

Second Regular Session
Seventy-fifth General Assembly
STATE OF COLORADO

PREAMENDED

*This Unofficial Version Includes Committee
Amendments Not Yet Adopted on Second Reading*

LLS NO. 26-0274.02 Renee Leone x2695

HOUSE BILL 26-1340

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A BILL FOR AN ACT

101 **CONCERNING REQUIREMENTS FOR FORMERLY IRRIGATED**
102 **AGRICULTURAL LAND FOR WHICH AN AGRICULTURAL**
103 **IRRIGATION WATER RIGHT IN WATER DIVISION 2 IS CHANGED TO**
104 **ANOTHER BENEFICIAL 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://leg.colorado.gov>.)

The bill requires a water right owner who changes the use of their water right in water division 2 from agricultural irrigation purposes to another beneficial use on or after January 1, 2027, to engage in

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters or bold & italic numbers indicate new material to be added to existing law.
Dashes through the words or numbers indicate deletions from existing law.

HOUSE
3rd Reading Unamended
April 30, 2026

HOUSE
Amended 2nd Reading
April 28, 2026

revegetation or a conversion to dryland farming with effective erosion control and weed management on the formerly irrigated agricultural land. The bill implements a procedure that includes:

- The identification of a site-specific standard and evaluation methodology to measure and determine the success of the revegetation or conversion to dryland farming;
- A requirement that the water court appoint a third-party revegetation or dryland farming expert to conduct annual field reviews and issue reports concerning the success of the revegetation or conversion to dryland farming (maintenance period);
- After the conclusion of a maintenance period for formerly irrigated agricultural land, authorizing the water court to order additional maintenance periods or to limit the amount of water subject to the water right to the percentage of formerly irrigated agricultural land for which revegetation or conversion to dryland farming is complete; and
- Limitations on the percentage of water subject to the water right that can be used for the new beneficial use during the revegetation or conversion to dryland farming process.

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

2 **SECTION 1.** In Colorado Revised Statutes, 37-92-305, **add** (4.7)
3 as follows:

4 **37-92-305. Standards with respect to rulings of the referee and**
5 **decisions of the water judge - definitions.**

6 (4.7) (a) NOTWITHSTANDING SUBSECTION (4.5) OF THIS SECTION,
7 THE TERMS AND CONDITIONS APPLICABLE TO CHANGES OF USE OF WATER
8 RIGHTS FROM AGRICULTURAL IRRIGATION PURPOSES TO OTHER BENEFICIAL
9 USES IN WATER DIVISION 2 DECREED ON OR AFTER JANUARY 1, 2027, ARE
10 DESIGNED TO ACCOMPLISH REVEGETATION OR CONVERSION TO DRYLAND
11 FARMING, EROSION CONTROL, AND WEED MANAGEMENT ON LAND FROM
12 WHICH IRRIGATION WATER IS PERMANENTLY REMOVED FOR OTHER
13 BENEFICIAL USES. THE WATER COURT SHALL APPLY REVEGETATION OR
14 CONVERSION TO DRYLAND FARMING TERMS AND CONDITIONS IN A DECREE

1 APPROVING A SUBSEQUENT CHANGE OF USE OF A PREVIOUSLY CHANGED
2 AGRICULTURAL IRRIGATION WATER RIGHT ONLY IF THE PRIOR DECREE
3 CHANGING THE SAME AGRICULTURAL IRRIGATION WATER RIGHT DID NOT
4 INCLUDE REVEGETATION OR CONVERSION TO DRYLAND FARMING TERMS
5 OR CONDITIONS. THE WATER RIGHT OWNER SHALL COMPLY WITH SUCH
6 TERMS AND CONDITIONS. THE TERMS AND CONDITIONS APPLICABLE TO
7 WATER DIVISION 2 INCLUDE:

8 (I) (A) WHEN APPLYING TO THE WATER COURT FOR A CHANGE OF
9 USE OF A WATER RIGHT PURSUANT TO THIS SUBSECTION (4.7)(a), THE
10 WATER RIGHT OWNER SHALL IDENTIFY FOR THE WATER COURT'S
11 CONSIDERATION SITE-SPECIFIC CRITERIA AND AN ASSOCIATED SCIENTIFIC
12 AND OBJECTIVE EVALUATION METHODOLOGY TO MEASURE AND
13 DETERMINE THE EXTENT TO WHICH REVEGETATION OR CONVERSION TO
14 DRYLAND FARMING IS SUCCESSFULLY ESTABLISHED ON THE FORMERLY
15 IRRIGATED AGRICULTURAL LAND. THE WATER COURT SHALL INCLUDE
16 SITE-SPECIFIC CRITERIA AND AN ASSOCIATED SCIENTIFIC AND OBJECTIVE
17 EVALUATION METHODOLOGY IN THE DECREE APPROVING THE CHANGE OF
18 USE OF THE WATER RIGHT.

