

HOUSE BILL No. 2199

By Committee on Environment

1-29

AN ACT concerning the water assurance program; establishing the water assurance fund for purposes of paying certain costs thereof; amending K.S.A. 82a-1345 and repealing the existing section.

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

New Section 1. (a) There is hereby established in the state treasury the water assurance fund. The Kansas water office may accept or receive moneys from any source, governmental or private, for the purposes for which expenditures may be made from the water assurance fund. The director shall remit all moneys so accepted or received to the state treasurer. Upon receipt of the remittance the state treasurer shall deposit the entire amount in the state treasury and credit it to the water assurance fund.

(b) Moneys credited to the water assurance fund shall be used for the following purposes:

(1) Payment to the federal government of annual capital costs of water supply storage space in reservoirs under the water assurance program act;

(2) repayment of loans made by the pooled money investment board to pay costs associated with the purchase of water supply storage space in federal reservoirs for use by water assurance districts;

(3) repayment to the water marketing fund for costs of water supply storage space previously paid for from the water marketing fund, when such storage space has been transferred to the water assurance program;

(4) payment to the federal government of annual operation, maintenance and repair costs associated with water supply storage space dedicated for the use of water assurance districts; and

(5) payment to the water marketing fund and the state general fund for costs incurred by the state associated with the administration and enforcement of applicable state laws governing the operations and management of the water assurance program as provided in contracts with assurance districts.

(c) On or before the 10th of each month, the director of accounts and reports shall transfer from the state general fund to the water assurance fund interest earnings based on:

1 (1) The average daily balance of moneys in the water assurance fund
2 for the preceding month; and

3 (2) the net earnings rate for the pooled money investment portfolio
4 for the preceding month.

5 (d) All expenditures from the water assurance fund shall be made in
6 accordance with appropriation acts upon warrants of the director of ac-
7 counts and reports issued pursuant to vouchers approved by the director
8 of the Kansas water office or by a person designated by the director.

9 Sec. 2. K.S.A. 82a-1345 is hereby amended to read as follows: 82a-
10 1345. (a) The water assurance district shall impose a charge against each
11 member of the water assurance district. The total of such charges shall
12 be sufficient to enable the district to pay the state the full annual amor-
13 tized cost to the state of acquiring the assurance storage from the federal
14 government by purchase or trade, the cost of operation and maintenance
15 of the assurance storage, the cost of state administration and enforcement
16 of the assurance program. The water assurance district also may impose
17 a charge against each member of the district in an amount sufficient to
18 cover district operating costs. The water assurance district shall impose
19 any charges necessary for the payment of the principal of and interest on
20 revenue bonds issued by the Kansas water office pursuant to the provi-
21 sions of ~~Chapter 394 of the Laws of 1986~~ K.S.A. 82a-1360 through 82a-
22 1368, and amendments thereto. The water assurance district shall deter-
23 mine the amount of the charge for each member and shall remit moneys
24 collected to the Kansas water office for deposit in the fund created pur-
25 suant to ~~K.S.A. 82a-1364~~ section 1, and amendments thereto. Charges to
26 be paid by members of a water assurance district may vary and shall be
27 based on the principle of having each member pay for the pro rata quan-
28 tity authorized to each member from the assurance program. In deter-
29 mining the charge, the governing body of the district shall adopt rules
30 which establish guidelines for prospective members.

31 (b) The director of the Kansas water office shall request releases of
32 assurance water by the federal government under the agreements with
33 the federal government that govern operations of reservoirs containing
34 assurance storage.

35 (c) No member below a reservoir shall divert water from releases of
36 assurance water unless the member has a conservation plan which has
37 been approved in the manner provided by K.S.A. 82a-1348, and amend-
38 ments thereto, and which is in effect at the time of the desired diversion.

39 (d) An entity which becomes a holder of a water right in a river basin
40 after an assurance program is in place for that basin shall become a mem-
41 ber if the chief engineer determines that sufficient additional water may
42 be yielded from assurance reservoirs to benefit the potential new
43 member.

1 (e) The director of the Kansas water office and the chief engineer
2 each shall adopt any rules and regulations necessary to carry out the pur-
3 poses and procedures of this act. The director and the chief engineer shall
4 consider the advice of any existing assurance districts in the preparation
5 of any rules and regulations adopted pursuant to this subsection.

6 (f) Any holder of a water right below a reservoir aggrieved by a de-
7 cision of the chief engineer under this act by being either included or
8 excluded as a member in the assurance program may appeal to the district
9 court under K.S.A. 82a-724, and amendments thereto.

10 (g) Payments required under a contract between a water assurance
11 district and the Kansas water office shall be for storage capacity con-
12 tracted in federal reservoirs. Nothing in this act shall be deemed to au-
13 thorize any suit against the state or any agency of the state or person
14 employed by the state on an implied contract or for negligence or any
15 other tort. The director of the Kansas water office may sue to enforce
16 any claim arising out of a contract. Payment of the assessment shall be a
17 condition imposed on every member and the chief engineer is authorized
18 to declare the suspension of any use of assurance water where a payment
19 is not made.

20 (h) Rights of members to receive assurance water may not be trans-
21 ferred separately from their water rights.

22 Sec. 3. K.S.A. 82a-1345 is hereby repealed.

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

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