

HB1233_L.001

HOUSE COMMITTEE OF REFERENCE REPORT

 Chairman of Committee

 Date
Committee on Agriculture, Livestock, & Natural Resources.

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

HB09-1233 be amended as follows:

1 Amend printed bill, page 4, strike lines 12 through 27.

2 Strike pages 5 through 9.

3 Page 10, strike lines 1 through 11 and substitute the following:

4 "SECTION 2. Article 42 of title 7, Colorado Revised Statutes, is
5 amended BY THE ADDITION OF A NEW SECTION to read:

6 **7-42-101.5. Acequia mutual ditch - definition - powers.**

7 (1) FOR PURPOSES OF THIS SECTION, "ACEQUIA" MEANS A DITCH THAT:

8 (a) ORIGINATED PRIOR TO COLORADO'S STATEHOOD;

9 (b) HAS HISTORICALLY TREATED WATER DIVERTED BY THE
10 ACEQUIA AS A COMMUNITY RESOURCE AND HAS THEREFORE ATTEMPTED
11 TO ALLOCATE WATER IN THE ACEQUIA BASED UPON EQUITY IN ADDITION
12 TO PRIORITY;

13 (c) RELIES ESSENTIALLY ON GRAVITY-FED SURFACE WATER
14 DIVERSIONS;

15 (d) SUPPLIES IRRIGATION WATER TO LONG LOTS THAT ARE
16 PERPENDICULAR TO THE STREAM OR DITCH TO MAXIMIZE THE NUMBER OF
17 LANDOWNERS WHO HAVE ACCESS TO WATER;



1 (e) HAS HISTORICALLY BEEN OPERATED PURSUANT TO A ONE
2 LANDOWNER-ONE VOTE SYSTEM; AND

3 (f) HAS HISTORICALLY RELIED ON LABOR SUPPLIED BY THE
4 OWNERS OF IRRIGATED LAND SERVED BY THE ACEQUIA.

5 (2) SUBJECT TO ANY CONTRARY PROVISION OF SUBSECTION (3) OF
6 THIS SECTION, THE PROCEDURAL AND SUBSTANTIVE REQUIREMENTS OF
7 THIS ARTICLE OTHER THAN THIS SECTION THAT APPLY TO THE CREATION,
8 POWERS, DUTIES, AND GOVERNANCE OF A DITCH CORPORATION SUBJECT
9 TO THIS ARTICLE SHALL BE DEEMED TO APPLY TO THE CREATION, POWERS,
10 DUTIES, AND GOVERNANCE OF AN ACEQUIA DITCH CORPORATION.

11 (3) AN ACEQUIA DITCH CORPORATION MAY BE ORGANIZED
12 PURSUANT TO THIS ARTICLE, AND A DITCH CORPORATION ORGANIZED
13 PURSUANT TO THIS ARTICLE MAY CONVERT TO AN ACEQUIA DITCH
14 CORPORATION, IF:

15 (a) AT LEAST TWO-THIRDS OF THE IRRIGATED LAND SERVED BY THE
16 DITCH IS PLATTED OR ORGANIZED INTO LONG LOTS, THE LONGEST AXES OF
17 WHICH ARE PERPENDICULAR TO THE STREAM OR DITCH;

18 (b) SURFACE WATER RIGHTS PROVIDE ALL OF THE WATER RIGHTS
19 USED FOR IRRIGATION IN THE DITCH, AND SUCH WATER RIGHTS HAVE HAD
20 SUBSTANTIALLY UNINTERRUPTED USE SINCE BEFORE COLORADO'S
21 STATEHOOD;

22 (c) THE IRRIGATED LAND SERVED BY THE DITCH IS LOCATED
23 WHOLLY IN ONE OR MORE OF THE COUNTIES OF COSTILLA, CONEJOS,
24 HUERFANO, AND LAS ANIMAS; AND

25 (d) AS REQUIRED PURSUANT TO SECTION 7-42-101, THE
26 STOCKHOLDERS OF THE DITCH FILE ARTICLES OF INCORPORATION, OR AN
27 AMENDMENT TO THE ARTICLES OF INCORPORATION, THAT STATE THE
28 STOCKHOLDERS' INTENTION TO CREATE OR CONVERT TO AN ACEQUIA
29 DITCH CORPORATION.

30 (4) AN ACEQUIA DITCH CORPORATION, IF ITS ARTICLES OF
31 INCORPORATION SO STATE, MAY SPECIFY IN ITS BYLAWS THAT:

32 (a) ITS ELECTIONS MAY BE HELD PURSUANT TO A ONE

1 LANDOWNER-ONE VOTE SYSTEM;

2 (b) OWNERS OF LAND IRRIGATED BY THE DITCH CAN BE REQUIRED
3 TO CONTRIBUTE LABOR TO THE MAINTENANCE AND REPAIR OF THE
4 ACEQUIA OR, IN THE ALTERNATIVE, TO PAY AN ASSESSMENT IN LIEU OF
5 SUCH LABOR;

6 (c) WATER IN THE DITCH MAY BE ALLOCATED ON A BASIS OTHER
7 THAN PRO RATA OWNERSHIP OF THE CORPORATION; AND

8 (d) THE CORPORATION HAS A RIGHT OF FIRST REFUSAL REGARDING
9 THE SALE, LEASE, OR EXCHANGE OF ANY SURFACE WATER RIGHT THAT HAS
10 HISTORICALLY BEEN USED TO IRRIGATE LONG-LOT LAND BY THE
11 ACEQUIA."

12 Renumber succeeding section accordingly.

13 Page 1, line 102, strike "WATER DISTRICTS." and substitute "DITCH
14 CORPORATIONS."

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