

Second Regular Session
Seventy-fourth General Assembly
STATE OF COLORADO

DRAFT
10/10/23

Bill 8

LLS NO. 24-0364.01 Sarah Lozano x3858

INTERIM COMMITTEE BILL

Water Resources and Agriculture Review Committee

BILL TOPIC: No Abandonment Of Water Rights For Reduced Use

A BILL FOR AN ACT

101 **CONCERNING PROTECTING THE WATER RIGHTS OF PERSONS WHO**
102 **IMPLEMENT WATER USE REDUCTION MEASURES.**

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. The bill allows an owner of a water right (owner) to file a water use reduction plan (plan) with the division engineer for the division where any water subject to a water right included in the plan is diverted or applied to beneficial use (division engineer). A plan must describe the historical and current use of any water right included in the plan, the water use

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

reduction measures that will be implemented as part of the plan, and the end date of the plan.

If an owner files a plan with the division engineer no later than one year after the date that water use reduction measures are first implemented, the nonuse of any water right pursuant to the plan does not constitute abandonment of the water right for the period beginning on the date of the filing of the plan with the division engineer and continuing until the end date specified in the plan. The end date specified in a plan may not exceed 10 years after the date of the filing of the plan; except that the owner may file an extension notice for the plan with the division engineer for an extension end date of no more than 10 years after the end date specified in the plan or the extension end date of a previously filed extension notice for the plan.

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

2 **SECTION 1.** In Colorado Revised Statutes, 37-92-103, **amend**
3 (2) introductory portion, (2)(b)(V), and (2)(b)(VI); and **add** (2)(b)(VII)
4 as follows:

5 **37-92-103. Definitions.** As used in this article 92, unless the
6 context otherwise requires:

7 (2) "Abandonment of a water right" means the termination of a
8 water right in whole or in part as a result of the intent of the owner
9 ~~thereof~~ OF THE WATER RIGHT to discontinue permanently the use of all or
10 part of the water available ~~thereunder~~ UNDER THE WATER RIGHT. Any
11 period of nonuse of any portion of a water right ~~shall be~~ IS tolled, and ~~no~~
12 AN intent to discontinue permanent use shall NOT be found for purposes
13 of determining an abandonment of a water right for the duration that:

14 (b) The nonuse of a water right by its owner is a result of
15 participation in:

16 (V) A loan of water to the Colorado water conservation board for
17 instream flow use under section 37-83-105 (2); ~~or~~

18 (VI) Any contract or agreement with the Colorado water

1 conservation board that allows the board to use all or a part of a water
2 right to preserve or improve the natural environment to a reasonable
3 degree under section 37-92-102 (3); OR

4 (VII) A WATER USE REDUCTION PLAN FILED WITH A DIVISION
5 ENGINEER PURSUANT TO SECTION 37-92-602 (10)(c).

6 **SECTION 2.** In Colorado Revised Statutes, 37-92-602, **add** (10)
7 as follows:

8 **37-92-602. Exemptions - presumptions - stream restoration**
9 **projects - water use reduction plans - report - legislative declaration**
10 **- definitions.** (10) (a) THE GENERAL ASSEMBLY HEREBY DETERMINES AND
11 DECLARES THAT IT IS IN THE INTEREST OF THE STATE FOR THE OWNERS OF
12 WATER RIGHTS TO HAVE THE ABILITY TO IMPLEMENT WATER USE
13 REDUCTION MEASURES WITHOUT IMPACTING THE WATER RIGHTS
14 ASSOCIATED WITH THE UNUSED WATER.

15 (b) AS USED IN THIS SUBSECTION (10), UNLESS THE CONTEXT
16 OTHERWISE REQUIRES:

17 (I) "DIVISION ENGINEER" MEANS THE DIVISION ENGINEER FOR THE
18 DIVISION WHERE ANY WATER SUBJECT TO A WATER RIGHT INCLUDED IN A
19 WATER USE REDUCTION PLAN IS DIVERTED OR APPLIED TO BENEFICIAL USE.

20 (II) "END DATE" MEANS THE END DATE OF A WATER USE
21 REDUCTION PLAN INCLUDED IN A PLAN PURSUANT TO SUBSECTION
22 (10)(c)(III) OF THIS SECTION.

23 (III) "EXTENSION END DATE" MEANS THE END DATE INCLUDED IN
24 AN EXTENSION NOTICE FILED PURSUANT TO SUBSECTION (10)(d)(II) OF
25 THIS SECTION.

26 (IV) "EXTENSION NOTICE" MEANS AN EXTENSION NOTICE FOR A
27 WATER USE REDUCTION PLAN FILED WITH THE DIVISION ENGINEER

1 PURSUANT TO SUBSECTION (10)(d)(II) OF THIS SECTION.

2 (V) "WATER USE REDUCTION MEASURE" MEANS A MEASURE THAT
3 RESULTS IN A REDUCTION IN THE AMOUNT OF WATER DIVERTED OR
4 APPLIED TO BENEFICIAL USE.

5 (VI) "WATER USE REDUCTION PLAN" OR "PLAN" MEANS A WATER
6 USE REDUCTION PLAN FILED WITH THE DIVISION ENGINEER PURSUANT TO
7 SUBSECTION (10)(c) OF THIS SECTION.

