

First Regular Session
Sixty-ninth General Assembly
STATE OF COLORADO

ENGROSSED

*This Version Includes All Amendments Adopted
on Second Reading in the House of Introduction*

LLS NO. 13-0359.01 Jennifer Berman x3286

HOUSE BILL 13-1044

HOUSE SPONSORSHIP

Fischer,

SENATE SPONSORSHIP

Schwartz,

House Committees

Agriculture, Livestock, & Natural Resources
Appropriations

Senate Committees

A BILL FOR AN ACT

101 CONCERNING THE AUTHORIZATION OF THE USE OF GRAYWATER, AND,
102 IN CONNECTION THEREWITH, MAKING AN APPROPRIATION.

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>.)

Current law is unclear regarding whether, and under what conditions, graywater may be used. **Section 1** of the bill declares the importance of water conservation to the economy of Colorado and the well-being of its citizens.

Section 2 defines "graywater" as that portion of wastewater that,

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.

HOUSE
Amended 2nd Reading
April 2, 2013

before being treated or combined with other wastewater, is collected from fixtures within residential, commercial, or industrial buildings or institutional facilities for the purpose of being put to beneficial uses authorized by the water quality control commission (commission) in the department of public health and environment. Sources of graywater may include discharges from bathroom and laundry room sinks, bathtubs, showers, and laundry machines, as well as water from other sources authorized by rules promulgated by the commission. Graywater does not include wastewater from toilets, urinals, kitchen sinks, nonlaundry utility sinks, and dishwashers. Graywater must be collected in a manner that minimizes household wastes, human excreta, animal or vegetable matter, and chemicals that are hazardous or toxic, as determined by the commission. Section 2 also defines "graywater treatment works".

Section 3 authorizes the commission to establish minimum statewide requirements, standards, and prohibitions. Graywater may only be used:

- ! In accordance with the terms and conditions of applicable decrees or well permits for source water rights or source water and any return flows therefrom;
- ! In accordance with all federal, state, and local requirements; and
- ! If a local government adopts a resolution or ordinance authorizing its use.

Sections 4 and 5 give counties and municipalities the discretion to authorize graywater use and the exclusive authority to enforce compliance with their graywater use resolutions and ordinances.

Section 6 authorizes the board of any groundwater management district to adopt rules restricting the use of graywater treatment works. Section 6 also permits a person using a small capacity well within a designated basin to use graywater, subject to the limitations on use contained in the well permit.

Sections 7, 8, and 10 authorize a person withdrawing water from a well to use graywater, subject to the limitations on use contained in the well permit or, if applicable, in an approved replacement plan or a decreed plan of augmentation.

Section 9 concerns graywater use by water users served by a municipality's or water district's water supplies. The graywater must be used for purposes that are permissible under the municipality's or water district's water rights. Such use of graywater is not reuse and is deemed not to cause injury.

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

2 **SECTION 1. Legislative declaration.** (1) The general assembly

1 hereby:

2 (a) Recognizes that increasing the economic well-being of the
3 state by ensuring adequate future water supplies is one of the general
4 assembly's highest priorities and greatest responsibilities;

5 (b) Determines that reducing per capita residential, commercial,
6 and industrial demands for potable water is one of the important public
7 policy strategies required for meeting Colorado's future water demands;

8 (c) Finds that innovative uses of existing technologies, such as
9 graywater treatment systems, will:

10 (I) Play an important role in reducing per capita consumption of
11 water;

12 (II) Enable significantly greater efficiencies in the use of water
13 within facilities; and

14 (III) Have the potential to reduce water and wastewater treatment
15 costs and energy consumption; and

16 (d) Declares that:

17 (I) The greater public interest is served by policies that promote
18 greater efficiency in the first use of water within residential, commercial,
19 and industrial facilities; and

20 (II) Policies allowing the use of graywater systems, while
21 preserving the health, safety, and welfare of Coloradans, represent one
22 strategy available for achieving greater efficiency in the use of the state's
23 vital water resources.

