SENATE BILL No. 171

By Committee on Utilities

2-13

AN ACT concerning the department of health and environment; relating to public water supply systems; loan program requirements; installation or repair, lead levels; amending K.S.A. 65-163d, 65-163i, 65-170d and 65-171r and repealing the existing sections.

1 2

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

Section 1. K.S.A. 65-163d is hereby amended to read as follows: 65-163d. As used in K.S.A. 65-163d through 65-163u, and amendments thereto:

- (a) "Fund" means the public water supply loan fund established by K.S.A. 65-163e, and amendments thereto.
- (b) "Municipality" means: (1) Any political or taxing subdivision authorized by law to construct, operate and maintain a public water supply system, including water districts; (2) two or more such subdivisions jointly constructing, operating or maintaining a public water supply system; or (3) the Kansas rural water finance authority.
- (c) "Project" means any acquisition, construction, reconstruction, improvement, equipping, rehabilitation or extension of all or any part of a public water supply system. "Project" does not include any project related to the diversion or transportation of water acquired through a water-transfer, as defined by K.S.A. 82a-1501 and amendments thereto.
- (d) "Project costs" means all costs or expenses which are necessary or incident to a project and which are directly attributable thereto.
- (e) "Public water supply system" has the meaning provided by K.S.A. 65-162a, and amendments thereto.
 - (f) "Secretary" means the secretary of health and environment.
- Sec. 2. K.S.A. 65-163i is hereby amended to read as follows: 65-163i.

 (a) Municipalities which desire the provision of a loan under this act shall submit an application therefor to the governor. Applications shall be in
- submit an application therefor to the secretary. Applications shall be in such form and shall include such information as the secretary shall require and shall be submitted in a manner and at a time to be determined by the secretary.
- (b) The secretary may enter into agreements with any municipality for the provision of a loan thereto for payment of all or a part of project costs and any municipality may enter into such an agreement and may accept such loan when so authorized by the municipal governing body.

SB 171 2

The purposes of the loan to be provided, the amount thereof, the interest rate thereon and the repayment terms and conditions thereof, all of which may vary among municipalities, shall be included in the agreements. Loans shall be provided at or below market interest rates. All such agreements with municipalities shall require that municipalities establish a dedicated source of revenue for repayment of the loans as provided in K.S.A. 65-163j, and amendments thereto. Such agreements shall further provide that repayment of any loan received shall begin not later than one year after completion of the project and that such loan shall be repaid in full no later than 20 40 years thereafter.

- (c) If a municipality to which a loan is made available under this act fails to enter into an agreement with the secretary for the provision of such loan in accordance with the requirements of this act, the secretary may make the amount of the loan available for one or more other projects on the priority list.
- (d) The secretary shall provide any municipality, upon request, with technical advice and assistance regarding a project or an application for a loan for the payment of all or part of project costs.
- Sec. 3. K.S.A. 65-170d is hereby amended to read as follows: 65-170d. (a) Any person who violates: (1) Any term or condition of any sewage discharge permit issued pursuant to K.S.A. 65-165, and amendments thereto; (2) any effluent standard or limitation or any water quality standard or other rule or regulation promulgated pursuant to K.S.A. 65-171d, and amendments thereto; (3) any filing requirement made pursuant to K.S.A. 65-164 or 65-166, and amendments thereto; (4) any reporting, inspection or monitoring requirement made pursuant to this act or K.S.A. 65-166, and amendments thereto; or (5) any lawful order or requirement of the secretary of health and environment shall incur, in addition to any other penalty provided by law, a civil penalty in an amount of up to \$10,000 for every such violation. In the case of a continuing violation, every day such violation continues shall, for the purpose of this act, be deemed a separate violation.
- (b) The director of the division of environment, upon a finding that a person has violated any provision of subsection (a), may impose a penalty within the limits provided in this section, which penalty shall constitute an actual and substantial economic deterrent to the violation for which it is assessed.
- (c) No such penalty shall be imposed except upon the written order of the secretary of health and environment or the director of the division of environment to such person stating the violation, the penalty to be imposed and the right of such person to appeal to the secretary—of health and environment. Any such person may, within 15 days after service of the order make written request to the secretary of health and environment on

SB 171 3

 such matter for a hearing thereon. The secretary of health and environment shall hear such person or persons If such order is appealed, a hearing shall be conducted in accordance with the provisions of the Kansas administrative procedure act within 30 days after receipt of such request.

