

CHAPTER 145

WATER AND IRRIGATION

SENATE BILL 15-198

BY SENATOR(S) Crowder, Donovan, Garcia, Hodge, Jahn, Jones, Kefalas, Sonnenberg;
also REPRESENTATIVE(S) Vigil, Arndt, Becker K., Fields, Ginal, Hamner, Kagan, Mitsch Bush, Pettersen, Rosenthal, Ryden,
Saine, Salazar, Winter, Young, Hullinghorst.

AN ACT

CONCERNING MODIFICATIONS TO THE COLORADO WATER CONSERVATION BOARD'S FOLLOWING PILOT PROGRAM, AND, IN CONNECTION THEREWITH, EXPANDING THE PROGRAM TO ALLOW AN AGRICULTURAL WATER RIGHT OWNER TO LEASE AN AGRICULTURAL WATER RIGHT FOR TEMPORARY AGRICULTURAL, ENVIRONMENTAL, INDUSTRIAL, OR RECREATIONAL USE.

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

SECTION 1. In Colorado Revised Statutes, 37-60-115, **amend** (8) (a) (II), (8) (b) (I), (8) (b) (II), (8) (b) (IV), (8) (d) (V) introductory portion, (8) (e) (I) (B), (8) (f) introductory portion, (8) (f) (I) introductory portion, and (8) (g) as follows:

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

(II) Leasing the associated water rights for temporary municipal, AGRICULTURAL, ENVIRONMENTAL, INDUSTRIAL, OR RECREATIONAL use.

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

Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.

(I) In fallowing irrigated agricultural land for leasing water for temporary municipal, AGRICULTURAL, ENVIRONMENTAL, INDUSTRIAL, OR RECREATIONAL use, demonstrate cooperation among different types of water users, including cooperation among shareholders, ditch companies, water user associations, irrigation districts, water conservancy districts, water conservation districts, and municipalities;

(II) Evaluate the feasibility of delivering leased water to the temporary municipal, AGRICULTURAL, ENVIRONMENTAL, INDUSTRIAL, OR RECREATIONAL users;

(IV) Demonstrate how to operate, administer, and account for the practice of fallowing irrigated agricultural land for leasing water for temporary municipal, AGRICULTURAL, ENVIRONMENTAL, INDUSTRIAL, OR RECREATIONAL use without causing material injury to other vested water rights, decreed conditional water rights, or contract rights to water.

(d) After providing a reasonable opportunity for public comment and consideration of any comments received, the board, in consultation with the state engineer, shall establish criteria and guidelines including at least the following:

(V) A time period of ~~at least seventy-five~~ SIXTY days within which the board ~~shall receive~~ RECEIVES comments on the application after providing notice pursuant to the process set forth in paragraphs (e) and (f) of this subsection (8). The comments may include:

(e) (I) For approval of a pilot project, the applicant must provide written notice of the application, including, at a minimum:

(B) An analysis of the historical use, the historical consumptive use, and the historical return flows of the water rights or contract rights to water proposed to be used for temporary municipal, AGRICULTURAL, ENVIRONMENTAL, INDUSTRIAL, OR RECREATIONAL use; and

(f) After consideration of the comments and any conference reports submitted pursuant to subparagraph ~~(IV)~~ (VI) of paragraph (d) of this subsection (8), the board may approve the pilot project application if:

(I) WITHIN FIFTEEN DAYS AFTER RECEIVING A CONFERENCE REPORT SUBMITTED UNDER SUBPARAGRAPH (VI) OF PARAGRAPH (d) OF THIS SUBSECTION (8) OR, IF THE BOARD DOES NOT RECEIVE ANY COMMENTS ON THE APPLICATION, WITHIN THIRTY DAYS AFTER THE PERIOD OF TIME FOR COMMENTS HAS EXPIRED, the state engineer has made a written determination that the operation and administration of the pilot project:

(g) When the board approves or denies a pilot project application, it shall serve a copy of the decision, along with a copy of the state engineer's written determination and any conference reports submitted ~~pursuant to~~ UNDER subparagraph ~~(IV)~~ (VI) of paragraph (d) of this subsection (8), upon all parties to the application by first-class mail or, if elected by the parties, by electronic mail. The board shall mail a copy of the decision, the state engineer's written determination, and any conference reports to the appropriate water clerk.

SECTION 2. Act subject to petition - effective date. This act takes effect at 12:01 a.m. on the day following the expiration of the ninety-day period after final adjournment of the general assembly (August 5, 2015, if adjournment sine die is on May 6, 2015); except that, if a referendum petition is filed pursuant to section 1 (3) of article V of the state constitution against this act or an item, section, or part of this act within such period, then the act, item, section, or part will not take effect unless approved by the people at the general election to be held in November 2016 and, in such case, will take effect on the date of the official declaration of the vote thereon by the governor.

Approved: May 1, 2015