

University of Denver

**Digital Commons @ DU**

---

All Publications (Colorado Legislative Council)

Colorado Legislative Council Research  
Publications

---

12-2011

## 0611 Water Resources Review Committee

Colorado Legislative Council

Follow this and additional works at: [https://digitalcommons.du.edu/colc\\_all](https://digitalcommons.du.edu/colc_all)

---

### Recommended Citation

Colorado Legislative Council, "0611 Water Resources Review Committee" (2011). *All Publications (Colorado Legislative Council)*. 644.

[https://digitalcommons.du.edu/colc\\_all/644](https://digitalcommons.du.edu/colc_all/644)

This Article is brought to you for free and open access by the Colorado Legislative Council Research Publications at Digital Commons @ DU. It has been accepted for inclusion in All Publications (Colorado Legislative Council) by an authorized administrator of Digital Commons @ DU. For more information, please contact [jennifer.cox@du.edu](mailto:jennifer.cox@du.edu), [dig-commons@du.edu](mailto:dig-commons@du.edu).

---

0611 Water Resources Review Committee



**Report to the  
Colorado General Assembly**

**Water Resources  
Review Committee**

*Prepared by*

*The Colorado Legislative Council  
Research Publication No. 611  
December 2011*

# **Water Resources Review Committee**

## **Members of the Committee**

Senator Gail Schwartz, Chair  
Representative Jerry Sonnenberg, Vice-Chair

Senator Greg Brophy  
Senator Angela Giron  
Senator Mary Hodge  
Senator Ellen Roberts

Representative Randy Baumgardner  
Representative Keith Swerdfeger  
Representative Ed Vigil  
Representative Roger Wilson

## **Legislative Council Staff**

David Beaujon, Senior Analyst  
Lauren Ris, Research Associate  
Alex Schatz, Fiscal Analyst

## **Office of Legislative Legal Services**

Tom Morris, Senior Staff Attorney

*December 2011*

# COLORADO GENERAL ASSEMBLY

EXECUTIVE COMMITTEE  
Sen. Brandon Shaffer, Chairman  
Rep. Frank McNulty, Vice Chairman  
Sen. Bill Cadman  
Sen. John Morse  
Rep. Mark Ferrandino  
Rep. Amy Stephens



COMMITTEE  
Sen. Betty Boyd  
Sen. Kevin Grantham  
Sen. Mary Hodge  
Sen. Jeanne Nicholson  
Sen. Scott Renfroe  
Sen. Mark Scheffel  
Rep. Jim Kerr  
Rep. Claire Levy  
Rep. B.J. Nikkel  
Rep. Kevin Priola  
Rep. Nancy Todd

STAFF  
Mike Mauer, Director  
Amy Zook, Deputy Director

## LEGISLATIVE COUNCIL

ROOM 029 STATE CAPITOL  
DENVER, COLORADO 80203-1784  
E-mail: [lcs.ga@state.co.us](mailto:lcs.ga@state.co.us)

303-866-3521 FAX: 303-866-3855 TDD: 303-866-3472

December 2011

To Members of the Sixty-eighth General Assembly:

Submitted herewith is the final report of the Water Resources Review Committee. This committee was created pursuant to Article 98 of Title 37, Colorado Revised Statutes. The purpose of this committee is to oversee the conservation, use, development, and financing of Colorado's water resources.

At its meeting on November 8, 2011, the Legislative Council reviewed the report of this committee. A motion to forward this report and the bills therein for consideration in the 2012 session was approved.

Sincerely,

/s/ Senator Brandon Shaffer  
Chairman

## Table of Contents

	Page
<b>Committee Charge</b> .....	1
<b>Committee Activities</b> .....	1
Water Quality Issues.....	1
Regulation of Water Use to Protect Other Water Users. ....	3
Water Infrastructure. ....	4
Water Supply Entities. ....	6
Water and Energy Development. ....	5
Water Use Efficiency.....	7
Proposals to Import Water Into Colorado. ....	8
<b>Summary of Recommendations</b> .....	9
Bill A — Exemption of Drinking Water Treatment Facilities from the Requirement to Obtain a Certificate of Designation.....	9
Text of Bill A.....	13
Bill B — Amount of Water that Permitted Mining Operations that Construct Impermeable Areas that Eliminate Preexisting Natural Evapotranspiration Are Required to Replace. ....	9
Text of Bill B.....	17
Bill C — Postponement of the Repeal of Requirements to Replace Well Depletions to the Denver Basin Aquifers. ....	9
Text of Bill C.....	21
Bill D — Consolidation of Cash Funds Administered by the Division of Water Resources. ....	9
Text of Bill D.....	23
Bill E — Reissuance of a Lost Share Certificate of a Mutual Ditch Company.....	9
Text of Bill E.....	35
Resolution A — Adverse Effects that the Diversion of Revenues Has Had on Water Infrastructure in Colorado.....	10
Text of Resolution A. ....	41
<b>Resource Materials</b> .....	11

*This report is also available on line at:*

<http://www.colorado.gov/lcs/WRRC>

## Committee Charge

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, two of which may be held during the legislative session, and two field trips are authorized 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 reviewing and proposing 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

The committee met eight times and took one tour during the 2011 interim. During the 2011 interim, the committee met with a broad range of water users and government officials, including local water providers, state water rights administrators, water quality regulators, state water planners, water project developers, water users, and concerned citizens. The committee received briefings on major water issues affecting the state, including planning for future water needs, funding needs for state water agencies and water projects, regulation of groundwater use, implementation of new water laws, development of new water quality regulations, and other issues.

**Committee tours.** In June, the committee toured for two days in the Colorado River Basin in western Colorado and visited water storage and distribution facilities, irrigation projects, hydropower plants, a natural gas operation, and other sites. This tour was organized by the Colorado Foundation for Water Education. In August, the committee attended the Colorado Water Congress summer convention in Steamboat Springs, where it held a public meeting to discuss a variety of topics, including the water replacement requirements for Denver Basin wells, the regulation of water imported into Colorado, and interstate water compact compliance. The committee also toured a coal mine and electric generation facility and attended presentations about water and energy development, water infrastructure financing, ongoing water supply studies, and other water management issues.

## Water Quality Issues

**Water treatment facilities.** Current law requires a drinking water treatment facility that stores, treats, or processes solid wastes originating at the facility to get a certificate of designation from the local municipality or board of county commissioners. These facilities are regulated by both the Solid and Hazardous Waste Commission and the Water Quality Control Commission in the Colorado Department of Public Health and Environment (CDPHE). The committee heard from representatives of the state's water treatment facilities who discussed the regulatory framework for waste impoundments at drinking water treatment facilities. They explained the need for clarification of the terms "drinking water treatment facilities" and "solid waste disposal site and facility," and the need to clarify the drinking water treatment facilities that are subject to a requirement to obtain a certificate of designation.



**Committee recommendation.** The committee recommends Bill A, which exempts waste impoundment at drinking water treatment facilities from the requirement to get a certificate of designation.

**Drug disposal.** The committee heard testimony from pharmaceutical representatives and the CDPHE on the issue of household drug disposal and the water quality impacts associated with flushing medications into the waste water stream. While the majority of prescribed drugs are fully consumed, a significant percentage go unused, expire, and become waste. According to the CDPHE, pharmaceutical waste primarily comes from pharmaceuticals that expire or otherwise become unusable while on the pharmacy shelf and from unused pharmaceuticals that are distributed to patients. The Pharmaceutical Research and Manufacturers of America estimates that on an annual basis, 4.3 million pounds of prescribed medications go unused by consumers in U.S. households and by patients in long-term care facilities. Based on population, this equates to approximately 70,000 pounds of unused medications that are produced annually in Colorado. In a 2009 survey of Colorado residents conducted by the CDPHE, almost half of respondents said that they disposed of their expired or unused medications in the trash or flushed the medication down the toilet, and 10 percent took the medication to a medicine collection point.

The committee also heard about an existing medication take-back project from the CDPHE. The CDPHE is coordinating the Colorado Medication Take-Back Pilot Project with funding and support from other organizations. The project is a network of secure boxes for the collection of unused and unwanted household medications that are located near the pharmacies of participating grocery stores or at certain local health agency offices. The take-back program accepts prescription medications, over-the-counter medications, medication samples, medications for pets, vitamins, medicated ointments/lotions, inhalers, and liquid medication in glass or leak-proof containers. The waste is then transported to a transfer facility for final destruction in a hazardous waste incinerator. According to the CDPHE, the project has collected 11,500 pounds of unused and unwanted household medications, and has increased public awareness about the environmental and public health concerns related to improper disposal of medications. According to the CDPHE, the project has not secured sufficient funding to continue the operation of all collection sites beyond 2011. The CDPHE plans to work with its partners to identify future funding sources. It will also review proposed federal regulations to determine if the project may be operated in a manner that allows for the collection of controlled substances. State law also allows a pharmacist to redispense a returned medication that is prescribed by a licensed facility to a patient if the medication was originally dispensed to another patient of the facility.

The committee considered, but did not recommend, a bill concerning incentives to minimize the disposal of medications in water. The bill would have created a state-funded and locally run medication take-back program to divert waste from water disposal and would have been funded by a 2-cent fee on each prescription.

