AN ACT concerning water; relating to agreed local management areas.

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

Section 1. (a) Whenever the board of county commissioners of any county recommends an agreed local management plan, or whenever a petition signed by not less than 25% of the eligible water right holders within the geographic boundaries of a proposed agreed local management area is submitted to the board of county commissioners in support of the petitioners' agreed local management plan, the board of county commissioners shall submit the plan to the chief engineer for review within 60 days.

(b) Upon receipt of the agreed local management plan, the chief engineer shall conduct an initial review to assess whether such plan:

(1) Addresses one or more of the following conditions within the proposed geographic area:

(A) Water levels are declining or have declined excessively;
(B) the diversion of water equals or exceeds the resupply and recharge;
(C) preventable waste of water is occurring or may occur;
(D) unreasonable deterioration of the quality of water is occurring or may occur; or
(E) other conditions exist which require regulation in the public interest;

(2) proposes clear geographic boundaries;

(3) proposes clear goals to reduce water use or to improve water management;

(4) proposes corrective control provisions adequate to meet the stated goals;

(5) includes monitoring and enforcement provisions adequate to meet the stated goals;

(6) provides funding sufficient to cover the costs incurred by the division of water resources to effect the plan; and

(7) is consistent with state law.

(c) Based on the initial review conducted pursuant to subsection (b), the chief engineer shall issue an initial determination:

(1) Accepting the agreed local management plan for further
consideration under the provisions of this section;
(2) requiring revisions to the plan that, if performed, would make such plan acceptable for further consideration under the provisions of this section; or
(3) returning the plan to the board of county commissioners as unacceptable for further consideration by such board.
(d) If the chief engineer's initial determination pursuant to subsection (c) is to accept the agreed local management plan for further consideration, the chief engineer shall notify:
(1) The board of county commissioners, which shall initiate, as soon as practicable thereafter, proceedings to designate an agreed local management area; and
(2) the appropriate groundwater management district if the proposed geographic boundaries of the agreed local management area include real property within the boundaries of such groundwater management district.
(e) Upon notification pursuant to subsection (d), the board of county commissioners shall conduct an initial public hearing on the question of designating an agreed local management area. The board of county commissioners may designate a hearing officer for such purposes. The initial public hearing shall resolve whether:
(1) One or more of the conditions specified in subsection (b)(1) exist;
(2) the public interest requires that one or more corrective control provisions be adopted;
(3) the geographic boundaries are reasonable; and
(4) the agreed local management plan requires a fee or an assessment adequate to cover the costs necessary to effect the plan.
(f) If the issues set forth in paragraphs (e)(1) through (4) are all resolved in the affirmative, the board of county commissioners shall issue a written recommendation in support of the proposed agreed local management plan and forward its findings and the hearing record to the chief engineer. The chief engineer shall review such findings and record and may:
(1) Accept the findings and record for further consideration and hearing pursuant to this section; or
(2) return the findings and record to the board of county commissioners and request additional information or clarification.
(g) If the proposed geographic boundaries of the agreed local management area include real property within the boundaries of a groundwater management district, the chief engineer shall provide the findings and record of the initial public hearing conducted pursuant to subsection (e) to the groundwater management district. The groundwater management district may provide additional information and comments to the chief engineer within 30 days of the receipt of the findings and record.
The information and comments shall be included in the hearing record pursuant to subsection (h).

(h) Upon receipt of the recommendation set forth in subsection (f), the chief engineer shall conduct at least one public hearing on the proposed agreed local management plan.

(1) At least 30 days prior to the date set for any hearing, written notice of such hearing shall be given:

(A) To every person holding a water right of record within the proposed geographic boundaries described in such plan; and

(B) by one publication in any newspaper of general circulation within the proposed geographic boundaries described in such plan.

(2) The hearing notice shall state the plan to be reviewed and denote the time and place of such hearing.

(3) At any such hearing, evidence shall be taken and a record of the hearing shall be kept. The record may be kept in the form of a sound recording or other means, as determined by the chief engineer.

(4) The chief engineer shall allow at least five days after the public hearing for the submission of additional testimony.

(5) The hearing record shall include the complete record from proceedings held pursuant to subsection (e) and the chief engineer may request additional information relating to the issues considered in those proceedings.

(i) Within 120 days after the conclusion of the final public hearing conducted pursuant to subsection (h), the chief engineer shall issue an order of decision:

(1) Accepting the agreed local management plan as sufficient to satisfy the elements in subsection (b);

(2) rejecting the agreed local management plan as insufficient to address the elements set forth in subsection (b);

(3) returning the agreed local management plan to the board of county commissioners, giving reasons for the return and providing the opportunity to resubmit a revised agreed local management plan for public hearing within 90 days of the return of the plan; or

(4) returning the agreed local management area plan to the board of county commissioners and proposing modifications to the plan, based on testimony at the hearing or hearings that will improve the administration of the plan, but will not impose reductions in water diversions that exceed those contained in the plan. If the board of county commissioners approves of the modifications proposed by the chief engineer, the board shall notify the chief engineer within 90 days of receipt of return of the plan. Upon receipt of the board's approval of the modifications, the chief engineer shall accept the modified agreed local management plan. If the board of county commissioners does not approve of the modifications proposed by
the chief engineer, the proposed agreed local management plan shall not be accepted.

