

SESSION OF 2024

SUPPLEMENTAL NOTE ON HOUSE BILL NO. 2678

As Amended by House Committee on Water

Brief*

HB 2678, as amended, would amend the Kansas Water Banking Act (Act).

[*Note:* A “water bank” is a not-for-profit entity that allows groundwater right holders (users) to “deposit” excess water from their water right in a “safety deposit account” to hold for later use, if needed. Currently, users must “withdraw” their water from their account before exceeding their existing groundwater right yearly limitation, which requires the users to estimate how much water they will need, with the understanding they will lose the withdrawn water they do not utilize. There is one water bank in Kansas: the Central Kansas Water Bank Association, in Groundwater Management District (GMD) No. 5.]

Water Bank Evaluation

The bill would require the Director of the Kansas Water Office, in consultation with the Chief Engineer, Division of Water Resources, Kansas Department of Agriculture (KDA), to develop a request for proposal and select an independent consultant to evaluate the water bank in accordance with provisions of the Act in KSA 82a-767. The bill would require the evaluation to be initiated before July 1, 2025.

[*Note:* KSA 82a-767 requires an evaluation of water banks every five years; the bill would state this required

*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>

evaluation would be in lieu of the next regularly scheduled evaluation of the Central Kansas Water Bank Association.]

The bill would require the evaluation to include specific findings regarding the consumptive use and potential impairment impacts involved with the use of safe deposit accounts in the Rattlesnake Creek Hydrologic Unit.

The evaluation required by the bill would be funded from existing resources of the KDA. This section of the bill would expire on July 1, 2027.

Withdrawing Water

The bill would clarify that water withdrawn from a safe deposit account would be authorized by the water bank on or before December 1 of the calendar year in which the withdrawn water is to be used.

Water Bank Charter

The bill would establish a seven-year review process for a water bank charter and would limit the extension of a water bank charter to no more than seven years.

Currently, a water bank is chartered for an initial period of no more than seven years, at which time the water bank is subject to review to determine whether the initial charter will lapse or be continued. The bill would state at that seven-year review, the initial charter would lapse or be extended.

In addition, for any water bank charter that was previously extended permanently or for a period of more than seven years after the review required by law, the bill would require the Chief Engineer to determine whether the water bank charter would lapse or be extended for a period of no more than seven years at the water bank's next evaluation in

accordance with the recommendations of the evaluation team.

The bill would require any amendment to a water bank charter to be approved by the Chief Engineer before adopting the amendment.

Technical Amendments

The bill would also make technical amendments.

Background

The bill was introduced by the House Committee on Water at the request of a representative of GMD No. 5.

House Committee on Water

In the House Committee hearing, representatives of the Central Kansas Water Bank Association and GMD No. 5 provided **proponent** testimony, stating the change from five years to ten years was a suggestion by area water users and can be used for longer-term planning on water investments. Currently, water bank users must guess how much water they will need to withdraw from their safe deposit accounts before they are able to use it. The proponents stated the bill will allow for greater flexibility and more accurate accounting of how much water will need to be withdrawn.

Written-only proponent testimony was provided by a representative of the Kansas Corn Growers Association.

Neutral testimony was provided by a representative of Kansas Water Resources Consulting, who stated his concerns with the operation of safe deposit accounts and whether that conflicts with the statutory requirement to not increase the net consumptive use of water in any hydrologic unit.

Written-only neutral testimony was provided by the Chief Engineer, Division of Water Resources, KDA, who answered questions from the House Committee members.

No other testimony was provided.

The House Committee amended the bill to:

- Require an evaluation by an independent consultant of the Central Kansas Water Bank before July 1, 2025; and
- Establish a maximum length for an extension of a water bank charter.

Fiscal Information

According to the fiscal note prepared by the Division of the Budget on the bill, as introduced, the Kansas Water Office and KDA indicate enactment of the bill would have no fiscal effect.

Water; Kansas Water Banking Act; water bank; safe deposit account