**Nutrient water quality standards.** High levels of nitrogen and phosphorus in waters can produce harmful algal blooms. These blooms can produce "dead zones" in water bodies where dissolved oxygen levels are so low that most aquatic life cannot survive, a condition referred to as hypoxia. Factors that contribute to nitrogen and phosphorus pollution include overuse of fertilizer, runoff from cropland and developed areas, and overflow of septic systems. The federal Clean Water Act requires states to develop water quality standards and review and update these standards every three years. Unlike toxic pollutant water quality standards, which must be numeric if possible, the act does not specifically require states to develop *numeric* nutrient water quality standards, giving states the discretion to use either narrative or numeric standards. Numeric





criteria establish specific limitations on nitrogen and phosphorus concentrations in waterbodies, while narrative standards use descriptive language to convey an unacceptable water quality condition.

The U.S. Environmental Protection Agency (EPA) has been encouraging states to develop *numeric* nutrient criteria for nitrogen and phosphorus since 1998 through a series of policy memoranda. While states retain discretion to adopt water quality standards that may differ from the EPA recommendations, the standards must ultimately be approved by the EPA. In response to the EPA, the Water Quality Control Division in the CDPHE has been developing numeric nutrient criteria for nitrogen and phosphorus for several years and has a rule-making hearing scheduled to adopt proposed nutrient regulations in March 2012.

The committee heard presentations on the proposed regulations and how other states in the West are addressing nutrient water quality from the Water Quality Control Division and Legislative Council Staff. The Colorado Water and Power Development Authority has been developing a cost-benefit analysis to determine the costs to entities in the state that will have to comply with newly adopted water quality standards and presented the committee with its draft report. The authority looked at three sets of numeric standards and estimated the costs and benefits associated with reducing nutrients to these levels. A draft version of the study was available in September 2011. The authority took comments and released the final version in December 2011.

## **Regulation of Water Use to Protect Other Water Users**

---

**Salvaged water rule.** An augmentation plan replaces depletions to the water supply and prevents injury to decreed water rights. Depletion is the amount of water that does not return to a stream after it has been used due to evaporation, plant uptake, and other mechanisms. Injury occurs when water that would otherwise be available for use by a water right operating in priority is intercepted by someone whose decreed appropriation is junior in priority or by someone who is diverting without a decree. The committee heard testimony from mining industry representatives that, when applied to permitted mining operations, Colorado's salvaged water rule will result in a windfall to downstream water users and the creation of unreasonable long-term expectations. The salvaged water rule, as articulated in Colorado judicial decisions, holds that water historically evaporated from the ground surface and consumed by plants cannot be the basis of a new water right. This salvaged water is therefore, under the rule, likely to be subject to augmentation requirements unless the General Assembly authorizes an exception. Under current law, unlined gravel pits and on-stream reservoirs are not required to replace water salvaged from preexisting vegetation. These current exceptions are not required to augment salvaged water because they are not motivated to disturb vegetation to obtain water rights (rather, land disturbance is a consequence of the activity itself) and, in the case of permitted gravel mining, are required to reclaim the site with vegetation as mining is completed.

**Committee recommendation.** The committee recommends Bill B, which creates an additional exception for the salvaged water rule for all permitted mining operations.

**Regulation of Denver Basin wells.** Ground water pumped in the Denver Basin includes certain bedrock aquifers classified as "not nontributary" by state statute. Beginning July 2012, current statute dictates that augmentation plans will be based on "actual aquifer conditions," though no modeling tools to effectively implement this change are currently available and none will be available as of July 2012.



**Committee recommendation.** The committee recommends Bill C to delay the implementation of the water replacement requirement for not nontributary ground water wells to July 2015.

## **Water Infrastructure**

---

**Water infrastructure needs.** The Water Infrastructure Network Colorado (WIN Colorado) presented an overview of infrastructure needed in Colorado to establish and improve adequate drinking water, waste water, and storm water systems. WIN Colorado is developing an online application to track water infrastructure projects throughout the state. There is currently a backlog of approximately \$4.4 billion in projects, as identified by the Colorado Water Resource and Power Development Authority, to address capacity and regulatory requirements already on the planning horizon. The need for infrastructure funding is expected to grow with additional population growth and new regulatory requirements. To address the funding gap for needed infrastructure, WIN Colorado is facilitating a discussion among utilities and funding agencies about the prospects for a statewide revenue-raising measure, public-private partnerships, restoration of severance tax and mineral lease funding, rate increases, and competition for declining federal resources.

The committee also heard testimony from the director of the Colorado Water Resources and Power Development Authority concerning the availability of loans for hydropower retrofits and other "microhydro" projects. Approximately 1,000 to 2,000 megawatts of potential hydropower is awaiting development in such projects throughout the state.

**Funding for water projects and state water agencies.** The committee heard testimony from Legislative Council Staff about recent trends in severance tax collections and state allocations of severance tax revenue for water-related purposes. Under state law, two accounts maintained by the Department of Natural Resources receive half of the total severance tax revenue in the Severance Tax Trust Fund: 25 percent of total revenue to the Operational Account and 25 percent to the perpetual base account. Since 2009, the General Assembly has authorized the transfer of almost \$422 million into the General Fund from sources that would otherwise have been available for water infrastructure, including \$158 million from the perpetual base account, \$10 million from the Colorado Water Conservation Board Construction Fund, \$15 million from the operational account, \$168 million from the Local Government Severance Tax Fund, \$19 million from the Local Government Permanent Fund, and \$46 million for the Local Government Mineral Impact Fund. Including 2008, the General Assembly has transferred approximately \$170 million from the balance of the perpetual base account for budget balancing actions. While the perpetual base account remains solvent, the amount of loan activity for water projects has declined from \$20 million to \$50 million per budget year prior to 2008 to a total of \$51 million in total spending in the past three budget years. Energy impact assistance grants have also been suspended as of 2011. These grants provided \$91 million for drinking water and waste water projects from 2007 to 2010.

The committee discussed the various transfers that have been made from accounts in the Severance Tax Trust Fund into the General Fund from sources that otherwise would have been available for water infrastructure projects, including transfers from the perpetual base account of the Severance Tax Trust Fund, the Colorado Water Conservation Board Construction Fund, the Operational Account of the Severance Tax Trust Fund, the Local Government Severance Tax Fund, and the Local Government Mineral Impact Fund. The committee discussed the need for funding for water storage and infrastructure projects in order to accommodate Colorado's population, which is projected to nearly double by 2050.



**Committee recommendation.** The committee recommends Resolution A, which calls for the protection of severance tax revenue that supports water projects.

**Cash funds administered by Division of Water Resources.** The State Engineer and the budget officer for the Division of Water Resources in the Department of Natural Resources informed the committee that current statutory restrictions on six of its cash funds inhibit efficient use of resources. Strategic consolidation of these cash funds would allow the Division of Water Resources to schedule facility inspections, for example, without cumbersome accounting requirements.

**Committee recommendation.** The committee recommends Bill D, which consolidates cash funds administered by the Division of Water Resources into one fund.

**Dam safety regulations.** Representatives of the Colorado Dam Safety Branch of the Division of Water Resources testified before the committee. The Dam Safety Branch is charged with regulating jurisdictional dams (generally, those dams greater than 10 feet in height, or with a reservoir of more than 20 acres in surface area or 100 acre-feet in volumetric capacity), protecting life and property through engineering analysis, and periodic inspection of these regulated dams. In its interim meetings, the committee examined the impact of development activity in the immediate vicinity of existing jurisdictional dams. The state's 1,939 jurisdictional dams are classified by the Dam Safety Branch according to the potential hazard they present to surrounding areas. Representatives from the Division of Water Resources explained changes in dam classification when structures and people are placed in the inundation zone (the area subject to flooding in the event of dam failure). When a dam is reclassified to the high hazard category, the party holding a dam permit may be required to make improvements to meet more stringent dam safety criteria and will be subject to more frequent inspections. According to the division, there are six dams impacted in this manner by the encroachment of development, with the potential for more instances in the future. The committee discussed local government notification procedures and allocation of costs for encroachment impacts.

## **Water Supply Entities**

---

The committee heard testimony from public water supply entities concerning proposed water supply projects, including the Southern Delivery System that will provide water to Colorado Springs and the Northern Integrated Supply project that will supply communities in northeastern Colorado. It also heard testimony about the role of mutual ditch and reservoir companies in providing water to farmers and other water users. These companies are special purpose nonprofit corporations formed to finance and maintain water distribution infrastructure, such as ditches and reservoirs, and to administer the distribution of water to stockholders. Stock in a mutual company represents water rights. Stockholders receive delivery from the water diverted by the company in proportion to their stockholding in the company. The committee heard testimony about the current requirement concerning the reissuance of lost share certificates and how it may unnecessarily delay water transactions involving mutual ditch companies.

**Committee recommendation.** The committee recommends Bill E, which eliminates a three-year waiting period to reissue a lost share certificate of a mutual ditch company.



## Water and Energy Development

---

The committee considered issues that pose challenges to providing reliable energy and water to the state's residents. Various stakeholders and agency representatives provided testimony to the committee about energy development in the state and the associated impacts to water quantity and quality.

