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BENEFIT AREA STATUTE

82a-1702. Same; state financial assistance, conditions. (a) The state shall provide financial assistance to certain public corporations for part of the costs or reimbursement of part of the costs of installation of water development projects, which derive general benefits to the state as a whole, or to a section thereof beyond the boundaries of such public corporation.

(b) Any public corporation shall be eligible for state financial assistance for a part of the costs it becomes actually and legally obligated to pay for all lands, easements, and rights-of-way for the water development projects in the event the state conservation commission shall find that:

(1) such public corporation has made application for approval of such financial assistance with the Kansas department of agriculture division of conservation in such form and manner as the Kansas department of agriculture division of conservation may require, which application each public corporation is hereby authorized to make;

(2) such works will confer general flood control benefits beyond the boundaries of such public corporation in excess of 20% of the total flood control benefits of the works;

(3) such works are consistent with the state water plan;

(4) such public corporation will need such financial assistance for actual expenditures within the fiscal year next following; and

(5) the legislature has appropriated funds for the payment of such sum. The payment authorized hereunder shall be limited to an amount equal to the total costs the public corporation shall become actually and legally obligated to spend for lands, easements, and rights-of-way for such water resource development works, multiplied by the ratio that the flood control benefits conferred beyond the boundaries of the public corporation bear to the total flood control benefits of the project. Such findings shall each be made at and in such manner as is provided by procedural rules and regulations which shall be adopted by the Kansas department of agriculture division of conservation with the approval of the state conservation commission.

(c) Any public corporation receiving financial assistance under this section shall apply those sums toward the satisfaction of the legal obligations for the specific lands, easements, and rights-of-way for which it receives them or toward the reimbursement of those accounts from which those legal obligations were satisfied, in whole or in part, and it shall return to the state any sums that are not in fact so applied. In ascertaining costs of lands, easements, and rights-of-way under this section, the Kansas department of agriculture division of conservation shall not consider any costs which relate to land treatment measures nor any costs for which federal aid for construction costs is granted pursuant to the watershed protection and flood prevention acts or pursuant to any other federal acts.

History: L. 1996, ch. 17, § 3; L. 2012, ch. 140, sec. 141; July 1.

82a-1703. Same; application for financial assistance; state conservation commission, duties. The governing body of each public corporation eligible for state financial assistance under the provisions of this act shall make application for state payment each year to the Kansas department of agriculture division of conservation in such form and manner as the Kansas department of agriculture division of conservation may prescribe by its rules and regulations. Each year the Kansas department of agriculture division of conservation shall determine what

persons are eligible to receive financial assistance from the state, and the amounts thereof, pursuant to this act. In the event the Kansas department of agriculture division of conservation shall determine that any such application, including the amounts thereof, is proper and in compliance with this act and is supported by a resolution as provided in K.S.A. 82a-1704, and amendments thereto, the Kansas department of agriculture division of conservation may submit a request therefor as a part of its annual budget requests and estimates. Each such request shall be separately stated and identified. The budget item for each project shall contain the name of the project, the name of the public corporation to which the item relates, the county or counties in which such public corporation is located, the identification of the agreement or resolution supporting the request, and the amount of state payment requested therefor.

History: L. 1996, ch. 17, § 4; L. 2012, ch. 140, sec. 142; July 1.

82a-1704. Same; resolution of governing body seeking financial assistance. In order that any public corporation eligible for state payments under the provisions of this act may receive payment from the state, the governing body of the public corporation shall adopt and transmit to the Kansas department of agriculture division of conservation an appropriate resolution requesting the Kansas department of agriculture division of conservation to approve payment to the requesting body of a sum or sums to be named within the limits of and for the purposes defined in this act. The resolution shall show the total cost allocated to the requesting body for providing the lands, easements, and rights-of-way for the works of improvement of the requesting body and shall pledge that all money received from the state under authority of this act will be applied solely to the purposes specified in this act.

History: L. 1996, ch. 17, § 5; L. 2012, ch. 140, sec. 143; July 1.

82a-2007. Additional employee authorized for state conservation commission. Subject to appropriations, there shall be an additional employee at the Kansas department of agriculture division of conservation to work on total maximum daily load compliance and to coordinate with the department and other appropriate federal and state agencies to further implement voluntary incentive based conservation programs to protect water quality.

History: L. 2001, ch. 100, § 7; L. 2012, ch. 140, sec. 144; July 1.

82a-2101. Imposition of fee; election to opt out or in; disposition of revenues. (a) On and after January 1, 2002, there is hereby imposed a clean drinking water fee at the rate of \$.03 per 1,000 gallons of water sold at retail by a public water supply system and delivered through mains, lines or pipes. Such fee shall be paid, administered, enforced and collected in the manner provided for the fee imposed by subsection (a)(1) of K.S.A. 82a-954, and amendments thereto. The price to the consumer of water sold at retail by any such system shall not include the amount of such fee.

(b) (1) A public water supply system may elect to opt out of the fee imposed by this section by notifying, before October 1, 2001, the Kansas water office and the department of revenue of the election to opt out. Except as provided by subsection (b)(2), such election shall be irrevocable. Such public water supply system shall continue to pay all applicable sales tax on direct and indirect purchases of tangible personal property and services purchased by such system.

(2) On and after January 1, 2005, any public water supply system which elected to opt out of the fee imposed by subsection (a) may elect to collect such fee as provided by subsection (a) and direct and indirect purchases of tangible personal property and services by such system shall be exempt from sales tax as provided by K.S.A. 79-3606, and amendments thereto. Such election shall be irrevocable.

(c) The director of taxation shall remit to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto, all moneys received or collected from the fee imposed pursuant to this section. Upon receipt thereof, the state treasurer shall deposit the entire amount in the state treasury and credit it as follows:

(1) 5/106 of such amount shall be credited to the state highway fund and the remainder to the state general fund; and

(2) on and after July 1, 2007, 5/106 of such amount shall be credited to the state highway fund and the remaining amount shall be credited to the state water plan fund created by K.S.A. 82a-951, and amendments thereto, for use as follows:

(A) Not less than 15% shall be used to provide on-site technical assistance for public water supply systems, as defined in K.S.A. 65-162a, and amendments thereto, to aid such systems in conforming to responsible management practices and complying with regulations of the United States environmental protection agency and rules and regulations of the department of health and environment; and

(B) the remainder shall be used to renovate and protect lakes which are used directly as a source of water for such public water supply systems, so long as where appropriate, watershed restoration and protection practices are planned or in place.

(d) The Kansas department of agriculture division of conservation shall promulgate rules and regulations in coordination with the Kansas water office establishing the project application evaluation criteria for the use of such moneys under subsection (c)(2)(B).

History: L. 2001, ch. 199, § 4; L. 2004, ch. 171, § 11; L. 2005, ch. 142, § 4; Apr. 21; L. 2012, ch. 140, sec. 145; July 1.