

STATE

CONDITIONAL FISCAL IMPACT

Drafting Number: LLS 09-0255
Prime Sponsor(s): Rep. Pommer
 Sen. White

Date: January 19, 2009
Bill Status: House Agriculture
Fiscal Analyst: Ron Kirk (303-866-4785)

TITLE: CONCERNING THE ESTABLISHMENT OF AN INCENTIVE FOR THE DONATION OF WATER RIGHTS TO THE COLORADO WATER CONSERVATION BOARD FOR USE AS INSTREAM FLOW RIGHTS.

Fiscal Impact Summary	FY 2009-2010	FY 2010-2011
State Revenue General Fund*	(\$1,000,000)	(\$2,000,000)
State Expenditures General Fund	\$0	\$23,796
FTE Position Change	0.0 FTE	0.0 FTE
Effective Date: 90 days after adjournment by the General Assembly, unless a referendum petition is filed. (August 4, 2009 if adjournment is May 6, 2009).		
Appropriation Summary for FY 2009-2010: None Required.		
Local Government Impact: None.		

* The fiscal note displays the loss in revenue from the tax credit beginning in tax year 2010; however, future revenue forecasts and state budget decisions could push the starting date for the tax credit to a subsequent year.

Summary of Legislation

For income tax years beginning on or after January 1, 2009, but prior to January 1, 2015, this bill establishes an instream flow incentive state income tax credit. Thus, the taxpayer can claim a tax credit for a water rights donation that works to protect the natural environment by keeping water in the river. However, it is only available if there is sufficient revenue to fully fund the 6 percent limit. The bill specifies that the Colorado Water Conservation Board (CWCB) will approve the credits by issuing certificates to water rights owners who permanently transfer water rights to the CWCB. The bill establishes the credit at one-half of the value of the donated water right, as determined by an appraisal, with a maximum value of \$250,000. The total amount of credits allowed on an annual basis is limited to \$2.0 million.

If the amount of the credit exceeds the income tax due for the current taxable year, the excess credit may be carried forward and applied to future tax liabilities for up to 6 years. The credit can be transferred to other taxpayers subject to certain restrictions. The bill provides the Department of Revenue with rulemaking authority to administer the tax credit.

The income tax credit in this bill is only effective for tax years in which the June revenue estimate prepared by Legislative Council Staff indicates that General Fund revenue is sufficient to maintain the 6 percent limit on annual growth in General Fund appropriations.

State Revenue

General Fund. For income tax years 2009 through 2014, this bill allows a new, transferrable, income tax credit for water rights donated to the CWCB capped at \$2.0 million each year. This impact is considered conditional because the credit is only effective if there is sufficient revenue to fully fund the 6 percent limit. Based on the December 2008 Legislative Council Staff revenue forecast, there will be insufficient revenue to fully fund the 6 percent spending limit for FY 2009-10. Thus, the credit will likely be effective beginning FY 2010-11 assuming the economy rebounds to the extent that revenue growth will be sufficient to fully fund the 6 percent spending limit. It is difficult to know how many water rights holders will choose to donate water to take advantage of this credit. However, because this credit is transferrable, meaning that all or a portion of credits claimed can be transferred to one or more taxpayers, this fiscal note assumes that the aggregate cap will be reached on an annual basis.

This bill reduces General Fund revenue by creating a new tax credit for water rights donations. Therefore, the decrease in revenue under this bill will further reduce the amount of money available for General Fund appropriations. A one-half year impact of \$1.0 million is assumed for FY 2009-10 on an accrual accounting basis. This half-year impact is considered conditional because the June 2010 revenue estimate must determine that there is sufficient revenue to fully fund the 6 percent limit in FY 2010-11.

State Expenditures

Department of Revenue. The department will incur additional reprogramming expenses of \$23,796 in FY 2010-11 to implement the new income-tax credit for the donation of water rights. This new transferable credit will require a new line to the various forms in the income tax system. The department will also incur data-entry costs to track the credit. Expenditures are based upon in-house programmers being sufficiently trained to perform the programming on the new income tax computer systems.

Departments Contacted

Natural Resources

Revenue