**Hydraulic fracturing.** The committee heard testimony from the Colorado Oil and Gas Conservation Commission (COGCC) about how it regulates the practice of hydraulic fracturing, and the committee listened to a panel discussion on the issue during the Colorado Water Congress' annual summer conference. Hydraulic fracturing, or "fracking," is a method used by oil and gas operators to increase or open up production on wells that would otherwise be inaccessible. Oil and gas operators now use fracturing on most wells in Colorado. Hydraulic fracturing involves pumping a mixture of water, sand, and chemicals into wells under high pressure to crack open tight formations, thereby facilitating the flow of gas and oil to the surface.

The COGCC regulates oil and gas development on most privately owned lands in the state, as well as land owned by state and local governments. The COGCC issues permits for drilling and operating oil and gas wells, and enforces rules and regulations for the spacing of wells, well construction, and well site reclamation. In 2011, the COGCC requested a review of its rules on hydraulic fracturing by an outside panel of experts, called the State Review of Oil and Natural Gas Environmental Regulations (STRONGER), funded by the EPA, the U.S. Department of Energy, and the American Petroleum Institute. STRONGER will report its findings on the adequacy of COGCC's hydraulic fracturing rules later in 2011. The COGCC will then determine whether to make any recommended changes.

During the summer, the Colorado Oil and Gas Association (COGA) and the Department of Natural Resources started a new voluntary baseline groundwater sampling program for the oil and gas industry, as a way to address some of the concerns associated with fracking. Under the program, oil and gas operators who drill wells on new pads will collect groundwater samples before and after drilling. The data will then be provided to the COGCC, who will manage it in a central database. Annually, COGA and COGCC will prepare a joint report summarizing participation and findings.

**Produced water.** The committee heard testimony from several representatives of oil and gas companies about the water that is produced in oil and gas drilling operations. According to the COGCC, there are over 5,000 wells that produce natural gas from coal beds in Colorado. Along with this gas, water, called "produced water," is also brought to the surface by these wells. Most of the produced water comes from aquifers that are 1,500 to 3,000 feet below the surface. The San Juan Basin in southwest Colorado and northwest New Mexico are the most productive source of coal bed methane (CBM) in North America. The committee heard testimony that approximately 39,000 barrels of water are produced each day in the San Juan Basin, from 1,300 British Petroleum wells. The amount of water produced from CBM wells is higher than conventional natural gas wells because coal beds contain fractures and pores that can contain and transmit large volumes of water. According to COGCC regulation, produced water may be disposed of as follows:

- injection deep underground;
- evaporation or percolation in lined or unlined pits;
- disposal at permitted commercial facilities;

- disposal by spreading on roads outside sensitive areas with less than 5,000 milligrams per liter total dissolved solids when authorized by the surface owner; or
- discharged into state waters, in accordance with the Water Quality Control Act and the rules promulgated by the Water Quality Control Commission.

If produced water is put to a beneficial use beyond the uses allowed under the COGCC rule, it is subject to regulation by the Division of Water Resources through a permitting process, and water users are subject to various controls to avoid injury to vested water rights. In some cases, augmentation of depletions to streams may be required. Representatives from the oil and gas industry explained to the committee how produced water can be recycled and used in drilling operations in order to reduce water that is consumed through the drilling process.

## **Water Use Efficiency**

---

**Water efficiency plans.** The committee heard testimony from the Colorado Water Conservation Board (CWCB) on the Water Efficiency Plan Program that was created by House Bill 10-1051. The program is administered by the CWCB's Office of Water Conservation and Drought Planning. Starting on June 30, 2014, the law requires retail water providers, with an annual customer demand of at least 2,000 acre-feet, to annually report water use and conservation data for water supply planning to the CWCB, the Senate Agriculture, Natural Resources, and Energy Committee, and the House Agriculture, Livestock, and Natural Resources Committee. The CWCB is required to adopt the reporting guidelines for the water providers to report water use and conservation data for water supply planning by February 1, 2012. The committee also heard from municipal water utilities concerning the development of water-use data reports required by HB 10-1051 and how this information will help the state address future water supply needs.

**Statewide water efficiency standard.** In 2005, the General Assembly enacted House Bill 05-1177, the "Colorado Water for the 21st Century Act," which established a process to address the state's growing water demand. This law created nine basin roundtables covering the state's major river basins. These roundtables are charged with identifying water needs within each basin and conducting discussions with other basins to address interbasin water issues. The law also created a 27-member Interbasin Compact Committee (IBCC) to facilitate negotiations between the roundtables. The Governor's appointee to the IBCC explained that in December 2010, the IBCC proposed that legislation be adopted to create a statewide water efficiency standard. Specifically, it recommended that the state should require water efficiency standards that meet or exceed the EPA's WaterSense fixture and appliance specifications in all indoor building codes. It also recommended that all new residential and commercial construction, and renovation that requires building permits or a certificate of occupancy, should be required to install water efficiency fixtures and appliances that meet or exceed WaterSense specifications. The committee also heard testimony from Denver Water — Colorado's largest municipal water provider — which recommended that the committee adopt legislation to impose a statewide water efficiency standard for new toilets sold in Colorado. Federal law currently sets the maximum water usage for toilets at 1.6 gallons per flush (gpf) and for urinals at 1.0 gpf. The committee considered, but did not recommend, legislation that would have prohibited toilets sold in Colorado from using more than 1.28 gpf and urinals from using more than 0.5 gpf after January 1, 2016.

**Water reuse.** Most water in Colorado may only be used once. Any water that is not consumed by a beneficial use must be allowed to return to the stream system for use by other water rights. Some western states including Arizona, California, Montana, New Mexico, and Utah, allow reuse of certain water for landscape irrigation or in-house purposes. The committee heard



testimony from researchers at Colorado State University about potential water efficiencies related to water reuse technologies for residential purposes. These systems collect water from sinks, showers, bathtubs and laundry that is easily treated for reuse for lower risk uses, such as toilet flushing. Such water, called graywater, would not include water from dishwashers, kitchen sinks, or toilets that pose higher health risks or would require more expensive treatment to make the water suitable for reuse. According to testimony, graywater reuse may help utilities save money through reduced treatment costs and reduce the need for new residential water supplies. The committee considered, but did not recommend, legislation that would have required the Colorado Water Quality Control Commission to adopt a regulation establishing reuse standards for graywater that is collected within a residential, commercial, or industrial building. It also would have specified that if the graywater was applied only to uses that were allowed by the water sources' well permits and water rights, the use of the graywater was deemed to be consistent with the well permits and water rights and deemed to not cause injury to other water users.

## **Proposals to Import Water Into Colorado**

---

**Proposed Flaming Gorge Project.** The committee heard testimony from the proponent of the proposed Flaming Gorge Cooperative Water Supply Project that would divert water from the Green River in Wyoming to Colorado Front Range communities, including populations in Douglas County and El Paso County. It would also provide water to Laramie County in Wyoming and the cities of Cheyenne and Torrington. The project would include a pipeline along the I-80 corridor from the Flaming Gorge Reservoir in Wyoming to Colorado. The proponent explained that the project would supply rapidly growing communities in Colorado that are reliant on declining and nonrenewable ground water supplies. It would also help reduce the need to transfer agricultural water supplies to municipalities to meet growing demand. The committee also heard testimony from opponents of the project who explained that the project will cost too much to build and may impact endangered species and recreational resources in the Green River and Colorado River basins. The opponents also expressed concern about a request to use money in the CWCB Construction Fund to pay for a feasibility study for the project. In September 2011, the CWCB approved a grant for Colorado's basin roundtables to discuss the pros and cons of a potential Flaming Gorge Pipeline project. The board approved \$72,000, with \$100,000 more available depending on the results of the discussion. The basin roundtable discussions will examine the issues involved in the project, the challenges or barriers to such a project, and potential benefits of such a project.

**Regulation of water imports.** Currently, two projects — the Flaming Gorge Cooperative Water Supply Project and the proposed Regional Watershed Supply Project — seek to import water from Wyoming's Green River Basin into Colorado. The committee heard testimony from the State Engineer that current law does not regulate the use of water imported into Colorado. He explained that a state law may need to be enacted prior to completion of a water import project to address how the diversions would be regulated during water shortages in the Colorado River Basin and other situations. A similar law regulates the export of water from Colorado to another state.<sup>1</sup> In part, this law requires that such diversions be approved by a water court or the Ground Water Commission and specifies the conditions under which water exports may be allowed. Cooperative agreements between the Colorado and Wyoming's state engineers may also be needed to address how the water will be diverted and when such diversions may be curtailed.

---

<sup>1</sup>Section 37-81-101, *et. seq.*, C.R.S.



## Summary of Recommendations

### **Bill A — Exemption of Drinking Water Treatment Facilities from the Requirement to Obtain a Certificate of Designation**

---

Bill A exempts water treatment facilities that store, treat, or process certain solid wastes from the requirement to get a certificate of designation from a board of county commissioners. The bill allows these facilities to dispose of their own solid wastes on the facility's property in compliance with the rules of the Solid and Hazardous Waste Commission for waste impoundments and solid waste disposal.

