

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

**PREAMENDED**

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

LLS NO. 08-0572.02 Thomas Morris

**HOUSE BILL 08-1141**

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**HOUSE SPONSORSHIP**

**Curry,**

**SENATE SPONSORSHIP**

**Bacon,**

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**House Committees**

Local Government  
Appropriations

**Senate Committees**

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**A BILL FOR AN ACT**

101 **CONCERNING SUFFICIENT WATER SUPPLIES FOR LAND USE APPROVAL.**

**Bill Summary**

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

Requires a local government to make a determination as to whether an applicant for a real estate development permit for a development in excess of 50 units or single-family equivalents has demonstrated that the proposed water supply is sufficient and sustainable to serve the peak daily, monthly, and yearly water supply requirements of the proposed development. Requires the applicant to submit a report prepared by a registered professional engineer regarding the proposed development's water demand. Specifies the criteria pursuant to which the local government must determine whether the applicant has demonstrated

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.*

a sufficient and sustainable water supply, including:

- ! A letter from the state engineer commenting on the report by the professional engineer and determining whether the proposed water supply is sufficient and sustainable; and
- ! A letter from the development's water supplier summarizing the supplier's water portfolio.

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

2 **SECTION 1.** 29-20-103 (1), Colorado Revised Statutes, is  
3 amended to read:

4 **29-20-103. Definitions.** As used in this article, unless the context  
5 otherwise requires:

6 (1) "Development permit" means any preliminary or final  
7 approval of an application for rezoning, planned unit development,  
8 conditional or special use permit, subdivision, development or site plan,  
9 or similar application for new construction; EXCEPT THAT, FOR PURPOSES  
10 OF PART 3 OF THIS ARTICLE, "DEVELOPMENT PERMIT" IS LIMITED TO THE  
11 INITIAL APPLICATION REGARDING A SPECIFIC PROJECT THAT INCLUDES NEW  
12 WATER USE FOR MORE THAN FIFTY SINGLE-FAMILY EQUIVALENTS OR LESS  
13 AS DETERMINED BY THE LOCAL GOVERNMENT.

14 **SECTION 2.** Article 20 of title 29, Colorado Revised Statutes, is  
15 amended BY THE ADDITION OF A NEW PART to read:

16 **PART 3**

17 **ADEQUATE WATER SUPPLY**

18 **29-20-301. Legislative declaration.** THE GENERAL ASSEMBLY  
19 FINDS AND DECLARES THAT AN ADEQUATE SUPPLY OF WATER TO SERVE  
20 LAND DEVELOPMENT IS A MATTER OF STATEWIDE CONCERN AND  
21 NECESSARY FOR THE PRESERVATION OF PUBLIC HEALTH, SAFETY, AND  
22 WELFARE AND THE ENVIRONMENT OF COLORADO.

1           **29-20-302. Definitions.** AS USED IN THIS PART 3, UNLESS THE  
2 CONTEXT OTHERWISE REQUIRES:

3           (1) "ADEQUATE" MEANS A WATER SUPPLY THAT IS SUFFICIENT FOR  
4 BUILD-OUT OF THE PROPOSED DEVELOPMENT IN TERMS OF QUALITY,  
5 QUANTITY, AND DEPENDABILITY TO PROVIDE A SUPPLY OF WATER FOR THE  
6 TYPE OF DEVELOPMENT PROPOSED, AND MAY INCLUDE REASONABLE  
7 CONSERVATION MEASURES AND WATER DEMAND MANAGEMENT MEASURES  
8 TO ACCOUNT FOR HYDROLOGIC VARIABILITY. NOTHING IN THIS PART 3  
9 SHALL BE CONSTRUED TO REQUIRE THAT THE PROPOSED WATER SUPPLY BE  
10 SECURED AND FINALIZED AND ITS RELATED INFRASTRUCTURE BE  
11 CONSTRUCTED AT THE TIME OF THE APPLICATION.

12           (2) "WATER SUPPLY ENTITY" MEANS A MUNICIPALITY, COUNTY,  
13 SPECIAL DISTRICT, WATER CONSERVANCY DISTRICT, WATER  
14 CONSERVATION DISTRICT, WATER AUTHORITY, OR OTHER PUBLIC OR  
15 PRIVATE WATER SUPPLY COMPANY THAT SUPPLIES, DISTRIBUTES, OR  
16 OTHERWISE PROVIDES WATER AT RETAIL.

