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MEMORANDUM

To: House Committee on Agriculture
From: Kyle Hamilton, Assistant Revisor of Statutes
Date: February 9, 2017
Subject: Bill Brief on HB 2099

HB 2099 would change the remedies for water right or permit holders who have had their water right or permit impaired by an unlawful diversion of water.

Section 1 would require a water right or permit holder to exhaust the new remedies added to K.S.A. 82a-717a in Section 2 before seeking a court-ordered injunction to stop someone from engaging in the activity that is impairing their water right or permit.

Section 2 would amend K.S.A. 82a-717a(b)(2) to allow someone whose water right or permit is being impaired to submit a complaint to the chief engineer. Within two weeks of receiving the complaint, the chief engineer would be required to investigate the complaint and provide an opportunity for the parties to submit any relevant information. Following the investigation, the chief engineer could issue an order to limit or curtail the unlawful diversion of water. The chief engineer would be required to complete the investigation within 12 months of the date the complaint was submitted, but would be able to extend the investigation for good cause by notifying the parties, in writing, of the amount of time still needed.

K.S.A. 82a-717a(b)(3) would be amended allow a complainant to petition the chief engineer for a temporary order to limit or curtail the unlawful diversion of water. The temporary order would be effective until a final order is issued. A temporary order would only be issued if the chief engineer finds that (1) a substantial likelihood exists that impairment is occurring or will occur and (2) an order limiting or curtailing the unlawful diversion would not be adverse to the public interest.

K.S.A. 82a-717a(b)(4) would allow the chief engineer's order to be subject to review under the Kansas judicial review act.

HB 2099 would become effective upon publication in the statute book.