

**HOUSE BILL No. 2459**

By Committee on Appropriations

3-15

1 AN ACT concerning water; relating to the Kansas water appropriation act;  
2 providing a definition for safe yield; prohibiting the change of the point  
3 of diversion of a water right if such change causes the safe yield of the  
4 source of water supply to be exceeded; amending K.S.A. 82a-701 and  
5 K.S.A. 2022 Supp. 82a-708b and repealing the existing sections.

6  
7 *Be it enacted by the Legislature of the State of Kansas:*

8 Section 1. K.S.A. 82a-701 is hereby amended to read as follows: 82a-  
9 701. When used in this act, unless the context indicates otherwise, ~~the~~  
10 ~~following words shall have the following meanings:~~

11 (a) ~~"Person" shall mean and include~~ *means* a natural person, a  
12 partnership, an organization, a corporation, a municipality and any agency  
13 of the state or federal government.

14 (b) "Chief engineer" means the chief engineer of the division of water  
15 resources of the Kansas department of agriculture.

16 (c) "Domestic uses" means the use of water by any person ~~or by~~, a  
17 family unit or household for household purposes; or for the watering of  
18 livestock, poultry, farm and domestic animals used in operating a farm;  
19 and for the irrigation of lands not exceeding a total of two acres in area for  
20 the growing of gardens, orchards and lawns.

21 (d) "Vested right" means the right of a person under a common law or  
22 statutory claim to continue the use of water having actually been applied to  
23 any beneficial use, including domestic use, on or before June 28, 1945, to  
24 the extent of the maximum quantity and rate of diversion for the beneficial  
25 use made thereof; ~~and shall include~~ *includes* the right to take and use water  
26 for beneficial purposes ~~where~~ *when* a person is engaged in the construction  
27 of works for the actual application of water to a beneficial use on June 28,  
28 1945, ~~provided if~~ *provided if* such works ~~shall be~~ *are* completed and water is actually  
29 applied for such use within a reasonable time thereafter by such person,  
30 such person's heirs, successors or assigns. ~~Such A~~ *A* "vested right" does not  
31 include, ~~however, those~~ common law claims under which a person has not  
32 applied water to any beneficial use within the periods of time set out in  
33 this subsection.

34 (e) "Appropriator" ~~means and includes~~ a person who has an  
35 appropriation right that has been perfected in conformity with article 7 of  
36 chapter 82a of the Kansas Statutes Annotated, and amendments thereto.

1 (f) "Appropriation right"—is *means* a right, acquired under the  
2 provisions of article 7 of chapter 82a of the Kansas Statutes Annotated,  
3 and amendments thereto, to divert from a definite water supply a specific  
4 quantity of water at a specific rate of diversion, ~~provided if~~ such water is  
5 available in excess of the requirements of all vested rights that relate to  
6 such supply and all appropriation rights of earlier date that relate to such  
7 supply, and to apply such water to a specific beneficial use or uses in  
8 preference to all appropriations right of later date.

9 (g) "Water right" means any vested right or appropriation right under  
10 which a person may lawfully divert and use water. ~~It~~ A "water right" is a  
11 real property right appurtenant to and severable from the land on or in  
12 connection with which the water is used, and such water right passes as an  
13 appurtenance with a conveyance of the land by deed, lease, mortgage, will,  
14 or other disposal, or by inheritance.

15 (h) "*Safe yield*" means the long-term sustainable yield of the source  
16 of water supply, including hydraulically connected surface water or  
17 groundwater.

18 Sec. 2. K.S.A. 2022 Supp. 82a-708b is hereby amended to read as  
19 follows: 82a-708b. (a) (1) Any owner of a water right may change the  
20 place of use, the point of diversion or the use made of the water; without  
21 losing priority of right, ~~provided~~ *except that* such owner shall:

22 (A) Apply in writing to the chief engineer for approval of any  
23 proposed change;

24 (B) demonstrate to the chief engineer that any proposed change is  
25 reasonable and will not impair existing rights;

26 (C) demonstrate to the chief engineer that any proposed change  
27 relates to the same local source of supply as that to which the water right  
28 relates; ~~and~~

29 (D) receive the approval of the chief engineer with respect to any  
30 proposed change; *and*

31 (E) *in the case of an application to change the point of diversion, not*  
32 *cause the safe yield of the source of water supply to be exceeded.*

33 (2) The chief engineer shall approve or reject the application for  
34 change in accordance with the provisions and procedures prescribed for  
35 processing original applications for permission to appropriate water.

36 (3) If the chief engineer disapproves the application for change, the  
37 rights, priorities and duties of the applicant shall remain unchanged.

38 (4) Any person aggrieved by an order or decision by the chief  
39 engineer relating to an application for change may petition for review  
40 thereof in accordance with the provisions of K.S.A. 82a-1901, and  
41 amendments thereto.

42 (b) Each application to change the place of use, the point of diversion  
43 or the use made of the water under this section shall be accompanied by

1 the application fee set forth in the schedule below:

- 2 (1) Application to change a point of diversion 300
- 3 feet or less.....\$100
- 4 (2) Application to change a point of diversion more
- 5 than 300 feet.....200
- 6 (3) Application to change the place of use..... 200
- 7 (4) Application to change the use made of water..... 300

8 On and after July 1, 2028, the application fee shall be set forth in the  
9 schedule below:

- 10 (1) Application to change a point of diversion 300
- 11 feet or less..... \$50
- 12 (2) Application to change a point of diversion more
- 13 than 300 feet..... 100
- 14 (3) Application to change the place of use..... 100
- 15 (4) Application to change the use made of the water..... 150

16 The chief engineer shall render a decision on such permit applications  
17 within 150 days of receiving a complete application except when the  
18 application cannot be processed due to the standards established in K.A.R.  
19 5-3-4c. Upon failure to render a decision within 180 days of receipt of a  
20 complete application, the application fee is subject to refund upon request.

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

24 Sec. 3. K.S.A. 82a-701 and K.S.A. 2022 Supp. 82a-708b are hereby  
25 repealed.

26 Sec. 4. This act shall take effect and be in force from and after its  
27 publication in the statute book.