

HOUSE Substitute for SENATE BILL No. 430

AN ACT concerning water; relating to powers of certain rural water districts and public wholesale water supply districts; authorizing certain rural water district elections to be held by mail ballot; relating to certain powers of groundwater management districts; amending K.S.A. 82a-619, 82a-626 and 82a-1028 and K.S.A. 2001 Supp. 19-3552, 82a-1030 and 82a-1903 and repealing the existing sections.

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

Section 1. K.S.A. 2001 Supp. 19-3552 is hereby amended to read as follows: 19-3552. For the purpose of providing a water supply or other services to the participating public agencies the governing body of the district shall have the following powers, authorities and privileges:

(1) To accept by gift or grant from any person, firm, corporation, trust or foundation, or from this state or any other state or any political subdivision or municipality thereof, or from the United States, any funds or property or any interest therein for the uses and purposes of the district and to hold title thereto in trust or otherwise and to bind the district to apply the same according to the terms of such gift or grant;

(2) to sue and be sued;

(3) to enter into franchises, contracts and agreements with this or any other state or the United States or any municipality, political subdivision or district thereof, or any of their agencies or instrumentalities, or any public or private person, partnership, association, or corporation of this state or of any other state or the United States, and this state and any such municipality, political subdivision, district, or any of their agencies or instrumentalities, and any such public or private person, partnership, association, or corporation is hereby authorized to enter into contracts and agreements with such district for any term not exceeding 40 years for the planning, development, construction, acquisition, or operation of any facility or for any service rendered to, for, or by the district;

(4) to borrow money and evidence the same by warrants, notes, or bonds as hereinafter provided in this act, and to refund the same by the issuance of refunding obligations;

(5) to acquire land and interests in land by gift, purchase, exchange or eminent domain, such power of eminent domain to be exercised within or without the boundaries of the district in accordance with provisions of K.S.A. 26-501, and amendments thereto;

(6) to acquire by purchase or lease, construct, install, and operate reservoirs, pipelines, wells, check dams, pumping stations, water purification plants, and other facilities for the production, wholesale distribution; and utilization of water and to own and hold such real and personal property as may be necessary to carry out the purposes of its organization;

(7) to provide, by contract, to participating public agencies for the construction, installation and operation of pipelines, wells, pumping stations and other facilities and services relating to the distribution of water within the boundaries of the participating public agencies or retail distribution and utilization of water and to own and hold such real and personal property as may be necessary in relation thereto, except that, if the contract amount for such services is \$10,000 or more, the district shall be authorized to provide such services only if the award of the contract is based on competitive bids;

(8) *to provide, by contract, to participating public agencies for the operation and maintenance of state-permitted wastewater treatment works, systems and other facilities and services relating to the treatment of wastewater within the boundaries of the participating public agencies;*

~~(9)~~ (9) to have the general management, control, and supervision of all the business, affairs, property, and facilities of the district, and of the construction, installation, operation, and maintenance of district improvements, and to establish regulations relating thereto;

~~(10)~~ (10) to hire and retain agents, employees, engineers and attorneys and to determine their compensation. The governing body shall select and appoint a general manager of the district who shall serve at the pleasure of the governing body. The general manager shall have training and experience in the supervision and administration of water systems and shall manage and control the water system under the general supervision of the governing body. All employees, servants and agents of the district shall be under the immediate control and management of the general manager. The general manager shall perform all such other duties as may be prescribed by the governing body and shall give the governing body a good and sufficient surety company bond in a sum to be set and approved

by the governing body conditioned upon the satisfactory performance of the general manager's duties. The governing body also may require that any other employees be bonded in such amount as it shall determine. The cost of such bonds shall be paid out of the funds of the district;

~~(10)~~ (11) to adopt and amend rules and regulations not in conflict with the constitution and laws of this state, necessary for the carrying on of the business, objects and affairs of the governing body and of the district; and

~~(11)~~ (12) to have and exercise all rights and powers necessary or incidental to or implied from the specific powers granted herein. Such specific powers shall not be considered as a limitation upon any power necessary or appropriate to carry out the purposes of this act.

