

## Substitute for HOUSE BILL No. 2428

By Committee on Vision 2020

3-16

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9 AN ACT relating to water; providing for a water data repository; amend-  
10 ing K.S.A. 82a-910 and K.S.A. 2009 Supp. 2-1915, 82a-1602, 82a-1603,  
11 82a-1604, 82a-1605 and 82a-1606 and repealing the existing sections.  
12

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

14 Section 1. K.S.A. 2009 Supp. 2-1915 is hereby amended to read as  
15 follows: 2-1915. (a) Appropriations may be made for grants out of funds  
16 in the treasury of this state for terraces, terrace outlets, check dams, dikes,  
17 ponds, ditches, critical area planting, grassed waterways, tailwater recov-  
18 ery irrigation systems, precision land forming, range seeding, detention  
19 and grade stabilization structures and other enduring water conservation  
20 practices installed on public lands and on privately owned lands and, the  
21 control and eradication of sericea lespedeza as provided in subsection (n)  
22 of K.S.A. 2-1908, and amendments thereto, on public lands and on pri-  
23 vately owned lands. Except as provided by the multipurpose small lakes  
24 program act *or subsection (g)*, any such grant shall not exceed 80% of the  
25 total cost of any such practice.

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

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

1 section is eligible in accordance with the criteria established in K.S.A. 2-  
2 1919, and amendments thereto.

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

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

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

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

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

34 (g) *Notwithstanding the provisions of other statutes, any grant for*  
35 *bank stabilization that in the opinion of the executive director of the state*  
36 *conservation commission will reduce the amount of sediment load trans-*  
37 *mitted into a water supply lake or reservoir in this state may be funded*  
38 *for 100% of the total cost of the project. The state conservation commission*  
39 *is authorized to adopt rules and regulations deemed necessary for imple-*  
40 *mentation of this subsection (g).*

41 Sec. 2. K.S.A. 82a-910 is hereby amended to read as follows: 82a-  
42 910. (a) Subject to the approval of the Kansas water authority, the office  
43 may recommend to any agency of the federal government the inclusion

1 in any proposed or authorized federal project of any conservation storage  
2 features for water supply that the office expects will be needed within  
3 the state in the future for the achievement of the purposes of this act and  
4 the office may extend to and procure for any agency of the federal gov-  
5 ernment reasonable assurances and evidence that such expected future  
6 demands for the use of such storage will be made within a period of time  
7 which will permit payment of the costs allocated to such purposes within  
8 the life of the project, if such assurances have been authorized by the  
9 state water plan.

10 (b) When, in addition to actions taken under subsection (a), the office  
11 shall find it necessary or desirable for the achievement of the purposes  
12 of this act, the office may enter into agreements with the federal govern-  
13 ment for the repayment of costs for the inclusion of any conservation  
14 storage features for water supply that the office expects will be needed  
15 within the state in the future for achievement of such purposes if such  
16 agreements have been authorized by the state water plan and ~~a person~~  
17 ~~or persons have contracted for the use of a substantial portion of the~~  
18 ~~recommended conservation storage and that such person or persons will~~  
19 ~~use the water supply thereof within a period of time which will permit~~  
20 ~~them to pay their proportionate share of the costs allocated to such needs~~  
21 ~~within the life of the project~~ *the Kansas water office has determined there*  
22 *are one or more benefits to the state for acquiring such water.*

23 (c) Any person wishing the office to make a recommendation for stor-  
24 age features for expected future water supply needs, as provided in sub-  
25 section (a), may petition the office and show that it (1) has good reason  
26 to and does believe that it will have future needs for the use of the ad-  
27 ditional storage; (2) will request the use of such storage by a time and for  
28 a duration that will permit it to pay the costs allocated to such purposes  
29 within the life of the project; (3) will be able to repay to the state the  
30 costs of the requested storage features; and (4) will insure compliance  
31 with such maintenance and operational requirements in the use of the  
32 expected future water supply requested as the office shall direct for the  
33 achievement of the purposes of this act.

34 (d) *The Kansas water office is authorized to adopt rules and regula-*  
35 *tions prescribing procedures for calling additional waters into service.*

36 Sec. 3. K.S.A. 2009 Supp. 82a-1602 is hereby amended to read as  
37 follows: 82a-1602. In order to provide public water supply storage and  
38 water related recreational facilities in the state there is hereby established  
39 a multipurpose small lakes program. *All lakes considered under this pro-*  
40 *gram must have at least one of the following purposes: (a) Flood control*  
41 *storage, (b) public water supply storage, or (c) recreation features. Lakes*  
42 *that have more than one of the stated purposes shall be given preference*  
43 *for funding. The state conservation commission is authorized to adopt*

1 *rules and regulations relating to a higher cost share for single purpose*  
2 *lake projects.* The program shall be administered by the state conservation  
3 commission. Except as otherwise provided by this act, the state conser-  
4 vation commission shall adopt all rules and regulations necessary to im-  
5 plement the provisions of this act.