17           **29-20-303. Adequate water supply for development.** A LOCAL  
18 GOVERNMENT SHALL NOT APPROVE AN APPLICATION FOR A DEVELOPMENT  
19 PERMIT UNLESS IT DETERMINES, AFTER CONSIDERING THE APPLICATION  
20 AND ALL OF THE INFORMATION PROVIDED, THAT THE APPLICANT HAS  
21 SATISFACTORILY DEMONSTRATED THAT THE PROPOSED WATER SUPPLY IS  
22 ADEQUATE.

23           **29-20-304. Water supply requirements.** (1) EXCEPT AS  
24 SPECIFIED IN SUBSECTIONS (2), (3), AND (4) OF THIS SECTION, AN  
25 APPLICANT FOR A DEVELOPMENT PERMIT SHALL SUBMIT ESTIMATED  
26 WATER SUPPLY REQUIREMENTS FOR THE PROPOSED DEVELOPMENT IN A  
27 REPORT PREPARED BY A REGISTERED PROFESSIONAL ENGINEER OR WATER

1 SUPPLY EXPERT ACCEPTABLE TO THE LOCAL GOVERNMENT. THE REPORT  
2 SHALL IDENTIFY ALL WATER NEEDS FOR THE PROPOSED DEVELOPMENT  
3 THROUGH BUILD-OUT CONDITIONS AND THE PROPOSED PHYSICAL SOURCES  
4 OF WATER SUPPLY. THE REPORT MAY INCLUDE IMPLEMENTATION OF  
5 REASONABLE CONSERVATION MEASURES AND DRY-YEAR WATER DEMAND  
6 MANAGEMENT MEASURES.

7 (2) IF THE DEVELOPMENT IS TO BE SERVED BY A WATER SUPPLY  
8 ENTITY, THE LOCAL GOVERNMENT MAY ALLOW THE APPLICANT TO SUBMIT,  
9 IN LIEU OF THE REPORT REQUIRED BY SUBSECTION (1) OF THIS SECTION, A  
10 LETTER PREPARED BY A REGISTERED PROFESSIONAL ENGINEER OR BY A  
11 WATER SUPPLY EXPERT FROM THE WATER SUPPLY ENTITY STATING THE  
12 WATER SUPPLY ENTITY'S COMMITMENT AND ABILITY TO PROVIDE AN  
13 ADEQUATE WATER SUPPLY FOR THE PROPOSED DEVELOPMENT. AT A  
14 MINIMUM, THE LETTER SHALL INCLUDE:

15 (a) A DESCRIPTION OF THE PHYSICAL SOURCE OF SUPPLY THAT WILL  
16 BE USED TO SERVE THE PROPOSED DEVELOPMENT;

17 (b) THE ESTIMATED WATER SUPPLY REQUIREMENTS FOR THE  
18 PROPOSED DEVELOPMENT, AS DETERMINED IN CONSULTATION WITH THE  
19 APPLICANT;

20 (c) THE CURRENT WATER DEMAND ON THE WATER SUPPLY ENTITY,  
21 INCLUDING COMMITMENTS FOR SERVICE NOT YET SUPPLIED;

22 (d) THE WATER CONSERVATION MEASURES THAT WILL BE  
23 IMPLEMENTED WITH RESPECT TO THE PROPOSED DEVELOPMENT;

24 (e) THE WATER DEMAND MANAGEMENT MEASURES THAT WILL BE  
25 IMPLEMENTED TO ADDRESS HYDROLOGIC VARIATIONS; AND

26 (f) SUCH OTHER INFORMATION AS MAY BE REQUIRED BY THE  
27 LOCAL GOVERNMENT.