Sec. 2. K.S.A. 82a-619 is hereby amended to read as follows: 82a-619. ~~(a)~~ Every district incorporated under this act shall have perpetual succession, subject to dissolution or consolidation pursuant to law and shall have the power to:

~~(1) To~~ (a) Exercise eminent domain within the boundaries of such district; ~~(2) to~~

(b) sue and be sued;

~~(3) to~~ (c) contract;

~~(4) to~~ (d) hold real and personal property acquired by will, gift, purchase, or otherwise, as authorized by law;

~~and (5) to~~ (e) construct, install, maintain and operate such ponds, reservoirs, pipelines, wells, check dams, pumping installations or other facilities for the storage, transportation or utilization of water and such appurtenant structures and equipment necessary to carry out the purposes of its organization-

~~(b) Each such district shall have the power: (1) To;~~

(f) *contract with cities or counties, or both, to operate and maintain state-permitted wastewater treatment works, systems and other facilities relating to the treatment of wastewater within the boundaries of the district;*

(g) cooperate with and enter into agreements with the secretary of the United States department of agriculture or the secretary's duly authorized representative necessary to carry out the purposes of its organization; and ~~(2)~~ to accept financial or other aid which the secretary of the United States department of agriculture is empowered to give pursuant to 16 U.S.C.A., secs. 590r, 590s, 590x-1, 590x-a and 590x-3, ~~or~~ *and* amendments thereto-

~~(c) Each such district shall have the power to;~~

(h) acquire loans for the financing of up to 95% of the cost of the construction or purchase of any project or projects necessary to carry out the purposes for which such district was organized and to execute notes and mortgages in evidence thereof with interest, or combined interest and mortgage insurance charges, which shall not exceed 13%, except that for purposes of interim financing, interest or combined interest and mortgage insurance charges shall not exceed 14%. Any district shall have the same power to acquire loans for the refinancing of up to 95% of the original cost of any such project or projects. The balance of the cost of construction shall be acquired by subscription, donation, gift or otherwise than through the medium of loans, except that in the case of cooperative corporations and corporations not for profit being converted to water districts as provided for in K.S.A. 82a-631 to 82a-635, inclusive, *and amendments thereto*, the district may assume 100% of the indebtedness of the corporation, providing the corporation originally raised at least 10% of the construction cost by means otherwise than through the medium of loans. ~~(d)~~ Any such loan may be secured by any or all of the physical assets owned by the district, including easements and rights-of-way, except that no district organized under this act shall have any power or authority to levy any taxes ~~whatsoever~~.

New Sec. 3. A rural water district organized under K.S.A. 82a-612 *et seq.*, and amendments thereto, may provide for any election of the district to be conducted by mail ballot in accordance with the bylaws of the district.

Sec. 4. K.S.A. 82a-626 is hereby amended to read as follows: 82a-626. (a) The term of office of every member elected to an original board shall be until the date of the annual meeting of the participating members

of either the first, second or third year following the year of the incorporation of the district and until their successors are elected and have qualified, and as nearly as possible the terms of an equal number of directors on any such board shall expire on each of ~~said~~ such dates.

(b) *Except as provided by the bylaws of the district pursuant to section 3, and amendments thereto*, at the annual meeting of each year after the year of the election of the original board members, elections shall be held to elect directors to fill any position on the board, the term of office of which has expired, and any director so elected shall hold office for a term of three years and until such director's successor is elected and has qualified. For the purpose of election of board members and for such other purposes as the bylaws may prescribe, annual meetings of participating members shall be held by each district between January 1 and April 1 of each year following the year of incorporation of such district. The board of directors shall cause notice of the time and place of each annual meeting and the purpose thereof to be mailed to each of its participating members or shall cause such notice to be published in a newspaper of general circulation within the district. Every such notice shall be mailed or published not less than 10 nor more than 30 days prior to any such meeting. Each participating member shall be entitled to a single vote, regardless of the number of benefit units to which such member has subscribed.

