

**First Regular Session
Seventieth General Assembly
STATE OF COLORADO**

INTRODUCED

LLS NO. 15-0696.01 Esther van Mourik x4215

HOUSE BILL 15-1159

HOUSE SPONSORSHIP

Arndt,

SENATE SPONSORSHIP

Donovan,

House Committees

Agriculture, Livestock, & Natural Resources
Finance
Appropriations

Senate Committees

A BILL FOR AN ACT

101 **CONCERNING THE INSTREAM FLOW INCENTIVE TAX CREDIT FOR**
102 **WATER RIGHTS HOLDERS.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://www.leg.state.co.us/billsummaries>.)

In 2009, the general assembly enacted the instream flow incentive tax credit for water rights holders for 6 years. When enacted, the tax credit included a trigger that made the credit unavailable if total general fund revenues for a particular fiscal year would not be sufficient to grow the total state general fund appropriations by 6% over the previous fiscal year's appropriations.

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.

The bill extends the instream flow incentive tax credit for water rights holders for an additional 5 income tax years. The bill also makes a change to the requirements of the donation, specifying that the donation may either preserve or improve the environment, rather than requiring that the donation only preserve the environment as originally enacted.

Additionally, the bill removes the application of the trigger to the tax credit.

1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1. Legislative declaration.** The general assembly
3 hereby finds and declares that the purpose of this tax expenditure is to
4 extend the instream flow incentive tax credit because an incentive to
5 encourage voluntary water rights donations helps to preserve Colorado's
6 streams and lakes.

7 **SECTION 2.** In Colorado Revised Statutes, 39-22-533, **amend**
8 (2) (a), (2) (b), (2) (c) (II) (D), (2) (d), and (9); and **repeal** (6) as follows:

9 **39-22-533. Instream flow incentive tax credit for water rights**
10 **holders - rules - definitions - repeal.** (2) (a) ~~Except as provided in~~
11 ~~subsection (6) of this section,~~ For income tax years commencing on or
12 after January 1, 2009, but prior to ~~January 1, 2015~~ JANUARY 1, 2020, there
13 may, at the discretion of the board, be allowed to any person an instream
14 flow incentive tax credit with respect to the income taxes imposed by this
15 article in the amount determined by the board pursuant to paragraph (b)
16 of this subsection (2).

17 (b) The board shall have the exclusive authority to approve any
18 instream flow incentive tax credits allowed pursuant to paragraph (a) of
19 this subsection (2). The credit shall only be available for permanent
20 transfers of water rights acquired pursuant to the board's public review
21 process specified in 2 CCR 408-2, paragraphs 6m. and 11., and upon a
22 finding by the board, in accordance with section 37-92-102 (3), C.R.S.,

1 that the proposed donation will preserve OR IMPROVE the environment to
2 a reasonable degree. The credit shall not be available for a water right that
3 is decreed for irrigation on land for which a conservation easement tax
4 credit is claimed pursuant to section 39-22-522 unless such water right is
5 specifically excluded from the terms of such conservation easement. The
6 board shall approve a credit by issuing to the person a credit certificate on
7 or before September 1 of the tax year in which the donation is accepted.

8 (c) The amount of a credit authorized in this section shall be
9 determined by the board, subject to the following guidelines:

10 (II) The value of the water right shall be determined by the board,
11 in consultation with the proposed donor. In determining the value of the
12 water right, the board may consider, in addition to other factors the board
13 deems appropriate, the following:

14 (D) The extent to which aquatic and riparian habitat would be
15 preserved OR IMPROVED by conversion of the water right to an instream
16 flow.

17 (d) In no event shall the board issue a credit certificate if the
18 aggregate sum of credits approved by the board pursuant to this section
19 and not yet eligible to be taken as described in subsection (6) of this
20 section exceeds two million dollars.

21 (6) ~~If the revenue estimate prepared by the staff of the legislative~~
22 ~~council in June 2009 and each June thereafter indicates that the amount~~
23 ~~of the total general fund revenues for that particular fiscal year will not~~
24 ~~be sufficient to grow the total state general fund appropriations by six~~
25 ~~percent over such appropriations for the previous fiscal year, then the~~
26 ~~credit authorized in this section shall not be allowed for any income tax~~
27 ~~year commencing during the calendar year in which the forecast is~~

1 prepared. The credit certificate shall remain valid for the next tax year in
2 which the revenue estimate prepared by the staff of the legislative council
3 indicates that the amount of the total general fund revenues will be
4 sufficient to grow the total state general fund appropriations by six
5 percent over such appropriations for the previous fiscal year.

6 (9) This section is repealed, effective ~~December 31, 2024~~
7 DECEMBER 31, 2029.

8 **SECTION 3. Safety clause.** The general assembly hereby finds,
9 determines, and declares that this act is necessary for the immediate
10 preservation of the public peace, health, and safety.