

Senate Substitute for HOUSE BILL No. 2156

By Committee on Natural Resources

3-18

1 AN ACT concerning water; relating to the division of water resources;
2 groundwater; amending K.S.A. 2015 Supp. 74-506d, 75-2935 and 82a-
3 303b and repealing the existing sections.
4

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

6 New Section 1. To further implement the provisions of the
7 groundwater management act, if the secretary of agriculture or the chief
8 engineer of the division of water resources of the Kansas department of
9 agriculture propose rules and regulations that may change an adopted local
10 groundwater management program or impact water use in a groundwater
11 management district, the secretary or chief engineer shall notify the
12 groundwater management district board of directors of such requested
13 management program change or proposed rules and regulations and
14 provide a copy of such requested management program change or
15 proposed rules and regulations to the board. Upon such notice, the board
16 of directors shall prepare a response of intended board actions. The board
17 of directors shall follow the provisions of K.S.A. 82a-1029, and
18 amendments thereto, for revising active groundwater management
19 programs.

20 New Sec. 2. (a) The division of water resources of the Kansas
21 department of agriculture shall provide notice of all final orders issued by
22 the division on its official website.

23 (b) The division, in conjunction with the groundwater management
24 district within which such water right is situated, shall directly notify any
25 water right owner with a point of diversion within half a mile, or further if
26 deemed necessary by a rule and regulation of the chief engineer, of a water
27 right subject to any order issued pursuant to K.S.A. 82a-706b, 82a-708a
28 and 82a-708b, and amendments thereto, of such order.

29 Sec. 3. K.S.A. 2015 Supp. 74-506d is hereby amended to read as
30 follows: 74-506d. The secretary of agriculture is hereby authorized to
31 employ a chief engineer of the division of water resources and such expert
32 assistants, clerical and other help as may be necessary to properly carry out
33 the provisions of this act, and to fix their compensation, ~~all of whom.~~ *The*
34 *chief engineer* shall be under the classified service of the Kansas civil
35 service act, *but any vacant position of such expert assistants, clerical and*
36 *other help necessary to carry out the provisions of this act may be*

1 *converted by the secretary of agriculture to an unclassified position.*

2 Sec. 4. K.S.A. 2015 Supp. 75-2935 is hereby amended to read as
3 follows: 75-2935. The civil service of the state of Kansas is hereby divided
4 into the unclassified and the classified services.

5 (1) The unclassified service comprises positions held by state officers
6 or employees who are:

7 (a) Chosen by election or appointment to fill an elective office;

8 (b) members of boards and commissions, heads of departments
9 required by law to be appointed by the governor or by other elective
10 officers, and the executive or administrative heads of offices, departments,
11 divisions and institutions specifically established by law;

12 (c) except as otherwise provided under this section, one personal
13 secretary to each elective officer of this state, and in addition thereto, 10
14 deputies, clerks or employees designated by such elective officer;

15 (d) all employees in the office of the governor;

16 (e) officers and employees of the senate and house of representatives
17 of the legislature and of the legislative coordinating council and all officers
18 and employees of the office of revisor of statutes, of the legislative
19 research department, of the division of legislative administrative services,
20 of the division of post audit and the legislative counsel;

21 (f) chancellor, president, deans, administrative officers, student health
22 care physicians, pharmacists, teaching and research personnel, health
23 care employees and student employees in the institutions under the state
24 board of regents, the executive officer of the board of regents and the
25 executive officer's employees other than clerical employees, and, at the
26 discretion of the state board of regents, directors or administrative officers
27 of departments and divisions of the institution and county extension
28 agents, except that this subsection (1)(f) shall not be construed to include
29 the custodial, clerical or maintenance employees, or any employees
30 performing duties in connection with the business operations of any such
31 institution, except administrative officers and directors; as used in this
32 subsection (1)(f), "health care employees" means employees of the
33 university of Kansas medical center who provide health care services at
34 the university of Kansas medical center and who are medical technicians
35 or technologists or respiratory therapists, who are licensed professional
36 nurses or licensed practical nurses, or who are in job classes which are
37 designated for this purpose by the chancellor of the university of Kansas
38 upon a finding by the chancellor that such designation is required for the
39 university of Kansas medical center to recruit or retain personnel for
40 positions in the designated job classes; and employees of any institution
41 under the state board of regents who are medical technologists;

42 (g) operations, maintenance and security personnel employed to
43 implement agreements entered into by the adjutant general and the federal

1 national guard bureau, and officers and enlisted persons in the national
2 guard and the naval militia;

3 (h) persons engaged in public work for the state but employed by
4 contractors when the performance of such contract is authorized by the
5 legislature or other competent authority;

6 (i) persons temporarily employed or designated by the legislature or
7 by a legislative committee or commission or other competent authority to
8 make or conduct a special inquiry, investigation, examination or
9 installation;

10 (j) officers and employees in the office of the attorney general and
11 special counsel to state departments appointed by the attorney general,
12 except that officers and employees of the division of the Kansas bureau of
13 investigation shall be in the classified or unclassified service as provided
14 in K.S.A. 75-711, and amendments thereto;