Sec. 5. K.S.A. 82a-1028 is hereby amended to read as follows: 82a-1028. Every groundwater management district organized under this act shall be a body politic and corporate and shall have the power to:

- (a) Adopt a seal;
- (b) sue and be sued in its corporate name;
- (c) rent space, maintain and equip an office, and pay other administrative expenses;
- (d) employ such legal, engineering, technical, and clerical services as may be deemed necessary by the board;
- (e) purchase, hold, sell and convey land, water rights and personal property, and execute such contracts as may, in the opinion of the board, be deemed necessary or convenient;
- (f) acquire land and interests in land by gift, exchange or eminent domain, the power of eminent domain to be exercised within the boundaries of the district in like manner as provided by ~~K.S.A. 26-501 to 26-516, inclusive, and any acts amendatory thereof or supplemental thereto~~ *the eminent domain procedure act*, except that any land holdings acquired pursuant hereto or in accordance with the provisions of the next preceding subsection shall not in the aggregate exceed ~~one thousand (1,000)~~ 1,000 acres. In any case where a district has land holdings in excess of the described limitation, the district shall dispose of such excess in a reasonable and expeditious manner;
- (g) construct, operate and maintain such works as may be determined necessary for drainage, recharge, storage, distribution or importation of water, and all other appropriate facilities of concern to the district;
- (h) levy water user charges and land assessments, issue general and special bonds and incur indebtedness within the limitations prescribed by this act;
- (i) contract with persons, firms, associations, partnerships, corporations or agencies of the state or federal government, and enter into cooperative agreements with any of them;
- (j) take appropriate actions to extend or reduce the territories of the district as prescribed by this act;
- (k) construct and establish research, development, and demonstration projects, and collect and disseminate research data and technical information concerning the conservation of groundwater;
- (l) install or require the installation of meters, gauges, or other measuring devices and read or require water users to read and report those readings as may be necessary to determine the quantity of water withdrawn;
- (m) provide advice and assistance in the management of drainage problems, storage, groundwater recharge, surface water management, and all other appropriate matters of concern to the district;
- (n) ~~adopt, amend, promulgate, and enforce by suitable action, administrative or otherwise, reasonable~~ *administrative* standards and poli-

~~cies relating to the conservation and management of groundwater within management of the district which are not inconsistent with the provisions of this act or article 7 of chapter 82a of the Kansas Statutes Annotated, and all acts amendatory thereof or supplemental thereto article 10 of chapter 82a of the Kansas Statutes Annotated, and amendments thereto, or the Kansas water appropriation act;~~

~~(o) recommend to the chief engineer rules and regulations necessary to implement and enforce the policies of the board which relate to the conservation and management of groundwater within the district, are within the authority of the chief engineer and are not inconsistent with the provisions of article 10 of chapter 82a of the Kansas Statutes Annotated, and amendments thereto, or the Kansas water appropriation act. Such rules and regulations Within 90 days after receipt of a final draft of proposed rules and regulations recommended by a groundwater management district, the chief engineer shall: (1) Approve or reject the proposed rules and regulations for adoption; and (2) either initiate procedures pursuant to the rules and regulations filing act to adopt the approved proposed rules and regulations or return the rejected proposed rules and regulations, together with written reasons for the rejection, to the groundwater management district. Proposed rules and regulations recommended to the chief engineer shall be of no force and effect unless and until adopted by the chief engineer to implement the provisions of article 7 of chapter 82a of the Kansas Statutes Annotated, and all acts amendatory thereof or supplemental amendments thereto. All such rules and regulations adopted shall be effective only within a specified district;~~

~~(p) recommend to the department of health and environment, the state corporation commission or other appropriate state agency such other rules and regulations, not inconsistent with law, which relate to the conservation and management of groundwater within the district and are within the authority of such department, commission or other agency. Within 90 days after receipt of a final draft of proposed rules and regulations recommended by a groundwater management district, the department, commission or other agency shall: (1) Approve or reject the proposed rules and regulations for adoption; and (2) either initiate procedures pursuant to the rules and regulations filing act to adopt the approved proposed rules and regulations or return the rejected proposed rules and regulations, together with written reasons for the rejection, to the groundwater management district. Proposed rules and regulations recommended to the department, commission or other agency shall be of no force and effect unless and until adopted by the department, commission or other such agency. All such rules and regulations adopted shall be effective only within a specified district;~~