24 **SECTION 2.** In Colorado Revised Statutes, 25-8-103, **add** (8.3)
25 and (8.4) as follows:

26 **25-8-103. Definitions.** As used in this article, unless the context
27 otherwise requires:

1 (8.3) "GRAYWATER" MEANS THAT PORTION OF WASTEWATER
2 THAT, BEFORE BEING TREATED OR COMBINED WITH OTHER WASTEWATER,
3 IS COLLECTED FROM FIXTURES WITHIN RESIDENTIAL, COMMERCIAL, OR
4 INDUSTRIAL BUILDINGS OR INSTITUTIONAL FACILITIES FOR THE PURPOSE OF
5 BEING PUT TO BENEFICIAL USES AUTHORIZED BY THE COMMISSION IN
6 ACCORDANCE WITH SECTION 25-8-205 (1) (g). SOURCES OF GRAYWATER
7 MAY INCLUDE DISCHARGES FROM BATHROOM AND LAUNDRY ROOM SINKS,
8 BATHTUBS, SHOWERS, LAUNDRY MACHINES, AND OTHER SOURCES
9 AUTHORIZED BY RULE. GRAYWATER DOES NOT INCLUDE THE WASTEWATER
10 FROM TOILETS, URINALS, KITCHEN SINKS, DISHWASHERS, OR NONLAUNDRY
11 UTILITY SINKS. GRAYWATER MUST BE COLLECTED IN A MANNER THAT
12 MINIMIZES HOUSEHOLD WASTES, HUMAN EXCRETA, ANIMAL OR
13 VEGETABLE MATTER, AND CHEMICALS THAT ARE HAZARDOUS OR TOXIC,
14 AS DETERMINED BY THE COMMISSION.

15 (8.4) "GRAYWATER TREATMENT WORKS" MEANS AN
16 ARRANGEMENT OF DEVICES AND STRUCTURES USED TO:

17 (a) COLLECT GRAYWATER FROM WITHIN A BUILDING OR A
18 FACILITY; AND

19 (b) TREAT, NEUTRALIZE, OR STABILIZE GRAYWATER WITHIN THE
20 SAME BUILDING OR FACILITY TO THE LEVEL NECESSARY FOR ITS
21 AUTHORIZED USES.

22 **SECTION 3.** In Colorado Revised Statutes, 25-8-205, **add** (1) (g),
23 as follows:

24 **25-8-205. Control regulations.** (1) The commission may
25 promulgate control regulations for the following purposes:

26 (g) (I) TO DESCRIBE REQUIREMENTS, PROHIBITIONS, AND
27 STANDARDS FOR THE USE OF GRAYWATER FOR NONDRINKING PURPOSES,

1 TO ENCOURAGE THE USE OF GRAYWATER, AND TO PROTECT PUBLIC HEALTH
2 AND WATER QUALITY.

3 (II) GRAYWATER MAY BE USED ONLY IN AREAS WHERE THE LOCAL
4 CITY, CITY AND COUNTY, OR COUNTY HAS ADOPTED AN ORDINANCE OR
5 RESOLUTION APPROVING THE USE OF GRAYWATER PURSUANT TO SECTION
6 30-11-107 (1) (kk) OR 31-15-601 (1) (m), C.R.S. THE CITY, CITY AND
7 COUNTY, OR COUNTY THAT HAS ADOPTED AN ORDINANCE OR RESOLUTION
8 APPROVING THE USE OF GRAYWATER PURSUANT TO SECTION 30-11-107 (1)
9 (kk) OR 31-15-601 (1) (m), C.R.S., HAS EXCLUSIVE ENFORCEMENT
10 AUTHORITY REGARDING COMPLIANCE WITH THE ORDINANCE OR
11 RESOLUTION.

12 (III) USE OF GRAYWATER SHALL BE ALLOWED ONLY IN
13 ACCORDANCE WITH THE TERMS AND CONDITIONS OF THE DECREES,
14 CONTRACTS, AND WELL PERMITS APPLICABLE TO THE USE OF THE SOURCE
15 WATER RIGHTS OR SOURCE WATER AND ANY RETURN FLOWS THEREFROM,
16 AND NO USE OF GRAYWATER SHALL BE ALLOWED THAT WOULD NOT BE
17 ALLOWED UNDER SUCH DECREES, CONTRACTS, OR PERMITS IF THE
18 GRAYWATER ORDINANCE OR RESOLUTION DID NOT EXIST.

