle Corp., Hy-Plains Feedyard, LLC, Kansas Corn Growers Association, and The Nature Conservancy, and by a private citizen.

Neutral testimony was provided by the manager of GMD No. 3 and a representative of the KGS.

No other testimony was provided.

The Senate Committee amended the bill to:

- Change from January 31 to January 25 of each year the date by which a GMD board would submit a written report to the Legislature [*Note:* The Conference Committee retained the amendment.];
- Include “budget” as a topic the report to the Legislature would need to address [*Note:* The Conference Committee retained the amendment.];
- Remove other information the required written report would have needed to address [*Note:* The Conference Committee retained the amendment.];
- Require a GMD board to include in its report the most recent approved audit prepared in accordance with current law, an accounting of all assets currently held by the GMD board, the budget adopted for the current year pursuant to current law, and a detailed description of the activities of the GMD district, in addition to a detailed statement

regarding expenditures in the bill as introduced [*Note*: The Conference Committee retained part of the amendment.];

- Require the report to summarize the action plans and activities undertaken pursuant to Section 2 of the bill beginning in January 2025 [*Note*: The Conference Committee retained the amendment.];
- Remove the requirement for submitting a second annual written report to the Legislature that would have begun on January 15, 2025 [*Note*: The Conference Committee retained the amendment.];
- Change from July 1, 2024, to December 31, 2024, the date by which the GMD board of each district would identify all priority areas of concern with the GMD district and set reasonable boundaries for each area of concern using data from the KGS or other source approved by the Chief Engineer [*Note*: The Conference Committee did not retain the amendment.];
- Remove language authorizing the Chief Engineer to grant extensions [*Note*: The Conference Committee retained the amendment.];
- Add similar aquifer conditions exist as evidenced by water level decline and water use data provided by the KGS to priority areas of concern [*Note*: The Conference Committee retained part of the amendment.];
- Clarify that at least every five years, each GMD board would review existing priority areas of concern and update its priority areas of concern and action plan as necessary [*Note*: The Conference Committee retained the amendment.];
- Clarify that all areas within a district that have adopted a LEMA pursuant to law on July 1, 2023, would be considered to be a priority area of concern with an approved action plan in compliance with the requirements of the bill until the first action plan review [*Note*: The Conference Committee retained the amendment.];
- Establish that all areas within a GMD district that have an established IGUCA established pursuant to law on July 1, 2023, would be considered to be a priority area of concern with an approved action plan in compliance with the requirements of the bill until reviewed by the Chief Engineer pursuant to a schedule established through rules and regulations [*Note*: The Conference Committee retained the amendment.];
- Prohibit a member of the GMD board of a GMD that owns, purchases, or otherwise acquires land from farming the land for profit unless the GMD board issues an RFP for farming the land [*Note*: The Conference Committee retained the amendment.]; and
- Require the GMD to annually publish on the GMD's website the budget proposed by the GMD and the GMD's annual report, including the financial statement. [*Note*: The Conference Committee retained the amendment.]

## Fiscal Information

According to the fiscal note prepared by the Division of Budget on the bill, as introduced, the KGS estimates enactment of the bill would require an additional 7.0 FTE positions with 5.5 FTE positions added during FY 2023 with existing agency resources and the remaining 1.5 FTE positions added in FY 2024.

KGS estimates \$627,900 of new State General Fund (SGF) expenditures would be required for FY 2024. KGS estimates \$3.4 million of additional SGF moneys would be needed to carry out the duties required by the bill in FY 2025, including annual measurement of approximately 1,500 industrial and agricultural wells, maintenance of continuously monitored index wells, initiation of a statewide water quality monitoring program, and advanced groundwater aquifer modeling.

Supplemental information was provided from KGS after the House Committee on Water hearing on the bill. KGS clarified that currently, KGS allocates 5.5 FTE positions for work on the water level monitoring and aquifer modeling, which costs approximately \$507,900, and KGS does not expect the current funding model to change through the end of FY 2023, and it will require the same appropriation for FY 2024.

The additional 1.5 FTE positions and appropriation of \$120,000 in FY 2024 will be necessary to develop Phase 1 of the Water Quality Monitoring Program.

The Kansas Corporation Commission indicates enactment of the bill would have an unknown fiscal effect. The KDA, Kansas Department of Health and Environment, Kansas Water Office, Kansas State University, Kansas Association of Counties, and League of Kansas Municipalities indicate enactment of the bill would have no fiscal effect.

Any fiscal effect associated with the bill is not reflected in *The FY 2024 Governor's Budget Report*.

Water; Kansas Groundwater Management District Act; groundwater management district; boards; annual report; priority areas of concern; conservation; reduced consumptive use; aquifer conditions; Chief Engineer; Kansas Water Authority; Division of Water Resources; Department of Agriculture; Kansas Geological Survey

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