~~(q) enforce by suitable action, administrative or otherwise, rules and regulations adopted as provided by subsection (o) or (p);~~

~~(p) (r) enter upon private property within the district for inspection purposes, to determine conformance of the use of water with established rules and regulations, including measurements of flow, depth of water, water wastage and for such other purposes as are necessary and not inconsistent with the purposes of this act;~~

~~(q) (s) select a residence or home office for the groundwater management district which shall be at a place in a county in which the district or any part thereof is located and may be either within or without the boundaries of the district. The board shall designate the county in which the residence or home office is located as the official county for the filing of all official acts and assessments;~~

~~(r) (t) seek and accept grants or other financial assistance that the federal government and other public or private sources shall make available and to utilize the same to carry out the purposes and functions of the district; and~~

~~(s) (u) recommend to the chief engineer the initiation of proceedings for the designation of a certain area within the district as an intensive groundwater use control area.~~

Sec. 6. K.S.A. 2001 Supp. 82a-1030 is hereby amended to read as follows: 82a-1030. (a) In order to finance the operations of the district, the board may assess an annual water user charge against every person who withdraws groundwater from within the boundaries of the district. The board shall base such charge upon the amount of groundwater al-

located for such person's use pursuant to such person's water right. Such charge shall not exceed ~~\$.60~~ \$1 for each acre-foot (325,851 gallons) of groundwater withdrawn within the district or allocated by the water right, except that ~~the annual user charge for the fiscal year of the district beginning on or after July 1, 2001, and before July 1, 2002, may be in an amount not exceeding \$.65~~ a groundwater management district may assess a greater annual water user charge not exceeding \$1.50 for each acre-foot of groundwater withdrawn within the district if more than 50% of the authorized place of use for such groundwater is outside the district. Whenever a person shows by the submission to the board of a verified claim and any supportive data which may be required by the board that such person's actual annual groundwater withdrawal is in a lesser amount than that allocated by the water right of such person, the board shall assess such annual charge against such person on the amount of water shown to be withdrawn by the verified claim. Any such claim shall be submitted by April 1 of the year in which such annual charge is to be assessed. The board may also make an annual assessment against each landowner of not to exceed \$.05 for each acre of land owned within the boundaries of the district. Special assessments may also be levied, as provided hereafter, against land specially benefited by a capital improvement without regard to the limits prescribed above.

(b) Before any assessment is made, or user charge imposed, the board shall submit the proposed budget for the ensuing year to the eligible voters of the district at a hearing called for that purpose by one publication in a newspaper or newspapers of general circulation within the district at least 28 days prior to the meeting. Following the hearing, the board shall, by resolution, adopt either the proposed budget or a modified budget and determine the amount of land assessment or user charge, or both, needed to support such budget.

(c) Both the user charges assessed for groundwater withdrawn and the assessments against lands within the district shall be certified to the proper county clerks and collected the same as other taxes in accordance with K.S.A. 79-1801, and acts amendatory thereof or supplemental thereto, and the amount thereof shall attach to the real property involved as a lien in accordance with K.S.A. 79-1804, and acts amendatory thereof or supplemental thereto. All moneys so collected shall be remitted by the county treasurer to the treasurer of the groundwater management district who shall deposit them to the credit of the general fund of the district. The accounts of each groundwater management district shall be audited annually by a public accountant or certified public accountant.

