

SESSION OF 2023

SUPPLEMENTAL NOTE ON HOUSE BILL NO. 2279

As Amended by House Committee on Water

Brief*

HB 2279, as amended, would amend the Groundwater Management District Act to require groundwater management districts (GMDs) to submit annual reports to the Legislature and conservation and stabilization action plans to the Chief Engineer, Division of Water Resources, Kansas Department of Agriculture (KDA).

Annual Report (Section 1)

The bill would require each GMD board to submit a written report on the finances and activities of the GMD in the most recent audited year to the House Committee on Water, House Committee on Agriculture and Natural Resources, and Senate Committee on Agriculture and Natural Resources by January 31 of each year. The report would need to be prepared according to existing statutorily uniform accounting procedures for municipalities. A representative of the GMD board would be required to appear before a legislative committee if requested.

The financial statement included in the annual report would include, but would not be limited to:

- An itemized list and source of all income, including any grants and interest income earned;
- An itemized list of all expenditures by the board, and

*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>

- An accounting of all assets currently held by the board.

The bill would require the annual report to include a detailed statement explaining how the expenditures by the GMD board serve to further the conservation and reduced consumptive use of groundwater, the prevention of economic deterioration, and the stabilization of agriculture in the district or otherwise supported implementation of the district's management program.

Action Plan and Priority Areas of Concern (Section 2)

The bill would require, by July 1, 2024, the GMD boards to identify all priority areas of concern within each district and to set reasonable boundaries for those areas using data from the Kansas Geological Survey (KGS) or other source approved by the Chief Engineer. The bill would allow the GMD board of any district to request an extension of up to six months to identify the priority areas of concern at the approval of the Chief Engineer, upon good cause shown, and upon any terms or conditions required by the Chief Engineer.

The bill would define "priority areas of concern" to include areas where:

- The estimated usable lifetime of groundwater is 50 years or less; or
- An unreasonable deterioration of the quality of groundwater is occurring.

Priority areas of concern could also include areas where:

- Groundwater levels are declining or have declined excessively;
- The rate of withdrawal of groundwater equals or exceeds the rate of recharge;

- Preventable waste of water is occurring or may occur;
- An unreasonable deterioration of the quality of groundwater may occur; or
- Other areas identified by the GMD board and approved by the Chief Engineer.

The bill would require the GMD board to submit a report to the Chief Engineer after the priority areas of concern are identified. The report would detail:

- The priority areas of concern;
- The nature of such concerns; and
- How the areas were identified and developed.

The bill would require each GMD board to conduct public education and outreach in each priority area so the GMD board can develop an action plan to reasonably address the identified concerns in each area based on input from water right owners and users in the area. The action plan would be required to be submitted to the Chief Engineer by July 1, 2026.

Once the action plan or subsequent updates to the action plan are submitted, the bill would allow the Chief Engineer up to 90 days to review the action plan and identify priority areas of concern.

If the action plan is approved by the Chief Engineer, the Chief Engineer would be required to implement any action plan that requires action from the Chief Engineer. Once the GMD's action plan is approved by the Chief Engineer, the GMD board of each district would implement the action plan as soon as practicable and incorporate the action plan and priority areas into the GMD's management program at the next annual review.

The bill would require the GMD boards, every five years, to review the priority areas of concern, any action plans previously adopted, and the district at large to identify any new areas that meet the priority area conditions. Upon such review, the GMD board would update its action plan as necessary and would be required to submit the findings and any updates to the Chief Engineer.

If the GMD board fails to identify priority areas of concern within the district, fails to submit an action plan to address the concerns or subsequent updates to action plans, or submits a plan that fails to reasonably address the problems within each identified area, the Chief Engineer could:

- Designate priority areas of concern in accordance with subsection (a);
- Create an action plan in accordance with subsection (a); and
- Take such corrective actions necessary under the authority granted to the Chief Engineer pursuant to the Kansas Water Appropriations Act and the Kansas Groundwater Management Act to carry out the action plan.

The bill would allow the GMD board to request the Chief Engineer review the activities previously completed by the GMD board to determine compliance with some or all of the requirements of New Section 2. The bill would allow all areas within a local enhanced management area (LEMA) on July 1, 2023, to be considered in compliance with the requirements of New Section 2 until the first action plan review.

The bill would allow assistance and support from the following agencies to the GMD boards for the achievement of the goals of this section:

- KDA, including the Division of Water Resources, Division of Conservation, and the Chief Engineer;
- Kansas Water Office;
- Kansas Department of Health and Environment;
- Kansas Corporation Commission;
- University of Kansas;
- KGS;
- Kansas State University;
- Kansas State University Extension System; and
- Local conservation districts.

