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STATE OF COLORADO

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BILL 7

LLS NO. 19-0139.01 Jennifer Berman x3286

INTERIM COMMITTEE BILL

Water Resources Review Committee

BILL TOPIC: "CWCB-approved Deficit Irrigation Pilot Projects"

A BILL FOR AN ACT

101 **CONCERNING THE AUTHORIZATION OF DEFICIT IRRIGATION PILOT**
102 **PROJECTS APPROVED BY THE COLORADO WATER**
103 **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/>.)

Water Resources Review Committee. 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

*Capital letters or bold & italic numbers indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.*

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.

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), (8)(b)(I), (8)(b)(IV), (8)(c)(I), and (8)(c)(II) as follows:

4 **37-60-115. Water studies - rules - repeal. (8) Agricultural**
5 **water leasing pilot projects - definition.** (a) (I) After a period of notice
6 and comment, the board may, in consultation with the state engineer and
7 upon consideration of any comments submitted, select the sponsors of up
8 to fifteen pilot projects pursuant to the approval process set forth in
9 subsection (8)(f) of this section. The board shall not itself sponsor a pilot
10 project, but the board may provide financial, technical, or other assistance
11 to a pilot project pursuant to the board's other activities and programs. No
12 more than five pilot projects may be located in any one of the major river
13 basins, namely: The South Platte river basin; the Arkansas river basin; the
14 Rio Grande river basin; and the Colorado river basin. Each project may
15 last up to ten years in duration and must demonstrate the practice of:

16 ~~(H)~~ (A) ~~Fallowing OR DEFICIT IRRIGATION OF agricultural irrigation~~
17 ~~land; and~~

18 ~~(H)~~ (B) Leasing the associated water rights for temporary
19 municipal, agricultural, environmental, industrial, or recreational use,
20 INCLUDING PARTIAL IRRIGATION SEASON LEASING.

21 (II) AS USED IN THIS SECTION, "DEFICIT IRRIGATION" MEANS THE
22 PRACTICE BY WHICH AN AGRICULTURAL WATER RIGHT HOLDER
23 INTENTIONALLY REDUCES THE IRRIGATION OF A CROP, DURING EITHER AN
24 ENTIRE OR A PARTIAL IRRIGATION SEASON, TO REDUCE THE CONSUMPTIVE

1 USE OF WATER BY THE CROP FOR THE PURPOSE OF LEASING THE
2 UNCONSUMED AMOUNT OF THE HISTORICAL CONSUMPTIVE USE OF THE
3 WATER FOR AN ALTERNATIVE TYPE OR PLACE OF BENEFICIAL USE.

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

5 (I) In fallowing irrigated OR DEFICIT IRRIGATION OF agricultural
6 land for leasing water for temporary municipal, agricultural,
7 environmental, industrial, or recreational use, demonstrate cooperation
8 among different types of water users, including cooperation among
9 shareholders, ditch companies, water user associations, irrigation districts,
10 water conservancy districts, water conservation districts, and
11 municipalities;

12 (IV) Demonstrate how to operate, administer, and account for the
13 practice of fallowing irrigated OR DEFICIT IRRIGATION OF agricultural land
14 for leasing water for temporary municipal, agricultural, environmental,
15 industrial, or recreational use without causing material injury to other
16 vested water rights, decreed conditional water rights, or contract rights to
17 water.

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

19 (I) The fallowing OR DEFICIT IRRIGATION of the same land for
20 more than three years in a ten-year period;

21 (II) The fallowing OR DEFICIT IRRIGATION of more than thirty
22 percent of a single irrigated farm for more than ten consecutive years;

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

25 **37-92-305. Standards with respect to rulings of the referee and**
26 **decisions of the water judge - definitions.** (3) (c) In determining the
27 amount of historical consumptive use for a water right in division 1, 2, 3,

1 4, 5, or 6, the water judge shall not consider any decrease in use resulting
2 from the following:

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

6 (C) An approved land fallowing program OR A PROGRAM FOR
7 DEFICIT IRRIGATION, AS THAT TERM IS DEFINED IN SECTION 37-60-115
8 (8)(a)(II), as provided by law in order to conserve water, LEASE WATER,
9 or to provide water for compact compliance; EXCEPT THAT THE WATER
10 JUDGE SHALL NOT CONSIDER ANY DECREASE IN USE OF THE WATER FOR
11 THE ENTIRE DURATION OF A LANDFALLOWING PROGRAM OR PROGRAM FOR
12 DEFICIT IRRIGATION APPROVED UNDER SECTION 37-60-115 (8); or

13 **SECTION 3. Act subject to petition - effective date -**
14 **applicability.** (1) This act takes effect at 12:01 a.m. on the day following
15 the expiration of the ninety-day period after final adjournment of the
16 general assembly (August 2, 2019, if adjournment sine die is on May 3,
17 2019); except that, if a referendum petition is filed pursuant to section 1
18 (3) of article V of the state constitution against this act or an item, section,
19 or part of this act within such period, then the act, item, section, or part
20 will not take effect unless approved by the people at the general election
21 to be held in November 2020 and, in such case, will take effect on the
22 date of the official declaration of the vote thereon by the governor.

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