(d) Subsequent to the certification of approval of the organization of a district by the secretary of state and the election of a board of directors for such district, such board shall be authorized to issue no-fund warrants in amounts sufficient to meet the operating expenses of the district until money therefor becomes available pursuant to user charges or assessments under subsection (a). In no case shall the amount of any such issuance be in excess of 20% of the total amount of money receivable from assessments which could be levied in any one year as provided in subsection (a). No such warrants shall be issued until a resolution authorizing the same shall have been adopted by the board and published once in a newspaper having a general circulation in each county within the boundaries of the district. Whereupon such warrants may be issued unless a petition in opposition to the same, signed by not less than 10% of the eligible voters of such district and in no case by less than 20 of the eligible voters of such district, is filed with the county clerk of each of the counties in such district within 10 days following such publication. In the event such a petition is filed, it shall be the duty of the board of such district to submit the question to the eligible voters at an election called for such purpose. Such election shall be noticed and conducted as provided by K.S.A. 82a-1031, and amendments thereto.

Whenever no-fund warrants are issued under the authority of this subsection, the board of directors of such district shall make an assessment each year for three years in approximately equal installments for the purpose of paying such warrants and the interest thereon. All such assessments shall be in addition to all other assessments authorized or limited by law. Such warrants shall be issued, registered, redeemed and bear interest in the manner and in the form prescribed by K.S.A. 79-2940, and amendments thereto, except they shall not bear the notation required by

said statute and may be issued without the approval of the state board of tax appeals. Any surplus existing after the redemption of such warrants shall be handled in the manner prescribed by K.S.A. 79-2940, and amendments thereto.

Sec. 7. K.S.A. 2001 Supp. 82a-1903 is hereby amended to read as follows: 82a-1903. (a) (1) On or before November 15, 1999, the chief engineer of the division of water resources of the department of agriculture, in accordance with K.S.A. 77-420 and amendments thereto, shall submit to the secretary of administration and the attorney general proposed rules and regulations containing all current standards, statements of policy and general orders that: (A) Have been issued or adopted by the chief engineer; (B) are of general application and have the effect of law; and (C) are not contained in current rules and regulations adopted by the chief engineer.

(2) If any standard, statement of policy or general order described in subsection (a) (1) is not submitted as required by subsection (a), such standard, statement of policy or general order shall be void and of no effect after November 15, 1999, until adopted by rules and regulations.

(b) (1) On or before March 1, 2000, each groundwater management district shall submit to the chief engineer of the division of water resources of the department of agriculture recommended rules and regulations containing all current standards, statements of policy and general orders that: (A) Have been issued or adopted by such district; (B) are of general application within the district and have the effect of law; and (C) are not contained in current rules and regulations adopted by the chief engineer.

(2) If any standard, statement of policy or general order described in subsection (b)(1) is not submitted as required by that subsection, such standard, statement of policy or general order shall be void and of no effect after March 1, 2000, until adopted by rules and regulations.

(c) *Any standard, policy or order of a groundwater management district which is within the authority of the chief engineer, other than an administrative standard or policy relating to management of the district, shall be void and of no effect after January 1, 2003, unless adopted by rules and regulations of the chief engineer as provided by subsection (o) of K.S.A. 82a-1028, and amendments thereto. Any standard, policy or order of a groundwater management district which is within the authority of another state agency, other than an administrative standard or policy relating to management of the district, shall be void and of no effect after January 1, 2004, unless adopted by rules and regulations of such agency as provided by subsection (p) of K.S.A. 82a-1028, and amendments thereto.*

Sec. 8. K.S.A. 82a-619, 82a-626 and 82a-1028 and K.S.A. 2001 Supp. 19-3552, 82a-1030 and 82a-1903 are hereby repealed.

Sec. 9. This act shall take effect and be in force from and after its publication in the statute book.

I hereby certify that the above BILL originated in the SENATE, and passed that body

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SENATE adopted  
Conference Committee Report \_\_\_\_\_

\_\_\_\_\_  
*President of the Senate.*

\_\_\_\_\_  
*Secretary of the Senate.*

Passed the HOUSE  
as amended \_\_\_\_\_

HOUSE adopted  
Conference Committee Report \_\_\_\_\_

\_\_\_\_\_  
*Speaker of the House.*

\_\_\_\_\_  
*Chief Clerk of the House.*

APPROVED \_\_\_\_\_

\_\_\_\_\_  
*Governor.*