

HOUSE COMMITTEE OF REFERENCE REPORT

Chairman of Committee

March 12, 2012
Date

Committee on Agriculture, Livestock, & Natural Resources.

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

HB12-1161 be amended as follows, and as so amended, be referred to the Committee on Appropriations with favorable recommendation:

1 Amend printed bill, strike everything below the enacting clause and
2 substitute:

3 **"SECTION 1. Legislative declaration.** (1) The general
4 assembly hereby:

5 (a) Finds that:

6 (I) The nutrients nitrogen and phosphorus are widely present in
7 the environment from both natural and anthropogenic sources;

8 (II) Colorado has historically established nutrient reduction
9 requirements where necessary to protect uses, water resources, and
10 aquatic life from excessive plant growth;

11 (III) In response to environmental protection agency requirements,
12 the Colorado water quality control division (division) has proposed
13 nutrient control regulations and the Colorado water quality control
14 commission has scheduled a rule-making hearing in March 2012 to
15 consider changes to its nutrient regulations; and

16 (IV) Governor Hickenlooper has established a policy by executive
17 order D 2011-005, dated January 11, 2011, stating that no state agency
18 shall promulgate any regulation unless it is specifically mandated by law,
19 and only then in consultation with local governments, and funding is
20 provided to comply with the mandate;

21 (b) Determines that:

22 (I) Controlling nutrients as recommended by the environmental
23 protection agency and proposed by the division will impose a widespread

1 economic burden on those entities responsible for meeting numeric
2 standards, and this economic burden may affect the viability of urban and
3 rural communities; and

4 (II) Implementing nutrient regulations may also have
5 environmental benefits, including protection of drinking water supplies,
6 that need to be better understood; and

7 (c) Declares that:

8 (I) It is in Colorado's interests to minimize nutrient reduction costs
9 by developing a program that is flexible, effectively protects drinking
10 water supplies, and allows consideration of basin-specific concerns; and

11 (II) This act is necessary to ensure that the division's proposal:

12 (A) Complies with executive order D 2011-005;

13 (B) Reflects active stakeholder participation;

14 (C) Fully considers applicable cost-benefit study conclusions;

15 (D) Is structured to avoid unnecessary regulation and minimize
16 the fiscal impact to state agencies and local governments; and

17 (E) Is designed to address basin-specific conditions.

18 **SECTION 2.** In Colorado Revised Statutes, 25-8-402, **amend** (1);
19 and **add** (6) as follows:

20 **25-8-402. Procedures to be followed in classifying state waters**
21 **and setting standards and control regulations - nutrients**
22 **subcommittee.** (1) EXCEPT AS SPECIFIED IN SUBSECTION (6) OF THIS
23 SECTION, prior to the classification of state waters and promulgating any
24 water quality standard or any control regulation authorized in this article,
25 the commission shall conduct a public hearing ~~thereon~~ as provided in
26 section 24-4-103, C.R.S. Notice of ~~any such~~ THE hearing ~~shall~~ MUST
27 conform to the requirements of section 24-4-103, C.R.S., but ~~such~~ THE
28 notice ~~shall~~ MUST be given at least sixty days prior to the hearing and
29 ~~shall~~ MUST include each proposed standard or regulation.

30 (6) REVISIONS TO THE BASIC STANDARDS AND METHODOLOGIES
31 RELATED TO TOTAL NITROGEN, TOTAL INORGANIC NITROGEN, TOTAL
32 PHOSPHOROUS, AND CHLOROPHYLL A FOR SURFACE WATER REGULATION
33 NO. 31, 5 CCR 1002-31, AND ADOPTION OF A NEW NUTRIENTS
34 MANAGEMENT CONTROL REGULATION, REGULATION NO. 85, 5 CCR
35 1002-85, CANNOT TAKE EFFECT UNLESS AND UNTIL SPECIFICALLY
36 APPROVED BY THE GENERAL ASSEMBLY ACTING BY A BILL OTHER THAN
37 THE ANNUAL BILL INTRODUCED PURSUANT TO SECTION 24-4-103, C.R.S.

38 **SECTION 3.** In Colorado Revised Statutes, 37-98-102, **add** (7)
39 as follows:

40 **37-98-102. Water resources review committee - creation -**
41 **repeal.** (7) (a) DURING THE 2012 INTERIM, THE COMMITTEE SHALL HOLD

1 AT LEAST ONE PUBLIC MEETING, ON OR BEFORE OCTOBER 1, 2012, TO
2 CONSIDER WHETHER THE PROPOSED REVISIONS TO THE BASIC STANDARDS
3 AND METHODOLOGIES RELATED TO TOTAL NITROGEN, TOTAL INORGANIC
4 NITROGEN, TOTAL PHOSPHOROUS, AND CHLOROPHYLL A FOR SURFACE
5 WATER REGULATION NO. 31, 5 CCR 1002-31, AND ADOPTION OF A NEW
6 NUTRIENTS MANAGEMENT CONTROL REGULATION, REGULATION NO. 85, 5
7 CCR 1002-85, AS REFERENCED IN SECTION 25-8-402 (6), C.R.S.:

8 (I) COMPLY WITH EXECUTIVE ORDER D 2011-005;
9 (II) REFLECT ACTIVE STAKEHOLDER PARTICIPATION;
10 (III) FULLY CONSIDER THE CONCLUSIONS OF THE COST-BENEFIT
11 STUDY CONDUCTED ON BEHALF OF THE COLORADO WATER RESOURCES
12 AND POWER DEVELOPMENT AUTHORITY;

13 (IV) ARE STRUCTURED TO AVOID UNNECESSARY REGULATION AND
14 MINIMIZE THE FISCAL IMPACT TO STATE AGENCIES AND LOCAL
15 GOVERNMENTS; AND

16 (V) ARE DESIGNED TO ADDRESS BASIN-SPECIFIC CONDITIONS.

17 (b) BY NOVEMBER 1, 2012, THE COMMITTEE SHALL DELIVER A
18 REPORT CONTAINING ITS FINDINGS ON THE FACTORS SPECIFIED IN
19 PARAGRAPH (a) OF THIS SUBSECTION (7) TO THE WATER QUALITY CONTROL
20 COMMISSION CREATED IN SECTION 25-8-201, C.R.S.

21 (c) THIS SUBSECTION (7) IS REPEALED, EFFECTIVE JULY 1, 2013.

22 **SECTION 4. Applicability.** The provisions of this act apply to
23 rules adopted before, on, or after the effective date of this act.

24 **SECTION 5. Safety clause.** The general assembly hereby finds,
25 determines, and declares that this act is necessary for the immediate
26 preservation of the public peace, health, and safety."

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