

Second Regular Session
Sixty-ninth General Assembly
STATE OF COLORADO

INTRODUCED

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

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.

- ! 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 ANY ORDER ISSUED
9 BY THE DISTRICT governing the use of the groundwater allowed by ~~such~~
10 THE permit to ensure that ~~such~~ THE use is within the scope of what is
11 allowed by ~~section 37-90-105~~ THIS ARTICLE, THE DISTRICT'S RULES, ANY
12 ORDER ISSUED BY THE DISTRICT CONCERNING THE WELL, and the well
13 permit.

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

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

20 **37-90-111.5. Well enforcement - injunction - fines.** (1) (a) If an
21 order of the GROUND WATER MANAGEMENT DISTRICT, commission, or ~~the~~
22 state engineer issued pursuant to section 37-90-105, 37-90-107,
23 37-90-108, 37-90-110, OR 37-90-130 (4) in relation to designated

1 groundwater or PURSUANT TO SECTION 37-90-111 is not complied with,
2 A GROUND WATER MANAGEMENT DISTRICT IN ITS OWN NAME OR the
3 commission or ~~the~~ state engineer in the name of the people of the state of
4 Colorado, through the attorney general, shall apply to the district court in
5 the county in which the water right or well is situated:

6 (2) In the case of an order with respect to the withdrawal of
7 designated groundwater, the designated groundwater judge in ruling upon
8 such injunction shall consider, depending on the basis for the order,
9 whether the designated groundwater is being applied to a beneficial use,
10 whether the withdrawal is causing or will cause injury to persons or
11 entities owning or entitled to use water under vested water rights, and
12 whether the withdrawal of designated groundwater is in violation of the
13 statute; the rules adopted by the GROUND WATER MANAGEMENT DISTRICT,
14 commission, or state engineer; or the well permit's terms and conditions.

15 (5) (a) (I) Any person who diverts designated groundwater
16 contrary to a valid order of the GROUND WATER MANAGEMENT DISTRICT,
17 commission, or state engineer issued pursuant to section 37-90-105,
18 37-90-107, 37-90-108, 37-90-110, ~~or~~ 37-90-111, OR 37-90-130 (4), or in
19 violation of rules adopted by the GROUND WATER MANAGEMENT DISTRICT,
20 commission, or state engineer, shall forfeit and pay a sum not to exceed
21 five hundred dollars for each day such violation continues.

22 (II) Any person who, when required to do so by rules adopted by
23 the GROUND WATER MANAGEMENT DISTRICT, commission, or state
24 engineer, fails to submit data as to the amounts of designated groundwater
25 pumped from a well, makes a false or fictitious report of the amounts of
26 designated groundwater pumped from a well, falsifies any data as to
27 amounts pumped from a well, makes a false or fictitious report of a power

1 coefficient for a well, or falsifies any power coefficient test shall forfeit
2 and pay a sum not to exceed five hundred dollars for each violation;
3 except that this subparagraph (II) ~~shall~~ DOES not apply to an order issued
4 pursuant to section 37-90-110 (1) (i). ~~or 37-90-130 (4) (c).~~

5 (b) The state engineer shall transmit all fines collected for
6 violations of paragraph (a) of this subsection (5) to the state treasurer,
7 who shall deposit them in the water resources cash fund created in section
8 37-80-111.7 (1); EXCEPT THAT A GROUND WATER MANAGEMENT DISTRICT
9 SHALL COLLECT AND RETAIN THE FINES FOR A VIOLATION OF AN ORDER OR
10 RULE OF THE GROUND WATER MANAGEMENT DISTRICT.

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

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

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