

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. 14-0447.01 Thomas Morris x4218

HOUSE BILL 14-1052

HOUSE SPONSORSHIP

Fischer,

SENATE SPONSORSHIP

Jones,

House Committees

Agriculture, Livestock, & Natural Resources

Senate Committees

Local Government

A BILL FOR AN ACT

101 **CONCERNING AN INCREASE IN THE ENFORCEMENT AUTHORITY OF**
102 **GROUND WATER MANAGEMENT DISTRICTS.**

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>.)

Ground water management districts are currently authorized to enforce the terms of permits issued for small-capacity wells. The bill authorizes a district to:

- ! Enforce permits for all wells located within the district;
- ! Enforce the district's rules with regard to those wells;

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.

HOUSE
3rd Reading Unamended
February 6, 2014

HOUSE
Amended 2nd Reading
February 5, 2014

HOUSE
2nd Reading Unamended
January 30, 2014

- ! Issue orders requiring compliance with the rules and permits; and
- ! Apply to a district court to collect civil fines against a well owner who does not comply with an order.

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

2 **SECTION 1.** In Colorado Revised Statutes, 37-90-130, **amend**
3 (4) as follows:

4 **37-90-130. Management districts - board of directors -**
5 **enforcement.** (4) (a) After the issuance of any well permit ~~for a small~~
6 ~~capacity well~~ within the district, ~~pursuant to section 37-90-105,~~ the
7 district has the authority to enforce compliance with the terms and
8 conditions OF THE PERMIT, THE DISTRICT'S RULES, AND AN ORDER ISSUED
9 BY THE DISTRICT CONCERNING THE WELL AND ISSUED PURSUANT TO THIS
10 ARTICLE governing the use of the groundwater allowed by ~~such~~ THE
11 permit to ensure that ~~such~~ THE use is within the scope of what is allowed
12 by ~~section 37-90-105~~ THIS ARTICLE, THE DISTRICT'S RULES, AN ORDER
13 ISSUED BY THE DISTRICT CONCERNING THE WELL AND ISSUED PURSUANT
14 TO THIS ARTICLE, and the well permit.

15 (b) THE DISTRICT MAY PROCEED PURSUANT TO SECTION
16 37-90-111.5 AGAINST A WELL OWNER WHO DOES NOT COMPLY WITH AN
17 ORDER ISSUED UNDER PARAGRAPH (a) OF THIS SUBSECTION (4).

18 (c) A GROUND WATER MANAGEMENT DISTRICT SHALL PROVIDE
19 NOTICE OF AN ORDER IN A MANNER CONSISTENT WITH THE LOCAL
20 DISTRICT'S RULES. IN THE ABSENCE OF A LOCAL RULE REGARDING NOTICE,
21 IN ADDITION TO ANY OTHER METHOD OF GIVING NOTICE, THE MAILING OF
22 THE ORDER IN A CERTIFIED LETTER TO THE WELL OWNER OR OPERATOR IS
23 SUFFICIENT NOTICE OF THE ORDER OF THE GROUND WATER MANAGEMENT

1 DISTRICT. IN THE CASE OF CIRCUMSTANCES WARRANTING AN EMERGENCY
2 INJUNCTIVE PROCEEDING, MAILING OF THE ORDER IN A CERTIFIED LETTER
3 TO THE WELL OWNER OR OPERATOR, TOGETHER WITH THE POSTING OF A
4 WRITTEN ORDER IN PLAIN SIGHT AT THE WELL HEAD, IS SUFFICIENT NOTICE
5 OF THE ORDER OF THE GROUND WATER MANAGEMENT DISTRICT. THE
6 ORDER TO THE WELL OWNER OR OPERATOR BECOMES EFFECTIVE ON THE
7 DATE OF POSTING IN THE CASE OF POSTING AT THE WELL HEAD OR THREE
8 DAYS AFTER THE CERTIFIED LETTER IS PLACED IN THE UNITED STATES
9 MAIL IN THE CASE OF THE CERTIFIED LETTER. EXCEPT IN THE CASE OF
10 CIRCUMSTANCES WARRANTING AN EMERGENCY INJUNCTIVE PROCEEDING,
11 A GROUND WATER MANAGEMENT DISTRICT SHALL ALLOW AN ALLEGED
12 VIOLATOR NOT LESS THAN SEVEN DAYS AFTER THE EFFECTIVE DATE OF THE
13 ORDER TO CURE AN ALLEGED VIOLATION BEFORE FILING SUIT IN DISTRICT
14 COURT.

