

SESSION OF 2011

SUPPLEMENTAL NOTE ON SENATE BILL NO. 191

As Amended by Senate Committee on
Natural Resources

Brief*

SB 191, as amended, would establish the Water Rights Conservation Program, which would be administered by the Chief Engineer of the Division of Water Resources within the Kansas Department of Agriculture (KDA).

The Program would allow an eligible water right in good standing to be enrolled in the Program, with the approval of the Chief Engineer, for a period not exceeding ten years. The water right could be re-enrolled within two years of the expiration date of the previous enrollment period, subject to approval by the Chief Engineer.

Each application for enrollment and re-enrollment in the Program would require a non-refundable fee, which could not exceed \$300. The fees collected from the application enrollments would be deposited in the KDA's existing Water Appropriation Certification Fund.

In addition, the bill would amend existing law regarding abandonment of water rights. Enrollment in the Program and being continually in compliance with the Program would be considered as having due and sufficient cause for non-use of a water right and the water right would not be considered abandoned under state law.

The Chief Engineer would have the authority to adopt rules and regulations to effectuate and administer the Program.

*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>

Background

The bill was introduced by the Senate Committee on Natural Resources at the request of an official of the KDA.

Proponents testifying in favor of the bill included the Chief Engineer; the Kansas Water Congress; Northwest Kansas Groundwater Management District (GMD) No. 4; the five Kansas GMDs; Kansas Farm Bureau; and the Kansas Livestock Association. The Board of Public Utilities for the City of McPherson provided written testimony in favor of the bill.

The Chief Engineer stated that the Program was initiated through rules and regulations in 1992 without many restrictions and fees. The Program was phased out in 2009 as the KDA faced a 20.0 percent budget reduction in State General Funds and the Program was eliminated as it was not statutorily required. The Chief Engineer provided the Senate Committee with an example of the possible language that would be used to update the current rules and regulations.

Other conferees stated that stakeholders believe the creation of the fee-funded Program is beneficial for water right holders and water users within the state. In addition, the Program is a useful tool in areas like the Ogallala Aquifer, which are largely closed to new water appropriations and are experiencing declining water levels. The Program makes it possible for eligible water right holders to idle pumps and conserve water in these over-developed areas without the fear of abandoning their water rights.

Testimony provided by the five Kansas GMDs requested that clarifying language to New Section 1(b), regarding the length of the enrollment period for the Program, be added to the bill.

The Senate Committee amended the bill to add clarifying language regarding the length of the enrollment period for the Program.

The fiscal note provided on the original version of the bill by the Division of the Budget indicates that the proposed fee of \$300 would be adequate to cover the KDA's costs of processing program applications. Although the KDA is unable to estimate how many applications there would be, any increase in staff time would be funded by the application fees. The fiscal effect of the bill is not included in *The FY 2012 Governor's Budget Report*.