

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

INTRODUCED

LLS NO. 07-0236.01 Thomas Morris

HOUSE BILL 07-1012

HOUSE SPONSORSHIP

McNulty, Curry, Fischer, Gardner C., Gibbs, Hodge, Kefalas, and Looper

SENATE SPONSORSHIP

(None),

House Committees

Agriculture, Livestock, & Natural Resources

Senate Committees

A BILL FOR AN ACT

101 **CONCERNING THE PROTECTION OF WATER RIGHTS LOANED TO THE**
102 **COLORADO WATER CONSERVATION BOARD FOR INSTREAM FLOW**
103 **PURPOSES, AND, IN CONNECTION THEREWITH, MODIFYING THE**
104 **STANDARDS APPLIED IN CHANGE OF WATER RIGHTS AND**
105 **ABANDONMENT PROCEEDINGS.**

Bill Summary

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

Excludes from consideration in an analysis of historic consumptive use the period of time during which a loaned water right is used by the Colorado water conservation board for instream flow purposes. Exempts

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.

from the definition of abandonment of a water right the nonuse of the water as a result of the loan of water to the board for instream flows.

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

2 **SECTION 1.** 37-83-105 (2), Colorado Revised Statutes, is
3 amended BY THE ADDITION OF A NEW PARAGRAPH to read:

4 **37-83-105. Owner may loan agricultural water right - loans to**
5 **Colorado water conservation board for instream flows.** (2) (c) ALL
6 PERIODS OF TIME DURING WHICH A LOANED WATER RIGHT IS USED BY THE
7 BOARD FOR INSTREAM FLOW PURPOSES SHALL BE EXCLUDED FROM ANY
8 HISTORIC CONSUMPTIVE USE ANALYSIS OF THE LOANED WATER RIGHT
9 REQUIRED UNDER ANY WATER COURT PROCEEDING.

10 **SECTION 2.** 37-92-103 (2) (b), Colorado Revised Statutes, is
11 amended BY THE ADDITION OF A NEW SUBPARAGRAPH to read:

12 **37-92-103. Definitions.** As used in this article, unless the context
13 otherwise requires:

14 (2) "Abandonment of a water right" means the termination of a
15 water right in whole or in part as a result of the intent of the owner
16 thereof to discontinue permanently the use of all or part of the water
17 available thereunder. Any period of nonuse of any portion of a water
18 right shall be tolled, and no intent to discontinue permanent use shall be
19 found for purposes of determining an abandonment of a water right for
20 the duration that:

21 (b) The nonuse of a water right is a result of participation in:

22 (V) A LOAN OF WATER TO THE COLORADO WATER CONSERVATION
23 BOARD FOR INSTREAM FLOW USE UNDER SECTION 37-83-105 (2).

24 **SECTION 3. Effective date - applicability.** (1) This act shall
25 take effect at 12:01 a.m. on the day following the expiration of the

1 ninety-day period after final adjournment of the general assembly that is
2 allowed for submitting a referendum petition pursuant to article V,
3 section 1 (3) of the state constitution, (August 8, 2007, if adjournment
4 sine die is on May 9, 2007); except that, if a referendum petition is filed
5 against this act or an item, section, or part of this act within such period,
6 then the act, item, section, or part, if approved by the people, shall take
7 effect on the date of the official declaration of the vote thereon by
8 proclamation of the governor.

9 (2) The provisions of this act shall apply to water court
10 determinations of historic consumptive use and abandonment occurring
11 on or after the applicable effective date of this act.