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0511 Water Resources Review Committee



Water Resources

Review Committee

Report to the
COLORADO
GENERAL ASSEMBLY

Colorado Legislative Council
Research Publication No. 511
November 2002

RECOMMENDATIONS FOR 2003

WATER RESOURCES REVIEW COMMITTEE

**Report to the
Colorado General Assembly**

**Research Publication No. 511
December 2002**

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December 2002

To Members of the Sixty-third General Assembly:

Submitted herewith is the final report of the Water Resources Review Committee. This committee was created pursuant to Section 37-98-102, Colorado Revised Statutes. The purpose of the committee is to contribute to and monitor the conservation, use, development, and financing of Colorado's water resources for the general welfare of the state.

At its meeting on October 15, 2002, the Legislative Council reviewed the report of this committee. A motion to forward this report and the bills therein for consideration in the 2003 session was approved.

Respectfully submitted,

/s/ Representative Doug Dean
Chairman
Legislative Council

DD/DB/mm

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WATER RESOURCES REVIEW COMMITTEE

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Co-Chairman

Representative Mary Hodge

Representative Carl Miller

Representative Greg Rippy

Representative Al White

Senator Jim Isgar
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EXECUTIVE SUMMARY

Committee Charge

Pursuant to Section 37-98-102, C.R.S., the Water Resources Review Committee was created for the purposes of contributing to and monitoring the conservation, use, development, and financing of Colorado's water resources for the general welfare of the state. The committee is authorized to review and propose legislation in furtherance of its purposes. In conducting its review, the committee is required to consult with experts in the field of water conservation, quality, use, finance, and development. The committee was authorized to meet up to six times in 2002 and take up to two field trips in connection with its mandate.

Committee Activities

Much of Colorado is experiencing the worst drought in its recorded history. The drought, along with the most damaging forest fire season, has impacted the state's water users in a number of ways. The committee focused much of its energy on understanding these impacts and potential solutions. At the four scheduled meetings, the committee received briefings about the drought from a number of governmental entities including the State Engineer, Colorado Water Conservation Board, and the Water Quality Control Division. The State Forester, and a representative from the Inter-agency Task Force to Coordinate Fire Mitigation Programs described the impact from forest fires and mitigation programs.

Committee members also heard testimony from agricultural producers on the drought's impact to their businesses. Representatives from the Department of Natural Resources described how the Division of Wildlife and the Division Parks and Outdoor Recreation were addressing the severe conditions. Conservation methods were suggested from representatives of the environmental community that could be used to extend Colorado's water supply. Representatives from municipal water providers discussed management of existing water supplies and how they were addressing the impacts of the summer's fires.

In August, the committee toured several front range water supply facilities and met with area water interests including Parker Water and Sanitation District, Colorado Springs Utilities, and the Southeastern Colorado Water Conservancy District in Pueblo. The committee then traveled up the Arkansas River Basin and met with representatives from the Division of Parks and Outdoor Recreation and local tourist industries regarding management of the river and its impact on local economies. The committee then held a public meeting in Leadville, Colorado, and discussed legislative proposals.

The committee drafted a letter that was delivered to the Executive Director of the Department of Natural Resources encouraging the department to release water from the

Cherry Creek Reservoir to augment wells along the South Platte River. The committee also sent a letter to Colorado's congressional delegation, the Secretary of Interior, and the Secretary of Agriculture, encouraging a streamlined approach to forest management on federal lands. A letter of support for federal legislation, S. 2868, which provides funds for research into the effects of tamarisk (salt cedar) and other invasive plants on water supplies was sent to Colorado's congressional delegation, and a joint resolution was approved, but not included in the final bill recommendations, in support of the federal legislation.

A proposal to increase the state's sales tax and allow for greater bonding authority to finance water projects and protect the environment was presented to the committee but not acted upon. Another proposal to allow the Colorado Water Conservation Board to dedicate donated water rights for instream uses was also not pursued.

Committee Recommendations

As a result of committee discussion and deliberation, the committee recommends three bills for consideration in the 2003 legislative session.

Bill A — Increased Regulation of Water Wells, and in Connection Therewith, Requiring Continuing Education of Water Well Construction Contractors and Pump Installers as a Condition of Licensure, Increasing Well Permit Fees, Creating a Cash Fund, Specifying Additional Well Construction and Pump Installation Enforcement Authority, and Creating a Well Inspection Program. The bill makes several changes to the statutes regulating wells and well contractors. Bill A modifies the legislative declaration to recognize the impact that well construction has on ground water resources and clarifies definitions. In addition, the bill:

- modifies statutes regarding when and how the State Board of Examiners of Water Well Construction and Pump Installation Contractors (Board) is to meet;
- allows an individual 18 years of age to acquire a contractor's license;
- provides that it is the Board's duty to protect ground water resources;
- requires eight hours of continuing education for individuals engaged in well construction or the installation of pumping equipment;
- requires a license fee of \$50 for a business, a \$25 registration fee for well drilling or pump installation rigs, and increases the cost for a new well permit by \$40, with such fees being paid into the well inspection cash fund;
- authorizes the Board to issue fines or order the abandonment or repair of a well and increases penalties for violations of the statutes;
- creates requirements and qualifications for well inspectors to monitor well construction and pump installation; and
- makes several conforming amendments.

Bill B — Water Resources Review Committee. Bill B makes several changes to the committee's authorizing legislation. First it repeals the committee's repeal date. The committee is currently scheduled to be repealed on July 1, 2003. The bill also authorizes the committee to meet up to two times during the legislative session and states that the President of the Senate will appoint the committee chair in odd-numbered years and the Speaker of the House of Representatives will appoint the committee chair in even-numbered years.

Bill C — Extension of the Implementation Dates for Certain Water Augmentation Requirements. The bill extends the implementation dates for two water augmentation requirements. It delays more stringent augmentation requirements for new wells that withdraw ground water that is not nontributary from the Dawson, Denver, Arapahoe, and Laramie-Fox Hills aquifers from 2003 to 2009. The bill also delays implementation for augmentation requirements in the confined aquifer in the San Luis Valley from July 1, 2003, to July 1, 2004.

STATUTORY AUTHORITY AND RESPONSIBILITIES

Section 37-98-102, C.R.S., creates the Water Resources Review Committee. The committee is composed of five members from the House of Representatives and five members from the Senate. Up to six meetings and no more than two field trips are authorized in order to meet the purposes of the statute.

The committee is charged with contributing to and monitoring the conservation, use, development, and financing of the water resources of Colorado for the general welfare of its inhabitants and to review and propose water resources legislation. The committee is to meet with experts in the field of water conservation, quality use, finance and development in furthering its charge.

COMMITTEE ACTIVITIES

Drought and Fire in Colorado

Much of Colorado is experiencing its worst drought in recorded history. The state also experienced the most devastating forest fire season with over 500,000 acres of forest burned. In light of these events, Governor Owens called a special session of the General Assembly to address these and other issues in July of 2002. The committee focused on how the conditions created by the drought and forest fires impacted the state's water users.

Extent of the drought. The State Engineer briefed the committee on water supply levels in Colorado's rivers and streams. All parts of Colorado are experiencing significant drought, with several areas seeing an exceptional drought. The drought in Colorado will also have an impact on other states who rely upon water generated in Colorado. As of October 1, 2002, reservoirs around the state were at 48 percent of their average water levels. The State Engineer said that all river basins were flowing well below average, many seeing record low flows, and calls were being placed upon the rivers by the most senior water users. In an average year, approximately 16 million acre feet (AF) of water flow in Colorado's rivers. However, this year, natural flows were only 4 to 6 million AF. The Rio Grande saw flows in June that equaled seven percent of average. The Arkansas River saw calls dating to the 1870's. The lack of water threatened the ability of water users to meet augmentation plans and allow wells to pump throughout the summer.

Impacts on municipalities. Several communities, such as Beulah and Rocky Ford, were faced with extreme shortages of water, requiring emergency approvals of substitute supply plans. Municipal water suppliers throughout the state adopted conservation measures, some more stringent than others, in order to conserve dwindling supplies. Several municipal water systems were also impacted from the fires as ash and other sediment flowed into their water supplies. A number of water suppliers have indicated that they intend to continue with water restrictions next summer even if there are significant amounts of precipitation this winter.

Impacts to farmers and ranchers. Colorado's farmers and ranchers have been hit particularly hard due to the extended drought. Soil moisture levels were rated inadequate in over 90 percent of fields surveyed by Colorado State University (CSU). The lack of water has also made it difficult for the ranching industry with up to a \$460 million negative impact to the industry. An estimated 50 percent of the breeding herds were sold due to shortages in feed and water. To more fully assess the economic impacts of the drought, CSU's Cooperative Extension faculty and other researchers are surveying producers throughout the state to learn how they were impacted by the drought and what can be done to lessen the impacts of this and future droughts in the state. Results of the survey will be available in 2003.

Impacts to recreation and tourism. National media broadcast images of the fires that swept through areas of the state. Along with a slumping economy and generally less travel due to the aftermath of September 11, Colorado's tourism industry has also been impacted. A number of state parks were closed for short periods of time and the Governor implemented a statewide fire ban. In addition, river rafting outfitters have estimated that visitation rates were down 40 percent, with an estimated \$25 million impact to the state's economy.

