A BILL FOR AN ACT

Concerning the authorization of deficit irrigation pilot projects approved by the Colorado Water Conservation Board.

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://leg.colorado.gov.)

Current law allows the Colorado water conservation board to approve up to 15 pilot projects for agricultural water leasing or fallowing projects. The bill expands the types of projects that may be approved to include deficit irrigation projects, which use less than the optimal amount of water on a particular crop. The bill also excludes from the
determination of historical consumptive use decreases in use resulting from deficit irrigation projects to conserve or lease water.

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

SECTION 1. In Colorado Revised Statutes, 37-60-115, amend (8)(a), (8)(b)(I), (8)(b)(IV), (8)(c)(I), and (8)(c)(II) as follows:

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

(I) Fallowing OR, IN WATER DIVISIONS 2 AND 3 AND WITHIN THE BOUNDARIES OF THE UPPER GUNNISON WATER CONSERVANCY DISTRICT, DEFICIT IRRIGATION OF IRRIGATED agricultural irrigation land; and

(II) Leasing the associated water rights for temporary municipal, agricultural, environmental, industrial, or recreational use, INCLUDING SPLIT SEASON LEASING.

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

(I) In fallowing OR, IN WATER DIVISIONS 2 AND 3 AND WITHIN THE BOUNDARIES OF THE UPPER GUNNISON WATER CONSERVANCY DISTRICT, DEFICIT IRRIGATION OF irrigated agricultural land for leasing water for
temporary municipal, agricultural, environmental, industrial, or
recreational use, demonstrate cooperation among different types of water
users, including cooperation among shareholders, ditch companies, water
user associations, irrigation districts, water conservancy districts, water
conservation districts, and municipalities;

(IV) Demonstrate how to operate, administer, and account for the
practice of fallowing OR, IN WATER DIVISIONS 2 AND 3 AND WITHIN THE
BOUNDARIES OF THE UPPER GUNNISON WATER CONSERVANCY DISTRICT,
deficit irrigation of irrigated agricultural land for leasing water for
temporary municipal, agricultural, environmental, industrial, or
recreational use without causing material injury to other vested water
rights, decreed conditional water rights, or contract rights to water.

(c) The board shall not select a pilot project that involves:

(I) The fallowing OR, IN WATER DIVISIONS 2 AND 3 AND WITHIN
THE BOUNDARIES OF THE UPPER GUNNISON WATER CONSERVANCY
DISTRICT, DEFICIT IRRIGATION of the same land for more than three years
in a ten-year period;

(II) The fallowing OR, IN WATER DIVISIONS 2 AND 3 AND WITHIN
THE BOUNDARIES OF THE UPPER GUNNISON WATER CONSERVANCY
DISTRICT, DEFICIT IRRIGATION of more than thirty percent of a single
irrigated farm for more than ten consecutive years;

SECTION 2. In Colorado Revised Statutes, 37-92-305, amend
(3)(c)(II)(C) as follows:

37-92-305. Standards with respect to rulings of the referee and
decisions of the water judge - definitions. (3) (c) In determining the
amount of historical consumptive use for a water right in division 1, 2, 3,
4, 5, or 6, the water judge shall not consider any decrease in use resulting
from the following:

(II) The nonuse or decrease in use of the water from the water right by its owner for a maximum of five years in any consecutive ten-year period as a result of participation in:

(C) An approved land fallowing program OR, IN WATER DIVISIONS 2 AND 3 AND WITHIN THE BOUNDARIES OF THE UPPER GUNNISON WATER CONSERVANCY DISTRICT, DEFICIT IRRIGATION PROGRAM as provided by law in order to conserve water, LEASE WATER, or to provide water for compact compliance; or

SECTION 3. Act subject to petition - effective date - applicability. (1) This act takes effect at 12:01 a.m. on the day following the expiration of the ninety-day period after final adjournment of the general assembly (August 8, 2018, if adjournment sine die is on May 9, 2018); except that, if a referendum petition is filed pursuant to section 1(3) of article V of the state constitution against this act or an item, section, or part of this act within such period, then the act, item, section, or part will not take effect unless approved by the people at the general election to be held in November 2018 and, in such case, will take effect on the date of the official declaration of the vote thereon by the governor.

(2) This act applies to deficit irrigation pilot projects proposed or conducted on or after the applicable effective date of this act.