

SENATE COMMITTEE OF REFERENCE REPORT

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Chairman of Committee

March 20, 2008  
Date

Committee on Agriculture, Natural Resources & Energy.

After consideration on the merits, the Committee recommends the following:

HB08-1280 be amended as follows, and as so amended, be referred to the Committee of the Whole with favorable recommendation:

- 1 Amend reengrossed bill, page 2, line 2, strike "(3) and" and substitute
- 2 "(3),";
- 3 line 3, strike "37-92-102 (4) (c)," and, strike "are" and substitute "is".
- 4 Page 3, strike lines 16 through 20;
- 5 line 21, strike "COURT PROCEEDING.";
- 6 strike lines 25 through 27.
- 7 Page 4, strike lines 1 through 3 and substitute the following:
  - 8 "PUBLIC NOTICE, THE EXTENT TO WHICH THE LEASED OR LOANED WATER
  - 9 WILL BENEFIT THE NATURAL ENVIRONMENT TO A REASONABLE DEGREE,
  - 10 AND CALCULATION OF THE COMPENSATION PAID TO THE LESSOR OF THE
  - 11 WATER BASED UPON THE USE OF THE WATER AFTER THE TERM OF THE
  - 12 LEASE. AS A";
- 13 line 7, strike "STATE AND DIVISION ENGINEERS" and substitute "DIVISION
- 14 ENGINEER";
- 15 line 8, strike "ADMINISTERABLE" and substitute "ADMINISTRABLE";

1 line 14, strike "INSTALL A" and substitute "TO INSTALL ANY";

2 strike lines 15 and 16 and substitute the following:

3 "DEVICES DEEMED NECESSARY BY THE DIVISION ENGINEER TO ADMINISTER  
4 THE CONTRACT OR AGREEMENT AND TO";

5 line 19, strike "IS CAPABLE";

6 strike line 20 and substitute the following:

7 "MEETS THE DIVISION ENGINEER'S REQUIREMENTS. ALL CONTRACTS OR  
8 AGREEMENTS FOR WATER, WATER RIGHTS, OR INTERESTS IN WATER UNDER  
9 THIS SUBSECTION (3) SHALL PROVIDE THAT, PURSUANT TO THE WATER  
10 COURT DECREE IMPLEMENTING THE CONTRACT OR AGREEMENT, EITHER  
11 THE LESSOR, LENDER, OR DONOR OF THE WATER OR THE BOARD MAY BRING  
12 ABOUT BENEFICIAL USE OF THE HISTORICAL CONSUMPTIVE USE OF THE  
13 LEASED, LOANED, OR DONATED WATER RIGHT DOWNSTREAM OF THE  
14 INSTREAM FLOW REACH AS FULLY CONSUMABLE REUSABLE WATER. THE  
15 BOARD SHALL";

16 line 25, after the period, insert "THE RESULTING WATER COURT DECREE  
17 SHALL QUANTIFY THE HISTORICAL CONSUMPTIVE USE OF THE LEASED OR  
18 LOANED WATER RIGHT AND DETERMINE THE METHOD BY WHICH THE  
19 HISTORICAL CONSUMPTIVE USE SHOULD BE QUANTIFIED AND CREDITED  
20 DURING THE TERM OF THE AGREEMENT FOR THE LEASE OR LOAN OF THE  
21 WATER RIGHT. SAID METHOD SHALL RECOGNIZE THE ACTUAL AMOUNT OF  
22 CONSUMPTIVE USE AVAILABLE UNDER THE LEASED OR LOANED WATER  
23 RIGHT AND SHALL NOT RESULT IN A REDUCTION OF THE HISTORICAL  
24 CONSUMPTIVE USE OF THAT WATER RIGHT DURING THE TERM OF THE LEASE  
25 OR LOAN, EXCEPT TO THE EXTENT SUCH REDUCTION IS BASED UPON THE  
26 ACTUAL AMOUNT OF WATER AVAILABLE UNDER SAID RIGHTS. ALL WATER  
27 RIGHTS UNDER SUCH DECREES SHALL BE ADMINISTERED IN PRIORITY.".

28 Page 5, strike lines 19 through 27.

29 Page 6, strike lines 1 through 9.

30 Page 7, strike lines 21 through 27.

31 Page 8, strike lines 1 and 2 and substitute the following:

1           "(b) DECREES FOR CHANGES OF WATER RIGHTS THAT IMPLEMENT  
2 A CONTRACT OR AGREEMENT FOR A LEASE, LOAN, OR DONATION OF  
3 WATER, WATER RIGHTS, OR INTERESTS IN WATER TO THE COLORADO  
4 WATER CONSERVATION BOARD FOR INSTREAM FLOW USE UNDER SECTION  
5 37-92-102 (3) (b) SHALL PROVIDE THAT EITHER THE LESSOR, LENDER, OR  
6 DONOR OF THE WATER OR THE BOARD MAY BRING ABOUT BENEFICIAL USE  
7 OF THE HISTORICAL CONSUMPTIVE USE OF THE CHANGED WATER RIGHT  
8 DOWNSTREAM OF THE INSTREAM FLOW REACH AS FULLY CONSUMABLE  
9 REUSABLE WATER, SUBJECT TO SUCH TERMS AND CONDITIONS AS THE  
10 WATER COURT DEEMS NECESSARY TO PREVENT INJURY TO VESTED WATER  
11 RIGHTS OR DECREED CONDITIONAL WATER RIGHTS."

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