

2009 Legislative Session Water-Related Issues

2009 Water Issues

- **1. Agency Structure – SB 231**

transfer KCC to KDA

Legislative Post Audit Committee

- State agencies; abolishing the Kansas Animal Health Department; creating the Animal Health Division within the Kansas Department of Agriculture; transferring the powers, duties and functions of the Livestock Commissioner and the Kansas Animal Health Department; abolishing the State Conservation Commission; creating the Conservation Division within the Department of Agriculture; transferring the powers, duties and functions of the executive director of the State Conservation Commission and the State Conservation Commission
- In Senate Agriculture
- **02/18/2009 - Senate:** Scheduled Hearings: Tuesday, 2/24/2009, 8:30 AM, Rm 545-N; Wednesday, 2/25/2009, 8:30 AM, Rm 545-N
- **02/16/2009 - Senate:** Withdrawn from Ways and Means; referred to Agriculture
- **02/09/2009 - Senate:** Referred to Ways and Means

2009 Water Issues

2. Appropriations

3. Eminent domain for water rights – SB 65

- Special Committee on Eminent Domain in Condemnation of Water Rights
- Eminent domain; relating to water rights
- In Senate Natural Resources
- **01/23/2009 - Senate:** Scheduled Hearing: Thursday, **1/29/2009**, 8:30 AM, Rm 446-N
- **01/22/2009 - Senate:** Referred to Natural Resources
- **01/21/2009 - Senate:** Introduction

2009 Water Issues

4. **Fees for water rights** – HB 2050 – signed
5. **Impairment** – Stevens County issue – DWR developing regulations
6. **IGUCAs** – HB 2065, HB 2272, HB 2283
7. **Legal access to property** – HB 2309, SB 65 – signed in SB 64 (along with Professor Peck wordsmithing from 2008 interim)

2009 Water Issues

SB 64: “Water right” means any vested right or appropriation right under which a person may lawfully divert and use water. It is a real property right appurtenant to and severable from the land on or in connection with which the water is used and such water right passes as an appurtenance with a conveyance of the land by deed, lease, mortgage, will, or other **voluntary** disposal, or by inheritance.

2009 Water Issues

- Sec. 2. K.S.A. 82a-705 is hereby amended to read as follows: 82a- 705. No person shall have the power or authority to acquire ~~an~~ **a new** appropriation right to the use of water for other than domestic use with- out first obtaining the approval of the chief engineer, and no water rights of any kind may be acquired hereafter solely by adverse use, adverse possession, or by estoppel.
- Sec. 3. K.S.A. 82a-707 is hereby amended to read as follows: 82a-707. (a) Surface or groundwaters of the state may be appropriated as herein provided. Such appropriation shall not constitute ownership of such water, and appropriation rights shall remain subject to the principle of beneficial use.
- (b) ***The date of priority of every water right of every kind, and not the purpose of use, determines the right to divert and use water at any time when the supply is not sufficient to satisfy all water rights.*** Where ***lawful*** uses of water ~~for different purposes conflict~~ ***have the same date of priority,*** such uses shall ~~conform to have~~ ***priority*** in the following order of preference: Domestic, municipal, irrigation, industrial, recreational and water power uses. ~~However, the date of priority of an appropriation right, and not the purpose of use, determines the right to divert and use water at any time when the supply is not sufficient to satisfy all water rights that attach to it.~~

2009 Water Issues

- Sec. 4. K.S.A. 82a-709 is hereby amended to read as follows: 82a-709. No person may acquire ~~an~~ ***a new*** appropriation right to the use of waters of the state for other than domestic purposes without making an application to the chief engineer for a permit to make such appropriation.....
- ***(g) sworn statement or evidence of legal access to or control of the point of diversion from the landowner, or the landowner's authorized representative;***

2009 Water Issues

8. Reservoirs – bills by Vision 2020 - preserve & extend lives – HR 5013 – passed House; HR 5013 – Corps to study MO River Basin relative to Flood Plain Act

9. Rural water district annexation –
SB 51, SB 332
HB 2282, 2283, 2318, 2284

2009 Water Issues

- 10. Sunflower plant** – HB 2014 vetoed by Gov. Sebelius; HB 2369 signed by Gov. Parkinson

- 11. Water Plan Fund fee increases** –
SB 165, HB 2177

- 12. Water rights** – abandonment & termination
- for non-use

2010 Session Predictions

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- Appropriations
- Life of the reservoirs
- Rural water district annexation
SB 332
HB 2282, 2283 (contains 332 and original 2283
and IGUCAs), 2318, 2284

2010 Session

- SB 332: timetable and procedure for annexation of rural water district territory by cities
- HB 2282: formula for determining value
- HB 2283: criteria for deciding whether to release territory
- HB 2284: pay off federal loan
- HB 2318: if you pay a fee, you can vote