

## HOUSE BILL No. 2451

By Committee on Agriculture and Natural Resources

1-12

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1 AN ACT concerning water; relating to water right abandonment;  
2 amending K.S.A. 2011 Supp. 82a-718 and repealing the existing  
3 section.  
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5 *Be it enacted by the Legislature of the State of Kansas:*

6 Section 1. K.S.A. 2011 Supp. 82a-718 is hereby amended to read as  
7 follows: 82a-718. (a) All appropriations of water must be for some  
8 beneficial purpose. Every water right of every kind shall be deemed  
9 abandoned and shall terminate when without due and sufficient cause no  
10 lawful, beneficial use is henceforth made of water under such right for five  
11 successive years. Before any water right shall be declared abandoned and  
12 terminated the chief engineer shall conduct a hearing thereon. Notice shall  
13 be served on the user at least 30 days before the date of the hearing. The  
14 determination of the chief engineer pursuant to this section shall be subject  
15 to review in accordance with the provisions of K.S.A. 2011 Supp. 82a-  
16 1901, and amendments thereto.

17 The verified report of the chief engineer or such engineer's authorized  
18 representative shall be *prima facie* evidence of the abandonment and  
19 termination of any water right.

20 (b) *Except as provided in subsection (e)*, when no lawful, beneficial  
21 use of water under a water right has been reported for three successive  
22 years, the chief engineer shall notify the user, by certified mail, return  
23 receipt requested, that: (1) No lawful, beneficial use of the water has been  
24 reported for three successive years; (2) if no lawful, beneficial use is made  
25 of the water for five successive years, the right may be terminated; and (3)  
26 the right will not be terminated if the user shows that for one or more of  
27 the five consecutive years the beneficial use of the water was prevented or  
28 made unnecessary by circumstances that are due and sufficient cause for  
29 nonuse, which circumstances shall be included in the notice.

30 (c) The provisions of subsection (a) shall not apply to a water right  
31 that has not been declared abandoned and terminated before the effective  
32 date of this act if the five years of successive nonuse occurred exclusively  
33 and entirely before January 1, 1990. However, the provisions of subsection  
34 (a) shall apply if the period of five successive years of nonuse began  
35 before January 1, 1990, and continued after that date.

36 (d) Notwithstanding the provisions of subsection (a), an eligible

1 water right enrolled in and continually in compliance with the water rights  
2 conservation program, pursuant to K.S.A. 2011 Supp. 82a-741, and  
3 amendments thereto, shall be deemed to have due and sufficient cause for  
4 nonuse and shall not be deemed abandoned.

5 (e) Notwithstanding the provisions of subsection (a), a groundwater  
6 right, which has as its local supply an aquifer area that has been closed to  
7 new appropriations by rule, regulation or order of the chief engineer ~~and~~  
8 ~~where means of diversion are available to put water to a beneficial use~~  
9 ~~within a reasonable time~~, shall be deemed to have due and sufficient cause  
10 for nonuse and shall not be deemed abandoned.

11 Sec. 2. K.S.A. 2011 Supp. 82a-718 is hereby repealed.

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

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