

Multi-year Flex Accounts; SB 58

SB 58 makes various changes to multi-year flex accounts (MYFAs).

[*Note:* A MYFA allows a water right holder to obtain a five-year term permit that allows the water right holder to exceed the holder's yearly authorized quantity of water as long as the total pumping over the five-year period does not exceed the five-year authorized quantity. Enrollment in a MYFA is voluntary, and at the end of the five-year term, the water right returns to its original conditions unless the MYFA is voluntarily extended.]

Definitions

The bill removes definitions in the MYFA law for "alternative base average use," "base average use," "chief engineer," and "flex account acreage" and amends two continuing definitions:

- "Base water right" means a water right that is vested or has been issued a certificate of appropriation, and:
 - The water right's authorized source of supply is groundwater;
 - The water right is not subject to a multi-year allocation pursuant to any other program or order issued by the Chief Engineer of the Division of Water Resources, Kansas Department of Agriculture (Chief Engineer);
 - The water right is not subject to any order issued by the Chief Engineer pursuant to orders regarding minimum streamflow, prohibited diversion of water, or diversion by common-law claimants;
 - Neither the water right nor any portion thereof has been deposited or placed in a safe deposit account in a chartered water bank;
 - The water right is not deemed abandoned and is in compliance with all provisions of any order of the Chief Engineer; and
 - The Chief Engineer determines that no other conditions make establishment of a MYFA for such water right contrary to the public interest; and
- "Multi-year flex account" means a term permit for up to five years that suspends a base water right and assigns a multi-year quantity allocation to such base water right in place of the base water right's annual quantity limitation for the duration of the term permit.

Multi-year Flex Accounts Term Length

The bill clarifies that any holder of a base water right may establish a MYFA where the holder may deposit water from a base water right in advance of a period of up to five consecutive years.

Quantity Allocation Calculation

The bill establishes that the amount of water deposited in the MYFA could not exceed 500 percent of the product of the annual net irrigation requirement, multiplied by the base water right's authorized acreage irrigated, multiplied by 110 percent. This amount could not exceed five times the maximum annual quantity authorized by the base water right.

Costs of the Program

The bill changes the revenue source from which the costs of MYFA administration are to be paid from MYFA fees to the Water Appropriation Certification Fund, as moneys are available.

Removal of Additional Requirements and Penalties

The bill removes the Chief Engineer's authority to require additional measuring devices, require certain reports of water use, and assess penalties.

Report to the Legislature

The bill removes the requirement for the Chief Engineer to submit a report on MYFAs to specified committees of the Legislature each year, and instead requires the Chief Engineer to submit a report on MYFAs to those committees on or before January 15, 2029, and every four years thereafter.