

**UPDATED SUMMARY  
HOUSE BILL 16-1228**

**Second Regular Session - Seventieth Colorado General Assembly**

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*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.*

Currently, water court proceedings governing an application to change the beneficial use of an agricultural water right require the applicant to designate a specific beneficial use identified at the time of the application. The bill *creates an agricultural water protection water right and* authorizes an owner of an ~~agricultural~~ *absolute decreed irrigation water right used for agricultural purposes* to seek a change-in-use decree in water court to ~~allow the transfer of up to 50% of the water subject to the water right to any beneficial use~~ *obtain an agricultural water protection water right.*

*Under the changed water right, the water right owner may apply for a renewable one-year ~~periods~~, substitute water supply plan through which the water right owner may lease, loan, or trade up to 50% of the historical consumptive use portion of the water subject to the water right without designating the specific beneficial use if the owner has obtained for the leased, loaned, or traded water. The one-year substitute water supply plan approval and authorizing the lease, loan, or trade of water may be renewed twice without reapplying if the terms and conditions of the plan remain unchanged. A new application is required every 3 years to maintain the substitute water supply plan.*

*Pursuant to rules developed by the state engineer and reviewed by the water judge for water division 1, the state engineer may approve a one-year renewable substitute water supply plan authorizing the lease, loan, or trade of water subject to an agricultural water protection water right if the following conditions are met:*

- ! ~~In accordance with rules established by the state engineer, the state engineer must approve a one-year lease, loan, or exchange transferring a portion of the water subject to the water right;~~
- ! ~~The owner of the water right may transfer up to 50% of the historical consumptive use portion of the water right;~~
- ! The remaining portion of the water subject to the water right must continue to be used for agricultural purposes;
- ! The water right must be protected by the owner's participation in a ~~conservation program or water banking program or establishment of a conservation easement~~ *an agricultural water protection water program, for which the Colorado water conservation board will establish minimum criteria and guidelines;*
- ! ~~Ownership must remain with the owner who applied for the change-in-use decree;~~
- ! The owner shall not ~~transfer~~ *lease, loan, or trade* water subject to the water right outside of the water division with jurisdiction over the location of

- historical consumptive use; and
- ! The transferable portion of the water subject to the water right must be delivered to a point of diversion *or instream flow* that is subject to an existing water court decree.

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Italicized words indicate new material added to the original summary; dashes through words indicate deletions from the original summary.  
Prepared by the Office of Legislative Legal Services.