



## **Report to the Colorado General Assembly**

## **Water Resources Review Committee**

*Prepared by*

*The Colorado Legislative Council  
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## **Water Resources Review Committee**

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***December 2014***



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To Members of the Sixty-ninth General Assembly:

Submitted herewith is the final report of the Water Resources Review Committee. This committee was created pursuant to Article 98 of Title 37, Colorado Revised Statutes. The purpose of this committee is to oversee the conservation, use, development, and financing of Colorado's water resources.

At its meeting on October 15, 2014, the Legislative Council reviewed the report of this committee. A motion to forward this report and the bills therein for consideration in the 2015 session was approved.

Sincerely,

/s/ Representative Mark Ferrandino  
Chairman



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*This report is also available on line at:*

<http://www.colorado.gov/lcs/WRRRC>





## Committee Charge

**General charge.** The Water Resources Review Committee (WRRC) was created to contribute to and monitor the conservation, use, development, and financing of Colorado's water resources for the general welfare of the state (Section 37-98-102, C.R.S.). The WRRC is authorized to review and propose legislation in furtherance of its purposes. In conducting its review, the WRRC is required to consult with experts in the field of water conservation, quality, use, finance, and development. The WRRC was authorized to hold six regular meetings in 2014, including two times outside of the interim period, and to take two field trips in connection with its mandate. Two laws passed in 2015 expanded the WRRC's charge and the number of meetings that must be held away from the capitol: Senate Bill 14-115 and Senate Bill 14-017.

**Senate Bill 14-115 charge concerning statewide hearings on the Colorado Water Plan.** Pursuant to SB 14-115, the WRRC is required to review statewide planning for water resources. The law required the WRRC to hold at least one public hearing in each of the nine geographic regions associated with basin roundtables to collect feedback from the public. The WRRC was required to provide a summary of the public's feedback, as well as its own feedback to the Colorado Water Conservation Board (CWCB) by November 1, 2014. The CWCB in the Department of Natural Resources is the state's primary water policy and planning agency. The WRRC was authorized to recommend the introduction of legislation based on the results of the review. Any hearing held regarding the state water plan did not count against the WRRC's meeting or field trip limit.

**Senate Bill 14-017 charge concerning municipal outdoor water consumption.** SB 14-017 directed the WRRC to study best practices to limit municipal outdoor water consumption during the 2014 interim. The WRRC was authorized to propose legislation to facilitate the implementation of those best practices that are both reasonable and likely to result in the measurable conservation of municipal water used for outdoor purposes.

## Regular Committee Activities

The WRRC held six regular meetings and took three tours during the 2014 interim. The Executive Committee of Legislative Council authorized the WRRC to take an additional tour. During the 2014 interim, the WRRC met with a broad range of water users and government officials, including local water providers, state water rights administrators, water quality regulators, state water planners, water project developers, and concerned citizens. The WRRC received briefings on major water issues affecting the state, including: planning for future water needs; funding needs for state water agencies and water projects; regulation of groundwater use; implementation of new water laws; development of the Colorado Water Plan; and other issues. In addition, the WRRC recommended a number of proposals.

**Committee tours.** In July, the WRRC attended a two-day tour of the Yampa River Basin, where it visited water storage and distribution facilities, irrigation projects, recreational facilities, and other sites. This tour was organized by the Colorado Foundation for Water Education. In July, the WRRC held a public meeting at Western State Colorado University in Gunnison and attended the Colorado Water Workshop. In August, the WRRC attended the Colorado Water Congress summer convention in Snowmass, where it held a public meeting and attended presentations about water and energy development, water infrastructure financing, ongoing water supply studies, and other water management issues.



**Regulation of groundwater use.** The WRRC held an entire meeting that focused on groundwater management. It reviewed current groundwater pumping regulations, including measures to protect senior water users from impacts caused by junior groundwater users, and received testimony from irrigators and other water users concerning ongoing groundwater supply challenges in the South Platte and Rio Grande Basins. Bill C continues current requirements for groundwater pumping in the Dawson Aquifer in the Denver Basin that underlies much of the Denver metropolitan area. Without this bill, the Division of Water Resources would be required to develop a costly groundwater model for an area in which few additional wells are expected to be drilled and that is unlikely to reduce material injury to current water rights.

**Rising groundwater in the South Platte Basin.** The General Assembly enacted HB 12-1278 that required the CWCB, in consultation with the State Engineer and the Colorado Water Institute, to conduct a comprehensive study of the South Platte River Basin alluvial aquifer. As part of this study, the Colorado Water Institute examined localized areas of high groundwater that are occurring in the basin near the communities of Fort Morgan, Gilcrest, Julesburg, and Sterling. The results of the study were reported to the General Assembly by December 31, 2013. The report determined that extensive development of recharge ponds and changes in groundwater pumping in the past decade have likely changed local groundwater conditions. The report recommended that the State Engineer be delegated responsibility to consult with the water court regarding new recharge structures before construction and to recommend changes in design or operation when a recharge plan is deemed likely to cause harm. It also recommended that two pilot projects be authorized and funded by the General Assembly to allow the State Engineer to track and administer high groundwater zones for a specified period of time to lower the water table at Sterling and Gilcrest/LaSalle while testing alternative management approaches. At the groundwater hearing, the Colorado Water Institute testified that groundwater levels in the basin are continuing to rise and that homes and agricultural areas are being impacted by these waters. The WRRC approved Bill D that implements the HB 12-1278 study recommendations to mitigate localized high water table conditions in the South Platte Basin.

**Invasive phreatophytes.** Phreatophytes are deep-rooted plants that consume water from the water table or the layer of soil just above the water table. Since their introduction in the late nineteenth century, Tamarisk, also called Salt Cedar, and Russian-Olive have become widely distributed along major rivers, lakes, and reservoirs in Colorado and other Western states. According to a study of native and nonnative riparian plants in 17 Western states commissioned by the U.S. Bureau of Reclamation, Tamarisk and Russian-Olive were the third and fourth most frequently occurring woody riparian plants and the second and fifth most abundant species (out of 42 native and nonnative species) along rivers in the Western United States. Tamarisk and other invasive phreatophytes consume substantial amounts of water that would otherwise be available for native vegetation or for beneficial uses, such as agriculture. Bill E establishes a five-year grant program for the management of invasive phreatophytes.

**Appeals of Ground Water Commission decisions.** The Ground Water Commission is a regulatory and an adjudicatory body authorized by the General Assembly to manage and control groundwater resources within eight designated groundwater basins in eastern Colorado. Designated Basins are located in the eastern plains where there is very little surface water and where users rely primarily on groundwater as their source of water supply. The Ground Water Commission has delegated many of its regulatory functions to the State Engineer in the Department of Natural Resources, including the issuance of well permits and the determination of certain groundwater rights. The State Engineer also provides technical and administrative



assistance to the commission. The commission has delegated to its hearing officer, an employee of the Division of Water Resources, the review of facts, conclusions of law, and initial decisions of the Ground Water Commission. The hearing officer's decision may be appealed to the commission. Appeals for Ground Water Commission decisions are heard by the district court in a de novo procedure. Under current statute, the evidence that a district court may consider on appeal when reviewing a decision or action of the commission or state engineer is not limited to the evidence presented to the commission or State Engineer. Therefore, unlike appeals from other state agencies' decisions or actions under the State Administrative Procedure Act, a party appealing a decision or action of the commission or State Engineer may present new evidence on appeal that was not considered by the commission or State Engineer. Bill F limits the evidence that a district court may consider when reviewing a decision or action of the commission or the State Engineer on appeal to the evidence presented to the commission or the State Engineer.

***Flexible water use.*** A water right is a property interest that may be sold or transferred, provided that no other water right is injured and the transfer is approved by the division water court. Under current law, an applicant seeking to change the beneficial use of a water right in water court must designate a specific alternative beneficial use at the time of application. The WRRC considered, but did not recommend, a bill to create a more flexible change-in-use system that would allow an applicant who seeks to implement fallowing, regulated deficit irrigation, reduced consumptive use cropping, or other alternatives to the permanent dry-up of irrigated lands, to apply for a change in use without designating the specific beneficial use to which the water would be applied.

***Voluntary clean-up of abandoned mines.*** Under current law, the owner of polluted land, such as an abandoned mine, can submit a voluntary clean-up plan to the Department of Public Health and Environment (DPHE), which has 45 days to either accept or reject the plan after submission. The WRRC considered, but did not recommend, a bill that would have extended the review period to 180 days if the voluntary clean-up plan could affect water quality or a water quality discharge permit. The DPHE would be required to take extra steps to gather information including public comment prior to making its determination on the application. Further, the DPHE would have been required to disapprove a plan that proposed experimental, novel, or unproven methods to address water contamination unless the DPHE determined that the plan would be protective of human health and the environment.

## **Committee Activities to Implement Senate Bill 14-115**

***Governor's executive order concerning the Colorado Water Plan.*** In 2013, Governor Hickenlooper issued an executive order directing the CWCB to commence work on the Colorado Water Plan. According to the Governor's executive order, the Colorado Water Plan must promote a productive economy that supports vibrant and sustainable cities, viable and productive agriculture, and a robust skiing, recreation, and tourism industry. It must also incorporate an efficient and effective water infrastructure promoting smart land use and a strong environment that includes healthy watersheds, rivers and streams, and wildlife. The CWCB is instructed to provide a draft plan for review by the Governor's Office by December 10, 2014, and to complete the final plan by December 10, 2015.

