

HOUSE BILL No. 2096

By Committee on Vision 2020

1-26

1 AN ACT concerning water; providing for a coordinated water data
2 repository system; granting preservation easement authority to the
3 Kansas water office; including drinking water costs in water plan
4 storage rates; amending K.S.A. 82a-910 and K.S.A. 2010 Supp. 2-
5 1915, 82a-1308a, 82a-1602, 82a-1603, 82a-1604, 82a-1605 and 82a-
6 1606 and repealing the existing sections.

7
8 *Be it enacted by the Legislature of the State of Kansas:*

9 Section 1. K.S.A. 2010 Supp. 2-1915 is hereby amended to read as
10 follows: 2-1915. (a) Appropriations may be made for grants out of funds
11 in the treasury of this state for terraces, terrace outlets, check dams, dikes,
12 ponds, ditches, critical area planting, grassed waterways, tailwater
13 recovery irrigation systems, precision land forming, range seeding,
14 detention and grade stabilization structures and other ~~enduring water~~
15 conservation practices installed on public lands and on privately owned
16 lands and, the control and eradication of sericea lespedeza as provided in
17 subsection (n) of K.S.A. 2-1908, and amendments thereto, on public
18 lands and on privately owned lands. Except as provided by the
19 multipurpose small lakes program act *or subsection (g)*, any such grant
20 shall not exceed 80% of the total cost of any such practice.

21 (b) A program for protection of riparian and wetland areas shall be
22 developed by the state conservation commission and implemented by the
23 conservation districts. The conservation districts shall prepare district
24 programs to address resource management concerns of water quality,
25 erosion and sediment control and wildlife habitat as part of the
26 conservation district long-range and annual work plans. Preparation and
27 implementation of conservation district programs shall be accomplished
28 with assistance from appropriate state and federal agencies involved in
29 resource management.

30 (c) Subject to the provisions of K.S.A. 2-1919, and amendments
31 thereto, any holder of a water right, as defined by subsection (g) of
32 K.S.A. 82a-701, and amendments thereto, who is willing to voluntarily
33 return all or a part of the water right to the state shall be eligible for a
34 grant not to exceed 80% of the total cost of the purchase price for such
35 water right. The state conservation commission shall administer this cost-
36 share program with funds appropriated by the legislature for such

1 purpose. The chief engineer shall certify to the state conservation
2 commission that any water right for which application for cost-share is
3 received under this section is eligible in accordance with the criteria
4 established in K.S.A. 2-1919, and amendments thereto.

5 (d) (1) Subject to appropriation acts therefor, the state conservation
6 commission shall develop the Kansas water quality buffer initiative for
7 the purpose of restoring riparian areas using best management practices.
8 The executive director of the state conservation commission shall ensure
9 that the initiative is complementary to the federal conservation reserve
10 program.

11 (2) There is hereby created in the state treasury the Kansas water
12 quality buffer initiative fund. All expenditures from such fund shall be
13 made in accordance with appropriation acts upon warrants of the director
14 of accounts and reports issued pursuant to vouchers approved by the
15 executive director of the state conservation commission or the executive
16 director's designee. Money credited to the fund shall be used for the
17 purpose of making grants to install water quality best management
18 practices pursuant to the initiative.

19 (3) The county or district appraiser shall identify and map riparian
20 buffers consisting of at least one contiguous acre per parcel of real
21 property located in the appraiser's county. Notwithstanding any other
22 provisions of law, riparian buffers shall be valued by the county or district
23 appraiser as tame grass land, native grass land or waste land, as
24 appropriate. As used in this subsection (3), "riparian buffer" means an
25 area of stream-side vegetation that: (A) Consists of tame or native grass
26 and may include forbs and woody plants; (B) is located along a perennial
27 or intermittent stream, including the stream bank and adjoining
28 floodplain; and (C) is a minimum of 66 feet wide and a maximum of 180
29 feet wide.

30 (e) The state conservation commission shall adopt rules and
31 regulations to administer such grant and protection programs.

32 (f) Any district is authorized to make use of any assistance
33 whatsoever given by the United States, or any agency thereof, or derived
34 from any other source, for the planning and installation of such practices.
35 The state conservation commission may enter into agreements with other
36 state and federal agencies to implement the Kansas water quality buffer
37 initiative.

