

**82a-1306. State water plan storage act; contracts for withdrawal and use; required provisions; rate of charges for water.** (a) Every contract made under authority of K.S.A. 82a-1305, and amendments thereto, shall include the following:

(1) Provision for charges, which shall be set by the director, subject to approval by the authority, at a rate which the director shall fix per 1,000 gallons of water at the point of withdrawal from the reservoir as provided in K.S.A. 82a-1308a, and amendments thereto;

(2) except as provided in subsection (b), provisions for a minimum annual charge to be paid in either an annual lump sum or in 12 equal monthly installments, whether or not water is withdrawn during the calendar year. The minimum annual charge shall be the sum of 50% of the total amount of water contracted for that year multiplied by the rate fixed under paragraph (1), plus, the remaining 50% of the water reserved under contract for that year, an amount as interest computed at a rate per annum equal to the average of the monthly net earnings rates for the pooled money investment portfolio for the preceding calendar year on the net amount of moneys advanced from state funds for costs incurred and associated with that portion of the state's conservation water supply capacity. The amount of water contracted for during the term may be based upon either equal annual amounts or an agreed-upon graduated scale which would be the best estimate at the time of contracting for the purchaser's water needs during the term of the contract;

(3) provisions that the director shall review and may adjust the rate provided in paragraph (1) on July 15 of each year effective January 1 of the following year to reflect any change in experience by substituting the adjusted rate for the rate then stated in the contract;

(4) provisions that the director may adjust the total amount of water contracted for as provided under paragraph (2) on the sixth anniversary of the execution of the contract and each annual anniversary thereafter, if the contractor does not begin full payment for the water under contract and another water user is ready, willing and able to contract for such water;

(5) provisions that water may be withdrawn in any calendar year up to the quantity used to compute the minimum annual charge under paragraph (2) without additional charge;

(6) provisions that water may be withdrawn in any calendar year in excess of the quantity used to compute the minimum annual charge under paragraph (2) but not to exceed the full amount specified in the contract for each year, upon payment of a charge therefor which shall be computed at the rate fixed under paragraph (1) for all water actually withdrawn. In addition, an amount shall be paid, on the unused balance of the water reserved under contract that calendar year, as interest computed as a rate per annum equal to the average of interest earned the past calendar year on repurchase agreements of less than 30 days' duration entered into by the pooled money investment board on the net amount of moneys advanced from state funds for costs incurred and associated with that portion of the state's conservation water supply capacity;

(7) provisions that if the total amount of waters contracted for withdrawal from any reservoir in any year is greater than the supply available from that reservoir, the director, subject to approval by the authority, will apportion the available waters among the persons having contracts therefor as may best provide for the health, safety and general welfare of the people of this state as determined by the authority, and neither the state nor the authority shall be responsible or have any legal liability for any insufficiency of water or apportionment thereof;

(8) additional provisions that the director finds reasonable and necessary to protect the public's interest and to achieve the purpose set forth in article 9 of chapter 82a of Kansas Statutes Annotated, and amendments thereto; and

(9) additional provisions, within the purview of this act, that the director finds reasonable and necessary to protect the health, safety and general welfare of the people of this state.

(b) Every contract entered into under the authority of K.S.A. 82a-1305, and amendments thereto, may provide, if the parties agree, that the beginning of the payment period be deferred until water is available and whenever, in order to use such water, bonds are required to be issued or the construction of transmission or treatment facilities is required as follows: If water is not available at the time of contracting, for a maximum of three years from the date the water first becomes available, or until actual use of the water commences, whichever occurs first. If water is available at the time of contracting, the beginning of the payment period may be deferred to a date three years from the date of the contract, or until actual use of the water commences, whichever occurs first.

**History:** L. 1974, ch. 452, § 6; L. 1976, ch. 441, § 3; L. 1983, ch. 343, § 5; L. 1984, ch. 382, § 3; L. 1986, ch. 396, § 5; L. 1998, ch. 123, § 5; July 1.