19 (B) THE SITE-SPECIFIC CRITERIA IDENTIFIED PURSUANT TO
20 SUBSECTION (4.7)(a)(I)(A) OF THIS SECTION MUST INCLUDE WEED
21 MANAGEMENT PROVISIONS DESIGNED TO PROTECT THE SOIL RESOURCE,
22 PREVENT WEED INFESTATIONS, AND PROTECT THE AVAILABLE SOIL
23 MOISTURE. AT A MINIMUM, SUCH PROVISIONS MUST INCLUDE
24 REQUIREMENTS THAT WEED INFESTATIONS BE CONTROLLED BY METHODS
25 SUCH AS MOWING, HERBICIDE APPLICATION, OR BIOLOGICAL CONTROL OR
26 BY A COMBINATION OF MOWING, HERBICIDE APPLICATION, BIOLOGICAL
27 CONTROL, AND OTHER APPROPRIATE METHODS. NOXIOUS WEEDS MUST BE

1 CONTROLLED PURSUANT TO THE "COLORADO NOXIOUS WEED ACT",
2 ARTICLE 5.5 OF TITLE 35.

3 (II) (A) IF, PRIOR TO APPLYING TO THE WATER COURT FOR THE
4 CHANGE OF USE OF THE WATER RIGHT, THE WATER RIGHT OWNER HAS,
5 PURSUANT TO SECTION 24-65.1-501, OBTAINED A PERMIT FROM OR
6 ENTERED INTO AN INTERGOVERNMENTAL AGREEMENT WITH THE LOCAL
7 LAND USE AUTHORITY WHERE THE FORMERLY IRRIGATED AGRICULTURAL
8 LAND IS LOCATED, WHICH PERMIT OR AGREEMENT REQUIRES
9 REVEGETATION OR CONVERSION TO DRYLAND FARMING AND INCLUDES
10 SITE-SPECIFIC CRITERIA AND AN ASSOCIATED SCIENTIFIC AND OBJECTIVE
11 EVALUATION METHODOLOGY, THE COURT SHALL USE THE SITE-SPECIFIC
12 CRITERIA AND ASSOCIATED SCIENTIFIC AND OBJECTIVE EVALUATION
13 METHODOLOGY SET FORTH IN THE PERMIT OR INTERGOVERNMENTAL
14 AGREEMENT.

15 (B) IF THE WATER RIGHT OWNER HAS NOT OBTAINED A PERMIT OR
16 ENTERED INTO AN INTERGOVERNMENTAL AGREEMENT PURSUANT TO
17 SECTION 24-65.1-501 AND THE LOCAL LAND USE AUTHORITY WHERE THE
18 FORMERLY IRRIGATED AGRICULTURAL LAND IS LOCATED HAS ADOPTED
19 SITE-SPECIFIC CRITERIA AND A SCIENTIFIC AND OBJECTIVE EVALUATION
20 METHODOLOGY FOR REVEGETATION OR CONVERSION TO DRYLAND
21 FARMING, THE WATER COURT SHALL USE THAT CRITERIA AND EVALUATION
22 METHODOLOGY.

23 (III) (A) UPON ISSUING A CHANGE-OF-USE DECREE PURSUANT TO
24 THIS SUBSECTION (4.7)(a), THE WATER COURT SHALL APPOINT, AND THE
25 WATER RIGHT OWNER SHALL PAY FOR THE SERVICES OF, A NEUTRAL
26 THIRD-PARTY REVEGETATION OR DRYLAND FARMING EXPERT WHO SHALL
27 EVALUATE THE PROGRESS OF THE REVEGETATION OR CONVERSION TO

1 DRYLAND FARMING ON THE FORMERLY IRRIGATED AGRICULTURAL LAND,
2 ON A FIELD-BY-FIELD BASIS, AND DETERMINE WHEN AND TO WHAT EXTENT
3 THE REVEGETATION OR CONVERSION TO DRYLAND FARMING IS
4 SUCCESSFULLY ESTABLISHED.

