

SESSION OF 2012

**SUPPLEMENTAL NOTE ON SUBSTITUTE FOR SENATE
BILL NO. 148**

As Recommended by Senate Committee on
Agriculture

Brief*

Sub. for SB 148 would explicitly provide for the division of water rights in statute by stating that an owner of a water right that is not abandoned may divide the water right into two or more distinct water rights without losing priority. In order to divide the water right, the owner must:

- Notify the Chief Engineer in writing of the proposed division, with the written consent of all persons that have an ownership interest in the water right;
- Designate the relative priority of the divided water rights;
- Demonstrate to the Chief Engineer the division is reasonable and would not increase consumptive use; and
- Demonstrate to the Chief Engineer the request does not violate the Kansas Water Appropriation Act.

If the Chief Engineer finds the above four requirements are met, the Chief Engineer then would issue an order dividing the water right and describing the terms and conditions of each water right. Acceptance of the request to divide a water right would not authorize any change in the place of use, point of diversion, or the use made of the water.

*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>

Upon finding the four requirements are not met, the Chief Engineer would return the division request and take no action.

The bill provides that if a judicial determination should occur regarding ownership interests and that the determination would result in a partition of a water right not deemed abandoned, the Chief Engineer would then issue an order dividing the water right in accordance with the judicial determination, to the extent the determination does not violate the provisions of the Kansas Water Appropriation Act.

The bill states each division request submitted to the Chief Engineer would be assessed a \$300 fee. Funding from the fee would be remitted to the State Treasurer.

Background

A representative of the Division of Water Resources, Department of Agriculture, provided testimony in favor of the bill, stating the bill makes the agency's current practice of dividing water rights explicit in statute and provides for a fee of \$300 for the division, regardless of the number of wells involved. A representative of Kansas Farm Bureau also provided testimony in favor of the concepts presented by the bill.

The majority of the bill's language was originally contained in New Section 1 of SB 272, which was introduced by the Senate Committee on Agriculture at the request of the Department of Agriculture. Before the Senate Committee passed SB 272, New Section 1 was removed from the bill. A hearing was later held by the Senate Committee on SB 148. The Senate Committee removed the contents of the original bill and inserted language into SB 148 that resembles New Section 1 of SB 272.

The Senate Committee approved several technical amendments to the bill, as recommended by committee staff.

The Senate Committee then recommended the contents of SB 148, as amended, be placed in a substitute bill.

The Division of the Budget provided a fiscal note for the original version of SB 148, which states there would be no fiscal effect. An updated fiscal note for the bill was not available at the time of the Senate Committee hearing.