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HOUSE OF
REPRESENTATIVES

COMMITTEE ASSIGNMENTS
CHAIRMAN: VISION 2020

MEMBER: ENERGY AND UTILITIES
AGRICULTURE AND NATURAL
RESOURCES BUDGET
LOCAL GOVERNMENT
JOINT COMMITTEE ON ENERGY
AND ENVIRONMENT

Testimony: HB 2685 - Related to Reservoir Improvement Districts
Senate Natural Resources Committee March 2, 2012
Rep. Tom Sloan

Mr. Chairman, Members of the Committee: I appear in support of HB 2685 having served on the Jt. Energy & Environment Committee that initiated the idea and the House Energy & Utilities Committee that heard the bill. The bill was passed overwhelmingly by the House. However, I request that you amend the bill by including the components of HB 2096 as amended by the Vision 2020 Committee.

The original bill and the amended language were developed in cooperation with the Kansas Water Office and Conservation Commission staff members to provide increased flexibility in the multi-purpose small lakes and stream bank stabilization programs.

The proposed amendment would allow the Executive Director of the Division of Conservation *discretion* to fund bank stabilization projects up to 100 percent depending on the project's perceived importance to sustaining water supplies and the landowner's financial ability to contribute to the project. It also removes the requirement that flood control be mandated for multipurpose small lakes, instead requiring that such projects include any two purposes: flood control, water supply storage, recreational use.

The proposed amendment further permits the Kansas Water Office to collect and integrate water quality and quantity data between agencies to provide more effective data for policy-making purposes. Furthermore, the proposed amendment makes water supply storage a water reservation right rather than a water appropriation right.

Representatives of the Kansas Water Office and Division of Conservation testified in support of the language in the Vision 2020 Committee, there were no opponents to the bill. The Speaker had dually referred HB 2096 to the Vision 2020 and Agriculture Committees. Unfortunately, the Chairman of the Agriculture Committee did not have an opportunity to hear and work the bill after it was reported out of the Vision 2020 Committee.

Because the bill and the amended language were developed by the state agencies and because there were no opponents to the measure, I bring it to you today. The Committee's intention was to provide increased flexibility to the Water Office and Conservation Division staff, we believe the proposed language presented to you accomplishes that objective. Representatives of the two state agencies can provide you additional information about the value of the proposed language to their programs and its noncontroversial nature.

Thank you for your consideration.

HOUSE BILL No. 2685

By Committee on Energy and Utilities

2-8

Ballou for Representative Sloan
Balloon Amendments for HB 2685
March 2, 2012
Prepared by Tamera Lawrence
Office of the Revisor of Statutes

1 AN ACT concerning water; relating to reservoir improvement districts;

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

3 Section 1. This act shall be known and may be cited as the reservoir
4 improvement district act.

5 Sec. 2. As used in this act, unless context otherwise requires:

6 (a) "Board" means the board of directors of a reservoir improvement
7 district;

8 (b) "district" means a reservoir district for which organization is
9 proposed or has been organized under the provisions of this act, and
10 amendments thereto;

11 (c) "eligible water right holder" means any person;

12 (1) Holding a water right or permit, pursuant to K.S.A. 82a-701 *et*
13 *seq.*, and amendments thereto, to appropriate water from a reservoir;

14 (2) with a contract to withdraw and use water pursuant to K.S.A. 82a-
15 1301 *et seq.*, and amendments thereto; or

16 (3) with a water appropriation right in a water assurance district
17 pursuant to K.S.A. 82a-1330 *et seq.*, and amendments thereto;

18 (d) "general plan" means a preliminary engineering report describing
19 the characteristics of the reservoir, the nature and methods of dealing with
20 the bed and water problems in the reservoir or the reservoir watershed and
21 the projects proposed to be undertaken by the district. It shall include
22 maps, descriptions and any other data as may be necessary for the location,
23 identification and establishment of the character of the work to be
24 undertaken and any other data and information, as the director of the
25 Kansas water office may require;

26 (e) "person" means any person, firm, partnership, association or
27 corporation;

28 (f) "specific project" means any project outlined and proposed by the
29 board of directors and may constitute all or part of the general plan;

30 (g) "steering committee" means the group of eligible water right
31 holders, not less than the number to be chosen for the board of directors,
32 who shall serve as the governing body of the proposed reservoir
33 improvement district until the first board of directors is elected;

34 (h) "water right" shall have the meaning provided in K.S.A. 82a-701,
35 and amendments thereto; and
36

; conservation; water supply storage; providing for a water
data collection and integration system; amending K.S.A.
82a-910 and K.S.A. 2011 Supp. 2-1915, 82a-1308a,
82a-1602, 82a-1603, 82a-1604, 82a-1605 and 82a-1606
and repealing the existing sections

New

New

1 (i) "watershed" means all the area within the state draining toward a
2 selected point on a reservoir.

New

3 Sec. 3. Before any reservoir improvement district is organized, a
4 petition shall be filed in the office of the secretary of state, signed by the
5 eligible water right holders who have water rights totaling more than 20%
6 of the combined quantities of all eligible water rights within the proposed
7 district as shown by a verified enumeration of the eligible water right
8 holders and the total combined quantities of all eligible rights taken by the
9 director of the Kansas water office. A verified copy of the enumeration
10 shall be attached to and filed with the petition in the office of the secretary
11 of state.

12 Sec. 4. (a) Every petition filed pursuant to section 3, and amendments
13 thereto, shall state:

New

- 14 (1) The name of the proposed district which shall include the name of
15 the reservoir and end with the words "reservoir improvement district";
- 16 (2) a list of the water rights, by file number as recorded in the Kansas
17 water office, to be included within the proposed district;
- 18 (3) a statement of the purposes for which the district is to be
19 organized;

- 20 (4) a statement of the number of persons that will constitute the board
21 of directors of the district, which shall be an odd number of not less than
22 three nor more than five, together with the names and addresses of the
23 persons who will constitute the original steering committee;
- 24 (5) any other matter deemed essential; and
- 25 (6) a request for the organization of the district as a nonprofit
26 corporation.

