

SESSION OF 2024

SUPPLEMENTAL NOTE ON SENATE BILL NO. 524

As Amended by Senate Committee of the Whole

Brief*

SB 524, as amended, would authorize mail ballot elections for certain irrigation district boards of directors, would change the definition of “dams” and “water structures” as the terms relate to agriculture use, and would add a civil penalty that could be assessed by the Chief Engineer, Division of Water Resources, Kansas Department of Agriculture.

Irrigation District Boards of Directors

The bill would allow boards with irrigation districts of more than 35,000 acres to conduct member elections by mail ballot. The board would be required to adopt a procedure for the election by mail ballot in any even-numbered or odd-numbered year. The board would also be required to adopt a resolution providing for the election of members by mail ballot, and specify the term for each member. Terms for members could be a period of two, three, or four years.

Dams and Water Structures

The bill would modify the definition for “dam” to specify that a dam for agricultural use would have a height of 30 feet or more or has a height of six feet or more and a storage volume at the top of the emergency spillway elevation of 125 feet or more. The bill would state the primary purpose of an agricultural use dam would be for use in irrigation, livestock

*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>

watering, commercial fish rearing, and the sale and protection of agricultural land.

The bill would state that water structures that would be considered a dam under the new definition of agriculture use dam would be considered a water obstruction instead of a dam if the primary purpose of the structure is to serve as a:

- Dry detention road fill for state, county, or municipal government; or
- Low head dam that has a maximum height below the lowest stream bank.

Civil Penalties

In addition to other penalties provided for by law, the bill would create a civil penalty of no less than \$100, but no more than \$500, per violation of KSA 82a-301, the law that authorizes the Chief Engineer to permit or consent on the construction, modification, or addition to dams and other water obstructions.

In the case of a continuing violation, the bill would define continuing violation as each occasion when the Chief Engineer provides notice of a violation and the action specified by the Chief Engineer to correct the violation is not taken within seven days of the receipt of the notice. The bill would authorize the Chief Engineer to assess an additional penalty for each continuing violation.

All moneys collected by the Chief Engineer through this civil penalty would be deposited in the State Treasury and credited to the Water Structures Fund.

The bill would prohibit a civil penalty being imposed except on the written order of the Chief Engineer or duly authorized agent. Any person aggrieved by the Chief

Engineer's order could appeal to the district court in the manner provided by the Kansas Judicial Review Act.

Technical and Conforming Amendments

The bill would also make technical and conforming amendments.

Background

The bill was introduced by the Senate Committee on Ways and Means at the request of Senator Billinger.

Senate Committee on Ways and Means

In the Senate Committee hearing on March 14, 2024, **proponent** testimony was provided by Senator Bowers and an attorney representing Kansas Bostwick Irrigation District No. 2. The proponents stated the bill was requested on behalf of the irrigation district because current law does not provide for workable elections for irrigation districts. The proponents noted that law enacted in 2015 moved all local elections from spring to fall, which created inconsistencies in other statutes. The proponents further stated the bill would better clarify election processes for irrigation districts.

No other testimony was provided.

The Senate Committee recommended the bill be placed on the Consent Calendar.

Senate Committee of the Whole

On March 25, 2024, the Senate Committee of the Whole amended the bill to change the definition of dam and water structure, as the terms relate to agriculture use, and add penalties for violation of the statute.

Fiscal Information

According to the fiscal note prepared by the Division of the Budget on the bill, as introduced, the Kansas Department of Agriculture and the Kansas Water Office indicate enactment of the bill would not have a fiscal effect.

The Kansas Association of Counties indicates enactment of the bill could create some cost savings for counties by utilizing mail ballots as opposed to in-person voting; however, the cost savings would depend on the number of elections and likely be negligible.

Irrigation districts; elections; board of directors; term period; dams; water structures