Impacts to environment. Over 400,000 acres have been burned in Colorado since the beginning of the year compared with an annual average of 70,000 acres. Numerous fires exceeded county fire fighting capabilities and required state and federal fire fighting assistance with a majority receiving Federal Emergency Management Administration (FEMA) designation allowing federal fire fighting assistance for fires on non-federal lands. The fire season began April 23 compared with a normal beginning of mid June. Due to the fires, many areas are now at risk of catastrophic flooding. Fire risk increased because of the age and density of Colorado's forests in addition to the dry conditions caused by the drought. The state's Division of Forestry worked to develop best management practices for fire reduction programs in the more heavily populated urban interface areas. The federal government also appropriated moneys for mitigation of high priority risk areas.

Fish and wildlife have been stressed. Lower water levels mean lower water quality, higher stream temperatures and lower dissolved oxygen levels that negatively impact fish. Although the state's major fisheries have been able to continue operation, fish in the lakes and streams have had to deal with increased pressure due to extremely low water levels. Additional releases from reservoirs have also allowed for endangered species recovery programs to continue along the Colorado River.

As a result of committee discussions, legislation was proposed, but not approved, that would have allowed the CWCB to dedicate donated water rights to instream uses without the necessity of adjudicating a change of water right during a declared drought emergency.

Ground water use. Increased population and the need for additional water for agricultural purposes has put greater pressure on Colorado's ground water. While not directly affected by the drought, in times of shortage ground water supplies see an increase use, causing an accelerated decline in water levels. Artesian pressure within the aquifers has declined requiring new wells to be drilled.

Recommendation. The committee recommends Bill A. The bill makes a number of changes to the statutes regulating wells and well contractors. To help ensure that wells are properly drilled the bill creates a well inspection program, gives additional enforcement authority to the State Board of Water Well Construction and Pump Installation Contractors, and requires continuing education as a condition of licensure for well construction contractors and installers.

The committee also sent a letter to the Executive Director of the Department of Natural Resources supporting the release of water from Cherry Creek Reservoir for augmentation purposes along the South Platte River.

State and federal mitigation programs. State and federal agencies have worked together to battle fires and mitigate damages caused by the drought. Colorado created a Multi-Agency Restoration and Rehabilitation Team (MRRT) to facilitate communication and coordination among federal and state agencies to meet Colorado wildland fire restoration and rehabilitation needs. The team has worked to restore many of the areas that have been severely damaged by the forest fires through seeding of grasses and building barriers to slow mudslides and stop runoff of ash and debris into water systems. Additionally, the Colorado State Land Board decided to reduce grazing and dryland crop leases by up to 50 percent in counties that were significantly impacted by the drought.

Colorado's Water Infrastructure Needs, State Financing Mechanisms, Water Supply Alternatives

The committee is charged with monitoring the conservation, use, development, and financing of Colorado's water resources. To meet its charge, the committee heard testimony about state water supply planning and potential funding sources for water supply projects. It also reviewed the need for more comprehensive water planning.

Identifying water needs and supply alternatives. The Colorado Water Conservation Board (CWCB) is the state's primary water policy and planning agency. Its 15-member board is charged with conserving the state's waters to promote utilization and prevent floods. The committee learned that the CWCB conducted a dam site inventory in 1996 that identified 700 potential dam sites with a total storage capacity of 48 million AF. The CWCB is currently conducting a drought planning assessment to determine the ability of local water providers to withstand a drought and identify additional water storage needs.

The board is also conducting a study of the Colorado River Return Project, also known as the "big straw," to review the feasibility of moving unappropriated Colorado River water from the western border to the Continental Divide. This water would then be available for users on both sides of the continental divide including the growing front range municipalities. It is also conducting a statewide water supply investigation that will survey water users to determine future water supply needs and identify potential supply alternatives including dams and other structural and nonstructural solutions such as water exchanges and conjunctive use projects. The State Engineer maintains a list of dams that are under storage restrictions due to safety concerns. The CWCB recently notified dam owners about moneys that may be available including up to \$5,000 for matching planning grants to study repairing or expanding existing dams.

CWCB financing for water studies and projects. The CWCB Construction Fund is a revolving loan program that funds projects that increase the consumption of Colorado's

available river water and for repair and rehabilitation of existing water storage and delivery facilities. The CWCB may also provide grants for up to 50 percent of the cost of a feasibility study and water supply investigation. The fund receives revenue from the return on the principal and interest on outstanding loans and moneys in the state treasury and federal mineral royalty distributions. As of June 30, 2002, the fund's value was \$238 million including outstanding loans, authorized projects, and \$26 million available for new loans and grants. Loans are approved annually by the General Assembly in a bill. In 2002, the General Assembly approved loans from the fund worth \$5.3 million and non-reimbursable investments of \$4.9 million.

The CWCB is also authorized to issue loans for water projects from moneys in the Severance Tax Trust Fund's Perpetual Base Account that was created by the General Assembly in 1997. As of June 30, 2002, the fund's value was \$75 million including outstanding loans, authorized projects, and \$14 million available for new loans. The severance tax is paid by producers of oil, gas, coal, and other minerals. In 2002, the General Assembly approved two loans from the fund totaling \$26 million and \$1 million for emergency drought relief for agricultural well users.

Colorado Water Resources and Power Development Authority (CWRPDA). The committee heard testimony from the CWRPDA regarding its funding programs for water supply programs. The CWRPDA is an independent public entity created by the General Assembly in 1981 to finance water supply projects and later authorized to finance water quality projects. The CWRPDA is authorized to issue revenue bonds that are the indebtedness of the authority and do not obligate the state or any political subdivision. In 2001, the authority committed \$20 million for water resources development. These moneys are primarily used to help offset the cost of borrowing money by a project sponsor. For example, the authority's program for small water resources projects finances projects costing up to \$15 million by providing bond insurance for small, non-investment grade borrowers. This enables the project sponsor to issue lower cost AAA-rated bonds.

The authority's water revenue bond program helps investment grade borrowers finance projects ranging from \$15 million to \$100 million by purchasing bond insurance, pooling borrowers, investing proceeds, and providing other cost saving services. The authority is authorized to provide similar assistance for larger loans, provided the projects are determined to be feasible by the CWCB. The General Assembly must also adopt a joint resolution authorizing the CWRPDA to consider the project and the resolution must be signed by the Governor. Due to the streamlined approval process, projects under \$100 million may receive funds approximately three months after applying for the money. Due to the legislative cycle, the projects over \$100 million may require up to one year to complete the approval process.

Alternative financing mechanisms. The committee received testimony about the need for additional state moneys to finance environmental and other water related programs. A proposal was considered to refer to Colorado's voters a 0.0025 cents increase in the state sales tax. If approved, this increase would raise an estimated \$180 million in

fiscal year 2003-04. According to the proposal, the money would be used to replenish the Endangered Species Trust Fund, meet new federal drinking water requirements, fund the water quality discharge permit program, protect water supplies from terrorist attack, drought and fire mitigation, and mitigate impacts to tourism and recreation. The committee also considered a proposal to adopt a referendum eliminating the state constitutional restriction on state indebtedness, thereby allowing the state to issue general obligation bonds to pay for water projects. The committee did not recommend legislation to increase the state sales tax or allow the state to issue general obligation bonds.

Water planning alternatives. The committee heard testimony encouraging water planning to meet the most pressing needs with the most effective water supply alternative. According to testimony, better water planning may also help Colorado avoid costly federal environmental litigation. Better planning may also have helped anticipate the U.S. Environmental Protection Agency's objection about the potential environmental impacts of the proposed Two Forks water storage project that led to the federal veto. According to testimony, several water planning options are available. For example, a plan may pertain to a specific water project or it may consider water management in broader geographic areas including water basins, regions, or the entire state. Plans may also focus on a specific issue such as water quality, water development, ground water management, or drought. Plans may also include an inventory of existing water resources and demands, identify structural and non-structural solutions, and consider impacts to wildlife, recreation, and other state programs. Plans can also be revised and updated based on population growth and changing public values. New Mexico, Kansas, and Montana were cited as states with useful water plans.

Additional testimony suggested that Colorado may have less of a need for water planning than other states that recently developed water plans. For example, New Mexico created a water plan to help resolve endangered species lawsuits and other conflicts over the use of its rivers. According to testimony, New Mexico needed a water plan because it has unadjudicated water rights on many of its rivers and was unable to administer water rights and protect the environment. In contrast, court recognition of stream water rights is necessary before Colorado will administer water in priority. Colorado water law also provides environmental water rights that can be protected and administered with other water rights.

Nonstructural Water Supply Alternatives

In addition to water storage, other methods are available to help meet Colorado's water supply challenges. The committee heard testimony about nonstructural solutions to water supply problems including vegetation management, weather modification, water conservation, and conjunctive use of the Denver Basin Aquifer.

Vegetation management. Trees, shrubs, and other plants consume large amounts of water that may otherwise be available for appropriation. The committee learned that tamarisk and Russian olive are two invasive, non-native shrubs that are estimated to infest

as many as 75,000 acres of river lands in Colorado and may consume as much as 250,000 AF per year in Colorado. Controlling these rapidly spreading plants may increase stream flows and help restore native wildlife habitat. However, controlling tamarisk and other invasive plants is expensive and may require a long-term treatment program. For example, areal herbicide treatment costs approximately \$200 per-acre and hand clearing may cost \$2,000 per-acre. Also, there is little direct incentive for controlling tamarisk because the saved water may only be used after senior water rights have been satisfied, potentially leaving little, if any, water for the controller of the tamarisk.

The committee also heard testimony that Colorado's forests are also growing denser and using more water due to declines in commercial logging. One study estimates that logging during the first half of the 20th century allowed an additional 116,000 AF annually to flow into the North Platte Basin. Other Colorado river basins are experiencing similar increases in forest density.