15 (k) all employees of courts;

16 (l) client, patient and inmate help in any state facility or institution;

17 (m) all attorneys for boards, commissions and departments;

18 (n) the secretary and assistant secretary of the Kansas state historical
19 society;

20 (o) physician specialists, dentists, dental hygienists, pharmacists,
21 medical technologists and long term care workers employed by the Kansas
22 department for aging and disability services;

23 (p) physician specialists, dentists and medical technologists employed
24 by any board, commission or department or by any institution under the
25 jurisdiction thereof;

26 (q) student employees enrolled in public institutions of higher
27 learning;

28 (r) administrative officers, directors and teaching personnel of the
29 state board of education and the state department of education and of any
30 institution under the supervision and control of the state board of
31 education, except that this subsection (1)(r) shall not be construed to
32 include the custodial, clerical or maintenance employees, or any
33 employees performing duties in connection with the business operations of
34 any such institution, except administrative officers and directors;

35 (s) all officers and employees in the office of the secretary of state;

36 (t) one personal secretary and one special assistant to the following:
37 The secretary of administration, the secretary for aging and disability
38 services, the secretary of agriculture, the secretary of commerce, the
39 secretary of corrections, the secretary of health and environment, the
40 superintendent of the Kansas highway patrol, the secretary of labor, the
41 secretary of revenue, the secretary for children and families, the secretary
42 of transportation, the secretary of wildlife, parks and tourism and the
43 commissioner of juvenile justice;

1 (u) one personal secretary and one special assistant to the chancellor
2 and presidents of institutions under the state board of regents;

3 (v) one personal secretary and one special assistant to the executive
4 vice chancellor of the university of Kansas medical center;

5 (w) one public information officer and one chief attorney for the
6 following: The department of administration, the Kansas department for
7 aging and disability services, the department of agriculture, the department
8 of commerce, the department of corrections, the department of health and
9 environment, the department of labor, the department of revenue, the
10 Kansas department for children and families, the department of
11 transportation, the Kansas department of wildlife, parks and tourism and
12 the commissioner of juvenile justice;

13 (x) if designated by the appointing authority, persons in newly hired
14 positions, including any employee who is rehired into such position and
15 any current state employee who voluntarily transfers into, or is voluntarily
16 promoted or demoted into such position, on and after July 1, 2015, in any
17 state agency;

18 (y) one executive director, one general counsel and one director of
19 public affairs and consumer protection in the office of the state corporation
20 commission;

21 (z) specifically designated by law as being in the unclassified service;

22 (aa) any position that is classified as a position in the information
23 resource manager job class series, that is the chief position responsible for
24 all information resources management for a state agency, and that becomes
25 vacant on or after the effective date of this act. Nothing in this section shall
26 affect the classified status of any employee in the classified service who is
27 employed on the date immediately preceding the effective date of this act
28 in any position that is a classified position in the information resource
29 manager job class series and the unclassified status as prescribed by this
30 subsection shall apply only to a person appointed to any such position on
31 or after the effective date of this act that is the chief position responsible
32 for all information resources management for a state agency;

33 (bb) positions at state institutions of higher education that have been
34 converted to unclassified positions pursuant to K.S.A. 2015 Supp. 76-
35 715a, and amendments thereto; and

36 (cc) notwithstanding the provisions of K.S.A. 22-4524, 32-802, 44-
37 510g, 44-551, 44-552, 48-205, 48-919, 49-402e, 58-4105, 58-4503, 65-
38 2878, 65-6103, 73-1210a, 73-1234, ~~74-506d~~, 74-515b, 74-561, 74-569,
39 74-631, 74-1106, 74-1704, 74-1806, 74-2435, 74-2614, 74-2702, 74-
40 2906a, 74-5014, 74-5210, 74-6707, 74-6901, 74-6904, 74-7008, 74-7501,
41 74-8704, 74-8805, 74-9804, 75-118, 75-1202d, 75-2537, 75-2944, 75-
42 3148, 75-3702c, 75-4222, 75-5005, 75-5015, 75-5016, 75-5122, 75-5157,
43 75-5309, 75-5310, 75-5378, 75-5610, 75-5702, 75-5708, 75-5733, 75-

1 5910, 75-7028, 75-7054, 75-7304, 76-1002a, 76-1116, 76-12a04, 76-
2 12a05, 76-12a08, 76-12a16, 76-3202 and 82a-1205 and K.S.A. 2015 Supp.
3 39-1911, and amendments thereto, any vacant position within the
4 classified service may be converted by the appointing authority to an
5 unclassified position.

6 (2) The classified service comprises all positions now existing or
7 hereafter created which are not included in the unclassified service.
8 Appointments in the classified service shall be made according to merit
9 and fitness from eligible pools which so far as practicable shall be
10 competitive. No person shall be appointed, promoted, reduced or
11 discharged as an officer, clerk, employee or laborer in the classified
12 service in any manner or by any means other than those prescribed in the
13 Kansas civil service act and the rules adopted in accordance therewith.

