

Multi-Year Flex Accounts for Water; SB 272

SB 272 amends existing law in the Kansas Water Appropriations Act that authorizes and governs multi-year flex accounts.

The bill establishes an opportunity for water management practices to enable multi-year flexibility in the use of water authorized to be diverted under a groundwater water right, provided such flexibility does not impair existing water rights or increase the total amount of water diverted.

The bill also establishes definitions for the terms "base water right," "multi-year flex account," "base average usage," "flex account acreage," and "net irrigation requirement." In addition, the bill provides the various conditions under which term permits may operate.

A multi-year flex account, as defined by the bill, is a term permit that suspends a base water right during its term, except when the term permit may no longer be exercised because of an order of the Chief Engineer, Division of Water Resources, Department of Agriculture. Existing law provides for multi-year flex accounts that allows water right holders to exchange annual pumping maximums for a five-year pumping maximum, enabling flexibility in year-to-year pumping. However, existing law also provides that users of multi-year flex accounts must reduce their five-year quantity by 10.0 percent to promote water conservation.

The bill removes the 10.0 percent reduction requirement on multi-year flex account users. The bill provides three options for the calculation of the amount of water a water user may place into a multi-year flex account:

- Option 1 - use the average annual historic usage of a water right, based on the years 2000 to 2009, multiplied by five;
- Option 2 - use the normal irrigation requirement for crops in the water user's county, multiplied by the water user's maximum irrigated acres, multiplied by five; or
- Option 3 - where available, use a groundwater management district (GMD)-developed alternative, provided that it does not increase long-term water use.

The quantity of water deposited into a multi-year flex account is reduced by the quantity of water used in excess of the base water right during 2011, provided that an application for a multi-year flex account is filed with the Chief Engineer on or before July 15, 2012.

If a base water right is suspended due to the issuance of a two-year term permit in a designated drought emergency area for 2011 and 2012 and the water right holder applies for a multi-year flex account on or before July 15, 2012, that quantity of water that was used in excess of the base water right is not deducted from the quantity of water that is deposited into the multi-year flex account.

Applications for multi-year flex accounts shall be filed with the Chief Engineer on or before October 1 of the first year of the multi-year flex account term for which the application is being made.

If a base water right is currently suspended due to the issuance of a two-year term permit in a designated drought emergency area for 2011 and 2012, and the water right holder applies for a multi-year flex account, a fee of \$200 will be assessed.

If water use under the authority of the base water right exceeded the maximum annual quantity authorized by the base water right during 2011, the water right holder did not have a two-year term permit in a designated drought emergency area for 2011 and 2012, and the water right holder applies for a multi-year flex account, a fee of \$600 will be assessed.

The bill allows the Chief Engineer to require any additional measuring devices and any additional reporting of water use for term permits issued in accordance with the language of the bill. Failure to comply with any measuring or reporting requirement can result in a penalty. In addition, the Chief Engineer is required to submit a written report on the implementation of the bill to the House Committee on Agriculture and Natural Resources and the Senate Committee on Natural Resources on or before February 1 of each year.

The bill takes effect upon publication in the *Kansas Register*.