

House Substitute for SENATE BILL No. 214

AN ACT concerning water; related to water obstructions; related to groundwater management districts; amending K.S.A. 2010 Supp. 82a-301 and 82a-1021 and repealing the existing sections.

Be it enacted by the Legislature of the State of Kansas:

Section 1. K.S.A. 2010 Supp. 82a-301 is hereby amended to read as follows: 82a-301. (a) *Except as provided in subsection (c)*, without the prior written consent or permit of the chief engineer of the division of water resources of the Kansas department of agriculture, it shall be unlawful for any person, partnership, association, corporation or agency or political subdivision of the state government to: (1) Construct any dam or other water obstruction; (2) make, construct or permit to be made or constructed any change in any dam or other water obstruction; (3) make or permit to be made any change in or addition to any existing water obstruction; or (4) change or diminish the course, current, or cross section of any stream within this state. Any application for any permit or consent shall be made in writing in such form as specified by the chief engineer. Jetties or revetments for the purpose of stabilizing a caving bank which are properly placed shall not be construed as obstructions for the purposes of this section.

(b) As used in K.S.A. 82a-301 et seq., and amendments thereto, “dam” means any artificial barrier including appurtenant works with the ability to impound water, waste water or other liquids that has a height of 25 feet or more; or has a height of six feet or greater and also has the capacity to impound 50 or more acre feet. The height of a dam or barrier shall be determined as follows: (1) A barrier or dam that extends across the natural bed of a stream or watercourse shall be measured from the down stream toe of the barrier or dam to the top of the barrier or dam; or (2) a barrier or dam that does not extend across a stream or watercourse shall be measured from the lowest elevation of the outside limit of the barrier or dam to the top of the barrier or dam.

(c) (1) *The prior written consent or permit of the chief engineer shall not apply to water obstructions that meet the following requirements:*

(A) *The water obstruction is not a dam as defined in subsection (b);*

(B) *the water obstruction is not located within an incorporated area;*

(C) *every part of the water obstruction is located more than 300 feet from any property boundary; and*

(D) *the watershed area above the water obstruction is 640 acres or less.*

(2) *If the water obstruction does not meet the requirements of subsection (c)(1)(C), but meets all other requirements of subsection (c)(1), such water obstruction may be exempted from the permitting requirements of subsection (a) if the chief engineer determines such water obstruction has minimal impact upon safety and property based upon a review of the information, to be provided by the owner, including:*

(i) *An aerial photo or topographic map depicting the location of the proposed project, the location of the stream, the layout of the water obstruction, the property lines and names and addresses of adjoining property owners; and*

(ii) *the principal dimensions of the project including, but not limited to, the height above streambed.*

(3) *Notwithstanding any other provision of this section, the chief engineer may require a permit for any water obstruction described in this subsection if the chief engineer determines such permit is necessary for the protection of life or property.*

Sec. 2. K.S.A. 2010 Supp. 82a-1021 is hereby amended to read as follows: 82a-1021. (a) ~~The following terms when used in this act shall have the limitations and meanings respectively ascribed to them~~ *As used in this section:*

~~(a)~~ (1) “Aquifer” means any geological formation capable of yielding water in sufficient quantities that it can be extracted for beneficial purposes.

~~(b)~~ (2) “Board” means the board of directors constituting the governing body of a groundwater management district.

~~(c)~~ (3) “Chief engineer” means the chief engineer of the division of water resources of the Kansas department of agriculture.

~~(d)~~ (4) “District” means a contiguous area which overlies one or more aquifers, together with any area in between, which is organized for groundwater management purposes under this act and acts amendatory thereof or supplemental thereto.

~~(e)~~ (5) “Eligible voter” means ~~any person who is a landowner or a~~

~~water user as defined in this act except as hereafter qualified. Every a natural person of the age of 18 years of age or upward shall be an eligible voter of a district under this act if older, or a public or private corporation, municipality or any other legal or commercial entity that:~~

~~(1) (A) the person~~ Is a landowner ~~who~~ that owns, of record, any land, or any interest in land, comprising 40 or more contiguous acres located within the boundaries of the district and not within the corporate limits of any municipality;; or

~~(2) (B) the person~~ withdraws or uses groundwater from within the boundaries of the district in an amount of one acre-foot or more per year.