### **Bill B — Amount of Water that Permitted Mining Operations that Construct Impermeable Areas that Eliminate Preexisting Natural Evapotranspiration Are Required to Replace**

---

Bill B specifies that, for all permitted mining operations, there will be no requirement to replace the amount of historic natural depletion to the waters of the state attributable to preexisting natural evapotranspiration within the mined area.

### **Bill C — Postponement of the Repeal of Requirements to Replace Well Depletions to the Denver Basin Aquifers**

---

Current law, scheduled to repeal on July 1, 2012, requires wells that pump from certain Denver Basin bedrock aquifers to replace actual out-of-priority depletions and specifies that the replacement obligation for all Denver Basin aquifers continues after pumping stops to compensate for depletions. Effective July 1, 2012, wells that pump from these aquifers would be required to replace actual stream depletions to the extent necessary to prevent any injurious effect on other water rights based on actual aquifer conditions, and replacement after pumping would cease for all Denver Basin aquifers unless required to compensate for injurious depletions. Bill C postpones the repeal of the current law until July 1, 2015.

### **Bill D — Consolidation of Cash Funds Administered by the Division of Water Resources**

---

Bill D consolidates several funds administered by the Division of Water Resources into a newly created Water Resources Cash Fund.

### **Bill E — Reissuance of a Lost Share Certificate of a Mutual Ditch Company**

---

Bill E eliminates the three-year waiting period to reissue lost mutual ditch share certificates and specifies that a person who is named in the books of the company as a lienholder on the lost certificate is also entitled to file a request for reissuance of a lost certificate.



## **Resolution A — Adverse Effects that the Diversion of Revenues Has Had on Water Infrastructure in Colorado**

---

Resolution A directs the General Assembly to avoid future diversions of water infrastructure revenues for budget balancing purposes and instead to direct these revenues to protect and develop Colorado's water resources according to existing statute.





## Resource Materials

Meeting summaries are prepared for each meeting of the committee and contain all handouts provided to the committee. The summaries of meetings and attachments are available at the Division of Archives, 1313 Sherman Street, Denver (303-866-4900). The listing below contains the dates of committee meetings and the topics discussed at those meetings. Meeting summaries are also available on our website at:

<http://www.colorado.gov/lcs/WRRC>

### Meeting Date and Topics Discussed

---

August 2, 2011

- ◆ Dam safety regulations
- ◆ Hydraulic fracturing
- ◆ Implementation of House Bill 09-1303, concerning the administration of wells that withdraw ground water in conjunction with mining
- ◆ Opportunities and incentives for hydropower
- ◆ Groundwater in the South Platte
- ◆ Water management in oil and gas operations

August 23, 2011

- ◆ Flood and drought
- ◆ Interbasin Compact Committee
- ◆ Interstate water compacts
- ◆ Water import regulations
- ◆ South Platte River decision support system
- ◆ Water efficiency plans
- ◆ Water replacement requirements in the Denver Basin

September 7, 2011

- ◆ Drinking water sludge disposal regulation
- ◆ Graywater use
- ◆ Nutrient water quality standards
- ◆ Residential encroachment in dam inundation areas
- ◆ Southern delivery system
- ◆ Water augmentation requirements
- ◆ Water infrastructure funding challenges



September 8, 2011

- ◆ Colorado River Cooperative Agreement
- ◆ Front Range Water Council
- ◆ Impacts of wildland fires on water resources
- ◆ Lost share certificates
- ◆ Proposed Green River Basin water diversion
- ◆ State water efficiency standard
- ◆ Forest health act update

October 17, 2011

- ◆ Northern Integrated Supply Project
- ◆ Nutrient water quality standards cost benefit study
- ◆ Statewide nutrient monitoring program
- ◆ Statewide water efficiency standard for toilets
- ◆ Water management in the Rio Grande Basin
- ◆ Water Supply Initiative and basin roundtables
- ◆ Weather modification

October 18, 2011

- ◆ Proposed legislation and assignment of bill sponsors



Second Regular Session  
Sixty-eighth General Assembly  
STATE OF COLORADO

**BILL A**

LLS NO. 12-0122.01 Thomas Morris x4218

**HOUSE BILL**

---

**HOUSE SPONSORSHIP**

**Vigil**, Baumgardner, Sonnenberg, Swerdfeger, Wilson

**SENATE SPONSORSHIP**

**Schwartz**, Brophy, Giron, Hodge, Roberts

---

**House Committees**

**Senate Committees**

---

**A BILL FOR AN ACT**

101 **CONCERNING THE EXEMPTION OF DRINKING WATER TREATMENT**  
102 **FACILITIES FROM THE REQUIREMENT TO OBTAIN A CERTIFICATE**  
103 **OF DESIGNATION.**

---

**Bill Summary**

*(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://www.leg.state.co.us/billsummaries>.)*

**Water Resources Review Committee.** Current law requires a drinking water treatment facility that stores, treats, or processes solid wastes originating at the facility to get a certificate of designation from Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.

*Capital letters indicate new material to be added to existing statute.*

*Dashes through the words indicate deletions from existing statute.*

the local municipality or board of county commissioners. Such facilities are regulated by both the solid and hazardous waste commission and the water quality control commission.

The bill exempts these facilities from the requirement to get a certificate of designation, regardless of when the solid wastes were handled, and allows them to dispose of their own solid wastes on the facility's property in compliance with the rules of the solid and hazardous waste commission for waste impoundments and solid wastes disposal.

---

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

2 **SECTION 1.** In Colorado Revised Statutes, 30-20-102, **amend**  
3 (1), (2), (3), (4), and (6); and **add** (7.5) as follows:

4 **30-20-102. Unlawful to operate site and facility without**  
5 **certificate of designation - exceptions.** (1) ~~Any~~ EXCEPT AS OTHERWISE  
6 SPECIFIED IN THIS SECTION, A person who owns or operates a solid wastes  
7 disposal site and facility shall first obtain a certificate of designation from  
8 the governing body having jurisdiction over the area in which such site  
9 and facility is located.

10 (2) EXCEPT AS OTHERWISE SPECIFIED IN THIS SECTION, solid wastes  
11 disposal by any person is prohibited except on or at a solid wastes  
12 disposal site and facility for which a certificate of designation has been  
13 obtained as provided in section 30-20-105.

14 (3) ~~Notwithstanding subsections (1) and (2) of this section, any~~ A  
15 person other than a governmental unit may dispose of the person's own  
16 solid wastes on the person's own property, as long as such solid wastes  
17 disposal site and facility complies with the rules of the solid and  
18 hazardous waste commission and does not constitute a public nuisance.  
19 For the purposes of this part 1, such solid wastes disposal site and facility  
20 shall be an approved site for which obtaining a certificate of designation  
21 under ~~the provisions of~~ section 30-20-105 ~~shall be~~ IS unnecessary. This  
22 subsection (3) ~~shall~~ DOES not preclude any person from applying for a

1 certificate of designation for the disposal of the person's own solid wastes  
2 on the person's own property.

3 (4) ~~Notwithstanding the provisions of subsections (1) and (2) of~~  
4 ~~this section, any~~ A person who is engaged in mining operations pursuant  
5 to a permit issued by the mined land reclamation board or office of mined  
6 land reclamation ~~which~~ THAT contains an approved plan of reclamation  
7 may dispose of solid wastes generated by such operations within the  
8 permitted area for such operations. For the purposes of this part 1, such  
9 solid wastes disposal site and facility ~~shall be~~ IS an approved site for  
10 which obtaining a certificate of designation under ~~the provisions of~~  
11 section 30-20-105 ~~shall be~~ IS unnecessary.

12 (6) ~~Notwithstanding the provisions of subsections (1) and (2) of~~  
13 ~~this section,~~ The final use for beneficial purposes, including fertilizer, soil  
14 conditioner, fuel, and livestock feed, of biosolids that have been  
15 processed and certified or designated as meeting all applicable rules of  
16 the solid and hazardous waste commission and the department of  
17 agriculture ~~shall~~ DOES not require a certificate of designation for such  
18 final use. In addition, the use of manure as a fertilizer or soil conditioner  
19 or the composting on the site of generation of manure with other  
20 compatible materials necessary for effective composting as part of a  
21 standard agricultural practice ~~shall~~ DOES not require a certificate of  
22 designation.

23 (7.5) (a) ON OR AFTER THE EFFECTIVE DATE OF THIS SUBSECTION  
24 (7.5), A GOVERNING BODY HAVING JURISDICTION SHALL NOT REQUIRE A  
25 CERTIFICATE OF DESIGNATION FOR WASTE IMPOUNDMENTS OR SOLID  
26 WASTES DISPOSAL OPERATIONS AT A DRINKING WATER TREATMENT  
27 FACILITY. A CERTIFICATE OF DESIGNATION FOR WASTE IMPOUNDMENTS OR  
28 SOLID WASTES DISPOSAL OPERATIONS AT A DRINKING WATER TREATMENT  
29 FACILITY ISSUED BEFORE THE EFFECTIVE DATE OF THIS SUBSECTION (7.5)

1 IS VOIDABLE AT THE OPTION OF THE FACILITY.

2 (b) A DRINKING WATER TREATMENT FACILITY MAY DISPOSE OF THE  
3 FACILITY'S OWN SOLID WASTES ON THE FACILITY'S PROPERTY IN  
4 COMPLIANCE WITH THE RULES OF THE SOLID AND HAZARDOUS WASTE  
5 COMMISSION FOR WASTE IMPOUNDMENTS AND SOLID WASTES DISPOSAL.