Committee letter regarding federal forest management policies. According to the Colorado Department of Natural Resources, the devastating wildfires of 2000 and 2002 are attributable, in part, to federal forest management policies that discourage forest management including forest thinning and commercial timber harvesting. The committee drafted a letter urging Congress to streamline analysis requirements under the National Environmental Policy Act (NEPA) for wildland fire mitigation projects including forest thinning. The committee also urged the U.S. Forest Service to use private timber companies to help manage the forests. The letter was sent to Colorado's congressional delegation and the secretaries of the federal departments of Agriculture and Interior.

Weather modification. Weather modification can increase rain and snow and decrease hail and fog. The most common method of weather modification in Colorado is ground based generators that vaporize silver iodide. Weather modification has occurred in the state since 1951, primarily for snow augmentation in the mountains and some hail suppression. Denver Water recently submitted a permit request for a \$700,000 cloud seeding program to increase snow in water sheds surrounding Denver Water's western water collection facilities. Ten other states have permitting programs for weather modification and 29 states have research programs.

Denver Basin Aquifer and the South Metro Water Supply Study. The Denver Basin Aquifer (DBA) underlies the front range metropolitan area and may contain up to 260 million acre feet (MAF) of water. The South Metro area primarily relies on water from the Denver Basin Aquifer. This area includes the rapidly growing Highlands Ranch Area as well as Parker, Centennial, and Castle Rock. Water from the basin is non-renewable and expensive to pump from the deep aquifer. A study is being conducted to identify the water needs of the South Metro area for the next 50 years and assess the potential of conjunctive use to help satisfy the new demand. According to the study, conjunctive use is "the coordinated use of surface and ground water resources and facilities to produce a larger, more reliable and cost effective combined water supply than could be generated from either source alone."

The South Metro Water Supply Study is examining the potential use of Denver Water's delivery system to provide additional west slope water to the South Metro area during average or above average precipitation years. During average years, the South Metro Area would withdraw some DBA ground water and use some west slope water. During wet years, it would obtain all of its water from the Denver Water system and recharge the DBA. During dry years, the process would be reversed. The South Metro Area would obtain its entire supply from ground water and deliver some of its ground water to the Denver Water system. The study is also examining conservation and water reuse to limit demand and extend the South Metro area's water supply. Currently, this area obtains approximately 70 percent of its water from the DBA and the remaining amount from surface supplies and reuse. If fully implemented in 2050, the study proposal will reduce the amount of ground water used below the amount obtained from reuse, surface water, and demand management.

Recommendation. The committee recommends Bill C that extends the implementation dates for two water augmentation requirements. It delays more stringent augmentation requirements for new wells that withdraw ground water that is not nontributary from the Dawson, Denver, Arapahoe, and Laramie-Fox Hills aquifers from 2003 to 2009. The bill also delays implementation for augmentation requirements in the confined aquifer in the San Luis Valley from July 1, 2003 to July 1, 2004.

Water use efficiency. Water diversions can impact wildlife habitat and degrade water quality. New dams are also expensive to construct. The committee heard testimony that increased water use efficiency (WUE) may eliminate or significantly delay the need for new water diversions. WUE occurs by stretching existing, developed water supplies to meet a larger portion of the need for water without an appreciable loss of amenity value. WUE includes both supply and demand management. Increasing water conservation is the primary method for managing demand. Supply management includes dry year leases, repairing existing dams, reuse, and conjunctive use of ground and surface water supplies. The committee heard testimony that WUE may provide Denver metropolitan cities with as much as 500,000 acre-feet (AF) in saving during the next 20 to 30 years. This amount is approximately five times the amount needed to meet projected demand in 2045. Furthermore, up to 120,000 AF of water could be stored in existing dams if necessary dam safety repairs are made. Due to safety concerns, the State Engineer ordered water storage in these reservoirs to be reduced to prevent dam failure.

Potential impacts of water conservation. Agriculture uses approximately 80 percent of the water in Colorado. Critics contend that agriculture does not use water efficiently because much of the water applied to a plant is lost to evaporation or it seeps into the ground and becomes unavailable to the plant. However, the committee heard testimony that challenged the assertion that agriculture "wastes" water. Rather, water that is not consumed by plants and evaporation, eventually returns to a river. For example, approximately 50 percent of the water applied to corn by flood irrigation returns to the stream. This water is then available for use by irrigators and other downstream users. It also helps the state meet its water delivery obligations under interstate compacts. Underground return flows have significantly changed the flow of the South Platte River.

Prior to irrigation, the South Platte typically only flowed during spring runoff. However, due to return flows from agriculture, the river now flows year round and supports an agricultural economy to the Nebraska border.

SUMMARY OF RECOMMENDATIONS

As a result of the committee's activities, the following bills are recommended to the Colorado General Assembly.

Bill A — Concerning Increased Regulation of Water Wells, and in Connection Therewith, Requiring Continuing Education of Water Well Construction Contractors and Pump Installers as a Condition of Licensure, Increasing Well Permit Fees, Creating a Cash Fund, Specifying Additional Well Construction and Pump Installation Enforcement Authority, and Creating a Well Inspection Program

The bill makes several changes to the statutes regulating wells and well contractors. Bill A modifies the legislative declaration to recognize the impact that well construction has on ground water resources and clarifies definitions. In addition, the bill:

- modifies statutes regarding when and how the State Board of Examiners of Water Well Construction and Pump Installation Contractors (Board) is to meet;
- allows an individual 18 years of age to acquire a contractor's license;
- provides that it is the Board's duty to protect ground water resources;
- requires eight hours of continuing education for individuals engaged in well construction or the installation of pumping equipment;
- requires a license fee of \$50 for a business, a \$25 registration fee for well drilling or pump installation rigs, and increases the cost for a new well permit by \$40, with such fees being paid into the well inspection cash fund;
- authorizes the Board to issue fines or order the abandonment or repair of a well and increases penalties for violations of the statutes;
- creates requirements and qualifications for well inspectors to monitor well construction and pump installation; and
- makes several conforming amendments.

Bill B — Concerning the Water Resources Review Committee

Bill B makes several changes to the committee's authorizing legislation. First it repeals the committee's repeal date. The committee is currently scheduled to be repealed on July 1, 2003. The bill also authorizes the committee to meet up to two times during the legislative session and states that the President of the Senate will appoint the committee chair in odd-numbered years and the Speaker of the House of Representatives will appoint the committee chair in even-numbered years.

Bill C — Concerning the Extension of the Implementation Dates for Certain Water Augmentation Requirements

The bill extends the repeal dates for augmentation requirements for certain wells in the San Luis Valley and the Denver Basin Aquifer system. Water augmentation protects senior water rights from well pumping impacts. The San Luis Valley's well augmentation requirements apply to wells that pump ground water from the confined aquifer until the State Engineer promulgates rules for the withdrawal of this ground water. The State Engineer expects to promulgate these rules prior to 2004. The water augmentation requirements for use of these ground waters are extended by one year to July 1, 2004. The bill's other augmentation requirement applies to wells that use "not nontributary" groundwater from the Denver Basin aquifer system. Wells that use not nontributary ground water are generally closer to the South Platte River and may have a greater impact on river users than other wells in the Denver Basin Aquifer system that use nontributary ground water. This bill extends the implementation of more stringent water augmentation requirements from July 1, 2003, until July 1, 2009. Provided funds are available, this extension will enable the State Engineer to complete studies of the aquifer to better quantify the impact of not nontributary ground water use on senior water rights.

RESOURCE MATERIALS

The resource materials listed below were provided to the committee or developed by Legislative Council Staff during the course of the meetings. The summaries of meetings and attachments are available at the Division of Archives, 1313 Sherman Street, Denver, (303-866-2055). For a limited time, the meeting summaries and materials developed by Legislative Council Staff are available on our web site at:

www.state.co.us/gov_dir/leg_dir/lcsstaff/2002/02interim.

Meeting Summaries

Topics Discussed

August 8, 2002	Impacts of drought and forest fires on Colorado.
August 21, 2002	Discussion of proposed legislation, Leadville, Colorado.
September 9, 2002	Environmental perspective on Colorado's water issues; agricultural water use; funding sources for water storage and supply projects; federal assistance programs; and state water planning.
September 23, 2002	Briefings on the South Metro Water Supply Study; the Colorado Water Education Foundation; weather modification; discussion of the use of the Denver Basin Aquifer; and finalization of proposed legislation.

Memoranda and Reports

Western Water: Tuning the System, Bruce Driver, Western Governors' Association, July 1986.

2002 Special Session Bills, Legislative Council Staff, July 30, 2002.

The Colorado Drought Mitigation and Response Plan, Water Availability Task Force, January 2001.

Colorado Water Availability Task Force Recommendations, Water Availability Task Force, May 1, 2002.

Statewide Drought Water Supply and Storage, Survey of Colorado Residents, Ciruli and Associates, July 2002.

Guide to Colorado Well Permits, Water Rights and Water Administration, Division of Water Resources, June 2002.

Testimony to the Colorado Legislature's Water Resources Review Committee, Colorado Water and Research Institute, August 6, 2002.

Water Use Efficiency Improvements: A Solution to Colorado's Urban Water Supply Problems, Land and Water Fund of the Rockies, July 2002.

Water Planning: Untapped Opportunity for the Western States, David Getches, 1988.

Irrigation Water Conservation: Opportunities and Limitations in Colorado, Colorado Water Research Institute, October 1996.

Salt Cedar Legislation, Legislative Council Staff, August 15, 2002.

