

UPDATED SUMMARY
SENATE BILL 14-023

Second Regular Session - Sixty-ninth Colorado General Assembly

This summary applies to the reengrossed version of this bill as introduced in the second house. It does not reflect any amendments that may be subsequently adopted. This summary reflects only the main points of the legislation.

Section 1 of the bill defines "water efficiency savings" 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 nonconsumptive under existing practices and that results from efficiency measures, determined as the difference between:~~

- ! ~~— The lesser of the decreed diversion amount and the maximum amount that had been historically diverted using the existing facilities for a beneficial use under reasonably efficient practices 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 increased efficiency in the means of diversion, conveyance, storage, application, or use. *an amount of water, as determined in a water court proceeding, in water division 4, 5, 6, or 7 that is not consumed under existing practices by which ditch seepage, surface run-off, return flow, or tail-water return will be reduced as a result of structural improvements that increase the efficiency of water storage, diversion, conveyance, application, or use practices associated with a water right.*~~

Section 2 allows water efficiency savings to be changed, ~~or loaned~~, pursuant to existing water court ~~and water loan~~ statutes, only to the Colorado water conservation board, only for instream use, and only if:

- ! ~~The application was filed within 2 years after the diversions were decreased due to efficiency measures~~ *Notice has been given to water rights owners on the affected stream reach;*
- ! The change or loan will not materially injure decreed water rights; and
- ! The change or loan will not adversely affect Colorado's interstate compact *or equitable apportionment decree* entitlements or obligations.

The change ~~decree or loan approval~~ must identify the amount of water efficiency savings and the stream reaches within which water efficiency savings, as changed, ~~or loaned~~, will be used. Water efficiency savings that have been changed ~~or loaned~~ are not subject to abandonment. The ~~parties who enter into a change or loan of water efficiency savings~~ *water judge* may ~~provide~~ *include decree* conditions by which the original decreed diversion rate may be preserved for a future use by the water right owner who implements the efficiency measures if use of the efficiency measures is discontinued.

Section 3 *specifies that the Colorado water conservation board can accept an instream flow right based on water efficiency savings notwithstanding existing law that requires acquired instream flow rights to be based on historic consumptive use.*