27 (b) The petition shall be in substantially the following form:
28 BEFORE THE SECRETARY OF STATE OF THE STATE OF

29 KANSAS

30 In the Matter of _____ Reservoir Improvement District
31 PETTTON

32 Come now the undersigned persons and state that they own water rights
33 in the _____ reservoir, for which a reservoir
34 improvement district is proposed, and that each signer states that the
35 signer's respective post office address is set forth beside the signer's name.
36 That the purposes for which this district is organized are (state purposes).
37 That a steering committee for the organization of the district is hereby
38 fixed and constituted with five members; that the names of persons who
39 will serve on the original steering committee, of which the first named
40 shall be acting chairperson, and their respective addresses are as follows:

41
42 (List names and addresses.)
43

1 The governing body of the district shall be constituted in a board of
2 directors composed of (number) qualified members.

3 Wherefore, the undersigned, individually and collectively, request that
4 a reservoir improvement district be organized in the manner provided by
5 law, for the purposes set forth herein, and that the secretary of state and the
6 director of the Kansas water office proceed diligently in the performance
7 of their duties so that the organization of this proposed district may be
8 completed and approved at the earliest possible time.

9 Submitted to the secretary of state this _____ day of _____,
10 _____

11
12 Sec. 5. A copy of the full petition, as required by section 3, and
13 amendments thereto, shall be circulated among the eligible water right
14 holders of the proposed district. All counterparts shall be filed with the
15 secretary of state at the same time and shall be received and treated by the
16 secretary as a single petition. The secretary of state shall determine the
17 sufficiency or insufficiency of the petition on the basis of the information
18 as to the number and qualification of signers as shown by the verified
19 enumeration filed with the petition. The secretary of state shall endorse the
20 findings and the date thereof on the face of the petition and shall notify in
21 writing the person designated in the petition as the acting chairperson of
22 the steering committee of the findings.

New

23 Sec. 6. (a) If the secretary of state finds the petition, as required by
24 section 3, and amendments thereto, to be sufficient as to form and the
25 number and qualifications of the petitioners, the secretary of state shall
26 prepare a certified copy of the petition and transmit the same to the
27 director of the Kansas water office within five days from the date of such
28 finding. Upon receipt of such certified copy, the director of the Kansas
29 water office shall institute an investigation of the proposed district, its
30 water usage and purposes. Within 90 days after receipt of the copy, the
31 director of the Kansas water office shall transmit a written report of the
32 findings on the petition and the director's written approval or disapproval
33 of the petition to the secretary of state and the acting chairperson of the
34 steering committee named in the petition.

35 (b) The director of the Kansas water office shall approve such
36 petition if the director finds that construction of works of improvement on
37 the reservoir for which the district is proposed would benefit the
38 sustainability, conservation and maintenance of such reservoir.

39 If the director of the Kansas water office approves such petition, the
40 director shall transmit a certified copy of the report containing all findings
41 to the secretary of state and to the chairperson of the steering committee
42 named in the petition.

43 Sec. 7. (a) Within 10 days after receipt of a certified copy of the

1 report from the director of the Kansas water office approving the petition
2 or the petition as amended, the chairperson of the steering committee of
3 the proposed district shall call a meeting of the committee by mailing a
4 written notice fixing the time and place of such meeting to each eligible
5 water right holder in the proposed district. The committee shall meet at the
6 time and place fixed in the notice for the purpose of adopting a resolution
7 giving notice of an election at which all eligible water right holders shall
8 be entitled to vote on the question of whether the district should be formed
9 in accordance with the petition as approved by the director. A copy of such
10 resolution shall be mailed to all eligible water right holders of the
11 proposed district not less than 21 days prior to such vote. The resolution
12 shall state when and where the election shall be held and the proposition to
13 be voted on. It shall contain a copy of the petition as approved by the
14 director and shall be signed by the chairperson and attested by the
15 secretary of the steering committee. The steering committee shall conduct
16 the election, canvass the vote and certify the results to the secretary of
17 state and to the director of the Kansas water office.

18 (b) If eligible water right holders representing more than 50% of the
19 combined quantities of the eligible water rights of the proposed district
20 vote in favor of the organization and creation of the district, the secretary
21 of state shall issue a certificate of incorporation for the district to the
22 steering committee, such certificate shall be filed in the office of the
23 register of deeds of each county in which all or a portion of the district
24 lies. Upon the recordation of the certificate of incorporation, the district
25 shall be authorized to function in accordance with the provision of this act
26 and its certificate of incorporation.

27 (c) If eligible water right holders representing more than 50% of the
28 combined quantities of the water rights within the proposed district vote
29 against the organization and creation of the district, the secretary of state
30 shall endorse that fact on the face of the petition and the proceedings shall
31 be closed.

32 (d) No action attacking the legal incorporation of any reservoir
33 improvement district organized under this section shall be maintained
34 unless filed within 90 days after the issuance of the certificate of
35 incorporation for such district by the secretary of state, nor shall the
36 alleged illegality of the incorporation of any such district be interposed as
37 a defense to any action brought after such time.

38 Sec. 8. If the organization of the proposed reservoir improvement
39 district is defeated at the election or if the petition is disapproved by the
40 director of the Kansas water office, the steering committee named in the
41 petition shall determine the amount of money necessary to pay all of the
42 costs and expenses incurred in the preparation and filing of the petition,
43 and in the conduct of the election and the steering committee shall assume

New

1 the obligation for the payment of such costs and expenses by assessing the
2 eligible water right holders a fee in proportion to each such holder's water
3 right to the total of such water right. No cost shall be assessed by any state
4 agency.

