

*Colorado Legislative Council Staff Fiscal Note*

**FINAL  
FISCAL NOTE**

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<b>Drafting Number:</b> LLS 15-0589	<b>Date:</b> July 2, 2015
<b>Prime Sponsor(s):</b> Rep. Arndt Sen. Hodge	<b>Bill Status:</b> Postponed Indefinitely
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**BILL TOPIC:** FLEXIBLE WATER MARKETS

<b>Fiscal Impact Summary*</b>	<b>FY 2015-2016</b>	<b>FY 2016-2017</b>
<b>State Revenue</b>		
<b>State Expenditures</b>	Minimal workload increase.	
<b>FTE Position Change</b>		
<b>Appropriation Required:</b> None.		

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

**Note:** The final fiscal note was written to the reengrossed version of the bill.

**Summary of Legislation**

Colorado water law prohibits speculation in water rights. Under the anti-speculation doctrine, an applicant who wishes to change the beneficial use of an irrigation water right must identify for the water court the specific use for which the water will actually be used. The bill excludes flex use from the anti-speculation doctrine and describes the procedures for approval or reconsideration of a flex use change-in-use decree and a flex use substitute water supply plan. It allows a holder of an irrigation water right to change the beneficial use to any beneficial use, including a compact obligation, within the geographic area of historical use. This holder can then implement fallowing, regulated deficit irrigation, reduced consumptive use cropping, or other alternative cessation of agricultural irrigation on the property that is served by the water right.

The bill limits the number of flex use change-in-use decrees to a total of 10 per water division. Commencing July 1, 2015, and on an annual basis thereafter, the State Engineer can approve up to 10 flex use substitute water supply plans per water division.

The Colorado Water Conservation Board (CWCB), in consultation with the State Engineer is required to review the utilization of flex use change-in-use decrees and substitute water supply plans and report on its findings to the Water Resources Review Committee annually beginning on or before October 1, 2016. The bill is repealed on July 1, 2026.

**State Expenditures**

This bill amends the change-in-use and substitute water supply plan application process and is expected to create a minimal increase in workload for the Division of Water Resources (DWR) and CWCB in the Department of Natural Resources and the water courts in the Judicial Department.

**Assumptions.** Because flexible water markets are a new concept in water law with no historical experience to consider, the following assumptions are used in the fiscal note.

- Being able to sell water identified as flex use enables holders of irrigation water rights to more easily sell those rights to other users.
- The availability of flexible water markets will gradually increase the number of change-in-use applications.

**Department of Natural Resources.** The DWR is expected to review an increased number of water court applications for change-in-use, as well as adjudicate an increased number of applications for substitute water supply plans. The CWCB and the DWR will review and report on the utilization of flex use change-in-use decrees and substitute water supply plans. This increase in workload is expected to be minimal and will not require additional appropriations.

**Judicial Branch, Water Courts.** Water courts are expected to adjudicate an increased number of change-in-use applications as a result of this bill. This increase is expected to be minimal and will not require additional appropriations.

#### **Effective Date**

The bill was postponed indefinitely by the Senate Agriculture Committee on March 5, 2015.

#### **State and Local Government Contacts**

Judicial Department

Natural Resources