19 (IV) A LOCAL CITY, CITY AND COUNTY, OR COUNTY MAY ONLY
20 AUTHORIZE THE USE OF GRAYWATER IN ACCORDANCE WITH FEDERAL,
21 STATE, AND LOCAL REQUIREMENTS.

22 **SECTION 4.** In Colorado Revised Statutes, 30-11-107, **add** (1)
23 (kk) as follows:

24 **30-11-107. Powers of the board.** (1) The board of county
25 commissioners of each county has power at any meeting:

26 (kk) (I) TO ADOPT A RESOLUTION TO AUTHORIZE, IN
27 CONSULTATION WITH THE LOCAL BOARD OF HEALTH, LOCAL PUBLIC

1 HEALTH AGENCIES, AND ANY WATER AND WASTEWATER SERVICE
2 PROVIDERS SERVING THE COUNTY, THE USE OF GRAYWATER, AS DEFINED
3 IN SECTION 25-8-103 (8.3), C.R.S., IN COMPLIANCE WITH ANY REGULATION
4 ADOPTED PURSUANT TO SECTION 25-8-205 (1) (g), C.R.S., AND TO
5 ENFORCE COMPLIANCE WITH THE BOARD'S RESOLUTION.

6 (II) BEFORE ADOPTING A RESOLUTION TO AUTHORIZE THE USE OF
7 GRAYWATER PURSUANT TO SUBPARAGRAPH (I) OF THIS PARAGRAPH (kk),
8 A BOARD OF COUNTY COMMISSIONERS IS ENCOURAGED TO ENTER INTO A
9 MEMORANDUM OF UNDERSTANDING WITH THE LOCAL BOARD OF HEALTH,
10 LOCAL PUBLIC HEALTH AGENCIES, AND ANY WATER AND WASTEWATER
11 SERVICE PROVIDERS SERVING THE COUNTY CONCERNING GRAYWATER
12 USAGE AND THE PROPER INSTALLATION AND OPERATION OF GRAYWATER
13 TREATMENT WORKS, AS DEFINED IN SECTION 25-8-103 (8.4), C.R.S.

14 **SECTION 5.** In Colorado Revised Statutes, 31-15-601, **add** (1)
15 (m) as follows:

16 **31-15-601. Building and fire regulations - emission**
17 **performance standards required.** (1) The governing bodies of
18 municipalities have the following powers in relation to building and fire
19 regulations:

20 (m) (I) TO ADOPT AN ORDINANCE TO AUTHORIZE, IN
21 CONSULTATION WITH THE LOCAL BOARD OF HEALTH, LOCAL PUBLIC
22 HEALTH AGENCIES, AND ANY WATER AND WASTEWATER SERVICE
23 PROVIDERS SERVING THE MUNICIPALITY, THE USE OF GRAYWATER, AS
24 DEFINED IN SECTION 25-8-103 (8.3), C.R.S., IN COMPLIANCE WITH ANY
25 REGULATION ADOPTED PURSUANT TO SECTION 25-8-205 (1) (g), C.R.S.,
26 AND TO ENFORCE COMPLIANCE WITH THE GOVERNING BODY'S ORDINANCE.

27 (II) BEFORE ADOPTING AN ORDINANCE TO AUTHORIZE THE USE OF

1 GRAYWATER PURSUANT TO SUBPARAGRAPH (I) OF THIS PARAGRAPH (m),
2 THE MUNICIPAL GOVERNING BODY IS ENCOURAGED TO ENTER INTO A
3 MEMORANDUM OF UNDERSTANDING WITH THE LOCAL BOARD OF HEALTH,
4 LOCAL PUBLIC HEALTH AGENCIES, AND ANY WATER AND WASTEWATER
5 SERVICE PROVIDERS SERVING THE MUNICIPALITY CONCERNING
6 GRAYWATER USAGE AND THE PROPER INSTALLATION AND OPERATION OF
7 GRAYWATER TREATMENT WORKS, AS DEFINED IN SECTION 25-8-103 (8.4),
8 C.R.S.