5 Sec. 9. All powers granted to reservoir improvement districts
6 incorporated under the provisions of this act shall be exercised by a board
7 of directors which shall be composed of an odd number of directors not
8 less than three nor more than five as specified in the petition for creation
9 of the district. Each director shall serve for a term of three years, and until
10 a successor is elected and qualified, except that as nearly as possible 1/3 of
11 the original board members designated in the petition for organization of
12 the district shall serve for a term of one year; 1/3 for a term of two years and
13 1/3 for a term of three years. Such directors shall serve without
14 compensation, but shall be allowed actual and necessary expenses incurred
15 in the performance of their official duties.

16 Sec. 10. (a) Within not more than 90 days after the recording of the
17 certificate of incorporation, a meeting open to all eligible water right
18 holders of the district shall be held by the steering committee for the
19 election of the initial board of directors of the district. A notice of the
20 meeting shall be mailed to all eligible water right holders by the steering
21 committee at least 10 days prior to the date thereof.

22 (b) Each eligible water right holder shall have one vote and one
23 additional vote for every 10% of the combined quantities of all water
24 rights within the district. Each eligible water right holder in the district
25 shall be entitled to vote for as many candidates as the number of directors
26 that are to be elected.

27 (c) The candidates receiving the greatest number of votes cast shall
28 respectively be declared elected. The board of directors, after being duly
29 elected, shall elect from its number a president, vice-president, secretary
30 and a treasurer. In districts having only three directors, the board shall
31 elect one director to hold the offices of secretary and treasurer.

32 (d) A majority of the directors shall constitute a quorum for the
33 transaction of business and a majority of those voting shall determine all
34 actions taken by the board. In the absence of any of the duly elected
35 officers, those directors present at any meeting may select a director to act
36 as an officer *pro tem*.

37 (e) The elected board shall fill any vacancy occurring on the board
38 prior to the expiration of the term of any director by selecting a
39 replacement from among the eligible water right holders of the district to
40 serve for the unexpired term.

41 Sec. 11. (a) In not less than 12 months, nor more than 13 months after
42 the recording of the certificates of incorporation, and annually thereafter, a
43 meeting shall be held for the election of directors whose terms expire and

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1 also to render a report on the financial condition and activities of the
 2 district, including the estimated construction date of all proposed projects
 3 to be initiated within the next five years and the board's determination as
 4 to whether each of these projects is still cost effective and in the current
 5 public interest. Notice of the annual meeting shall be given at least 10 days
 6 prior to the date thereof to all members in the district.

7 (b) The number of directors of a district or the date of the annual
 8 meeting, or both, may be changed at an annual meeting if notice of the
 9 proposed changes is included in the notice for the annual meeting at which
 10 such changes are to be considered.

11 (c) Copies of the minutes of the annual meeting and report on the
 12 financial condition and activities of the district shall be furnished to the
 13 eligible water right holders of the district and the Kansas water office.

14 Sec. 12. Regular meetings of the board of directors shall be held no
 15 less than once each quarter on a day and place as is selected by the board
 16 of directors. Notice of such meeting shall be mailed to each director at
 17 least five days before the date of the meeting. Special meetings may be
 18 held at any time upon waiver of notice of such meeting by all directors or
 19 may be called by any two directors at any time. Notice in writing, signed
 20 by the persons calling any special meeting, shall be mailed to each director
 21 at least two days prior to the time fixed for such special meeting. A
 22 majority of directors shall constitute a quorum for the transaction of
 23 business and in the absence of any of the duly elected officers of the
 24 district a quorum at any meeting may select a director to act as such officer
 25 pro tem. Each meeting of the board, whether regular or special, shall be
 26 open to the public. Copies of the minutes of regular and special meetings
 27 shall be furnished to the eligible water right holders of the district and the
 28 Kansas water office.

29 Sec. 13. Each reservoir improvement district incorporated under the
 30 provisions of this act shall be a body politic and corporate and shall have
 31 the power to:

New

- 32 (a) Adopt a seal;
- 33 (b) sue and be sued by its corporate name;
- 34 (c) purchase, hold, sell and convey real and personal property and to
- 35 execute such contracts as the board of directors deems necessary or
- 36 convenient to enable it to carry out the purpose for which organized;
- 37 (d) construct, improve, maintain or operate works of improvement
- 38 including such works necessary for the sustainability of reservoirs,
- 39 including the conservation and maintenance of water for domestic,
- 40 municipal, agricultural or industrial use;
- 41 (e) employ such professional, technical and clerical services and other
- 42 assistance as deemed necessary by the board of directors;
- 43 (f) acquire real or personal property by gift;

1 (g) impose charges and incur indebtedness within the limitations
2 prescribed by this act;

3 (h) cooperate and contract with:

4 (1) Persons, firms, associations, partnerships and private
5 corporations;

6 (2) other reservoir improvement districts, watershed districts,
7 drainage districts, cities of classes of this state;

8 (3) other local, state and federal governmental agencies; or

9 (4) drainage districts, watershed districts or other public corporations
10 organized for similar purposes in any adjoining state;

11 (i) dissolve the district as provided for in this act;

12 (j) select a residence or home office for the reservoir improvement
13 district, which shall be at a place in a county where the reservoir or any
14 part of the reservoir is located; and

15 (k) take any other action necessary to achieve the purposes of the
16 reservoir improvement district.

17 Sec. 14. (a) Upon the incorporation of the reservoir improvement
18 district, the board shall cause work to be commenced on the preparation of
19 a general plan of the district. In addition, there shall be prepared an
20 estimate of costs as to installation, maintenance and operation of the
21 proposed improvements. Upon completion of the general plan and
22 estimates of costs, the board shall carefully examine and consider such
23 plan. If they approve the general plan and estimate of cost, they shall
24 transmit a complete copy of the general plan to the director of the Kansas
25 water office and additional copies shall be made available upon request by
26 the director of the Kansas water office. Copies of such plans, estimates and
27 information in the Kansas water office shall be open to inspection by the
28 public at all reasonable times.

New

29 (b) The director of the Kansas water office shall examine and study
30 such general plans as to:

31 (1) Feasibility;

32 (2) coordination of the plan with any other plan for the reservoir for
33 which the district is formed;

34 (3) the safety of the works and improvements proposed; and

35 (4) conformity with the intents and purposes of this act.

