

First Regular Session
Seventy-fifth General Assembly
STATE OF COLORADO

DRAFT
9/3/24

Bill 8

LLS NO. 25-0161.01 Sarah Lozano x3858

INTERIM COMMITTEE BILL

Water Resources and Agriculture Review Committee

BILL TOPIC: Revegetation Requirements Water Rights Holders

A BILL FOR AN ACT

101 **CONCERNING VEGETATION REQUIREMENTS FOR CERTAIN WATER**
102 **RIGHTS HOLDERS.**

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 and Agriculture Review Committee. Current law requires a water court's ruling or decree that approves a change of use of a water right from agricultural irrigation purposes to other beneficial uses to include reasonable provisions designed to accomplish the revegetation and noxious weed management of lands from which irrigation water is removed (reasonable provisions). The bill requires that

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

the reasonable provisions:

- Include a revegetation standard to be met along with a methodology to evaluate the completion of the revegetation standard and the other reasonable provisions;
- Are the responsibility of the applicable water rights holder;
- Are completed no later than 5 years after the issuance of the ruling or decree that establishes the reasonable provisions or no later than 5 years after the cessation of irrigation, whichever is later; and
- Are certified complete by an independent third party with expertise in revegetation (independent third-party certification).

The bill also allows a water court to:

- Reverse a change of use of a water right ruling or decree if the applicable water rights holder does not comply with the reasonable provisions; and
- Reinstate a change of use of a water right ruling or decree when the completion of the reasonable provisions is achieved and demonstrated to the court through the independent third-party certification.

Current law provides that dry land agriculture cannot be subject to the reasonable provisions. The bill also changes current law by allowing lands converting from irrigated agriculture to dry land farming to be subject to the reasonable provisions if the dry land farming ceases no later than 5 years after the issuance of the ruling or decree that establishes the reasonable provisions or no later than 5 years after the cessation of irrigation, whichever is later.

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

2 **SECTION 1.** In Colorado Revised Statutes, 37-92-305, **amend**
3 (4.5)(a) as follows:

4 **37-92-305. Standards with respect to rulings of the referee and**
5 **decisions of the water judge - definitions.** (4.5) (a) (I) The terms and
6 conditions applicable to changes of use of water rights from agricultural
7 irrigation purposes to other beneficial uses ~~shall~~ **MUST** include reasonable
8 provisions designed to accomplish the revegetation and noxious weed
9 management of lands from which irrigation water is removed. **THE**
10 **REASONABLE PROVISIONS MUST INCLUDE A REVEGETATION STANDARD TO**

1 BE MET ALONG WITH A METHODOLOGY TO EVALUATE THE COMPLETION OF
2 THE REVEGETATION STANDARD AND THE OTHER REASONABLE PROVISIONS.
3 THE REASONABLE PROVISIONS MUST ALSO ALLOW FOR THE CONTINUED
4 USE OF IRRIGATION TO THE EXTENT NECESSARY TO ACHIEVE THE
5 REASONABLE PROVISIONS. THE COMPLETION OF THE REASONABLE
6 PROVISIONS:

7 (A) IS THE RESPONSIBILITY OF THE APPLICABLE WATER RIGHTS
8 HOLDER;

9 (B) MUST OCCUR NO LATER THAN FIVE YEARS AFTER THE
10 ISSUANCE OF THE RULING OR DECREE THAT ESTABLISHES THE REASONABLE
11 PROVISIONS OR NO LATER THAN FIVE YEARS AFTER THE CESSATION OF
12 IRRIGATION, WHICHEVER IS LATER; AND

13 (C) MUST BE CERTIFIED BY AN INDEPENDENT THIRD PARTY WITH
14 EXPERTISE IN REVEGETATION. THE APPLICABLE WATER RIGHTS HOLDER IS
15 RESPONSIBLE FOR OBTAINING THE INDEPENDENT THIRD-PARTY
16 CERTIFICATION OF COMPLETION.

17 (II) THE INDEPENDENT THIRD-PARTY CERTIFICATION OF
18 COMPLETION DESCRIBED IN SUBSECTION (4.5)(a)(I)(C) OF THIS SECTION
19 MUST BE SUBMITTED TO THE COURT NO LATER THAN NINETY DAYS AFTER
20 THE COMPLETION OF THE REASONABLE PROVISIONS. THE COURT SHALL
21 PROVIDE A COPY OF THE INDEPENDENT THIRD-PARTY CERTIFICATION OF
22 COMPLETION TO ALL PARTIES TO THE RULING OR DECREE.

23 (III) The applicant may, at any time, request a final determination
24 under the court's retained jurisdiction that no further application of water
25 will be necessary in order to satisfy the ~~revegetation~~ REASONABLE
26 provisions. ~~Dry land agriculture may not be subject to revegetation order~~
27 ~~of the court.~~ THE COURT MAY:

1 (A) REVERSE A RULING OR DECREE, IN WHOLE OR IN PART, FOR A
2 CHANGE OF USE OF A WATER RIGHT ISSUED PURSUANT TO SUBSECTION
3 (4.5)(a)(I) OF THIS SECTION IF THE APPLICABLE WATER RIGHTS HOLDER
4 DOES NOT COMPLY WITH THE REASONABLE PROVISIONS; AND

5 (B) REINSTATE A RULING OR DECREE THAT HAS BEEN REVERSED
6 PURSUANT TO SUBSECTION (4.5)(a)(III)(A) OF THIS SECTION WHEN THE
7 COMPLETION OF THE REASONABLE PROVISIONS IS ACHIEVED AND
8 DEMONSTRATED TO THE COURT THROUGH AN INDEPENDENT THIRD-PARTY
9 CERTIFICATION OF COMPLETION OBTAINED PURSUANT TO SUBSECTION
10 (4.5)(a)(I)(C) OF THIS SECTION.

11 (IV) LANDS CONVERTING FROM IRRIGATED AGRICULTURE TO DRY
12 LAND FARMING ARE SUBJECT TO APPLICABLE REASONABLE PROVISIONS IF
13 THE DRY LAND FARMING ACTIVITIES CEASE NO LATER THAN FIVE YEARS
14 AFTER THE ISSUANCE OF THE RULING OR DECREE THAT ESTABLISHES THE
15 REASONABLE PROVISIONS OR NO LATER THAN FIVE YEARS AFTER THE
16 CESSATION OF IRRIGATION, WHICHEVER IS LATER.

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

- 1 (2) This act applies to change of use of water rights applications
- 2 filed on or after the applicable effective date of this act.