

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

REVISED

*This Version Includes All Amendments Adopted
on Second Reading in the Second House*

LLS NO. 06-0075.01 Thomas Morris

HOUSE BILL 06-1352

HOUSE SPONSORSHIP

McFadyen, Buescher, Butcher, Curry, Gallegos, and Massey

SENATE SPONSORSHIP

(None),

House Committees

Agriculture, Livestock, & Natural Resources

Senate Committees

Agriculture, Natural Resources & Energy

A BILL FOR AN ACT

101 **CONCERNING AN EXPANSION OF WATER JUDGES' JURISDICTION TO**
102 **ADDRESS THE EFFECTS OF A WATER RIGHT ADJUDICATION ON**
103 **WATER QUALITY.**

Bill Summary

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

When a water judge issues a decree for a change of type of use of water rights that transfers more than 1,000 acre-feet of water per year, allows the water judge to include a term or condition that addresses decreases in water quality caused by the change if the change would cause an exceedance of water quality standards established by the water quality control commission that are in effect at the time of the decree.

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.

SENATE
Amended 2nd Reading
May 4, 2006

HOUSE
3rd Reading Unamended
May 2, 2006

HOUSE
Amended 2nd Reading
April 5, 2006

Directs the water judge to take into account all sources of pollutant contribution. Specifies that if an affected stream segment exceeds a water quality standard at the time of the application, the applicant is responsible for only that portion of the exceedance attributable to the proposed change of type of use.

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

2 **SECTION 1.** 37-92-305 (4), 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.** (4) Terms and conditions to prevent
6 injury as specified in subsection (3) of this section may include:

7 (e) A TERM OR CONDITION THAT ADDRESSES DECREASES IN WATER
8 QUALITY CAUSED BY A CHANGE IN THE TYPE OF USE OF MORE THAN ONE
9 THOUSAND ACRE-FEET OF CONSUMPTIVE USE PER YEAR THAT INCLUDES A
10 CHANGE IN THE POINT OF DIVERSION, IF THE CHANGE WOULD CAUSE AN
11 EXCEEDANCE OR CONTRIBUTE TO AN EXISTING EXCEEDANCE OF WATER
12 QUALITY STANDARDS ESTABLISHED BY THE WATER QUALITY CONTROL
13 COMMISSION PURSUANT TO SECTION 25-8-204, C.R.S., IN EFFECT AT THE
14 TIME OF THE APPLICATION, OR, IF ORDERED BY THE COURT, SUBSEQUENTLY
15 ADOPTED BY THE COMMISSION PRIOR TO THE ENTRY OF THE DECREE, FOR
16 THE STREAM SEGMENT AT THE ORIGINAL POINT OF DIVERSION. UNDER ANY
17 SUCH TERM OR CONDITION, THE APPLICANT SHALL BE RESPONSIBLE FOR
18 ONLY THAT PORTION OF THE EXCEEDANCE ATTRIBUTABLE TO THE
19 PROPOSED CHANGE. ANY SUCH TERM OR CONDITION SHALL NOT BE
20 INCONSISTENT WITH THE "COLORADO WATER QUALITY CONTROL ACT",
21 ARTICLE 8 OF TITLE 25, C.R.S., AND RULES PROMULGATED PURSUANT TO
22 SAID ACT, AND IMPLEMENTATION OF SECTION 303 (d) OF THE FEDERAL
23 "WATER POLLUTION CONTROL ACT" BY THE WATER QUALITY CONTROL

1 DIVISION. THIS PARAGRAPH (e) SHALL NOT BE INTERPRETED TO CONFER
2 STANDING ON ANY PERSON TO ASSERT INJURY WHO WOULD NOT
3 OTHERWISE HAVE SUCH STANDING.

4 **SECTION 2. Applicability.** This act shall apply to water rights
5 applications that are 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.