38 (g) *Notwithstanding the provisions of other statutes, any grant for*
39 *bank stabilization that, in the opinion of the executive director of the state*
40 *conservation commission, will reduce the amount of sediment load*
41 *transmitted into a water supply lake or reservoir in this state may be*
42 *funded for 100% of the total cost of the project. The state conservation*
43 *commission is authorized to adopt rules and regulations deemed*

1 *necessary for implementation of this subsection.*

2 Sec. 2. K.S.A. 82a-910 is hereby amended to read as follows: 82a-
3 910. (a) Subject to the approval of the Kansas water authority, the office
4 may recommend to any agency of the federal government the inclusion,
5 in any proposed or authorized federal project, of any conservation storage
6 features for water supply that the office expects will be needed within the
7 state in the future for the achievement of the purposes of this act, and the
8 office may extend to and procure for any agency of the federal
9 government reasonable assurances and evidence that such expected future
10 demands for the use of such storage will be made within a period of time
11 which will permit payment of the costs allocated to such purposes within
12 the life of the project, if such assurances have been authorized by the state
13 water plan.

14 (b) When, in addition to actions taken under subsection (a), the
15 office shall find it necessary or desirable for the achievement of the
16 purposes of this act, the office may enter into agreements with the federal
17 government for the repayment of costs for the inclusion of any
18 conservation storage features for water supply that the office expects will
19 be needed within the state in the future for achievement of such purposes
20 if such agreements have been authorized by the state water plan and ~~a~~
21 ~~person or persons have contracted for the use of a substantial portion of~~
22 ~~the recommended conservation storage and that such person or persons~~
23 ~~will use the water supply thereof within a period of time which will~~
24 ~~permit them to pay their proportionate share of the costs allocated to such~~
25 ~~needs within the life of the project~~ *the Kansas water office has*
26 *determined there are one or more benefits to the state for acquiring such*
27 *water.*

28 (c) Any person wishing the office to make a recommendation for
29 storage features for expected future water supply needs, as provided in
30 subsection (a), may petition the office and show that it: (1) has good
31 reason to and does believe that it will have future needs for the use of the
32 additional storage; (2) will request the use of such storage by a time and
33 for a duration that will permit it to pay the costs allocated to such
34 purposes within the life of the project; (3) will be able to repay to the
35 state the costs of the requested storage features; and (4) will insure
36 compliance with such maintenance and operational requirements in the
37 use of the expected future water supply requested as the office shall direct
38 for the achievement of the purposes of this act.

39 (d) *The Kansas water office is authorized to adopt rules and*
40 *regulations prescribing procedures for calling additional waters into*
41 *service.*

42 (e) *The Kansas water office shall provide an annual report to the*
43 *house appropriations committee, house economic development*

1 *committee, senate natural resources committee, and senate ways and*
2 *means committee regarding:*

3 *(1) The storage component of reservoirs that have not been called*
4 *into service and for which the state has the opportunity to acquire;*

5 *(2) the annualized cost to acquire such storage; and*

6 *(3) a comparison of the annualized cost of such storage if it were*
7 *not called into service for 10 years.*

8 Sec. 3. K.S.A. 2010 Supp. 82a-1308a is hereby amended to read as
9 follows: 82a-1308a. (a) On July 15 of each year, effective January 1 of
10 the following year, the director, subject to the approval of the authority,
11 shall fix the rate provided for in subsection (a) of K.S.A. 82a-1306, and
12 amendments thereto. The rate fixed shall be equal to the sum of the
13 following components computed as provided in this section:

14 (1) An amount necessary to repay the amortized capital costs
15 associated with the state's conservation water supply capacity;

16 (2) an amount as interest computed at a rate per annum equal to the
17 average of the monthly net earnings rate of the pooled money investment
18 board for the preceding calendar year on the net amount of moneys
19 advanced from the state general fund for payment of the amortized capital
20 costs incurred and associated with the state's conservation water supply
21 capacity divided by the greater of: (A) Fifty percent of the total amount of
22 water under each contract from the state's conservation storage water
23 supply capacity in the preceding year; or (B) the total amount of water
24 withdrawn under each contract from the state's conservation storage water
25 supply capacity in the preceding year;

