

HOUSE COMMITTEE OF REFERENCE REPORT

Chairman of Committee

April 16, 2014
Date

Committee on Agriculture, Livestock, & Natural Resources.

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

HB14-1332 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. In Colorado Revised Statutes, 37-60-115, **add** (9)
4 and (10) as follows:

5 **37-60-115. Water studies - rules - repeal. (9) South Platte**
6 **river alluvial aquifer study - additional study authorized - study**
7 **advisory board - creation - definitions.** (a) THE BOARD SHALL, IN
8 CONSULTATION WITH THE STATE ENGINEER AND THE INSTITUTE, CONDUCT
9 A COMPREHENSIVE STUDY BUILDING UPON THE CONCLUSIONS AND
10 RECOMMENDATIONS OF THE STUDY COMPLETED IN ACCORDANCE WITH
11 SUBSECTION (7) OF THIS SECTION FOR THE PURPOSE OF IMPLEMENTING THE
12 RECOMMENDATIONS SET FORTH IN THE HB 12-1278 STUDY.

13 (b) AS USED IN THIS SUBSECTION (9), "HB 12-1278 STUDY" MEANS
14 THE REPORT ENTITLED "HB 1278 STUDY OF THE SOUTH PLATTE RIVER
15 ALLUVIAL AQUIFER", AS PREPARED BY THE INSTITUTE AND DATED
16 DECEMBER 31, 2013.

17 (c) IN CONDUCTING THE STUDY, THE BOARD, IN CONSULTATION
18 WITH THE INSTITUTE, SHALL:

19 (I) FURTHER STUDY THE MOVEMENT OF WATER IN THE ALLUVIAL
20 AQUIFER OF THE SOUTH PLATTE RIVER, OR PORTIONS OF THE ALLUVIAL
21 AQUIFER, AND THE TIME, LOCATION, AND AMOUNT OF ANY CONTRIBUTIONS
22 THAT THE ALLUVIAL AQUIFER MAKES TO SURFACE FLOWS. TO EXAMINE
23 THE ALLUVIAL AQUIFER'S CONTRIBUTIONS TO SURFACE FLOWS, THE BOARD

1 AND INSTITUTE SHALL:

2 (A) PERFORM A STUDY OF HISTORICAL DATA REGARDING ALLUVIAL
3 AQUIFER LEVELS AND STREAM GAIN IN WATER DISTRICT 2 TO ESTABLISH
4 RELATIONSHIPS BETWEEN AQUIFER LEVELS AND STREAM FLOWS; AND

5 (B) IN COORDINATION WITH ONGOING EFFORTS FOR THE SOUTH
6 PLATTE DECISION SUPPORT SYSTEM TO DEVELOP GROUNDWATER
7 MODELING, DEVELOP CALIBRATED NUMERICAL GROUNDWATER MODELS TO
8 TEST AGAINST ANALYTICAL METHODS THAT HAVE BEEN HISTORICALLY
9 APPLIED TO WELLS IN THE AREAS IDENTIFIED IN THE HB12-1278 STUDY AS
10 EXPERIENCING DAMAGING HIGH GROUNDWATER LEVELS IN GILCREST,
11 COLORADO; LASALLE, COLORADO; AND STERLING, COLORADO. THE
12 BOARD AND THE INSTITUTE SHALL CONDUCT ADDITIONAL FIELD STUDIES
13 TO SUPPORT THE DEVELOPMENT OF THE NUMERICAL GROUNDWATER
14 MODELS, INCLUDING FIELD STUDIES TO MONITOR AND MEASURE AQUIFER
15 LEVELS IN RESPONSE TO GROUNDWATER WITHDRAWALS WITHIN THE
16 STUDY AREA.

17 (II) COORDINATE WITH THE STATE ENGINEER, THE DIVISION
18 ENGINEER, THE DIVISION OF WATER RESOURCES, OTHER INTERESTED
19 AGENCIES, AND INTERESTED WATER USERS TO DESIGN AND INITIATE A
20 MONITORING WELL NETWORK, BUILDING UPON RECOMMENDATION 3B OF
21 THE HB12-1278 STUDY.

