

As Amended by Senate Committee

Session of 2011

SENATE BILL No. 191

By Committee on Natural Resources

2-11

1 AN ACT concerning water; relating to the water rights conservation
2 program; amending K.S.A. 2010 Supp. 82a-718 and 82a-731 and
3 repealing the existing sections.
4

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

6 New Section 1. (a) The chief engineer may administer a water
7 rights conservation program. An eligible water right in good standing may
8 be enrolled in the program, subject to the approval of the chief engineer.

9 (b) ~~The enrollment period for~~ ***A water right may be enrolled in*** the
10 program ***for a period that*** shall not exceed 10 years. A water right
11 enrolled in the program may be re-enrolled within two years of the
12 expiration date of the previous enrollment period, subject to the approval
13 of the chief engineer.

14 (c) Each application for enrollment in the program and each
15 application for renewal of enrollment shall include a non-refundable fee
16 not to exceed \$300.

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

20 (e) The chief engineer shall adopt rules and regulations to effectuate
21 and administer the provisions of this section.

22 Sec. 2. K.S.A. 2010 Supp. 82a-718 is hereby amended to read as
23 follows: 82a-718. (a) All appropriations of water must be for some
24 beneficial purpose. Every water right of every kind shall be deemed
25 abandoned and shall terminate when without due and sufficient cause no
26 lawful, beneficial use is henceforth made of water under such right for five
27 successive years. Before any water right shall be declared abandoned and
28 terminated the chief engineer shall conduct a hearing thereon. Notice shall
29 be served on the user at least 30 days before the date of the hearing. The
30 determination of the chief engineer pursuant to this section shall be subject
31 to review in accordance with the provisions of K.S.A. 2010 Supp. 82a-
32 1901, and amendments thereto.

33 The verified report of the chief engineer or such engineer's authorized
34 representative shall be prima facie evidence of the abandonment and
35 termination of any water right.

36 (b) When no lawful, beneficial use of water under a water right has

1 been reported for three successive years, the chief engineer shall notify the
2 user, by certified mail, return receipt requested, that: (1) No lawful,
3 beneficial use of the water has been reported for three successive years; (2)
4 if no lawful, beneficial use is made of the water for five successive years,
5 the right may be terminated; and (3) the right will not be terminated if the
6 user shows that for one or more of the five consecutive years the beneficial
7 use of the water was prevented or made unnecessary by circumstances that
8 are due and sufficient cause for nonuse, which circumstances shall be
9 included in the notice.

10 (c) The provisions of subsection (a) shall not apply to a water right
11 that has not been declared abandoned and terminated before the effective
12 date of this act if the five years of successive nonuse occurred exclusively
13 and entirely before January 1, 1990. However, the provisions of subsection
14 (a) shall apply if the period of five successive years of nonuse began
15 before January 1, 1990, and continued after that date.

16 (d) *Notwithstanding the provisions of subsection (a), an eligible*
17 *water right enrolled in and continually in compliance with the water rights*
18 *conservation program, pursuant to section 1, and amendments thereto,*
19 *shall be deemed to have due and sufficient cause for nonuse and shall not*
20 *be deemed abandoned.*

21 ~~(d)~~(e) Notwithstanding the provisions of subsection (a), a
22 groundwater right, which has as its local supply an aquifer area that has
23 been closed to new appropriations by rule, regulation or order of the chief
24 engineer and where means of diversion are available to put water to a
25 beneficial use within a reasonable time, shall be deemed to have due and
26 sufficient cause for nonuse and shall not be deemed abandoned.

27 Sec. 3. K.S.A. 2010 Supp. 82a-731 is hereby amended to read as
28 follows: 82a-731. There is hereby created in the state treasury the water
29 appropriation certification fund. The chief engineer of the division of
30 water resources of the Kansas department of agriculture shall remit all
31 moneys received under K.S.A. 82a-708a, 82a-708b and 82a-727, and
32 amendments thereto, *and section 1, and amendments thereto*, to the state
33 treasurer in accordance with the provisions of K.S.A. 75-4215, and
34 amendments thereto. Upon receipt of each such remittance, the state
35 treasurer shall deposit the entire amount in the state treasury to the credit
36 of the water appropriation certification fund. All expenditures from the
37 water appropriation certification fund shall be made in accordance with
38 appropriation acts upon warrants of the director of accounts and reports
39 issued pursuant to vouchers approved by the secretary of agriculture or by
40 a person designated by the secretary.

41 Sec. 4. K.S.A. 2010 Supp. 82a-718 and 82a-731 are hereby repealed.

42 Sec. 5. This act shall take effect and be in force from and after its
43 publication in the statute book

