

MULTIPURPOSE SMALL LAKES PROGRAM ACT
K.S.A. 82a-1601 through 82a-1609
Revised May 2021

82a-1601. Citation of act. This act shall be known and may be cited as the "multipurpose small lakes program act."

History: L. 1985, ch. 342, § 1; July 1.

82a-1602. Multipurpose small lakes program established; duties of state conservation commission; rules and regulations. In order to provide public water supply storage and water related recreational facilities in the state, there is hereby established a multipurpose small lakes program. The program shall be administered by the division. Except as otherwise provided by this act, the division, with the approval of the secretary, shall adopt all rules and regulations necessary to implement the provisions of this act. **History:** L. 1985, ch. 342, § 2; L. 2001, ch. 71, § 1; July 1; L. 2012, ch. 140, § 136, July 1; as amended by 2021 SB38, sec. 24; effective May 6, 2021.

82a-1603. Definitions. When used in this act:

(a) "Chief engineer" means the chief engineer of the division of water resources of the department of agriculture.

(b) "Class I funded project" means a proposed new project or renovation of an existing project located within the boundaries of an organized watershed district that is receiving or is eligible to receive financial participation from the division for the flood control storage portion of the project.

(c) "Class II funded project" means a proposed new project or renovation of an existing project that is receiving or is eligible to receive financial participation from the federal government.

(d) "Class III funded project" means a proposed new project or renovation of an existing project located outside the boundaries of an organized watershed district that is not receiving or is not eligible to receive financial participation from the division or the federal government except as provided in K.S.A. 82a-1606, and amendments thereto.

(e) "Division" means the division of conservation established within the Kansas department of agriculture in K.S.A. 74-5,126, and amendments thereto.

(f) "Flood control storage" means storage space in reservoirs to hold flood waters.

(g) "Future use public water supply storage" means storage space that the Kansas water office determines will be needed within the next 20 years for use by public water supply users in an area but for which there is no current sponsor.

(h) "General plan" means a preliminary engineering report describing the characteristics of the project area, the nature and methods of dealing with the soil and water problems within the project area, and the projects proposed to be undertaken by the sponsor within the project area. Such plan shall include: Maps, descriptions and other data as may be necessary for the location, identification and establishment of the character of the work to be undertaken; a cost-benefit analysis of alternatives to the project, including, but not limited to, nonstructural flood control options and water conservation and reuse to reduce need for new water supply storage; and any other data and information as the chief engineer may require.

(i) "Land right" means real property as that term is defined by the laws of the state of Kansas and all rights thereto and interest therein and includes any road, highway, bridge, street, easement or other right-of-way thereon.

(j) "Multipurpose small lake project" means a dam and lake containing: (1) Flood control storage; and (2) either public water supply storage or recreation features, or both.

(k) "Public water supply" means a water supply for municipal, industrial or domestic use.

(l) "Public water supply storage" means storage of water for municipal, industrial or domestic use.

(m) “Recreation feature” means water storage and related facilities for activities such as swimming, fishing, boating, camping or other related activities.

(n) “Renovation” means repair or restoration of an existing lake that contains water storage space for use as a public water supply and that has either recreational purposes or flood control purposes, or both.

(o) “Secretary” means the secretary of the Kansas department of agriculture.

(p) “Sponsor” means: (1) Any political subdivision of the state that has the power of taxation and the right of eminent domain; (2) any public wholesale water supply district; or (3) any rural water district.

(q) “Water user” means any city, rural water district, wholesale water district or any other political subdivision of the state that is in the business of furnishing municipal or industrial water to the public.

History: L. 1985, ch. 342, § 3; L. 1989, ch. 5, § 5; L. 1991, ch. 290, § 4; L. 2001, ch. 71, § 2; L. 2004, ch. 101, § 153; July 1; L. 2012, ch. 140, § 137 July 1; as amended by 2021 SB38, sec. 25; effective May 6, 2021.

82a-1604. State participation in class I multipurpose small lake project; general plan required; duties of water office; duties of sponsor; costs; sale of water rights. (a) The state may participate with a sponsor in the development, construction or renovation of a class I multipurpose small lake project if the sponsor has a general plan which has been submitted to and approved by the chief engineer in the manner provided by K.S.A. 24-1213 and 24-1214, and amendments thereto. If the Kansas water office determines that additional public water supply storage shall be needed in that area of the state within 20 years from the time such project is to be completed and a water user is not available to finance public water supply storage, the state may include future use public water supply storage in the project. The Kansas water office shall apply for a water appropriation right sufficient to insure a dependable yield from the public water supply storage. The Kansas water office shall be exempt from all applicable fees imposed pursuant to K.S.A. 82a-701 et seq., and amendments thereto, for such applications. The Kansas water office shall have authority to adopt rules and regulations relative to the inclusion of public water supply storage in proposed projects under this act and the disposition of state-owned water rights and associated public water supply storage space in such projects.

