

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

REVISED

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

LLS NO. 07-0028.01 Thomas Morris

HOUSE BILL 07-1132

HOUSE SPONSORSHIP

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

SENATE SPONSORSHIP

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

House Committees

Agriculture, Livestock, & Natural Resources

Senate Committees

Agriculture, Natural Resources & Energy

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.**

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.

SENATE
2nd Reading Unamended
February 21, 2007

HOUSE
3rd Reading Unamended
February 1, 2007

HOUSE
Amended 2nd Reading
January 31, 2007

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.

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.