6 Sec. 4. K.S.A. 2009 Supp. 82a-1603 is hereby amended to read as  
7 follows: 82a-1603. When used in this act:

8 (a) “Chief engineer” means the chief engineer of the division of water  
9 resources of the department of agriculture.

10 (b) “Class I funded project” means a proposed new project or ren-  
11 ovation of an existing project located within the boundaries of an organ-  
12 ized watershed district which is receiving or is eligible to receive financial  
13 participation from the state conservation commission for the flood control  
14 storage portion of the project.

15 (c) “Class II funded project” means a proposed new project or ren-  
16 ovation of an existing project which is receiving or is eligible to receive  
17 financial participation from the federal government.

18 (d) “Class III funded project” means a proposed new project or ren-  
19 ovation of an existing project located outside the boundaries of an organ-  
20 ized watershed district which is not receiving or is not eligible to receive  
21 financial participation from the state conservation commission or the fed-  
22 eral government except as provided in K.S.A. 82a-1606, and amendments  
23 thereto.

24 (e) “Flood control storage” means storage space in reservoirs to hold  
25 flood waters.

26 (f) “Future use public water supply storage” means storage space  
27 which the Kansas water office determines will be needed within the next  
28 20 years for use by public water supply users in an area but for which  
29 there is no current sponsor.

30 (g) “General plan” means a preliminary engineering report describ-  
31 ing the characteristics of the project area, the nature and methods of  
32 dealing with the soil and water problems within the project area, and the  
33 projects proposed to be undertaken by the sponsor within the project  
34 area. Such plan shall include maps, descriptions and other data as may  
35 be necessary for the location, identification and establishment of the char-  
36 acter of the work to be undertaken; a cost-benefit analysis of alternatives  
37 to the project, including but not limited to, nonstructural flood control  
38 options and water conservation and reuse to reduce need for new water  
39 supply storage; and any other data and information as the chief engineer  
40 may require.

41 (h) “Land right” means real property as that term is defined by the  
42 laws of the state of Kansas and all rights thereto and interest therein and  
43 shall include any road, highway, bridge, street, easement or other right-

1 of-way thereon.

2 (i) "Multipurpose small lake project" means a dam and lake contain-  
3 ing *one or more of the following purposes*: (1) Flood control storage ~~and~~  
4 (2) ~~either~~ public water supply storage or (3) recreation features ~~or both~~.

5 (j) "Public water supply" means a water supply for municipal, indus-  
6 trial or domestic use.

7 (k) "Public water supply storage" means storage of water for munic-  
8 ipal, industrial or domestic use.

9 (l) "Recreation feature" means water storage and related facilities for  
10 activities such as swimming, fishing, boating, camping or other related  
11 activities.

12 (m) "Renovation" means repair or restoration of an existing lake  
13 which contains water storage space for use as a public water supply ~~and~~  
14 ~~which has either~~, recreational purposes or flood control purposes, ~~or both~~.

15 (n) "Sponsor" means: (1) Any political subdivision of the state which  
16 has the power of taxation and the right of eminent domain; (2) any public  
17 wholesale water supply district; or (3) any rural water district.

18 (o) "Water user" means any city, rural water district, wholesale water  
19 district or any other political subdivision of the state which is in the busi-  
20 ness of furnishing municipal or industrial water to the public.

21 Sec. 5. K.S.A. 2009 Supp. 82a-1604 is hereby amended to read as  
22 follows: 82a-1604. (a) The state may participate with a sponsor in the  
23 development, construction or renovation of a class I multipurpose small  
24 lake project if the sponsor has a general plan which has been submitted  
25 to and approved by the chief engineer in the manner provided by K.S.A.  
26 24-1213 and 24-1214, and amendments thereto. If the Kansas water office  
27 determines that additional public water supply storage shall be needed in  
28 that area of the state within 20 years from the time such project is to be  
29 completed and a water user is not available to finance public water supply  
30 storage, the state may include future use public water supply storage in  
31 the project. The Kansas water office shall apply for a water appropriation  
32 right sufficient to insure a dependable yield from the public water supply  
33 storage. The Kansas water office shall be exempt from all applicable fees  
34 imposed pursuant to K.S.A. 82a-701 et seq., and amendments thereto,  
35 for such applications. The Kansas water office shall have authority to  
36 adopt rules and regulations relative to the inclusion of public water supply  
37 storage in proposed projects under this act and the disposition of state-  
38 owned water rights and associated public water supply storage space in  
39 such projects.