22 (d) THE BOARD SHALL ENTER INTO A CONTRACT WITH THE
23 INSTITUTE, USING EXISTING PROCUREMENT MECHANISMS AND
24 AGREEMENTS BETWEEN THE BOARD AND THE INSTITUTE, TO CONDUCT,
25 OVERSEE, AND COORDINATE ALL ASPECTS OF THE STUDY. THE BOARD
26 SHALL FUND THE STUDY FROM EXISTING RESEARCH RESOURCES AT LEVELS
27 AGREED TO BETWEEN THE BOARD AND THE INSTITUTE. IN ADDITION, TO
28 IMPLEMENT THE ACTIVITIES OF THE STUDY, THE BOARD SHALL
29 COORDINATE WITH WATER USERS AND WATER ORGANIZATIONS TO
30 IDENTIFY AND SECURE ADDITIONAL FUNDING FROM SOURCES INCLUDING
31 STATE AND FEDERAL GRANTS AND THIRD-PARTY GIFTS, GRANTS, AND
32 DONATIONS.

33 (e) (I) THE INSTITUTE SHALL PERFORM THE STUDY
34 INDEPENDENTLY, UNDER THE DIRECTION OF A STUDY ADVISORY BOARD,
35 CREATED IN THIS PARAGRAPH (e) AND REFERRED TO IN THIS SUBSECTION
36 (9) AS THE "ADVISORY BOARD". THE ADVISORY BOARD CONSISTS OF ONE
37 REPRESENTATIVE APPOINTED BY EACH OF THE FOLLOWING ENTITIES:

- 38 (A) THE NORTHERN COLORADO WATER CONSERVANCY DISTRICT;
39 (B) THE CENTRAL COLORADO WATER CONSERVANCY DISTRICT;
40 (C) THE LOWER SOUTH PLATTE WATER CONSERVANCY DISTRICT;
41 (D) THE SOUTH PLATTE ROUNDTABLE;

1 (E) THE METRO ROUNDTABLE;
2 (F) THE BOARD; AND
3 (G) THE STATE ENGINEER'S OFFICE.
4 (II) THE INSTITUTE, WITH THE ADVISORY BOARD'S APPROVAL,
5 SHALL APPOINT AN ENGINEERING SUBCOMMITTEE, CONSISTING OF AT
6 LEAST FIVE INDIVIDUALS WITH EXPERIENCE AND QUALIFICATIONS SPECIFIC
7 TO THE SOUTH PLATTE RIVER BASIN, TO ASSIST THE INSTITUTE IN AN
8 ADVISORY CAPACITY WITH TECHNICAL MATTERS.
9 (III) THE INSTITUTE, WITH THE ADVISORY BOARD'S APPROVAL AND
10 WITH THE AGREEMENT OF THE AFFECTED ENTITY, MAY CONTRACT WITH
11 EMPLOYEES OF THE NORTHERN COLORADO WATER CONSERVANCY
12 DISTRICT, THE CENTRAL COLORADO WATER CONSERVANCY DISTRICT, OR
13 THE LOWER SOUTH PLATTE WATER CONSERVANCY DISTRICT TO PERFORM
14 REASONABLE AND NECESSARY TASKS AND ANALYSIS FOR COMPLETION OF
15 THE STUDY'S GOALS.
16 (f) THE BOARD SHALL COMMISSION THE STUDY AS SOON AS
17 PRACTICABLE.
18 (g) ON OR BEFORE OCTOBER 1 OF 2014, 2015, AND 2016, THE
19 INSTITUTE SHALL REPORT TO THE WATER RESOURCES REVIEW COMMITTEE,
20 CREATED IN SECTION 37-98-102, ON THE PROGRESS OF THE STUDY. THE
21 INSTITUTE SHALL PREPARE A FINAL REPORT, INCLUDING ITS CONCLUSIONS,
22 AND SHALL PRESENT IT TO THE WATER RESOURCES REVIEW COMMITTEE NO
23 LATER THAN NOVEMBER 1, 2017, AND, DURING THE SECOND REGULAR
24 SESSION OF THE SEVENTY-FIRST GENERAL ASSEMBLY IN 2018, SHALL
25 PRESENT THE FINAL REPORT TO A JOINT MEETING OF THE COMMITTEE ON
26 AGRICULTURE, NATURAL RESOURCES, AND LIVESTOCK IN THE HOUSE OF
27 REPRESENTATIVES AND THE COMMITTEE ON AGRICULTURE, NATURAL
28 RESOURCES, AND ENERGY IN THE SENATE, OR THEIR SUCCESSOR
29 COMMITTEES.
30 (h) THIS SUBSECTION (9) IS REPEALED, EFFECTIVE JULY 1, 2018.
31 (10) **South Platte aquifer management plan pilot program -**
32 **repeal.** (a) AFTER NOTICE AND A THIRTY-FIVE DAY COMMENT PERIOD,
33 THE BOARD MAY, IN CONSULTATION WITH THE STATE ENGINEER AND
34 AFTER CONSIDERATION OF ANY COMMENTS SUBMITTED, APPROVE UP TO
35 FIVE PILOT AQUIFER MANAGEMENT PLANS IN THE SOUTH PLATTE RIVER
36 BASIN TO TEST MANAGEMENT STRATEGIES INTENDED TO MITIGATE
37 DAMAGING HIGH GROUNDWATER LEVELS. A PROPOSED AQUIFER
38 MANAGEMENT PLAN SUBMITTED TO THE BOARD FOR APPROVAL MUST:
39 (I) SERVE A GEOGRAPHIC AREA LOCATED IN ONE OF THE HIGH
40 GROUNDWATER STUDY AREAS IN THE VICINITY OF GILCREST, COLORADO,
41 AND LASALLE, COLORADO, OR THE VICINITY OF STERLING, COLORADO, AS

