

As Amended by House Committee

Session of 2011

HOUSE BILL No. 2231

By Committee on Agriculture and Natural Resources

2-8

1 AN ACT concerning water; relating to ~~water bank~~ multi-year flex
2 accounts; amending K.S.A. 2010 Supp. 82a-736 and repealing the
3 existing section.
4

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

6 Section 1. K.S.A. 2010 Supp. 82a-736 is hereby amended to read
7 as follows: 82a-736. (a) As used in this section:

8 (1) "Base average usage" means: (A) The average amount of water
9 actually used for a beneficial use under a groundwater water right
10 during calendar years ~~1992~~2000 through ~~2002~~2009, excluding any
11 amount used in any such year in excess of the amount authorized by
12 such water right; or (B) if the holder of a groundwater water right
13 shows to the satisfaction of the chief engineer that the holder has
14 implemented significant water conservation measures during calendar
15 years ~~1992~~ 2000 through ~~2002~~2009, the average amount of water
16 actually used for a beneficial use under such right during the five
17 calendar years immediately before the calendar year when such
18 measures were implemented, excluding any amount used in any such
19 year in excess of the amount authorized by such water right.

20 (2) "Chief engineer" means the chief engineer of the division of
21 water resources of the department of agriculture.

22 (b) Any holder of a groundwater water right which has not been
23 deposited or placed in a safe deposit account in a chartered water bank
24 may establish a flex account where the holder may deposit, in advance,
25 water from such water right for any five consecutive calendar years,
26 subject to the following:

27 (1) The water right must be vested or shall have been issued a
28 certificate of appropriation;

29 (2) the withdrawal of water pursuant to the water right shall be
30 properly and adequately metered;

31 (3) the water right shall not ~~have been~~ *deemed* abandoned and
32 shall be in good standing, based on past water usage and compliance
33 with the terms of the holder's permit and all applicable provisions of

- 1 law and orders of the chief engineer; and
- 2 (4) the amount of water that shall be deposited in the account shall
- 3 not exceed 90% of the amount of the holder's base average usage times
- 4 five.
- 5 (c) The chief engineer shall implement a program providing for
- 6 the issuance of term permits to holders of groundwater water rights
- 7 who have established flex accounts in accordance with this section.
- 8 Such term permits shall authorize the use of water in a flex account at
- 9 any time during the five consecutive calendar years for which the
- 10 application for the term permit is made, without annual limits on such
- 11 use. ~~Application for any such term permit shall be filed not later than~~
- 12 ~~October 10, of the year preceding the first year for which the~~
- 13 ~~application is made.~~
- 14 (d) Term permits provided for by this section shall be subject to
- 15 the following:
- 16 (1) A separate term permit shall be required for each point of
- 17 diversion.
- 18 (2) The quantity of water authorized for diversion shall be limited
- 19 to the amount deposited pursuant to subsection (b)(4).
- 20 (3) The authorized place of use for the term permit shall not be
- 21 greater than that authorized by the existing groundwater right.
- 22 (4) The chief engineer may establish, by rules and regulations,
- 23 criteria for such term permits when the water right authorizes multiple
- 24 points of diversion or multiple water rights authorize a single point of
- 25 diversion or overlapping places of use.
- 26 (5) Except as explicitly provided for by this section, such term
- 27 permits shall be subject to all provisions of the Kansas water
- 28 appropriation act, and rules and regulations adopted under such act, and
- 29 nothing in this section shall authorize impairment of any vested right or
- 30 prior appropriation right by the exercise of such term permit.
- 31 (e) *Unless a term permit is issued pursuant to an application filed*
- 32 *before November 1 of the year prior to the first year for which the*
- 33 *application is made, the quantity of water used under the water right*
- 34 *during the year in which the application for the term permit is filed*
- 35 *shall be deducted from the amount of water deposited into the account*
- 36 **authorized by the term permit.**
- 37 (e)(f) All costs of administration of this section shall be paid from
- 38 fees for term permits provided for by this section. Any appropriation or
- 39 transfer from any fund other than the water appropriation certification

1 fund for the purpose of paying such costs shall be repaid to the fund
2 from which such appropriation or transfer is made. At the time of
3 repayment, the secretary of agriculture shall certify to the director of
4 accounts and reports the amount to be repaid and the fund to be repaid.
5 Upon receipt of such certification, the director of accounts and reports
6 shall promptly transfer the amount certified to the specified fund.
7 ~~(f)~~(g) The chief engineer shall submit a written report on the
8 implementation of this section to the house standing committee on
9 environment and the senate standing committee on natural resources on
10 or before February 1 of each year.
11 ~~(g)~~(h) This section shall be part of and supplemental to the Kansas
12 water appropriation act.
13 Sec. 2. K.S.A. 2010 Supp. 82a-736 is hereby repealed.
14 Sec. 3. This act shall take effect and be in force from and after its
15 publication in the statute book.
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