

[As Amended by House Committee of the Whole]

As Amended by House Committee

Session of 2007

HOUSE BILL No. 2070

By Committee on Appropriations

1-16

12 AN ACT concerning intensive groundwater use control areas; amending
13 K.S.A. 2006 Supp. 82a-1038 and repealing the existing section.

14
15 *Be it enacted by the Legislature of the State of Kansas:*

16 Section 1. K.S.A. 2006 Supp. 82a-1038 is hereby amended to read
17 as follows: 82a-1038. (a) In any case where the chief engineer finds that
18 any one or more of the circumstances set forth in K.S.A. 82a-1036 and
19 amendments thereto exist and that the public interest requires that any
20 one or more corrective controls be adopted, the chief engineer shall des-
21 ignate, by order, the area in question, or any part thereof, as an intensive
22 groundwater use control area.

23 (b) The order of the chief engineer shall define specifically the
24 boundaries of the intensive groundwater use control area and shall indi-
25 cate the circumstances upon which the findings of the chief engineer are
26 made. The order of the chief engineer may include any one or more of
27 the following corrective control provisions: (1) A provision closing the
28 intensive groundwater use control area to any further appropriation of
29 groundwater in which event the chief engineer shall thereafter refuse to
30 accept any application for a permit to appropriate groundwater located
31 within such area; (2) a provision determining the permissible total with-
32 drawal of groundwater in the intensive groundwater use control area each
33 day, month or year, and, insofar as may be reasonably done, the chief
34 engineer shall apportion such permissible total withdrawal among the
35 valid groundwater right holders in such area in accordance with the re-
36 lative dates of priority of such rights; (3) a provision reducing the permis-
37 sible withdrawal of groundwater by any one or more appropriators
38 thereof, or by wells in the intensive groundwater use control area; (4) a
39 provision requiring and specifying a system of rotation of groundwater
40 use in the intensive groundwater use control area; (5) any one or more
41 other provisions making such additional requirements as are necessary to
42 protect the public interest. The chief engineer is hereby authorized to
43 delegate the enforcement of any corrective control provisions ordered for

1 an intensive groundwater use control area to groundwater management
2 district number 4 or to any city, if such district or city is located within
3 or partially within the boundaries of such area.

4 (c) Except as provided by subsection (d), the order of designation of
5 an intensive groundwater use control area shall be in full force and effect
6 ~~for a period of not more than five years~~ from the date of its entry in the
7 records of the chief engineer's office unless and until its operation shall
8 be stayed by an appeal from an order entered on review of the chief
9 engineer's order pursuant to K.S.A. 2006 Supp. 82a-1901 and amend-
10 ments thereto in accordance with the provisions of the act for judicial
11 review and civil enforcement of agency actions. The chief engineer upon
12 request shall deliver a copy of such order to any interested person who
13 is affected by such order, and shall file a copy of the same with the register
14 of deeds of any county within which such designated control area lies.

15 (d) If the holder of a groundwater right within the area designated
16 as an intensive groundwater use control area applies for review of the
17 order of designation pursuant to K.S.A. 2006 Supp. 82a-1901 and amend-
18 ments thereto, the provisions of the order with respect to the inclusion
19 of the holder's right within the area may be stayed in accordance with the
20 Kansas administrative procedure act.

21 **(e) The chief engineer shall not designate any new intensive**
22 **groundwater use control areas after the effective date of this act**
23 **nor expand the boundaries of any such areas existing on the effec-**
24 **tive date of this act. The provisions of this subsection shall expire**
25 **on June 30, 2008.**

26 **[(f) In the 2007 interim, a special committee designated by the**
27 **legislative coordinating council shall study and investigate issues**
28 **concerning intensive groundwater use control areas. The scope of**
29 **this study shall include, but not be limited to, intensive ground-**
30 **water use control area law, the Kansas water appropriation act,**
31 **conflicts between these laws and the need for controls over future**
32 **creation or expansion of intensive groundwater use control areas.]**

33 Sec. 2. K.S.A. 2006 Supp. 82a-1038 is hereby repealed.

34 Sec. 3. This act shall take effect and be in force from and after its
35 publication in the ~~statute book~~ **Kansas register.**