1 DELINEATED BY THE STATE ENGINEER; AND
2 (II) BE CHARACTERIZED BY HIGH GROUNDWATER LEVELS IN
3 EXCESS OF HISTORICAL AVERAGE GROUNDWATER LEVELS, AS DETERMINED
4 BY REFERENCE TO EXISTING HISTORICAL DATA, THAT ARE DAMAGING TO
5 STRUCTURES, INFRASTRUCTURE, OR AGRICULTURAL LANDS;
6 (III) IDENTIFY MONITORING WELLS WITHIN THE HIGH
7 GROUNDWATER STUDY AREAS CAPABLE OF MEASURING AND REPORTING
8 WATER LEVELS IN THE ALLUVIAL AQUIFER;
9 (IV) BE DESIGNED TO REDUCE GROUNDWATER LEVELS WITHIN THE
10 GEOGRAPHIC AREA TO BE SERVED BY THE MANAGEMENT PLAN TO THE
11 EXTENT NECESSARY TO MITIGATE DAMAGING HIGH GROUNDWATER
12 LEVELS, AS REFLECTED IN THE MONITORING WELL NETWORK. THE AQUIFER
13 MANAGEMENT PLAN MAY INCLUDE A PLAN TO INSTALL OR IMPROVE
14 DRAINS AND DRAINAGE SYSTEMS. THE AQUIFER MANAGEMENT PLAN MAY
15 ALSO INCLUDE PUMPING BY WELLS ALREADY LOCATED WITHIN A HIGH
16 GROUNDWATER STUDY AREA OR WELLS TO BE INSTALLED IN A HIGH
17 GROUNDWATER STUDY AREA FOR THE PURPOSE OF DEWATERING TO
18 PROTECT STRUCTURES, INFRASTRUCTURE, OR AGRICULTURAL LANDS.
19 WATER PUMPED FROM THE DEWATERING WELLS SHALL BE RETURNED TO
20 THE SOUTH PLATTE RIVER WITHOUT ANY INTERVENING USE. ONCE IN THE
21 RIVER, THE PUMPED WATER SHALL BE DISTRIBUTED ACCORDING TO THE
22 PRIORITY SYSTEM.
23 (V) INCLUDE AN AFFIRMATION BY THE APPLICANT THAT THE
24 APPLICANT WILL COOPERATE WITH ONGOING MONITORING, ANALYSIS, AND
25 MODELING EFFORTS PERFORMED BY THE BOARD AND THE INSTITUTE
26 UNDER SUBSECTION (9) OF THIS SECTION, INCLUDING PERMITTING ACCESS
27 TO LANDS, DEWATERING WELLS, AND MONITORING WELLS, AND PROVIDING
28 INFORMATION RELATED TO PUMPING, WATER USE, AND WATER LEVELS.
29 (VI) INCLUDE PROOF THAT THE PROPOSED AQUIFER MANAGEMENT
30 PLAN HAS BEEN PROVIDED TO ALL INTERESTED PARTIES SUBSCRIBED TO
31 THE DIVISION 1 SUBSTITUTE WATER SUPPLY PLAN LIST.
32 (b) PUMPING BY DEWATERING WELLS AUTHORIZED UNDER THIS
33 SUBSECTION (10) DOES NOT CREATE AN OBLIGATION TO REPLACE DELAYED
34 DEPLETIONS CAUSED BY THE PUMPING OF THE WELLS, PROVIDED PUMPING
35 IS WITHIN THE VOLUMETRIC LIMITS ESTABLISHED IN AN AQUIFER
36 MANAGEMENT PLAN APPROVAL.
37 (c) THE STATE ENGINEER MAY ISSUE WELL PERMITS FOR
38 DEWATERING IN LOCATIONS AND AMOUNTS CONSISTENT WITH AN AQUIFER
39 MANAGEMENT PLAN APPROVED UNDER THIS SUBSECTION (10).
40 (d) (I) THE BOARD SHALL PROVIDE A THIRTY-FIVE-DAY COMMENT
41 PERIOD FOR INTERESTED PARTIES TO PROVIDE COMMENTS ON A PROPOSED