***Senate Bill 14-115 legislative declaration.*** SB 14-115 declares that the General Assembly is primarily responsible for guiding the development of state water policy. It also declares that this law is necessary to protect the interests of the public in the state's water resources and that the General Assembly intends to engage the people of the state in a public



dialogue regarding optimal state water policy. The law also affirms the legislature's delegation of policy-making authority to the CWCB, and declares that the law seeks to promote the policies, processes, basin roundtable plans, and Interbasin Compact negotiations conducted pursuant to the "Colorado Water for the 21st Century Act," and the Interbasin Compact Charter. The law requires the WRRRC to hold at least one public hearing in each geographic region associated with basin roundtables to collect feedback from the public on the scope, fundamental approach, and basic elements of the draft Colorado Water Plan. The WRRRC must provide a summary of the public's feedback, as well as its own feedback, to the CWCB by November 1, 2014. The WRRRC may recommend the introduction of legislation based on the results of the review.

**Overview of Senate Bill 14-115 activities.** Pursuant to SB 14-115, the WRRRC held nine meetings, one in each geographic region associated with basin roundtables, to collect feedback from the public on the draft Colorado Water Plan. Specifically, the WRRRC met in Alamosa, Denver, Durango, Fort Collins, Glenwood Springs, Gunnison, Pueblo, Steamboat Springs, and Walden. Over 500 people are estimated to have attended the nine SB 14-115 hearings. The WRRRC also received public comments in letters and e-mails, handwritten questionnaires, and questionnaires that were completed on the WRRRC's website. On October 9, 2014, the WRRRC delivered a preliminary report to the CWCB that summarized the public feedback provided to the WRRRC by October 1, 2014. A final report was delivered to the CWCB on October 29, 2014. The WRRRC decided to defer providing its own feedback to the CWCB until after the CWCB has released the draft plan.

**Opportunities for the public to provide feedback on the Colorado Water Plan.** According to SB 14-115, the General Assembly passed this law to engage the people of the state in a public dialogue regarding optimum state water policy. Towards this end, the WRRRC conducted a public outreach process that encouraged any interested person to provide testimony on state water policy at a public meeting or submit comments directly through the WRRRC's website or by other means. Specifically, the chair of the WRRRC drafted a letter to members of the General Assembly inviting them to attend the SB 14-115 hearings and to notify their constituents about these hearings. The chair also drafted letters to local water entities, local governments, agricultural organizations, environmental organizations, and other entities asking them to encourage their members to participate in the SB 14-115 process. The WRRRC also worked with the Colorado Foundation for Water Education and the public education and public outreach coordinators for each basin roundtable to provide the public with notice of the WRRRC hearings and identify alternative means of submitting feedback to the WRRRC. Notice of the hearings was also provided to local media.

The WRRRC's website enabled the public to provide feedback on the Colorado Water Plan by filling out a questionnaire or by sending an e-mail to the WRRRC. Questionnaires were also distributed at each SB 14-115 hearing. This questionnaire offered interested persons the opportunity to provide information about themselves, including their name, their basin of residence and their water constituent group, their experience with the roundtable process, and to indicate whether they wanted to be added to the WRRRC's SB 14-115 interested persons e-mail list. It also offered an opportunity for respondents to raise questions about the plan, provide comments on the plan, and comment on any other water issue of interest. The public was also provided the opportunity to send a letter to the WRRRC concerning the Colorado Water Plan.

**Senate Bill 14-115 hearing format.** At each SB 14-115 hearing, the WRRRC received a briefing on the basin implementation plan (BIP), typically from the chair of the local basin roundtable or his or her designee. The basin's representative on the CWCB was also invited to



provide an update on the Colorado Water Plan. Attendees were encouraged to meet in small groups to discuss the BIPs, the draft Colorado Water Plan, and other water matters. Following these discussions, a member of each group reported on that table's discussion. The purpose of the small group discussions was to provide an opportunity for people who may not have been comfortable directly speaking to the WRRC to provide feedback on the Colorado Water Plan. Each small group typically included at least one member of the WRRC or local legislator to help facilitate the discussion and listen to the public's comments. At each meeting, the WRRC also received public testimony from any person who wanted to speak directly to the WRRC about the draft water plan or any other issue of concern.

***Report to the CWCB concerning public feedback provided on the Colorado Water Plan.*** The SB 14-115 report to the CWCB included comments from questionnaires that were submitted by 39 individuals at meetings, through the WRRC's website, or mailed to the WRRC. The report also included summaries of the comments provided by 86 individuals during public testimony, as well as summaries of e-mails and letters submitted to the WRRC. The report also included a summary of the 38 small group discussion reports from eight SB 14-115 hearings.

***Next steps in the Senate Bill 14-115 process.*** According to Governor Hickenlooper's executive order commissioning the Colorado Water Plan, the CWCB must provide a draft Colorado Water Plan to the Governor's Office by December 10, 2014, and complete the final plan by December 10, 2015. Pursuant to SB 14-115, in developing the draft plan, the CWCB is required to consider the feedback from the WRRC submitted to the board by November 1, 2014. The CWCB is also required to submit a draft state water plan to the WRRC by July 1, 2015, after which the WRRC must hold at least one public hearing in each basin to collect feedback from the public. The WRRC must provide a summary of the public's feedback as well as its own feedback to the CWCB by November 1, 2015. The WRRC may repeat this process whenever the CWCB submits a significant amendment to the state water plan. By November 1 of each year following the submission to the WRRC of a state water plan or plan amendment, any member of the General Assembly may request that the WRRC hold one or more hearings to review the plan or plan amendment.

## **Committee Activities to Implement Senate Bill 14-017**

***Overview of Senate Bill 14-017 activities.*** Pursuant to SB 14-017, the WRRC held a one-day meeting to address municipal outdoor water consumption. During this meeting, municipal water providers, agricultural water users, and other interested persons discussed best practices to limit municipal outdoor water consumption and other measures to help reduce the need for new municipal water supplies including municipal water use efficiency measures. The WRRC also recommended two bills that may help reduce municipal outdoor water consumption.

***Growing demand for municipal and industrial water supplies.*** Colorado's population is projected to nearly double to between 8.6 and 10 million people by 2050. In 2003, the General Assembly commissioned the Statewide Water Supply Initiative (SWSI) to explore water supply and demand issues in each of the state's major river basins. This study, completed by the CWCB in 2004 and updated in 2010, estimates that Colorado will need between 600,000 and 1 million acre-feet of additional water for municipal and industrial uses by 2050, depending upon the ability of water providers to complete identified projects and processes. An acre-foot is approximately the amount of water used by two typical households in a year



**Residential water use.** In general, half the water used by a typical household in a municipality is used for indoor purposes — such as bathing, clothes washing, food preparation, and dishwashing — and the other half is used for outdoor purposes, primarily for lawn and garden irrigation. Indoor water use is about 5 percent consumptive. Most of the water used for indoor purposes is collected by the sanitation system, treated, and returned to the stream system where it becomes available for other uses. However, most of the water used outside by a household is consumed by vegetation or lost to evaporation. Outdoor water use typically consumes about 70 to 85 percent of the water used. Consequently, municipal outdoor water use can have a greater impact on Colorado's water availability than indoor water use.

**Transfers of agricultural water rights to municipal uses.** Currently, most of Colorado's water is used for agricultural purposes. Agricultural water rights are also some of the most senior rights in Colorado. Consequently, the market value of this water is steadily increasing as demand for municipal water increases. Selling a water right to a municipality may be the most profitable way for a farmer to benefit from a water right. Large tracts of agricultural lands have been taken out of production to provide water to Colorado's growing municipalities, especially in the lower Arkansas River basin. Permanently transferring a water right from a farm to a municipality may adversely affect local agricultural economies. Farms that have sold their water rights typically pay less property tax, employ fewer persons, and no longer purchase agricultural supplies from local businesses.

**Introduced version of Senate Bill 14-017.** As introduced, SB 14-017 would have prohibited a local government from approving certain land use development permits unless the local government adopted an enforceable resolution or ordinance that limited the amount of irrigated grass in the development to no more than 15 percent of the total aggregate area of all residential lots. This limit would have applied when any part of the proposed water supply for the development was changed from agricultural irrigation purposes to municipal or domestic use and the change of use application was filed in water court on or after January 1, 2016. The limit would not have applied to irrigation with raw water.

**Best practices that limit municipal outdoor water consumption.** According to the legislative declaration of SB 14-017, statewide efforts to ease some of the pressure from agricultural water supplies would benefit greatly from reductions in municipal consumptive water uses, and it is critical to identify and quantify the best practices that limit municipal outdoor water consumption. SB 14-017 directed the WRRC to study during the 2014 interim best practices to limit municipal outdoor water consumption. The WRRC heard testimony from GreenCO, the organization that represents the landscape and horticulture industry in Colorado about ways to reduce municipal outdoor water consumption. GreenCO developed best management practices (BMPs) that guide how to reduce water consumption and protect water quality while designing, installing, and maintaining residential landscapes. GreenCO developed the BMPs in cooperation with Colorado State University Cooperative Extension, Denver Water, and Northern Colorado Water Conservancy District and Wright Water Engineers, along with input from conservation, education, engineering, landscape, plant and water experts. The BMPs are the basis for some municipal codes, state laws, and state-mandated water conservation plans.



**Measures in current law that address municipal outdoor water consumption or promote municipal water use efficiency.** The WRRC heard testimony about several measures in current law that address municipal outdoor water consumption or promote municipal water use efficiency. For example, the law prohibits restrictive covenants of common interest communities from limiting drought-tolerant vegetative landscapes. Larger water providers are also required to adopt water use efficiency plans and the law restricts certain state financial assistance to covered entities that fail to adopt such plans. Following is brief summary of state laws that address municipal outdoor water consumption or promote municipal water use efficiency.

