

## SENATE BILL No. 205

By Committee on Agriculture and Natural Resources

2-8

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1 AN ACT concerning water; relating to water rights; authorizing certain  
2 water rights in a water bank to participate in multi-year flex accounts  
3 on a temporary basis; amending K.S.A. 82a-764 and repealing the  
4 existing section.  
5

6 *Be it enacted by the Legislature of the State of Kansas:*

7 New Section 1. (a) Notwithstanding any prohibition or restriction on  
8 the establishment of multi-year flex accounts due to participation of a base  
9 water right in a water bank established pursuant to the Kansas water  
10 banking act, K.S.A. 82a-761 et seq., and amendments thereto, the chief  
11 engineer shall approve a complete application for the establishment of a  
12 multi-year flex account pursuant to K.S.A. 82a-736, and amendments  
13 thereto, that was submitted to the chief engineer on or before December  
14 31, 2022, if such right otherwise meets the requirements of K.S.A. 82a-  
15 736, and amendments thereto, and could have been approved if not for the  
16 relevant base water right's participation in a water bank.

17 (b) This section shall expire on December 31, 2023.

18 New Sec. 2. (a) For purposes of K.S.A. 82a-736, and amendments  
19 thereto, a water right or any portion of a water right that has been  
20 deposited, enrolled or placed in a safe deposit account associated with a  
21 water bank established pursuant to the Kansas water banking act, K.S.A.  
22 82a-761 et seq., and amendments thereto, shall not be eligible to be  
23 enrolled in a multi-year flex account that begins during a calendar year in  
24 which water from such water right or portion of a water right was  
25 withdrawn from a safe deposit account. Water from a water right that has  
26 been deposited, enrolled or placed in a safe deposit account associated  
27 with a water bank established pursuant to the Kansas water banking act,  
28 K.S.A. 82a-761 et seq., and amendments thereto, shall not be withdrawn  
29 from a safe deposit account while such water right is enrolled in a multi-  
30 year flex account.

31 (b) A water right shall be considered enrolled in a multi-year flex  
32 account until the end of the calendar year in which the multi-year flex  
33 account permit expires, even if the allocation under the multi-year flex  
34 account is exhausted prior to the expiration of the multi-year flex account  
35 permit.

36 Sec. 3. K.S.A. 82a-764 is hereby amended to read as follows: 82a-

1 764. Before a water right or portion of a water right shall be accepted for  
2 deposit in a water bank or water from a water right shall be placed in a  
3 safe deposit account, the bank, with the assistance of the division, shall  
4 determine whether the water right is bankable,~~as follows~~. *A water right*  
5 *is bankable if the right:*

6 ~~(a) The right~~ Is vested or has been issued a certificate of  
7 appropriation; ~~and~~

8 ~~(b) the right~~ has not been abandoned and is in good standing, based  
9 on past water usage and compliance with the terms of the holder's permit  
10 and all applicable provisions of law and orders of the chief engineer; *and*

11 *(c) is not currently enrolled in an active multi-year flex account*  
12 *pursuant to K.S.A. 82a-736, and amendments thereto. If the allocation*  
13 *under the multi-year flex account is exhausted prior to the end of a*  
14 *calendar year, the water right shall be considered enrolled in a multi-year*  
15 *flex account until the end of the calendar year in which the multi-year flex*  
16 *account permit expires.*

17 Sec. 4. K.S.A. 82a-764 is hereby repealed.

18 Sec. 5. This act shall take effect and be in force from and after its  
19 publication in the Kansas register.