

## SENATE BILL No. 559

By Committee on Ways and Means

3-8

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9 AN ACT concerning water; relating to water rights; amending K.S.A. 2-  
10 1919 and 82a-707 and K.S.A. 2003 Supp. 2-1915 and repealing the  
11 existing sections.

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

14 Section 1. K.S.A. 2003 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,  
21 commencing July 1, 2002, and ending June 30, 2005, the control and  
22 eradication of sericea lespedeza as provided in subsection (n) of K.S.A.  
23 2-1908, and amendments thereto, on public lands and on privately owned  
24 lands. Except as provided by the multipurpose small lakes program act,  
25 any such grant shall not exceed 80% of the 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~~  
38 *dismiss* all or a part of the water right to the state shall be eligible for a  
39 grant ~~not to exceed 80% of the total cost of the purchase price for such~~  
40 ~~water right~~ *to transition to non-irrigated land use*. The state conservation  
41 commission shall administer this ~~cost share~~ program with funds appro-  
42 priated by the legislature, *or moneys received from any public or private*  
43 *sources* for such purpose. The chief engineer shall certify to the state

1 conservation commission that any water right for which application for  
2 ~~cost-share~~ *a grant under this program* is received under this section is  
3 eligible in accordance with the criteria established in K.S.A. 2-1919, and  
4 amendments thereto.

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

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

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

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

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

36 Sec. 2. K.S.A. 2-1919 is hereby amended to read as follows: 2-1919.

37 (a) Except as provided by subsection (b), any application ~~for cost-share~~  
38 ~~for the purchase of the water right~~ under the provisions of *subsection (c)*  
39 *of K.S.A. 2-1915*, and amendments thereto, shall be subject to the follow-  
40 ing limitations:

41 (1) The water right is an active vested or certified water appropriation  
42 right that has not been abandoned under the provisions of K.S.A. 82a-  
43 718, and amendments thereto;

1 (2) (A) in the case of a water right for diverting groundwater, such  
2 water right is in an area where the rate of withdrawal of groundwater  
3 equals or exceeds the rate of recharge and the chief engineer has closed  
4 the area to further appropriations and designated the area as being in  
5 need of aquifer restoration; (B) in the case of a water right for diverting  
6 groundwater or surface water, such water right is within a stream reach  
7 where the chief engineer has closed the stream reach to further app-  
8 priations and designated the stream reach as being in need of stream  
9 recovery;

10 (3) ~~a local entity has provided an assurance that it will pay at least~~  
11 ~~20% of the purchase price negotiated by the entity and the holder of the~~  
12 ~~water right, and~~

13 ~~(4) the holder of the water right agrees to return that the water right~~  
14 ~~to the custodial care of the state shall be dismissed.~~

15 (b) In the case of a purchase of a surface water right from outside  
16 the state, such purchase shall be considered and evaluated by the chief  
17 engineer on the basis of the potential of the water right to provide stream  
18 recovery within a designated stream reach.

19 Sec. 3. K.S.A. 82a-707 is hereby amended to read as follows: 82a-  
20 707. (a) Surface or groundwaters of the state may be appropriated as  
21 herein provided. Such appropriation shall not constitute ownership of  
22 such water, and appropriation rights shall remain subject to the principle  
23 of beneficial use.

24 (b) Where uses of water for different purposes conflict, such uses  
25 shall conform to the following order of preference: Domestic, municipal,  
26 irrigation, industrial, recreational and water power uses. However, the  
27 date of priority of an appropriation right, and not the purpose of use,  
28 determines the right to divert and use water at any time when the supply  
29 is not sufficient to satisfy all water rights that attach to it. The holder of  
30 a water right for an inferior beneficial use of water shall not be deprived  
31 of the use of the water either temporarily or permanently as long as such  
32 holder is making proper use of it under the terms and conditions of such  
33 holder's water right and the laws of this state, other than through  
34 condemnation.

35 (c) As between persons with appropriation rights, the first in time is  
36 the first in right. The priority of the appropriation right to use water for  
37 any beneficial purpose except domestic purposes shall date from the time  
38 of the filing of the application therefor in the office of the chief engineer.  
39 The priority of the appropriation right to use water for domestic purposes  
40 shall date from the time of the filing of the application therefor in the  
41 office of the chief engineer or from the time the user makes actual use  
42 of water for domestic purposes, whichever is earlier.

43 (d) Any water right returned to the state under the provisions of

1 K.S.A. 2-1915, and amendments thereto, *or other programs for the re-*  
2 *tirement of water rights*, shall *either* be placed in the custodial care of the  
3 state *or permanently dismissed by the chief engineer as directed by stat-*  
4 *ute*. While in the custodial care of the state, the priority of the water right  
5 shall remain in effect and water available under the terms and conditions  
6 of the water right shall not be considered available for further appropri-  
7 ation. Any surface water right held in the custodial care of the state shall  
8 neither directly benefit nor impair any other surface water right within  
9 the stream reach designated for recovery. Any water right donated to the  
10 state shall be placed in the custodial care of the state or ~~retired~~ *dismissed*  
11 at the discretion of the chief engineer.

12 (e) Appropriation rights in excess of the reasonable needs of the ap-  
13 propriators shall not be allowed.

14 Sec. 4. K.S.A. 2-1919 and 82a-707 and K.S.A. 2003 Supp. 2-1915  
15 are hereby repealed.

16 Sec. 5. This act shall take effect and be in force from and after its  
17 publication in the statute book.