

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

PREAMENDED

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

LLS NO. 14-0578.02 Thomas Morris x4218

HOUSE BILL 14-1005

HOUSE SPONSORSHIP

Sonnenberg and Young, DelGrosso, Foote, Saine, Singer

SENATE SPONSORSHIP

Lundberg and Kefalas, Jones, Renfroe

House Committees

Agriculture, Livestock, & Natural Resources

Senate Committees

A BILL FOR AN ACT

101 **CONCERNING CLARIFICATION OF THE REQUIREMENTS APPLICABLE TO**
102 **A CHANGE OF POINT OF WATER DIVERSION.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://www.leg.state.co.us/billsummaries>.)

A statute enacted in 1881 allows the owner of a ditch to relocate the ditch's headgate if changes to the stream prevent the headgate from effectuating the diversion. The "Water Right Determination and Administration Act of 1969" (1969 act) requires changes of water rights, including changes of points of diversion, to be adjudicated. The 1969 act

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.*

does not exempt changes authorized by the 1881 act. The bill clarifies that a water right owner may relocate a ditch headgate pursuant to the 1881 act without filing for a change of water right under the 1969 act if the relocation does not physically interfere with the complete use or enjoyment of other water rights.

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

2 **SECTION 1.** In Colorado Revised Statutes, **amend** 37-86-111 as
3 follows:

4 **37-86-111. Head of ditch may be relocated.** (1) In case the
5 channel of ~~any~~ A natural stream becomes so cut out, lowered, turned
6 aside, or otherwise changed from any cause as to prevent any ditch, canal,
7 or feeder of any reservoir from receiving the proper inflow of water to
8 which it may be entitled from ~~such~~ THE natural stream, the owners of ~~such~~
9 THE ditch, canal, or feeder have the right to ~~extend~~ RELOCATE the head of
10 ~~such~~ THE ditch, canal, or feeder to such distance ~~up~~ TO the stream ~~which~~
11 THAT supplies ~~the same~~ IT as may be necessary for securing a sufficient
12 flow of water into the ~~same~~ DITCH, CANAL, OR FEEDER. For that purpose
13 they have the same right to maintain proceedings for condemnation of A
14 right-of-way for ~~such extension~~ THE RELOCATION as in THE case of
15 constructing a new ditch. The priority of right to take water from ~~such~~ A
16 stream through such ditch, canal, or feeder ~~as to any such ditch, canal, or~~
17 ~~feeder shall remain~~ REMAINS unaffected in any respect by reason of ~~such~~
18 ~~extension~~ THE RELOCATION; but ~~no such extension shall~~ THE RELOCATION
19 MUST NOT PHYSICALLY interfere with the complete use or enjoyment of
20 any ~~ditch, canal, or feeder~~ ABSOLUTE OR DECREED CONDITIONAL WATER
21 RIGHT.

22 (2) IF AN OWNER OF A WATER RIGHT RELOCATES A SURFACE
23 DIVERSION STRUCTURE TO A NEW SURFACE POINT OF DIVERSION IN

1 COMPLIANCE WITH SUBSECTION (1) OF THIS SECTION, THE OWNER DOES
2 NOT NEED TO FILE A CHANGE OF WATER RIGHT APPLICATION FOR THE NEW
3 SURFACE POINT OF DIVERSION.

4 **SECTION 2.** In Colorado Revised Statutes, 37-92-103, **amend**
5 (5) as follows:

6 **37-92-103. Definitions.** As used in this article, unless the context
7 otherwise requires:

8 (5) "Change of water right" means a change in the type, place, or
9 time of use, a change in the point of diversion EXCEPT AS SPECIFIED IN
10 SECTION 37-86-111 (2), a change from a fixed point of diversion to
11 alternate or supplemental points of diversion, a change from alternate or
12 supplemental points of diversion to a fixed point of diversion, a change
13 in the means of diversion, a change in the place of storage, a change from
14 direct application to storage and subsequent application, a change from
15 storage and subsequent application to direct application, a change from
16 a fixed place of storage to alternate places of storage, a change from
17 alternate places of storage to a fixed place of storage, or any combination
18 of such changes. The term "change of water right" includes changes of
19 conditional water rights as well as changes of water rights.

20 **SECTION 3. Applicability.** This act applies to changes in points
21 of diversion made before, on, or after the effective date of this act.

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