

As Amended by House Committee

As Amended by Senate Committee

Session of 2004

SENATE BILL No. 463

By Committee on Agriculture

2-5

12 AN ACT concerning ~~appropriation of water for beneficial use water;~~
13 **relating to members of the Kansas water authority**; relating to
14 perfection of water rights; amending K.S.A. 2003 Supp. **74-2622 and**
15 **82a-714** and repealing the existing ~~section~~ **sections**.

16

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

18 **Section 1. K.S.A. 2003 Supp. 74-2622 is hereby amended to**
19 **read as follows: 74-2622. (a) There is hereby established within and**
20 **as a part of the Kansas water office the Kansas water authority.**
21 **The authority shall be composed of ~~23~~ 24 members of whom 13**
22 **shall be appointed as follows: (1) One member shall be appointed**
23 **by the governor, subject to confirmation by the senate as provided**
24 **in K.S.A. 75-4315b, and amendments thereto. Except as provided**
25 **by K.S.A. 46-2601, such person shall not exercise any power, duty**
26 **or function as a member or chairperson of the water authority until**
27 **confirmed by the senate. Such member shall serve at the pleasure**
28 **of the governor and shall be the chairperson of the authority; (2)**
29 **except as provided by subsection (b), 10 members shall be ap-**
30 **pointed by the governor for terms of four years. Of the members**
31 **appointed under this provision one shall be a representative of**
32 **large municipal water users, one shall be representative of small**
33 **municipal water users, one shall be a board member of a western**
34 **Kansas groundwater management district, one shall be a board**
35 **member of a central Kansas groundwater management district,**
36 **one shall be a member of the Kansas association of conservation**
37 **districts, one shall be representative of industrial water users, one**
38 **shall be a member of the state association of watershed districts,**
39 **one shall have a demonstrated background and interest in water**
40 **use conservation and environmental issues, and two shall be rep-**
41 **resentative of the general public. The member who is represen-**
42 **tative of large municipal water users shall be appointed from three**
43 **nominations submitted by the league of Kansas municipalities. The**

1 member who is representative of small municipal water users shall
2 be appointed from three nominations submitted by the Kansas rural
3 water district's association. The member who is representative
4 of a western Kansas groundwater management district shall be
5 appointed from three nominations submitted by the presidents of
6 the groundwater management district boards No. 1, 3 and 4. The
7 member who is representative of a central Kansas groundwater
8 management district shall be appointed from three nominations
9 submitted by the presidents of the groundwater management district
10 boards No. 2 and 5. The member who is representative of
11 industrial water users shall be appointed from three nominations
12 submitted by the Kansas association of commerce and industry.
13 The member who is representative of the state association of watershed
14 districts shall be appointed from three nominations submitted by the state
15 association of watershed districts. The member who is representative of the
16 Kansas association of conservation districts shall be appointed from three
17 nominations submitted by the state association of conservation districts. If the
18 governor cannot make an appointment from the original nominations, the
19 nominating authority shall be so advised and, within 30 days thereafter,
20 shall submit three new nominations. Members appointed by the
21 governor shall be selected with special reference to training and
22 experience with respect to the functions of the Kansas water authority,
23 and no more than six of such members shall belong to the
24 same political party; (3) one member shall be appointed by the
25 president of the senate for a term of two years; and (4) one member
26 shall be appointed by the speaker of the house of representatives
27 for a term of two years. The state geologist, *the state biologist*, the
28 chief engineer of the division of water resources of the state board
29 of agriculture, the director of the division of environment of the
30 department of health and environment, the chairperson of the
31 state corporation commission, the secretary of commerce, the
32 director of the Kansas water office, the secretary of wildlife and
33 parks, the administrative officer of the state conservation commission,
34 the secretary of the state board of agriculture and the director of the
35 agricultural experiment stations of Kansas state university of agriculture
36 and applied science shall be ~~nonvoting~~ members
37 ex officio of the authority. *Such members ex officio shall act as a resource
38 and support for the other members of the authority and not be entitled to
39 vote or make or second motions in any meeting of the authority or in any
40 meeting of a select committee or other committee or subcommittee of the
41 authority.* The director of the Kansas water office shall
42 serve as the secretary of the authority.
43

1 (b) A member appointed pursuant to subsection (a)(2) shall be
2 appointed for a term expiring on January 15 of the fourth calendar
3 year following appointment and until a successor is appointed and
4 qualified.

