

First Regular Session
Seventieth General Assembly
STATE OF COLORADO

INTRODUCED

LLS NO. 15-0863.01 Jennifer Berman x3286

SENATE BILL 15-198

SENATE SPONSORSHIP

Crowder,

HOUSE SPONSORSHIP

Vigil,

Senate Committees

Agriculture, Natural Resources, & Energy

House Committees

A BILL FOR AN ACT

101 CONCERNING MODIFICATIONS TO THE COLORADO WATER
102 CONSERVATION BOARD'S FALLOWING PILOT PROGRAM, AND, IN
103 CONNECTION THEREWITH, EXPANDING THE PROGRAM TO
104 ALLOW AN AGRICULTURAL WATER RIGHT OWNER TO LEASE AN
105 AGRICULTURAL WATER RIGHT FOR TEMPORARY
106 AGRICULTURAL, ENVIRONMENTAL, INDUSTRIAL, OR
107 RECREATIONAL USE.

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://www.leg.state.co.us/billsummaries>.)

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.

The current fallowing pilot program administered by the Colorado water conservation board (board) allows an agricultural water right owner to lease the agricultural water right to a municipality for up to 3 out of 10 years. During the period of nonagricultural use, the owner fallows the affected agricultural land. The bill expands the program to allow leases for temporary agricultural, environmental, industrial, or recreational use. The bill also reduces the time period for receiving comments on a pilot project application from 75 days to 60 days and requires the state engineer, within 15 days after a conference report has been filed or, if the board does not receive any comments on the pilot project application, within 30 days after the period of time for comments has expired, to review the application and make a determination on the issues of injury and compact compliance with respect to the application.

1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1.** In Colorado Revised Statutes, 37-60-115, **amend**
3 (8) (a) (II), (8) (b) (I), (8) (b) (II), (8) (b) (IV), (8) (d) (V) introductory
4 portion, (8) (e) (I) (B), (8) (f) introductory portion, (8) (f) (I) introductory
5 portion, and (8) (g) as follows:

6 **37-60-115. Water studies - rules - repeal. (8) Fallowing and**
7 **leasing pilot projects.** (a) After a period of notice and comment, the
8 board may, in consultation with the state engineer and upon consideration
9 of any comments submitted, select the sponsors of up to ten pilot projects
10 pursuant to the approval process set forth in paragraph (f) of this
11 subsection (8). The board shall not itself sponsor a pilot project, but the
12 board may provide financial, technical, or other assistance to a pilot
13 project pursuant to the board's other activities and programs. No more
14 than three pilot projects may be located in any one of the major river
15 basins, namely: The South Platte river basin; the Arkansas river basin; the
16 Rio Grande river basin; and the Colorado river basin. Each project may
17 last up to ten years in duration and must demonstrate the practice of:

1 (II) Leasing the associated water rights for temporary municipal,
2 AGRICULTURAL, ENVIRONMENTAL, INDUSTRIAL, OR RECREATIONAL use.

3 (b) The purpose of the pilot program is to:

4 (I) In fallowing irrigated agricultural land for leasing water for
5 temporary municipal, AGRICULTURAL, ENVIRONMENTAL, INDUSTRIAL, OR
6 RECREATIONAL use, demonstrate cooperation among different types of
7 water users, including cooperation among shareholders, ditch companies,
8 water user associations, irrigation districts, water conservancy districts,
9 water conservation districts, and municipalities;

10 (II) Evaluate the feasibility of delivering leased water to the
11 temporary municipal, AGRICULTURAL, ENVIRONMENTAL, INDUSTRIAL, OR
12 RECREATIONAL users;

13 (IV) Demonstrate how to operate, administer, and account for the
14 practice of fallowing irrigated agricultural land for leasing water for
15 temporary municipal, AGRICULTURAL, ENVIRONMENTAL, INDUSTRIAL, OR
16 RECREATIONAL use without causing material injury to other vested water
17 rights, decreed conditional water rights, or contract rights to water.

18 (d) After providing a reasonable opportunity for public comment
19 and consideration of any comments received, the board, in consultation
20 with the state engineer, shall establish criteria and guidelines including at
21 least the following:

22 (V) A time period of ~~at least seventy-five~~ SIXTY days within
23 which the board ~~shall receive~~ RECEIVES comments on the application after
24 providing notice pursuant to the process set forth in paragraphs (e) and (f)
25 of this subsection (8). The comments may include:

26 (e) (I) For approval of a pilot project, the applicant must provide
27 written notice of the application, including, at a minimum:

1 (B) An analysis of the historical use, the historical consumptive
2 use, and the historical return flows of the water rights or contract rights
3 to water proposed to be used for temporary municipal, AGRICULTURAL,
4 ENVIRONMENTAL, INDUSTRIAL, OR RECREATIONAL use; and

5 (f) After consideration of the comments and any conference
6 reports submitted pursuant to subparagraph ~~(IV)~~ (VI) of paragraph (d) of
7 this subsection (8), the board may approve the pilot project application if:

8 (I) WITHIN FIFTEEN DAYS AFTER RECEIVING A CONFERENCE
9 REPORT SUBMITTED UNDER SUBPARAGRAPH (VI) OF PARAGRAPH (d) OF
10 THIS SUBSECTION (8) OR, IF THE BOARD DOES NOT RECEIVE ANY
11 COMMENTS ON THE APPLICATION, WITHIN THIRTY DAYS AFTER THE PERIOD
12 OF TIME FOR COMMENTS HAS EXPIRED, the state engineer has made a
13 written determination that the operation and administration of the pilot
14 project:

15 (g) When the board approves or denies a pilot project application,
16 it shall serve a copy of the decision, along with a copy of the state
17 engineer's written determination and any conference reports submitted
18 pursuant to UNDER subparagraph ~~(IV)~~ (VI) of paragraph (d) of this
19 subsection (8), upon all parties to the application by first-class mail or, if
20 elected by the parties, by electronic mail. The board shall mail a copy of
21 the decision, the state engineer's written determination, and any
22 conference reports to the appropriate water clerk.

23 **SECTION 2. Act subject to petition - effective date.** This act
24 takes effect at 12:01 a.m. on the day following the expiration of the
25 ninety-day period after final adjournment of the general assembly
26 (August 5, 2015, if adjournment sine die is on May 6, 2015); except that,
27 if a referendum petition is filed pursuant to section 1 (3) of article V of

1 the state constitution against this act or an item, section, or part of this act
2 within such period, then the act, item, section, or part will not take effect
3 unless approved by the people at the general election to be held in
4 November 2016 and, in such case, will take effect on the date of the
5 official declaration of the vote thereon by the governor.