

SESSION OF 2025

SUPPLEMENTAL NOTE ON SENATE BILL NO. 58

As Amended by Senate Committee on
Agriculture and Natural Resources

Brief*

SB 58, as amended, would make 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 would remove current definitions in the MYFA law for "alternative base average use," "base average use," "chief engineer," and "flex account acreage."

The bill would amend two definitions in continuing law:

- "Base water right" would mean a water right that is vested or has been issued a certificate of appropriation (continuing law), and:
 - The water right's authorized source of supply is groundwater (continuing law);

*Supplemental notes are prepared by the Legislative Research Department and do not express legislative intent. The supplemental note and fiscal note for this bill may be accessed on the Internet at <https://klrd.gov/>

- The water right is not subject to a multi-year allocation pursuant to any other program or order issued by the 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” would mean 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.

MYFA Term Length

The bill would clarify 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 would establish 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 would change the revenue source for the costs of MYFA administration to be paid from MYFA fees to the Water Appropriate Certification Fund, as moneys are available.

Removal of Additional Requirements and Penalties

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

Other Changes

The bill would make numerous technical and conforming amendments and reorganize various parts of the statute.

Background

The bill was introduced by the Senate Committee on Agriculture at the request of Senator Titus.

Senate Committee on Agriculture and Natural Resources

In the Senate Committee hearing, **proponent** testimony was provided by representatives of the Kansas Department of Agriculture and Kansas Livestock Association. The proponents stated the changes made by the bill would greatly simplify the water allocation calculations overall and decrease the amount of time needed to both file and process MYFA applications.

Written-only proponent testimony was provided by a representative of the Kansas Farm Bureau.

Neutral testimony was provided by a representative of Big Bend Groundwater Management District No. 5, who stated that while the district supports MYFAs generally, the district has concerns about providing too much flexibility that could be counterproductive to the purpose of the program.

No other testimony was provided.

The Senate Committee amended to the bill to:

- Change the date the Chief Engineer would be required to submit a report on MYFAs to certain legislative committees from February 1, 2028, to January 15, 2029;
- Increase the number of years between the required submission of the report on MYFAs from three to four; and
- Make a technical amendment.

Fiscal Information

According to the fiscal note prepared by the Division of the Budget on the bill, as introduced, the Kansas Department

of Agriculture and Kansas Water Office indicate enactment of the bill would have no fiscal effect.

Water; multi-year flex accounts; water appropriation; Division of Water Resources, Kansas Department of Agriculture