

HOUSE BILL No. 2561

By Committee on Appropriations

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AN ACT amending and supplementing the Kansas water appropriation act; relating to certain certificates of appropriation issued to certain governmental entities; imposing certain requirements; amending K.S.A. 2000 Supp. 82a-1901 and repealing the existing section.

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

New Section 1. (a) No certificate of appropriation issued on or after January 1, 2000, to the government of the United States or the state of Kansas, or to any agency or instrumentality thereof, for diversion of water in an amount exceeding 15,000 acre feet shall be valid until the procedures provided by this section have been completed.

(b) The chief engineer shall publish in the Kansas register the criteria under K.S.A. 82a-711 through 82a-714, and amendments thereto, which must be met before a certificate of appropriation may be issued: (1) Before October 1, 2001, if a certificate described in subsection (a) has been issued; or (2) before issuing a certificate of appropriation described in subsection (a), if an application for a permit has been filed but no certificate has been issued. If, within 120 days after such publication, any water right holder, either senior or junior, holding a right to divert water from the same source of supply as the right for which the certificate is sought files objection to the issuance of the certificate, the chief engineer shall hold a hearing on the objection. If upon the hearing the chief engineer finds the objection to be valid, the chief engineer shall order issuance of the certificate to be denied or, if the certificate has been issued before the effective date of this act, shall enter an order declaring the certificate to be void. If the chief engineer finds the objection to be invalid and all requirements for issuance of the certificate are met, the chief engineer shall order issuance of the certificate or, if the certificate has been issued before the effective date of this act, shall enter an order declaring the certificate to be valid.

(c) This section shall be part of and supplemental to the Kansas water appropriation act.

Sec. 2. K.S.A. 2000 Supp. 82a-1901 is hereby amended to read as follows: 82a-1901. (a) Orders of the chief engineer of the division of water resources of the department of agriculture pursuant to K.S.A. 42-703, 42-

1 722, 42-722a, 82a-708b, 82a-711, 82a-718 ~~and~~, 82a-1038 *and section 1,*
2 *and amendments thereto, and failure of the chief engineer to act pursuant*
3 *to K.S.A. 82a-714, and amendments thereto, shall be subject to review in*
4 *accordance with the provisions of the Kansas administrative procedure*
5 *act.*

6 Such review shall be conducted by the secretary of agriculture or by
7 an administrative law judge or presiding officer from the office of admin-
8 istrative hearings within the department of administration. The secretary
9 of agriculture shall not have the authority otherwise to designate a pre-
10 siding officer to conduct such review.

11 (b) The order of the secretary of agriculture or the administrative law
12 judge or presiding officer upon review pursuant to subsection (a) shall be
13 a final order under the Kansas administrative procedure act. Such order
14 shall not be subject to reconsideration pursuant to K.S.A. 77-529 and
15 amendments thereto and shall be subject to review in accordance with
16 the act for judicial review and civil enforcement of agency actions.

17 (c) This act shall not affect any administrative proceeding pending
18 before the chief engineer of the division of water resources of the de-
19 partment of agriculture, the secretary of agriculture or any administrative
20 hearing officer on July 1, 1999, and such matter shall proceed as though
21 no change in the law had been made with regard to such proceeding.

22 (d) The provisions of this section shall take effect on and after July
23 1, 1999.

24 Sec. 3. K.S.A. 2000 Supp. 82a-1901 is hereby repealed.

25 Sec. 4. This act shall take effect and be in force from and after its
26 publication in the statute book.

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