Bill A

SENATE SPONSORSHIP

Entz, Isgar, Phillips, and Taylor

SENATE SPONSORSHIP

Miller, Hodge, Hoppo, Rippy, and White

A BILL FOR AN ACT

CONCERNING THE INCREASED REGULATION OF WATER WELLS, AND, IN CONNECTION THEREWITH, REQUIRING CONTINUING EDUCATION OF WATER WELL CONSTRUCTION CONTRACTORS AND PUMP INSTALLERS AS A CONDITION OF LICENSURE, INCREASING WELL PERMIT FEES, CREATING A CASH FUND, SPECIFYING ADDITIONAL WELL CONSTRUCTION AND PUMP INSTALLATION ENFORCEMENT AUTHORITY, AND CREATING A WELL INSPECTION PROGRAM.

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. Increases the regulation of water well construction contractors and pump installers by:

- Requiring continuing education of such contractors and installers as a condition of licensure;

- Specifying additional enforcement authority of the state board of examiners of water well construction and pump installation contractors; and
 - Creating a well inspection program to be paid for through license fees and a \$40 increase in well permit fees that would be paid into a newly-created well inspection cash fund.
- Makes conforming amendments.
-

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

SECTION 1. 37-91-101, Colorado Revised Statutes, is amended to read:

37-91-101. Legislative declaration. (1) THE GENERAL ASSEMBLY HEREBY FINDS, DETERMINES, AND DECLARES THAT:

(a) It has been established by scientific evidence that improperly constructed wells, improperly abandoned wells, and improperly installed pumping equipment can adversely affect GROUND WATER RESOURCES AND the public health, SAFETY, AND WELFARE; AND

(b) ~~Consistent with its duty to safeguard the public health of this state, the general assembly~~ Therefore, ~~declares that~~ the proper location, construction, repair, and abandonment of wells, ~~and~~ the proper installation and repair of pumping equipment, ~~as well as~~ the licensing and regulation of persons engaging in the business of contracting either for the construction of wells or

for the installation of pumping equipment, AND THE PERIODIC INSPECTION OF WELL CONSTRUCTION AND PUMP INSTALLATION are essential for the protection of the public health AND THE PRESERVATION OF GROUND WATER RESOURCES.

SECTION 2. 37-91-102 (4.7), (8), (10), (12), (12.5), (13), (14), (15.5), and (16) (a). Colorado Revised Statutes, are amended to read:

37-91-102. Definitions. As used in this article, unless the context otherwise requires:

(4.7) "Directly employed" means ~~under full-time~~ ENGAGED IN employment WHERE THE EMPLOYER IS RESPONSIBLE FOR AND DIRECTLY CONTROLS THE PERFORMANCE OF THE EMPLOYEE, and, where applicable, THE EMPLOYEE IS covered by workers' compensation and unemployment compensation. "DIRECTLY EMPLOYED" DOES NOT REFER TO INDEPENDENT CONTRACTORS OR SUBCONTRACTORS.

(8) "Installation of pumping equipment" means the selection, ~~of and procedure employed in the~~ placement, AND preparation for operation ~~repair, or modification~~ of pumping equipment, including all construction involved in ~~making entrance to~~ ENTERING the well and establishing well seals and safeguards to protect ground water from contamination.

(10) "License" means the document issued by the board to qualified persons making application therefor, pursuant to section 37-91-105, authorizing such persons to engage in ~~the business of undertaking~~ one or more methods of well construction or pump installation or any combination of such methods.

(12) "Private driller" means any ~~person who constructs a well entirely for his own use on property owned or controlled by him with equipment owned and operated by him~~ INDIVIDUAL, CORPORATION, PARTNERSHIP, ASSOCIATION, POLITICAL SUBDIVISION, OR PUBLIC AGENCY THAT USES EQUIPMENT OWNED OR LEASED BY IT TO DIG, DRILL, REDRILL, CASE, RECASE, DEEPEN, OR EXCAVATE A WELL ENTIRELY FOR ITS OWN USE UPON PROPERTY OWNED OR LEASED BY IT.

(12.5) "Private pump installer" means any ~~person who installs pumping equipment on a well entirely for his own use on property owned or controlled by him with equipment owned or operated by him~~ INDIVIDUAL, CORPORATION, PARTNERSHIP, ASSOCIATION, POLITICAL SUBDIVISION, OR PUBLIC AGENCY THAT USES EQUIPMENT OWNED OR LEASED BY IT TO INSTALL PUMPING EQUIPMENT ON A WELL ENTIRELY FOR ITS OWN USE ON PROPERTY OWNED OR LEASED BY IT.

(13) "Pumping equipment" means any pump or ~~other device~~ RELATED EQUIPMENT used or intended for use in withdrawing or obtaining ground water, including, but not limited to, well seals, PITLESS ADAPTERS, and other safeguards to protect the ground water from contamination and any waterlines up to and including the pressure tank and any coupling appurtenant thereto.

(14) "Pump installation contractor" means any person ~~engaged in the business of installing~~ LICENSED TO INSTALL, REMOVE, MODIFY, OR REPAIR pumping equipment for compensation. ~~and licensed pursuant to this article.~~

(15.5) "Supervision" means personal and continuous on-the-site direction by a LICENSED well construction contractor or LICENSED pump installation contractor, unless the LICENSED contractor has applied for and received from the ~~state engineer~~ BOARD an exemption from continuous on-the-site direction for a specific task.

(16) (a) "Well" ~~for the purpose of this article~~ means any test hole or other excavation that is drilled, cored, bored, washed, fractured, driven, dug, jetted, or otherwise constructed ~~when the intended use of such excavation is for~~ the PURPOSE OF location, monitoring, dewatering, observation, diversion,

artificial recharge, or acquisition of ground water FOR BENEFICIAL USE or for conducting pumping equipment or aquifer tests.

SECTION 3. 37-91-103 (2) and (3), Colorado Revised Statutes, are amended to read:

37-91-103. State board of examiners of water well construction and pump installation contractors. (2) ~~The governor shall make his first three appointments within thirty days after July 1, 1967, to serve the following terms. One for a term expiring June 30, 1969, one for a term expiring June 30, 1970, and one for a term expiring June 30, 1971. Thereafter~~ All members shall be appointed for four-year terms, but no member shall be reappointed to OR serve more than two consecutive four-year terms. ~~Each member shall hold office until the expiration of his term or until a successor is appointed.~~ Any vacancy occurring in the board membership of the governor's appointees, other than by expiration, shall be filled by the governor by appointment for the unexpired term. Members shall serve without compensation but shall be reimbursed for actual expenses necessarily incurred in their official business.

(3) The board shall meet ~~within sixty days after July 1, 1967, and not less than~~ AT LEAST once every three months ~~thereafter~~ and at such other times as it deems necessary or advisable. Special BOARD meetings ~~of the board~~ may

be called at any time on order of the chairman or vice-chairman or any three members of the board. The BOARD SHALL DETERMINE THE time and place of all meetings, ~~shall be determined by the board;~~ but AT LEAST one meeting ~~within~~ EVERY three months ~~after the first appointment of the board~~ shall be held in Denver. ~~at which time a chairman, a vice-chairman, and a secretary shall be selected.~~ Three members of the board shall constitute a quorum, and the affirmative vote of three members shall be required to pass any action or motion of the board. The board may adopt bylaws to govern its own procedure.

SECTION 4. 37-91-104 (1), Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW PARAGRAPH to read:

37-91-104. Duties of the board. (1) The board shall:

(1) ASSURE PROTECTION OF GROUND WATER RESOURCES AND THE PUBLIC HEALTH BY ORDERING THE ABANDONMENT, REPAIR, DRILLING, REDRILLING, CASING, RECASING, DEEPENING, OR EXCAVATION OF A WELL WHERE IT FINDS SUCH ACTION TO BE NECESSARY TO CORRECT VIOLATIONS OF THIS ARTICLE OR RULES PROMULGATED BY THE BOARD WITH RESPECT TO THIS ARTICLE OR TO PROTECT GROUND WATER RESOURCES AND THE PUBLIC HEALTH.

SECTION 5. The introductory portion to 37-91-105 (2) and 37-91-105 (2) (a), (2) (c), (2) (d), and (6), Colorado Revised Statutes, are amended, and the said 37-91-105 is further amended BY THE ADDITION OF THE FOLLOWING NEW SUBSECTIONS. to read:

37-91-105. Licensing - registration of rigs. (2) The board shall issue a license to each applicant who files an application upon a form and in such manner as the board prescribes, accompanied by such fees and bond as required by section 37-91-107, and who furnishes evidence satisfactory to the board that ~~he~~ THE APPLICANT:

(a) Is at least ~~twenty-one~~ EIGHTEEN years of age;

(c) ~~Is of good moral character; in determining an applicant's character, the board shall be governed by the provisions of section 24-5-101. C.R.S.;~~

(d) Has had not less than two years' experience in the type of well construction work or pump installation work for which ~~he~~ THE APPLICANT is initially applying for a license; however:

(1) Once a person is licensed in one or more methods of well construction, ~~he~~ THE PERSON is eligible without further experience to take an examination to obtain a license for a different method of well construction;

(II) Once a person is licensed for installing one or more types of pumps, ~~he~~ THE PERSON is eligible without further experience to take an examination to obtain a license for a different type of pump installation; AND

(III) EDUCATION IN AN ACCREDITED PROGRAM MAY SUBSTITUTE FOR WELL CONSTRUCTION OR PUMP INSTALLATION EXPERIENCE UPON APPLICATION TO AND ACCEPTANCE BY THE BOARD.

(6) ~~In the event that~~ IF an applicant fails to receive a passing grade on the examination, ~~he~~ THE APPLICANT may reapply for examination after ~~ninety~~ FORTY-FIVE days and shall pay a reexamination fee upon such reapplication.