14 (3) For positions involving unskilled, or semiskilled duties, the
15 secretary of administration, as provided by law, shall establish rules and
16 regulations concerning certifications, appointments, layoffs and
17 reemployment which may be different from the rules and regulations
18 established concerning these processes for other positions in the classified
19 service.

20 (4) Officers authorized by law to make appointments to positions in
21 the unclassified service, and appointing officers of departments or
22 institutions whose employees are exempt from the provisions of the
23 Kansas civil service act because of the constitutional status of such
24 departments or institutions shall be permitted to make appointments from
25 appropriate pools of eligibles maintained by the division of personnel
26 services.

27 (5) On and after the effective date of this act, any state agency that
28 has positions in the classified service within the Kansas civil service act to
29 satisfy any requirement of maintaining personnel standards on a merit
30 basis pursuant to federal law or the rules and regulations promulgated
31 thereunder by the federal government or any agency thereof, shall adopt a
32 binding statement of agency policy pursuant to K.S.A. 77-415, and
33 amendments thereto, to satisfy such requirements if the appointing
34 authority has made any such position unclassified.

35 Sec. 5. K.S.A. 2015 Supp. 82a-303b is hereby amended to read as
36 follows: 82a-303b. (a) (1) In order to secure conformity with adopted rules
37 and regulations and to assure compliance with the terms, conditions or
38 restrictions of any consent or permit granted pursuant to the provisions of
39 K.S.A. 82a-301 through 82a-303, and amendments thereto, the chief
40 engineer or an authorized representative of the chief engineer shall have
41 the power and the duty to inspect any dam or other water obstruction.
42 Upon a finding pursuant to ~~subsection (a)~~ of K.S.A. 82a-303c(a), and
43 amendments thereto, by the chief engineer that a dam is unsafe, the chief

1 engineer shall order an annual inspection of the dam until it is either in
 2 compliance with all applicable provisions of this act, any rules and
 3 regulations promulgated pursuant to this act, permit conditions and orders
 4 of the chief engineer; or the dam is removed. The safety inspection shall be
 5 conducted by the chief engineer or authorized representative and the
 6 *actual* cost shall be paid by the dam owner *up to the maximum fee*. The
 7 class and size of a dam shall be defined by rules and regulations adopted
 8 by the chief engineer pursuant to K.S.A. 82a-303a, and amendments
 9 thereto. *The maximum* inspection fees are as follows:

10	Size of Dam	Inspection fee
11	<i>Class 1</i>	<i>\$1,500</i>
12	<i>Class 2</i>	<i>\$1,500</i>
13	Class 3	\$2,500
14	Class 4	\$4,000

15 (2) Each hazard class C dam shall be required to have a safety
 16 inspection conducted by a licensed professional engineer qualified in
 17 design, construction, maintenance and operation of dams once every three
 18 years, unless otherwise ordered by the chief engineer.

19 (3) Each hazard class B dam shall be required to have a safety
 20 inspection conducted by a licensed professional engineer qualified in
 21 design, construction, maintenance and operation of dams once every five
 22 years unless otherwise ordered by the chief engineer.

23 (4) Within 60 days of the date of inspection, a report of the inspection
 24 shall be provided to the chief engineer by the licensed professional
 25 engineer who conducted the inspection. The report shall document the
 26 physical condition of the dam, describing any deficiencies observed, an
 27 analysis of the capacity of the dam and its spillway works, compliance of
 28 the dam with approved plans and permit conditions, changes observed in
 29 the condition of the dam since the previous inspection, an assessment of
 30 the hazard classification of the dam including a statement that the engineer
 31 either agrees or disagrees with the current classification, and any other
 32 information relevant to the safety of the dam or specifically requested by
 33 the chief engineer.

34 (5) Upon failure of a dam owner to comply with the applicable
 35 inspection interval, the chief engineer or such chief engineer's authorized
 36 representative shall conduct a mandatory inspection of the dam and the
 37 costs as established by this act for the inspection shall be paid by the
 38 owner, in addition to any other remedies provided for violations of this act.

39 (6) The failure to file a complete and timely report as required by the
 40 provisions of this act, or the failure to submit the fees assessed for
 41 inspections conducted by the chief engineer or the chief engineer's
 42 authorized representative shall be deemed a violation of this act and
 43 subject to the penalties provided by K.S.A. 82a-305a, and amendments

1 thereto.

2 (b) For the purpose of inspecting any dam or other water obstruction,
3 the chief engineer or an authorized representative of the chief engineer
4 shall have the right of access to private property. Costs for any work which
5 may be required by the chief engineer or the authorized representative
6 prior to or as a result of the inspection of a dam or other water obstruction
7 shall be paid by the owner, governmental agency or operator of such dam
8 or other water obstruction.

9 (c) All fees collected by the chief engineer pursuant to this section
10 shall be remitted to the state treasurer as provided in K.S.A. 2015 Supp.
11 82a-328, and amendments thereto.

12 Sec. 6. K.S.A. 2015 Supp. 74-506d, 75-2935 and 82a-303b are
13 hereby repealed.

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