5 (c) In the case of a vacancy in the appointed membership of
6 the Kansas water authority, the vacancy shall be filled for the unex-
7 pired term by appointment in the same manner that the original
8 appointment was made. Appointed members of the authority at-
9 tending regular or special meetings thereof shall be paid compen-
10 sation, subsistence allowances, mileage and other expenses as pro-
11 vided in K.S.A. 75-3223, and amendments thereto.

12 (d) The Kansas water authority shall:

13 (1) Consult with and be advisory to the governor, the legisla-
14 ture and the director of the Kansas water office.

15 (2) Review plans for the development, management and use of
16 the water resources of the state by any state or local agency.

17 (3) Make a study of the laws of this state, other states and the
18 federal government relating to conservation and development of
19 water resources, appropriation of water for beneficial use, flood
20 control, construction of levees, drainage, irrigation, soil conser-
21 vation, watershed development, stream control, gauging of stream
22 and stream pollution for the purpose of determining the necessity
23 or advisability of the enactment of new or amendatory legislation
24 in this state on such subjects.

25 (4) Make recommendations to other state agencies and politi-
26 cal subdivisions of the state for the coordination of their activities
27 relating to flood control, construction of levees, drainage, irriga-
28 tion, soil conservation, watershed development, stream control,
29 gauging of stream, stream pollution and groundwater studies.

30 (5) Make recommendations to each regular session of the leg-
31 islature and to the governor at such times as the authority consid-
32 ers advisable concerning necessary or advisable legislation relat-
33 ing to any of the matters or subjects which it is required by this
34 act to study for the purpose of making recommendations to the
35 legislature. All such recommendations to the legislature shall be
36 in drafted bill form together with such explanatory information
37 and data as the authority considers advisable.

38 (6) Approve, prior to submission to the legislature by the Kan-
39 sas water office or its director, (A) any contract entered into pur-
40 suant to the state water plan storage act, (B) any amendments to
41 the state water plan or the state water planning act and (C) any
42 other legislation concerning water resources of the state.

43 (7) Approve, before they become effective, any policy changes

1 **proposed by the Kansas water office concerning the pricing of wa-**
2 **ter for sale pursuant to the state water plan storage act.**

3 (8) **Approve, before it becomes effective, any agreement en-**
4 **tered into with the federal government by the Kansas water office.**

5 (9) **Request any agency of the state, which shall have the duty**
6 **upon that request, to submit its budget estimate pertaining to the**
7 **state's water resources and any plans or programs related thereto**
8 **and, upon the authority's receipt of such budget estimate, review**
9 **and evaluate it and furnish recommendations relating thereto to**
10 **the governor and the legislature.**

11 (10) **Approve, prior to adoption by the director of the Kansas**
12 **water office, rules and regulations authorized by law to be**
13 **adopted.**

14 (11) **Approve, prior to adoption by the director of the Kansas**
15 **water office, guidelines for conservation plans and practices de-**
16 **veloped pursuant to subsection (c) of K.S.A. 74-2608, and amend-**
17 **ments thereto.**

18 (e) **The Kansas water authority may appoint citizens' advisory**
19 **committees to study and advise on any subjects upon which the**
20 **authority is required or authorized by this act to study or make**
21 **recommendations.**

22 (f) **The provisions of the Kansas governmental operations ac-**
23 **countability law apply to the Kansas water authority, and the au-**
24 **thority is subject to audit, review and evaluation under such law.**

