

Second Regular Session
Sixty-fourth General Assembly
STATE OF COLORADO

INTRODUCED

LLS NO. 04-0221.01 Thomas Morris

HOUSE BILL 04-1040

HOUSE SPONSORSHIP

Salazar, Miller, Rippy, and White

SENATE SPONSORSHIP

Taylor, Entz, and Isgar

House Committees

Agriculture, Livestock, & Natural Resources

Senate Committees

A BILL FOR AN ACT

101 CONCERNING THE REQUIREMENT TO MITIGATE THE EFFECTS ON THE
102 WATER BASIN OF ORIGIN OF A DIVERSION OF WATER FROM A
103 WATER BASIN.

Bill Summary

(Note: This summary applies to this bill as introduced and does not necessarily reflect any amendments that may be subsequently adopted.)

Water Resources Review Committee. Requires that a water judge include, in each decree for a water right that diverts water from one water division into another, conditions to ensure that the present appropriation of water and prospective beneficial uses of water within the water division from which the water is exported will not be impaired or increased in cost at the expense of the water users in that division. Requires the applicant for the decree to show that such exportation is

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.

needed after the preparation of an integrated water supply and demand plan and after an analysis of reasonable alternatives to such export. Specifies that these requirements do not apply if the applicant has reached an enforceable mitigation agreement with a water conservation or conservancy district from within whose boundaries the waters are proposed for diversion.

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

2 **SECTION 1.** 37-92-305 (9), Colorado Revised Statutes, is
3 amended BY THE ADDITION OF A NEW PARAGRAPH to read:

4 **37-92-305. Standards with respect to rulings of the referee and**
5 **decisions of the water judge.** (9) (d) NO CLAIM FOR A WATER RIGHT
6 DIVERTING WATER FROM ONE WATER DIVISION TO ANOTHER MAY BE
7 RECOGNIZED OR A DECREE THEREFOR GRANTED UNLESS THE WATER JUDGE
8 INCLUDES IN THE DECREE SUCH TERMS AND CONDITIONS AS ARE REQUIRED
9 TO ENSURE THAT THE PRESENT APPROPRIATION OF WATER AND
10 PROSPECTIVE BENEFICIAL USES OF WATER WITHIN THE WATER DIVISION IN
11 COLORADO FROM WHICH THE WATER IS EXPORTED WILL NOT BE IMPAIRED
12 OR INCREASED IN COST AT THE EXPENSE OF THE WATER USERS IN THAT
13 DIVISION. THE FACILITIES AND OTHER MEANS FOR ACCOMPLISHMENT OF
14 SUCH PURPOSE SHALL BE INCORPORATED IN AND MADE A PART OF ANY
15 DECREE FOR THE EXPORTATION OF WATER FROM THE DIVISION. SUCH
16 EXPORTATION SHALL BE SHOWN TO BE NEEDED AFTER THE PREPARATION
17 OF AN INTEGRATED WATER SUPPLY AND DEMAND PLAN AND AFTER AN
18 ANALYSIS OF REASONABLE ALTERNATIVES TO SUCH EXPORT. THIS
19 PARAGRAPH (d) SHALL NOT APPLY IF THE APPLICANT DEMONSTRATES THAT
20 IT HAS ENTERED INTO AN ENFORCEABLE MITIGATION AGREEMENT WITH THE
21 WATER CONSERVATION DISTRICT FROM WITHIN WHOSE BOUNDARIES THE
22 WATERS ARE PROPOSED FOR DIVERSION OR, IN THE ABSENCE OF SUCH AN

1 AGREEMENT, AN ENFORCEABLE MITIGATION AGREEMENT WITH THE WATER
2 CONSERVANCY DISTRICT FROM WITHIN WHOSE BOUNDARIES THE WATERS
3 ARE PROPOSED FOR DIVERSION.

4 **SECTION 2. Applicability.** This act shall apply to applications
5 for water right decrees filed on or after the effective date of this act.

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