6 **SECTION 2. Act subject to petition - effective date -**  
7 **applicability.** (1) This act shall take effect at 12:01 a.m. on the day  
8 following the expiration of the ninety-day period after final adjournment  
9 of the general assembly (August 7, 2012, if adjournment sine die is on  
10 May 9, 2012); except that, if a referendum petition is filed pursuant to  
11 section 1 (3) of article V of the state constitution against this act or an  
12 item, section, or part of this act within such period, then the act, item,  
13 section, or part shall not take effect unless approved by the people at the  
14 general election to be held in November 2012 and shall take effect on the  
15 date of the official declaration of the vote thereon by the governor.

16 (2) The provisions of this act shall apply to solid wastes  
17 impounded or disposed of before, on, or after the applicable effective date  
18 of this act.

Second Regular Session  
Sixty-eighth General Assembly  
STATE OF COLORADO

**BILL B**

LLS NO. 12-0123.01 Thomas Morris x4218

**HOUSE BILL**

---

**HOUSE SPONSORSHIP**

**Sonnenberg**, Baumgardner, Swerdfeger, Vigil, Wilson

**SENATE SPONSORSHIP**

**Schwartz**, Brophy, Giron, Hodge, Roberts

---

**House Committees**

**Senate Committees**

**A BILL FOR AN ACT**

101 **CONCERNING THE AMOUNT OF WATER THAT PERMITTED MINING**  
102 **OPERATIONS THAT CONSTRUCT IMPERMEABLE AREAS THAT**  
103 **ELIMINATE PREEXISTING NATURAL EVAPOTRANSPIRATION ARE**  
104 **REQUIRED TO REPLACE.**

---

**Bill Summary**

*(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://www.leg.state.co.us/billsummaries>.)*

**Water Resources Review Committee.** Some mining operations construct impermeable areas that capture precipitation and eliminate preexisting natural evapotranspiration. Current law requires that the

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.

*Capital letters indicate new material to be added to existing statute.*

*Dashes through the words indicate deletions from existing statute.*

portion of the captured precipitation that historically reached the stream must be replaced to prevent injury to senior water rights. However, capturing the amount of water that was lost through plant transpiration or evaporation does not increase the actual stream depletions caused by the mining operation because the evapotranspiration did not historically reach the stream. Current law does not give the mine operator any credit for this reduction in evapotranspiration when calculating the obligation to replace stream depletions unless it is a sand and gravel mine. The bill specifies that for all permitted mining operations, there will be no requirement to replace the amount of historic natural depletion to the waters of the state that was caused by the preexisting natural evapotranspiration on the surface of an area that will be, or that has been, eliminated or made impermeable.

---

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

**SECTION 1.** In Colorado Revised Statutes, 37-80-120, **add** (6) as follows:

**37-80-120. Upstream storage - substitute supply - historic natural depletion.** (6) IN DETERMINING THE QUANTITY OF WATER REQUIRED AS A SUBSTITUTE SUPPLY TO REPLACE STREAM DEPLETIONS IN CONNECTION WITH ANY MINING OPERATION AS DEFINED IN SECTION 34-32-103 (8), C.R.S., FOR WHICH A RECLAMATION PERMIT HAS BEEN OBTAINED AS SET FORTH IN SECTION 34-32-109, C.R.S., THERE IS NO REQUIREMENT TO REPLACE THE AMOUNT OF HISTORIC NATURAL DEPLETION TO THE WATERS OF THE STATE, IF ANY, CAUSED BY THE PREEXISTING NATURAL VEGETATIVE COVER AND EVAPORATION ON THE SURFACE OF THE AREA THAT WILL BE, OR THAT HAS BEEN, ELIMINATED OR MADE IMPERMEABLE AS PART OF THE PERMITTED MINING OPERATION. THE APPLICANT BEARS THE BURDEN OF PROVING THE HISTORIC NATURAL DEPLETION.

**SECTION 2.** In Colorado Revised Statutes, 37-92-305, **add** (12) (c) as follows:



1           **37-92-305. Standards with respect to rulings of the referee and**  
2           **decisions of the water judge.** (12) (c) IN DETERMINING THE QUANTITY  
3           OF WATER REQUIRED IN AN AUGMENTATION PLAN TO REPLACE STREAM  
4           DEPLETIONS IN CONNECTION WITH ANY MINING OPERATION AS DEFINED IN  
5           SECTION 34-32-103 (8), C.R.S., FOR WHICH A RECLAMATION PERMIT HAS  
6           BEEN OBTAINED AS SET FORTH IN SECTION 34-32-109, C.R.S., THERE IS NO  
7           REQUIREMENT TO REPLACE THE AMOUNT OF HISTORIC NATURAL  
8           DEPLETION TO THE WATERS OF THE STATE, IF ANY, CAUSED BY THE  
9           PREEXISTING NATURAL VEGETATIVE COVER AND EVAPORATION ON THE  
10          SURFACE OF THE AREA THAT WILL BE, OR THAT HAS BEEN, ELIMINATED OR  
11          MADE IMPERMEABLE AS PART OF THE PERMITTED MINING OPERATION. THE  
12          APPLICANT BEARS THE BURDEN OF PROVING THE HISTORIC NATURAL  
13          DEPLETION.

14           **SECTION 3. Act subject to petition - effective date -**  
15           **applicability.** (1) This act shall take effect at 12:01 a.m. on the day  
16           following the expiration of the ninety-day period after final adjournment  
17           of the general assembly (August 7, 2012, if adjournment sine die is on  
18           May 9, 2012); except that, if a referendum petition is filed pursuant to  
19           section 1 (3) of article V of the state constitution against this act or an  
20           item, section, or part of this act within such period, then the act, item,  
21           section, or part shall not take effect unless approved by the people at the  
22           general election to be held in November 2012 and shall take effect on the  
23           date of the official declaration of the vote thereon by the governor.

24           (2) The provisions of this act shall apply to substitute supply plans  
25           approved and augmentation plans decreed on or after the applicable  
26           effective date of this act.

Second Regular Session  
Sixty-eighth General Assembly  
STATE OF COLORADO

**BILL C**

LLS NO. 12-0125.01 Thomas Morris x4218

**SENATE BILL**

---

**SENATE SPONSORSHIP**

**Brophy**, Giron, Hodge, Roberts, Schwartz

**HOUSE SPONSORSHIP**

**Sonnenberg**, Baumgardner, Swerdfeger, Vigil, Wilson

---

**Senate Committees**

**House Committees**

---

**A BILL FOR AN ACT**

101 **CONCERNING POSTPONEMENT OF THE REPEAL OF REQUIREMENTS TO**  
102 **REPLACE WELL DEPLETIONS TO THE DENVER BASIN AQUIFERS.**

---

**Bill Summary**

*(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://www.leg.state.co.us/billsummaries>.)*

**Water Resources Review Committee.** Law that is currently in effect:

- Requires wells that pump from the Dawson aquifer to replace actual out-of-priority depletions; and

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.

Capital letters indicate new material to be added to existing statute.

Dashes through the words indicate deletions from existing statute.

- Specifies that the replacement obligation for all Denver basin aquifers continues after pumping stops to compensate for depletions.

This law is scheduled to repeal on July 1, 2012.

The new law that will automatically become effective on July 1, 2012, would require:

- Wells that pump from the Dawson aquifer to replace actual stream depletions to the extent necessary to prevent any injurious effect on other water rights based on actual aquifer conditions; and
- Replacement after pumping ceases for all Denver basin aquifers only if required to compensate for injurious depletions.

There is currently no modeling tool available to calculate depletions according to actual aquifer conditions. Accordingly, the bill postpones the repeal of the current law until July 1, 2015.

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

2 **SECTION 1.** In Colorado Revised Statutes, 37-90-137, **amend**  
 3 (9) (c) (II) and (9) (c.5) (II) as follows:

4 **37-90-137. Permits to construct wells outside designated**  
 5 **basins - fees - permit no ground water right - evidence - time**  
 6 **limitation - well permits - rules - repeal.** (9) (c) (II) This paragraph (c)  
 7 ~~shall IS not be in effect from July 1, 2009, until July 1, 2012 during which~~  
 8 ~~time 2015, AND UNTIL THEN paragraph (c.5) of this subsection (9) shall~~  
 9 ~~apply~~ APPLIES.

10 (c.5) (II) This paragraph (c.5) ~~is effective July 1, 2009, and is~~  
 11 ~~repealed, effective July 1, 2012~~ 2015.

12 **SECTION 2. Applicability.** This act shall apply to plans for  
 13 augmentation decreed on or after the effective date of this act.