26 (3) the amount necessary to reimburse the state for the
27 administration and enforcement of this act based on the actual costs of
28 administration and enforcement in the preceding year divided by the
29 greater of: (A) Fifty percent of the total amount of water under each
30 contract from the state's conservation storage water supply capacity in the
31 preceding year; or (B) the total amount of water withdrawn under each
32 contract from the state's conservation storage water supply capacity in the
33 preceding year; ~~and~~

34 (4) the amount necessary to pay the operation, maintenance and
35 repair costs associated with the state's conservation water supply capacity
36 based on the estimated costs for the upcoming year divided by the greater
37 of: (A) Fifty percent of the total amount of water under each contract
38 from the state's conservation storage water supply capacity in the
39 preceding year; or (B) the total amount of water withdrawn under each
40 contract from the state's conservation storage water supply capacity in the
41 preceding year; and

42 (5) an amount as a depreciation reserve cost to be dedicated for the
43 purposes provided for in K.S.A. 82a-1315b, and amendments thereto, as

1 follows: (A) For calendar years prior to 2007, an amount equal to \$.025;
2 and (B) for calendar year 2007 and subsequent years, an amount which is
3 equal to the amount necessary to meet the needs of the water marketing
4 program capital development and storage maintenance plan, *and data*
5 *collection and maintainence related to storage capacity, sediment load*
6 *and composition mapping for the preservation, rehabilitation and*
7 *management of drinking water resources*, as approved by the Kansas
8 water authority.

9 (b) In computing such rates, the director shall consider the state's
10 conservation water supply capacity from all sources as though impounded
11 in one single reservoir. No water supply capacity of a reservoir shall be
12 considered to be in such capacity until the year in which the state incurs
13 contract obligations for the project. The rate so fixed for each year shall
14 be the same for each contract under K.S.A. 82a-1305, and amendments
15 thereto, for withdrawal from every reservoir. The rate fixed for each
16 twelve-month period from January 1 to December 31 shall be the same
17 for every contract under K.S.A. 82a-1305, and amendments thereto.

18 Sec. 4. K.S.A. 2010 Supp. 82a-1602 is hereby amended to read as
19 follows: 82a-1602. In order to provide public water supply storage and
20 water related recreational facilities in the state there is hereby established
21 a multipurpose small lakes program. *All lakes considered under this*
22 *program must have at least two of the following purposes: (a) Flood*
23 *control storage; (b) public water supply storage; or (c) recreation*
24 *features. The state conservation commission is authorized to adopt rules*
25 *and regulations relating to a higher cost share for single purpose lake*
26 *projects. The program shall be administered by the state conservation*
27 *commission. Except as otherwise provided by this act, the state*
28 *conservation commission shall adopt all rules and regulations necessary*
29 *to implement the provisions of this act.*

30 Sec. 5. K.S.A. 2010 Supp. 82a-1603 is hereby amended to read as
31 follows: 82a-1603. When used in this act:

32 (a) "Chief engineer" means the chief engineer of the division of
33 water resources of the department of agriculture.

34 (b) "Class I funded project" means a proposed new project or
35 renovation of an existing project located within the boundaries of an
36 organized watershed district which is receiving or is eligible to receive
37 financial participation from the state conservation commission for the
38 flood control storage portion of the project.

39 (c) "Class II funded project" means a proposed new project or
40 renovation of an existing project which is receiving or is eligible to
41 receive financial participation from the federal government.

42 (d) "Class III funded project" means a proposed new project or
43 renovation of an existing project located outside the boundaries of an

1 organized watershed district which is not receiving or is not eligible to
2 receive financial participation from the state conservation commission or
3 the federal government except as provided in K.S.A. 82a-1606, and
4 amendments thereto.

5 (e) "Flood control storage" means storage space in reservoirs to hold
6 flood waters.

7 (f) "Future use public water supply storage" means storage space
8 which the Kansas water office determines will be needed within the next
9 20 years for use by public water supply users in an area but for which
10 there is no current sponsor.

