

2018 Kansas Statutes

82a-1503. Application for transfer; hearing, procedure; costs of hearing, fund. (a) Any person desiring to make a water transfer shall file with the chief engineer an application in the form required by rules and regulations adopted by the chief engineer. If the chief engineer finds the application to be insufficient to enable the chief engineer to determine the source, nature and amount of the proposed transfer, or if the application is not complete, the application shall be returned for correction or completion or for any other necessary information.

(b) The presiding officer shall commence the hearing process by giving notice of the prehearing conference not more than 14 days after the panel is assigned an officer. Such notice shall be given by mail to the applicant, any other parties who have intervened and the appropriate commenting agencies and shall be published in the Kansas register and in at least two newspapers having general circulation in the area where the proposed point of diversion is located. The presiding officer shall hold a prehearing conference which shall commence not less than 90 and not more than 120 days after the required notice has been given and shall conclude not later than 45 days after commencement. Not less than 90 and not more than 120 days after the conclusion of the prehearing conference, the presiding officer shall commence a formal public hearing. The formal public hearing shall be held in the basin of origin and, if deemed necessary by the presiding officer, a public comment hearing shall be held in the basin of use. The formal public hearing shall conclude not later than 120 days after commencement and the initial order of the presiding officer approving or disapproving the water transfer shall be issued not later than 90 days after conclusion of the formal public hearing. The presiding officer may extend a time limit provided by this subsection, but only with the written consent of all parties or for good cause shown.

(c) Intervention in the hearing shall be in accordance with the Kansas administrative procedure act, except that any petition for intervention must be submitted and copies mailed to all parties not later than 60 days before the formal hearing.

(d) Any person shall be permitted to appear and testify at any hearing under this act upon the terms and conditions determined by the presiding officer.

(e) At intervals during or at the conclusion of the hearing, the presiding officer shall fairly and equitably assess the following costs of the hearing among the applicant and other parties: The hearing facility, the court reporter, the salary of a presiding officer who is not paid for services as a hearing officer by state funds, the travel expenses of the presiding officer and other reasonable costs associated with the hearing. The presiding officer may assess any or all anticipated costs to the applicant before the hearing and subsequently may assess other parties for the parties' fair and equitable portion of the anticipated costs assessed the applicant. Amounts assessed pursuant to this subsection shall be paid to the chief engineer. Upon receipt thereof, the chief engineer shall remit the entire amount 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 water transfer hearing fund established by subsection (f).

(f) (1) There is hereby established in the state treasury the water transfer hearing fund.

(2) Moneys credited to the water transfer hearing fund shall be used only to pay: (A) Costs of hearings conducted pursuant to the water transfer act; (B) reimbursement of the applicant for anticipated costs assessed the applicant and subsequently assessed other parties; and (C) refunds of unused moneys assessed as anticipated costs before the hearing. Expenditures from such fund shall be made in accordance with appropriation acts upon warrants of the director of accounts and reports, or a person designated by the director of accounts and reports pursuant to K.S.A. 75-3732, and amendments thereto, issued pursuant to vouchers approved by the chief engineer, or a person designated by the chief engineer.

(3) On or before the 10th of each month, the director of accounts and reports shall transfer from the state general fund to the water transfer hearing fund interest earnings based on:

- (A) The average daily balance of moneys in the water transfer hearing fund for the preceding month; and
- (B) the net earnings rate for the pooled money investment portfolio for the preceding month.

History: L. 1983, ch. 341, § 3; L. 1986, ch. 392, § 6; L. 1988, ch. 356, § 351; L. 1993, ch. 219, § 4; L. 1996, ch. 253, § 37; L. 2001, ch. 5, § 481; L. 2004, ch. 145, § 48; July 1, 2005.