

HOUSE BILL No. 2620

By Committee on Agriculture

1-28

9 AN ACT concerning water; establishing a program to assist in converting
10 from irrigated agricultural land use to non-irrigated land use; amend-
11 ing K.S.A. 2-1919 and K.S.A. 2003 Supp. 2-1915 and repealing the
12 existing sections.
13

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

15 Section 1. K.S.A. 2003 Supp. 2-1915 is hereby amended to read as
16 follows: 2-1915. (a) Appropriations may be made for grants out of funds
17 in the treasury of this state for terraces, terrace outlets, check dams, dikes,
18 ponds, ditches, critical area planting, grassed waterways, tailwater recov-
19 ery irrigation systems, precision land forming, range seeding, detention
20 and grade stabilization structures and other enduring water conservation
21 practices installed on public lands and on privately owned lands and,
22 commencing July 1, 2002, and ending June 30, 2005, the control and
23 eradication of sericea lespedeza as provided in subsection (n) of K.S.A.
24 2-1908, and amendments thereto, on public lands and on privately owned
25 lands. Except as provided by the multipurpose small lakes program act
26 *and the irrigation transition program*, any such grant shall not exceed
27 80% of the total cost of any such practice.

28 (b) A program for protection of riparian and wetland areas shall be
29 developed by the state conservation commission and implemented by the
30 conservation districts. The conservation districts shall prepare district pro-
31 grams to address resource management concerns of water quality, erosion
32 and sediment control and wildlife habitat as part of the conservation dis-
33 trict long-range and annual work plans. Preparation and implementation
34 of conservation district programs shall be accomplished with assistance
35 from appropriate state and federal agencies involved in resource
36 management.

37 (c) (1) Subject to the provisions of K.S.A. 2-1919, and amendments
38 thereto, ~~any holder of a water right, as defined by subsection (g) of K.S.A.~~
39 ~~§2a-701, and amendments thereto, who is willing to voluntarily return all~~
40 ~~or a part of the water right to the state shall be eligible for a grant not to~~
41 ~~exceed 80% of the total cost of the purchase price for such water right.~~
42 ~~The state conservation commission shall administer this cost share pro-~~
43 ~~gram with funds appropriated by the legislature for such purpose. The~~

1 chief engineer shall certify to the state conservation commission that any
2 water right for which application for cost share is received under this
3 section is eligible in accordance with the criteria established in K.S.A. ~~2-~~
4 ~~1919, and amendments thereto.~~ *an irrigation transition assistance grant*
5 *program is hereby established to provide assistance to water right owners*
6 *converting from irrigated agriculture to dryland agriculture, pasture or*
7 *other non-irrigated land use. The amount of the grants under the program*
8 *shall be based on the difference between the fair market value of the*
9 *irrigated land to be converted and similar non-irrigated land.*

10 (2) *The irrigation transition assistance grant program shall be ad-*
11 *ministered by the state conservation commission and may be funded, sub-*
12 *ject to appropriation acts, from: (A) Moneys recovered by the state of*
13 *Kansas in Kansas v. Colorado, no. 105, original, and credited to the state*
14 *water plan fund or the water conservation projects fund pursuant to*
15 *K.S.A. 82a-1801 through K.S.A. 82a-1803, and amendments thereto; (B)*
16 *amounts received from the federal government for the purposes of the*
17 *program; (C) amounts received from contributions by local entities; and*
18 *(D) amounts received from any other source for the purposes of the*
19 *program.*

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

26 (2) There is hereby created in the state treasury the Kansas water
27 quality buffer initiative fund. All expenditures from such fund shall be
28 made in accordance with appropriation acts upon warrants of the director
29 of accounts and reports issued pursuant to vouchers approved by the
30 executive director of the state conservation commission or the executive
31 director's designee. Money credited to the fund shall be used for the
32 purpose of making grants to install water quality best management prac-
33 tices pursuant to the initiative.

34 (3) The county or district appraiser shall identify and map riparian
35 buffers consisting of at least one contiguous acre per parcel of real prop-
36 erty located in the appraiser's county. Notwithstanding any other provi-
37 sions of law, riparian buffers shall be valued by the county or district
38 appraiser as tame grass land, native grass land or waste land, as appro-
39 priate. As used in this subsection (3), "riparian buffer" means an area of
40 stream-side vegetation that: (A) Consists of tame or native grass and may
41 include forbs and woody plants; (B) is located along a perennial or inter-
42 mittent stream, including the stream bank and adjoining floodplain; and
43 (C) is a minimum of 66 feet wide and a maximum of 180 feet wide.