36 (c) The director of the Kansas water office shall transmit a written
37 report of the results of such study and investigation to the board of
38 directors, which shall include any changes or modifications which have
39 been deemed necessary and which shall include a specific approval or
40 disapproval of the general plan.

41 Sec. 15. (a) When the general plan is approved by the director of the
42 Kansas water office, the board shall propose by resolution, that the cost to
43 the district of all improvements contemplated in the plan be paid by

New

1 imposing a charge against each eligible water right holder of the district in
2 proportion to each such holder's water right. The total of such charges shall
3 be sufficient to enable the district to pay the cost of administering the
4 general plan. The reservoir improvement district also may impose a charge
5 against each eligible water right holder of the district in an amount
6 sufficient to cover district operating costs. Charges paid by eligible water
7 right holders of a reservoir improvement district may vary and shall be
8 based on the principle of having each eligible water right holder pay for
9 the *pro rata* quantity of water used from the reservoir. In determining the
10 charge, the governing body of the district shall adopt rules which establish
11 guidelines for prospective eligible water right holders.

12 (b) The board shall fix a time and place conveniently near the
13 reservoir for a public hearing upon the general plan and the resolution
14 proposing a method of financing costs of the works contemplated in the
15 plan. A notice of such hearing shall be given in one publication at least 20
16 days prior to the date fixed for the hearing, setting forth the time and place
17 of hearing upon the plan and resolution, that a copy of the plan and
18 resolution is available for public inspection in the office of the secretary of
19 the district. Any eligible water right holder of the district desiring to be
20 heard in the matter must file, in duplicate, with the secretary of the board
21 at the secretary's office, at least five days before the date of the hearing, a
22 written statement of such holder's intent to appear at the hearing and the
23 substance of the views they wish to express. Upon receipt of any such
24 statements, the secretary of the board shall immediately transmit one copy
25 of the statements to the director of the Kansas water office. The director of
26 the Kansas water office or the director of the Kansas water office's duly
27 appointed representative may attend the hearing. At the hearing any
28 eligible water right holder of the district who has filed a written statement
29 shall be heard and may present information in support of the eligible water
30 right holder's position in the matter. After hearing all such statements, the
31 board, by resolution, shall adopt as official or reject the general plan. The
32 board shall also adopt as official or reject the proposed method of
33 financing the costs of the works contemplated in the general plan or
34 determine that the general plan or the proposed method of financing or
35 both should be modified. The board shall notify the director of the Kansas
36 water office of the board's action to accept or reject the general plan and
37 proposed method of financing. If it is determined that the general plan
38 should be modified, any proposed changes approved by the board shall be
39 incorporated in a modified general plan which shall be submitted to the
40 director of the Kansas water office for further consideration.

41 (c) The director of the Kansas water office shall review the modified
42 plan and shall transmit a supplemental written report of the results of the
43 director's study and investigation to the board, including the director of the

1 Kansas water office's written approval or disapproval of the modified
 2 general plan. If the modified general plan is approved by the director of
 3 the Kansas water office, the board, by resolution, shall adopt the modified
 4 plan as the official general plan of the district and notify the director of the
 5 Kansas water office of the board's action. If it is determined that the
 6 proposed method of financing should be modified, the board shall give
 7 consideration to the modified method of financing and, following adoption
 8 of the general plan or an approved modification thereof, the board, by
 9 further resolution setting forth such modified method of financing, shall
 10 adopt it as the official method of the district for financing costs of the
 11 works contemplated in the official general plan. If a board is unable to
 12 carry out a general plan because insufficient funds have been provided,
 13 they may reconsider the general plan or the method of financing, or both,
 14 and by following the procedure set forth in subsections (a) and (b),
 15 resubmit a general plan or method of financing, or both.

New

16 Sec. 16. (a) Following the adoption of the general plan and adoption
 17 of the method of financing, the board of directors may determine the order
 18 in which specific projects contemplated by the general plan shall be
 19 undertaken. The board shall then cause accurate surveys of all work
 20 deemed necessary to be done and accurate estimates and calculations to be
 21 made by a competent engineer who shall prepare detailed construction
 22 plans and specifications showing the location, amount, and character of
 23 work to be done and the estimated cost of right of way, construction,
 24 maintenance and operation, which plans, specifications and estimates of
 25 costs shall be filed in the office of the secretary of the board and shall at all
 26 reasonable times be open to public inspection. The board shall carefully
 27 examine and consider the same and if they approve such plans,
 28 specifications and estimates of costs, they shall transmit a complete copy
 29 thereof to the director of the Kansas water office, who shall examine and
 30 study the plans and specifications as to conformance to the general plan
 31 and other applicable state laws on water use and control and transmit a
 32 written report of the results of the director's study and investigation to the
 33 board which report shall include any changes or modifications, which the
 34 director deems necessary, and which shall include a specific approval or
 35 disapproval of the plans and specifications.

36 (b) Ten years following approval of the general plan and every five
 37 years thereafter, the board shall review the general plan to determine if
 38 projects proposed to be undertaken by the district in its original plan are
 39 still feasible. A report of the review shall be given at a public meeting
 40 called for that purpose. This review is not required of reservoir
 41 improvement districts that have completed all the projects in the general
 42 plans.

43 Any revisions or amendments to the general plan shall be submitted to

1 the director of the Kansas water office in the manner provided by section
2 14, and amendments thereto.

3 Sec. 17. This act shall be deemed to be supplemental to existing laws
4 relating to watershed districts, drainage districts, flood control, irrigation,
5 soil conservation and related matters.

6 Sec. 18. (a) The board of directors of any reservoir improvement
7 district, by resolution, may dissolve such district if such district has been
8 incorporated under the provisions of this section for more than eight years
9 and has not:

10 (1) Adopted a general plan of work and projects to be undertaken by
11 the district;

12 (2) constructed or contracted to construct any works of improvement;
13 or

14 (3) incurred any continuing obligations for maintenance of any works
15 of improvement.