40 (b) The sponsor of such class I project shall be responsible for ac-  
41 quiring land rights and for the costs of operation and maintenance of such  
42 project. The state may provide up to 50% of the engineering and con-  
43 struction costs and up to 50% of the costs of land rights associated with

1 recreation features. Subject to the provisions of ~~subsections~~ *subsection*  
2 (a) ~~and (c)~~, the state may pay up to 100% of the engineering and con-  
3 struction costs of flood control and public water supply storage. All other  
4 costs of such project, including land, construction, operation and main-  
5 tenance shall be paid by the sponsor.

6 ~~(c) The state shall not participate in the costs of public water supply~~  
7 ~~storage in a renovation project unless the Kansas water office determines~~  
8 ~~that renovation is the most cost effective alternative for such storage. The~~  
9 ~~state shall be authorized to pay only up to 50% of the engineering and~~  
10 ~~construction costs of public water supply storage in such a renovation~~  
11 ~~project.~~

12 ~~(d)~~ The Kansas water office may recover the state's costs incurred in  
13 providing public water supply storage in such class I project, and interest  
14 on such costs, by selling such storage and the associated water rights.  
15 Interest on such costs shall be computed at a rate per annum which is  
16 equal to the greater of: (1) The average rate of interest earned the past  
17 calendar year on repurchase agreements of less than 30 days' duration  
18 entered into by the pooled money investment board, less 5%; or (2) four  
19 percent.

20 Sec. 6. K.S.A. 2009 Supp. 82a-1605 is hereby amended to read as  
21 follows: 82a-1605. (a) The state may participate with a sponsor in the  
22 development, construction or renovation of a class II multipurpose small  
23 lake project if the sponsor has a general plan which has been submitted  
24 to and approved by the chief engineer in the manner provided by K.S.A.  
25 24-1213 and 24-1214, and amendments thereto. If the Kansas water office  
26 determines that additional public water supply storage shall be needed in  
27 that area of the state within 20 years from the time such project is to be  
28 completed and a water user is not available to finance public water supply  
29 storage, the state may include future use public water supply storage in  
30 the project. The Kansas water office shall apply for a water appropriation  
31 right sufficient to insure a dependable yield from public water supply  
32 storage. The Kansas water office shall be exempt from all applicable fees  
33 imposed pursuant to K.S.A. 82a-701 et seq., and amendments thereto,  
34 for such applications. The Kansas water office shall have authority to  
35 adopt rules and regulations relative to the inclusion of public water supply  
36 storage in proposed projects under this act and the disposition of state-  
37 owned water rights and associated public water supply storage space in  
38 such projects.

39 (b) In a class II project, the state may assume initial financial obli-  
40 gations for public water supply storage in watersheds by entering into  
41 long-term contracts with the federal government. In order to provide  
42 security to the federal government, the state may grant assignments of  
43 water rights, either appropriation rights or water reservation rights; as-

1 signments of rights under existing or prospective water purchase con-  
2 tracts; assignments, mortgages or other transfers of interests in real prop-  
3 erty held by the state and devoted to the specific small lake project for  
4 which security is sought; or may provide other security that is permissible  
5 under state law and acceptable by the federal government. Instead of  
6 contracting to repay costs under long-term contracts, the state may pay  
7 all of the required costs of the public water supply storage in a lump sum.

8 (c) The sponsor of such class II project shall be responsible for ac-  
9 quiring land rights and for the costs of operation and maintenance of such  
10 project. The state or federal government may provide up to 50% of the  
11 engineering and construction costs and up to 50% of the costs of land  
12 rights associated with recreation features. ~~Subject to the provisions of~~  
13 ~~subsection (d),~~ The state may pay up to 100% of the engineering and  
14 construction costs of flood control and public water supply storage. All  
15 other costs of such project, including land, construction, operation and  
16 maintenance shall be paid by the sponsor.

17 ~~(d) The state shall not participate in the costs of public water supply~~  
18 ~~storage in a renovation project unless the Kansas water office determines~~  
19 ~~that renovation is the most cost effective alternative for such storage. The~~  
20 ~~state shall be authorized to pay only up to 50% of the engineering and~~  
21 ~~construction costs of public water supply storage in such a renovation~~  
22 ~~project.~~

23 ~~(e)~~ The Kansas water office may recover the state's costs incurred in  
24 providing public water supply storage in such class II project, and interest  
25 on such costs, by selling such storage and the associated water rights.  
26 Interest on such costs shall be computed at a rate per annum which is  
27 equal to the greater of: (1) The average rate of interest earned the past  
28 calendar year on repurchase agreements of less than 30 days' duration  
29 entered into by the pooled money investment board, less 5%; or (2) four  
30 percent.

