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**Testimony before the Senate Committee on Agriculture and Natural Resources
Qualified Support on SB 205
By
Orrin Feril
On Behalf of Central Kansas Water Bank Association
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Chairman Kerschen and members of the committee, thank you for the opportunity to provide supporting testimony to SB 205. I am Orrin Feril, providing this testimony on behalf of Central Kansas Water Bank Association (CKWBA).

SB 205 proposes to update language in the multi-year flex account statute (K.S.A. 82a-736) and water banking statute (K.S.A. 82a-761 *et seq*) in reference to eligibility for certain individuals involved in water banking. Currently, the CKWBA is the only water bank established in accordance with K.S.A. 82a-761. The CKWBA has been in operation since 2005 and continues to provide water users in the region added water use flexibility while conserving water. Beyond this, the CKWBA facilitates positive water policy discussions in Central KS. The region the CKWBA covers is blessed with a quickly recharging aquifer.

Section 1 of SB 205 proposes to address an issue identified by the Kansas Attorney General (KS AG) in AGO 2023-1. This KS AG opinion concluded that water rights with safe deposit accounts or had been deposited into a water bank were ineligible to apply for a multi-year flex account with KDA–DWR. As the only water bank in Kansas, this concerns our participants greatly. Secondly, the vast majority of multi-year flex account applications received by KDA–DWR annually are within CKWBA boundaries. The issue raised by the KS AG is problematic and creates a bias against water users that have proactively participated in the CKWBA’s programs to conserve water. The proposed language in Section 1 works to address this issue for the 2022 calendar year.

Section 2 of SB 205 partially addresses the issue from the KS AG opinion. If it is the policy of the state of Kansas to prohibit water users from participating in programs due to participating in another conservation program, the proposed language will satisfy this goal. However, it is CKWBA’s opinion that these two programs can exist at the same time and operate in tandem to provide flexibility and conservation to area water users. It is a matter of water accounting and coordination with KDA–DWR. The CKWBA staff has been maintaining this type of water accounting for nearly twenty years without a problem.

Section 3 of SB 205 proposes to amend the definition of eligibility for water rights with Kansas water banks. This language reaffirms the proposed language in Section 2. Again, if this is the policy of the state of Kansas, the CKWBA will adjust accordingly with reservations.

CKWBA does not see language in SB 205 that directly addresses the original conclusion of the KS AG in AGO 2023-1 that looked specifically at K.S.A. 82a-736(c)(1). It is our recommendation to amend this language as follows:

“Any holder of a base water right that has not been deposited ~~or placed in a safe deposit account~~ in a chartered water bank **for lease** may establish...”

With this amendment to K.S.A. 82a-736, and the proposed language in Section 2 and 3 of SB 205, the CKWBA believes the issue addressed in AGO 2023-1 would be resolved.

If the committee decides to take further action on the bill, CKWBA strongly encourages the committee to take our concerns into consideration and amend the bill as necessary before moving forward.

Thank you for the opportunity to provide testimony on SB 205. It is always beneficial to have conversations such as the discussions generated by these hearings. The Central Kansas Water Bank Association is ready and willing to continue to be a productive partner in those conversations.