- (d) Any action of the secretary pursuant to this section is subject to review in accordance with the Kansas judicial review act.
- Sec. 4. K.S.A. 65-171r is hereby amended to read as follows: 65-171r. The following acts are prohibited:
- (a) The operation of a public water supply system without first obtaining a valid public water supply system permit under K.S.A. 65-163, and amendments thereto;
- (b) the operation of a public water supply system in violation of the conditions of the public water supply system permit under K.S.A. 65-163, and amendments thereto;
- (c) the failure of a supplier of water under investigation to furnish information to the secretary under K.S.A. 65-163, and amendments thereto;
- (d) the failure of a supplier of water to comply with any final order of the secretary issued under the provisions of K.S.A. 65-163 or 65-163a, and amendments thereto;
- (e) the failure of a supplier of water to comply with a primary drinking water standard established under K.S.A. 65-171m, and amendments thereto, and rules and regulations adopted pursuant thereto unless a variance or exception has been granted;
- (f) the failure of a supplier of water to comply with the rules and regulations of the secretary for monitoring, maintenance of records and submission of reports, sampling and analysis of water and inspections adopted under K.S.A. 65-171m, and amendments thereto;
- (g) the failure of a supplier of water to give notice as required under K.S.A. 65-1710, and amendments thereto, and rules and regulations adopted pursuant thereto;
- (h) using any pipe, solder or flux in the installation or repair of any public water supply system or any plumbing in a residential or nonresidential facility providing water for human consumption, which is not lead-free, except that this paragraph shall not apply to leaded joints necessary for the repair of cast iron pipes. As used in this paragraph, "lead-free" means: (1) With respect to its usage in conjunction with solder and flux, solder and flux containing not more than .2% lead;; and (2) with respect to its usage in conjunction with pipes and pipe fittings, pipes and pipe fittings containing not more than .8% 0.25% lead;
- (i) the sale of unmarked lead solders and fluxes. A seller of lead solders and fluxes in Kansas shall not sell any solder or flux containing more than 0.2% lead unless the seller displays a sign and a label is affixed

SB 171 4

1 2

to such product which states: "Contains lead: Kansas law and federal law prohibits the use of this product in any plumbing installation providing water for human consumption.";

- (j) the application of fertilizers, pesticides or other chemicals by any person through any lawn irrigation system connected to a public water supply system except that in areas where the public water supply system has adopted a program for the detection and elimination of cross connections and prevention of backflow and backsyphonage which has been approved by the secretary of health and environment, such application may be permitted by the public water supply system upon its periodic inspection and current approval of the installed air gap or reduced pressure zone backflow prevention device which isolates the irrigation system; and
- (k) the use by any person of a public water supply system as a source of make-up water for bulk chemical application tanks except that: (1) In areas where the public water supply system has adopted a program for the detection and elimination of cross connections and prevention of backflow and backsyphonage which has been approved by the secretary of health and environment, such use may be permitted by the public water supply system upon its periodic inspection and current approval of an air gap or reduced pressure zone backflow prevention device to protect the public water supply; and (2) in areas where the public water supply system has not adopted a program approved by the secretary of health and environment, such use shall be permitted if an air gap or reduced pressure zone backflow prevention device is used and such device meets nationally recognized standards, as determined by the secretary of health and environment.
- Sec. 5. K.S.A. 65-163d, 65-163i, 65-170d and 65-171r are hereby repealed.
- Sec. 6. This act shall take effect and be in force from and after its publication in the statute book.