1 (e) The state conservation commission shall adopt rules and regula-
2 tions to administer ~~such the~~ grant and protection programs *provided for*
3 *by this section*.

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

9 Sec. 2. K.S.A. 2-1919 is hereby amended to read as follows: 2-1919.

10 ~~(a) Except as provided by subsection (b), any application for cost-share~~
11 ~~for the purchase of the water right under the provisions of K.S.A. 2-1915,~~
12 ~~and amendments thereto, shall be subject to the following limitations:~~

13 ~~—(1) The water right is an active vested or certified water appropriation~~
14 ~~right that has not been abandoned under the provisions of K.S.A. 82a-~~
15 ~~718, and amendments thereto;~~

16 ~~—(2) (A) in the case of a water right for diverting groundwater, such~~
17 ~~water right is in an area where the rate of withdrawal of groundwater~~
18 ~~equals or exceeds the rate of recharge and the chief engineer has closed~~
19 ~~the area to further appropriations and designated the area as being in~~
20 ~~need of aquifer restoration; (B) in the case of a water right for diverting~~
21 ~~groundwater or surface water, such water right is within a stream reach~~
22 ~~where the chief engineer has closed the stream reach to further appro-~~
23 ~~priations and designated the stream reach as being in need of stream~~
24 ~~recovery;~~

25 ~~—(3) a local entity has provided an assurance that it will pay at least~~
26 ~~20% of the purchase price negotiated by the entity and the holder of the~~
27 ~~water right; and~~

28 ~~—(4) the holder of the water right agrees to return the water right to~~
29 ~~the custodial care of the state.~~

30 ~~—(b) In the case of a purchase of a surface water right from outside~~
31 ~~the state, such purchase shall be considered and evaluated by the chief~~
32 ~~engineer on the basis of the potential of the water right to provide stream~~
33 ~~recovery within a designated stream reach. (a) As used in this section,~~
34 ~~“water right” has the meaning provided in K.S.A. 82a-701, and amend-~~
35 ~~ments thereto.~~

36 (b) An owner of a water right or rights shall be eligible to apply for
37 a grant under the irrigation transition assistance grant program to help
38 offset the cost of converting from irrigated agriculture to dryland agri-
39 culture, pasture or other non-irrigated land use if:

40 (1) As certified by the chief engineer of the division of water resources
41 of the department of agriculture, the water right or rights are active vested
42 or certified water rights which are in good standing and have not been
43 abandoned under the provisions of K.S.A. 82a-718, and amendments

1 *thereto;*

2 (2) *the owner is willing to convert voluntarily from irrigated agricul-*
3 *ture to dryland agriculture, pasture or other non-irrigated land use at the*
4 *authorized place of use associated with such water right or rights;*

5 (3) *the owner requests the state to dismiss such water right or rights;*
6 *and*

7 (4) *as certified by the chief engineer of the division of water resources*
8 *of the Kansas department of agriculture: (A)(i) Such water right or rights*
9 *are used to irrigate land with water withdrawn from the high plains aq-*
10 *uifer, (ii) the point of diversion for such right or rights is located in an*
11 *area closed to new appropriations of water or in an area where regulations*
12 *otherwise prevent new appropriations of water and (iii) such point of*
13 *diversion is located within a high priority decline area identified by a*
14 *groundwater management district in a revised management plan ap-*
15 *proved by the chief engineer or identified in the state water plan; or (B)(i)*
16 *the point of diversion for such water right or rights is located in an area*
17 *closed to new appropriations of water and identified by the chief engineer*
18 *to be an area in need of stream recovery, aquifer stabilization or lake level*
19 *maintenance and (ii) such point of diversion is located within a high pri-*
20 *ority decline area identified by a groundwater management district in a*
21 *revised management plan approved by the chief engineer or identified in*
22 *the state water plan.*

23 (c) *Each applicant for an irrigation transition assistance grant shall*
24 *file an application on a form prescribed by the commission. The appli-*
25 *cation shall be accompanied by an application fee of not less than \$500*
26 *nor more than \$1,000, as prescribed by rules and regulations adopted by*
27 *the state conservation commission. If the owner of the water right enters*
28 *into an irrigation transition contract with the state, the application fee*
29 *shall be refunded.*

