

February 1, 2012

The Honorable Ralph Ostmeyer, Chairperson
Senate Committee on Natural Resources
Statehouse, Room 225-E
Topeka, Kansas 66612

Dear Senator Ostmeyer:

SUBJECT: Fiscal Note for SB 310 by Senate Committee on Natural Resources

In accordance with KSA 75-3715a, the following fiscal note concerning SB 310 is respectfully submitted to your committee.

SB 310 would amend current law regarding water use control in Groundwater Management Districts. When a groundwater management district recommends the approval of a local enhanced management plan within the district to address conditions related to water quality or water supply, the Chief Engineer of the Division of Water Resources of the Department of Agriculture would review the plan. Any plan must propose clear geographic boundaries; pertain to an area within the district; propose goals and corrective control provisions; include a compliance monitoring and enforcement element; and, be consistent with Kansas water law.

If the Chief Engineer finds a local enhanced management plan acceptable for consideration, proceedings would be initiated to designate it as such. Whenever a plan is initiated, an initial public hearing would be held to resolve the following findings of fact:

1. Whether a water quality or water supply issue exists;
2. Whether the public interest requires that one or more corrective control provisions should be adopted; and
3. Whether the geographic boundaries are reasonable.

The Chief Engineer would conduct a subsequent hearing or hearings only if the initial public hearing is favorable on all three issues of fact and the expansion of geographic boundaries is not recommended. At least 30 days prior to the date set for any hearing, written notice of the

hearing would be given to every person holding a water right of record within the area in question and by one publication in a newspaper of general circulation within the area in question. The notice shall state the question and shall denote the time and place of the hearing. At every such hearing, documentary and oral evidence shall be taken and become part of a complete record. Within 120 days of the conclusion of the final public hearing, the chief engineer would issue an order of decision that either accepts the plan as sufficient to address conditions; rejects the plan as insufficient to address the conditions; or, returns the plan to the groundwater management district, giving reasons for the return and an opportunity for the district to resubmit a revised plan.

The Chief Engineer could also return the plan to the district and propose modifications, based on testimony at a hearing that would improve the administration of the plan, but not impose reductions in ground water withdrawals that exceed those contained in the plan. If the groundwater management district approves of the modifications proposed by the chief engineer, the district shall notify the chief engineer within 90 days of receipt of return of the plan. Upon receipt of the groundwater management district's approval of the modifications, the chief engineer shall accept the modified local management plan. If the groundwater management district does not approve of the modifications proposed by the Chief Engineer, the local management plan would not be accepted. If the Chief Engineer issues an order of decision accepting a local enhanced management plan, that decision would be followed by an official order of designation.

The order of designation would define the boundaries of the local enhanced management area and would indicate the circumstances upon which the findings of the chief engineer are made. The order of designation may include any of the following corrective control provisions set forth in the local enhanced management plan:

1. Closing the local enhanced management area to any further appropriation of groundwater;
2. Determining the permissible total withdrawal of groundwater in the area each day, month or year. The Chief Engineer would apportion the water among the valid groundwater right holders in the area according to the relative dates of priority of the water rights;
3. Reducing the permissible withdrawal of groundwater by any one or more appropriators;
4. Requiring and specifying a system of rotation of groundwater use; or
5. Applying any other provisions necessary to protect the public interest.

The Chief Engineer is authorized to delegate the enforcement of any corrective control provisions ordered for a local enhanced management area to the groundwater management district in which the area is located, upon written request by the district. The order of designation would be in effect from the date of its entry in the records of the Chief Engineer's

office unless and until its operation shall be stayed by an appeal from an order entered on review of the chief engineer’s order in accordance with the Kansas Judicial Review Act. The Chief Engineer, upon request, would deliver a copy of an order to any interested person affected by the order and would also file a copy of the order with the register of deeds of the county within which any part of the local enhanced management area lies.

If the holder of a groundwater right within the local enhanced management area applies for review of the order of designation, the provisions of the order with respect to the inclusion of the holder’s water right within the area may be stayed in accordance with the Kansas administrative procedure act. Unless otherwise specified in the proposed enhanced management plan and included in the order of designation, a public hearing to review the designation of a local enhanced management area shall be conducted by the chief engineer within seven years after the order of designation is final. A subsequent review of the designation shall occur within ten years after the previous public review hearing or more frequently as determined by the chief engineer. Upon the request of a petition signed by at least 10.0 percent of the affected water users in a local enhanced management area, a public hearing to review the designation would be conducted by the Chief Engineer. A requested public review hearing would not be conducted more frequently than once every four years. The Chief Engineer would adopt rules and regulations to implement the bill, which would be part of and supplemental to current law. The bill would take effect upon its publication in the *Kansas Register*.

Estimated State Fiscal Effect				
	FY 2012 SGF	FY 2012 All Funds	FY 2013 SGF	FY 2013 All Funds
Revenue	--	--	--	--
Expenditure	--	--	\$62,676	\$62,676
FTE Pos.	--	--	--	--

The Department of Agriculture indicates that passage of the bill would increase expenditures from the State General Fund by \$31,338 for each hearing held, and they estimate that there would be two hearings in FY 2013 for a total additional cost of \$62,676. The Department would not be requesting funding to implement the bill; however, the Department wants it to be on the record what the estimated costs of the bill would be. The following table details the cost estimate:

The Honorable Ralph Ostmeyer, Chairperson

February 1, 2012

Page 4—310

<u>Initial Public Hearing - 3 days</u>	<u>Hours</u>	<u>Rate</u>	<u>Number</u>	<u>Price</u>	<u>Totals</u>
Hearing officer (3 X 8hr days)	24	100			2,400
Reporter (3 X 6hr days)	18	300			5,400
Hearing Room (3 days)			3	300	900
Mailing			250	2	<u>500</u>
Subtotals					9,200
Travel Expenses					
Lodging (7 staff for 3 nights)		80	21		1,680
Meals (7 staff for 3.5 days)		43	25		1,054
Mileage		1	400		<u>204</u>
Subtotals					2,938
DWR Staff Time					
Chief Engineer	40	56			2,240
PSE II - Section Head	64	48			3,072
Attorney	<u>40</u>	<u>33</u>			<u>1,320</u>
Subtotals	144	137			6,632
Technical Team					
PSE III - Program Manager	48	46			2,208
ES IV - Water Commissioner	64	40			2,560
ES III - Basin Team Staff	72	32			2,304
ES II - Basin Team Staff	72	29			2,088
ES II - Field Office Staff	72	29			2,088
Attorney	<u>40</u>	<u>33</u>			<u>1,320</u>
Subtotals	368	209			<u>12,568</u>
Total All Costs					<u>\$31,338</u>

Any fiscal effect associated with SB 310 is not reflected in *The FY 2013 Governor's Budget Report*.

Sincerely,



Steven J. Anderson, CPA, MBA
Director of the Budget

cc: Mark Heim, Agriculture