16 (b) The board of directors of any reservoir improvement district, by
17 resolution, may dissolve such district if such district has been incorporated
18 under the provisions of this section for more than four years and has not
19 made substantial progress toward a general plan or work and projects to be
20 undertaken by the district.

21 (c) A resolution to dissolve a reservoir improvement district shall be
22 adopted by a $\frac{2}{3}$ vote of all members of the board that are present and
23 voting, but in no event less than a majority of all board members at a
24 special meeting called for the purpose of dissolving the district.

25 (d) Notice of the special meeting to dissolve the district shall specify
26 the purpose for which the meeting is to be called, provide for the calling of
27 an election of eligible water right holders for the purpose of determining
28 whether such district shall be dissolved. The board shall provide for the
29 calling of such an election if written petitions signed by 20% of eligible
30 water right holders in the district, as shown by a verified enumeration of
31 such water rights are filed with the secretary of the board.

32 (e) The election to determine whether the district shall be dissolved
33 shall be held and conducted in the same manner as provided by section 7,
34 and amendments thereto, insofar as such provisions can be made
35 applicable. If a majority of those voting on the proposition voted in favor
36 of dissolution of the district, the board shall immediately certify the results
37 of such election to the secretary of state, and the secretary of state
38 thereupon shall issue and deliver to the secretary of such board a
39 certificate of dissolution.

40 Sec. 19. (a) Upon receipt from the secretary of state of the certificate
41 of dissolution of the reservoir improvement district under the provisions of
42 this act, the secretary of the board of directors of the reservoir
43 improvement district shall notify the directors of the reservoir

New

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New

1 improvement district of such certification.

2 (b) The directors shall immediately pay all obligations of said district,
3 including all costs incurred by the district, the director of the Kansas water
4 office and the secretary of state in regard to the dissolution proceedings.

5 (c) Upon receipt of such notification from the state treasurer, the
6 secretary of the district shall have the certificate of dissolution published
7 once in a newspaper of general circulation, located in a county where the
8 reservoir or a part thereof is located and proof of such publication shall be
9 filed with the secretary of state's office. The effective date of the
10 dissolution, unless otherwise provided, shall be the date on which the
11 proof of publication is filed in the office of the secretary of state, but in no
12 event shall the date of dissolution be a date prior to the date of publication
13 of the certificate of dissolution.

14 [Sec. 20. Any funds of a reservoir improvement district which is
15 totally disorganized and dissolved under the provisions of this act shall be
16 apportioned and paid back to the eligible water right holders in the same
17 proportion as used in assessing fees. The reservoir improvement district
18 treasurer, upon notification of receipt of a certificate of dissolution, shall
19 immediately pay the amounts due each eligible water right holder, as such
20 eligible water right holder may be entitled to receive.

21 Sec. ~~24~~ This act shall take effect and be in force from and after its
22 publication in the statute book.
23

See attached insert

New

Sec. 30. K.S.A. 82a-910 and K.S.A. 2011 Supp. 2-1915,
82a-1308a, 82a-1602, 82a-1603, 82a-1604, 82a-1605 and
82a-1606 are hereby repealed.

Insert for Balloon Document on HB 2685

New Sec. 21. (a) The Kansas water office shall develop a coordinated water quality and quantity data collection and integration system for data related to water in reservoirs and lakes that are used as public water supply sources for the purpose of providing and integrating interagency water quality and quantity data.

(b) All state water resource agencies shall participate in the creation and maintenance of such coordinated data collection and integration system. Local agencies or persons may submit data to be included in the coordinated data collection and integration system.

(c) The Kansas biological survey and the Kansas water office may seek and accept grants and contracts to collect data, develop and fund the coordinated data collection and integration system.

(d) The Kansas water office may adopt rules and regulations necessary to implement this section.

Sec. 22. K.S.A. 2011 Supp. 2-1915 is hereby amended to read as follows: 2-1915. (a) Appropriations may be made for grants out of funds in the treasury of this state for terraces, terrace outlets, check dams, dikes, ponds, ditches, critical area planting, grassed waterways, tailwater recovery irrigation systems, precision land forming, range seeding, detention and grade stabilization structures and other ~~enduring water~~ conservation practices installed on public lands and on privately owned lands and, the control and eradication of sericea lespedeza as provided in subsection (n) of K.S.A. 2-1908, and amendments thereto, on public lands and on privately owned lands. Except as provided by the multipurpose small lakes program act or subsection (g), any such grant shall not exceed 80% of the total cost of any such practice.

(b) A program for protection of riparian and wetland areas shall be developed by the ~~state conservation commission~~ Kansas department of agriculture division of conservation and

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implemented by the conservation districts. The conservation districts shall prepare district programs to address resource management concerns of water quality, erosion and sediment control and wildlife habitat as part of the conservation district long-range and annual work plans. Preparation and implementation of conservation district programs shall be accomplished with assistance from appropriate state and federal agencies involved in resource management.

(c) Subject to the provisions of K.S.A. 2-1919, and amendments thereto, any holder of a water right, as defined by subsection (g) of K.S.A. 82a-701, and amendments thereto, who is willing to voluntarily return all or a part of the water right to the state shall be eligible for a grant not to exceed 80% of the total cost of the purchase price for such water right. The ~~state conservation commission~~ Kansas department of agriculture division of conservation shall administer this cost-share program with funds appropriated by the legislature for such purpose. The chief engineer shall certify to the ~~state conservation commission~~ Kansas department of agriculture division of conservation that any water right for which application for cost-share is received under this section is eligible in accordance with the criteria established in K.S.A. 2-1919, and amendments thereto.

(d) (1) Subject to appropriation acts therefor, the ~~state conservation commission~~ Kansas department of agriculture division of conservation shall develop the Kansas water quality buffer initiative for the purpose of restoring riparian areas using best management practices. The executive director of the ~~state conservation commission~~ Kansas department of agriculture division of conservation shall ensure that the initiative is complementary to the federal conservation reserve program.