31 Sec. 7. K.S.A. 2009 Supp. 82a-1606 is hereby amended to read as  
32 follows: 82a-1606. (a) The state may participate with a sponsor in the  
33 development, construction or renovation of a class III multipurpose small  
34 lake project if the sponsor has a general plan which has been submitted  
35 to and approved by the chief engineer in the manner provided by K.S.A.  
36 24-1213 and 24-1214, and amendments thereto. If public water supply  
37 storage is included in the project, the sponsor of such class III project  
38 shall pay for 100% of the costs associated with the public water supply  
39 storage portion of such project unless the Kansas water office determines  
40 that additional public water supply storage shall be needed in that area  
41 of the state within 20 years from the time such project is to be completed  
42 and a sponsor is not available to finance 100% of the costs associated with  
43 the public water supply storage, the state may participate in the future

1 use public water supply storage costs of the project. If the state partici-  
2 pates in the public water supply storage costs, the Kansas water office  
3 shall apply for a water appropriation right sufficient to insure a depend-  
4 able yield from public water supply storage. The Kansas water office shall  
5 be exempt from all applicable fees imposed pursuant to K.S.A. 82a-701  
6 et seq., and amendments thereto, for such applications. The Kansas water  
7 office shall have authority to adopt rules and regulations relative to the  
8 inclusion of public water supply storage in proposed projects under this  
9 act and the disposition of state-owned water rights and associated public  
10 water supply storage space in such projects.

11 (b) The sponsor of such class III project shall be responsible for ac-  
12 quiring land rights and for the costs of operation and maintenance of the  
13 project. The state may provide up to 50% of the engineering and con-  
14 struction costs and up to 50% of the costs of land rights associated with  
15 recreation features. ~~Subject to the provisions of subsection (c),~~ The state  
16 may pay up to 100% of the engineering and construction costs of flood  
17 control storage and public water supply storage. All other costs of such  
18 project, including land, construction, operation and maintenance, shall be  
19 paid by the sponsor.

20 (c) ~~The state shall not participate in the costs of public water supply~~  
21 ~~storage in a renovation project unless the Kansas water office determines~~  
22 ~~that renovation is the most cost effective alternative for such storage. The~~  
23 ~~state shall be authorized to pay only up to 50% of the engineering and~~  
24 ~~construction costs of public water supply storage in such a renovation~~  
25 ~~project.~~

26 ~~(d)~~ The Kansas water office may recover the state's costs incurred in  
27 providing public water supply storage in such class III project, and inter-  
28 est on such costs, by selling such storage and the associated water rights.  
29 Interest on such costs shall be computed at a rate per annum which is  
30 equal to the greater of: (1) The average rate of interest earned the past  
31 calendar year on repurchase agreements of less than 30 days' duration  
32 entered into by the pooled money investment board, less 5%; or (2) four  
33 percent.

34 New Sec. 8. (a) The Kansas biological survey in consultation with the  
35 Kansas water office shall develop a standardized water quality and quan-  
36 tity data repository for data relating to water in reservoirs and lakes used  
37 as a public water supply source in this state.

38 (b) All state water resources agencies shall participate in the creation  
39 and maintenance of such a data repository and shall submit data on a  
40 regular basis to insure that the water quantity and quality data repository  
41 will provide the most accurate water resources data for the benefit of the  
42 citizens of the state of Kansas. All state or local agencies that receive state  
43 funding for water or water related projects, planning or construction shall

1 submit data for the repository in the format specified by the Kansas bi-  
2 ological survey and approved by the Kansas water office. All other local  
3 agencies or persons may voluntarily submit data for inclusion in the  
4 repository.

5 (c) The Kansas biological survey shall conduct bathymetric mapping,  
6 sediment surveys and lake assessments in addition to standardizing the  
7 format of information collected by other agencies and may, as determined  
8 appropriate by the Kansas biological survey and the Kansas water office,  
9 participate in other data collection efforts as may be undertaken by local,  
10 state or federal agencies. The data repository shall be funded by an as-  
11 sessment from state agencies for processing and standardizing data and  
12 establishing state policy-making data needs as determined by the Kansas  
13 water office. Agencies may recover such costs through assessments  
14 charged to programs in proportion to the use of the repository by the  
15 respective programs.

16 (d) The Kansas biological survey and the Kansas water office may  
17 seek and accept grants and contracts to collect data, develop and fund  
18 the repository.

19 (e) The Kansas water office is authorized to adopt rules and regula-  
20 tions deemed necessary for the implementation of this section.

21 Sec. 9. K.S.A. 82a-910 and K.S.A. 2009 Supp. 2-1915, 82a-1602, 82a-  
22 1603, 82a-1604, 82a-1605 and 82a-1606 are hereby repealed.

23 Sec. 10. This act shall take effect and be in force from and after its  
24 publication in the statute book.