(7) EACH LICENSEE THAT IS NOT A BUSINESS LICENSEE SHALL COMPLETE EIGHT HOURS OF CONTINUING EDUCATION TRAINING EVERY YEAR IN ORDER TO MAINTAIN OR RENEW A LICENSE.

(8) NO ENTITY SHALL CONSTRUCT A WELL OR INSTALL A PUMP UNLESS SUCH ENTITY HAS OBTAINED A BUSINESS LICENSE FROM THE BOARD. TO OBTAIN A BUSINESS LICENSE, AN ENTITY SHALL DEMONSTRATE TO THE BOARD THAT IT EMPLOYS A LICENSED WELL CONSTRUCTION CONTRACTOR IF IT INTENDS TO CONDUCT A WELL CONSTRUCTION BUSINESS, OR A LICENSED

PUMP INSTALLATION CONTRACTOR IF IT INTENDS TO CONDUCT A PUMP INSTALLATION BUSINESS.

SECTION 6. 37-91-106 (1), (3), and (4), Colorado Revised Statutes, are amended to read:

37-91-106. Persons previously licensed - exemptions. (1) ~~Any person possessing the qualifications prescribed in section 37-91-105 (2) (a) to (2) (d) who has been licensed in the business of a well construction contractor immediately prior to July 1, 1985, shall, upon application made within one year of said date, accompanied by satisfactory proof to the board that he was so licensed and accompanied by the payment of the required fee and the furnishing of the required bond, be granted a license as a well construction contractor without fulfilling the requirements that he pass the examination prescribed by section 37-91-105 (2) (c).~~

(3) ~~A Private driller or~~ DRILLERS AND PRIVATE pump installer is INSTALLERS ARE exempt from all license requirements under this article: except that ~~he~~ SUCH ENTITIES shall ~~be a resident of the state of Colorado and shall~~ comply with minimum construction standards as required by section 37-91-110 and the rules ~~and regulations~~ of the board.

(4) A license shall not be required of ~~an~~ A PROFESSIONAL engineer, PROFESSIONAL geologist, or PROFESSIONAL hydrologist or anyone directly employed by, or under the supervision of, ~~an~~ A PROFESSIONAL engineer, PROFESSIONAL geologist, or PROFESSIONAL hydrologist for the purpose of sampling, measuring, or test-pumping for scientific, engineering, or regulatory purposes. The board may promulgate rules ~~and regulations~~ governing such sampling, measuring, or test-pumping, and all such sampling, measuring, or test-pumping shall be done in compliance with such rules. ~~and regulations of the board.~~

SECTION 7. 37-91-107 (1), (4), (4.5), and (5), Colorado Revised Statutes, are amended, and the said 37-91-107 is further amended BY THE ADDITION OF THE FOLLOWING NEW SUBSECTIONS, to read:

37-91-107. Fees and bonds - license renewal - continuing education. (1) All fees from applicants seeking a license under this article, and all renewal fees, shall be ~~credited to the general fund of the state~~ TRANSMITTED TO THE STATE TREASURER, WHO SHALL CREDIT THE SAME TO THE WELL INSPECTION CASH FUND CREATED IN SECTION 37-80-111.5. No fees shall be refunded. A license shall be nontransferable and unassignable.

(3.6) THE BOARD SHALL CHARGE A BUSINESS LICENSE APPLICATION FEE OF FIFTY DOLLARS TO ENTITIES THAT WISH TO CONDUCT BUSINESS IN THIS STATE FOR WELL CONSTRUCTION OR PUMP INSTALLATION.

(4) Every licensed well construction contractor ~~or~~ AND licensed pump installation contractor in this state shall ~~annually~~ pay to the board during the month of January of each year, beginning in the year immediately subsequent to his OR HER initial licensing, a renewal fee of fifty dollars. ~~and shall annually~~ CONCURRENTLY file and maintain a new bond OR LETTER OF CREDIT if required PURSUANT TO THIS SECTION, and SHALL ANNUALLY FILE A CERTIFICATE OF COMPLETION OF CONTINUING EDUCATION AS REQUIRED PURSUANT TO SECTION 37-91-105 (7). The secretary shall thereupon issue a renewal license for one year. The license of any well construction contractor or pump installation contractor who fails to have his OR HER license renewed during the month of January in each year shall lapse. Any lapsed license may be renewed, without reexamination, within a period of one year after such lapse upon payment of all fees in arrears. LICENSEES MAY ELECT TO RENEW THEIR LICENSES AND FILE AND MAINTAIN A BOND OR LETTER OF CREDIT FOR A TERM OF UP TO THREE YEARS, PAYING FIFTY DOLLARS FOR EACH YEAR THE LICENSE WILL BE IN EFFECT.

(4.5) A licensee shall maintain the amount of financial responsibility required by subsections (2), (3), and (4) of this section for the life of the license for which the financial responsibility is required. The license of any well construction contractor or pump installation contractor who fails to maintain such financial responsibility shall lapse. A license ~~which~~ THAT has so lapsed may be reinstated upon submission of current evidence of the required financial responsibility to the board and payment to the board of a ~~ten~~ ONE HUNDRED dollar reinstatement fee.

(5) The board shall charge an annual registration fee of ~~ten~~ TWENTY-FIVE dollars for each well drilling or pump installation rig to be operated ~~by a well construction contractor or pump installation contractor~~ IN THE STATE OF COLORADO.

(6) THE BOARD SHALL DEVELOP A CONTINUING EDUCATION PROGRAM IN CONJUNCTION WITH THE COLORADO WATER WELL CONTRACTORS ASSOCIATION OR ANY ANALOGOUS OR SUCCESSOR ORGANIZATION.

SECTION 8. 37-91-108 (1) (h), Colorado Revised Statutes, is amended, and the said 37-91-108 (1) is further amended BY THE ADDITION OF A NEW PARAGRAPH, to read:

37-91-108. Denial, revocation, or suspension of license. (1) The board, by an affirmative vote of three of its five members, may withhold, deny, revoke, or suspend any license issued or applied for in accordance with the provisions of this article, upon proof that the licensee or applicant:

(h) Has authorized a person, not directly employed OR DIRECTLY SUPERVISED by ~~him~~ THE LICENSEE, to construct wells or install pumping equipment under the authority of ~~his~~ THE LICENSEE'S license: OR

(i) HAS FAILED TO COMPLETE THE CONTINUING EDUCATION REQUIREMENT ESTABLISHED IN SECTION 37-91-107.

SECTION 9. 37-91-108, Colorado Revised Statutes, is amended BY THE ADDITION OF THE FOLLOWING NEW SUBSECTIONS to read:

37-91-108. Denial, revocation, or suspension of license. (4) THE BOARD MAY ORDER THE ABANDONMENT, REPAIR, DRILLING, REDRILLING, CASING, RECASING, DEEPENING, OR EXCAVATION OF A WELL TO PROTECT GROUND WATER RESOURCES AND THE PUBLIC HEALTH IF THE BOARD FINDS SUCH ACTION TO BE NECESSARY TO CORRECT VIOLATIONS OF ARTICLE 90 OF THIS TITLE, THIS ARTICLE, OR THE RULES PROMULGATED BY THE BOARD PURSUANT TO THIS ARTICLE.

(5) THE BOARD MAY ASSESS FINES OF NOT LESS THAN FIFTY DOLLARS NOR MORE THAN ONE THOUSAND DOLLARS FOR VIOLATIONS OF ARTICLE 90 OF THIS TITLE, THIS ARTICLE, OR THE RULES PROMULGATED BY THE BOARD PURSUANT TO THIS ARTICLE FOR EACH SUCH VIOLATION. SUCH FINES SHALL BE TRANSMITTED TO THE STATE TREASURER, WHO SHALL CREDIT THEM TO THE WELL INSPECTION CASH FUND CREATED IN SECTION 37-80-111.5.

SECTION 10. 37-91-109, Colorado Revised Statutes, is amended to read:

37-91-109. Further scope of article - orders - penalties. In addition to the licensing of well construction contractors and pump installation contractors as required by this article, no well shall be located, constructed, repaired, or abandoned and no pumping equipment shall be installed or repaired contrary to the provisions of this article and applicable rules of the board promulgated to effectuate the purposes of this article. THE BOARD MAY BY ORDER REQUIRE ANY LICENSEE, PRIVATE DRILLER, OR PRIVATE PUMP INSTALLER TO REMEDY ANY SUCH NONCOMPLIANT INSTALLATION, CONSTRUCTION, OR REPAIR AND MAY, PURSUANT TO RULES AND AFTER DUE NOTICE AND A HEARING, IMPOSE PENALTIES FOR SUCH NONCOMPLIANCE. The provisions of this article shall apply to any well or any pumping equipment not

otherwise subject to regulation under the laws of this state and to any distribution, observation, monitoring, or dewatering of water therefrom: but this article shall not apply to any distribution of water beyond the point of discharge from the pressure tank or to any distribution of water beyond the point of discharge from the pumping equipment if no pressure tank or an overhead pressure tank is employed.

SECTION 11. 37-91-111 (3), Colorado Revised Statutes, is amended to read:

37-91-111. Violations and penalties. (3) Any person who violates any provision of subsection (1) of this section shall also be subject to a civil penalty assessed by the court of not less than one hundred dollars nor more than ~~one~~ FIVE thousand dollars for each such violation. All civil penalties collected under this subsection (3) shall be transmitted to the state treasurer, who shall credit the same to the ~~general~~ WELL INSPECTION CASH fund CREATED IN SECTION 37-80-111.5.

