

**STATE
FISCAL IMPACT**

Drafting Number: LLS 14-0472
Prime Sponsor(s): Sen. Schwartz

Date: February 18, 2014
Bill Status: Senate Agriculture
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SHORT TITLE: TRANSFER WATER EFFICIENCY SAVINGS TO INSTREAM USE

Fiscal Impact Summary*	FY 2014-2015	FY 2015-2016
State Revenue		
State Expenditures	Increased workload. See State Expenditures section.	
FTE Position Change		
Appropriation Required: None.		

* This summary shows changes from current law under the bill for each fiscal year.

Summary of Legislation

This bill allows water efficiency savings to be changed or loaned only to the Colorado Water Conservation Board (CWCB), and only for in-stream use, with the approval of the applicable division engineer or water court, under the following circumstances:

- the application was filed within two years after the diversions were decreased due to efficiency measures;
- the change or loan will not materially injure decreed water rights; and
- the change or loan will not adversely affect Colorado's interstate compact entitlements or obligations.

Water efficiency savings are defined as that portion of a water right used solely for agricultural irrigation or stock watering purposes in water division 4, 5, 6, or 7 that is a nonconsumptive use under existing practices, and that results from efficiency measures, determined as the difference between:

- the lesser of the decreed diversion amount or the maximum amount historically diverted to accomplish without waste the purpose for which the appropriation was lawfully made; and
- the diverted amount needed to meet the decreed beneficial use after implementing efficiency measures.

Water efficiency savings does not include water derived from the eradication of invasive plants. In addition, water efficiency savings that have been changed or loaned under the bill are not subject to abandonment.

Background

Colorado has seven water divisions based upon the drainage patterns of various rivers in Colorado. Each water division is staffed with a division engineer, a water judge, a water referee, and a water clerk. The water divisions affected by the bill are:

- Water Division 4 - Gunnison River Basin;
- Water Division 5 - Colorado River Basin;
- Water Division 6 - White River Basin; and
- Water Division 7 - San Juan River Basin.

State Expenditures

Beginning in FY 2014-15, this bill is expected to result in increased workload for the Division of Water Resources (DWR) and the CWCB in the Department of Natural Resources, and for water courts in the Judicial Branch. These increases are described below.

Department of Natural Resources, Division of Water Resources. This bill is expected to increase the workload for the DWR but, because the number of private water rights owners who will take advantage of this new provision is unknown, the increased workload cannot be determined. DWR staff are expected to develop criteria and guidelines to manage the process in an effective and consistent manner and to analyze the water efficiency savings prior to a change in right being approved. In some cases, a division engineer will be required to approve the change or loan of a water right. Because of the limited information currently available, this is not expected to require new appropriations.

Department of Natural Resources, CWCB. The bill is expected to increase the number of acquisitions and loans of water for instream flows, which in turn increases both the workload and expenditures of the CWCB. As noted above, it is unknown how many private water rights owners will offer to sell or loan water to the CWCB. If the bill results in more than five additional water acquisitions that require participation in water court change cases per year, or more than ten additional temporary loans of water per year, the associated workload could require new appropriations to the CWCB for additional staff to process these cases. Also depending on private water owner participation, the CWCB may require additional funding for acquisition of water rights. If such an increase occurs, the fiscal note assumes this will be addressed during the annual budget process.

Judicial Branch, Water Court. Although the legislation may increase the number of cases filed by the CWCB seeking loaned water rights, the number of cases will be low enough that the water courts can address the minimal increase in workload within existing appropriations.

Effective Date

The bill takes effect upon signature of the Governor, or upon becoming law without his signature.

State and Local Government Contacts

Natural Resources

Judicial

Law