

Kansas Farm Bureau
Policy Statement

House Agriculture and Natural Resources Committee
Substitute for SB 148; An act concerning water

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Submitted by:

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Chairman Powell and members of the committee, thank you for this opportunity to provide testimony on Substitute for Senate Bill 148 as it relates to dividing water rights. I am Kent Askren, Assistant Director of Natural Resources for the Kansas Farm Bureau. KFB stands in support of the bill before you today.

The Division of Water Resources has been responding to water right holder's requests to assign specific ownership interest in water rights for years. This is often referred to as "administratively dividing" a water right or "determination of interest". This has most often been done by issuance of an Order from the chief engineer conveying the wishes of the owner(s) with respect to splitting the water right.

Clearly, a water right is a real property right as defined in the Kansas Water Appropriation Act. This means that in most cases the water right belongs to the owner(s) of the property upon which the water right has been developed. The water right can be severed from the property by its owner(s) and conveyed by deed, lease, mortgage, will or other voluntary disposal or by inheritance.

It is not uncommon for a water right to be attached to multiple properties or to have multiple points of diversion (wells). When the right was established or perfected it might have been by an individual or group working a common operation but over time things

changed so that the water right as established no longer meets the long term operational needs of the owners involved today.

Consequently, the water right as a whole needs to be broken up into portions which are representative of the owner(s) desire to assign fractions of the water right as he/she deems appropriate. Specifics of the water right division are at the owners discretion provided the determination does not conflict with how the right has historically been utilized. At the end of the day, the sum of the pieces must equal the whole.

Since we are dealing with either Vested water rights or Certified water rights, the extent to which these rights have been developed is already known. Consequently, we do not want to confuse a water right division with a request to change a water right as determined under K.S.A. 82a-708b pertaining to modifying a water rights place of use, point of diversion or use made of water.

We believe the provisions in Substitute for SB 148 will and should allow water right owners to feel confident that their request to divide a water right assigning priority, quantity, rate, point of diversion and place of use; all in conformity with the water right as established, will be acted upon affirmatively by the chief engineer.

Thank you for this opportunity to provide testimony, I would be happy to answer questions at the appropriate time.