



Colorado *Legislative Council Staff*
REVISED FISCAL IMPACT

(replaces fiscal impact dated March 7, 2006)

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Date: May 4, 2006

Prime Sponsor(s): Rep. McFadyen
Sen. Gordon

Bill Status: Senate 2nd Reading

Fiscal Analyst: Marc Carey (303 866-4102)

TITLE: CONCERNING AN EXPANSION OF WATER JUDGES' JURISDICTION TO ADDRESS THE EFFECTS OF A WATER RIGHT ADJUDICATION ON WATER QUALITY.

Summary of Assessment

This reengrossed bill authorizes a water judge, when issuing a decree for a change of type of use of water rights transferring more than 1,000 acre-feet of consumptive use of water per year and that includes a change in the point of diversion, to include a term or condition addressing decreases in water quality caused by the change, if the change would cause an exceedance of water quality criteria established by the Water Quality Control Commission, for the stream segment at the original point of diversion. The bill specifies that the applicant is responsible for only that portion of the exceedance attributable to the proposed change. Further, any such term or condition is required to be consistent with the provisions of the Colorado Water Quality Control Act. This bill specifically does not confer standing on any person who would not otherwise have standing, and will become effective upon signature of the Governor.

Judicial Branch. The water courts have historically focused on adjudicating the amount of water used with issues of water quality being left to the Water Quality Control Commission. This bill will create a new type of objection in water augmentation and change of water right cases. While adjudication of water quality issues is anticipated to be resource intensive, this bill limits consideration of such issues to transfers involving at least 1,000 acre feet of consumptive use by a single applicant. Few filings involve transfers of this size, and thus it is anticipated that the additional workload created by this bill can be absorbed within existing resources.

Department of Natural Resources. The anticipated number of cases is small enough such that any additional workload will be absorbable within existing resources.

Department of Public Health and Environment. The staff of the Water Quality Control Commission may need to be available for additional expert testimony at commission hearings or provide assistance to water judges in such cases. However, the anticipated number of cases is small enough that any additional workload would be absorbed within existing resources.

Thus, this bill will not affect state or local revenues or expenditures, and is assessed as having no fiscal impact.

Departments Contacted

Judicial

Law

Natural Resources

Public Health and Environment