11 (g) "General plan" means a preliminary engineering report
12 describing the characteristics of the project area, the nature and methods
13 of dealing with the soil and water problems within the project area, and
14 the projects proposed to be undertaken by the sponsor within the project
15 area. Such plan shall include: (1) maps, descriptions and other data as
16 may be necessary for the location, identification and establishment of the
17 character of the work to be undertaken; (2) a cost-benefit analysis of
18 alternatives to the project, including but not limited to, nonstructural
19 flood control options and water conservation and reuse to reduce need for
20 new water supply storage; and (3) any other data and information as the
21 chief engineer may require.

22 (h) "Land right" means real property as that term is defined by the
23 laws of the state of Kansas and all rights thereto and interest therein and
24 shall include any road, highway, bridge, street, easement or other right-of-
25 way thereon.

26 (i) "Multipurpose small lake project" means a dam and lake
27 containing *two of the following purposes*: (1) flood control storage; ~~and~~
28 (2) ~~either~~ public water supply storage; or (3) recreation features. ~~or both.~~

29 (j) "Public water supply" means a water supply for municipal,
30 industrial or domestic use.

31 (k) "Public water supply storage" means storage of water for
32 municipal, industrial or domestic use.

33 (l) "Recreation feature" means water storage and related facilities for
34 activities such as swimming, fishing, boating, camping or other related
35 activities.

36 (m) "Renovation" means repair or restoration of an existing lake
37 which contains water storage space for use as a public water supply, ~~and~~
38 ~~which has either~~ recreational purposes or flood control purposes. ; ~~or~~
39 ~~both.~~

40 (n) "Sponsor" means: (1) Any political subdivision of the state
41 which has the power of taxation and the right of eminent domain; (2) any
42 public wholesale water supply district; or (3) any rural water district.

43 (o) "Water user" means any city, rural water district, wholesale water

1 district or any other political subdivision of the state which is in the
2 business of furnishing municipal or industrial water to the public.

3 Sec. 6. K.S.A. 2010 Supp. 82a-1604 is hereby amended to read as
4 follows: 82a-1604. (a) The state may participate with a sponsor in the
5 development, construction or renovation of a class I multipurpose small
6 lake project if the sponsor has a general plan which has been submitted to
7 and approved by the chief engineer in the manner provided by K.S.A. 24-
8 1213 and 24-1214, and amendments thereto. If the Kansas water office
9 determines that additional public water supply storage shall be needed in
10 that area of the state within 20 years from the time such project is to be
11 completed and a water user is not available to finance public water supply
12 storage, the state may include future use public water supply storage in
13 the project. The Kansas water office shall apply for a water appropriation
14 right sufficient to insure a dependable yield from the public water supply
15 storage. The Kansas water office shall be exempt from all applicable fees
16 imposed pursuant to K.S.A. 82a-701 et seq., and amendments thereto, for
17 such applications. The Kansas water office shall have authority to adopt
18 rules and regulations relative to the inclusion of public water supply
19 storage in proposed projects under this act and the disposition of state-
20 owned water rights and associated public water supply storage space in
21 such projects.

22 (b) The sponsor of such class I project shall be responsible for
23 acquiring land rights and for the costs of operation and maintenance of
24 such project. The state may provide up to 50% of the engineering and
25 construction costs and up to 50% of the costs of land rights associated
26 with recreation features. Subject to the provisions of ~~subsections~~
27 ~~subsection (a) and (e)~~, the state may pay up to 100% of the engineering
28 and construction costs of flood control and public water supply storage.
29 All other costs of such project, including land, construction, operation
30 and maintenance shall be paid by the sponsor.

31 ~~(c) The state shall not participate in the costs of public water supply~~
32 ~~storage in a renovation project unless the Kansas water office determines~~
33 ~~that renovation is the most cost effective alternative for such storage. The~~
34 ~~state shall be authorized to pay only up to 50% of the engineering and~~
35 ~~construction costs of public water supply storage in such a renovation~~
36 ~~project.~~

37 (d) The Kansas water office may recover the state's costs incurred in
38 providing public water supply storage in such class I project, and interest
39 on such costs, by selling such storage and the associated water rights.
40 Interest on such costs shall be computed at a rate per annum which is
41 equal to the greater of: (1) The average rate of interest earned the past
42 calendar year on repurchase agreements of less than 30 days' duration
43 entered into by the pooled money investment board, less 5%; or (2) four

1 percent.

