

SB212_L.001

SENATE COMMITTEE OF REFERENCE AMENDMENT

Committee on Agriculture, Natural Resources, & Energy.SB15-212 be amended as follows:

1 Amend printed bill, page 2, line 11, strike "THAT:" and substitute "THAT
2 IS OPERATED SOLELY FOR STORM WATER MANAGEMENT AND:".

3 Page 2, strike line 14.

4 Page 3, strike lines 1 through 7 and substitute:

5 "(B) CONTINUOUSLY RELEASES OR INFILTRATES AT LEAST
6 NINETY-SEVEN PERCENT OF ALL OF THE WATER FROM A RAINFALL EVENT
7 THAT IS EQUAL TO OR LESS THAN A FIVE-YEAR STORM WITHIN
8 SEVENTY-TWO HOURS AFTER THE END OF THE RAINFALL EVENT;

9 (C) CONTINUOUSLY RELEASES OR INFILTRATES ALL OF THE WATER
10 FROM A RAINFALL EVENT GREATER THAN A FIVE-YEAR STORM AS QUICKLY
11 AS PRACTICABLE, BUT IN ALL CASES RELEASES OR INFILTRATES AT LEAST
12 NINETY-NINE PERCENT OF ALL OF THE WATER FROM THE RAINFALL EVENT
13 WITHIN ONE HUNDRED TWENTY HOURS AFTER THE END OF THE RAINFALL
14 EVENT; AND".

15 Page 3, strike lines 19 through 27.

16 Page 4, strike lines 1 through 13 and substitute:

17 "(c) (I) STORM WATER DETENTION AND INFILTRATION FACILITIES
18 IN EXISTENCE ON THE EFFECTIVE DATE OF THIS SECTION THAT ARE
19 OPERATED IN COMPLIANCE WITH PARAGRAPHS (b) AND (d) OF THIS
20 SUBSECTION (8) AND POST-WILDLAND FIRE FACILITIES THAT ARE
21 OPERATED IN COMPLIANCE WITH PARAGRAPHS (b) AND (d) OF THIS
22 SUBSECTION (8) DO NOT CAUSE MATERIAL INJURY TO VESTED WATER
23 RIGHTS.

24 (II) (A) THE HOLDER OF A VESTED WATER RIGHT MAY BRING AN
25 ACTION IN A COURT OF COMPETENT JURISDICTION TO DETERMINE WHETHER
26 THE OPERATION OF A STORM WATER DETENTION AND INFILTRATION
27 FACILITY CONSTRUCTED AFTER THE EFFECTIVE DATE OF THIS SECTION HAS
28 CAUSED MATERIAL INJURY TO THAT WATER RIGHT. OPERATION OF THE
29 FACILITY IN COMPLIANCE WITH PARAGRAPHS (b) AND (d) OF THIS
30 SUBSECTION (8) CREATES A REBUTTABLE PRESUMPTION THAT THE
31 FACILITY DOES NOT CAUSE MATERIAL INJURY TO VESTED WATER RIGHTS.

32 (B) THE HOLDER OF A VESTED WATER RIGHT WHO BRINGS AN



1 ACTION UNDER SUB-SUBPARAGRAPH (A) OF THIS SUBPARAGRAPH (II) MAY
2 REBUT THE PRESUMPTION ESTABLISHED BY SUB-SUBPARAGRAPH (A) OF
3 THIS SUBPARAGRAPH (II) WITH EVIDENCE SUFFICIENT TO SHOW THAT THE
4 OPERATION OF THE STORM WATER DETENTION AND INFILTRATION FACILITY
5 HAS CAUSED MATERIAL INJURY TO THE WATER RIGHT BY MODIFYING THE
6 AMOUNT OR TIMING OF WATER THAT WOULD HAVE BEEN AVAILABLE FOR
7 DIVERSION BY THE WATER RIGHT ABSENT THE OPERATION OF THE FACILITY
8 UNDER HYDROLOGIC CONDITIONS THAT EXISTED AS OF THE WATER RIGHT'S
9 PRIORITY DATE, EXCLUDING FLOWS RESULTING FROM DEVELOPMENT OF
10 IMPERVIOUS SURFACES WITHIN THE DRAINAGE THAT CREATED THE NEED
11 FOR THE STORM WATER DETENTION AND INFILTRATION FACILITY.

12 (d) AN ENTITY THAT OWNS, OPERATES, OR HAS OVERSIGHT FOR A
13 STORM WATER DETENTION AND INFILTRATION FACILITY CONSTRUCTED
14 AFTER THE EFFECTIVE DATE OF THIS SECTION SHALL, PRIOR TO OPERATION
15 OF THE FACILITY, PROVIDE NOTICE OF THE LOCATION AND APPROXIMATE
16 SIZE OF THE FACILITY TO ALL PARTIES ON THE SUBSTITUTE WATER SUPPLY
17 PLAN NOTIFICATION LIST MAINTAINED BY THE STATE ENGINEER PURSUANT
18 TO SECTION 37-92-308 (6) FOR THE WATER DIVISION IN WHICH THE
19 FACILITY IS LOCATED.

20 (e) (I) WATER DETAINED OR RELEASED BY A STORM WATER
21 DETENTION AND INFILTRATION FACILITY OR POST-WILDLAND FIRE FACILITY
22 SHALL NOT BE USED FOR ANY PURPOSE BY THE PERSON THAT OWNS,
23 OPERATES, OR HAS OVERSIGHT OVER THE FACILITY OR THAT PERSON'S
24 ASSIGNEES, AND IS AVAILABLE FOR DIVERSION IN PRIORITY AFTER RELEASE
25 OR INFILTRATION.

26 (II) A PERSON SHALL NOT RELEASE WATER DETAINED BY A STORM
27 WATER DETENTION AND INFILTRATION FACILITY OR POST-WILDLAND FIRE
28 FACILITY FOR THE SUBSEQUENT DIVERSION OR STORAGE BY THE PERSON
29 THAT OWNS, OPERATES, OR HAS OVERSIGHT OVER THE FACILITY OR THAT
30 PERSON'S ASSIGNEES.

31 (III) THE OPERATION OF A STORM WATER DETENTION AND
32 INFILTRATION FACILITY OR POST-WILDLAND FIRE FACILITY IS NOT THE
33 BASIS FOR THE CLAIM".

34 Reletter succeeding paragraph accordingly.

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