

Augmentation; Rattlesnake Creek Subbasin; Multi-year Flex Accounts; Water Conservation; Public Water Supply Storage; SB 52

SB 52 amends law regarding water, including augmentation, multi-year flex accounts, and public water supply storage, and creates law regarding consideration of conservation measures. Specific information on these topics follows.

Augmentation

The bill allows the Rattlesnake Creek Subbasin (located in hydrologic unit code 11030009) water right holders to utilize augmentation for the replacement in time, location, and quantity of water that was unlawfully diverted from senior water right holders, if the replacement water is available and offered voluntarily.

The bill also makes several technical corrections to the law and clarifies it is unlawful for any person to divert or take any water that has been released from storage under authority of water reservation rights held by the State.

Multi-year Flex Accounts

The bill makes two changes to law that establishes multi-year flex accounts (MYFAs) for water appropriations for irrigation.

[Note: A MYFA is a voluntary, five-year term permit that temporarily replaces an existing (base) water right. The term permit allows the water right holder to exceed that holder's annual authorized quantity in any year, but restricts total pumping over the five-year period. MYFAs do not change the underlying base water right. At the end of the five-year period, the water right holder can choose whether to re-enroll that water right into another MYFA.]

First, the bill allows a MYFA term permit holder to make a change to the permit's authorized place of use by up to ten acres or 10 percent of the authorized place of use, whichever is less. Previous law did not allow any changes to a MYFA term permit's authorized place of use.

Second, the bill allows MYFA term permit holders, who re-enroll in a MYFA, to roll-over their unused quantity of water available at the end of the MYFA to the new MYFA. The amount of unused water that can be rolled over will be capped at an amount that is less than or equal to 100 percent of the base average use (a calculated average amount of water diverted for beneficial use during the period of calendar years 2000 through 2009). The total amount of water in any MYFA shall not exceed five times the authorized quantity of the base water right.

Consideration of Conservation Measures

The bill requires the Chief Engineer of the Kansas Department of Agriculture to give due consideration to water management or conservation measures previously implemented by a water right holder when implementing further limitations on a water right. The Chief Engineer is

required to take into account reductions in water use, changes in water management practices, and other measures undertaken by the water right holder. The new law is part of and supplemental to the Kansas Water Appropriation Act.

In addition, the bill amends the Kansas Water Appropriation Act to require the Chief Engineer to give due consideration to water users who already have implemented reductions in water use resulting in voluntary conservation measures when reviewing local enhanced management plans.

Public Water Supply Storage

The bill changes the rate of interest charged to a local entity by the State for the purchase of public water supply storage in a class I, II, or III project under the Multipurpose Small Lakes Act, as administered by the Kansas Water Office.

Previously, the interest on the State's costs incurred in providing the storage was 4 percent or calculated at a rate *per annum*, equal to the greater of the average rate of interest earned during the past calendar year on repurchase agreements of less than 30 days duration entered into by the Pooled Money Investment Board, less 5 percent.

The bill changes the calculation of the interest to 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.