9 SECTION 6. In Colorado Revised Statutes, 37-90-105, **amend**
10 (7); and **add** (8) as follows:

11 37-90-105. **Small capacity wells.** (7) (a) The board of ~~any~~
12 ~~ground water~~ A GROUNDWATER management district ~~has the authority to~~
13 MAY adopt rules that further restrict the issuance of small capacity well
14 permits and use of rooftop precipitation collection systems OR
15 GRAYWATER TREATMENT WORKS. In addition, the board of ~~any ground~~
16 ~~water~~ A GROUNDWATER management district ~~has the authority to~~ MAY
17 adopt rules that expand the acre-foot limitations for small capacity wells
18 set forth in this section. However, ~~in no event~~ THE BOARD OF A
19 GROUNDWATER MANAGEMENT DISTRICT shall NOT ALLOW an annual
20 volume of more than eighty acre-feet ~~be allowed~~ for any small capacity
21 well.

22 (b) THE BOARD MAY INSTITUTE ITS rules ~~adopted by the board may~~
23 ~~be instituted~~ only after a public hearing. ~~Notice~~ THE BOARD SHALL
24 PUBLISH NOTICE of ~~such~~ THE hearing, ~~shall be published~~. ~~Such notice shall~~
25 ~~state~~ STATING the time and place of the hearing and ~~describe~~ DESCRIBING,
26 in general terms, the rules proposed. Within sixty days after ~~such~~ THE
27 hearing, the board shall announce the rules adopted and shall ~~cause~~

1 PUBLISH notice of ~~such~~ THE action. ~~to be published~~. In addition, the board
2 shall mail, within five days after the adoption of the rules, a copy of the
3 rules to the state engineer.

4 (c) Any party adversely affected or aggrieved by ~~such~~ a rule may,
5 not later than thirty days after the last date of publication, initiate judicial
6 review in accordance with ~~the provisions of~~ section 24-4-106, C.R.S.;
7 except that venue for ~~such~~ judicial review ~~shall~~ OF THE RULE MUST be in
8 the district court for the county in which the office of the ~~ground water~~
9 GROUNDWATER management district is located.

10 (8) A PERSON WITHDRAWING WATER FROM A WELL PURSUANT TO
11 PARAGRAPH (a) OR (c) OF SUBSECTION (1) OF THIS SECTION MAY USE
12 GRAYWATER THROUGH USE OF A GRAYWATER TREATMENT WORKS, AS
13 THOSE TERMS ARE DEFINED IN SECTION 25-8-103 (8.3) AND (8.4), C.R.S.,
14 IN COMPLIANCE WITH THE REQUIREMENTS OF SECTION 25-8-205 (1) (g),
15 C.R.S. ANY LIMITATIONS ON USE SET FORTH IN THE WELL PERMIT APPLY
16 TO THE USE OF GRAYWATER.

17 **SECTION 7.** In Colorado Revised Statutes, 37-90-107, **add** (5.5)
18 as follows:

19 **37-90-107. Application for use of groundwater - publication**
20 **of notice - conditional permit - hearing on objections - well permits.**

21 (5.5) A PERSON WITHDRAWING WATER FROM A WELL PURSUANT TO
22 SUBSECTION (3) OF THIS SECTION MAY USE GRAYWATER THROUGH USE OF
23 A GRAYWATER TREATMENT WORKS, AS THOSE TERMS ARE DEFINED IN
24 SECTION 25-8-103 (8.3) AND (8.4), C.R.S., IN COMPLIANCE WITH THE
25 REQUIREMENTS OF SECTION 25-8-205 (1) (g), C.R.S. ANY LIMITATIONS ON
26 USE SET FORTH IN THE WELL PERMIT, OR IN THE PROVISIONS OF ANY
27 APPROVED REPLACEMENT PLAN, APPLY TO THE USE OF GRAYWATER.

1 **SECTION 8.** In Colorado Revised Statutes, 37-90-137, **add** (15)
2 as follows:

3 **37-90-137. Permits to construct wells outside designated**
4 **basins - fees - permit no groundwater right - evidence - time**
5 **limitation - well permits - rules - repeal.** (15) A PERSON WITHDRAWING
6 WATER FROM A WELL PURSUANT TO SUBSECTION (1) OR (4) OF THIS
7 SECTION MAY USE GRAYWATER THROUGH THE USE OF A GRAYWATER
8 TREATMENT WORKS, AS THOSE TERMS ARE DEFINED IN SECTION 25-8-103
9 (8.3) AND (8.4), C.R.S., IN COMPLIANCE WITH THE REQUIREMENTS OF
10 SECTION 25-8-205 (1) (g), C.R.S. ANY LIMITATIONS ON USE SET FORTH IN
11 THE WELL PERMIT, AND THE PROVISIONS OF ANY DECREED PLAN FOR
12 AUGMENTATION, APPLY TO THE USE OF GRAYWATER.