- **Current limits on landscape restrictions.** Current law prohibits restrictive covenants of common interest communities, also called homeowner or condominium owner associations (HOAs), from limiting drought-tolerant vegetative landscapes. This prohibition applies to land use covenants, restrictions, or conditions applicable to real property. The limit does not apply to regulations imposed on real property by a governmental entity. In 2013, this law was further amended to specify that the prohibitions may not occur in the declarations, bylaws, rules, or regulations of any restrictive covenant. Finally, the law prohibits an HOA from requiring that a unit owner water landscaping in violation of municipal watering restrictions.
- **CWCB's Office of Water Conservation and Drought Planning.** The CWCB's Office of Water Conservation and Drought Planning was created by the legislature in 1991 to promote water conservation and drought mitigation planning. Specifically, the office is charged with:
  - ◆ acting as a repository for water conservation and drought mitigation planning information;
  - ◆ disseminating water conservation, drought mitigation planning, and related information to water providers and the general public;
  - ◆ providing technical assistance to and working with municipal, industrial, agricultural, and other water providers and state agencies as they plan for, evaluate, and implement water conservation plans and programs, drought mitigation plans, or both;
  - ◆ coordinating the planning for and assisting in the implementation of water conservation plans by state agencies;
  - ◆ administering financial assistance for water conservation and drought mitigation planning and implementing measures and programs; and
  - ◆ evaluating water conservation and drought mitigation plans related to the use of such plans by water providers to address water needs and to prepare for water-related emergencies based upon policies and guidelines adopted by the CWCB.
- **Water Efficiency Grant Program.** The Water Efficiency Grant Program is administered by the CWCB. The program provides financial assistance to communities, water providers, and eligible agencies for various water conservation efficiency activities. Eligible entities, including state and local governments, may receive funding to develop water conservation and drought plans, to implement water conservation goals outlined in a water conservation plan, and for public education and outreach regarding water conservation and efficiency. In 2010, the General Assembly extended the Water Efficiency Grant



Program to 2020 and authorized annual appropriations of up to \$550,000 from the Water Efficiency Grant Program cash fund beginning on July 1, 2010.

- **Covered entities and water use efficiency plans.** State law requires all covered entities to adopt a water use efficiency plan. A covered entity is defined as a municipality, agency, utility, or other publicly owned entity that provides water at retail to domestic, commercial, industrial, or public facility customers, and that has a total demand of at least two thousand acre-feet. Each covered entity, through its water use efficiency plan, is required to encourage its domestic, commercial, industrial, and public facility customers to use water more efficiently. When developing its water use efficiency plan, a provider is required to consider various water saving measures including: water-efficient fixtures and appliances; low-water-use landscapes and efficient irrigation; water-efficient industrial and commercial water-using processes; water reuse systems; distribution system leak identification and repair; public education; water rate structures and billing systems designed to encourage water use efficiency in a fiscally responsible manner; regulatory measures designed to encourage water conservation; and incentives to encourage the installation of water conservation measures.
- **Water use efficiency plans as a condition of state financial assistance.** State law prohibits the CWCB and the Colorado Water Resources and Power Development Authority from providing financial assistance for the construction of a water diversion, storage, conveyance, water treatment, or waste water treatment storage facility if the applicant for assistance is a covered entity that has not adopted a water use efficiency plan.
- **Sale of watersense-listed plumbing fixtures.** In 2014, the General Assembly enacted a law that prohibits the sale of new lavatory faucets, shower heads, flushing urinals, tank-type toilets, and tank-type water closets after September 1, 2016, unless they are a watersense-listed plumbing fixture. Watersense-listed plumbing fixtures are defined as having been tested and certified by an accredited third-party body or laboratory in accordance with the U.S. Environmental Protection Agency's Watersense program or its successor program. Local governments may prescribe additional or more restrictive water conservation requirements for plumbing fixtures.
- **Rainwater harvesting.** Precipitation collection, also called rainwater harvesting, occurs when runoff from an impervious surface is intercepted and applied to a beneficial use such as lawn watering. In 2009, the legislature passed a law that allows precipitation to be collected from the roof of a home. Only homes that are not connected to a domestic water system, such as the Denver Water Department, may collect the water. Eligible persons must also have an exempt well permit or qualify for such a permit. The collected water may only be used for ordinary household purposes, fire protection, watering of animals and livestock, and irrigation of up to one acre of gardens and lawns. However, persons with exempt well permits are limited to using the collected water under the same restrictions as their well permit. Another law passed in 2009 authorizes a ten-year pilot program for the collection of precipitation from rooftops for nonpotable uses. The program can include up to ten new residential or mixed-use developments that are to be selected by the CWCB and the State Engineer. The purpose of the program is to develop data and methods to





measure local precipitation, native plant consumption, and groundwater flow. It will also evaluate precipitation collection designs and determine how to prevent injury to water rights. The projects are required to operate according to a substitute water supply plan that is approved annually by the State Engineer. At the end of pilot study, collection systems must obtain water court approval of an augmentation plan or be permanently abandoned. Substitute supply plans and augmentation plans replace a junior water user's depletions to a stream system, thereby preventing injury to a decreed water right.

- **Graywater use.** In 2013, the General Assembly authorized the Water Quality Control Commission (WQCC) in the Department of Public Health and Environment to promulgate a regulation with standards for the use of graywater. Graywater is defined as wastewater collected within a building from sources other than toilets and urinals, kitchen sinks, dishwashers, and nonlaundry utility sinks. Counties and municipalities may adopt local legislation to allow graywater use. Graywater use is limited to applications that are within the uses allowed under the well permit or water right of the original source of the water.
- **Water conservation plumbing codes.** In 2010, a law was enacted that requires the Examining Board of Plumbers in the Department of Regulatory Agencies to adopt a plumbing code that includes conservation standards that meet national guidelines and standards, and that are tested and approved by a nationally recognized testing laboratory. The conservation standards must address water-efficient devices and fixtures and the use of locally produced materials when practicable.
- **Water use efficiency requirements for state agencies.** Since 1989, Colorado law has required facilities and projects financed wholly or in part by the state, that are being renovated or newly constructed, to develop and implement a plan to enhance water use efficiency. State law requires the installation of water-efficient plumbing at the renovated or newly constructed facilities and projects. If a state facility or project involves landscaping, or maintenance of existing landscaping, a landscaping plan must be developed following best management practices for landscape irrigation. State agencies are also required to conduct water audits with local water suppliers, if such audits are available. Water audits help identify inefficient water uses and potential water saving methods. The law also states that any public entity that constructs or renovates a public project or facility to which the law applies "may develop a water use analysis, a water use projection, and a landscaping water plan to guide and regulate water used for maintenance of any such landscaping."
- **Best management practices for state landscaping plans.** If a state facility or project involves landscaping, to enhance water use efficiency, the public entity must develop a landscaping plan that includes best management practices, including: limiting frequently irrigated and mowed turf to functional areas or entryways; restricting turf use from median strip plantings; ensuring the use of efficient irrigation techniques and systems; employing the use of nonpotable water supplies and water reuse, where such supplies and water reuse are available; and other measures.



**Bill recommendations that address municipal outdoor water consumption.** Bill A directs the CWCB, in consultation with the Department of Local Affairs, to provide free training programs for local government water use, water demand, and land use planners regarding best management practices for water demand management and water conservation. Bill B provides incentives for new precipitation harvesting pilot projects and expands the types of eligible projects to include the redevelopment of residential housing or mixed uses and new or redeveloped multi-building nonresidential property.



## Summary of Recommendations

As a result of the committee's activities, six bills were recommended to the Legislative Council for consideration in the 2015 session. At its meeting on October 15, 2014, the Legislative Council approved all six of the WRRC's recommended bills for introduction.

### **Bill A — Promote Water Conservation in Land Use Planning**

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Bill A directs the CWCB, in consultation with the Division of Planning in the Department of Local Affairs, to develop and provide free training programs for local government water use, water demand, and land use planners regarding best management practices for water demand management and water conservation. It must also make recommendations regarding how to better integrate water demand management and conservation planning into land use planning, including, as appropriate, legislative, regulatory, and guidance or policy recommendations. The CWCB and the Colorado Water Resources and Power Development Authority, in determining whether to provide financial assistance to a local governmental water supply entity, must consider whether the entity's planners, if it has any, have taken the training and are actively applying it in their planning decisions.

### **Bill B — Promote Precipitation Harvesting Pilot Projects**

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Bill B expands the types of projects that are eligible for precipitation harvesting pilot projects to include the redevelopment of residential housing or mixed uses and new or redeveloped multi-building nonresidential property. It directs the CWCB to update its approval criteria that sponsors of precipitation harvesting pilot projects can use for substitute water supply and augmentation plans.

### **Bill C — Repeal New Augmentation Standard Dawson Aquifer**

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Bill C repeals the requirement that, beginning July 1, 2015, augmentation requirements for the withdrawal of water from the Dawson Aquifer must be based on actual aquifer conditions, thereby continuing current law, which requires replacement of actual out-of-priority depletions to the stream.

### **Bill D — House Bill 12-1278 Recommendations**

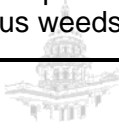
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Bill D requires the CWCB, in consultation with the State Engineer, to administer two pilot projects in the areas of Gilcrest/LaSalle and Sterling to evaluate alternative methods of lowering the water table in areas that are experiencing damaging high groundwater levels. It also authorizes the State Engineer to review an augmentation plan submitted to a water court if it includes the construction of a recharge structure.

### **Bill E — Invasive Phreatophyte Management Grant**

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Bill E establishes a five-year grant program for the management of invasive phreatophytes and creates the Invasive Phreatophyte Grant Program Account in the Noxious Weed Management Fund. The Colorado Department of Agriculture administers the grant program under its authority to manage noxious weeds.



## **Bill F — Appellate Review of Ground Water Commission's Decisions**

Bill F limits the evidence that a district court may consider when reviewing a decision or action of the Ground Water Commission or the State Engineer on appeal to the evidence presented to the commission or the State Engineer.