15 **SECTION 2.** In Colorado Revised Statutes, 37-90-111.5, **amend**
16 (1) (a) introductory portion, (2), (5) (a) (II), (5) (b), and (6) as follows:

17 **37-90-111.5. Well enforcement - injunction - fines.** (1) (a) If an
18 order of the GROUND WATER MANAGEMENT DISTRICT, commission, or ~~the~~
19 state engineer issued pursuant to section 37-90-105, 37-90-107,
20 37-90-108, 37-90-110, OR 37-90-130 (4) in relation to designated
21 groundwater or PURSUANT TO SECTION 37-90-111 is not complied with,
22 A GROUND WATER MANAGEMENT DISTRICT IN ITS OWN NAME OR the
23 commission or ~~the~~ state engineer in the name of the people of the state of
24 Colorado, through the attorney general, shall apply to the district court in
25 the county in which the water right or well is situated:

26 (2) In the case of an order with respect to the withdrawal of
27 designated groundwater, the designated groundwater judge in ruling upon

1 such injunction shall consider, depending on the basis for the order,
2 whether the designated groundwater is being applied to a beneficial use,
3 whether the withdrawal is causing or will cause injury to persons or
4 entities owning or entitled to use water under vested water rights, and
5 whether the withdrawal of designated groundwater is in violation of the
6 statute; the rules adopted by the GROUND WATER MANAGEMENT DISTRICT,
7 commission, or state engineer; or the well permit's terms and conditions.
8 THE COMMISSION, STATE ENGINEER, AND DISTRICT SHALL COORDINATE
9 ENFORCEMENT ACTIONS TO ENSURE THAT MULTIPLE ACTIONS ARE NOT
10 FILED WITH REGARD TO THE SAME VIOLATION OR FAILURE TO COMPLY.

11 [REDACTED]

12 (5) (a) (II) Any person who, when required to do so by rules
13 adopted by the GROUND WATER MANAGEMENT DISTRICT, commission, or
14 state engineer, fails to submit data as to the amounts of designated
15 groundwater pumped from a well, makes a false or fictitious report of the
16 amounts of designated groundwater pumped from a well, falsifies any
17 data as to amounts pumped from a well, makes a false or fictitious report
18 of a power coefficient for a well, or falsifies any power coefficient test
19 shall forfeit and pay a sum not to exceed five hundred dollars for each
20 violation; except that this subparagraph (II) ~~shall~~ DOES not apply to an
21 order issued pursuant to section 37-90-110 (1) (i). ~~or 37-90-130 (4) (c).~~

22 (b) The state engineer shall transmit all fines collected for
23 violations of paragraph (a) of this subsection (5) to the state treasurer,
24 who shall deposit them in the water resources cash fund created in section
25 37-80-111.7 (1); EXCEPT THAT A GROUND WATER MANAGEMENT DISTRICT
26 SHALL COLLECT AND RETAIN THE FINES FOR A VIOLATION OF AN ORDER OR
27 RULE OF THE GROUND WATER MANAGEMENT DISTRICT.

1 (6) Any person required by a valid order of the GROUND WATER
2 MANAGEMENT DISTRICT, commission, or ~~the~~ state engineer, or by existing
3 rules of the GROUND WATER MANAGEMENT DISTRICT, commission, or state
4 engineer, to cease diversions of designated groundwater or replace
5 depletions caused by diversions of designated groundwater, and whose
6 failure to adhere to ~~such~~ THE order or rule results in the violation of an
7 interstate compact, ~~shall be~~ IS liable for all direct, actual, and necessary
8 expenses incurred by the state of Colorado in performing any action,
9 including the purchase of water or payment of damages, necessary for the
10 state of Colorado to remedy the violation of such compact. The GROUND
11 WATER MANAGEMENT DISTRICT IN ITS OWN NAME OR THE commission or
12 state engineer in the name of the people of the state of Colorado, through
13 the attorney general, shall apply to the district court in the county in
14 which the water right or well is situated to recover such expenses. If the
15 GROUND WATER MANAGEMENT DISTRICT, commission, or ~~the~~ state
16 engineer prevails, the court shall also award the costs of the proceeding
17 and reasonable attorney fees.

18 **SECTION 3. Applicability.** This act applies to conduct occurring
19 on or after the effective date of this act.

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