

SESSION OF 2014

SUPPLEMENTAL NOTE ON SENATE BILL NO. 323

As Amended by Senate Committee on Natural
Resources

Brief*

SB 323 would amend current law with respect to conservation easements. Specifically, the bill would limit the duration of a conservation easement to 50 years, or, if the grantor is a natural person the conservation easement would terminate upon the death of the grantor or upon a specified term of years contained in the instrument creating the easement, whichever occurs first. For the purposes of compensatory mitigation required under Section 404 of the federal Clean Water Act, the conservation easement would be limited in duration to the life of the project. These new provisions would be subject to existing law which permits a court to modify or terminate a conservation easement in accordance with the principles of law and equity. All of these provisions would become effective on July 1, 2014.

Background

At the hearing on the bill before the Senate Natural Resources Committee, proponents included representatives of Kansans for Liberty, the Kansas Natural Resource Coalition, and the State Association of Kansas Watersheds. Also appearing in support of the bill were landowners from Logan County and from Colorado; a county commissioner from Gove County; a citizen from Wichita (written testimony only); and a former state legislator from Wichita (written testimony only). Proponents indicated there were significant issues relating to tax valuations, implications for neighboring property owners, and future use limitations which should be addressed through this legislation.

*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>

Opponents to the bill included representatives of Audubon of Kansas, the Department of the Air Force, Department of the Army, the Governor's Military Council, The Nature Conservancy, the Ranchland Trust of Kansas, Pheasants Forever (written testimony only); Sierra Club—Kansas Chapter (written testimony only); and the Kansas Land Trust (written testimony only). Other opponents included landowners from Brookville, Council Grove, Emporia, Greenwood County, and Wabaunsee County. Opponents argued that the bill limited the ability of landowners to preserve the use of land which they own. Other opponents argued that there are impacts to military installations which may lead to an incompatible land use adjacent to military installations with implications on training and testing.

The Senate Committee on Natural Resources amended the bill to limit the length of time of a conservation easement to a duration of 50 years, or, if the grantor is a natural person, the conservation easement would then terminate upon the death of the grantor whichever is less. The Committee also amended the bill to stipulate that if the purpose of the conservation easement was for compensatory mitigation in order to obtain a Section 404 permit under the federal Clean Water Act, as in effect on July 1, 2014, then the conservation easement would be limited in duration to the life of the project.

The fiscal note on the original bill states that according to the League of Kansas Municipalities and the Kansas Association of Counties, passage of the bill would have no fiscal effect.