13 **SECTION 9.** In Colorado Revised Statutes, 37-92-102, **add** (7)
14 as follows:

15 **37-92-102. Legislative declaration - basic tenets of Colorado**
16 **water law.** (7) WATER USERS SERVED BY A PROVIDER OF MUNICIPAL OR
17 INDUSTRIAL WATER SUPPLIES MAY USE GRAYWATER AND INSTALL
18 GRAYWATER TREATMENT WORKS, AS THOSE TERMS ARE DEFINED IN
19 SECTION 25-8-103 (8.3) AND (8.4), C.R.S., IF:

20 (a) THE USE OF GRAYWATER IS LIMITED TO THE CONFINES OF THE
21 OPERATION THAT GENERATES THE GRAYWATER; ■

22 (b) GRAYWATER IS USED FOR PURPOSES THAT ARE PERMISSIBLE
23 UNDER THE MUNICIPALITY'S OR WATER DISTRICT'S WATER RIGHTS; AND

24 (c) GRAYWATER IS USED IN COMPLIANCE WITH THE REQUIREMENTS
25 OF SECTION 25-8-205 (1) (g), C.R.S.

26 **SECTION 10.** In Colorado Revised Statutes, 37-92-602, **add**
27 (1.5) as follows:

1 **37-92-602. Exemptions - presumptions - legislative**
2 **declaration.** (1.5) A PERSON WITHDRAWING WATER FROM A WELL
3 PURSUANT TO THIS SECTION MAY USE GRAYWATER THROUGH USE OF A
4 GRAYWATER TREATMENT WORKS, AS THOSE TERMS ARE DEFINED IN
5 SECTION 25-8-103 (8.3) AND (8.4), C.R.S., IN COMPLIANCE WITH THE
6 REQUIREMENTS OF SECTION 25-8-205 (1)(g), C.R.S. ANY LIMITATIONS ON
7 USE SET FORTH IN THE WELL PERMIT APPLY TO THE USE OF GRAYWATER.

8 **SECTION 11.** In Colorado Revised Statutes, 12-58-101, **add** (3)
9 as follows:

10 **12-58-101. Legislative declaration.** (3) THE GENERAL ASSEMBLY
11 ENCOURAGES THE EXAMINING BOARD OF PLUMBERS TO ADOPT AND
12 INCORPORATE BY REFERENCE APPENDIX C OF THE INTERNATIONAL
13 PLUMBING CODE (I.P.C.), 2009 EDITION, PROMULGATED BY THE
14 INTERNATIONAL CODE COUNCIL, FIRST PRINTING (JANUARY 2009), OR THE
15 GRAYWATER PROVISIONS WITHIN A NEWER EDITION OF THE I.P.C.,
16 WHETHER THE PROVISIONS ARE CONTAINED IN APPENDIX C OR ELSEWHERE.

17 **SECTION 12. Appropriation.** (1) In addition to any other
18 appropriation, there is hereby appropriated, out of any moneys in the
19 general fund, not otherwise appropriated, to the department of public
20 health and environment, for the fiscal year beginning July 1, 2013, the
21 sum of \$110,293 and 1.4 FTE, or so much thereof as may be necessary,
22 to be allocated for the implementation of this act as follows:

23 (a) \$88,981 and 1.4 FTE to the clean water program for personal
24 services;

25 (b) \$12,042 to the clean water program for operating and travel
26 expenses; and

27 (c) \$9,270 to the administration subdivision for the purchase of

1 legal services.

2 (2) In addition to any other appropriation, there is hereby
3 appropriated to the department of law, for the fiscal year beginning July
4 1, 2013, the sum of \$9,270, or so much thereof as may be necessary, for
5 the provision of legal services for the department of public health and
6 environment related to the implementation of this act. Said sum is from
7 reappropriated funds received from the department of public health and
8 environment out of the appropriation made in paragraph (c) of subsection
9 (1) of this section.

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