

SESSION OF 2024

**SUPPLEMENTAL NOTE ON SENATE BILL NO. 417**

As Amended by Senate Committee of the Whole

**Brief\***

SB 417, as amended, would change the eminent domain authority of the Secretary of Wildlife and Parks (Secretary).

The bill would be in effect upon publication in the *Kansas Register*.

***Eminent Domain Authority***

The bill would remove the Secretary's authority to exercise eminent domain:

- To acquire water and water rights;
- To add to state parks, state lakes, recreational areas, wildlife areas and sanctuaries, natural areas, fish hatcheries, and other lands, waters, and facilities as provided for in law; and
- For the purposes of protecting lands, waters and facilities, and their environs and preserving the view, appearance, light, air, health, and usefulness thereof by reselling the property with restrictions in the deeds of resale as will protect the property taken for such purposes.

The bill would also remove the ability of the Secretary to protect and improve waters through eminent domain.

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\*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>

The bill would authorize the Secretary to use eminent domain for the purpose of access to resources or land already owned by the Kansas Department of Wildlife and Parks (KDWP).

***Utilization of Proceeds***

The bill would remove the ability of the Secretary to use proceeds arising from the resale of any property that was acquired through eminent domain for the purpose of improving lands, waters, and facilities under the jurisdiction and control of the Secretary.

***Attorney General Discretion***

The bill would allow the Attorney General, upon request of the Secretary, to have discretion on whether to proceed by proper actions to acquire by condemnation all lands or rights required by KDWP. The bill would remove all water or water rights from this provision.

**Background**

The bill was introduced by the Senate Committee on Agriculture at the request of Senator Peck.

***Senate Committee on Agriculture and Resources***

In the Senate Committee hearing, Senator Steffen and Representative Corbet provided **proponent** testimony, stating the statute is antiquated, and the power of eminent domain should never be allowed to be exercised by an unelected, appointed official. Written-only proponent testimony was provided by a representative of the Kansas Cattlemen's Association, the Office of the Attorney General, and a private citizen.

The Secretary provided neutral testimony and provided background information on how the KDWP was formed, the historical use of eminent domain, and the restrictions on its use.

No other testimony was provided.

The Senate Committee amended the bill to:

- Retain KSA 32-840 [*Note:* The bill, as introduced, would have repealed the statute.];
- Remove provisions that specify the purposes for which the Secretary could take, use, or appropriate property and replace with language specifying the Secretary could take, use, or appropriate property for the purpose of access to resources or land already owned by the KDWP;
- Remove the ability of the Secretary to use proceeds from resale of property taken by eminent domain to improve land, water, and facilities under the Secretary's jurisdiction; and
- Provide the Attorney General the discretion to act on the Secretary's request.

***Senate Committee of the Whole***

The Senate Committee of the Whole amended the bill to:

- Prohibit the Secretary from acquiring water and water rights through eminent domain;
- Remove "waters" from the list of those natural resources the Secretary would protect through the use of eminent domain; and

- Remove water and water rights from the provision of the bill that states the Attorney General would have discretion to proceed by proper action to acquire lands or rights required by KDWP, upon request of the Secretary.

### **Fiscal Information**

According to the fiscal note prepared by the Division of the Budget on the bill, as introduced, enactment of the bill would have no fiscal effect.

Kansas Department of Wildlife and Parks; Secretary of Wildlife and Parks; eminent domain; land access; resources access