5 (B) WITHIN NINETY DAYS BEFORE NOVEMBER 1 OF EACH YEAR,
6 THE THIRD-PARTY EXPERT SHALL CONDUCT AN ANNUAL FIELD REVIEW OF
7 THE FORMERLY IRRIGATED AGRICULTURAL LAND AND PRODUCE
8 FIELD-BY-FIELD STATUS REPORTS ANNUALLY UNTIL REVEGETATION OR
9 CONVERSION TO DRYLAND FARMING IS SUCCESSFULLY ESTABLISHED, AS
10 APPROVED BY THE WATER COURT.

11 (C) AT LEAST TWENTY DAYS PRIOR TO THE FIELD REVIEW, THE
12 WATER RIGHT OWNER SHALL GIVE NOTICE OF THE OCCURRENCE OF THE
13 THIRD-PARTY EXPERT'S FIELD REVIEW TO THE OWNER OF THE FIELD WITHIN
14 THE FORMERLY IRRIGATED AGRICULTURAL LAND AND THE PARTIES TO THE
15 CHANGE OF USE OF THE WATER RIGHT PROCEEDING, AND THE PARTIES
16 SHALL HAVE AN OPPORTUNITY TO PARTICIPATE IN THE FIELD REVIEW.

17 (D) THE THIRD-PARTY EXPERT SHALL STATE IN EACH STATUS
18 REPORT THE PERCENTAGE OF THE FORMERLY IRRIGATED FIELD ON WHICH
19 REVEGETATION OR CONVERSION TO DRYLAND FARMING IS SUCCESSFULLY
20 ESTABLISHED.

21 (E) THE THIRD-PARTY EXPERT SHALL PROVIDE THE STATUS REPORT
22 TO THE WATER RIGHT OWNER ON OR BEFORE DECEMBER 1 OF EACH YEAR,
23 AND THE WATER RIGHT OWNER SHALL SUBMIT THE STATUS REPORT TO THE
24 OWNER OF THE FORMERLY IRRIGATED FIELD, THE WATER COURT, THE
25 DIVISION OF WATER RESOURCES, AS DESCRIBED IN SECTION 24-33-104
26 (1)(e), AND THE PARTIES TO THE CHANGE OF USE OF THE WATER RIGHT
27 PROCEEDING WITHIN TWENTY DAYS AFTER RECEIVING THE STATUS REPORT

1 FROM THE THIRD-PARTY EXPERT. THE WATER COURT SHALL GIVE THE
2 PARTIES SIXTY DAYS TO COMMENT ON OR REBUT THE STATUS REPORT OR
3 THE STATUS OF THE FORMERLY IRRIGATED FIELD.

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

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

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

1 (V) A WATER RIGHT OWNER IMPLEMENTING A DECREED CHANGE
2 OF USE OF A WATER RIGHT PURSUANT TO THIS SUBSECTION (4.7)(a) SHALL
3 COMPLY WITH THE TERMS AND CONDITIONS DECREED BY THE WATER
4 COURT TO ENSURE REVEGETATION OR CONVERSION TO DRYLAND FARMING
5 IS SUCCESSFULLY ESTABLISHED. THE WATER COURT SHALL IMPOSE TERMS
6 AND CONDITIONS SUFFICIENT TO ENSURE REVEGETATION OR CONVERSION
7 TO DRYLAND FARMING IS SUCCESSFULLY ESTABLISHED AND ORDER THAT
8 SUCH TERMS AND CONDITIONS REMAIN IN EFFECT UNTIL THE APPLICABLE
9 REQUIREMENTS OF THIS SUBSECTION (4.7)(a) ARE FULLY SATISFIED. THE
10 COURT SHALL ALSO DO ONE OF THE FOLLOWING:

11 (A) ORDER THE WATER RIGHT OWNER TO PROVIDE FINANCIAL
12 ASSURANCE, SUCH AS A PERFORMANCE BOND OR OTHER FINANCIAL
13 SECURITY, TO THE LOCAL LAND USE AUTHORITY WHERE THE FORMERLY
14 IRRIGATED AGRICULTURAL LAND IS LOCATED IN AN AMOUNT SUFFICIENT
15 TO COVER THE REASONABLY ANTICIPATED TOTAL COST TO ACHIEVE
16 SUCCESSFULLY ESTABLISHED REVEGETATION ON THE FORMERLY
17 IRRIGATED AGRICULTURAL LAND;