30 (d) *The amount of an irrigation transition assistance grant shall not*
31 *exceed the difference between the fair market value of the actual irrigated*
32 *land to be converted to non-irrigated use and similar non-irrigated land,*
33 *as determined by an appraisal conducted by an independent, disinterested*
34 *appraiser. The appraisal shall consider: (1) The annual quantity of water*
35 *that was legally and physically available for irrigation prior to the appli-*
36 *cation for the grant; (2) the actual annual quantity of water that will be*
37 *conserved because it will no longer be used for irrigation; and (3) the cost*
38 *of any well plugging or conversion of a well to domestic use that may be*
39 *required. This appraisal shall be exempt from the real property appraisal*
40 *requirements of K.S.A. 75-3043a, and amendments thereto.*

41 (e) *An irrigation transition assistance grant may be paid in whole or*
42 *part by a local entity. All other qualifications for a grant being equal,*
43 *priority shall be given to grants which a local entity will provide matching*

1 funds equal to 20% or more of the amount of the grant. Monetary assis-
2 tance by the federal government shall not be considered in determining
3 state priorities for irrigation transition assistance grants.

4 (f) If the irrigated acreage for which an irrigation transition assis-
5 tance grant is applied is leased at the time of the application for the grant,
6 the landowner shall give the lessee an opportunity to participate in the
7 irrigation transition assistance grant.

8 (g) The recipient of an irrigation transition assistance grant shall: (1)
9 Convert the irrigated land to non-irrigated land; (2) file an irrigation
10 transition plan with the state conservation commission; (3) file a written
11 request with the chief engineer of the division of water resources of the
12 department of agriculture waiving the right to a hearing and requesting
13 that the chief engineer dismiss the water rights and asking that any pri-
14 ority that the water rights may have had be terminated; and (4) either
15 plug the well or wells in accordance with the provisions of K.S.A. 82a-
16 1213, and amendments thereto, or physically convert the well or wells to
17 domestic use. The wells shall be plugged or converted to domestic use
18 within three years or by the end of the approved transition plan, which-
19 ever occurs first.

20 (h) The state conservation commission shall certify to the chief engi-
21 neer of the division of water resources of the department of agriculture
22 whenever an irrigation transition assistance grant contract is finalized
23 and shall provide the chief engineer with a copy of the approved transition
24 plan. The chief engineer shall then dismiss the water right in accordance
25 with the conditions approved in the transition plan. When a water right
26 is dismissed pursuant to this section, the chief engineer may condition the
27 dismissal to allow a reduced quantity of water to be used for up to three
28 years to establish a cover crop, to allow the point of diversion to be phys-
29 ically converted to domestic use or for other transitional uses.

30 (i) When a water right is dismissed pursuant to this section in a high
31 priority decline area identified by a groundwater management district in
32 a revised management plan approved by the chief engineer of the division
33 of water resources of the Kansas department of agriculture or identified
34 in the state water plan, no additional permits to appropriate water may
35 be approved by the chief engineer in such high priority area, except for
36 domestic use, temporary permits and term permits for less than five years.

37 New Sec. 3. (a) There is hereby established in the state treasury the
38 irrigation transition application fee fund. The state conservation commis-
39 sion shall remit to the state treasurer, in accordance with the provisions
40 of K.S.A. 75-4215, and amendments thereto, all moneys received by the
41 commission for application fees under K.S.A. 2-1919, and amendments
42 thereto. Upon receipt of the remittance, the state treasurer shall deposit
43 the entire amount in the state treasury and credit it to the fund. Moneys

1 in the fund shall be expended only to pay the costs of the appraisal under
2 K.S.A. 2-1919, and amendments thereto, or to refund the applicant's fee
3 if the state is unable or chooses not to enter into an irrigation contract
4 with the applicant.

5 (b) On or before the 10th of each month, the director of accounts
6 and reports shall transfer from the state general fund to the irrigation
7 transition application fee fund interest earnings based on: (1) The average
8 daily balance of moneys in the irrigation transition application fee fund
9 for the preceding month; and (2) the net earnings rate for the pooled
10 money investment portfolio for the preceding month.

11 (c) All expenditures from the irrigation transition application fee fund
12 shall be made in accordance with appropriation acts upon warrants of the
13 director of accounts and reports issued pursuant to vouchers approved
14 by the executive director of the state conservation commission or a person
15 or persons designated by the executive director for the purposes set forth
16 in this section.

17 (d) All payments and disbursements from the irrigation transition ap-
18 plication fee fund shall be made upon warrants of the director of accounts
19 and reports issued pursuant to vouchers approved by the director or by
20 a person or persons designated by the director.

21 Sec. 4. K.S.A. 2-1919 and K.S.A. 2003 Supp. 2-1915 are hereby
22 repealed.

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