

HOUSE BILL No. 2565

By Committee on Agriculture and Natural Resources

1-28

9 AN ACT concerning water rights; relating to abandonment and termi-
10 nation; creating a water conservation exception; amending K.S.A. 2009
11 Supp. 82a-718 and repealing the existing section.
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13 *Be it enacted by the Legislature of the State of Kansas:*

14 Section 1. K.S.A. 2009 Supp. 82a-718 is hereby amended to read as
15 follows: 82a-718. (a) All appropriations of water must be for some ben-
16 efiticial purpose. Every water right of every kind shall be deemed aban-
17 doned and shall terminate when without due and sufficient cause no
18 lawful, beneficial use is henceforth made of water under such right for
19 five successive years. Before any water right shall be declared abandoned
20 and terminated the chief engineer shall conduct a hearing thereon. Notice
21 shall be served on the user at least 30 days before the date of the hearing.
22 The determination of the chief engineer pursuant to this section shall be
23 subject to review in accordance with the provisions of K.S.A. 2009 Supp.
24 82a-1901, and amendments thereto.

25 The verified report of the chief engineer or such engineer's authorized
26 representative shall be prima facie evidence of the abandonment and
27 termination of any water right.

28 (b) When no lawful, beneficial use of water under a water right has
29 been reported for three successive years, the chief engineer shall notify
30 the user, by certified mail, return receipt requested, that: (1) No lawful,
31 beneficial use of the water has been reported for three successive years;
32 (2) if no lawful, beneficial use is made of the water for five successive
33 years, the right may be terminated; and (3) the right will not be termi-
34 nated if the user shows that for one or more of the five consecutive years
35 the beneficial use of the water was prevented or made unnecessary by
36 circumstances that are due and sufficient cause for nonuse, which cir-
37 cumstances shall be included in the notice.

38 (c) The provisions of subsection (a) shall not apply to a water right
39 that has not been declared abandoned and terminated before the effective
40 date of this act if the five years of successive nonuse occurred exclusively
41 and entirely before January 1, 1990. However, the provisions of subsec-
42 tion (a) shall apply if the period of five successive years of nonuse began
43 before January 1, 1990, and continued after that date.

1 *(d) Notwithstanding the provisions of subsection (a), a groundwater*
2 *right, which has as its local supply an aquifer area that has been closed*
3 *to new appropriations by the chief engineer and where a well is lawfully*
4 *maintained, shall be deemed to have due and sufficient cause for nonuse*
5 *and shall not be deemed abandoned.*

6 Sec. 2. K.S.A. 2009 Supp. 82a-718 is hereby repealed.

7 Sec. 3. This act shall take effect and be in force from and after its
8 publication in the statute book.