(j) Whenever the chief engineer issues an order of decision accepting the agreed local management plan pursuant to subsection (i), the chief engineer, within a reasonable time, shall issue an order of designation that designates the area in question as an agreed local management area.

(1) The order of designation shall define the boundaries of the agreed local management area, and shall follow, insofar as may be reasonably done, the geographic boundaries recommended in the agreed local management plan.

(2) The order of designation may include one or more of the following corrective controls set forth in the agreed local management area plan:

(A) Closing the area to any further appropriation of water;

(B) determining the permissible total diversion of water in the area each day, month or year, and, insofar as is reasonable, the chief engineer shall apportion such permissible total diversion among the valid water right holders in such area in accordance with the relative dates of priority of such rights;

(C) reducing the permissible diversion of water in the area by one or more appropriators thereof;

(D) requiring and specifying a system of rotation of water use in the area; or

(E) any other provisions or additional requirements as are necessary to protect the public interest.

(k) To fund the agreed local management plan, the board of county commissioners may assess an annual charge against every person who holds a permit to appropriate water and is included within the geographic boundaries of the agreed local management area. The charges shall be certified to the county clerk and collected the same as other taxes in accordance with K.S.A. 79-1801, and amendments thereto, and the amount thereof shall attach to the real property involved as a lien in accordance with K.S.A. 79-1804, and amendments thereto. All moneys so collected shall be remitted by the county treasurer to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the agreed local management area fund which fund is hereby created in the state treasury and shall be administered by the secretary of agriculture. All amounts credited to the agreed local management area fund shall be credited to a separate account which shall be established within such fund for each county with a designated agreed local management area based upon such county's remittance to the state treasurer. All expenditures from
the agreed local management area fund shall be for the operation and
administration of designated agreed local management areas. All
expenditures from the agreed local management area fund shall be made in
accordance with appropriation acts upon warrants of the director of
accounts and reports issued pursuant to vouchers approved by the
secretary of agriculture. The board of county commissioners may also
obtain funding from other sources, including, but not limited to, grants and
other support from local, state or federal programs.

(l) The chief engineer is hereby authorized to delegate all or part of
the monitoring and enforcement of any corrective controls ordered for an
agreed local management area to the board of county commissioners in the
county in which such area is located. In the event of such delegation, the
funds raised pursuant to subsection (k) shall be apportioned between the
division of water resources and the county accordingly. The board of
county commissioners may contract with another governmental entity to
effect the monitoring provisions of the agreed local management plan.

(m) If the geographic boundaries of a proposed agreed local
management area either lie in more than one county or include real
property within the boundaries of a groundwater management district, the
boards of county commissioners of such counties or such county and such
groundwater management district may enter into an interlocal agreement,
pursuant to the interlocal cooperation act, K.S.A. 12-2901 et seq., and
amendments thereto, to effect the provisions of this section. The interlocal
agreement may include other persons, as the board of county
commissioners may deem prudent. The interlocal agreement may specify a
person or group to undertake any or all duties required of the board of
county commissioners.

(n) Except as provided in subsection (j), the order of designation of
an agreed local management area shall be in full force and effect from the
date of its entry in the records of the chief engineer's office unless and
until its operation shall be stayed by an appeal from an order entered in
accordance with the provisions of the Kansas judicial review act. The chief
engineer upon request shall deliver a copy of such order to any interested
person who is affected by such order and shall file a copy of the same with
the register of deeds of any county within which any part of the agreed
local management area lies. The order of designation shall be final agency
action as defined by K.S.A. 77-607(b), and amendments thereto.

(o) Unless otherwise stated in the order of designation, the chief
engineer shall conduct a public hearing to review the designation of an
agreed local management area within seven years after the order of
designation is final. A subsequent review of the designation shall occur
within 10 years after the previous public review hearing or more
frequently as jointly determined by the board of county commissioners and
the chief engineer. Upon the request of a petition signed by at least 10% of
the affected water users in an agreed local management area, a public
review hearing to review the designation shall be conducted by the board
of county commissioners and the chief engineer. This requested public
review hearing shall not be conducted more frequently than every five
years. All reviews performed pursuant to this subsection shall require the
participation of the board of county commissioners.

(p) In performing the duties pursuant to this section, the chief
engineer may coordinate and cooperate with other local, state and federal
agencies.

(q) The chief engineer shall adopt rules and regulations to effect and
administer the provisions of this section.

(r) The provisions of this section shall be part of and supplemental to
the provisions of the Kansas water appropriation act.

Sec. 2. This act shall take effect and be in force from and after its
publication in the statute book.