1 (3) IN THE ALTERNATIVE, THE PERMITTING AUTHORITY MAY  
2 DETERMINE THAT NO LETTER OR REPORT IDENTIFIED PURSUANT TO  
3 SUBSECTIONS (1) AND (2) OF THIS SECTION SHALL BE REQUIRED FROM THE  
4 APPLICANT IF WATER FOR THE PROPOSED DEVELOPMENT IS TO BE  
5 PROVIDED BY A WATER SUPPLY ENTITY THAT HAS A WATER SUPPLY PLAN  
6 THAT:

7 (a) HAS BEEN REVIEWED, UPDATED, AND APPROVED WITHIN THE  
8 PREVIOUS TEN YEARS BY THE GOVERNING BOARD OF THE WATER SUPPLY  
9 ENTITY;

10 (b) HAS A MINIMUM TWENTY-YEAR PLANNING HORIZON;

11 (c) INCLUDES WATER CONSERVATION MEASURES THAT MEET THE  
12 REQUIREMENTS OF SECTION 37-60-126 (4);

13 (d) INCLUDES WATER DEMAND MANAGEMENT MEASURES THAT  
14 WILL BE IMPLEMENTED TO ADDRESS HYDROLOGIC VARIATIONS;

15 (e) INCLUDES A PLAN FOR DROUGHT AND OTHER WATER SUPPLY  
16 EMERGENCIES;

17 (f) INCLUDES A GENERAL DESCRIPTION OF THE WATER SUPPLY  
18 ENTITY'S CURRENT WATER OBLIGATIONS;

19 (g) WAS DEVELOPED THROUGH A PROCESS THAT INCLUDED AN  
20 OPPORTUNITY FOR PUBLIC COMMENT; AND

21 (h) IS ON FILE WITH THE LOCAL GOVERNMENT OR PERMITTING  
22 AUTHORITY.

23 (4) NOTHING IN THIS SECTION SHALL BE REQUIRED OF AN  
24 APPLICANT THAT HAS PAID TO A WATER SUPPLY ENTITY A FEE OR CHARGE  
25 AS DETERMINED BY THE LOCAL GOVERNMENT FOR THE PURPOSE OF  
26 ACQUIRING WATER FOR OR EXPANDING OR CONSTRUCTING THE  
27 INFRASTRUCTURE TO SERVE THE PROPOSED DEVELOPMENT.

1           **29-20-305. Determination of adequate water supply.** (1) THE  
2 LOCAL GOVERNMENT'S DETERMINATION AS TO WHETHER AN APPLICANT  
3 HAS A WATER SUPPLY THAT IS ADEQUATE TO MEET THE WATER SUPPLY  
4 REQUIREMENTS OF A PROPOSED DEVELOPMENT SHALL BE BASED ON  
5 CONSIDERATION OF THE FOLLOWING INFORMATION:

6           (a) THE DOCUMENTATION REQUIRED BY SECTION 29-20-304;

7           (b) IF REQUESTED BY THE LOCAL GOVERNMENT, A LETTER FROM  
8 THE STATE ENGINEER COMMENTING ON THE DOCUMENTATION REQUIRED  
9 PURSUANT TO SECTION 29-20-304;

10          (c) ANY OTHER INFORMATION DEEMED RELEVANT BY THE LOCAL  
11 GOVERNMENT, IN ITS SOLE DISCRETION, TO DETERMINE WHETHER THE  
12 WATER SUPPLY FOR THE PROPOSED DEVELOPMENT IS ADEQUATE,  
13 INCLUDING, WITHOUT LIMITATION, ANY INFORMATION REQUIRED TO BE  
14 SUBMITTED BY THE APPLICANT PURSUANT TO APPLICABLE LOCAL  
15 GOVERNMENT LAND USE REGULATIONS OR STATE STATUTES.

16           **29-20-306. Liability.** NEITHER THIS PART 3 NOR ANY ACTIONS  
17 TAKEN BY A LOCAL GOVERNMENT OR THE STATE ENGINEER'S OFFICE  
18 PURSUANT TO THIS PART 3 SHALL GIVE RISE TO LIABILITY ON THE PART OF  
19 THE LOCAL GOVERNMENT OR STATE ENGINEER'S OFFICE.

20           **SECTION 3. Applicability.** This act shall apply to applications  
21 for development permits submitted on or after the effective date of this  
22 act.

23           **SECTION 4. Safety clause.** The general assembly hereby finds,  
24 determines, and declares that this act is necessary for the immediate  
25 preservation of the public peace, health, and safety.