## Resource Materials

Summaries are prepared for each meeting of the committee and contain all handouts provided to the committee. The summaries and attachments are available at the Division of Archives, 1313 Sherman Street, Denver (303-866-2055). The listing below contains the dates of committee meetings and the topics discussed at those meetings. The meeting summaries are also available on the WRRC's website at:

<http://www.colorado.gov/lcs/WRRC>

### Regular Meeting Dates and Topics Discussed

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August 7, 2014

- ◆ Update on the Colorado Water Court Committee
- ◆ Update on alternative transfer mechanisms and HB 13-1248 pilot projects for the leasing of water for municipal use
- ◆ Flex Market approach and review of HB 14-1026
- ◆ Panel discussion on the viability of alternative agriculture water transfer methods in concept and practice
- ◆ Temporary agriculture transfers in the Arkansas Basin
- ◆ Water markets and partnerships
- ◆ U.S. Forest Service draft rule concerning ski area-owned water rights
- ◆ Water banking to protect regional economies
- ◆ Watershed protection and opportunities for collaboration

August 20, 2014

- ◆ SB 14-023 and the transfer of water efficiency savings to instream use
- ◆ Update on the Colorado Water Plan
- ◆ Update on the Historic Keystone Mine Site on Mt. Emmons in Gunnison County
- ◆ Roaring Fork Watershed Protection — 2014 State of the Forest Report

September 4, 2014

- ◆ Groundwater policy and administration in Colorado's Water Plan, basin roundtables, and basin implementation plans
- ◆ Agriculture producers' perspectives on current groundwater administration
- ◆ Review of HB 12-1278 Study recommendations for the South Platte alluvial aquifer



- ◆ Overview of augmentation plan statutes and rules
- ◆ Colorado's anti-speculation water doctrine
- ◆ Rio Grande Basin aquifer issues - groundwater subdistrict rulemaking and augmentation plan process
- ◆ Overview of designated basin and Denver Basin groundwater policy and practice
- ◆ Update, status, and objectives of the South Platte Coop
- ◆ Update, status, and objectives of the South Platte Basin Roundtable Groundwater Committee
- ◆ Panel discussion on current South Platte groundwater issues

September 5, 2014

- ◆ Climate change in Colorado
- ◆ Water and wastewater infrastructure needs and update on SB 09-165
- ◆ De novo review of Colorado Groundwater Commission hearing decisions
- ◆ Postpone modified groundwater modeling in the Denver Basin
- ◆ Update on the CWCB Precipitation Collection Pilot Project
- ◆ Requirements for voluntary mine clean-up projects pursuant to the Voluntary Clean-Up and Development Act

September 30, 2014

- ◆ Update on the Colorado Water Plan
- ◆ Process for submitting WRRC comments on the Colorado Water Plan pursuant to SB 14-115
- ◆ Water education and outreach strategies and recommendations for the Colorado Water Plan
- ◆ Flood risks in the South Platte Greenway and potential mitigation measures
- ◆ Water rights change case issues
- ◆ Final action on recommendations to Legislative Council

### **Senate Bill 14-017 Meeting Date and Topics Discussed**

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August 6, 2014

- ◆ Background and intent of SB 14-017
- ◆ Current state policies and programs concerning municipal outdoor water consumption and their presentation in the draft Colorado Water Plan
- ◆ Current programs and barriers faced by municipal water providers in reducing outdoor water consumption
- ◆ Measures and obstacles to reducing outdoor water consumption in residential developments
- ◆ Policy and best practices for municipal water conservation
- ◆ Update on other states' policies and Colorado River initiatives to reduce municipal outdoor water consumption
- ◆ Next steps for reducing municipal outdoor water consumption
- ◆ Public testimony



## **Senate Bill 14-115 Meeting Dates and Topics Discussed**

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June 18, 2014 Gunnison Basin Meeting in Gunnison, Colorado

- ◆ Overview of the Colorado Water Plan
- ◆ Gunnison Basin Implementation Plan
- ◆ Small group discussion reports
- ◆ Public testimony

August 21, 2014 Colorado Basin Meeting in Glenwood Springs, Colorado

- ◆ Overview of the Colorado Water Plan
- ◆ Colorado Basin Implementation Plan
- ◆ Small group discussion reports
- ◆ Public testimony

August 27, 2014 Southwest Basin Meeting in Durango, Colorado

- ◆ Overview of the Colorado Water Plan
- ◆ Southwest Basin Implementation Plan
- ◆ Update on U.S. Forest Service and U.S. Bureau of Land Management Joint Land Management Plan
- ◆ Small group discussion reports
- ◆ Public testimony

August 28, 2014 Rio Grande Basin Meeting in Alamosa, Colorado

- ◆ Overview of the Colorado Water Plan
- ◆ Rio Grande Basin Implementation Plan
- ◆ Small group discussion reports
- ◆ Public testimony

August 29, 2014 Arkansas Basin Meeting in Pueblo, Colorado

- ◆ Overview of the Colorado Water Plan
- ◆ Arkansas Basin Implementation Plan
- ◆ Small group discussion reports
- ◆ Public testimony



September 16, 2014 Yampa-White Basin Meeting in Steamboat Springs, Colorado

- ◆ Overview of the Colorado Water Plan
- ◆ Yampa-White Basin Implementation Plan
- ◆ Small group discussion reports
- ◆ Public testimony

September 16, 2014 North Platte Basin Meeting in Walden, Colorado

- ◆ Overview of the Colorado Water Plan
- ◆ North Platte Basin Implementation Plan
- ◆ Small group discussion reports
- ◆ Public testimony

September 17, 2014 South Platte Basin Meeting in Fort Collins, Colorado

- ◆ Overview of the Colorado Water Plan
- ◆ South Platte Basin Implementation Plan
- ◆ Small group discussion reports
- ◆ Public testimony

October 1, 2014 Metro Basin Meeting in Denver, Colorado

- ◆ Overview of the Colorado Water Plan
- ◆ South Platte Basin Implementation Plan
- ◆ Small group discussion reports
- ◆ Public testimony





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

**BILL A**

LLS NO. 15-0110.01 Thomas Morris x4218

**SENATE BILL**

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**SENATE SPONSORSHIP**

**Roberts**, Hodge, Jones

**HOUSE SPONSORSHIP**

**Vigil**, Coram, Mitsch Bush

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**Senate Committees**

**House Committees**

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**A BILL FOR AN ACT**

101      **CONCERNING THE PROMOTION OF WATER CONSERVATION IN THE**  
102      **LAND USE PLANNING PROCESS.**

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**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>.)*

**Water Resources Review Committee.** The bill directs the Colorado water conservation board (CWCB), in consultation with the division of planning in the department of local affairs (DOLA), to:

- Develop and provide free training programs, on a recurring basis, for local government water use, water demand, and

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.*

- land use planners regarding best management practices for water demand management and water conservation; and
- Make recommendations regarding how to better integrate water demand management and conservation planning into land use planning, including, as appropriate, legislative, regulatory, and guidance or policy recommendations.

The CWCB and the Colorado water resources and power development authority, in determining whether to render financial assistance to a local governmental water supply entity, must consider whether the entity's planners, if it has any, have taken the training and are actively applying it in their planning decisions.

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

2 **SECTION 1.** In Colorado Revised Statutes, 37-60-126, **amend**  
3 (9) (b) as follows:

4 **37-60-126. Water conservation and drought mitigation**  
5 **planning - programs - relationship to state assistance for water**  
6 **facilities - guidelines - water efficiency grant program - repeal.**

7 (9) (b) (I) IN DETERMINING WHETHER TO RENDER FINANCIAL ASSISTANCE  
8 TO A COVERED ENTITY, the board and the Colorado water resources and  
9 power development authority, to which any covered entity has applied for  
10 financial assistance for the construction of a water diversion, storage,  
11 conveyance, water treatment, or wastewater treatment facility, shall  
12 consider:

13 (A) Any water conservation plan filed pursuant to this section; ~~in~~  
14 ~~determining whether to render financial assistance to such entity~~ AND

15 (B) WHETHER THE COVERED ENTITY'S WATER USE, WATER  
16 DEMAND, WATER CONSUMPTION, AND LAND USE PLANNERS, IF IT HAS ANY,  
17 HAVE TAKEN AND ARE ACTIVELY APPLYING THE TRAINING AVAILABLE TO  
18 THEM PURSUANT TO SUBPARAGRAPH (III) OF THIS PARAGRAPH (b) IN THEIR  
19 WATER USE, WATER DEMAND, AND LAND USE PLANNING DECISIONS.

1 (II) Such consideration shall be carried out within the discretion  
2 accorded the board and the Colorado water resources and power  
3 development authority pursuant to which ~~such~~ THE board and authority  
4 render ~~such~~ financial assistance to ~~such~~ A covered entity.

5 (III) IN CONSULTATION WITH THE DIVISION OF PLANNING IN THE  
6 DEPARTMENT OF LOCAL AFFAIRS, THE BOARD SHALL:

7 (A) DEVELOP TRAINING PROGRAMS, INCLUDING INTRODUCTORY  
8 PROGRAMS, REFRESHER PROGRAMS, AND ADVANCED PROGRAMS, FOR  
9 LOCAL GOVERNMENT WATER USE, WATER DEMAND, WATER  
10 CONSUMPTION, AND LAND USE PLANNERS REGARDING BEST MANAGEMENT  
11 PRACTICES FOR WATER DEMAND MANAGEMENT AND WATER  
12 CONSERVATION;

13 (B) PROVIDE THE TRAINING, ON A RECURRING BASIS, FREE OF  
14 CHARGE TO LOCAL WATER USE, WATER DEMAND, AND LAND USE  
15 PLANNERS; AND

16 (C) MAKE RECOMMENDATIONS REGARDING HOW TO BETTER  
17 INTEGRATE WATER DEMAND MANAGEMENT AND CONSERVATION  
18 PLANNING INTO LAND USE PLANNING, INCLUDING, AS APPROPRIATE,  
19 LEGISLATIVE, REGULATORY, AND GUIDANCE OR POLICY  
20 RECOMMENDATIONS.