(b) The sponsor of such class I project shall be responsible for acquiring land rights and for the costs of operation and maintenance of such project. The state may provide up to 50% of the engineering and construction costs and up to 50% of the costs of land rights associated with recreation features. Subject to the provisions of subsections (a) and (c), the state may pay up to 100% of the engineering and construction costs of flood control and public water supply storage. All other costs of such project, including land, construction, operation and maintenance shall be paid by the sponsor.

(c) The state shall not participate in the costs of public water supply storage in a renovation project unless the Kansas water office determines that renovation is the most cost effective alternative for such storage. The state shall be authorized to pay only up to 50% of the engineering and construction costs of public water supply storage in such a renovation project.

(d) The Kansas water office may recover the state's costs incurred in providing public water supply storage in such class I project, and interest on such costs, by selling such storage and the associated water rights. Interest on such costs shall be computed at a rate per annum equal to the average of the monthly net earnings rate for the pooled money investment portfolio for the preceding calendar year for each year of storage.

History: L. 1985, ch. 342, § 4; L. 1991, ch. 290, § 5; L. 2001, ch. 71, § 3; July 1; L. 2015, ch. 60, § 6; July 1.

82a-1605. State participation in class II multipurpose small lake project; general plan required; duties of water office; duties of sponsor; costs; sale of water rights. (a) The state may participate with a sponsor in the development, construction or renovation of a class II multipurpose

small lake project if the sponsor has a general plan which has been submitted to and approved by the chief engineer in the manner provided by K.S.A. 24-1213 and 24-1214, and amendments thereto. If the Kansas water office determines that additional public water supply storage shall be needed in that area of the state within 20 years from the time such project is to be completed and a water user is not available to finance public water supply storage, the state may include future use public water supply storage in the project. The Kansas water office shall apply for a water appropriation right sufficient to insure a dependable yield from public water supply storage. The Kansas water office shall be exempt from all applicable fees imposed pursuant to K.S.A. 82a-701 et seq., and amendments thereto, for such applications. The Kansas water office shall have authority to adopt rules and regulations relative to the inclusion of public water supply storage in proposed projects under this act and the disposition of state-owned water rights and associated public water supply storage space in such projects.

(b) In a class II project, the state may assume initial financial obligations for public water supply storage in watersheds by entering into long-term contracts with the federal government. In order to provide security to the federal government, the state may grant assignments of water rights, either appropriation rights or water reservation rights; assignments of rights under existing or prospective water purchase contracts; assignments, mortgages or other transfers of interests in real property held by the state and devoted to the specific small lake project for which security is sought; or may provide other security that is permissible under state law and acceptable by the federal government. Instead of contracting to repay costs under long-term contracts, the state may pay all of the required costs of the public water supply storage in a lump sum.

(c) The sponsor of such class II project shall be responsible for acquiring land rights and for the costs of operation and maintenance of such project. The state or federal government may provide up to 50% of the engineering and construction costs and up to 50% of the costs of land rights associated with recreation features. Subject to the provisions of subsection (d), the state may pay up to 100% of the engineering and construction costs of flood control and public water supply storage. All other costs of such project, including land, construction, operation and maintenance shall be paid by the sponsor.

(d) The state shall not participate in the costs of public water supply storage in a renovation project unless the Kansas water office determines that renovation is the most cost effective alternative for such storage. The state shall be authorized to pay only up to 50% of the engineering and construction costs of public water supply storage in such a renovation project.

(e) The Kansas water office may recover the state's costs incurred in providing public water supply storage in such class II project, and interest on such costs, by selling such storage and the associated water rights. Interest on such costs shall be computed at a rate per annum equal to the average of the monthly net earnings rate for the pooled money investment portfolio for the preceding calendar year for each year of storage.

History: L. 1985, ch. 342, § 5; L. 1991, ch. 290, § 6; L. 2001, ch. 71, § 4; July 1; L. 2015, ch. 60, § 7; July 1.