(2) There is hereby created in the state treasury the Kansas water quality buffer initiative fund. All expenditures from such fund shall be made in accordance with appropriation acts upon

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warrants of the director of accounts and reports issued pursuant to vouchers approved by the executive director of the ~~state conservation commission~~ Kansas department of agriculture division of conservation or the executive director's designee. Money credited to the fund shall be used for the purpose of making grants to install water quality best management practices pursuant to the initiative.

(3) The county or district appraiser shall identify and map riparian buffers consisting of at least one contiguous acre per parcel of real property located in the appraiser's county. Notwithstanding any other provisions of law, riparian buffers shall be valued by the county or district appraiser as tame grass land, native grass land or waste land, as appropriate. As used in this subsection ~~(3)~~, "riparian buffer" means an area of stream-side vegetation that: (A) Consists of tame or native grass and may include forbs and woody plants; (B) is located along a perennial or intermittent stream, including the stream bank and adjoining floodplain; and (C) is a minimum of 66 feet wide and a maximum of 180 feet wide.

(e) The Kansas department of agriculture division of conservation with the approval of the state conservation commission shall adopt rules and regulations to administer such grant and protection programs.

(f) Any district is authorized to make use of any assistance whatsoever given by the United States, or any agency thereof, or derived from any other source, for the planning and installation of such practices. The ~~state conservation commission~~ Kansas department of agriculture division of conservation may enter into agreements with other state and federal agencies to implement the Kansas water quality buffer initiative.

(g) Notwithstanding any other provisions of law, any grant for bank stabilization that, in the opinion of the executive director of the Kansas department of agriculture division of

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conservation, will reduce the amount of sediment load transmitted into a water supply lake or reservoir in this state may be funded for any amount up to 100% of the total cost of the project. The Kansas department of agriculture division of conservation is authorized to adopt rules and regulations to implement this subsection.

Sec. 23. K.S.A. 82a-910 is hereby amended to read as follows: 82a-910. (a) Subject to the approval of the Kansas water authority, the office may recommend to any agency of the federal government the inclusion in any proposed or authorized federal project of any conservation storage features for water supply that the office expects will be needed within the state in the future for the achievement of the purposes of this act and the office may extend to and procure for any agency of the federal government reasonable assurances and evidence that such expected future demands for the use of such storage will be made within a period of time which will permit payment of the costs allocated to such purposes within the life of the project, if such assurances have been authorized by the state water plan.

(b) When, in addition to actions taken under subsection (a), the office shall find it necessary or desirable for the achievement of the purposes of this act, the office may enter into agreements with the federal government for the repayment of costs for the inclusion of any conservation storage features for water supply that the office expects will be needed within the state ~~in the future for achievement of~~ to protect water supplies and water quality, protect against drought and protect recreational opportunities if such purposes ~~if such agreements~~ have been authorized by the state water plan and ~~a person or persons have contracted for the use of a substantial portion of the recommended conservation storage and that such person or persons will use the water supply thereof within a period of time which will permit them to pay their~~

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proportionate share of the costs allocated to such needs within the life of the project the Kansas water office has determined there is at least one benefit to the state in acquiring such water.

(c) Any person wishing the office to make a recommendation for storage features for expected future water supply needs, as provided in subsection (a), may petition the office and show that it (1) has good reason to and does believe that it will have future needs for the use of the additional storage; (2) will request the use of such storage by a time and for a duration that will permit it to pay the costs allocated to such purposes within the life of the project; (3) will be able to repay to the state the costs of the requested storage features; and (4) will insure compliance with such maintenance and operational requirements in the use of the expected future water supply requested as the office shall direct for the achievement of the purposes of this act.

(d) The Kansas water office may adopt rules and regulations prescribing procedures to call additional waters into service.

(e) The Kansas water office shall submit an annual report to the house standing committees on appropriations and economic development and the senate standing committees on ways and means and natural resources. Such report shall include:

(1) The storage component of reservoirs that have not been called into service and that the state has the opportunity to acquire;

(2) the annualized cost to acquire such storage; and

(3) a comparison of the annualized cost of such storage if it were not called into service for 10 consecutive years.

Sec. 24. K.S.A. 2011 Supp. 82a-1308a is hereby amended to read as follows: 82a-1308a. (a) On July 15 of each year, effective January 1 of the following year, the director,

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subject to the approval of the authority, shall fix the rate provided for in subsection (a) of K.S.A. 82a-1306, and amendments thereto. The rate fixed shall be equal to the sum of the following components computed as provided in this section:

(1) An amount necessary to repay the amortized capital costs associated with the state's conservation water supply capacity;

(2) an amount as interest computed at a rate per annum equal to the average of the monthly net earnings rate of the pooled money investment board for the preceding calendar year on the net amount of moneys advanced from the state general fund for payment of the amortized capital costs incurred and associated with the state's conservation water supply capacity divided by the greater of: (A) Fifty percent of the total amount of water under each contract from the state's conservation storage water supply capacity in the preceding year; or (B) the total amount of water withdrawn under each contract from the state's conservation storage water supply capacity in the preceding year;

(3) the amount necessary to reimburse the state for the administration and enforcement of this act based on the actual costs of administration and enforcement in the preceding year divided by the greater of: (A) Fifty percent of the total amount of water under each contract from the state's conservation storage water supply capacity in the preceding year; or (B) the total amount of water withdrawn under each contract from the state's conservation storage water supply capacity in the preceding year; and

(4) the amount necessary to pay the operation, maintenance and repair costs associated with the state's conservation water supply capacity based on the estimated costs for the upcoming year divided by the greater of: (A) Fifty percent of the total amount of water under each contract from the state's conservation storage water supply capacity in the preceding year; or (B) the total

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amount of water withdrawn under each contract from the state's conservation storage water supply capacity in the preceding year; and

(5) an amount as a depreciation reserve cost to be dedicated for the purposes provided for in K.S.A. 82a-1315b, and amendments thereto, as follows: (A) For calendar years prior to 2007, an amount equal to \$.025; and (B) for calendar year 2007 and subsequent years, an amount which is equal to the amount necessary to meet the needs of the water marketing program capital development and storage maintenance plan, and data collection and maintenance related to storage capacity, sediment load and composition mapping for the preservation, rehabilitation and management of drinking water resources, as approved by the Kansas water authority.