2 Sec. 7. K.S.A. 2010 Supp. 82a-1605 is hereby amended to read as
3 follows: 82a-1605. (a) The state may participate with a sponsor in the
4 development, construction or renovation of a class II multipurpose small
5 lake project if the sponsor has a general plan which has been submitted to
6 and approved by the chief engineer in the manner provided by K.S.A. 24-
7 1213 and 24-1214, and amendments thereto. If the Kansas water office
8 determines that additional public water supply storage shall be needed in
9 that area of the state within 20 years from the time such project is to be
10 completed and a water user is not available to finance public water supply
11 storage, the state may include future use public water supply storage in
12 the project. The Kansas water office shall apply for a water appropriation
13 right sufficient to insure a dependable yield from public water supply
14 storage. The Kansas water office shall be exempt from all applicable fees
15 imposed pursuant to K.S.A. 82a-701 et seq., and amendments thereto, for
16 such applications. The Kansas water office shall have authority to adopt
17 rules and regulations relative to the inclusion of public water supply
18 storage in proposed projects under this act and the disposition of state-
19 owned water rights and associated public water supply storage space in
20 such projects.

21 (b) In a class II project, the state may assume initial financial
22 obligations for public water supply storage in watersheds by entering into
23 long-term contracts with the federal government. In order to provide
24 security to the federal government, the state may grant assignments of
25 water rights, either appropriation rights or water reservation rights;
26 assignments of rights under existing or prospective water purchase
27 contracts; assignments, mortgages or other transfers of interests in real
28 property held by the state and devoted to the specific small lake project
29 for which security is sought; or may provide other security that is
30 permissible under state law and acceptable by the federal government.
31 Instead of contracting to repay costs under long-term contracts, the state
32 may pay all of the required costs of the public water supply storage in a
33 lump sum.

34 (c) The sponsor of such class II project shall be responsible for
35 acquiring land rights and for the costs of operation and maintenance of
36 such project. The state or federal government may provide up to 50% of
37 the engineering and construction costs and up to 50% of the costs of land
38 rights associated with recreation features. ~~Subject to the provisions of~~
39 ~~subsection (d), the~~ The state may pay up to 100% of the engineering and
40 construction costs of flood control and public water supply storage. All
41 other costs of such project, including land, construction, operation and
42 maintenance shall be paid by the sponsor.

43 (d) ~~The state shall not participate in the costs of public water supply~~

1 storage in a renovation project unless the Kansas water office determines
2 that renovation is the most cost effective alternative for such storage. The
3 state shall be authorized to pay only up to 50% of the engineering and
4 construction costs of public water supply storage in such a renovation
5 project.

6 (e) The Kansas water office may recover the state's costs incurred in
7 providing public water supply storage in such class II project, and interest
8 on such costs, by selling such storage and the associated water rights.
9 Interest on such costs shall be computed at a rate per annum which is
10 equal to the greater of: (1) The average rate of interest earned the past
11 calendar year on repurchase agreements of less than 30 days' duration
12 entered into by the pooled money investment board, less 5%; or (2) four
13 percent.

14 Sec. 8. K.S.A. 2010 Supp. 82a-1606 is hereby amended to read as
15 follows: 82a-1606. (a) The state may participate with a sponsor in the
16 development, construction or renovation of a class III multipurpose small
17 lake project if the sponsor has a general plan which has been submitted to
18 and approved by the chief engineer in the manner provided by K.S.A. 24-
19 1213 and 24-1214, and amendments thereto. If public water supply
20 storage is included in the project, the sponsor of such class III project
21 shall pay for 100% of the costs associated with the public water supply
22 storage portion of such project; unless the Kansas water office determines
23 that additional public water supply storage shall be needed in that area of
24 the state within 20 years from the time such project is to be completed
25 and a sponsor is not available to finance 100% of the costs associated
26 with the public water supply storage, the state may participate in the
27 future use public water supply storage costs of the project. If the state
28 participates in the public water supply storage costs, the Kansas water
29 office shall apply for a water appropriation right sufficient to insure a
30 dependable yield from public water supply storage. The Kansas water
31 office shall be exempt from all applicable fees imposed pursuant to
32 K.S.A. 82a-701 et seq., and amendments thereto, for such applications.
33 The Kansas water office shall have authority to adopt rules and
34 regulations relative to the inclusion of public water supply storage in
35 proposed projects under this act and the disposition of state-owned water
36 rights and associated public water supply storage space in such projects.