The bill would require the Kansas Water Authority to consider the efforts of the above agencies to assist the GMDs when recommending appropriations of the State Water Plan Fund.

The bill would require each GMD board to submit an annual written report, beginning on January 15, 2025, to the House Committee on Water, House Committee on Agriculture and Natural Resources, and Senate Committee on Agriculture and Natural Resources, and any other appropriate committees and successor committees that summarizes any activities undertaken pursuant to New Section 2 in the previous calendar year. A representative of the GMD board would be required to appear before a legislative committee if requested.

The bill would be part of and supplemental to the Groundwater Management District Act of the *Kansas Statutes Annotated*.

Background

The bill was introduced by the House Committee on Water at the request of Representative Vaughn.

House Committee on Water

In the House Committee hearing, representatives of GMDs No. 1 and No. 4, Kansas Farm Bureau, Kansas Livestock Association, and two private citizens testified as **proponents** of the bill.

Written-only proponent testimony was provided by representatives of the Hy-Plains Feedyard, Kansas Corn Growers Association, and two private citizens.

Neutral testimony was provided by GMDs No. 2 and No. 5, Kansas Agriculture Retailers Association, and KGS.

Opponent testimony was provided by GMD No. 3.

Written-only opponent testimony was submitted by the Southwest Kansas Irrigation Association.

No other testimony was provided.

The House Committee amended the bill to:

- Allow the annual financial report to be prepared pursuant to the uniform system of fiscal procedure, accounting, and reporting for municipalities per existing law (KSA 75-1120a);
- Specify the annual report shall include a detailed statement explaining how the expenditures by the GMD board serve to further the conservation and reduced consumptive use of groundwater, the prevention of economic deterioration, and the stabilization of agriculture;

- Remove language regarding the intent of the Legislature;
- Change the term “areas of concern” to “priority areas of concern”;
- Allow the GMD board to request an extension of time to identify priority areas of concern beyond the July 1, 2024, deadline if good cause is shown and at the approval of the Chief Engineer;
- Add additional criteria for priority areas of concern;
- Require GMD boards to submit a report to the Chief Engineer after identifying priority areas of concern;
- Require GMD boards to incorporate the action plan and priority areas in the GMD’s management program at the next review;
- Require GMD boards to review the priority areas of concern and any action plans previously adopted every five years and update the action plan based on the review;
- Add two additional options for the Chief Engineer to undertake should a GMD board fail to submit the required reports;
- Add language that, on July 1, 2024, all areas within a LEMA shall be considered in compliance with the requirements of New Section 2 until the first action plan review;
- Require the Kansas Water Authority to consider the efforts of specific state agencies to assist the GMDs when recommending appropriations of the State Water Plan Fund; and
- Make additional wording and technical changes.

Fiscal Information

According to the fiscal note prepared by the Division of Budget on the bill, as introduced, the Kansas Geological Survey (KGS) estimates enactment of the bill would require an additional 7.0 FTE positions with 5.5 FTE positions added during FY 2023 with existing agency resources and the remaining 1.5 FTE positions added in FY 2024.

KGS estimates \$627,900 of new State General Fund (SGF) expenditures would be required for FY 2024. KGS estimates that \$3.4 million of additional SGF moneys would be needed to carry out the duties required by the bill in FY 2025, including annual measurement of approximately 1,500 industrial and agricultural wells, maintenance of continuously monitored index wells, initiation of a statewide water quality monitoring program, and advanced groundwater aquifer modeling.

Supplemental information was provided from KGS after the House Committee on Water had a hearing on the bill. KGS clarified that currently, KGS allocates 5.5 FTE positions for work on the water level monitoring and aquifer modeling, which costs approximately \$507,900, and KGS does not expect the current funding model to change through the end of FY 2023, and it will require the same appropriation for FY 2024.

The additional 1.5 FTE positions and appropriation of \$120,000 in FY 2024 will be necessary to develop Phase 1 of the Water Quality Monitoring Program.

The Kansas Corporation Commission indicates enactment of the bill would have an unknown fiscal effect. The Kansas Department of Agriculture, Kansas Department of Health and Environment, Kansas Water Office, Kansas State University, Kansas Association of Counties, and League of Kansas Municipalities indicate enactment of the bill would have no fiscal effect.

Any fiscal effect associated with the bill is not reflected in *The FY 2024 Governor's Budget Report*.

Groundwater Management District Act; groundwater management district; boards; annual report; conservation and stabilization plan; priority areas of concern; Chief Engineer; Kansas Water Authority; Division of Water Resources; Kansas Water Authority; water