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MEMORANDUM

To: Senate Committee on Agriculture and Natural Resources
From: Office of Revisor of Statutes
Date: February 16, 2023
Subject: SB 205—Authorizing Certain Water Rights in a Water Bank to Participate in a MYFA

Senate Bill 205 would authorize the chief engineer to approve a complete application for the establishment of a multi-year flex account if such water right meets the requirements for a multi-year flex account even if the relevant base water right participates in a water bank. This authorization would expire on December 31, 2023.

Additionally, SB 205 would establish that a water right or any portion of a water right that has been deposited, enrolled or placed in a safe deposit account associated with a water bank shall not be eligible to enroll in a multi-year flex account that begins during a calendar year in which water from such water right was withdrawn from a safe deposit account. Similarly, water from a water right that has been deposited, enrolled or placed in a safe deposit account associated with a water bank shall not be withdrawn from a safe deposit account while the water right is enrolled in a multi-year flex account.

SB 205 would take effect upon publication in the Kansas Register.

AG Opinion No. 2023-1

On January 6, 2023, the attorney general issued attorney general opinion no. 2023-1 that concluded that holders of a water right who have placed such right in a safe deposit account may not place the same right in a multi-year flex account. This limitation applies to water rights placed or enrolled in a safe deposit account in prior years.