8 (c) AN OWNER OF A WATER RIGHT MAY FILE A WATER USE
9 REDUCTION PLAN WITH THE DIVISION ENGINEER, WHICH MUST INCLUDE:

10 (I) THE NAME AND ADDRESS OF ANY OWNER OF A WATER RIGHT
11 INCLUDED IN THE PLAN;

12 (II) A DESCRIPTION OF:

13 (A) ANY WATER RIGHTS INCLUDED IN THE PLAN, INCLUDING THE
14 HISTORICAL AND CURRENT USE OF EACH WATER RIGHT; AND

15 (B) THE WATER USE REDUCTION MEASURES THAT WILL BE
16 IMPLEMENTED AS PART OF THE PLAN;

17 (III) THE END DATE OF THE PLAN; AND

18 (IV) A STATEMENT BY THE OWNER OF ANY WATER RIGHT
19 INCLUDED IN THE PLAN THAT:

20 (A) THE PLAN IS VOLUNTARY IN NATURE;

21 (B) THE WATER USE REDUCTION MEASURES THAT WILL BE
22 IMPLEMENTED PURSUANT TO THE PLAN WILL CONTRIBUTE TO THE
23 REDUCTION OF WATER USE IN THE STATE; AND

24 (C) THE OWNER OF THE WATER RIGHT DOES NOT INTEND TO
25 ABANDON THE WATER RIGHT FOR THE TIME PERIOD OF THE PLAN.

26 (d) (I) IF AN OWNER OF A WATER RIGHT FILES A WATER USE
27 REDUCTION PLAN NO LATER THAN ONE YEAR AFTER THE DATE THAT ANY

1 WATER USE REDUCTION MEASURES ARE FIRST IMPLEMENTED, THE NONUSE
2 OF ALL OR PART OF ANY WATER RIGHT PURSUANT TO THE PLAN IS TOLLED
3 AND DOES NOT CONSTITUTE ABANDONMENT OF THE WATER RIGHT FOR THE
4 PERIOD BEGINNING ON THE DATE OF THE FILING OF THE PLAN WITH THE
5 DIVISION ENGINEER AND CONTINUING UNTIL THE END DATE OF THE PLAN.

6 (II) THE END DATE OF A WATER USE REDUCTION PLAN MUST NOT
7 BE MORE THAN TEN YEARS AFTER THE DATE OF THE FILING OF THE PLAN;
8 EXCEPT THAT AN OWNER OF A WATER RIGHT MAY FILE AN EXTENSION
9 NOTICE FOR A PLAN WITH THE DIVISION ENGINEER WITH AN EXTENSION
10 END DATE OF NO MORE THAN TEN YEARS AFTER:

11 (A) THE END DATE OF THE PLAN; OR

12 (B) THE EXTENSION END DATE OF A PREVIOUSLY FILED EXTENSION
13 NOTICE FOR THE PLAN.

14 (III) AN EXTENSION NOTICE MUST:

15 (A) INCLUDE A STATEMENT BY THE OWNER OF THE WATER RIGHT
16 THAT ANY WATER USE REDUCTION MEASURES BEING IMPLEMENTED AS
17 PART OF THE PLAN ARE TEMPORARY IN NATURE;

18 (B) INCLUDE ANY UPDATES TO THE INFORMATION PROVIDED
19 PURSUANT TO SUBSECTION (10)(c) OF THIS SECTION;

20 (C) INCLUDE AN EXTENSION END DATE THAT COMPLIES WITH THE
21 REQUIREMENTS OF SUBSECTION (10)(d)(II)(B) OF THIS SECTION; AND

22 (D) BE FILED WITH THE DIVISION ENGINEER BEFORE THE END DATE
23 OF THE PLAN OR THE EXTENSION END DATE OF THE PREVIOUS EXTENSION
24 NOTICE.

25 (e) EACH DIVISION ENGINEER SHALL MAKE ANY WATER USE
26 REDUCTION PLAN OR EXTENSION NOTICE FILED PURSUANT TO THIS
27 SUBSECTION (10) PUBLICLY AVAILABLE ON THE DIVISION'S WEBSITE.

1 (f) NOTWITHSTANDING ANY PROVISION IN THIS SUBSECTION (10)
2 TO THE CONTRARY, NOTHING IN THIS SUBSECTION (10) AUTHORIZES
3 INCREASED OR EXPANDED CONSUMPTIVE USE UNDER A WATER RIGHT.

4 **SECTION 3. Act subject to petition - effective date -**
5 **applicability.** (1) This act takes effect at 12:01 a.m. on the day following
6 the expiration of the ninety-day period after final adjournment of the
7 general assembly; except that, if a referendum petition is filed pursuant
8 to section 1 (3) of article V of the state constitution against this act or an
9 item, section, or part of this act within such period, then the act, item,
10 section, or part will not take effect unless approved by the people at the
11 general election to be held in November 2024 and, in such case, will take
12 effect on the date of the official declaration of the vote thereon by the
13 governor.

14 (2) This act applies to water use reduction measures occurring on
15 or after the effective date of this act.