

First Regular Session
Sixty-fifth General Assembly
STATE OF COLORADO

INTRODUCED

LLS NO. 05-0686.01 Thomas Morris

HOUSE BILL 05-1185

HOUSE SPONSORSHIP

Brophy,

SENATE SPONSORSHIP

(None),

House Committees

Senate Committees

Agriculture, Livestock, & Natural Resources

A BILL FOR AN ACT

101 CONCERNING THE AUTHORIZATION OF THE OPERATION OF TEMPORARY
102 CHANGES OF WATER RIGHTS FOR UP TO FIVE YEARS.

Bill Summary

(Note: This summary applies to this bill as introduced and does not necessarily reflect any amendments that may be subsequently adopted.)

Specifies that the 5-year duration limit for a substitute water supply plan that relates to a temporary change of use of water for which no adjudication application has been filed applies to the period during which such temporary change may operate rather than to the depletions associated with the change. Allows the approval of such temporary changes to mandate replacement of depletions beyond the 5-year period if necessary to protect senior water rights.

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.

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

2 **SECTION 1.** The introductory portion to 37-92-308 (5) (a),
3 Colorado Revised Statutes, is amended, and the said 37-92-308 (5) (a) is
4 further amended BY THE ADDITION OF A NEW SUBPARAGRAPH,
5 to read:

6 **37-92-308. Substitute water supply plans - special procedures**
7 **for review - water adjudication cash fund - legislative declaration.**

8 (5) (a) Beginning January 1, 2002, for new water use plans involving
9 out-of-priority diversions or a change of water right, if no application for
10 approval of a plan for augmentation or a change of water right has been
11 filed with a water court and, ~~the water use plan or change proposed and~~
12 IN THE CASE OF A WATER USE PLAN, the depletions associated with such
13 water use plan ~~or change~~ will be for a limited duration not to exceed five
14 years, OR, IN THE CASE OF TEMPORARY CHANGE IN USE, THE CHANGED USE
15 OF THE WATER WILL BE FOR A LIMITED DURATION NOT TO EXCEED FIVE
16 YEARS, the state engineer may approve such plan or change as a substitute
17 water supply plan if the following conditions are met:

18 (V) IN ADDITION TO ALL OTHER LAWFUL USES, WATER RIGHTS FOR
19 WHICH A TEMPORARY CHANGE HAS BEEN APPROVED UNDER THIS
20 SUBSECTION (5) MAY BE USED IN AN AUGMENTATION PLAN DECREED BY
21 THE WATER COURT OR IN A SUBSTITUTE WATER SUPPLY PLAN APPROVED
22 PURSUANT TO THIS SECTION, IN ACCORDANCE WITH THE GOVERNING
23 AUGMENTATION PLAN, DECREE, OR SUBSTITUTE WATER SUPPLY PLAN
24 APPROVAL. AN APPROVAL OF A TEMPORARY CHANGE OF WATER RIGHT
25 SHALL INCLUDE PROVISIONS FOR REPLACEMENT OF RETURN FLOWS IN A
26 MANNER SUFFICIENT TO PREVENT INJURY TO SENIOR RIGHTS. SUCH

1 PROVISIONS MAY REQUIRE REPLACEMENT OF DELAYED RETURN FLOWS FOR
2 A TIME PERIOD IN EXCESS OF FIVE YEARS IF NECESSARY FOR THE
3 PROTECTION OF SENIOR RIGHTS.

4 **SECTION 2. Applicability.** This act shall apply to approvals for
5 substitute water supply plans occurring on or after the effective date of
6 this act.

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