82a-1606. State participation in class III multipurpose small lake project; general plan required; duties of water office; duties of sponsor; costs; sale of water rights. (a) The state may participate with a sponsor in the development, construction or renovation of a class III multipurpose small lake project if the sponsor has a general plan which has been submitted to and approved by the chief engineer in the manner provided by K.S.A. 24-1213 and 24-1214, and amendments thereto. If public water supply storage is included in the project, the sponsor of such class III project shall pay for 100% of the costs associated with the public water supply storage portion of such project unless the Kansas water office determines that additional public water supply storage shall be needed in that area of the state within 20 years from the time such project is to be completed and a sponsor is not available to finance 100% of the costs associated with the public water supply storage, the state may participate in the future use public water supply storage costs of the project. If the state participates in the public water supply storage costs, the Kansas water office shall apply for a water appropriation right sufficient to insure a dependable yield from public water supply storage. The Kansas water office shall be exempt

from all applicable fees imposed pursuant to K.S.A. 82a-701 et seq., and amendments thereto, for such applications. The Kansas water office shall have authority to adopt rules and regulations relative to the inclusion of public water supply storage in proposed projects under this act and the disposition of state-owned water rights and associated public water supply storage space in such projects.

(b) The sponsor of such class III project shall be responsible for acquiring land rights and for the costs of operation and maintenance of the project. The state may provide up to 50% of the engineering and construction costs and up to 50% of the costs of land rights associated with recreation features. Subject to the provisions of subsection (c), the state may pay up to 100% of the engineering and construction costs of flood control storage and public water supply storage. All other costs of such project, including land, construction, operation and maintenance, shall be paid by the sponsor.

(c) The state shall not participate in the costs of public water supply storage in a renovation project unless the Kansas water office determines that renovation is the most cost effective alternative for such storage. The state shall be authorized to pay only up to 50% of the engineering and construction costs of public water supply storage in such a renovation project.

(d) The Kansas water office may recover the state's costs incurred in providing public water supply storage in such class III project, and interest on such costs, by selling such storage and the associated water rights. Interest on such costs shall be computed at a rate per annum equal to the average of the monthly net earnings rate for the pooled money investment portfolio for the preceding calendar year for each year of storage.

History: L. 1985, ch. 342, § 6; L. 1991, ch. 290, § 7; L. 2001, ch. 71, § 5; July 1; L. 2015, ch. 60, § 8; July 1.

82a-1607. Application for participation in program; review and approval by state conservation commission; appropriation of funds. Sponsors shall apply to the division for participation in the multipurpose small lakes program. The review and approval process of the division shall be established by rules and regulations that shall be consistent with the state water plan. Following review, the division, with the approval of the secretary, shall request appropriations for specific projects from the legislature. Any funds appropriated to carry out the provisions of this act shall be administered by the division.

History: L. 1985, ch. 342, § 7; July 1; L. 2012, ch. 140, § 138; July 1; as amended by 2021 SB38, sec. 26; effective May 6, 2021.

82a-1608. Local nonpoint source management plan required; water conservation plan. (a) If state financial participation is approved for a multipurpose small lake project, the Kansas department of agriculture division of conservation shall require a local nonpoint source management plan for the watersheds draining into the proposed lake. Such plan shall be submitted to and approved by the Kansas department of agriculture division of conservation before any state funds may be used for the proposed project.

(b) If public water supply storage is included in such a project, the sponsor shall have a water conservation plan which has been submitted to and approved by the chief engineer.

(c) Any funding provided by the state shall include money necessary to pay for cost-sharing expenses incurred for nonpoint source management pursuant to the plan required by subsection (a).

History: L. 1985, ch. 342, § 8; L. 1991, ch. 290, § 8; July 1; L. 2012, ch. 140, § 139; July 1.

82a-1609. Cost-benefit analysis of alternatives required prior to request for appropriation; state agency and public review and comment; duties of state conservation commissioner. (a) Before the Kansas department of agriculture division of conservation requests any appropriation for any multipurpose small lake project, the chief engineer shall review the cost-benefit analysis of alternatives to the project and shall:

(1) Submit the general plan to the appropriate state environmental review agencies pursuant to K.S.A. 82a-325, 82a-326 and 82a-327, and amendments thereto, for review and comment as provided by those sections; and

(2) publish notice of the review in the Kansas register, make the general plan available to the public and receive public comments on the proposed project for a period of 30 days following publication of the notice.

(b) If, in the review, a reasonable, less expensive alternative to the proposed project is identified and the Kansas department of agriculture division of conservation nevertheless requests an appropriation for the proposed project, the division shall submit its reasons for proceeding with participation in the project, together with substantiating documentation, with the budget estimate and program statement for such project.

(c) This section shall be part of and supplemental to the multipurpose small lakes program act.

History: L. 1991, ch. 290, § 9; July 1; L. 2012, ch. 140, § 140; July 1.