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

Second Regular Session  
Sixty-eighth General Assembly  
STATE OF COLORADO

**BILL D**

LLS NO. 12-0130.02 Thomas Morris x4218

**SENATE BILL**

---

**SENATE SPONSORSHIP**

**Hodge**, Brophy, Giron, Roberts, Schwartz

**HOUSE SPONSORSHIP**

**Swerdfeger**, Baumgardner, Sonnenberg, Vigil, Wilson

---

**Senate Committees**

**House Committees**

---

**A BILL FOR AN ACT**

101 **CONCERNING THE CONSOLIDATION OF CASH FUNDS ADMINISTERED BY**  
102 **THE DIVISION OF WATER RESOURCES.**

---

**Bill Summary**

*(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://www.leg.state.co.us/billsummaries>.)*

**Water Resources Review Committee.** The bill consolidates several funds administered by the division of water resources into a newly created water resources cash fund. **Section 1** of the bill creates the water resources cash fund and consolidates into a single section the laws

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.

*Capital letters indicate new material to be added to existing statute.*

*Dashes through the words indicate deletions from existing statute.*

governing the fund's allowable uses. **Section 2** repeals the water data bank cash fund, division of water resources publication cash fund, and division of water resources ground water management cash fund. **Section 3** repeals the ground water publication fund, **section 4** repeals the gravel pit lakes augmentation fund, and **section 5** repeals the well enforcement cash fund. **Sections 6 through 11** make conforming amendments.

---

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

2 **SECTION 1.** In Colorado Revised Statutes, **add** 37-80-111.7 as  
3 follows:

4 **37-80-111.7. Water resources cash fund - created - uses.**

5 (1) THERE IS HEREBY CREATED IN THE STATE TREASURY THE WATER  
6 RESOURCES CASH FUND, REFERRED TO IN THIS SECTION AS THE "FUND".  
7 REVENUES CREDITED TO THE FUND AND UNEXPENDED AT THE END OF  
8 EACH FISCAL YEAR REMAIN IN THE FUND AND DO NOT REVERT TO THE  
9 GENERAL FUND. ALL INTEREST DERIVED FROM THE DEPOSIT AND  
10 INVESTMENT OF REVENUES IN THE FUND REMAIN IN THE FUND AND DO NOT  
11 REVERT TO THE GENERAL FUND.

12 (2) THE STATE ENGINEER SHALL COLLECT THE FOLLOWING FEES  
13 AND TRANSMIT THEM TO THE STATE TREASURER, WHO SHALL CREDIT THEM  
14 TO THE FUND, EXCEPT AS SPECIFIED IN PARAGRAPH (b) OF THIS  
15 SUBSECTION (2):

16 (a) THE STATE ENGINEER SHALL SET FEES BY RULE FOR:

17 (I) THE DISTRIBUTION OF DATA GENERATED, COLLECTED, STUDIED,  
18 AND COMPILED ABOUT THE WATER SUPPLIES OF THIS STATE, WHICH FEES  
19 SHALL REFLECT THE DIRECT AND INDIRECT COSTS OF SUCH DISTRIBUTION;

20 (II) THE SALE OF PUBLICATIONS OF THE DIVISION OF WATER  
21 RESOURCES, WHICH FEES SHALL REFLECT THE DIRECT AND INDIRECT COSTS  
22 OF SUCH PUBLICATIONS;

1 (b) THE STATE ENGINEER SHALL COLLECT FEES PURSUANT TO  
2 SECTIONS 37-90-105 (3) (a) AND (4); 37-90-107 (7) (c) (I) AND (7) (d) (I);  
3 37-90-108 (4) AND (6); 37-90-116 (1) (a), (1) (c), (1) (h), AND (1) (i);  
4 37-90-137 (2), (3) (a), AND (3) (c); 37-90.5-106; 37-92-305 (17);  
5 37-92-308; AND 37-92-602 (1) (g) (III) (C), (3) (a), AND (5). THE  
6 TREASURER SHALL CREDIT THE FEES COLLECTED PURSUANT TO THIS  
7 PARAGRAPH (b) TO THE FUND EXCEPT AS SPECIFIED IN SECTION  
8 37-80-111.5 (1) (d) AND EXCEPT THAT, OF EACH FEE COLLECTED  
9 PURSUANT TO THE FOLLOWING SECTIONS, THE TREASURER SHALL CREDIT  
10 THE FOLLOWING AMOUNTS TO THE GENERAL FUND:

11 (I) SECTION 37-90-107 (7) (c) (I) AND (7) (d) (I) AND SECTION  
12 37-90-116 (1) (a), (1) (h), AND (1) (i), THIRTY DOLLARS;

13 (II) SECTION 37-90-137 (2) AND (3) (a) (I) AND SECTION 37-92-602  
14 (3) (a) FOR WELLS APPLIED FOR PURSUANT TO SECTION 37-92-602 (3) (b),  
15 TWENTY-FIVE DOLLARS;

16 (III) SECTION 37-90-116 (1) (c), TEN DOLLARS; AND

17 (IV) SECTION 37-90-105 (3) (a) AND (4) (a) AND SECTION  
18 37-92-602 (3) (a) FOR WELLS APPLIED FOR PURSUANT TO SECTION  
19 37-92-602 (3) (c) AND (5), FIVE DOLLARS.

20 (3) THE STATE ENGINEER MAY EXPEND MONEYS IN THE FUND,  
21 SUBJECT TO APPROPRIATION BY THE GENERAL ASSEMBLY, FOR THE  
22 PURPOSES SPECIFIED IN THE SECTIONS LISTED IN THE INTRODUCTORY  
23 PORTION TO PARAGRAPH (b) OF SUBSECTION (2) OF THIS SECTION AND FOR  
24 THE FOLLOWING PURPOSES:

25 (a) DEVELOPING AN AUTOMATED WELL PERMIT PROCESSING  
26 SYSTEM THAT WILL EXPEDITE THE ISSUANCE OF WELL PERMITS, CREATING  
27 AND MAINTAINING A GROUND WATER INFORMATION MANAGEMENT  
28 SYSTEM, ESTABLISHING A GROUND WATER DATA NETWORK, ESTABLISHING

1 GROUND WATER RECHARGE PROGRAMS, CONDUCTING GROUND WATER  
2 INVESTIGATIONS, MONITORING COMPLIANCE WITH ROOFTOP PRECIPITATION  
3 CAPTURE LAWS AND PERMITS PURSUANT TO SECTION 37-92-602 (1) (g),  
4 THE ADMINISTRATION OF ROTATIONAL CROP MANAGEMENT CONTRACTS,  
5 AND FOR OTHER GROUNDWATER-RELATED ACTIVITIES THAT ARE DEEMED  
6 NECESSARY BY THE STATE ENGINEER IN PERFORMING STATUTORY DUTIES,  
7 SUBJECT TO APPROPRIATION BY THE GENERAL ASSEMBLY. THE OFFICE OF  
8 THE STATE ENGINEER SHALL MAKE DATA IN THE GROUND WATER DATA  
9 NETWORK AVAILABLE TO THE PUBLIC AS EXPEDITIOUSLY AS POSSIBLE.

10 (b) PAYING FOR PUBLICATIONS MADE PURSUANT TO SECTION  
11 37-90-116 (1) (f) TO PROCESS FINAL PERMITS PURSUANT TO SECTION  
12 37-90-108;

13 (c) REVIEWING APPLICATIONS FOR APPROVAL OF A PLAN FOR  
14 AUGMENTATION OR A PLAN OF SUBSTITUTE SUPPLY PURSUANT TO SECTION  
15 37-90-137 (11) (f);

16 (d) INVESTIGATING AND CONDUCTING ENFORCEMENT OF  
17 VIOLATIONS OF ORDERS ISSUED BY THE STATE ENGINEER OR THE GROUND  
18 WATER COMMISSION FOR THE ILLEGAL WITHDRAWAL OF DESIGNATED  
19 GROUND WATER, INCLUDING COSTS ASSOCIATED WITH THE  
20 IMPLEMENTATION OF SECTION 37-90-111.5;

21 (e) REVIEWING ENGINEERING REPORTS, FIELD INSPECTIONS, AND  
22 ADMINISTERING ROTATIONAL CROP MANAGEMENT CONTRACTS PURSUANT  
23 TO SECTION 37-92-305 (17);

24 (f) PUBLISHING AND ADMINISTRATIVE COSTS INCURRED IN  
25 PROCESSING APPLICATIONS AND RENEWALS AND ADMINISTERING  
26 SUBSTITUTE WATER SUPPLY PLANS PURSUANT TO SECTION 37-92-308;

27 (g) PUBLISHING AND ADMINISTRATIVE COSTS INCURRED IN  
28 PROCESSING APPLICATIONS, REVIEWING ENGINEERING REPORTS, AND

1 ADMINISTERING INTERRUPTIBLE WATER SUPPLY AGREEMENTS PURSUANT  
2 TO SECTION 37-92-309; AND

3 (h) FUNDING THE OPERATIONS AND ADMINISTRATION OF THE  
4 DIVISION BASED ON ONGOING PRIORITIES OF THE DIVISION.