SECTION 12. Article 91 of title 37, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SECTION to read:

37-91-113. Well inspection program. (1) THE STATE ENGINEER SHALL MONITOR COMPLIANCE WITH THIS ARTICLE, INCLUDING BY INSPECTING

WATER WELL CONSTRUCTION AND PUMP INSTALLATION, AND MAY EMPLOY INSPECTORS FOR SUCH PURPOSE. THE COSTS OF SUCH MONITORING AND INSPECTION SHALL BE PAID FROM THE WELL INSPECTION CASH FUND CREATED BY SECTION 37-80-111.5.

(2) INSPECTORS SHALL HAVE THE FOLLOWING QUALIFICATIONS, BUT NEED NOT BE LICENSED PURSUANT TO THIS ARTICLE:

(a) KNOWLEDGE OF PROPER WELL CONSTRUCTION AND PUMP INSTALLATION TECHNIQUES AND PRACTICES;

(b) DRILL SITE EXPERIENCE;

(c) COMPUTER SKILLS;

(d) INTERPERSONAL SKILLS; AND

(e) KNOWLEDGE OF ALL APPLICABLE STATUTES AND RULES.

(3) INSPECTORS SHALL ANNUALLY SPEND A MAJORITY OF THEIR TIME CONDUCTING FIELD INSPECTIONS AND A MINORITY OF THEIR TIME PREPARING AND EVALUATING REPORTS AND RELATED OFFICE WORK. DUTIES SHALL INCLUDE THE FOLLOWING:

(a) WELL CONSTRUCTION AND PUMP INSTALLATION INSPECTION AND OBSERVATION;

(b) COMPLAINT INVESTIGATION;

(c) EDUCATION AND OUTREACH;

(d) INSPECTION AND OBSERVATION OF GEOTECHNICAL WELLS, OBSERVATION AND MONITORING WELLS, DEWATERING WELLS, AND TEST HOLES;

(e) FIELD INSPECTIONS OF EXISTING WELLS AND PUMPS;

(f) FIELD INSPECTIONS OF WELL AND HOLE PLUGGING AND ABANDONMENT; AND

(g) STAFF SUPPORT FOR THE STATE ENGINEER AND BOARD.

SECTION 13. 37-80-111.5 (1) (d), Colorado Revised Statutes, is amended to read:

37-80-111.5. Fees - water data bank cash fund - division of water resources publication cash fund - satellite monitoring system cash fund - ground water management cash fund - well inspection cash fund - created.

(1) (d) The state engineer shall collect fees pursuant to sections 37-90-105 (3) (a) and (4), 37-90-107 (7) (c) (I) and (7) (d) (I), 37-90-108 (4) and (6), 37-90-116 (1) (a), (1) (c), (1) (h), and (1) (i), 37-90-137 (2), (3) (a), and (3) (c), 37-92-602 (3) (a) and (5), and 37-92-308. All such fees shall be transmitted to the state treasurer, who shall credit the same to the division of water resources ground water management cash fund, which is hereby created; except that, of

each fee collected pursuant to section 37-90-107 (7) (c) (I) and (7) (d) (I) and section 37-90-116 (1) (a), (1) (h), and (1) (i), thirty dollars shall be credited to the general fund; of each fee collected pursuant to section 37-90-137 (2), (3) (a) (I), and (3) (a) (II) and section 37-92-602 (3) (a) for wells applied for pursuant to section 37-92-602 (3) (b), twenty-five dollars shall be credited to the general fund; of each fee collected pursuant to section 37-90-116 (1) (c), ten dollars shall be credited to the general fund; ~~and~~ of each fee collected pursuant to section 37-90-105 (3) (a) and (4) (a) and section 37-92-602 (3) (a) for wells applied for pursuant to section 37-92-602 (3) (c) and (5), five dollars shall be credited to the general fund; AND EXCEPT THAT, OF EACH FEE COLLECTED PURSUANT TO SECTIONS 37-90-105 (3) (a) (I) AND (4) (a), 37-90-107 (7) (d) (I), 37-90-116 (1) (a), (1) (c), AND (1) (h), 37-90-137 (2) (a), AND 37-92-602 (3) (a) AND (5), FORTY DOLLARS SHALL BE CREDITED TO THE WELL INSPECTION CASH FUND, WHICH FUND IS HEREBY CREATED. MONEYS IN THE WELL INSPECTION CASH FUND SHALL BE APPROPRIATED TO AND EXPENDED BY THE STATE ENGINEER FOR THE PURPOSES ESTABLISHED IN SECTION 37-91-113. Moneys in the ground water management cash fund shall be expended by the state engineer for the purposes of developing an automated well permit processing system that will expedite the issuance of well permits,

creating and maintaining a ground water information management system, establishing a ground water data network, establishing ground water recharge programs, conducting ground water investigations, and for other ground water related activities that are deemed necessary by the state engineer in performing statutory duties, subject to appropriation by the general assembly. Data in the ground water data network shall be made available to the public by the office of the state engineer as expeditiously as possible.

SECTION 14. 37-90-105 (3) (a) (I) and (4) (a). Colorado Revised Statutes, are amended to read:

37-90-105. Small capacity wells. (3) (a) (I) Wells of the type described in this section may be constructed only upon the issuance of a permit in accordance with the provisions of this section. A fee of ~~sixty~~ ONE HUNDRED dollars shall accompany any application for a new well permit under this section. A fee of ~~twenty~~ SIXTY dollars shall accompany any application for a replacement well of the type described in subsection (1) of this section.

(4) (a) Any wells of the type described by this section that were put to beneficial use prior to May 8, 1972, and any wells that were used exclusively for monitoring and observation purposes prior to August 1, 1988, not of record in the office of the state engineer, may be recorded in that office upon written

application, payment of a processing fee of ~~sixty~~ ONE HUNDRED dollars, and permit approval. The record shall include the date the water is claimed to have been first put to beneficial use.

SECTION 15. 37-90-107 (7) (d) (l), Colorado Revised Statutes, is amended to read:

37-90-107. Application for use of ground water - publication of notice - conditional permit - hearing on objections - well permits.

(7) (d) (l) Any person desiring a permit for a well to withdraw ground water for a beneficial use from the Dawson, Denver, Arapahoe, or Laramie-Fox Hills aquifers shall make application to the commission on a form to be prescribed by the commission. A fee of ~~sixty~~ ONE HUNDRED dollars shall be submitted with the application, which sum shall not be refunded.

SECTION 16. 37-90-116 (1) (a), (1) (c), and (1) (h), Colorado Revised Statutes, are amended to read:

37-90-116. Fees - ground water publication fund. (1) The state engineer or the commission shall collect the following fees:

(a) With an application for the use of ground water, ~~sixty~~ ONE HUNDRED dollars, which sum shall not be refunded;

(c) For issuing a permit to modify or replace an existing well, ~~sixty~~ ONE HUNDRED dollars;

(h) With an application for any change in a well permit, whether conditional or final, submitted pursuant to section 37-90-111 (1) (g), ~~sixty~~ ONE HUNDRED dollars, which sum shall not be refunded.

SECTION 17. 37-90-137 (2) (a), Colorado Revised Statutes, is amended to read:

37-90-137. Permits to construct wells outside designated basins - fees - permit no ground water right - evidence - time limitation - well permits - repeal. (2) (a) Upon receipt of an application for a replacement well or a new, increased, or additional supply of ground water from an area outside the boundaries of a designated ground water basin, accompanied by a filing fee of ~~sixty~~ ONE HUNDRED dollars, the state engineer shall make a determination as to whether or not the exercise of the requested permit will materially injure the vested water rights of others.

SECTION 18. 37-92-602 (3) (a) and (5), Colorado Revised Statutes, are amended to read:

37-92-602. Exemptions - presumptions - legislative declaration. (3) (a) Wells of the type described in paragraphs (b) to (d) of subsection (1) of

this section may be constructed only upon the issuance of a permit in accordance with the provisions of this subsection (3). A person desiring to use such a well shall submit an application for a permit accompanied by a fee of ~~twenty~~ SIXTY dollars for an application under paragraph (c) of this subsection (3) and a fee of ~~sixty~~ ONE HUNDRED dollars for an application under paragraph (b) of this subsection (3).

(5) Any wells exempted by this section that were put to beneficial use prior to May 8, 1972, and any wells that were used exclusively for monitoring and observation purposes prior to August 1, 1988, not of record in the office of the state engineer may be recorded in that office upon written application, payment of a processing fee of ~~sixty~~ ONE HUNDRED dollars, and permit approval. The record shall include the date the water is claimed to have been appropriated or first put to beneficial use.

SECTION 19. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

DRAFT

Bill A

Colorado Legislative Council Staff
**STATE and LOCAL
 FISCAL IMPACT**

Drafting Number: LLS 03-0078
Prime Sponsor(s): Sen. Entz
 Rep. Miller

Date: October 15, 2002
Bill Status: Water Resources Review Committee
Fiscal Analyst: Steve Tammeus (303-866-2756)

TITLE: CONCERNING THE INCREASED REGULATION OF WATER WELLS, AND, IN CONNECTION THEREWITH, REQUIRING CONTINUING EDUCATION OF WATER WELL CONSTRUCTION CONTRACTORS AND PUMP INSTALLERS AS A CONDITION OF LICENSURE, INCREASING WELL PERMIT FEES, CREATING A CASH FUND, SPECIFYING ADDITIONAL WELL CONSTRUCTION AND PUMP INSTALLATION ENFORCEMENT AUTHORITY, AND CREATING A WELL INSPECTION PROGRAM.

