

SENATE BILL No. 156

AN ACT concerning the department of agriculture; relating to water conservation areas; agricultural liming materials; the Arkansas river gaging fund; amending K.S.A. 2-2907 and K.S.A. 2014 Supp. 2-2903 and 74-5,133 and repealing the existing sections.

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

New Section 1. (a) Any water right owner or a group of water right owners in a designated area may enter into a consent agreement and order with the chief engineer to establish a water conservation area. The water right owner or group of water right owners shall submit a management plan to the chief engineer. Such management plan shall be the basis of the consent agreement and order designating a water conservation area and shall:

- (1) Include clear geographic boundaries;
- (2) include the written consent of all participating water right owners within the geographic boundaries described in paragraph (1) to enter into the consent agreement and order;
- (3) include a finding or findings that one or more of the circumstances specified in K.S.A. 82a-1036(a) through (d), and amendments thereto, exist;
- (4) include provisions regarding the proposed duration of the water conservation area and any process by which water right owners may request to be added or removed from the water conservation area;
- (5) include goals and corrective control provisions to address one or more of the circumstances specified in K.S.A. 82a-1036(a) through (d), and amendments thereto;
- (6) give due consideration to water users who have previously implemented reductions in water use resulting in voluntary conservation measures;
- (7) include compliance monitoring and enforcement; and
- (8) be consistent with state law.

(b) A consent agreement and order of designation of a water conservation area pursuant to this section shall define the boundaries of the water conservation area and may include any of the following corrective control provisions:

- (1) Closing the water conservation area to any further appropriation of groundwater. In which event, the chief engineer shall thereafter refuse to accept any application for a permit to appropriate groundwater located within such area;
- (2) determining the permissible total withdrawal of groundwater in the water conservation area each day, month or year, and apportioning such permissible total withdrawal among the valid groundwater right holders in such area in accordance with the relative dates of priority of such rights;
- (3) reducing the permissible withdrawal of groundwater by any one or more appropriators thereof, or by wells in the water conservation area;
- (4) requiring and specifying a system of rotation of groundwater use in the water conservation area; and
- (5) any other provisions necessary to effectuate agreed-upon water conservation goals consistent with the public interest.

The chief engineer shall be responsible for the monitoring and enforcement of any corrective control provisions ordered for a water conservation area.

(c) The order of designation shall be in full force and effect from the date of its entry in the records of the chief engineer's office. The chief engineer upon request shall deliver a copy of such order to any interested person who is affected by such order and shall file a copy of the same with the register of deeds of any county within which any part of the water conservation area lies.

(d) If any corrective control provisions of a water conservation area conflict with rules and regulations of a groundwater management district or requirements of a local enhanced management plan or intensive groundwater use control area that result in greater overall conservation of water resources within which a participating water right is situated, the chief engineer is authorized to amend the provisions of the water conservation area to conform to any rules and regulations or requirements that result in greater conservation of water resources, as determined by the chief engineer. As part of the consent agreement and order of designation, the chief engineer may authorize single-year or multi-year term

permits for water right owners to effectuate the water conservation area's conservation goals in accordance with the management plan.

(e) Prior to execution of a proposed water conservation area consent agreement and order of designation pursuant to this section, the chief engineer shall notify in writing the groundwater management district within which any participating water right is situated. Such groundwater management district shall be given an opportunity to provide a written recommendation regarding the proposed water conservation area and management plan within 45 days of notification by the chief engineer. The review period may be extended by up to 30 days upon approval by the chief engineer. Subject to subsection (d), any participating water right in a water conservation area shall continue to be subject to all applicable rules and regulations and management plans of the groundwater management district in which the water right is situated.

(f) The consent agreement and order of designation shall provide for periodic review of the consent agreement and order, which may be initiated by the chief engineer or upon request of the water right owners in the water conservation area. The consent agreement and order shall specify the frequency of such periodic review, but a review shall be conducted at least once every 10 years.

(g) (1) The chief engineer may, with the consent of all participating water right owners, amend a consent agreement and order of designation in order to:

(A) Modify corrective control provisions or the boundaries of the designated area;

(B) add or remove water rights upon request of such water right owners;

(C) terminate a water conservation area upon the request of the water right owners in the designated area; or

(D) make other changes the water right owners may request.

(2) Any amendments to a consent agreement and order of designation, except amendments that remove a water right upon request of the owner so long as the consent of all participating water right owners is not required pursuant to the management plan, shall be consented to by all participating water right owners within the designated area and the chief engineer and shall be based upon a revised management plan submitted by the participating water right owners.

(h) The chief engineer shall adopt rules and regulations to effectuate and administer the provisions of this section.

(i) The provisions of this section shall be part of and supplemental to the Kansas water appropriation act.

