

82a-954. Water protection fee imposed; payment, by whom, when; collection by director of taxation; disposition of fees. (a) On and after July 1, 1989, there is hereby imposed a water protection fee at the rate of:

- (1) Three cents per 1,000 gallons of water sold at retail by a public water supply system and delivered through mains, lines or pipes;
- (2) subject to the provisions of subsection (c), three cents per 1,000 gallons of water appropriated for industrial use pursuant to a permit granted in accordance with the Kansas water appropriation act; and
- (3) three cents per 1,000 gallons of water appropriated for stockwatering pursuant to a permit granted in accordance with the Kansas water appropriation act.

(b) As used in this section, "industrial use" and "stockwatering" have the meanings provided by rules and regulations of the chief engineer of the division of water resources of the Kansas department of agriculture and the determination of gallons used shall be based upon figures supplied to the secretary of revenue by the division of water resources.

(c) The fees imposed by subsections (a)(2) and (3) shall be based on the actual amount used for industrial use or stockwatering during the preceding calendar year as reported to the chief engineer of the division of water resources of the Kansas department of agriculture in accordance with the provisions of K.S.A. 82a-732, and amendments thereto, except that: (1) The amount of surface water used for flow through cooling purposes for electric power generating plants shall be based on an average consumptive factor as determined by the division of water resources; and (2) no such fee shall be imposed on the amount of water used for commercial fish farming. If no water use report is filed for such year, the fee shall be based on the amount authorized for industrial use or stockwatering in such year.

(d) The fee imposed by subsection (a)(1) shall be paid quarterly by the public water supplier and shall be transmitted to the department of revenue not later than 45 days following the end of each quarter. The public water supplier may collect the fee directly from each consumer to which water is sold at retail or may pay the amount owed to the department from moneys in its operating or other fund available for that purpose. The fees imposed by subsections (a)(2) and (3) shall be paid by the owner of the permit. If any retailer or permit owner fails to pay the fee required to be collected and paid under this section, there shall be added, to the unpaid balance of the fee, penalty and interest as prescribed under K.S.A. 79-3615, and amendments thereto, for the late payment of sales tax.

(e) The director of taxation shall administer, enforce and collect the fees imposed by this section. All laws and rules and regulations of the secretary relating to the administration, enforcement and collection of the retailers' sales tax shall apply to such fee insofar as they can be made applicable, and the secretary shall adopt such additional rules and regulations as necessary for the efficient and effective administration, enforcement and collection thereof.

(f) The director of taxation shall remit all moneys collected from fees imposed pursuant to this section 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 state water plan fund created by K.S.A. 82a-951, and amendments thereto.

(g) An owner of an industrial use permit who has a contract with the state for withdrawal and use of water pursuant to K.S.A. 82a-1301 et seq., and amendments thereto, shall be exempt from the fee imposed by subsection (a)(2) on any water for which the permit owner is required to pay charges under such contract.

History: L. 1989, ch. 186, § 26; L. 2001, ch. 5, § 473; L. 2004, ch. 101, § 147; July 1.