Fiscal Impact Summary	FY 2003/04	FY 2004/05
State Revenues		
General Fund	(\$32,390)	(\$32,390)
Cash Fund	522,450	522,450
State Expenditures		
General Fund	(\$32,390)	(\$32,390)
Cash Fund	484,000	454,112
Cash Fund Exempt - Dept of Law*	10,000	10,000
FTE Position Change	8.0 FTE	8.0 FTE
Other State Impact: None, no TABOR surplus is forecasted for FY 2003/04 or FY 2004/05.		
Effective Date: Upon signature of the Governor		
Appropriation Summary for FY 2003/04:		
<u>Department of Natural Resources</u>		
Cash Fund - \$484,000 and 8.0 FTE		
General Fund - (\$32,390)		
<u>Department of Law</u>		
Cash Fund Exempt - \$10,000*		
Local Government Impact: Some local governments may be required to pay higher fees for new well and/or replacement well permits.		

*This amount for the Department of Law is included in the cash fund amount above.

Summary of Legislation

This bill expands the regulation of water well construction contractors and pump installers by creating a well inspection program to be administered by the State Board of Examiners of Water Well Construction and Pump Installation Contractors. Current law establishes the five-member board under the Division of Water Resources in the Department of Natural Resources, and authorizes the Board to delegate to the State Engineer the authority to perform any of the Board's duties. The bill revises statutes governing Board member terms and meetings;

- revises certain statutory definitions;
- expands the duties of the Board to assure protection of ground water resources and the public health by ordering certain corrective actions;
- revises the licensing eligibility requirements for well-drilling or pump-installing rigs;
- revises statutes governing exemptions;
- requires the Board to develop a continuing education program in conjunction with the Colorado Water Well Contractors Association or any analogous or successor organization;
- revises existing fees and establishes new fees to cover the State Engineer's monitoring and inspection costs;
- requires entities to obtain a business license from the Board in order to construct a well or install a pump;
- authorizes the Board to assess fines and to impose penalties for violations;
- requires the State Engineer to monitor compliance by inspecting water well construction and pump installation;
- specifies the qualifications and duties of water well and pump inspectors; and
- creates the Well Inspection Cash Fund and authorizes moneys in the fund to be expended by the State Engineer.

State Revenues

Fees. The bill revises certain existing fees, and establishes new fees. Pursuant to Section 2-2-322, C.R.S., Table 1 provides an estimate of the annual fees to be paid by water well contractors and pump installers and the amount of annual cash fee revenue to be credited to the Well Inspection Cash Fund, starting in FY 2003-04.

Type of Fee	Current Fee	Proposed Fee	Fee Change	Number	Fee Impact	Revenue to Cash Fund
Annual Business License	\$0	\$50***	\$50	266	\$13,300	\$13,300
Contractor License Renewal Fee	\$50*	\$50***	\$0	452	\$0	\$22,600
License Reinstatement	\$10*	\$100***	\$90	1	\$90	\$100
Annual Rig Registration	\$10*	\$25***	\$15	658	\$9,870	\$16,450
Exempt applications for new wells (includes small capacity and monitoring wells, cluster development wells)	\$60**	\$100	\$40	8,125	\$325,000	\$325,000
Non-exempt applications for new wells (includes designated basins, geothermal change and expanded use)	\$60**	\$100	\$40***	1,575	\$63,000	\$63,000
Exempt applications for replacement wells, including small capacity	\$20**	\$60	\$40***	900	\$36,000	\$36,000
Non-exempt applications for replacement wells, including designated basins	\$60**	\$100	\$40***	150	\$6,000	\$6,000
Late registrations for exempt wells	\$60**	\$100	\$40***	750	\$30,000	\$30,000
TOTAL					\$483,260	\$512,450

Current law requires fees annotated with (*) in Table 1 to be credited to the General Fund. This bill requires these fees to, instead, be credited to the Well Inspection Cash Fund. As a result, annual fee revenue to the state General Fund will be reduced by \$29,190 starting in FY 2003-04.

Current law requires fees annotated with (**) in Table 1 to be credited to the Division of Water Resources Ground Water Management Cash Fund. This bill does not amend that requirement and is not anticipated to significantly affect cash fund revenue to the Water Resources Ground Management Cash Fund.

Of the fees shown in Table 1, fees annotated with (***) will be credited to the Well Inspection Cash Fund. As a result, \$512,450 is estimated to be annually credited to the Well Inspection Cash Fund starting in FY 2003-04.

Fines and penalties. The bill authorizes the Board to assess fines of \$50 to \$1,000 for violations, and requires the total amount of the fines to be credited to the Well Inspection Cash Fund. The amount of the annual fines to be collected starting in FY 2003-04 is estimated to be \$5,000.

Current law authorizes assessment of a civil penalty of \$100 to \$1,000 for certain violations and requires the amount of the penalty to be credited to the state General Fund. This bill increases

the maximum penalty to \$5,000 and requires the total amount of the penalty to be credited, instead, to the Well Inspection Cash Fund. As a result, the amount of the reduction in civil penalty revenue to the state General Fund is estimated to be \$3,200, and the amount of annual civil penalty revenue to the Well Inspection Cash Fund is estimated to be \$5,000 starting in FY 2003-04.

Revenue summary. This bill will decrease annual General Fund revenue by \$32,390 (fees and civil penalties), and will increase cash fund revenue by \$522,450 (fees, fines, and civil penalties) starting in FY 2003-04.

State Expenditures

Department of Natural Resources. Table 2 provides an estimate of annual program direct and indirect expenditures starting in FY 2003-04, based upon the following assumptions:

- based upon the annual number of applications filed with the Division of Water Resources since 1995, the Division estimates 7,500 permit applications will be filed annually starting in FY 2003-04;
- the Division will inspect 1,400 well sites annually in the seven statewide water districts;
- the Division will require eight well inspectors; one for each of six water districts and two for the Denver district; and
- well inspectors will be required to inspect and observe well construction, investigate complaints, provide public education and outreach, inspect existing wells, and provide staff support to the Board.

Table 2. Well Inspection Cash Fund Expenditures		
	FY 2003/04	FY 2004/05
<u>Personal Services</u>		
Eng/Phys Sci Tech I	8.0 FTE - \$274,176	8.0 FTE - \$274,176
PERA/Med	<u>31,504</u>	<u>31,504</u>
Total	305,680	305,680
Operating Expenses	16,000	16,000
Vehicle/Travel Expenses	48,000	48,000
Non-Recurring Expenses	29,888	0
Legal Expenses - Dept of Law	10,000	10,000
Health and Life Insurance	22,080	22,080
Short-term Disability	1,782	1,782
Leased Space	10,570	10,570
Indirect	40,000	40,000
Total Expenses	8.0 FTE - \$484,000	8.0 - \$454,112

Bill A

Due to the reduction in General Fund revenues of \$32,390, as indicated in the State Revenues section of this fiscal note, program General Fund expenditures will be reduced by \$32,390 starting in FY 2003-04.

Judicial Department. This bill increases the maximum civil penalty for certain licensure violations from \$1,000 to \$5,000 which may increase the amount of processing time for cases filed with the courts. However, the department anticipates the amount of additional time expended for such cases will be minimal, and any associated costs may be absorbed within existing budgetary resources.

Local Government Impact

Some local governments, as owners and operators of water wells, may be required to pay higher fees for new or replacement wells permits.

State Appropriations

The Department of Natural Resources will require a Well Inspection Cash Fund appropriation of \$484,000 and 8.0 FTE for FY 2003-04. Of this amount, the Department of Law will require a cash fund exempt spending authority of \$10,000.

The Department of Natural Resources will require a General Fund appropriation reduction of \$32,390 for FY 2003-04.

Departments Contacted

Natural Resources

Judicial

Law

Bill B

SENATE SPONSORSHIP

Taylor, Entz, Isgar, and Phillips

HOUSE SPONSORSHIP

White, Hodge, Hoppe, Miller, and Rippy

A BILL FOR AN ACT

CONCERNING THE WATER RESOURCES REVIEW COMMITTEE

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. Deletes the repeal date for the water resources review committee's ability to report committee bills exempt from any applicable bill limits. Allows the committee to meet during the regular session of the general assembly. Specifies that the power to appoint the committee's chair alternates between the house of representatives and the senate.

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

SECTION 1. Repeal. 37-98-103 (2), Colorado Revised Statutes, is repealed as follows:

37-98-103. Annual recommendations - bill limitation - deadlines for introduction. (2) ~~This section is repealed, effective July 1, 2003.~~

SECTION 2. 37-98-102 (1) and (5), Colorado Revised Statutes, are amended to read:

37-98-102. Water resources review committee - creation.

(1) (a) For the purposes of contributing to and monitoring the conservation, use, development, and financing of the water resources of Colorado for the general welfare of its inhabitants and to review and propose water resources legislation, there is hereby created the water resources review committee, referred to in this article as the committee. The committee shall meet at the call of the chair ~~during the interim~~ as often as six times during even-numbered years and eight times during odd-numbered years to review and to propose water resources legislation and matters relating thereto. NO MORE THAN TWO OF SUCH MEETINGS MAY OCCUR DURING PERIODS OTHER THAN THE INTERIM PERIOD. In connection with such review, the committee may take up to two field trips per year in connection with its mandate and shall consult with experts in the field of water conservation, quality, use, finance, and development. The department of natural resources, the state engineer, and the attorney general, together with the members and staff of the Colorado water conservation board, the Colorado water resources and power development authority, the Colorado water quality control commission, the department of public health and

environment, the department of agriculture, and the great outdoors Colorado program, shall cooperate with the committee and with any persons assisting the committee in pursuing its responsibilities pursuant to this section. Further, the committee may utilize the legislative council staff to assist its members in researching any matters.