Sec. 2. K.S.A. 2014 Supp. 2-2903 is hereby amended to read as follows: 2-2903. (a) Every package or container of agricultural liming materials sold, offered or exposed for sale in this state shall have affixed to each package in a conspicuous manner on the outside thereof, a plainly printed, stamped or otherwise marked label, tag or statement setting forth the following information: (1) The name and principal office address of the manufacturer or distributor;

(2) the brand or trade name of the material;

(3) the identification of the product as to type of agricultural liming material;

(4) the net weight of the agricultural liming material;

(5) the calcium carbonate equivalent as determined by methods prescribed by the association of official analytical chemists, and in *such* minimum amounts as prescribed by rules and regulations of the secretary of agriculture; and

(6) the minimum percentage by weight passing through U.S. standard sieves, as prescribed by rules and regulations;

(7) the minimum percentage of weight of effective calcium carbonate equivalent (ECC), a function of calcium carbonate equivalent and fineness as prescribed by rules and regulations of the secretary of agriculture.

(b) In any case where a bulk sale of agricultural liming materials is made, the delivery slip identifying such sale shall contain the information required by subsection (a)(7).

(c) No information or statement shall appear on any package, label, delivery slip or advertising material which is false or misleading to the

purchaser as to the quality, analysis, type or composition of the agricultural liming material.

(d) In the case of any material which has been adulterated subsequent to packaging, labeling or loading thereof but before delivery to the consumer, a plainly marked notice to that effect shall be affixed by the vendor to the package or delivery slip to identify the kind and degree of adulteration therein.

(e) At every site from which agricultural liming materials are delivered in bulk or orders for bulk deliveries are placed by consumers, there shall be conspicuously posted a statement setting forth the information required by subsection (a) of this section for each brand of material.

Sec. 3. K.S.A. 2-2907 is hereby amended to read as follows: 2-2907.

(a) It shall be the duty of the secretary or ~~his or her~~ *the secretary's* duly authorized agent to sample, inspect, make analyses of and test agricultural liming materials distributed within this state as often as the secretary may deem necessary to determine whether such agricultural liming materials are in compliance with the provisions of this act. The secretary or ~~his or her~~ *the secretary's* agent may enter upon any public or private premises or carriers during regular business hours in order to have access to agricultural liming material subject to the provisions of this act, and to any records relating to their distribution.

(b) The methods of analysis and sampling shall be those approved by the secretary, ~~and shall be guided by association of official analytical chemists procedures.~~

Sec. 4. K.S.A. 2014 Supp. 74-5,133 is hereby amended to read as follows: 74-5,133. (a) (1) There is hereby established in the state treasury the Arkansas river gaging fund, which shall be administered by the secretary of agriculture. All expenditures from the Arkansas river gaging fund shall be for the operation and maintenance of:

(A) The gages along the Arkansas river necessary to manage the river under the Arkansas river compact; *and*

(B) *the stateline groundwater gage sites in the Arkansas river basin necessary to manage the quantity and quality of such groundwater.*

(2) ~~Except that,~~ After all expenditures are made during the fiscal year for the operation and maintenance of the gages along the Arkansas river ~~necessary to manage the river under the Arkansas river compact~~ *purposes listed in paragraph (1), then, expenditures shall be made* in accordance with the following priorities and subject to the expenditure limitations prescribed therefor:

(A) First, any remaining moneys authorized to be expended from the fund for the fiscal year shall be expended for the purposes of livestock market reporting in an amount not to exceed \$20,000 in a fiscal year; and

(B) second, if there are any remaining moneys authorized to be expended from the fund for the fiscal year after the expenditures for livestock market reporting, then expenditures shall be made from the fund for the purpose of funding the bluestem pasture report in an amount not to exceed \$5,000.

~~(2)~~(3) All expenditures from the Arkansas river gaging fund shall be made in accordance with appropriation acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the secretary of agriculture or the designee of the secretary of agriculture.

(b) All moneys received as royalties from the state's oil and gas leases in Hamilton, Kearny, Finney, Gray and Ford counties, except those moneys arising from leases on lands under the control of the secretary of wildlife, parks and tourism as provided by K.S.A. 32-854, and amendments thereto, shall be deposited in the state treasury in accordance with the provisions of K.S.A. 75-4215, and amendments thereto, and shall be credited to the Arkansas river gaging fund. During each fiscal year, when the total amount of moneys credited to the fund is equal to ~~\$75,000~~ \$95,000, no further moneys shall be credited to the fund. The remainder of the moneys received for such royalties for such fiscal year shall be credited to the state general fund.

Sec. 5. K.S.A. 2-2907 and K.S.A. 2014 Supp. 2-2903 and 74-5,133 are hereby repealed.

Sec. 6. 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

SENATE concurred in
HOUSE amendments _____

President of the Senate.

Secretary of the Senate.

Passed the HOUSE
as amended _____

Speaker of the House.

Chief Clerk of the House.

APPROVED _____

Governor.