

**First Regular Session  
Sixty-sixth General Assembly  
STATE OF COLORADO**

**PREAMENDED**

*This Unofficial Version Includes Committee  
Amendments Not Yet Adopted on Second Reading*

LLS NO. 07-0028.01 Thomas Morris

**HOUSE BILL 07-1132**

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**HOUSE SPONSORSHIP**

**McFadyen**, Curry, Gallegos, McKinley, Butcher, Buescher, Gibbs, Massey, and White

**SENATE SPONSORSHIP**

**Schwartz**, Romer, Gordon, Isgar, Kester, Penry, and Tapia

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**House Committees**

Agriculture, Livestock, & Natural Resources

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**A BILL FOR AN ACT**

101     **CONCERNING AN EXPANSION OF WATER JUDGES' JURISDICTION TO**  
102             **ADDRESS THE EFFECTS OF A WATER RIGHT ADJUDICATION ON**  
103             **WATER QUALITY.**

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**Bill Summary**

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

When a water judge issues a decree for a change of type of use of irrigation water rights that transfers more than 1,000 acre-feet of consumptive use of water per year, allows the water judge to include a term or condition that addresses decreases in water quality caused by the change if the change would cause or contribute to an exceedance of water quality standards established by the water quality control commission 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.*

are in effect at the time of the decree or, if ordered by the court, subsequently adopted by the commission prior to the entry of the decree, for the stream segment at the original point of diversion. Specifies that the applicant is responsible for only that portion of the exceedance attributable to the proposed change. Prohibits the term or condition from being inconsistent with the state clean water act or the federal law regarding water quality-impaired stream segments. Specifies that the act shall not be interpreted to confer standing on any person to assert injury who would not otherwise have such standing.

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

2           **SECTION 1.** 37-92-305 (4) (a) (V), Colorado Revised Statutes,  
3 is amended, and the said 37-92-305 (4) (a) is further amended BY THE  
4 ADDITION OF A NEW SUBPARAGRAPH, to read:

5           **37-92-305. Standards with respect to rulings of the referee and**  
6 **decisions of the water judge.** (4) (a) Terms and conditions to prevent  
7 injury as specified in subsection (3) of this section may include:

8           (V) ~~Such other conditions as may be necessary to protect the~~  
9 ~~vested rights of others.~~ A TERM OR CONDITION THAT ADDRESSES  
10 DECREASES IN WATER QUALITY CAUSED BY A CHANGE IN THE TYPE OF USE  
11 AND PERMANENT REMOVAL FROM IRRIGATION OF MORE THAN ONE  
12 THOUSAND ACRE-FEET OF CONSUMPTIVE USE PER YEAR THAT INCLUDES A  
13 CHANGE IN THE POINT OF DIVERSION, IF THE CHANGE WOULD CAUSE AN  
14 EXCEEDANCE OR CONTRIBUTE TO AN EXISTING EXCEEDANCE OF WATER  
15 QUALITY STANDARDS ESTABLISHED BY THE WATER QUALITY CONTROL  
16 COMMISSION PURSUANT TO SECTION 25-8-204, C.R.S., IN EFFECT AT THE  
17 TIME OF THE APPLICATION, OR, IF ORDERED BY THE COURT, SUBSEQUENTLY  
18 ADOPTED BY THE COMMISSION PRIOR TO THE ENTRY OF THE DECREE, FOR  
19 THE STREAM SEGMENT AT THE ORIGINAL POINT OF DIVERSION. UNDER ANY  
20 SUCH TERM OR CONDITION, THE APPLICANT SHALL BE RESPONSIBLE FOR

1 ONLY THAT PORTION OF THE EXCEEDANCE ATTRIBUTABLE TO THE  
2 PROPOSED CHANGE. ANY SUCH TERM OR CONDITION AND ANY ACTIVITY  
3 TO BE TAKEN IN FULFILLMENT THEREOF SHALL NOT BE INCONSISTENT WITH  
4 THE "COLORADO WATER QUALITY CONTROL ACT", ARTICLE 8 OF TITLE  
5 25, C.R.S., AND RULES PROMULGATED PURSUANT TO SAID ACT, AND  
6 IMPLEMENTATION OF SECTION 303 (d) OF THE FEDERAL "WATER  
7 POLLUTION CONTROL ACT" BY THE WATER QUALITY CONTROL DIVISION.  
8 THIS SUBPARAGRAPH (V) SHALL NOT BE INTERPRETED TO CONFER  
9 STANDING ON ANY PERSON TO ASSERT INJURY WHO WOULD NOT  
10 OTHERWISE HAVE SUCH STANDING.

11 (VI) SUCH OTHER CONDITIONS AS MAY BE NECESSARY TO  
12 PROTECT THE VESTED RIGHTS OF OTHERS.

13 **SECTION 2. Applicability.** This act shall apply to water rights  
14 applications that are filed on or after the effective date of this act and  
15 shall not apply to water rights applications that were filed before the  
16 effective date of this act.

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