(b) In computing such rates, the director shall consider the state's conservation water supply capacity from all sources as though impounded in one single reservoir. No water supply capacity of a reservoir shall be considered to be in such capacity until the year in which the state incurs contract obligations for the project. The rate so fixed for each year shall be the same for each contract under K.S.A. 82a-1305, and amendments thereto, for withdrawal from every reservoir. The rate fixed for each twelve-month period from January 1 to December 31 shall be the same for every contract under K.S.A. 82a-1305, and amendments thereto.

Sec. 25. K.S.A. 2011 Supp. 82a-1602 is hereby amended to read as follows: 82a-1602. (a) In order to provide public water supply storage and water related recreational facilities in the state there is hereby established a multipurpose small lakes program.

(b) All lakes considered under this program shall have at least two of the following purposes:

(1) Flood control storage;

(2) public water supply storage; or

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(3) recreation features.

(c) The program shall be administered by the state conservation commission ~~Kansas~~
department of agriculture division of conservation. Except as otherwise provided by this act, the
Kansas department of agriculture division of conservation with the approval of the state
conservation commission shall adopt all rules and regulations necessary to implement the
provisions of this act.

Sec. 26. K.S.A. 2011 Supp. 82a-1603 is hereby amended to read as follows: 82a-1603.

When used in this act:

(a) "Chief engineer" means the chief engineer of the division of water resources of the
department of agriculture.

(b) "Class I funded project" means a proposed new project or renovation of an existing
project located within the boundaries of an organized watershed district which is receiving or is
eligible to receive financial participation from the ~~state conservation commission~~ Kansas
department of agriculture division of conservation for the flood control storage portion of the
project.

(c) "Class II funded project" means a proposed new project or renovation of an existing
project which is receiving or is eligible to receive financial participation from the federal
government.

(d) "Class III funded project" means a proposed new project or renovation of an existing
project located outside the boundaries of an organized watershed district which is not receiving
or is not eligible to receive financial participation from the ~~state conservation commission~~
Kansas department of agriculture division of conservation or the federal government except as
provided in K.S.A. 82a-1606, and amendments thereto.

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(e) "Flood control storage" means storage space in reservoirs to hold flood waters.

(f) "Future use public water supply storage" means storage space which the Kansas water office determines will be needed within the next ~~20~~ 50 years for use by public water supply users in an area but for which there is no current sponsor.

(g) "General plan" means a preliminary engineering report describing the characteristics of the project area, the nature and methods of dealing with the soil and water problems within the project area, and the projects proposed to be undertaken by the sponsor within the project area. Such plan shall include:

(1) Maps, descriptions and other data as may be necessary for the location, identification and establishment of the character of the work to be undertaken; (2) a cost-benefit analysis of alternatives to the project, including but not limited to, nonstructural flood control options and water conservation and reuse to reduce need for new water supply storage; and (3) any other data and information as the chief engineer may require.

(h) "Land right" means real property as that term is defined by the laws of the state of Kansas and all rights thereto and interest therein and shall include any road, highway, bridge, street, easement or other right-of-way thereon.

(i) "Multipurpose small lake project" means a dam and lake containing two of the following purposes: (1) Flood control storage ~~and~~; (2) ~~either~~ public water supply storage; or (3) recreation features ~~or both~~.

(j) "Public water supply" means a water supply for municipal, industrial or domestic use.

(k) "Public water supply storage" means storage of water for municipal, industrial or domestic use.

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(l) "Recreation feature" means water storage and related facilities for activities such as swimming, fishing, boating, camping or other related activities.

(m) "Renovation" means repair or restoration of an existing lake which contains water storage space for use as a public water supply ~~and which has either~~ recreational purposes or flood control purposes, ~~or both~~.

(n) "Sponsor" means: (1) Any political subdivision of the state which has the power of taxation and the right of eminent domain; (2) any public wholesale water supply district; or (3) any rural water district.

(o) "Water user" means any city, rural water district, wholesale water district or any other political subdivision of the state which is in the business of furnishing municipal or industrial water to the public.

Sec. 27. K.S.A. 2011 Supp. 82a-1604 is hereby amended to read as follows: 82a-1604.

(a) The state may participate with a sponsor in the development, construction or renovation of a class I multipurpose small lake project if the sponsor has a general plan which has been submitted to and approved by the chief engineer in the manner provided by K.S.A. 24-1213 and 24-1214, and amendments thereto. If the Kansas water office determines that additional public water supply storage shall be needed in that area of the state within ~~20~~ 50 years from the time such project is to be completed and a water user is not available to finance public water supply storage, the state may include future use public water supply storage in the project, subject to the provisions of the state water plan storage act, K.S.A. 82a-1301 et seq., and amendments thereto. The Kansas water office shall apply for a water ~~appropriation~~ reservation right sufficient to insure a dependable yield from the public water supply storage. The Kansas water office shall be exempt from all applicable fees imposed pursuant to K.S.A. 82a-701 et seq., and amendments

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thereto, for such applications. The Kansas water office shall have authority to adopt rules and regulations relative to the inclusion of public water supply storage in proposed projects under this act and the disposition of state-owned water rights and associated public water supply storage space in such projects.

(b) The sponsor of such class I project shall be responsible for acquiring land rights and for the costs of operation and maintenance of such project. The state may provide up to 50% of the engineering and construction costs and up to 50% of the costs of land rights associated with recreation features. Subject to the provisions of ~~subsections (a) and (c)~~ subsection (a), the state may pay up to 100% of the engineering and construction costs of flood control and public water supply storage. All other costs of such project, including land, construction, operation and maintenance shall be paid by the sponsor.