37 (b) The sponsor of such class III project shall be responsible for
38 acquiring land rights and for the costs of operation and maintenance of
39 the project. The state may provide up to 50% of the engineering and
40 construction costs and up to 50% of the costs of land rights associated
41 with recreation features. ~~Subject to the provisions of subsection (e), the~~
42 *The* state may pay up to 100% of the engineering and construction costs
43 of flood control storage and public water supply storage. All other costs

1 of such project, including land, construction, operation and maintenance,
2 shall be paid by the sponsor.

3 ~~(c) The state shall not participate in the costs of public water supply~~
4 ~~storage in a renovation project unless the Kansas water office determines~~
5 ~~that renovation is the most cost effective alternative for such storage. The~~
6 ~~state shall be authorized to pay only up to 50% of the engineering and~~
7 ~~construction costs of public water supply storage in such a renovation~~
8 ~~project.~~

9 (d) The Kansas water office may recover the state's costs incurred in
10 providing public water supply storage in such class III project, and
11 interest on such costs, by selling such storage and the associated water
12 rights. Interest on such costs shall be computed at a rate per annum which
13 is equal to the greater of: (1) The average rate of interest earned the past
14 calendar year on repurchase agreements of less than 30 days' duration
15 entered into by the pooled money investment board, less 5%; or (2) four
16 percent.

17 New Sec. 9. (a) The Kansas biological survey in consultation with
18 the Kansas water office shall develop a coordinated water quality and
19 quantity data repository system for data relating to water in reservoirs and
20 lakes used as a public water supply source in this state.

21 (b) All state water resources agencies shall participate in the creation
22 and maintenance of such a coordinated data repository system in order to
23 provide the most accurate water resources data for the benefit of the
24 citizens of the state of Kansas. Local agencies or persons may voluntarily
25 submit data for inclusion in the coordinated data repository system.

26 (c) The Kansas biological survey shall conduct bathymetric
27 mapping, sediment surveys and lake assessments in addition to
28 coordinating the data repository system and may, as determined
29 appropriate by the Kansas biological survey, participate in other data
30 collection efforts as may be undertaken by local, state or federal agencies.
31 The coordinated data repository system shall be funded by the Kansas
32 water plan fund.

33 (d) The Kansas biological survey and the Kansas water office may
34 seek and accept grants and contracts to collect data, develop and fund the
35 coordinated data repository system. The Kansas biological survey is
36 hereby authorized to work jointly with the United States army corps of
37 engineers to accomplish the goals of this section.

38 (e) The Kansas water office is authorized to adopt rules and
39 regulations deemed necessary for the implementation of this section.

40 New Sec. 10. (a) The Kansas water office is hereby authorized to
41 consider, negotiate and grant easements on state property in and along the
42 Arkansas, Kansas, and Missouri rivers within Kansas, for the purposes of
43 conservation, construction, or improving and sustaining such rivers and

1 riverbanks. Such easements shall be granted if the Kansas water office,
2 after consultation with the department of agriculture, department of
3 wildlife and parks and the conservation commission, deem such
4 easements appropriate.

5 (b) In the event such easement is proposed to be granted upon land
6 owned or managed by any other agency of the state of Kansas, the
7 Kansas water office shall give notice of the project to that agency, and
8 shall jointly negotiate any easement so granted.

9 (c) All easements so entered by the Kansas water office shall be
10 filed by the Kansas water office with the office of the secretary of state
11 and in the office of the register of deeds for the county in which the
12 easement is located.

13 Sec. 11. K.S.A. 82a-910 and K.S.A. 2010 Supp. 2-1915, 82a-1308a,
14 82a-1602, 82a-1603, 82a-1604, 82a-1605 and 82a-1606 are hereby
15 repealed.

16 Sec. 12. This act shall take effect and be in force from and after its
17 publication in the statute book.