5 **SECTION 2.** In Colorado Revised Statutes, 37-80-111.5, **amend**  
6 (1) (d); and **repeal** (1) (a), (1) (b), and (2) as follows:

7 **37-80-111.5. Fees - satellite monitoring system cash fund - well**  
8 **inspection cash fund - created.** (1) (a) ~~The state engineer shall set and~~  
9 ~~collect fees by rule and regulation for the distribution of data generated,~~  
10 ~~collected, studied, and compiled about the water supplies of this state,~~  
11 ~~which fees shall reflect the direct and indirect costs of such distribution.~~  
12 ~~All such fees collected by the state engineer shall be transmitted to the~~  
13 ~~state treasurer, who shall credit the same to the water data bank cash fund,~~  
14 ~~which fund is hereby created. Moneys in the water data bank cash fund~~  
15 ~~may be expended by the state engineer for the purposes of this paragraph~~  
16 ~~(a), subject to appropriation by the general assembly.~~

17 (b) ~~The state engineer shall set and collect fees by rule and~~  
18 ~~regulation for the sale of publications of the division of water resources,~~  
19 ~~which fees shall reflect the direct and indirect costs of such publications.~~  
20 ~~All such fees collected by the state engineer shall be transmitted to the~~  
21 ~~state treasurer, who shall credit the same to the division of water~~  
22 ~~resources publication cash fund, which fund is hereby created. Moneys~~  
23 ~~in the publication cash fund may be expended by the state engineer for the~~  
24 ~~purposes of this paragraph (b), subject to appropriation by the general~~  
25 ~~assembly.~~

26 (d) ~~The state engineer shall collect fees pursuant to sections~~  
27 ~~37-90-105 (3) (a), (3) (e), and (4), 37-90-107 (7) (c) (I) and (7) (d) (I),~~  
28 ~~37-90-108 (4) and (6), 37-90-116 (1) (a), (1) (c), (1) (h), and (1) (i),~~



1 ~~37-90-137 (2), (3) (a), and (3) (c), 37-90.5-106, 37-92-305 (17),~~  
2 ~~37-92-308, and 37-92-602 (1) (g) (III) (C), (3) (a), (3) (d), and (5). All~~  
3 ~~such fees shall be transmitted to the state treasurer, who shall credit the~~  
4 ~~same to the division of water resources ground water management cash~~  
5 ~~fund, which is hereby created; except that, of each fee collected pursuant~~  
6 ~~to section 37-90-107 (7) (c) (I) and (7) (d) (I) and section 37-90-116 (1)~~  
7 ~~(a), (1) (h), and (1) (i), thirty dollars shall be credited to the general fund;~~  
8 ~~of each fee collected pursuant to section 37-90-137 (2), (3) (a) (I), and (3)~~  
9 ~~(a) (II) and section 37-92-602 (3) (a) for wells applied for pursuant to~~  
10 ~~section 37-92-602 (3) (b), twenty-five dollars shall be credited to the~~  
11 ~~general fund; of each fee collected pursuant to section 37-90-116 (1) (c),~~  
12 ~~ten dollars shall be credited to the general fund; of each fee collected~~  
13 ~~pursuant to section 37-90-105 (3) (a) and (4) (a) and section 37-92-602~~  
14 ~~(3) (a) for wells applied for pursuant to section 37-92-602 (3) (c) and (5),~~  
15 ~~five dollars shall be credited to the general fund; and except that, Of each~~  
16 ~~fee collected pursuant to sections 37-90-105 (3) (a) (I) and (4) (a),~~  
17 ~~37-90-107 (7) (d) (I), 37-90-116 (1) (a), (1) (c), and (1) (h), 37-90-137 (2)~~  
18 ~~(a), and 37-92-602 (3) (a) and (5), forty dollars shall be credited to the~~  
19 ~~well inspection cash fund, which fund is hereby created. Moneys in the~~  
20 ~~well inspection cash fund shall be appropriated to and expended by the~~  
21 ~~state engineer for the purposes established in section 37-91-113. Any~~  
22 ~~moneys credited to the well inspection cash fund and unexpended at the~~  
23 ~~end of any given fiscal year shall remain in the fund and shall DO not~~  
24 ~~revert to the general fund. All interest derived from the deposit and~~  
25 ~~investment of this fund shall remain in the fund and shall DO not revert to~~  
26 ~~the general fund. Moneys in the ground water management cash fund~~  
27 ~~shall be expended by the state engineer for the purposes of developing an~~  
28 ~~automated well permit processing system that will expedite the issuance~~

1 of well permits, creating and maintaining a ground water information  
2 management system, establishing a ground water data network,  
3 establishing ground water recharge programs, conducting ground water  
4 investigations, monitoring compliance with rooftop precipitation capture  
5 laws and permits pursuant to section 37-92-602(1)(g), the administration  
6 of rotational crop management contracts, and for other  
7 groundwater-related activities that are deemed necessary by the state  
8 engineer in performing statutory duties, subject to appropriation by the  
9 general assembly. Data in the ground water data network shall be made  
10 available to the public by the office of the state engineer as expeditiously  
11 as possible.

12 (2) All moneys deposited in the water data bank cash fund, the  
13 division of water resources publication cash fund, the satellite monitoring  
14 system cash fund, or the division of water resources ground water  
15 management cash fund pursuant to subsection (1) of this section, together  
16 with any interest earned thereon, shall be deposited in the cash fund as  
17 provided in this section.

18 **SECTION 3.** In Colorado Revised Statutes, 37-90-116, **amend**  
19 (1) (f) as follows:

20 **37-90-116. Fees.** (1) The state engineer or the commission shall  
21 collect the following fees:

22 (f) The actual expenses of publication, if any is required, which  
23 sums shall be promptly billed to the applicant and paid prior to the  
24 approval of any permit or other application, unless the commission  
25 requires the applicant to pay these expenses directly to the newspaper, and  
26 the applicant provides a proof of such payment to the commission. **except**  
27 ~~that, when a publication is made to process final permits pursuant to~~  
28 ~~section 37-90-108, such publication expenses shall be paid by the state~~

1 ~~engineer from the division of water resources ground water management~~  
2 ~~cash fund created pursuant to section 37-80-111.5 (1) (d). All such FEES~~  
3 ~~FOR publication expenses collected by the state engineer or by the~~  
4 ~~commission shall be transmitted to the state treasurer, who shall credit the~~  
5 ~~same THEM to the ground water publication fund, which fund is hereby~~  
6 ~~created. All moneys in the ground water publication fund are hereby~~  
7 ~~continuously appropriated to the division of water resources for the actual~~  
8 ~~expenses of publications. The moneys in the ground water publication~~  
9 ~~fund shall not be credited or transferred to the general fund or to any other~~  
10 ~~fund of the state~~ RESOURCES CASH FUND CREATED IN SECTION 37-80-111.7  
11 (1).

12 **SECTION 4.** In Colorado Revised Statutes, 37-90-137, **amend**  
13 (11) (f) as follows:

14 **37-90-137. Permits to construct wells outside designated**  
15 **basins - fees - permit no ground water right - evidence - time**  
16 **limitation - well permits - rules - repeal.** (11) (f) Excluding the well  
17 permit filing fee required by subsection (2) of this section, THE STATE  
18 TREASURER SHALL CREDIT all fees collected with an application for  
19 approval of a plan for augmentation or a plan of substitute supply ~~shall be~~  
20 ~~credited to the gravel pit lakes augmentation~~ WATER RESOURCES CASH  
21 ~~fund which fund is hereby created and shall be used by the state engineer~~  
22 ~~for the implementation and enforcement of the water augmentation~~  
23 ~~program. The general assembly shall make annual appropriations from the~~  
24 ~~gravel pit lakes augmentation fund for such purposes, and no moneys~~  
25 ~~from the general fund shall be expended or appropriated for such~~  
26 ~~purposes~~ IN SECTION 37-80-111.7 (1).

27 **SECTION 5.** In Colorado Revised Statutes, 37-90-111.5, **amend**  
28 (5) (b) as follows:

1           **37-90-111.5. Well enforcement - injunction - fines.** (5) (b) ~~A~~  
2 ~~fine~~ THE STATE ENGINEER SHALL TRANSMIT ALL FINES collected for  
3 violations of paragraph (a) of this subsection (5) ~~shall be transmitted~~ to  
4 the state treasurer, who shall deposit it THEM in the ~~well enforcement~~  
5 WATER RESOURCES cash fund ~~which fund is hereby created in the state~~  
6 ~~treasury. All moneys credited to the fund and unexpended at the end of~~  
7 ~~any given fiscal year shall remain in the fund and shall not revert to the~~  
8 ~~general fund. All interest earned on the investment of moneys in the fund~~  
9 ~~shall be credited to the fund. Moneys in the fund shall be appropriated~~  
10 ~~solely to the division of water resources for costs associated with the~~  
11 ~~investigation and enforcement of violations of orders issued by the state~~  
12 ~~engineer or the commission for the illegal withdrawal of designated~~  
13 ~~ground water, including costs associated with the implementation of this~~  
14 section 37-80-111.7 (1).

