

**STATE and LOCAL
FISCAL IMPACT**

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Date: April 1, 2013

Prime Sponsor(s): Rep. Fischer
Sen. Schwartz

Bill Status: House Agriculture

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TITLE: CONCERNING AN AUTHORIZATION OF PILOT PROJECTS FOR THE LEASING OF WATER FOR MUNICIPAL USE.

Fiscal Impact Summary	FY 2013-2014	FY 2014-2015
State Revenue		
Cash Funds	\$6,000	\$6,500
State Expenditures	See State Expenditures section.	
FTE Position Change		
Effective Date: Upon signature of the Governor, or upon becoming law without his signature.		
Appropriation Summary for FY 2013-2014: None required.		
Local Government Impact: See Local Government Impact section.		

Summary of Legislation

This bill establishes a procedure for the Colorado Water Conservation Board (CWCB) to approve up to three pilot projects that temporarily transfer agricultural waters rights in the Lower Arkansas River basin to municipal water users.

The pilot projects generate transferable consumptive use water primarily by fallowing certain cropland for no more than three years in a ten-year period. No pilot project is authorized to transfer more than 2,500 acre-feet of water per year, and one of the three pilot projects must involve the annual transfer of less than 1,000 acre-feet.

To administer the pilot project program, the CWCB will consult with the State Engineer's Office (SEO) to develop appropriate application and annual review fees, as well as guidelines for projects, including:

- materials and analysis required of applicants, with applications to be allowed for a window of at least five years;
- procedures for public comments from owners of water rights that may be affected by a pilot project;
- appropriate measures to prevent injury to other water rights and to prevent the impairment of interstate water compacts;
- requirements that projects comply with other applicable law; and
- periodic reports to the CWCB.

Approval of a pilot project requires the CWCB to consider the recommendation of the SEO. If a water users believes it will suffer injury due to a pilot project, that party may appeal the CWCB decision to the Division 2 Water Court within 35 days after the CWCB's notice of decision has been mailed.

The bill is repealed July 1, 2030.

Background

Under current law, temporary transfers of water rights between agricultural users and municipal users may be reviewed as either a temporary substitute supply plan (TSSP) or an interruptible water supply agreement (IWSA). The SEO in the Department of Natural Resources (DNR) is responsible for reviewing TSSP and IWSA applications and administration of approved transfers.

Through the Alternative Water Transfer Methods Grant Program, the CWCB has studied water banking, rotational fallowing , and other methods to make agricultural water available to municipal users. In collaboration with the CWCB, the SEO developed rules for the Arkansas River Water Bank Pilot Program to accomplish transfers in the geographic area affected by the bill. Transfer activities through the statutory water bank mechanism have been minimal. Recent CWCB studies affecting the Lower Arkansas River basin have included feasibility and engineering to facilitate temporary transfers though the "Super Ditch," a consortium of multiple irrigation ditch companies.

The bill does not specify which individuals or entities may seek approval as a pilot project applicant. Based on past legislation and CWCB studies, the fiscal note assumes that project applicants will be a mix of agricultural and municipal water interests, including local government water providers.

State Revenue

The bill increases state cash funds revenue to the Department of Natural Resources by an estimated \$6,000 in FY 2013-14. Cash funds revenue to DNR associated with the bill will thereafter increase to a maximum of \$7,000 by FY 2017-18. All fee revenue under the bill is reduced to zero by the time the pilot project program is repealed in 2030.

As detailed below, the bill requires pilot project applicants and owners of approved pilot projects to submit initial and annual fees to the CWCB. As directed by the bill, initial application fees will be staggered over a five-year window for applications, assumed at two per year. Approved projects are assumed to run for the ten-year duration allowed by the bill.

Fee Impact on Participating Water Users. Section 2-2-322, C.R.S., requires legislative service agency review of measures which create or increase any fee collected by a state agency. The fiscal note assumes that two applications are received in each fiscal year for the first five years the bill is effective, generating \$6,000 each year. This analysis also assumes that one pilot project is selected in FY 2013-14, generating renewal fees in FY 2014-15, and that the third pilot project is not selected until five years of applications have been reviewed. The table below identifies the fee impact of this bill.

Type of Fee	Current Fee	Proposed Fee	Fee Change	Number Affected	Total Fee Impact
Pilot Project, Application Fee	n/a	\$3,000	\$3,000	10	\$30,000
Pilot Project, Annual Review	n/a	\$500	\$500	3	Up to \$1,500/year

State Expenditures

The bill increases workload in the Department of Natural Resources in FY 2013-14 and future fiscal years, as well as a minimal increase in the workload of the Judicial Branch. The impacts of the bill on various state departments are discussed below.

Department of Natural Resources. In FY 2013-14, workload of the CWCB and SEO will increase to develop application procedures and guidelines, to solicit pilot project proposals, and to conduct formal review of any applications received. The staff of the CWCB and SEO will use existing resources, including prior studies, to develop project requirements. The CWCB will discuss these project requirements and other implementation issues at a regularly scheduled meeting and, therefore, will not require additional appropriations.

In FY 2014-15 and future fiscal years, workload of the CWCB will increase to review new applications and monitor approved pilot projects.

Department of Law. The Department of Law will assist the CWCB with development of pilot project guidelines within the scope of regularly scheduled CWCB work, and will not require new appropriations for this task. The Department of Law will also represent the CWCB in the event of an appeal of a pilot project approval to the water court. Additional resources, if required for legal services in the appeal process, will be allocated in the annual budget process.

Judicial Branch. In the event of an appeal of an approved pilot project, the Division 2 Water Court will experience increased workload to adjudicate the appeal. Given the limit of three pilot project approvals, the bill has a minimal impact on workload of the courts and will not require new appropriations to the Judicial Branch.

Local Government Impact

The bill results in minimal, offsetting impacts to local government property tax revenue in the Lower Arkansas River basin. Depending on the geographic scope of land subject to temporary fallowing, the bill may temporarily reduce property tax assessments for affected properties in Bent, Crowley, Kiowa, Pueblo, and Prowers counties. Based on irrigated versus nonirrigated agricultural land classifications in this region, taxable values for fallow land are reduced by over \$50 per acre relative to irrigated land. If the maximum of 6,000 acres allowed for pilot projects under the bill is fallow in any given year, taxable value will be reduced by at least \$300,000 across the region. However, the bill is assumed to result in temporary conversion of agricultural use to municipal water use where demand is otherwise met by permanent "buy and dry" of agricultural water rights. As a consequence, the overall impact of the bill on property tax revenue is assumed to be negligible.

Departments Contacted

Natural Resources
Judicial Branch
Municipalities

Public Health and Environment
Local Affairs

Law
Counties