21 **SECTION 2. Act subject to petition - effective date -**  
22 **applicability.** (1) This act takes effect at 12:01 a.m. on the day following  
23 the expiration of the ninety-day period after final adjournment of the  
24 general assembly (August 5, 2015, if adjournment sine die is on May 6,  
25 2015); except that, if a referendum petition is filed pursuant to section 1  
26 (3) of article V of the state constitution against this act or an item, section,  
27 or part of this act within such period, then the act, item, section, or part  
28 will not take effect unless approved by the people at the general election

1 to be held in November 2016 and, in such case, will take effect on the  
2 date of the official declaration of the vote thereon by the governor.

3 (2) This act applies to conduct occurring on or after the applicable  
4 effective date of this act.

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

**BILL B**

LLS NO. 15-0111.01 Thomas Morris x4218

**HOUSE BILL**

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**HOUSE SPONSORSHIP**

**Coram**, Mitsch Bush, Sonnenberg, Vigil

**SENATE SPONSORSHIP**

**(None)**, Hodge, Jones, Roberts

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**House Committees**

**Senate Committees**

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**A BILL FOR AN ACT**

101 **CONCERNING INCENTIVES FOR PRECIPITATION HARVESTING.**

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**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>.)*

**Water Resources Review Committee.** In 2009, the general assembly authorized up to 10 precipitation harvesting pilot projects for new real estate developments of residential housing or mixed uses. Only one project has been approved. To encourage more projects, the bill:

- Includes the redevelopment of residential housing or mixed uses and new or redeveloped multi-building nonresidential property as potential pilot projects;

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.*

- Directs the Colorado water conservation board to update its approval criteria and guidelines, including regionally applicable factors that sponsors can use for substitute water supply and augmentation plans that specify the amount of evapotranspiration of preexisting natural vegetative cover, to which the state engineer and water judges must give presumptive effect, subject to rebuttal;
- Reduces the amount of water needed for a project's temporary substitute water supply plan and permanent augmentation plan by the amount of historic natural depletion to the waters of the state, if any, caused by the preexisting natural vegetative cover and evaporation on the surface of the area that will be, or that has been, made impermeable as part of the pilot project; and
- Specifies that a project's temporary retention of storm water for the purpose of improving water quality is not subject to an order of the state or division engineers if the retention complies with the board's criteria and guidelines and the applicable requirements of the state's water quality laws.

---

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

2           **SECTION 1.** In Colorado Revised Statutes, 37-60-115, **amend**  
 3 (6) (b) introductory portion, (6) (c) (I), and (6) (c) (II) (A); and **add** (6)  
 4 (b) (VI) and (6) (c) (II) (C) as follows:

5           **37-60-115. Water studies - rules - repeal.** (6) **Precipitation**  
 6 **harvesting pilot projects.** (b) An applicant for a development permit, as  
 7 that term is defined in section 29-20-103, C.R.S., for a new OR  
 8 REDEVELOPED planned unit development, ~~or~~ new OR REDEVELOPED  
 9 subdivision of residential housing or mixed uses, OR A NEW OR  
 10 REDEVELOPED MULTI-BUILDING NONRESIDENTIAL PROPERTY may submit  
 11 an application to the board to become a sponsor of one or more of the ten  
 12 pilot projects authorized by this section. The board shall establish criteria  
 13 and guidelines, AND UPDATE THE CRITERIA AND GUIDELINES BY JANUARY  
 14 1, 2016, WITH THE GOAL OF INCENTIVIZING THE SUBMISSION OF  
 15 APPLICATIONS AND APPLYING LESSONS LEARNED FROM PREVIOUSLY

1 APPROVED PILOT PROJECTS, for applications and the selection of pilot  
2 projects, including the following:

3 (VI) REGIONALLY APPLICABLE FACTORS THAT SPONSORS CAN USE  
4 FOR SUBSTITUTE WATER SUPPLY AND AUGMENTATION PLANS THAT  
5 SPECIFY THE AMOUNT OF EVAPOTRANSPIRATION OF PREEXISTING  
6 NATURAL VEGETATIVE COVER. IF AN APPLICANT USES SUCH A FACTOR,  
7 THE STATE ENGINEER AND WATER JUDGES SHALL GIVE THE FACTOR  
8 PRESUMPTIVE EFFECT, SUBJECT TO REBUTTAL. THE BOARD NEED NOT  
9 ESTABLISH A FACTOR FOR A REGION UNTIL THE SPONSOR OF A PROJECT  
10 LOCATED WITHIN THAT REGION HAS SUBMITTED A MINIMUM OF TWO  
11 YEARS OF DATA PURSUANT TO SUB-SUBPARAGRAPH (B) OF  
12 SUBPARAGRAPH (II) OF PARAGRAPH (c) OF THIS SUBSECTION (6). A  
13 SPONSOR THAT MAKES SUCH A SUBMISSION SHALL ALSO SUBMIT THE DATA  
14 TO THE BOARD.

15 (c) Notwithstanding any limitations regarding phreatophytes or  
16 impermeable surfaces that would otherwise apply pursuant to section  
17 37-92-103 (9) or 37-92-501 (4) (b) (III), each of the ten pilot projects  
18 shall:

19 (I) During the term of the pilot project, operate according to a  
20 substitute water supply plan, if approved annually by the state engineer  
21 pursuant to section 37-92-308 (4) or (5). Until the pilot project sponsor  
22 applies to the water court for a permanent augmentation plan, the pilot  
23 project shall be required to replace an amount of water equal to the  
24 amount of precipitation captured and measured from rooftops and  
25 impermeable surfaces for nonpotable uses; EXCEPT THAT, FOR A PILOT  
26 PROJECT FOR WHICH THE APPLICATION WAS SUBMITTED ON OR AFTER  
27 JANUARY 1, 2016, IN DETERMINING THE QUANTITY OF WATER REQUIRED  
28 FOR THE SUBSTITUTE WATER SUPPLY PLAN TO REPLACE STREAM

1 DEPLETIONS, THERE IS NO REQUIREMENT TO REPLACE THE AMOUNT OF  
2 HISTORIC NATURAL DEPLETION TO THE WATERS OF THE STATE, IF ANY,  
3 CAUSED BY THE PREEXISTING NATURAL VEGETATIVE COVER AND  
4 EVAPORATION ON THE SURFACE OF THE AREA THAT WILL BE, OR THAT HAS  
5 BEEN, MADE IMPERMEABLE AS PART OF THE PILOT PROJECT. THE  
6 APPLICANT BEARS THE BURDEN OF PROVING THE HISTORIC NATURAL  
7 DEPLETION.

8 (II) (A) Apply to the appropriate water court for a permanent  
9 augmentation plan prior to completion of the pilot project or file a plan  
10 with the state engineer to permanently retire the rainwater collection  
11 system, which plan shall be reviewed and approved prior to the cessation  
12 of augmentation. As a condition of approving the retirement of a pilot  
13 project, the state engineer shall have the authority to require the project  
14 sponsor to replace any ongoing delayed depletions caused by the pilot  
15 project after the project has ceased. Any such permanent augmentation  
16 plan shall entitle the sponsor to consume without replacement only that  
17 portion of the precipitation that the sponsor proves by a preponderance of  
18 the evidence would not have accrued to a natural stream under  
19 preexisting, natural vegetation conditions. The sponsor shall be required  
20 to fully augment any precipitation captured out of priority that would  
21 otherwise have accrued to a natural stream; EXCEPT THAT, FOR A PILOT  
22 PROJECT FOR WHICH THE APPLICATION WAS SUBMITTED ON OR AFTER  
23 JANUARY 1, 2016, IN DETERMINING THE QUANTITY OF WATER REQUIRED  
24 FOR THE AUGMENTATION PLAN TO REPLACE STREAM DEPLETIONS, THERE  
25 IS NO REQUIREMENT TO REPLACE THE AMOUNT OF HISTORIC NATURAL  
26 DEPLETION TO THE WATERS OF THE STATE, IF ANY, CAUSED BY THE  
27 PREEXISTING NATURAL VEGETATIVE COVER AND EVAPORATION ON THE  
28 SURFACE OF THE AREA THAT WILL BE, OR THAT HAS BEEN, MADE



1 IMPERMEABLE AS PART OF THE PILOT PROJECT. THE APPLICANT BEARS THE  
2 BURDEN OF PROVING THE HISTORIC NATURAL DEPLETION.

3 (C) FOR A PILOT PROJECT FOR WHICH THE APPLICATION WAS  
4 SUBMITTED ON OR AFTER JANUARY 1, 2016, NOT BE SUBJECT TO AN ORDER  
5 ISSUED PURSUANT TO SECTION 37-92-502 WITH RESPECT TO THE PROJECT'S  
6 TEMPORARY RETENTION OF STORM WATER FOR THE PURPOSE OF  
7 IMPROVING WATER QUALITY IF THE RETENTION COMPLIES WITH THE  
8 BOARD'S CRITERIA AND GUIDELINES AND THE APPLICABLE REQUIREMENTS  
9 OF ARTICLE 8 OF TITLE 25, C.R.S.

10 **SECTION 2. Act subject to petition - effective date -**  
11 **applicability.** (1) This act takes effect at 12:01 a.m. on the day following  
12 the expiration of the ninety-day period after final adjournment of the  
13 general assembly (August 5, 2015, if adjournment sine die is on May 6,  
14 2015); except that, if a referendum petition is filed pursuant to section 1  
15 (3) of article V of the state constitution against this act or an item, section,  
16 or part of this act within such period, then the act, item, section, or part  
17 will not take effect unless approved by the people at the general election  
18 to be held in November 2016 and, in such case, will take effect on the  
19 date of the official declaration of the vote thereon by the governor.

20 (2) This act applies to precipitation harvesting pilot project  
21 applications submitted on or after the applicable effective date of this act.