~~Except as is hereafter qualified, every public or private corporation shall be an eligible voter of a district under this act either (1) if it is a landowner who owns of record any land, or any interest in land, comprised of 40 or more contiguous acres located within the boundaries of the district and not within the corporate limits of any municipality, or (2) if it is a corporation that withdraws groundwater from within the district in an amount of one acre foot or more per year.~~

(6) “Land” means real property as that term is defined by the laws of the state of Kansas.

(7) “Landowner” means the person who is the record owner of any real estate within the boundaries of the district or who has an interest therein as contract purchaser of 40 or more contiguous acres in the district not within the corporate limits of any municipality. Owners of oil leases, gas leases, mineral rights, easements, or mortgages shall not be considered landowners by reason of such ownership.

(8) “Management program” means a written report describing the characteristics of the district and the nature and methods of dealing with groundwater supply problems within the district. It shall include information as to the groundwater management program to be undertaken by the district and such maps, geological information, and other data as may be necessary for the formulation of such a program.

(9) “Person” means any natural person, public or private corporation, municipality or any other legal or commercial entity.

(10) “Water right” shall have the meaning ascribed to that term in K.S.A. 82a-701, and amendments thereto.

(11) “Water user” means any person who is withdrawing or using groundwater from within the boundaries of the district in an amount not less than one acre-foot per year. If a municipality is a water user within the district, it shall represent all persons within its corporate limits who are not water users as defined above.

(b) Each tract of land of 40 or more contiguous acres and each quantity of water withdrawn or used in an amount of one acre-foot or more per year shall be represented by but a single eligible voter. If the land is held by lease, under an estate for years, under contract, or otherwise, the fee owner shall be the one entitled to vote, unless the parties in interest agree otherwise. If the land is held jointly or in common, the majority in interest shall determine which natural person or corporation shall be entitled to vote. Each ~~qualified~~ eligible voter, or such eligible voter’s duly authorized representative, shall be entitled to cast only one vote per eligible voter. ~~A person duly authorized to act in a representative capacity for estates, trusts, municipalities, public corporations or private corporations may also cast one vote for each estate, trust, municipality, or public or private corporations so represented.~~ Nothing herein shall be construed to authorize proxy voting.

(c) Any landowner who is not a water user may have such landowner’s land excluded from any district assessments and thereby abandon the right to vote on district matters by serving a written notice of election of exclusion with the steering committee or the board. Such a landowner may again become an eligible voter by becoming a water user or by serving a written notice of inclusion on the board stating that the landowner has elected to be reinstated as a voting member of the district and will be subject to district assessments.

(d) Any eligible voter who is a landowner or water user as defined in this act, and also is the owner of a tract or tracts of land comprising not less than 640 acres ~~in an area~~, located within the boundaries of the district, on which no water is being used or from which no water is being withdrawn, may have such tract or tracts of land ~~on or from which no water is used or withdrawn~~, excluded from district assessment in the manner described above.

(e) All notices of inclusion or exclusion of land shall be submitted to the board not later than January 1 of the effective year.

~~(f) "Land" means real property as that term is defined by the laws of the state of Kansas.~~

~~(g) "Landowner" means the person who is the record owner of any real estate within the boundaries of the district or who has an interest therein as contract purchaser of 40 or more contiguous acres in the district not within the corporate limits of any municipality. Owners of oil leases, gas leases, mineral rights, easements, or mortgages shall not be considered landowners by reason of such ownership.~~

~~(h) "Management program" means a written report describing the characteristics of the district and the nature and methods of dealing with groundwater supply problems within the district. It shall include information as to the groundwater management program to be undertaken by the district and such maps, geological information, and other data as may be necessary for the formulation of such a program.~~

~~(i) "Person" means any natural person, private corporation, or municipality, or other public corporation.~~

~~(j) "Water right" shall have the meaning ascribed to that term in K.S.A. 82a-701, and amendments thereto.~~

~~(k) "Water user" means any person who is withdrawing or using groundwater from within the boundaries of the district in an amount not less than one acre foot per year. If a municipality is a water user within the district, it shall represent all persons within its corporate limits who are not water users as defined above.~~

Sec. 3. K.S.A. 2010 Supp. 82a-301 and 82a-1021 are hereby repealed.

Sec. 4. This act shall take effect and be in force from and after its publication in the statute book.

I hereby certify that the above BILL originated in the SENATE, and passed that body

SENATE adopted
Conference Committee Report _____

President of the Senate.

Secretary of the Senate.

Passed the HOUSE
as amended _____

HOUSE adopted
Conference Committee Report _____

Speaker of the House.

Chief Clerk of the House.

APPROVED _____

Governor.