

Senate Substitute for HOUSE BILL No. 2059

By Committee on Natural Resources

2-8

1 AN ACT concerning ~~the department of agriculture; relating to~~  
2 ~~chemigation; relating to~~ water; relating to applications to appropriate;  
3 amending K.S.A. 2015 Supp. ~~2-3304 and~~ 82a-708a and repealing the  
4 existing ~~sections~~ *section*.

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

7 Section 1. ~~K.S.A. 2015 Supp. 2-3304 is hereby amended to read as~~  
8 ~~follows: 2-3304. (a) (1) Except as provided in paragraph (2), any user of~~  
9 ~~the chemigation process shall register and obtain a chemigation user's~~  
10 ~~permit before using the process.~~

11 ~~(2) A chemigation user's permit shall not be required for a person~~  
12 ~~who:~~

13 ~~(A) Only applies liquid fertilizer;~~

14 ~~(B) only uses a surface water storage facility as the point of~~  
15 ~~diversion; and~~

16 ~~(C) has obtained a private pesticide applicator certificate pursuant to~~  
17 ~~K.S.A. 2-2445a, and amendments thereto.~~

18 ~~(b) Registration shall consist of making application on a form~~  
19 ~~supplied by the secretary. Such application shall include, but not be limited~~  
20 ~~to:~~

21 ~~(1) The name of the persons to whom a permit is to be issued,~~  
22 ~~including an owner or operator of land on which chemigation is to be used;~~

23 ~~(2) a plan for using anti-pollution devices;~~

24 ~~(3) a plan for handling tail water or accumulations of water;~~

25 ~~(4) the number and locations, including a legal description, of~~  
26 ~~wellheads which may be involved in the chemigation process and surface~~  
27 ~~water supply withdrawal points, not to include siphon tubes; and~~

28 ~~(5) payment of fees.~~

29 ~~(c) The application fee for a chemigation user's permit shall be \$75~~  
30 ~~plus \$15 \$30 per year for each additional point of diversion, except that on~~  
31 ~~and after July 1, 2018, a chemigation user's permit shall be \$55 plus \$10~~  
32 ~~for each additional point of diversion. A chemigation user's permit may be~~  
33 ~~renewed each year upon making an application, payment of the application~~  
34 ~~fee and completing the report form providing information used in~~  
35 ~~chemigation the previous year.~~

36 ~~See 2. Section 1.~~ K.S.A. 2015 Supp. 82a-708a is hereby amended to

1 read as follows: 82a-708a. (a) Any person may apply for a permit to  
 2 appropriate water to a beneficial use, notwithstanding that the application  
 3 pertains to the use of water by another, or upon or in connection with the  
 4 lands of another. Any rights to the beneficial use of water perfected under  
 5 such application shall attach to the lands on or in connection with which  
 6 the water is used and shall remain subject to the control of the owners of  
 7 the lands as in other cases provided by law.

8 (b) Except as otherwise provided in subsections (d), (e) ~~and~~, (f) *and*  
 9 (g), each application for a permit to appropriate water, except applications  
 10 for permits for domestic use, shall be accompanied by an application fee  
 11 fixed by this section for the appropriate category of acre feet in accordance  
 12 with the following:

Acre Feet	Fee
13 0 to 100.....	\$200
14 101 to 320.....	\$300
15 More than 320.....	\$300 + \$20
	for each additional 100
	acre feet or any part thereof

16 On and after July 1, 2018, the application fee shall be fixed by this  
 17 section for the appropriate category of acre feet in accordance with the  
 18 following:

Acre Feet	Fee
19 0 to 100.....	\$100
20 101 to 320.....	\$150
21 More than 320.....	\$150 + \$10
	for each additional 100
	acre feet or any part thereof

22 The chief engineer shall render a decision on such permit applications  
 23 within 150 days of receiving a complete application except when the  
 24 application cannot be processed due to the standards established in K.A.R.  
 25 5-3-4c. Upon failure to render a decision within 180 days of receipt of a  
 26 complete application, the application fee is subject to refund upon request.