First Regular Session  
Seventieth General Assembly  
STATE OF COLORADO

BILL C

LLS NO. 15-0112.01 Thomas Morris x4218

SENATE BILL

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SENATE SPONSORSHIP

Hodge, Jones, Roberts

HOUSE SPONSORSHIP

Mitsch Bush,

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Senate Committees

House Committees

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A BILL FOR AN ACT

101 CONCERNING AUGMENTATION REQUIREMENTS FOR WELLS  
102 WITHDRAWING WATER FROM THE DAWSON AQUIFER.

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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>.)*

**Water Resources Review Committee.** Current law specifies that, beginning July 1, 2015, augmentation requirements for the withdrawal of water from the Dawson aquifer must be based on actual aquifer conditions. The bill repeals this requirement, thereby continuing current law, which requires replacement of actual out-of-priority depletions to the stream; except that the

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.*

replacement of post-pumping depletions is required only if necessary to compensate for injury.

---

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

2           **SECTION 1.** In Colorado Revised Statutes, 37-90-137, **amend** (9)  
3 (c.5); and **repeal** (9) (c) as follows:

4           **37-90-137. Permits to construct wells outside designated basins -**  
5 **fees - permit no groundwater right - evidence - time limitation - well**  
6 **permits - rules.** (9) (c) ~~(f)~~ As to wells that will be completed in the Dawson,  
7 Denver, Arapahoe, and Laramie-Fox Hills aquifers and will withdraw  
8 groundwater that is not nontributary groundwater, as defined in section  
9 37-90-103 (10.7), judicial approval of plans for augmentation shall be required  
10 prior to the use of such groundwater. As to such wells completed in the Dawson  
11 aquifer, decrees approving such plans for augmentation shall provide for the  
12 replacement of actual stream depletion to the extent necessary to prevent any  
13 injurious effect, based upon actual aquifer conditions in existence at the time  
14 of such decree. As to such wells completed in the Denver, Arapahoe, or  
15 Laramie-Fox Hills aquifers more than one mile from any point of contact  
16 between any natural stream including its alluvium on which water rights would  
17 be injuriously affected by any stream depletion, and any such aquifer, such  
18 decrees shall provide for the replacement to the affected stream system or  
19 systems of a total amount of water equal to four percent of the amount of water  
20 withdrawn on an annual basis. As to such wells completed in such aquifers at  
21 points closer than one mile to any such contact, the amount of such replacement  
22 shall be determined using the assumption that the hydrostatic pressure level in  
23 ~~each~~ such aquifer has been lowered at least to the top of that aquifer throughout  
24 that aquifer. Such decrees may also require the continuation of replacement  
25 after withdrawal ceases if necessary to compensate for injurious stream

1 depletions caused by prior withdrawals from such wells and shall meet all other  
2 statutory criteria for such plans.

3 (H) ~~This paragraph (c) is not in effect until July 1, 2015, and until then~~  
4 ~~paragraph (c.5) of this subsection (9) applies.~~

5 (c.5) (I) (A) As to wells that will be completed in the Dawson, Denver,  
6 Arapahoe, and Laramie-Fox Hills aquifers and will withdraw groundwater that  
7 is not nontributary groundwater, ~~as defined in section 37-90-103(10.7);~~ judicial  
8 approval of plans for augmentation ~~shall be~~ IS required prior to the use of ~~such~~  
9 THE groundwater.

10 (B) As to such wells completed in the Dawson aquifer, decrees  
11 approving ~~such~~ plans for augmentation ~~shall~~ MUST provide for the replacement  
12 of actual out-of-priority depletions to the stream caused by withdrawals from  
13 ~~such~~ THE wells and ~~shall~~ MUST meet all other statutory criteria for ~~such~~ THE  
14 plans.

15 (C) As to such wells completed in the Denver, Arapahoe, or  
16 Laramie-Fox Hills aquifers more than one mile from any point of contact  
17 between any natural stream including its alluvium on which water rights would  
18 be injuriously affected by any stream depletion, and any such aquifer, ~~such~~ THE  
19 decrees ~~shall~~ MUST provide for the replacement to the affected stream system  
20 or systems of a total amount of water equal to four percent of the amount of  
21 water withdrawn on an annual basis. As to such wells completed in such  
22 aquifers at points closer than one mile to any such contact, the amount of ~~such~~  
23 THE replacement ~~shall be~~ IS determined using the assumption that the  
24 hydrostatic pressure level in each such aquifer has been lowered at least to the  
25 top of that aquifer throughout that aquifer. ~~Such~~ THE decrees ~~shall~~ MAY also  
26 require the CONTINUATION OF replacement ~~of actual out-of-priority depletions~~  
27 ~~of the stream~~ after withdrawal ceases IF NECESSARY to compensate for  
28 INJURIOUS stream depletions caused by prior withdrawals from ~~such~~ THE wells

1 and ~~shall~~ MUST meet all other statutory criteria for such plans.

2 (II) ~~This paragraph (c.5) is repealed, effective July 1, 2015.~~

3 **SECTION 2. Safety clause.** The general assembly hereby finds,  
4 determines, and declares that this act is necessary for the immediate  
5 preservation of the public peace, health, and safety.

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

**BILL D**

LLS NO. 15-0114.01 Jennifer Berman x3286

**HOUSE BILL**

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**HOUSE SPONSORSHIP**

**Coram**, Mitsch Bush, Sonnenberg, Vigil

**SENATE SPONSORSHIP**

**(None)**, Hodge,

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**House Committees**

**Senate Committees**

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**A BILL FOR AN ACT**

101      **CONCERNING THE IMPLEMENTATION OF RECOMMENDATION NUMBER**  
102                    **ONE SET FORTH IN THE STUDY OF THE SOUTH PLATTE RIVER**  
103                    **ALLUVIAL AQUIFER PREPARED BY THE COLORADO WATER**  
104                    **INSTITUTE PURSUANT TO HOUSE BILL 12-1278.**

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**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>.)*

**Water Resources Review Committee. Section 1** requires the Colorado water conservation board, in consultation with the state engineer, to administer 2 pilot projects in the areas of Gilcrest/LaSalle

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.*

and Sterling to evaluate 2 alternative methods of lowering the water table in areas that are experiencing damaging high groundwater levels.

**Section 2** of the bill authorizes the state engineer to review an augmentation plan submitted to a water court if it includes the construction of a recharge structure. The water court may approve the augmentation plan only if the state engineer either approves the operation and design of the proposed recharge structure after having determined that the application is not likely to cause injury or proposes changes to the operation and design of the proposed recharge structure as terms and conditions of the application.

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

**SECTION 1.** In Colorado Revised Statutes, 37-60-115, **add** (10) as follows:

**37-60-115. Water studies - rules - repeal. (10) High groundwater administration and management pilot projects - report - repeal.** (a) THE BOARD, IN CONSULTATION WITH THE STATE ENGINEER, SHALL SELECT TWO PILOT PROJECTS FOR THE PURPOSE OF PROVIDING THE BOARD AND THE STATE ENGINEER WITH SUFFICIENT DATA TO EVALUATE TWO ALTERNATIVE METHODS OF LOWERING THE WATER TABLE IN AREAS ALONG THE SOUTH PLATTE RIVER THAT ARE EXPERIENCING DAMAGING HIGH GROUNDWATER LEVELS.

(b) (I) ONE PILOT PROJECT MUST BE LOCATED IN DISTRICT 2 OF DIVISION 1, WITHIN OR NEAR THE TOWN OF GILCREST, COLORADO, OR THE TOWN OF LASALLE, COLORADO. THE OTHER PILOT PROJECT MUST BE LOCATED IN DISTRICT 64 OF DIVISION 1, WITHIN OR NEAR THE CITY OF STERLING, COLORADO. EACH PROJECT MUST BE FOUR YEARS IN DURATION AND MUST BE DESIGNED TO DEMONSTRATE A PROPOSED METHOD FOR EFFECTIVELY LOWERING THE WATER TABLE. THE BOARD, IN CONSULTATION WITH THE STATE ENGINEER, SHALL DETERMINE THAT A PROPOSED METHOD OF LOWERING THE WATER TABLE IS LOCALLY

1 APPROPRIATE FOR THE GEOGRAPHIC AREA IN WHICH THE PILOT PROJECT  
2 WILL BE IMPLEMENTED BEFORE APPROVING IT.

3 (II) AN APPROVED PILOT PROJECT MUST:

4 (A) BE ACCURATELY MONITORED IN REAL TIME IN ACCORDANCE  
5 WITH TRACKING AND TESTING METHODS DETERMINED BY THE BOARD IN  
6 CONSULTATION WITH THE STATE ENGINEER TO DETERMINE THE  
7 IMMEDIATE IMPACTS THAT THE PILOT PROJECT HAS ON THE WATER TABLE;  
8 AND

9 (B) DURING THE TERM OF THE PILOT PROJECT, OPERATE  
10 ACCORDING TO A SUBSTITUTE WATER SUPPLY PLAN IF APPROVED  
11 ANNUALLY BY THE STATE ENGINEER UNDER SECTION 37-92-308 (4) OR (5).

12 (c) AFTER PROVIDING AT LEAST FORTY-FIVE DAYS' NOTICE OF  
13 PROPOSED CRITERIA AND GUIDELINES AND AN OPPORTUNITY FOR PUBLIC  
14 COMMENT ON THEM, THE BOARD, IN CONSULTATION WITH THE STATE  
15 ENGINEER, SHALL ESTABLISH CRITERIA AND GUIDELINES FOR THE PILOT  
16 PROGRAM, INCLUDING AT LEAST THE FOLLOWING:

17 (I) AN APPLICATION FEE AND, FOR THE APPROVED PILOT PROJECTS,  
18 AN ANNUAL REVIEW FEE;

19 (II) THE INFORMATION TO BE INCLUDED IN THE APPLICATION;

20 (III) A PERIOD OF AT LEAST SEVENTY-FIVE DAYS WITHIN WHICH  
21 THE STATE ENGINEER RECEIVES COMMENTS ON AN APPLICATION AFTER  
22 PROVIDING NOTICE PURSUANT TO THE PROCESS SET FORTH IN PARAGRAPH  
23 (d) OF THIS SUBSECTION (10). THE COMMENTS MAY INCLUDE:

24 (A) ANY CLAIM OF INJURY;

25 (B) ANY TERMS AND CONDITIONS THAT THE PERSON FILING A  
26 COMMENT BELIEVES SHOULD BE IMPOSED ON THE PILOT PROJECT IN ORDER  
27 TO PREVENT INJURY TO OTHER WATER RIGHTS, DECREED CONDITIONAL  
28 WATER RIGHTS, CONTRACT RIGHTS TO WATER, OR COMPLIANCE WITH ANY



1 INTERSTATE COMPACT; AND

2 (C) OTHER INFORMATION THAT THE PERSON FILING THE COMMENT  
3 BELIEVES THE BOARD AND THE STATE ENGINEER SHOULD CONSIDER IN  
4 REVIEWING THE APPLICATION.