1 AQUIFER MANAGEMENT PLAN.
2 (II) UPON THE CONCLUSION OF THE THIRTY-FIVE-DAY COMMENT
3 PERIOD, THE BOARD SHALL APPROVE, APPROVE WITH CONDITIONS, OR
4 DENY A PROPOSED AQUIFER MANAGEMENT PLAN. IF THE BOARD APPROVES
5 A PROPOSED AQUIFER MANAGEMENT PLAN, IT SHALL APPROVE IT FOR A
6 PERIOD OF UP TO TWO YEARS. THE BOARD SHALL PROVIDE COPIES OF THE
7 AQUIFER MANAGEMENT PLAN AND THE BOARD'S DECISION APPROVING THE
8 AQUIFER MANAGEMENT PLAN TO ALL PARTIES WHO ARE SUBSCRIBED TO
9 THE DIVISION 1 SUBSTITUTE WATER SUPPLY PLAN LIST. NEITHER THE
10 BOARD'S APPROVAL NOR DENIAL OF A PROPOSED AQUIFER MANAGEMENT
11 PLAN CREATES ANY PRESUMPTIONS, SHIFTS THE BURDEN OF PROOF, OR
12 SERVES AS A DEFENSE IN ANY LEGAL ACTION THAT CONCERNS THE
13 AQUIFER MANAGEMENT PLAN. ANY APPEAL OF THE BOARD'S DECISION
14 CONCERNING AN AQUIFER MANAGEMENT PLAN MUST BE MADE TO THE
15 WATER JUDGE IN THE APPLICABLE WATER DIVISION WITHIN THIRTY-FIVE
16 DAYS. THE WATER JUDGE SHALL HEAR THE APPEAL ON AN EXPEDITED
17 BASIS.
18 (e) THE BOARD SHALL ESTABLISH A HIGH GROUNDWATER
19 MITIGATION GRANT PROGRAM TO PROVIDE FINANCIAL ASSISTANCE TO
20 PERSONS IMPLEMENTING AQUIFER MANAGEMENT PLANS THAT THE BOARD
21 HAS APPROVED UNDER THIS SUBSECTION (10).
22 (f) ON OR BEFORE OCTOBER 1 OF EACH YEAR, THE BOARD SHALL
23 REPORT TO THE WATER RESOURCES REVIEW COMMITTEE, CREATED IN
24 SECTION 37-98-102, ON THE PROGRESS OF MITIGATING DAMAGING HIGH
25 GROUNDWATER LEVELS IN THE STUDY AREAS. THE BOARD SHALL GIVE A
26 FINAL REPORT TO THE WATER RESOURCES REVIEW COMMITTEE REGARDING
27 THE EFFECTIVENESS OF HIGH GROUNDWATER MANAGEMENT STRATEGIES
28 ON OR BEFORE OCTOBER 1, 2019, AND, DURING THE FIRST REGULAR
29 SESSION OF THE SEVENTY-SECOND GENERAL ASSEMBLY, TO A JOINT
30 MEETING OF THE COMMITTEE ON AGRICULTURE, NATURAL RESOURCES,
31 AND LIVESTOCK IN THE HOUSE OF REPRESENTATIVES AND THE COMMITTEE
32 ON AGRICULTURE, NATURAL RESOURCES, AND ENERGY IN THE SENATE, OR
33 THEIR SUCCESSOR COMMITTEES.
34 (g) THIS SUBSECTION (10) IS REPEALED, EFFECTIVE JULY 1, 2020.
35 **SECTION 2. Safety clause.** The general assembly hereby finds,
36 determines, and declares that this act is necessary for the immediate
37 preservation of the public peace, health, and safety."

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