18 (B) PLACE LIMITATIONS ON THE TIMING OR PERCENTAGE OF WATER
19 SUBJECT TO THE WATER RIGHT THAT MAY BE USED FOR THE NEW
20 BENEFICIAL USE WHILE ALLOWING THE CONTINUED EXERCISE OF EXISTING
21 DECREED USES OF THE WATER AND, IN ESTABLISHING SUCH LIMITATIONS,
22 CONSIDER THE SITE-SPECIFIC CRITERIA AND OTHER FACTORS RELEVANT TO
23 THE SUCCESSFUL ESTABLISHMENT OF REVEGETATION OR CONVERSION TO
24 DRYLAND FARMING; OR

25 (C) IF THE WATER RIGHT OWNER HAS OBTAINED A PERMIT OR
26 ENTERED INTO AN INTERGOVERNMENTAL AGREEMENT PURSUANT TO
27 SECTION 24-65.1-501 THAT REQUIRES FINANCIAL ASSURANCES TO THE

1 LOCAL LAND USE AUTHORITY IN AN AMOUNT SUFFICIENT TO COVER THE
2 REASONABLY ANTICIPATED TOTAL COST TO ACHIEVE SUCCESSFULLY
3 ESTABLISHED REVEGETATION OR THAT ESTABLISHES REQUIREMENTS THAT
4 GOVERN THE TIMING OF USE OR PERCENTAGE OF WATER SUBJECT TO THE
5 WATER RIGHT THAT MAY BE USED FOR THE NEW BENEFICIAL USE WHILE
6 SIMULTANEOUSLY ACHIEVING SUCCESSFULLY ESTABLISHED
7 REVEGETATION OR CONVERSION TO DRYLAND FARMING, ADOPT AND
8 INCORPORATE THOSE REQUIREMENTS INTO THE CHANGE-OF-USE DECREE
9 AND NOT IMPOSE EITHER OF THE REQUIREMENTS SET FORTH IN
10 SUBSECTIONS (4.7)(a)(V)(A) AND (4.7)(a)(V)(B) OF THIS SECTION.

11 (VI) IF, FOLLOWING A CHANGE OF USE OF A WATER RIGHT
12 PURSUANT TO THIS SUBSECTION (4.7)(a), THE WATER COURT FINDS THAT
13 A WATER RIGHT OWNER OR A LANDOWNER, WITHIN A REASONABLE
14 AMOUNT OF TIME, IS IRRIGATING THE FORMERLY IRRIGATED
15 AGRICULTURAL LAND WITH ANOTHER SOURCE OF WATER; IS
16 RE-IRRIGATING THE LAND WITH THE WATER FROM THE SAME WATER RIGHT,
17 AS AUTHORIZED BY THE WATER COURT; OR IS CONVERTING THE LAND
18 FROM IRRIGATED AGRICULTURAL LAND TO ANOTHER USE IN WHICH WEEDS
19 AND SOIL EROSION ARE ADEQUATELY CONTROLLED, THE WATER COURT
20 SHALL DEEM THE TERMS AND CONDITIONS SET FORTH IN THIS SUBSECTION
21 (4.7)(a) SATISFIED.

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

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

26 (I) "PERMIT" MEANS A PERMIT ISSUED PURSUANT TO SECTION
27 24-65.1-501.

1 (II) "SUCCESSFULLY ESTABLISHED" OR "SUCCESSFUL
2 ESTABLISHMENT" MEANS THAT REVEGETATION OR CONVERSION TO
3 DRYLAND FARMING IS ACCOMPLISHED AND WEEDS AND SOIL EROSION ARE
4 ADEQUATELY CONTROLLED ON THE FORMERLY IRRIGATED AGRICULTURAL
5 LAND IN ACCORDANCE WITH THE SITE-SPECIFIC CRITERIA AND ASSOCIATED
6 SCIENTIFIC AND OBJECTIVE EVALUATION METHODOLOGY INCLUDED IN THE
7 WATER COURT'S DECREE PURSUANT TO SUBSECTION (4.7)(a)(I)(A) OF THIS
8 SECTION.

9 **SECTION 2. Act subject to petition - effective date.** This act
10 takes effect at 12:01 a.m. on the day following the expiration of the
11 ninety-day period after final adjournment of the general assembly (August
12 12, 2026, if adjournment sine die is on May 13, 2026); except that, if a
13 referendum petition is filed pursuant to section 1 (3) of article V of the
14 state constitution against this act or an item, section, or part of this act
15 within such period, then the act, item, section, or part will not take effect
16 unless approved by the people at the general election to be held in
17 November 2026 and, in such case, will take effect on the date of the
18 official declaration of the vote thereon by the governor.