5 (IV) CRITERIA FOR SELECTING PILOT PROJECTS; AND

6 (V) GUIDELINES FOR THE OPERATION AND ADMINISTRATION OF  
7 THE PILOT PROJECTS TO ASSURE THAT THE PILOT PROJECTS WILL NOT  
8 CAUSE INJURY TO OTHER WATER RIGHTS, DECREED CONDITIONAL WATER  
9 RIGHTS, CONTRACT RIGHTS TO WATER, OR COMPLIANCE WITH ANY  
10 INTERSTATE COMPACT.

11 (d) FOR APPROVAL OF A PILOT PROJECT, AN APPLICANT MUST  
12 PROVIDE WRITTEN NOTICE OF THE APPLICATION, INCLUDING THE  
13 LOCATION OF THE PROPOSED PILOT PROJECT, BY EITHER ELECTRONIC MAIL  
14 OR FIRST-CLASS MAIL, TO ALL PARTIES THAT HAVE SUBSCRIBED TO THE  
15 SUBSTITUTE WATER SUPPLY PLAN NOTIFICATION LIST, AS DESCRIBED IN  
16 SECTION 37-92-308 (6), FOR WATER DIVISION 1. THE APPLICANT MUST FILE  
17 PROOF OF THE WRITTEN NOTICE WITH THE BOARD.

18 (e) (I) WHEN THE BOARD, IN CONSULTATION WITH THE STATE  
19 ENGINEER, APPROVES OR DENIES A PILOT PROJECT APPLICATION, THE  
20 BOARD SHALL SERVE A COPY OF THE DECISION ON ALL PARTIES TO THE  
21 APPLICATION BY ELECTRONIC MAIL OR, IF ELECTED BY THE PARTIES, BY  
22 FIRST-CLASS MAIL.

23 (II) THE BOARD'S APPROVAL OR DENIAL OF A PILOT PROJECT  
24 APPLICATION IS A FINAL AGENCY ACTION THAT MAY BE APPEALED. AN  
25 APPEAL MUST BE FILED WITH THE APPROPRIATE WATER JUDGE AND BE  
26 MADE WITHIN THIRTY-FIVE DAYS AFTER THE BOARD'S DECISION HAS BEEN  
27 SERVED IN ACCORDANCE WITH SUBPARAGRAPH (I) OF THIS PARAGRAPH  
28 (e).

1 (III) THE WATER JUDGE SHALL USE THE PROCEDURES AND  
2 STANDARDS SET FORTH IN SECTIONS 37-92-304 AND 37-92-305 TO  
3 DETERMINE MATTERS REREFERRED TO THE WATER JUDGE BY THE REFEREE;  
4 EXCEPT THAT THE WATER JUDGE SHALL NOT DEEM A PARTY'S FAILURE  
5 EITHER TO APPEAL ALL OR ANY PART OF THE BOARD'S DECISION OR TO  
6 STATE ANY GROUNDS FOR THE APPEAL TO PRECLUDE THE PARTY FROM  
7 RAISING A CLAIM OF INJURY IN A FUTURE PROCEEDING BEFORE THE WATER  
8 JUDGE. THE PILOT PROJECT APPLICANT IS DEEMED TO BE THE APPLICANT  
9 FOR PURPOSES OF THE PROCEDURES AND STANDARDS THAT THE WATER  
10 JUDGE APPLIES TO THE APPEAL.

11 (f) THE BOARD, IN CONSULTATION WITH THE STATE ENGINEER,  
12 SHALL ANNUALLY REPORT TO THE WATER RESOURCES REVIEW  
13 COMMITTEE, CREATED IN SECTION 37-98-102, OR ITS SUCCESSOR  
14 COMMITTEE, ON THE REPORTED RESULTS OF THE PILOT PROJECTS. THE  
15 BOARD, IN CONSULTATION WITH THE STATE ENGINEER, SHALL PROVIDE A  
16 FINAL REPORT TO THE WATER RESOURCES REVIEW COMMITTEE OR ITS  
17 SUCCESSOR COMMITTEE BY SEPTEMBER 1, 2020.

18 (g) THIS SECTION IS REPEALED, EFFECTIVE JULY 1, 2021.

19 **SECTION 2.** In Colorado Revised Statutes, 37-92-305, **add** (4)

20 (a) (V.5) and (18) as follows:

21 **37-92-305. Standards with respect to rulings of the referee and**  
22 **decisions of the water judge.** (4) (a) Terms and conditions to prevent  
23 injury as specified in subsection (3) of this section may include:

24 (V.5) IF THE APPLICATION IS FOR AN AUGMENTATION PLAN THAT  
25 INCLUDES THE CONSTRUCTION OF A RECHARGE STRUCTURE, CHANGES TO  
26 THE OPERATION AND DESIGN OF THE PROPOSED RECHARGE STRUCTURE AS  
27 RECOMMENDED BY THE STATE ENGINEER AFTER THE STATE ENGINEER HAS  
28 REVIEWED THE APPLICATION UNDER SUBSECTION (18) OF THIS SECTION.

1           (18) IN THE CASE OF AN AUGMENTATION PLAN THAT INCLUDES THE  
2 CONSTRUCTION OF A RECHARGE STRUCTURE, THE COURT SHALL NOT  
3 APPROVE THE APPLICATION UNLESS THE STATE ENGINEER HAS REVIEWED  
4 THE APPLICATION AND:

5           (a) HAS APPROVED THE OPERATION AND DESIGN OF THE PROPOSED  
6 RECHARGE STRUCTURE AFTER HAVING DETERMINED THAT THE  
7 APPLICATION IS NOT LIKELY TO CAUSE INJURY; OR

8           (b) HAS PROPOSED CHANGES TO THE OPERATION AND DESIGN OF  
9 A PROPOSED RECHARGE STRUCTURE AS TERMS AND CONDITIONS  
10 PURSUANT TO SUBSECTION (4) OF THIS SECTION.

11           **SECTION 3. Act subject to petition - effective date.** This act  
12 takes effect at 12:01 a.m. on the day following the expiration of the  
13 ninety-day period after final adjournment of the general assembly  
14 (August 5, 2015, if adjournment sine die is on May 6, 2015); except that,  
15 if a referendum petition is filed pursuant to section 1 (3) of article V of  
16 the state constitution against this act or an item, section, or part of this act  
17 within such period, then the act, item, section, or part will not take effect  
18 unless approved by the people at the general election to be held in  
19 November 2016 and, in such case, will take effect on the date of the  
20 official declaration of the vote thereon by the governor.

First Regular Session  
Seventieth General Assembly  
STATE OF COLORADO

**BILL E**

LLS NO. 15-0116.01 Jennifer Berman x3286

**HOUSE BILL**

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**HOUSE SPONSORSHIP**

**Coram and Vigil**, Sonnenberg

**SENATE SPONSORSHIP**

**(None)**, Hodge, Roberts

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**House Committees**

**Senate Committees**

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**A BILL FOR AN ACT**

101 **CONCERNING THE ESTABLISHMENT OF A GRANT PROGRAM FOR THE**  
102 **MANAGEMENT OF INVASIVE PHREATOPHYTES.**

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**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>.)*

**Water Resources Review Committee.** The bill establishes a 5-year grant program for the management of invasive phreatophytes, which are deep-rooted plants that consume water from the water table or the layer of soil just above the water table. **Section 1** of the bill creates the invasive phreatophyte grant program account in the noxious weed

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.*

management fund. **Section 2** creates the grant program. The department of agriculture administers the grant program under its authority to manage noxious weeds. To qualify for a grant, an applicant must propose a project for the management of invasive phreatophytes that utilizes best management practices.

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

2 **SECTION 1.** In Colorado Revised Statutes, 35-5.5-116, **add** (6)  
3 as follows:

4 **35-5.5-116. Noxious weed management fund - creation -**  
5 **allocation of funds - invasive phreatophyte management grant**  
6 **program account - repeal.** (6) (a) THE INVASIVE PHREATOPHYTE  
7 MANAGEMENT GRANT PROGRAM ACCOUNT, REFERRED TO IN THIS  
8 SUBSECTION (6) AS THE "ACCOUNT", IS HEREBY CREATED IN THE NOXIOUS  
9 WEED MANAGEMENT FUND. FOR THE 2015-16 FISCAL YEAR AND THE FOUR  
10 FISCAL YEARS THEREAFTER, THE STATE TREASURER SHALL TRANSFER FIVE  
11 MILLION DOLLARS FROM THE GENERAL FUND TO THE ACCOUNT FOR  
12 IMPLEMENTATION OF THE INVASIVE PHREATOPHYTE MANAGEMENT GRANT  
13 PROGRAM CREATED IN SECTION 35-5.5-116.5.

14 (b) THIS SUBSECTION (6) IS REPEALED, EFFECTIVE JULY 1, 2021.

