

HOUSE COMMITTEE OF REFERENCE REPORT

Chairman of Committee

February 18, 2009
Date

Committee on Agriculture, Livestock, & Natural Resources.

After consideration on the merits, the Committee recommends the following:

HB09-1233 be amended as follows, and as so amended, be referred to the Committee of the Whole with favorable recommendation:

- 1 Amend printed bill, page 4, strike lines 12 through 27.
- 2 Strike pages 5 through 9.
- 3 Page 10, strike lines 1 through 11 and substitute the following:
 - 4 **"SECTION 2.** Article 42 of title 7, Colorado Revised Statutes, is
 - 5 amended BY THE ADDITION OF A NEW SECTION to read:
 - 6 **7-42-101.5. Acequia mutual ditch - definition - powers.**
 - 7 (1) FOR PURPOSES OF THIS SECTION, "ACEQUIA" MEANS A DITCH THAT:
 - 8 (a) ORIGINATED PRIOR TO COLORADO'S STATEHOOD;
 - 9 (b) HAS HISTORICALLY TREATED WATER DIVERTED BY THE
 - 10 ACEQUIA AS A COMMUNITY RESOURCE AND HAS THEREFORE ATTEMPTED
 - 11 TO ALLOCATE WATER IN THE ACEQUIA BASED UPON EQUITY IN ADDITION
 - 12 TO PRIORITY;
 - 13 (c) RELIES ESSENTIALLY ON GRAVITY-FED SURFACE WATER
 - 14 DIVERSIONS;
 - 15 (d) SUPPLIES IRRIGATION WATER TO LONG LOTS THAT ARE
 - 16 PERPENDICULAR TO THE STREAM OR DITCH TO MAXIMIZE THE NUMBER OF

1 LANDOWNERS WHO HAVE ACCESS TO WATER;

2 (e) HAS HISTORICALLY BEEN OPERATED PURSUANT TO A ONE
3 LANDOWNER-ONE VOTE SYSTEM; AND

4 (f) HAS HISTORICALLY RELIED ON LABOR SUPPLIED BY THE
5 OWNERS OF IRRIGATED LAND SERVED BY THE ACEQUIA.

6 (2) SUBJECT TO ANY CONTRARY PROVISION OF SUBSECTION (3) OF
7 THIS SECTION, THE PROCEDURAL AND SUBSTANTIVE REQUIREMENTS OF
8 THIS ARTICLE OTHER THAN THIS SECTION THAT APPLY TO THE CREATION,
9 POWERS, DUTIES, AND GOVERNANCE OF A DITCH CORPORATION SUBJECT
10 TO THIS ARTICLE SHALL BE DEEMED TO APPLY TO THE CREATION, POWERS,
11 DUTIES, AND GOVERNANCE OF AN ACEQUIA DITCH CORPORATION.

12 (3) AN ACEQUIA DITCH CORPORATION MAY BE ORGANIZED
13 PURSUANT TO THIS ARTICLE, AND A DITCH CORPORATION ORGANIZED
14 PURSUANT TO THIS ARTICLE MAY CONVERT TO AN ACEQUIA DITCH
15 CORPORATION, IF:

16 (a) AT LEAST TWO-THIRDS OF THE IRRIGATED LAND SERVED BY THE
17 DITCH IS PLATTED OR ORGANIZED INTO LONG LOTS, THE LONGEST AXES OF
18 WHICH ARE PERPENDICULAR TO THE STREAM OR DITCH;

19 (b) SURFACE WATER RIGHTS PROVIDE ALL OF THE WATER RIGHTS
20 USED FOR IRRIGATION IN THE DITCH, AND SUCH WATER RIGHTS HAVE HAD
21 SUBSTANTIALLY UNINTERRUPTED USE SINCE BEFORE COLORADO'S
22 STATEHOOD;

23 (c) THE IRRIGATED LAND SERVED BY THE DITCH IS LOCATED
24 WHOLLY IN ONE OR MORE OF THE COUNTIES OF COSTILLA, CONEJOS,
25 HUERFANO, AND LAS ANIMAS; AND

26 (d) AS REQUIRED PURSUANT TO SECTION 7-42-101, THE
27 STOCKHOLDERS OF THE DITCH FILE ARTICLES OF INCORPORATION, OR AN
28 AMENDMENT TO THE ARTICLES OF INCORPORATION, THAT STATE THE
29 STOCKHOLDERS' INTENTION TO CREATE OR CONVERT TO AN ACEQUIA
30 DITCH CORPORATION.

31 (4) AN ACEQUIA DITCH CORPORATION, IF ITS ARTICLES OF
32 INCORPORATION SO STATE, MAY SPECIFY IN ITS BYLAWS THAT:

1 (a) ITS ELECTIONS MAY BE HELD PURSUANT TO A ONE
2 LANDOWNER-ONE VOTE SYSTEM;

3 (b) OWNERS OF LAND IRRIGATED BY THE DITCH CAN BE REQUIRED
4 TO CONTRIBUTE LABOR TO THE MAINTENANCE AND REPAIR OF THE
5 ACEQUIA OR, IN THE ALTERNATIVE, TO PAY AN ASSESSMENT IN LIEU OF
6 SUCH LABOR;

7 (c) WATER IN THE DITCH MAY BE ALLOCATED ON A BASIS OTHER
8 THAN PRO RATA OWNERSHIP OF THE CORPORATION; AND

9 (d) THE CORPORATION HAS A RIGHT OF FIRST REFUSAL REGARDING
10 THE SALE, LEASE, OR EXCHANGE OF ANY SURFACE WATER RIGHT THAT HAS
11 HISTORICALLY BEEN USED TO IRRIGATE LONG-LOT LAND BY THE
12 ACEQUIA."

13 Renumber succeeding section accordingly.

14 Page 1, line 102, strike "WATER DISTRICTS." and substitute "DITCH
15 CORPORATIONS."

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