

HOUSE BILL No. 2678

By Committee on Water

Requested by Randy Stookey on behalf of Groundwater Management District 5

2-5

1 AN ACT concerning water; relating to the Kansas water banking act;
2 extending the period for how long a groundwater right can be deposited
3 in a water bank; requiring that water withdrawn from an account be
4 authorized by the water bank on or before December 1 of the calendar
5 year in which the withdrawn water is to be used; amending K.S.A. 82a-
6 763 and repealing the existing section.

7
8 *Be it enacted by the Legislature of the State of Kansas:*

9 Section 1. K.S.A. 82a-763 is hereby amended to read as follows: 82a-
10 763. (a) A water bank shall be authorized to enter into contracts with
11 holders of water rights for deposit in the bank of all or a portion of any
12 water right from a hydrologic unit within the bank boundary, subject to the
13 following:

14 (1) The bank shall accept for deposit only a water right, or portion of
15 a water right, that has been determined to be a bankable water right under
16 K.S.A. 82a-764, and amendments thereto;

17 (2) a deposit of a groundwater water right shall be for a period of not
18 more than ~~five~~ 10 years;

19 (3) a deposit shall be subject to such terms and conditions as provided
20 by the contract between the bank and the depositor, including penalty
21 provisions for breach of any contract conditions; and

22 (4) a deposit shall be subject to such terms and conditions, and ~~such~~
23 approval by the chief engineer, as provided by rules and regulations of the
24 chief engineer.

25 (b) A water bank shall be authorized to lease water from any water
26 right, or portion of a water right, that has been deposited in the bank,
27 subject to the following:

28 (1) Any water leased ~~must~~ shall be used within the bank boundary
29 and in the same hydrologic unit from which the water right authorizing
30 diversion of the water is deposited;

31 (2) use of leased water shall be subject to all provisions of the Kansas
32 water appropriation act, including, but not limited to, all requirements
33 relating to term permits;

34 (3) a lease shall be subject to such terms and conditions as provided
35 by the contract between the bank and the lessor, including penalty

1 provisions for breach of any contract conditions;

2 (4) a lease shall be subject to such terms and conditions, and ~~such~~
3 approval by the chief engineer, as provided by rules and regulations of the
4 chief engineer; and

5 (5) a water bank's decision of whether or not to lease water shall not
6 be based on the proposed use of the water.

7 (c) A water bank shall provide safe deposit accounts where a holder
8 of a water right may place unused water from the water right for future
9 withdrawal, subject to the following:

10 (1) A water right holder shall place in a safe deposit account only
11 water from a water right that has been determined to be a bankable water
12 right under K.S.A. 82a-764, and amendments thereto;

13 (2) only water that was unused in the immediate past calendar year
14 may be placed in a safe deposit account and the amount that shall be
15 placed in such account shall be less than the total amount of unused water
16 from the bankable water right in that year;

17 (3) only water from one water right shall be placed in a safe deposit
18 account and water from a water right shall not be placed in more than one
19 safe deposit account, except that water from linked water rights may be
20 placed in a single safe deposit account;

21 (4) each calendar year that water remains in a safe deposit account,
22 the amount of water held in the account shall decrease by a percentage
23 established by the charter of the bank but in no case less than 10%
24 annually of all amounts placed in the account;

25 (5) the total amount of water accumulated in a safe deposit account
26 shall not exceed the maximum annual quantity authorized to be diverted
27 under the water right or the aggregate maximum quantity authorized to be
28 diverted under all linked water rights from which water is deposited in the
29 account;

30 (6) use of water withdrawn from a safe deposit account shall be
31 subject to all provisions of the Kansas water appropriation act, including,
32 but not limited to, all requirements relating to term permits;

33 (7) *water withdrawn from a safe deposit account shall be authorized*
34 *by the water bank on or before December 1 of the calendar year in which*
35 *the withdrawn water is to be used;*

36 (8) a safe deposit account shall be subject to such terms and
37 conditions as provided by the contract between the bank and the account
38 holder, including penalty provisions for breach of any contract conditions;

39 ~~(8)~~(9) a safe deposit account shall be subject to such terms and
40 conditions, and ~~such~~ approval by the chief engineer, as provided by rules
41 and regulations of the chief engineer; and

42 ~~(9)~~(10) the operation of safe deposit accounts by the bank shall not
43 result in an increase in the amount of net consumptive use of water in any

1 hydrologic unit, computed on a long-term rolling average compared to a
2 representative past period.

3 (d) A water bank may provide services to facilitate the sale or lease of
4 water rights.

5 (e) A water bank shall not own, buy or sell water rights.

6 Sec. 2. K.S.A. 82a-763 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.