

As Amended by House Committee

Session of 2005

HOUSE BILL No. 2400

By Committee on Environment

2-9

10 AN ACT concerning water; relating to the irrigation transition assistance
11 program, amending K.S.A. 2-1919 and K.S.A. 2004 Supp. 2-1915 and
12 repealing the existing sections.
13

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

15 ~~Section 1. K.S.A. 2004 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, the~~
22 ~~control and eradication of sericea lespedeza as provided in subsection (n)~~
23 ~~of K.S.A. 2-1908, and amendments thereto, on public lands and on pri-~~
24 ~~vately owned lands. Except as provided by the multipurpose small lakes~~
25 ~~program act, any such grant shall not exceed 80% of the total cost of any~~
26 ~~such practice.~~

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

36 ~~—(c)—Subject to the provisions of K.S.A. 2-1919, and amendments~~
37 ~~thereto, any holder of a water right, as defined by subsection (g) of K.S.A.~~
38 ~~82a-701, and amendments thereto, who is willing to voluntarily return all~~
39 ~~or a part of the water right to the state shall be eligible for a grant not to~~
40 ~~exceed 80% of the total cost of the purchase price for such water right.~~
41 ~~The state conservation commission shall administer this cost-share pro-~~
42 ~~gram with funds appropriated by the legislature for such purpose. The~~
43 ~~chief engineer shall certify to the state conservation commission that any~~

1 water right for which application for cost share is received under this
2 section is eligible in accordance with the criteria established in K.S.A. 2-
3 1919, and amendments thereto.

4 ~~—(d) (1) Subject to appropriation acts therefor, the state conservation~~
5 ~~commission shall develop the Kansas water quality buffer initiative for~~
6 ~~the purpose of restoring riparian areas using best management practices.~~
7 ~~The executive director of the state conservation commission shall ensure~~
8 ~~that the initiative is complementary to the federal conservation reserve~~
9 ~~program.~~

10 ~~—(2) There is hereby created in the state treasury the Kansas water~~
11 ~~quality buffer initiative fund. All expenditures from such fund shall be~~
12 ~~made in accordance with appropriation acts upon warrants of the director~~
13 ~~of accounts and reports issued pursuant to vouchers approved by the~~
14 ~~executive director of the state conservation commission or the executive~~
15 ~~director's designee. Money credited to the fund shall be used for the~~
16 ~~purpose of making grants to install water quality best management prac-~~
17 ~~tices pursuant to the initiative.~~

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

28 ~~—(e) The state conservation commission shall adopt rules and regula-~~
29 ~~tions to administer such grant and protection programs.~~

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

35 ~~—Sec. 2.—K.S.A. 2-1919 is hereby amended to read as follows: 2-1919.~~
36 ~~(a) Except as provided by subsection (b), any application for cost share~~
37 ~~for the purchase of the water right under the provisions of K.S.A. 2-1915,~~
38 ~~and amendments thereto, shall be subject to the following limitations:~~

39 ~~—(1) The water right is an active vested or certified water appropriation~~
40 ~~right that has not been abandoned under the provisions of K.S.A. 82a-~~
41 ~~718, and amendments thereto;~~

42 ~~—(2) (A) in the case of a water right for diverting groundwater, such~~
43 ~~water right is in an area where the rate of withdrawal of groundwater~~

- 1 equals or exceeds the rate of recharge and the chief engineer has closed
2 the area to further appropriations and designated the area as being in
3 need of aquifer restoration, (B) in the case of a water right for diverting
4 groundwater or surface water, such water right is within a stream reach
5 where the chief engineer has closed the stream reach to further approp-
6 riations and designated the stream reach as being in need of stream
7 recovery;
- 8 ~~—(3) a local entity has provided an assurance that it will pay at least~~
9 ~~20% of the purchase price negotiated by the entity and the holder of the~~
10 ~~water right, and~~
- 11 ~~—(4) the holder of the water right participates in the cost share pro-~~
12 ~~gram and agrees to return the water right to the custodial care of the~~
13 ~~state, and~~
- 14 ~~—(4) water rights returned to the custodial care of the state through~~
15 ~~participation in the irrigation transition assistance program shall be per-~~
16 ~~manently dismissed by the chief engineer of the division of water resources~~
17 ~~of the Kansas Department of agriculture.~~
- 18 ~~—(b) In the case of a purchase of a surface water right from outside~~
19 ~~the state, such purchase shall be considered and evaluated by the chief~~
20 ~~engineer on the basis of the potential of the water right to provide stream~~
21 ~~recovery within a designated stream reach.~~
- 22 ~~—New Sec. 3. Section 1.~~ (a) There is hereby established the irrigation
23 transition assistance program. Such program shall be administered by the
24 state conservation commission for the purposes of issuing irrigation tran-
25 sition grants **only** for privately owned lands, subject to the provisions set
26 forth in K.S.A. 2-1915 and 2-1919, and amendments thereto **water**
27 **rights. The irrigation transition assistance program shall expire**
28 **three years from the effective date of the first fiscal year for which**
29 **moneys are appropriated therefor.**
- 30 (b) The state conservation **commission** may receive and expend from
31 the federal government, or any public or private source, for the purpose
32 of carrying out the provisions of this section.
- 33 (c) The state conservation commission shall adopt rules and regula-
34 tions as necessary for the administration of this section. All rules and
35 regulations in existence on ~~March~~ **April** 1, 2005, shall continue to be
36 effective and shall be deemed to be duly adopted rules and regulations
37 of the state conservation commission until revised, amended, revoked or
38 nullified pursuant to law.
- 39 (d) **Water rights returned through participation in the irriga-**
40 **tion transition assistance program shall be permanently dismissed**
41 **by the chief engineer of the division of water resources of the Kan-**
42 **sas department of agriculture.**
- 43 (e) The state conservation commission shall not require that

1 **the land to be transitioned to dry land under the irrigation tran-**
2 **sition assistance program will not be irrigated under any other**
3 **water right from any water source.**

4 ~~Sec. 4. K.S.A. 2-1019 and K.S.A. 2004 Supp. 2-1015 are hereby~~
5 ~~repealed.~~

6 **Sec. 5-2.** This act shall take effect and be in force from and after its
7 publication in the statute book.