

HB1340_L.003

SENATE COMMITTEE OF REFERENCE AMENDMENT

Committee on Agriculture & Natural Resources.

HB26-1340 be amended as follows:

1 Amend reengrossed bill, page 5, line 5, strike "THE" and substitute
2 "WITHIN NINETY DAYS BEFORE NOVEMBER 1 OF EACH YEAR, THE".

3 Page 5, line 21, strike "OWNER," and substitute "OWNER ON OR BEFORE
4 DECEMBER 1 OF EACH YEAR,".

5 Page 6, strike lines 3 through 27 and substitute:

6 "(IV) (A) ANNUAL FIELD REVIEWS AND STATUS REPORTS SHALL
7 CONTINUE PURSUANT TO SUBSECTION (4.7)(a)(III) OF THIS SECTION UNTIL
8 THE WATER COURT DETERMINES, BASED ON THE THIRD-PARTY EXPERT'S
9 STATUS REPORT AND AFTER CONSIDERING ANY COMMENTS OR REBUTTALS
10 SUBMITTED WITHIN THE COMMENT PERIOD, THAT REVEGETATION OR
11 CONVERSION TO DRYLAND FARMING IS SUCCESSFULLY ESTABLISHED ON A
12 FIELD. UPON SUCH A DETERMINATION, THE WATER COURT MAY DEEM THE
13 TERMS AND CONDITIONS SET FORTH IN THIS SUBSECTION (4.7)(a) SATISFIED
14 AS TO THAT FIELD.

15 (B) IF THE WATER COURT FINDS THAT THE WATER RIGHT OWNER
16 HAS DEMONSTRATED, OVER MULTIPLE REPORTING PERIODS, A SUSTAINED
17 FAILURE TOWARD ACHIEVING REVEGETATION OR CONVERSION TO
18 DRYLAND FARMING, THE WATER COURT MAY, IN ITS DISCRETION, LIMIT THE
19 PERCENTAGE OF THE WATER SUBJECT TO THE CHANGED WATER RIGHT
20 AVAILABLE FOR THE NEW BENEFICIAL USE. SUCH A LIMITATION MUST BE
21 PROPORTIONAL TO THE EXTENT TO WHICH REVEGETATION OR CONVERSION
22 TO DRYLAND FARMING HAS NOT BEEN SUCCESSFULLY ESTABLISHED.

23 (C) IF THE WATER COURT DETERMINES THAT REVEGETATION OR
24 CONVERSION TO DRYLAND FARMING IS SUCCESSFULLY ESTABLISHED AND
25 THE COURT MAKES SPECIFIC FINDINGS, SUPPORTED BY THE RECORD, THAT
26 THE FIELD PRESENTS A SUBSTANTIAL RISK THAT REVEGETATION OR
27 CONVERSION TO DRYLAND FARMING WILL NOT CONTINUE TO BE
28 SUCCESSFULLY ESTABLISHED, THEN THE COURT MAY IMPOSE ADDITIONAL,
29 TIME-LIMITED OVERSIGHT PERIODS."

30 Page 7, strike lines 1 through 22.

31 Page 8, line 11, strike "OR CONVERSION TO".

32 Page 8, line 12, strike "DRYLAND FARMING".

33 Page 8, line 22, before "ESTABLISHES" insert "REQUIRES FINANCIAL
34 ASSURANCES TO THE LOCAL LAND USE AUTHORITY IN AN AMOUNT

1 SUFFICIENT TO COVER THE REASONABLY ANTICIPATED TOTAL COST TO
2 ACHIEVE SUCCESSFULLY ESTABLISHED REVEGETATION OR THAT".

3 Page 9, before line 14 insert:

4 "(VII) THIS SUBSECTION (4.7)(a) IS NOT INTENDED TO AND MUST
5 NOT BE CONSTRUED TO AFFECT THE PROVISIONS GOVERNING LAND USE
6 AUTHORITY SET FORTH IN ARTICLE 65.1 OF TITLE 24."

7 Page 9, strikes lines 14 and 15 and substitute:

8 "(b) AS USED IN SUBSECTION (4.7)(a) OF THIS SECTION:

9 (I) "PERMIT" MEANS A PERMIT ISSUED PURSUANT TO SECTION
10 24-65.1-501.

11 (II) "SUCCESSFULLY ESTABLISHED" OR "SUCCESSFUL
12 ESTABLISHMENT" MEANS".

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