15 **SECTION 2.** In Colorado Revised Statutes, **add** 35-5.5-116.5 as  
16 follows:

17 **35-5.5-116.5. Invasive phreatophyte management grant**  
18 **program - repeal.** (1) THE DEPARTMENT SHALL EXPEND MONEYS FROM  
19 THE INVASIVE PHREATOPHYTE MANAGEMENT GRANT PROGRAM ACCOUNT  
20 OF THE NOXIOUS WEED MANAGEMENT FUND CREATED IN SECTION  
21 35-5.5-116 TO AWARD GRANTS FOR THE MANAGEMENT OF INVASIVE  
22 PHREATOPHYTES, INCLUDING TAMARISK AND RUSSIAN-OLIVE, WITHIN THE  
23 RIPARIAN AREAS OF THE STATE. THE DEPARTMENT MAY AWARD GRANTS

1 TO PUBLIC ENTITIES, PRIVATE ENTITIES, AND PRIVATE INDIVIDUALS  
2 PROPOSING PROJECTS UTILIZING BEST MANAGEMENT PRACTICES FOR THE  
3 MANAGEMENT OF INVASIVE PHREATOPHYTES TO DECREASE THEIR  
4 CONSUMPTION OF WATER.

5 (2) BEGINNING IN FISCAL YEAR 2015-16, THE DEPARTMENT SHALL  
6 AWARD GRANTS, GIVING PRIORITY TO:

7 (a) PROPOSED PROJECTS THAT WOULD HAVE THE GREATEST  
8 IMPACT ON REDUCING OVERALL GROUNDWATER CONSUMPTION BY  
9 INVASIVE PHREATOPHYTES; AND

10 (b) PROPOSED PROJECTS THAT HELP THE DEPARTMENT ACHIEVE  
11 GEOGRAPHIC DIVERSITY IN GRANT FUNDING. THE DEPARTMENT SHALL  
12 STRIVE TO ACHIEVE GEOGRAPHIC DIVERSITY IN GRANT FUNDING BY  
13 APPROVING A MIX OF PROJECTS COVERING AREAS WEST OF THE  
14 CONTINENTAL DIVIDE AND PROJECTS COVERING AREAS EAST OF THE  
15 CONTINENTAL DIVIDE.

16 (3) TO COVER THE DIRECT AND INDIRECT COSTS OF  
17 ADMINISTERING THE GRANT PROGRAM UNDER THIS SECTION, THE  
18 DEPARTMENT MAY USE MONEYS FROM THE INVASIVE PHREATOPHYTE  
19 MANAGEMENT GRANT PROGRAM ACCOUNT IN AN AMOUNT NOT TO EXCEED  
20 FIFTY THOUSAND DOLLARS IN FISCAL YEAR 2015-16 AND NOT TO EXCEED  
21 ONE PERCENT OF THE AMOUNT OF GRANT FUNDS AWARDED UNDER THIS  
22 SECTION FOR EACH SUBSEQUENT FISCAL YEAR.

23 (4) AFTER PROVIDING AT LEAST FORTY-FIVE DAYS' NOTICE OF AND  
24 AN OPPORTUNITY FOR PUBLIC COMMENT ON THE DEPARTMENT'S PROPOSED  
25 CRITERIA AND GUIDELINES, THE DEPARTMENT, AFTER CONSIDERATION OF  
26 ANY COMMENTS RECEIVED, SHALL ESTABLISH CRITERIA AND GUIDELINES  
27 FOR THE GRANT PROGRAM, INCLUDING CRITERIA ON ELIGIBILITY,  
28 SELECTION, AND APPROVAL OF BEST MANAGEMENT PRACTICES FOR

1 INVASIVE PHREATOPHYTE MANAGEMENT. THE SELECTION CRITERIA MUST  
2 REFLECT THE PRIORITIES LISTED IN SUBSECTION (2) OF THIS SECTION.

3 (5) THE DEPARTMENT MAY ACCEPT AND EXPEND GIFTS, GRANTS,  
4 AND DONATIONS FOR THE PURPOSES OF THIS SECTION, BUT THE  
5 IMPLEMENTATION OF THIS SECTION IS NOT DEPENDENT ON THE RECEIPT OF  
6 GIFTS, GRANTS, AND DONATIONS. THE DEPARTMENT SHALL TRANSMIT ALL  
7 MONEYS RECEIVED THROUGH SUCH GIFTS, GRANTS, OR DONATIONS TO THE  
8 STATE TREASURER, WHO SHALL CREDIT THEM TO THE INVASIVE  
9 PHREATOPHYTE MANAGEMENT GRANT PROGRAM ACCOUNT.

10 (6) ON AN ANNUAL BASIS, THE DEPARTMENT SHALL REPORT TO THE  
11 AGRICULTURE, NATURAL RESOURCES, AND ENERGY COMMITTEE IN THE  
12 SENATE AND THE AGRICULTURE, LIVESTOCK, AND NATURAL RESOURCES  
13 COMMITTEE IN THE HOUSE OF REPRESENTATIVES, OR THEIR SUCCESSOR  
14 COMMITTEES, ON THE PROGRESS OF THE GRANT PROGRAM. ON OR BEFORE  
15 MARCH 1, 2021, THE DEPARTMENT SHALL PROVIDE THE COMMITTEES A  
16 FINAL REPORT ON THE GRANT PROGRAM.

17 (7) THIS SECTION IS REPEALED, EFFECTIVE SEPTEMBER 1, 2021.

18 **SECTION 3. Act subject to petition - effective date.** This act  
19 takes effect at 12:01 a.m. on the day following the expiration of the  
20 ninety-day period after final adjournment of the general assembly  
21 (August 5, 2015, if adjournment sine die is on May 6, 2015); except that,  
22 if a referendum petition is filed pursuant to section 1 (3) of article V of  
23 the state constitution against this act or an item, section, or part of this act  
24 within such period, then the act, item, section, or part will not take effect  
25 unless approved by the people at the general election to be held in  
26 November 2016 and, in such case, will take effect on the date of the  
27 official declaration of the vote thereon by the governor.

First Regular Session  
Seventieth General Assembly  
STATE OF COLORADO

**BILL F**

LLS NO. 15-0117 Jennifer Berman x 3286

**SENATE BILL**

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**SENATE SPONSORSHIP**

**Jones,**

**HOUSE SPONSORSHIP**

**Coram,** Mitsch Bush, Sonnenberg, Vigil

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**Senate Committees**

**House Committees**

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**A BILL FOR AN ACT**

101 **CONCERNING THE APPELLATE PROCESS GOVERNING A DISTRICT**  
102 **COURT'S REVIEW OF FINAL AGENCY ACTIONS CONCERNING**  
103 **GROUNDWATER.**

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**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>.)*

**Water Resources Review Committee.** Decisions or actions of the ground water commission (commission) or the state engineer regarding groundwater are appealed to a district court. Under current statute, the

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.*



evidence that a district court may consider on appeal when reviewing a decision or action of the commission or state engineer is not limited to the evidence presented to the commission or state engineer. Therefore, unlike appeals from other state agencies' decisions or actions under the "State Administrative Procedure Act", a party appealing a decision or action of the commission or state engineer may present new evidence on appeal that was never considered by the commission or state engineer.

The bill limits the evidence that a district court may consider when reviewing a decision or action of the commission or the state engineer on appeal to the evidence presented to the commission or the state engineer.

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

2 **SECTION 1.** In Colorado Revised Statutes, 37-90-115, **amend**  
3 (1) (b) (III) and (1) (b) (IV) as follows:

4 **37-90-115. Judicial review of actions of the ground water**  
5 **commission or the state engineer.** (1) (b) (III) ~~Proceedings upon appeal~~  
6 ~~shall be de novo, except that evidence taken in any administrative~~  
7 ~~proceeding appealed from may be considered as original evidence,~~  
8 ~~subject to legal objection, as if said evidence were originally offered in~~  
9 ~~such district court~~ IN REVIEWING THE COMMISSION'S OR STATE ENGINEER'S  
10 DECISION OR ACTION PURSUANT TO THIS SECTION, A DISTRICT COURT  
11 SHALL CONSIDER THE RECORD OF THE ADMINISTRATIVE PROCEEDING  
12 APPEALED FROM, INCLUDING THE PLEADINGS, APPLICATIONS, EVIDENCE,  
13 A FULL TRANSCRIPT OF THE PROCEEDINGS, EXHIBITS, AND OTHER PAPERS  
14 PRESENTED TO OR CONSIDERED BY THE COMMISSION OR STATE ENGINEER,  
15 RULINGS UPON EXCEPTIONS, AND THE DECISION, FINDINGS, AND ACTION  
16 OF THE COMMISSION OR STATE ENGINEER. A DISTRICT COURT SHALL NOT  
17 CONSIDER EVIDENCE OTHER THAN THE EVIDENCE THAT WAS TAKEN IN THE  
18 ADMINISTRATIVE PROCEEDING APPEALED FROM AND INCLUDED IN THE  
19 RECORD. A DISTRICT COURT SHALL REVIEW THE COMMISSION'S OR STATE  
20 ENGINEER'S DECISION OR ACTION DE NOVO.

1           (IV) It is the duty of the commission or the state engineer, upon  
2 being served with a notice of appeal pursuant to this section, to transmit  
3 to the district court to which the appeal is taken the ~~papers, maps, plats,~~  
4 ~~field notes, orders, decisions, and other available data affecting the matter~~  
5 ~~in controversy or certified copies thereof, which certified copies shall be~~  
6 ~~admitted in evidence as of equal validity with the originals~~ RECORD, AS  
7 DESCRIBED IN SUBSECTION (III) OF THIS PARAGRAPH (b). THE PERSON  
8 INITIATING JUDICIAL REVIEW UNDER THIS SECTION IS RESPONSIBLE FOR  
9 ALL COSTS ASSOCIATED WITH TRANSMITTING THE RECORD, INCLUDING  
10 THE COST OF TRANSCRIBING THE PROCEEDINGS.

11           **SECTION 2. Applicability.** This act applies to appeals filed on  
12 or after the effective date of this act.

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