27 (c) Except as otherwise provided in subsections (d), (e) ~~and~~, (f) *and*  
 28 (g), each application for a permit to appropriate water for storage, except  
 29 applications for permits for domestic use, shall be accompanied by an  
 30 application fee fixed by this section for the appropriate category of  
 31 storage-acre feet in accordance with the following:

Storage-Acre Feet	Fee
32 0 to 250.....	\$200
33 More than 250.....	\$200 + \$20
	for each additional 250
	storage-acre feet or any part thereof

34 On and after July 1, 2018, the application fee shall be fixed by this

1 section for the appropriate category of storage-acre feet in accordance with  
 2 the following:

3 Storage-Acre Feet	Fee
4 0 to 250.....	\$100
5 More than 250.....	\$100 + \$10
6	for each additional 250
7	storage-acre feet or any part thereof

8 The chief engineer shall render a decision on such permit applications  
 9 within 150 days of receiving a complete application except when the  
 10 application cannot be processed due to the standards established in K.A.R.  
 11 5-3-4c. Upon failure to render a decision within 180 days of receipt of a  
 12 complete application, the application fee is subject to refund upon request.

13 (d) Each application for a term permit pursuant to K.S.A. 2015 Supp.  
 14 82a-736, and amendments thereto, shall be accompanied by an application  
 15 fee established by rules and regulations of the chief engineer in an amount  
 16 not to exceed \$400 for the five-year period covered by the permit.

17 (e) For any application for a permit to appropriate water, except  
 18 applications for permits for domestic use, which proposes to appropriate  
 19 by both direct flow and storage, the fee charged shall be the fee under  
 20 subsection (b) or subsection (c), whichever is larger, but not both fees.

21 (f) Each application for a permit to appropriate water for water power  
 22 or dewatering purposes shall be accompanied by an application fee of  
 23 \$100 plus \$200 for each 100 cubic feet per second, or part thereof, of the  
 24 diversion rate requested in the application for the proposed project.

25 (g) *(1) Each application for a permit to appropriate surface water*  
 26 *that otherwise leaves the state, and is for a water transfer project*  
 27 *proposed for multiple uses, shall be accompanied by an application fee of*  
 28 *\$100 plus \$200 for each 100 cubic feet per second, or part thereof, of the*  
 29 *diversion rate requested in the application for the proposed project. An*  
 30 *additional fee may be assessed by the chief engineer if additional expenses*  
 31 *are incurred in reviewing an application until such application is*  
 32 *approved or denied. The maximum total fee for such application shall not*  
 33 *exceed the fee provided in subsection (e).*

34 *(2) An applicant for a permit to appropriate under this subsection*  
 35 *shall submit a work plan with such applicant's application. The work*  
 36 *plan shall include milestones for implementing the water transfer*  
 37 *project. The chief engineer may conditionally approve such application*  
 38 *and work plan and assess progress of the implementation of such work*  
 39 *plan.*

40 *(3) No application for a permit to appropriate under this subsection*  
 41 *shall be submitted prior to December 1, 2016.*

42 *(4) There shall be no deadline for the chief engineer to render a final*  
 43 *decision on such application, however the application may be dismissed if*

1 *the chief engineer:*

2 *(A) Has good cause to believe that the applicant is unable to*  
3 *demonstrate that the application is likely to be approvable in a reasonable*  
4 *period of time; or*

5 *(B) determines that such applicant cannot successfully meet the*  
6 *milestones contained in the work plan.*

7 *(h) All fees collected by the chief engineer pursuant to this section*  
8 *shall be remitted to the state treasurer as provided in K.S.A. 82a-731, and*  
9 *amendments thereto.*

10 ~~Sec. 3. 2. K.S.A. 2015 Supp. 2-3304 and 82a-708a are~~ *is* hereby  
11 repealed.

12 ~~Sec. 4. 3.~~ This act shall take effect and be in force from and after its  
13 publication in the statute book.