

HB1129\_L.002

## HOUSE COMMITTEE OF REFERENCE REPORT

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 Chairman of Committee

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 Date
Committee on Agriculture, Livestock, & Natural Resources.

After consideration on the merits, the Committee recommends the following:

HB09-1129 be amended as follows:

- 1 Amend printed bill, page 3, line 7, strike "NATIVE" and substitute
- 2 "PREEXISTING, NATURAL VEGETATION";
- 3 strike lines 12 through 16 and substitute the following:
- 4 "PATTERNS THAT ACCOUNT FOR VARIATIONS IN HYDROLOGY AND
- 5 PRECIPITATION EVENT INTENSITY, FREQUENCY, AND DURATION,
- 6 QUANTIFYING PREEXISTING, NATURAL VEGETATION CONSUMPTION,
- 7 MEASURING PRECIPITATION RETURN FLOW AMOUNTS, IDENTIFYING
- 8 SURFACE VERSUS GROUND WATER RETURN FLOW SPLITS, AND IDENTIFYING
- 9 DELAYED GROUND WATER RETURN FLOW TIMING TO RECEIVING
- 10 STREAMS;"
- 11 Page 4, line 12, strike "DIFFERENT" and substitute "A RANGE OF PROJECT
- 12 SIZES AND".
- 13 Page 5, strike lines 2 through 19 and substitute the following:
- 14 "STATE ENGINEER PURSUANT TO SECTION 37-92-308(4) OR (5). UNTIL THE
- 15 PILOT PROJECT SPONSOR APPLIES TO THE WATER COURT FOR A PERMANENT
- 16 AUGMENTATION PLAN, THE PILOT PROJECT SHALL BE REQUIRED TO
- 17 REPLACE AN AMOUNT OF WATER EQUAL TO THE AMOUNT OF
- 18 PRECIPITATION CAPTURED AND MEASURED FROM ROOFTOPS AND
- 19 IMPERMEABLE SURFACES FOR NONPOTABLE USES.";
- 20 line 20, after "(II)", insert "(A)";



1 plan will replace all out-of-priority depletions in time, location, and  
2 amount and will otherwise prevent injury to other water rights and  
3 decreed conditional water rights, including water quality and continuity  
4 to meet the requirements of use to which the senior appropriation has  
5 normally been put, pursuant to section 37-80-120 (3), and will not impair  
6 compliance with any interstate compacts. NOTWITHSTANDING ANY  
7 LIMITATIONS REGARDING PHREATOPHYTES OR IMPERMEABLE SURFACES  
8 THAT WOULD OTHERWISE APPLY PURSUANT TO SECTION 37-92-103 (9) OR  
9 37-92-501 (4) (b) (III), FOR ANY PRECIPITATION HARVESTING PILOT  
10 PROJECT SELECTED PURSUANT TO SECTION 37-60-115 (6) THAT HAS FILED  
11 AN APPLICATION FOR A PERMANENT AUGMENTATION PLAN IN WATER  
12 COURT, THE OUT-OF-PRIORITY DEPLETIONS SHALL BE THE NET DEPLETION  
13 AS DEFINED IN SECTION 37-60-115 (6) (c) (II) (B). IF NOT OTHERWISE  
14 REQUIRED BY A WATER COURT-APPROVED AUGMENTATION PLAN, THE  
15 STATE ENGINEER SHALL HAVE THE AUTHORITY TO REQUIRE THE PROJECT  
16 SPONSOR TO REPLACE ANY ONGOING DELAYED DEPLETIONS AFTER THE  
17 WATER USE PLAN ASSOCIATED WITH A PRECIPITATION HARVESTING PILOT  
18 PROJECT HAS CEASED. The state engineer shall impose such terms and  
19 conditions as are necessary to ensure that these standards are met. In  
20 making such determinations, the state engineer shall not be required to  
21 hold any formal hearings or conduct any other formal proceedings, but  
22 may conduct a hearing or formal proceeding if the state engineer finds it  
23 necessary to address the issues.

24 (b) A substitute water supply plan approved pursuant to this  
25 subsection (4) shall not be approved for a period of more than one year;  
26 except that an applicant may request the renewal of a plan by repeating  
27 the application process described in this subsection (4). If an applicant  
28 requests a renewal of a plan that would extend the plan past three years  
29 from the initial date of approval, the applicant shall demonstrate to the  
30 state engineer that the delay in obtaining a water court decree is justifiable  
31 and that not being able to continue operating under a substitute water  
32 supply plan until a decree is entered will cause undue hardship to the  
33 applicant. A PROJECT SPONSOR FOR A PRECIPITATION HARVESTING PILOT  
34 PROJECT SELECTED PURSUANT TO SECTION 37-60-115 (6) SHALL  
35 DEMONSTRATE TO THE STATE ENGINEER THAT AN ADDITIONAL YEAR OF  
36 OPERATION UNDER THE PLAN IS NECESSARY TO OBTAIN SUFFICIENT DATA  
37 TO MEET THE COLORADO WATER CONSERVATION BOARD'S CRITERIA FOR  
38 EVALUATING THE PILOT PROJECT. If an applicant requests renewal of a  
39 plan that would extend the plan past five years from the initial date of  
40 approval, the applicant shall demonstrate to the water judge in the

