

2012 Kansas Statutes

82a-1345. Same; charges imposed against district members, amount; releases of water from reservoirs; duties of chief engineer and Kansas water office; rules and regulations; rights of water right holders. (a) The water assurance district shall impose a charge against each member of the water assurance district. The total of such charges shall be sufficient to enable the district to pay the state the full annual amortized cost to the state of acquiring the assurance storage from the federal government by purchase or trade, the cost of operation and maintenance of the assurance storage, the cost of state administration and enforcement of the assurance program. The water assurance district also may impose a charge against each member of the district in an amount sufficient to cover district operating costs. The water assurance district shall impose any charges necessary for the payment of the principal of and interest on revenue bonds issued by the Kansas water office pursuant to the provisions of Chapter 394 of the Laws of 1986. The water assurance district shall determine the amount of the charge for each member and shall remit moneys collected to the Kansas water office for deposit in the fund created pursuant to K.S.A. 82a-1364. Charges to be paid by members of a water assurance district may vary and shall be based on the principle of having each member pay for the pro rata quantity authorized to each member from the assurance program. In determining the charge, the governing body of the district shall adopt rules which establish guidelines for prospective members.

(b) The director of the Kansas water office shall request releases of assurance water by the federal government under the agreements with the federal government that govern operations of reservoirs containing assurance storage.

(c) No member below a reservoir shall divert water from releases of assurance water unless the member has a conservation plan which has been approved in the manner provided by K.S.A. 82a-1348 and which is in effect at the time of the desired diversion.

(d) An entity which becomes a holder of a water right in a river basin after an assurance program is in place for that basin shall become a member if the chief engineer determines that sufficient additional water may be yielded from assurance reservoirs to benefit the potential new member.

(e) The director of the Kansas water office and the chief engineer each shall adopt any rules and regulations necessary to carry out the purposes and procedures of this act. The director and the chief engineer shall consider the advice of any existing assurance districts in the preparation of any rules and regulations adopted pursuant to this subsection.

(f) Any holder of a water right below a reservoir aggrieved by a decision of the chief engineer under this act by being either included or excluded as a member in the assurance program may appeal to the district court under K.S.A. 82a-724, and amendments thereto.

(g) Payments required under a contract between a water assurance district and the Kansas water office shall be for storage capacity contracted in federal reservoirs. Nothing in this act shall be deemed to authorize any suit against the state or any agency of the state or person employed by the state on an implied contract or for negligence or any other tort. The director of the Kansas water office may sue to enforce any claim arising out of a contract. Payment of the assessment shall be a condition imposed on every member and the chief engineer is authorized to declare the suspension of any use of assurance water where a payment is not made.

(h) Rights of members to receive assurance water may not be transferred separately from their water rights.

History: L. 1986, ch. 391, § 16; July 1.