

82a-765. Water bank charter; approval; requirements. (a) Before a water bank is authorized to operate in the state, the bank's charter must be approved by the chief engineer. Prior to approval, the body wishing to charter the bank shall submit to the chief engineer the proposed bank charter and any other information required by rules and regulations of the chief engineer to determine whether the bank shall be chartered to operate in the state.

(b) The chief engineer shall approve the charter of a water bank only if the chief engineer determines that:

- (1) The charter ensures that the operations and policies of the bank will be consistent with the provisions of this act, the state water plan and all applicable statutes, rules and regulations, findings and orders of the chief engineer, groundwater management district policies and water assurance district operations plans;
 - (2) there is sufficient participation by water right holders and water users to make the operations of the bank practical and feasible;
 - (3) the governing body of the bank has at least five members and is reasonably representative of public and private interests in water within the bank boundary;
 - (4) the bank would not lease or accept for placement in a safe deposit account water from the same hydrologic unit as another chartered bank or accept for deposit a water right that authorizes diversion of water from the same hydrologic unit as another chartered water bank;
 - (5) the charter ensures that, for each calendar year, the aggregate amount of all bank deposits, determined by multiplying the amount of each water right deposited by the length of time of the deposit and then adding together the resulting amounts for all deposits, will equal or exceed the sum of the aggregate amount of water leased by the bank, determined by multiplying the amount of each lease by the length of time of the lease and then adding together the resulting amounts for all leases, plus the aggregate conservation element of all leases, determined by multiplying the conservation element of each lease by the length of the lease and then adding together the resulting amounts for all leases;
 - (6) the charter ensures that the operations of the bank will not result in impairment of existing water rights or an increase in depletion of severely depleted groundwater aquifers or stream courses;
 - (7) the charter ensures that the operations of the bank will result in a savings of 10% or more in the total amount of groundwater consumed for a representative past period pursuant to water rights deposited in the bank, excluding groundwater located in an intensive groundwater use control area where corrective control provisions have reduced the allocation of groundwater to less than the quantity previously authorized by water rights in the area;
 - (8) the charter provides a procedure for resolution of complaints by bank participants and others impacted by the bank policies, practices and operations;
 - (9) the charter ensures that the determination of the portion of a water right that is bankable shall be subject to the following:
 - (A) The determination shall be primarily based on a representative period of average water consumption for the hydrologic unit from which water is authorized to be diverted under the water right; and
 - (B) the method of determination shall not penalize past implementation of water conservation practices;
 - (10) the charter ensures that the total amount of groundwater leased each year from each hydrologic unit does not exceed 90% of the historic average annual amount collectively diverted pursuant to all deposited water rights or portions of water rights from such unit for a representative past period; and
 - (11) the charter provides a procedure for the dissolution of the bank, specifically stating how the remaining deposits and safe deposit accounts will be distributed.
- (c) A water bank shall be chartered for an initial period of not more than seven years, at which time the bank shall be subject to review in accordance with K.S.A. 2016 Supp. 82a-767, and amendments thereto, to determine whether the initial charter shall lapse or the bank shall be chartered.
- (d) Any amendment to the charter of a water bank must be approved by the chief engineer prior to adoption of the amendment.

History: L. 2001, ch. 160, § 5; L. 2012, ch. 106, § 1; July 1.