(b) Notwithstanding paragraph (a) of this subsection (1), if section 37-98-103 has been repealed and has not been reenacted, the committee shall neither meet nor report any bills.

(5) DURING ODD-NUMBERED YEARS, the president of the senate SHALL APPOINT THE CHAIR and the speaker of the house of representatives shall appoint the chair and vice-chair, from their respective houses, one from the house of representatives and one from the senate: AND DURING EVEN-NUMBERED YEARS, THE SPEAKER OF THE HOUSE OF REPRESENTATIVES SHALL APPOINT THE CHAIR AND THE PRESIDENT OF THE SENATE SHALL APPOINT THE VICE-CHAIR.

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

DRAFT

Bill B

Colorado Legislative Council Staff
NO FISCAL IMPACT

Drafting Number: LLS 03-0080

Date: October 15, 2002

Prime Sponsor(s): Sen. Taylor
Rep. White

Bill Status: Water Resources Review Committee
Fiscal Analyst: Steve Tammeus (303-866-2756)

TITLE: CONCERNING THE WATER RESOURCES REVIEW COMMITTEE.

Summary of Assessment

This bill repeals the repeal date for the Water Resources Review Committee's ability to report committee bills exempt from any applicable bill limits. The bill also repeals the restriction that the Committee meet only during the interim, but states that no more than two meetings may occur during periods other than the interim. The bill also specifies that the Senate and House of Representatives shall annually appoint the Committee's chair and vice-chair on an alternating basis.

The bill retains the maximum number of committee meetings per year, retains the committee's ability to conduct up to two field trips per year, retains the committee's authority to review and propose water-related legislation, and retains the committee's ability to utilize the staff of the Legislative Council. The bill will become effective upon signature of the Governor.

The bill constitutes continuation of an existing program and will not affect the Legislative Department's budgeted expenditures based upon the assumption that the amount of time necessary to conduct the two meetings allowed during the legislative session will be held at a minimum and that committee field trips will continue to be conducted during the interim.

Departments Contacted

Legislative Council Staff

Legislative Legal Services

Bill C

HOUSE SPONSORSHIP

Hoppe, Hodge, Miller, Rippy, and White

SENATE SPONSORSHIP

Entz, Isgar, Phillips, and Taylor

A BILL FOR AN ACT

CONCERNING THE EXTENSION OF THE IMPLEMENTATION DATES FOR CERTAIN
WATER AUGMENTATION REQUIREMENTS.

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. Extends the implementation dates for certain more stringent water augmentation requirements that will apply in the Denver basin aquifers and in the San Luis valley confined aquifer.

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

SECTION 1. 37-90-137 (9) (c) and (9) (c.5), Colorado Revised Statutes, are amended to read:

37-90-137. Permits to construct wells outside designated basins
- fees - permit no ground water right - evidence - time limitation - well

permits - repeal. (9) (c) (I) As to wells ~~which~~ THAT will be completed in the Dawson, Denver, Arapahoe, and Laramie-Fox Hills aquifers and will withdraw ground water that is not nontributary ground water, as defined in section 37-90-103 (10.7), judicial approval of plans for augmentation shall be required prior to the use of such ground water. As to such wells completed in the Dawson aquifer, decrees approving such plans for augmentation shall provide for the replacement of actual stream depletion to the extent necessary to prevent any injurious effect, based upon actual aquifer conditions in existence at the time of such decree. As to such wells completed in the Denver, Arapahoe, or Laramie-Fox Hills aquifers more than one mile from any point of contact between any natural stream including its alluvium on which water rights would be injuriously affected by any stream depletion, and any such aquifer, such decrees shall provide for the replacement to the affected stream system or systems of a total amount of water equal to four percent of the amount of water withdrawn on an annual basis. As to such wells completed in such aquifers at points closer than one mile to any such contact, the amount of such replacement shall be determined using the assumption that the hydrostatic pressure level in each such aquifer has been lowered at least to the top of that aquifer throughout that aquifer. Such decrees may also require the continuation of replacement

after withdrawal ceases if necessary to compensate for injurious stream depletions caused by prior withdrawals from such wells and shall meet all other statutory criteria for such plans.

(II) This paragraph (c) shall not be in effect from July 1, ~~2003~~ 2009, until July 1, ~~2006~~ 2012, during which time paragraph (c.5) of this subsection (9) shall apply.

(c.5) (I) As to wells ~~which~~ THAT will be completed in the Dawson, Denver, Arapahoe, and Laramie-Fox Hills aquifers and will withdraw ground water that is not nontributary ground water, as defined in section 37-90-103 (10.7), judicial approval of plans for augmentation shall be required prior to the use of such ground water. As to such wells completed in the Dawson aquifer, decrees approving such plans for augmentation shall provide for the replacement of actual out-of-priority depletions to the stream caused by withdrawals from such wells and shall meet all other statutory criteria for such plans. As to such wells completed in the Denver, Arapahoe, or Laramie-Fox Hills aquifers more than one mile from any point of contact between any natural stream including its alluvium on which water rights would be injuriously affected by any stream depletion, and any such aquifer, such decrees shall provide for the replacement to the affected stream system or

systems of a total amount of water equal to four percent of the amount of water withdrawn on an annual basis. As to such wells completed in such aquifers at points closer than one mile to any such contact, the amount of such replacement shall be determined using the assumption that the hydrostatic pressure level in each such aquifer has been lowered at least to the top of that aquifer throughout that aquifer. Such decrees shall also require the replacement of actual out-of-priority depletions of the stream after withdrawal ceases to compensate for stream depletions caused by prior withdrawals from such wells and shall meet all other statutory criteria for such plans.

(II) This paragraph (c.5) is effective July 1, ~~2003~~ 2009, and is repealed, effective July 1, ~~2006~~ 2012.

SECTION 2. 37-90-102 (3), Colorado Revised Statutes, is amended to read:

37-90-102. Legislative declaration - repeal. (3) (a) The general assembly finds and declares that in water division 3, established pursuant to section 37-92-201 (1) (c), there exists a confined aquifer system underlying portions of the San Luis valley. The hydrologic system in water division 3 and, in particular, the hydrology and geology of the shallow aquifer and confined aquifer systems and their relationship to surface streams in water division 3 are

unique and are among the most complex in the state. Unless properly augmented, new withdrawals of groundwater affecting the confined aquifer system can materially injure vested water rights and increase the burden of Colorado's scheduled deliveries under the Rio Grande compact. There is currently insufficient comprehensive data and knowledge of the relationship between the surface streams and the confined aquifer system to permit a full understanding of the effect of groundwater withdrawals, affecting the confined aquifer, upon the natural stream and aquifer systems in water division 3.

(b) This subsection (3) is repealed, effective July 1, ~~2003~~ 2004.

SECTION 3. 37-90-137 (12) (b), Colorado Revised Statutes, is amended to read:

37-90-137. Permits to construct wells outside designated basins - fees - permit no ground water right - evidence - time limitation - well permits - repeal. (12) (b) (I) Any well permit application in water division 3 that involves a new withdrawal of groundwater that will affect the rate or direction of movement of water in the confined aquifer system referred to in section 37-90-102 (3) shall be permitted pursuant to a judicially approved plan for augmentation that, in addition to all other lawful requirements for such plans, shall be subject to the requirements of rules for the withdrawal of such

groundwater within water division 3 that are promulgated by the state engineer pursuant to the procedures of section 37-92-501 (2). Such rules shall be based upon specific study of the confined aquifer system and shall be promulgated prior to July 1, ~~2003~~ 2004. In the promulgation of such rules for water division 3, the state engineer shall recognize that unappropriated water is not made available and injury is not prevented as a result of the reduction of water consumption by nonirrigated native vegetation. Such rules shall also permit the development of the water resources of water division 3 in a manner that will protect Colorado's ability to meet its interstate compact obligations and to prevent injury to senior appropriators in the order of their priorities, and with due regard for daily, seasonal, and longer demands on the water supply. The state engineer and the Colorado water conservation board shall proceed with diligence to complete needed studies.

(II) Subparagraph (I) of this paragraph (b) is repealed, effective July 1, ~~2003~~ 2004; except that nothing in this subsection (12) shall affect the validity of the rules adopted by the state engineer for groundwater withdrawals in water division 3, or affect the applicability of such rules to well permits that have been or will be issued, and judicial decrees that have been or will be entered, for the withdrawal of groundwater in water division 3.

SECTION 4. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

DRAFT

Bill C

Colorado Legislative Council Staff
NO FISCAL IMPACT

Drafting Number: LLS 03-0130	Date: November 6, 2002
Prime Sponsor(s): Rep. Hoppe Sen. Entz	Bill Status: Water Resources Review Committee Fiscal Analyst: Steve Tammeus (303-866-2756)

TITLE: CONCERNING THE EXTENSION OF THE IMPLEMENTATION DATES FOR CERTAIN WATER AUGMENTATION REQUIREMENTS.

Summary of Assessment

This bill extends implementation dates for more stringent water augmentation requirements in the Denver Basin aquifers from the period July 1, 2003 to July 1, 2006 to the period July 1, 2009 to July 1, 2012.

The bill also extends the deadline from July 1, 2003, to July 1, 2004, for the State Engineer to promulgate rules for the withdrawal of groundwater within Water Division 3 in the San Luis Valley. The bill will become effective upon signature of the Governor.

This bill will not affect state or local government revenue or expenditures. Therefore, this bill as assessed as having no fiscal impact.

Departments Contacted

Natural Resources Law