

HOUSE BILL No. 2065

By Joint Committee on Administrative Rules and Regulations

1-22

9 AN ACT concerning intensive groundwater control areas; amending
10 K.S.A. 82a-1036 and repealing the existing section.

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

13 Section 1. K.S.A. 82a-1036 is hereby amended to read as follows:
14 82a-1036. (a) Whenever a groundwater management district recom-
15 mends the same or whenever a petition signed by not less than ~~three~~
16 ~~hundred (300)~~ 300 or by not less than ~~five percent (5%)~~ 5% of the eligible
17 voters of a groundwater management district, whichever is less, is sub-
18 mitted to the chief engineer, the chief engineer shall initiate, as soon as
19 practicable thereafter, proceedings for the designation of a specifically
20 defined area within such district as an intensive groundwater use control
21 area. *Except as provided in subsection (b)*, the chief engineer upon his or
22 her own investigation may initiate such proceedings whenever said chief
23 engineer has reason to believe that any one or more of the following
24 conditions exist in a groundwater use area which is located outside the
25 boundaries of an existing groundwater management district:

26 ~~(a)~~ (1) Groundwater levels in the area in question are declining or
27 have declined excessively; ~~or (b)~~

28 (2) the rate of withdrawal of groundwater within the area in question
29 equals or exceeds the rate of recharge in such area; ~~or (c)~~

30 (3) preventable waste of water is occurring or may occur within the
31 area in question; ~~(d)~~

32 (4) unreasonable deterioration of the quality of water is occurring or
33 may occur within the area in question; or ~~(e)~~

34 (5) other conditions exist within the area in question which require
35 regulation in the public interest.

36 (b) *Whenever any portion of the area proposed to be designated as a*
37 *groundwater intensive use control area lies within the boundaries of an*
38 *established groundwater management district, the chief engineer may des-*
39 *ignate such area as an intensive groundwater use control only after fol-*
40 *lowing the procedures specified in this subsection in addition to any other*
41 *requirements of the act.*

42 (1) *The chief engineer shall notify the groundwater management dis-*
43 *trict that the chief engineer has reason to believe:*

- 1 (A) *One or more of the groundwater conditions listed in subsection*
2 *(a), exist within the area of the groundwater management district to be*
3 *affected; and*
- 4 (B) *the public interest requires that one or more corrective control*
5 *provisions be adopted. To the extent that a groundwater condition listed*
6 *in subsection (a) is occurring within the area of a groundwater manage-*
7 *ment district to be affected, in determining whether the public interest*
8 *requires that one or more corrective control provisions be adopted, the*
9 *chief engineer shall consider the definition of the public interest specified*
10 *in such groundwater management district's management plan, including*
11 *any revisions thereof, and rules and regulations.*
- 12 (2) *The chief engineer shall provide the groundwater management*
13 *district with a description of the area of a groundwater management dis-*
14 *trict to be affected and data and analysis that document the existence of*
15 *one or more groundwater conditions listed in subsection (a) within such*
16 *area.*
- 17 (3) *The chief engineer shall consult with the groundwater manage-*
18 *ment district and attempt to reach a reasonable agreement with the*
19 *groundwater management district regarding the extent to which any*
20 *groundwater condition listed in subsection (a) exists within the area of a*
21 *groundwater management district to be affected.*
- 22 (4) *The chief engineer shall:*
- 23 (A) *Make a preliminary determination that strict application of the*
24 *priority system under the Kansas water appropriation act to address each*
25 *groundwater condition would:*
- 26 (i) *Be significantly less effective in solving or reducing the ground-*
27 *water condition listed in subsection (a) which exists within the area of a*
28 *groundwater management district; or*
- 29 (ii) *result in significantly more permits and water rights being or-*
30 *dered to completely cease diverting water than the creation of an intensive*
31 *groundwater use area; and*
- 32 (B) *provide a written report to the groundwater management district*
33 *explaining the chief determination required by subparagraph (A).*
- 34 (5) *The chief engineer shall provide at least 120 days for the ground-*
35 *water management district to develop and submit to the chief engineer:*
- 36 (i) *A plan to address the extent of the groundwater condition listed*
37 *in subsection (a) that exists within the area of a groundwater management*
38 *district; or*
- 39 (ii) *data and analysis that refutes either the existence or the extent to*
40 *which such groundwater condition exists within the area of a groundwater*
41 *management district affected.*
- 42 (6) *The affected groundwater management district has failed to sub-*
43 *mit its plan to address the condition or to refute the existence of the*

- 1 *groundwater condition in whole or in part, within the time period or any*
2 *extension specified by the chief engineer.*
- 3 *(7) If the groundwater management district affected has submitted a*
4 *refutation of the existence of a groundwater condition in whole or in part,*
5 *the chief engineer has responded in writing as to whether the chief en-*
6 *gineer agrees or disagrees with that refutation.*
- 7 *(8) The chief engineer has given the groundwater management af-*
8 *ected district at least 90 days to request initiation of an IGUCA.*
- 9 *(9) The groundwater management district affected has failed to re-*
10 *quest initiation of an intensive groundwater use control area within the*
11 *time period specified by the chief engineer.*
- 12 Sec. 2. K.S.A. 82a-1036 is hereby repealed.
- 13 Sec. 3. This act shall take effect and be in force from and after its
14 publication in the statute book.