

HOUSE BILL No. 2231

By Committee on Agriculture and Natural Resources

2-8

1 AN ACT concerning water; relating to water bank flex accounts;
2 amending K.S.A. 2010 Supp. 82a-736 and repealing the existing
3 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 as
7 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 during
10 calendar years ~~19922000~~ through ~~20022009~~, excluding any amount used
11 in any such year in excess of the amount authorized by such water right;
12 or (B) if the holder of a groundwater water right shows to the satisfaction
13 of the chief engineer that the holder has implemented significant water
14 conservation measures during calendar years ~~1992 2000~~ through
15 ~~20022009~~, the average amount of water actually used for a beneficial use
16 under such right during the five calendar years immediately before the
17 calendar year when such measures were implemented, excluding any
18 amount used in any such year in excess of the amount authorized by such
19 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~~ *be deemed* abandoned and
32 shall be in good standing, based on past water usage and compliance with
33 the terms of the holder's permit and all applicable provisions of law and
34 orders of the chief engineer; and

35 (4) the amount of water that shall be deposited in the account shall
36 not exceed 90% of the amount of the holder's base average usage times

1 five.

2 (c) The chief engineer shall implement a program providing for the
3 issuance of term permits to holders of groundwater water rights who have
4 established flex accounts in accordance with this section. Such term
5 permits shall authorize the use of water in a flex account at any time
6 during the five consecutive calendar years for which the application for
7 the term permit is made, without annual limits on such use. ~~Application~~
8 ~~for any such term permit shall be filed not later than October 10, of the~~
9 ~~year preceding the first year for which the application is made.~~

10 (d) Term permits provided for by this section shall be subject to the
11 following:

12 (1) A separate term permit shall be required for each point of
13 diversion.

14 (2) The quantity of water authorized for diversion shall be limited to
15 the amount deposited pursuant to subsection (b)(4).

16 (3) The authorized place of use for the term permit shall not be
17 greater than that authorized by the existing groundwater right.

18 (4) The chief engineer may establish, by rules and regulations,
19 criteria for such term permits when the water right authorizes multiple
20 points of diversion or multiple water rights authorize a single point of
21 diversion or overlapping places of use.

22 (5) Except as explicitly provided for by this section, such term
23 permits shall be subject to all provisions of the Kansas water
24 appropriation act, and rules and regulations adopted under such act, and
25 nothing in this section shall authorize impairment of any vested right or
26 prior appropriation right by the exercise of such term permit.

27 (e) *Unless a term permit is issued pursuant to an application filed*
28 *before November 1 of the year prior to the first year for which the*
29 *application is made, the quantity of water used under the water right*
30 *during the year in which the application for the term permit is filed shall*
31 *be deducted from the amount of water deposited into the account.*

32 ~~(e)~~(f) All costs of administration of this section shall be paid from
33 fees for term permits provided for by this section. Any appropriation or
34 transfer from any fund other than the water appropriation certification
35 fund for the purpose of paying such costs shall be repaid to the fund from
36 which such appropriation or transfer is made. At the time of repayment,
37 the secretary of agriculture shall certify to the director of accounts and
38 reports the amount to be repaid and the fund to be repaid. Upon receipt of
39 such certification, the director of accounts and reports shall promptly
40 transfer the amount certified to the specified fund.

41 ~~(f)~~(g) The chief engineer shall submit a written report on the
42 implementation of this section to the house standing committee on
43 environment and the senate standing committee on natural resources on

1 or before February 1 of each year.

2 ~~(g)~~(h) This section shall be part of and supplemental to the Kansas
3 water appropriation act.

4 Sec. 2. K.S.A. 2010 Supp. 82a-736 is hereby repealed.

5 Sec. 3. This act shall take effect and be in force from and after its
6 publication in the statute book.

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