~~(c) The state shall not participate in the costs of public water supply storage in a renovation project unless the Kansas water office determines that renovation is the most cost effective alternative for such storage. The state shall be authorized to pay only up to 50% of the engineering and construction costs of public water supply storage in such a renovation project.~~

~~(d) The Kansas water office may recover the state's costs incurred in providing public water supply storage in such class I project, and interest on such costs, by selling such storage and the associated water rights. Interest on such costs shall be computed at a rate per annum which is equal to the greater of: (1) The average rate of interest earned the past calendar year on repurchase agreements of less than 30 days' duration entered into by the pooled money investment board, less 5%; or (2) four percent.~~

Sec. 28. K.S.A. 2011 Supp. 82a-1605 is hereby amended to read as follows: 82a-1605. (a) The state may participate with a sponsor in the development, construction or renovation of a

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class II multipurpose small lake project if the sponsor has a general plan which has been submitted to and approved by the chief engineer in the manner provided by K.S.A. 24-1213 and 24-1214, and amendments thereto. If the Kansas water office determines that additional public water supply storage shall be needed in that area of the state within ~~20~~ 50 years from the time such project is to be completed and a water user is not available to finance public water supply storage, the state may include future use public water supply storage in the project, subject to the provisions of the state water plan storage act, K.S.A. 82a-1301 et seq., and amendments thereto.

The Kansas water office shall apply for a water ~~appropriation~~ reservation right sufficient to insure a dependable yield from public water supply storage. The Kansas water office shall be exempt from all applicable fees imposed pursuant to K.S.A. 82a-701 *et seq.*, and amendments thereto, for such applications. The Kansas water office shall have authority to adopt rules and regulations relative to the inclusion of public water supply storage in proposed projects under this act and the disposition of state-owned water rights and associated public water supply storage space in such projects.

(b) In a class II project, the state may assume initial financial obligations for public water supply storage in watersheds by entering into long-term contracts with the federal government. In order to provide security to the federal government, the state may grant assignments of water rights, either appropriation rights or water reservation rights; assignments of rights under existing or prospective water purchase contracts; assignments, mortgages or other transfers of interests in real property held by the state and devoted to the specific small lake project for which security is sought; or may provide other security that is permissible under state law and acceptable by the federal government. Instead of contracting to repay costs under long-term contracts, the state may pay all of the required costs of the public water supply storage in a lump sum.

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~~(c) The sponsor of such class II project shall be responsible for acquiring land rights and for the costs of operation and maintenance of such project. The state or federal government may provide up to 50% of the engineering and construction costs and up to 50% of the costs of land rights associated with recreation features. Subject to the provisions of subsection (d), the state may pay up to 100% of the engineering and construction costs of flood control and public water supply storage. All other costs of such project, including land, construction, operation and maintenance shall be paid by the sponsor.~~

~~(d) The state shall not participate in the costs of public water supply storage in a renovation project unless the Kansas water office determines that renovation is the most cost effective alternative for such storage. The state shall be authorized to pay only up to 50% of the engineering and construction costs of public water supply storage in such a renovation project.~~

~~(e) The Kansas water office may recover the state's costs incurred in providing public water supply storage in such class II project, and interest on such costs, by selling such storage and the associated water rights. Interest on such costs shall be computed at a rate per annum which is equal to the greater of: (1) The average rate of interest earned the past calendar year on repurchase agreements of less than 30 days' duration entered into by the pooled money investment board, less 5%; or (2) four percent.~~

Sec. 29. K.S.A. 2011 Supp. 82a-1606 is hereby amended to read as follows: 82a-1606.

(a) The state may participate with a sponsor in the development, construction or renovation of a class III multipurpose small lake project if the sponsor has a general plan which has been submitted to and approved by the chief engineer in the manner provided by K.S.A. 24-1213 and 24-1214, and amendments thereto. If public water supply storage is included in the project, the sponsor of such class III project shall pay for 100% of the costs associated with the public water

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supply storage portion of such project unless the Kansas water office determines that additional public water supply storage shall be needed in that area of the state within ~~20~~ 50 years from the time such project is to be completed and a sponsor is not available to finance 100% of the costs associated with the public water supply storage, the state may participate in the future use public water supply storage costs of the project, subject to the provisions of the state water plan storage act, K.S.A. 82a-1301 et seq., and amendments thereto. If the state participates in the public water supply storage costs, the Kansas water office shall apply for a water ~~appropriation~~ reservation right sufficient to insure a dependable yield from public water supply storage. The Kansas water office shall be exempt from all applicable fees imposed pursuant to K.S.A. 82a-701 et seq., and amendments thereto, for such applications. The Kansas water office shall have authority to adopt rules and regulations relative to the inclusion of public water supply storage in proposed projects under this act and the disposition of state-owned water rights and associated public water supply storage space in such projects.

(b) The sponsor of such class III project shall be responsible for acquiring land rights and for the costs of operation and maintenance of the project. The state may provide up to 50% of the engineering and construction costs and up to 50% of the costs of land rights associated with recreation features. ~~Subject to the provisions of subsection (c),~~ The state may pay up to 100% of the engineering and construction costs of flood control storage and public water supply storage. All other costs of such project, including land, construction, operation and maintenance, shall be paid by the sponsor.

~~(c) The state shall not participate in the costs of public water supply storage in a renovation project unless the Kansas water office determines that renovation is the most cost effective~~

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~~alternative for such storage. The state shall be authorized to pay only up to 50% of the engineering and construction costs of public water supply storage in such a renovation project.~~

~~(d) The Kansas water office may recover the state's costs incurred in providing public water supply storage in such class III project, and interest on such costs, by selling such storage and the associated water rights. Interest on such costs shall be computed at a rate per annum which is equal to the greater of: (1) The average rate of interest earned the past calendar year on repurchase agreements of less than 30 days' duration entered into by the pooled money investment board, less 5%; or (2) four percent.~~