25 ~~Section 1.~~ **Sec. 2.** K.S.A. 2003 Supp. 82a-714 is hereby amended to
26 read as follows: 82a-714. (a) Upon the completion of the construction of
27 the works and the actual application of water to the proposed beneficial
28 use within the time allowed, the applicant shall notify the chief engineer
29 to that effect. The chief engineer or the chief engineer's duly authorized
30 representative shall then examine and inspect the appropriation diversion
31 works and, if it is determined that the appropriation diversion works have
32 been completed and the appropriation right perfected in conformity with
33 the approved application and plans, the chief engineer shall issue a cer-
34 tificate of appropriation in duplicate. The original of such certificate shall
35 be sent to the owner and shall be recorded with the register of deeds in
36 the county or counties wherein the point of diversion is located, as are
37 other instruments affecting real estate, and the duplicate shall be made
38 a matter of record in the office of the chief engineer.

39 (b) Not later than 60 days before the expiration of the time allowed
40 in the permit to complete the construction of the appropriation diversion
41 works or the time allowed in the permit to actually apply water to the
42 proposed beneficial use, the chief engineer shall notify the permit holder
43 by certified mail that any request for extension of such time must be filed

1 with the chief engineer before the expiration of the time allowed in the
2 permit.

3 (c) Unless the applicant requests an extension or the certificate has
4 not been issued due to the applicant's failure to comply with reasonable
5 requests for information or to allow the opportunity to examine and in-
6 spect the appropriation diversion works, as necessary for certification, the
7 chief engineer shall certify an appropriation:

8 (1) Before July 1, 2004, if the time allowed in the permit to perfect
9 the water right expired before July 1, 1999, *except in those cases in which*
10 *abandonment proceedings pursuant to K.S.A. 82a-718, and amendments*
11 *thereto, are pending; or on July 1, 2004;*

12 **(2) Before July 1, 2006, in such cases in which an abandonment**
13 **proceeding was pending pursuant to K.S.A. 82a-718, and amend-**
14 **ments thereto, on July 1, 2004; or**

15 ~~(2)~~ **(3)** not later than five years after the date the applicant notifies
16 the chief engineer of the completion of construction of the works and the
17 actual application of water to the proposed beneficial use within the time
18 allowed, in all other cases.

19 If the chief engineer fails to issue a certificate within the time provided
20 by this subsection, the applicant may request review, pursuant to K.S.A.
21 2003 Supp. 82a-1901 and amendments thereto, of the chief engineer's
22 failure to act.

23 (d) Except for works constructed to appropriate water for domestic
24 use, each notification to the chief engineer under subsection (a) shall be
25 accompanied by a field inspection fee of \$200, or commencing July 1,
26 2002, and ending June 30, 2005, a fee of \$400. Failure to pay the field
27 inspection fee, after reasonable notice by the chief engineer of such fail-
28 ure, shall result in the permit to appropriate water being revoked, for-
29 feiture of the priority date and revocation of any appropriation right that
30 may exist.

31 (e) A request for an extension of time to: (1) Complete the diversion
32 works; or (2) perfect the water right, shall be accompanied by a fee of
33 \$50, or commencing July 1, 2002, and ending June 30, 2005, a fee of
34 \$100.

35 (f) A request to reinstate a water right or a permit to appropriate
36 water which has been dismissed shall be filed with the chief engineer
37 within 60 days of the date dismissed and shall be accompanied by a fee
38 of \$100, or commencing July 1, 2002, and ending June 30, 2005, a fee of
39 \$200.

40 (g) All fees collected by the chief engineer pursuant to this section
41 shall be remitted to the state treasurer as provided in K.S.A. 82a-731, and
42 amendments thereto.

43 Sec. 3. K.S.A. 2003 Supp. ~~82a-714~~ **is 74-2622 and 82a-714 are**

- 1 hereby repealed.
- 2 Sec. ~~3~~ 4. This act shall take effect and be in force from and after its
- 3 publication in the ~~statute book~~ **Kansas register**.