15           **SECTION 6.** In Colorado Revised Statutes, 37-83-105, **amend**  
16 (2) (b) (I) introductory portion as follows:

17           **37-83-105. Owner may loan agricultural water right - loans to**  
18 **Colorado water conservation board for instream flows.** (2) (b) In  
19 determining whether injury will occur, the division engineer shall ensure  
20 that the following conditions are met:

21           (I) The proponent has filed a request for approval of the loan with  
22 the division engineer, together with a filing fee in the amount of one  
23 hundred dollars. Moneys from the fee shall be transmitted to the state  
24 treasurer and deposited in the **ground water management** RESOURCES cash  
25 fund created in section ~~37-80-111.5~~ 37-80-111.7 (1). The request for  
26 approval shall include:

27           **SECTION 7.** In Colorado Revised Statutes, 37-90-107, **amend**  
28 (6) (e) as follows:

1           **37-90-107. Application for use of ground water - publication**  
2           **of notice - conditional permit - hearing on objections - well permits.**

3           (6) (e) Excluding the well permit filing fee required by section 37-90-116  
4           (2), THE STATE TREASURER SHALL CREDIT all fees collected with a  
5           replacement plan ~~shall be credited to the gravel pit lakes augmentation~~  
6           WATER RESOURCES CASH fund ~~which fund is created in section 37-90-137~~  
7           ~~(H)~~ (f) 37-80-111.7 (1).

8           **SECTION 8.** In Colorado Revised Statutes, 37-92-305, **amend**  
9           (17) (b) as follows:

10           **37-92-305. Standards with respect to rulings of the referee and**  
11           **decisions of the water judge.** (17) (b) ~~The fees shall be used by the~~  
12           ~~state engineer for the review of the engineering reports, field inspections,~~  
13           ~~and the administration of the rotational crop management contract. The~~  
14           state engineer shall transmit ~~such~~ THE fees to the state treasurer, who shall  
15           deposit them in the ~~division of water resources~~ **ground water management**  
16           cash fund created in section ~~37-80-111.5~~ 37-80-111.7 (1).

17           **SECTION 9.** In Colorado Revised Statutes, 37-92-308, **amend**  
18           (8) as follows:

19           **37-92-308. Substitute water supply plans - special procedures**  
20           **for review - water adjudication cash fund - legislative declaration -**  
21           **repeal.** (8) After July 1, 2002, water users requesting approval of a new  
22           plan or a substitute water supply plan pursuant to this section shall pay a  
23           fee of three hundred dollars. ~~The fees shall be used by the state engineer~~  
24           ~~for the publishing and administrative costs for processing applications~~  
25           ~~and renewals and administering plans. Such fees shall be deposited~~ THE  
26           STATE ENGINEER SHALL COLLECT THE FEES AND TRANSMIT THEM TO THE  
27           STATE TREASURER, WHO SHALL DEPOSIT THEM in the **ground** water  
28           **management** RESOURCES cash fund ~~pursuant to~~ CREATED IN section

1 ~~37-80-111.5~~ 37-80-111.7 (1).

2 **SECTION 10.** In Colorado Revised Statutes, 37-92-309, **amend**  
3 (5) as follows:

4 **37-92-309. Interruptible water supply agreements - special**  
5 **review procedures - rules - water adjudication cash fund - legislative**  
6 **declaration.** (5) Applicants for approval of an interruptible water supply  
7 agreement pursuant to this section shall pay a fee established by the state  
8 engineer, pursuant to rules promulgated by the state engineer. ~~The fees~~  
9 ~~shall be used by the state engineer for the publishing and administrative~~  
10 ~~costs for processing the applications, the review of the engineering~~  
11 ~~reports, and the administration of the interruptible water supply~~  
12 ~~agreements.~~ The state engineer shall COLLECT THE FEES AND transmit ~~such~~  
13 ~~fees~~ THEM to the state treasurer, who shall deposit them in the ~~ground~~  
14 ~~water management~~ RESOURCES cash fund created ~~pursuant to~~ IN section  
15 ~~37-80-111.5~~ 37-80-111.7 (1).

16 **SECTION 11.** In Colorado Revised Statutes, 37-92-602, **amend**  
17 (1) introductory portion and (1) (g) (V) (C) as follows:

18 **37-92-602. Exemptions - presumptions - legislative**  
19 **declaration.** (1) ~~The provisions of~~ This article, except for sections  
20 37-92-201 and 37-92-202, ~~shall~~ DOES not ~~be applicable~~ APPLY to:

21 (g) (V) (C) Any person who violates an order issued by the state  
22 engineer pursuant to sub-subparagraph (A) of this subparagraph (V) shall  
23 forfeit and pay a sum not to exceed five hundred dollars for each  
24 violation. Any fine collected for violations of this paragraph (g) shall be  
25 transmitted to the state treasurer, who shall credit the same to the ~~division~~  
26 ~~of water resources~~ ~~ground water management~~ cash fund created in section  
27 ~~37-80-111.5 (1) (d)~~ 37-80-111.7 (1).

28 **SECTION 12. Effective date - applicability.** This act shall take

1 effect July 1, 2012, and shall apply to revenues credited on or after said  
2 date.

3 **SECTION 13. Safety clause.** The general assembly hereby finds,  
4 determines, and declares that this act is necessary for the immediate  
5 preservation of the public peace, health, and safety.

Second Regular Session  
Sixty-eighth General Assembly  
STATE OF COLORADO

**BILL E**

LLS NO. 12-0131.01 Thomas Morris x4218

**HOUSE BILL**

---

**HOUSE SPONSORSHIP**

**Baumgardner**, Sonnenberg, Swerdfeger, Vigil, Wilson

**SENATE SPONSORSHIP**

**Giron**, Brophy, Hodge, Roberts, Schwartz

---

**House Committees**

**Senate Committees**

---

**A BILL FOR AN ACT**

101 **CONCERNING THE REISSUANCE OF A LOST SHARE CERTIFICATE OF A**  
102 **MUTUAL DITCH COMPANY.**

---

**Bill Summary**

*(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://www.leg.state.co.us/billsummaries>.)*

**Water Resources Review Committee.** If a person loses a mutual ditch share certificate, the person may file with the mutual ditch company a request for reissuance of the certificate, but current law requires the company to wait for 3 years before issuing a replacement certificate. The

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.

*Capital letters indicate new material to be added to existing statute.*

*Dashes through the words indicate deletions from existing statute.*



bill eliminates the 3-year period and specifies that a person who is named in the books of the company as a lienholder on the lost certificate is also entitled to file a request for reissuance of a lost certificate.

---

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

2 **SECTION 1.** In Colorado Revised Statutes, **amend** 7-42-113 as  
3 follows:

4 **7-42-113. Duplicate certificate issued - when.** Any owner of  
5 capital stock, as shown by the records of a corporation formed under the  
6 law of this state, entitling the stockholder to the services of a ditch or to  
7 the use of water subject to the payment of assessments, or the legal  
8 representative or assignee of any such stockholder, OR ANY LIENHOLDER  
9 NAMED IN THE BOOKS OF THE CORPORATION AS A LIENHOLDER ON THE  
10 LOST CERTIFICATE, whose stock certificate has been lost, mislaid, or  
11 destroyed, may have a duplicate certificate issued in accordance with  
12 sections 7-42-114 to 7-42-117.

13 **SECTION 2.** In Colorado Revised Statutes, **amend** 7-42-114 as  
14 follows:

15 **7-42-114. Statement of loss.** If ~~more than three years have~~  
16 ~~elapsed since a stockholder, legal representative, or assignee has notified~~  
17 ~~the corporation that a certificate of capital stock has been lost, mislaid, or~~  
18 ~~destroyed, and the stockholder, legal representative, or assignee has paid~~  
19 ~~all assessments levied by the corporation against the stock, since the~~  
20 ~~notification,~~ the stockholder, or the stockholder's legal representative or  
21 assignee, AND ANY LIENHOLDER NAMED IN THE BOOKS OF THE  
22 CORPORATION AS A LIENHOLDER ON THE LOST CERTIFICATE may file with  
23 the secretary of the corporation a statement under oath that the certificate  
24 of stock has been lost, mislaid, or destroyed and that the certificate is the

1 property of the person making the statement and has not been transferred  
2 or hypothecated by the stockholder, and demand the issuance of a  
3 duplicate certificate in accordance with this section and sections 7-42-115  
4 to 7-42-117.

5 **SECTION 3.** In Colorado Revised Statutes, **amend** 7-42-115 as  
6 follows:

7 **7-42-115. Publication of notice of demand.** Upon receipt of a  
8 demand pursuant to section 7-42-114, the corporation shall publish, at the  
9 expense of the person making the demand, at least once a week for five  
10 successive weeks, the fifth publication being on the twenty-eighth day  
11 after the first publication, in a newspaper of general circulation in the  
12 county in which the principal office of the corporation is located or, if  
13 there is no newspaper in such county, then in such a newspaper of an  
14 adjoining county, a notice that such a demand has been filed with the  
15 corporation in accordance with ~~the terms of~~ sections 7-42-114 to  
16 7-42-117, stating the demand in full and stating that the corporation will  
17 issue, on or after a date therein stated, following the last publication of the  
18 notice by at least thirty days, a duplicate certificate to the registered  
19 owner, ~~or~~ the registered owner's legal representative or assignee, OR ANY  
20 LIENHOLDER NAMED IN THE BOOKS OF THE CORPORATION AS A  
21 LIENHOLDER ON THE LOST CERTIFICATE unless a contrary claim is filed  
22 with the corporation prior to the date stated in the notice.

23 **SECTION 4.** In Colorado Revised Statutes, **amend** 7-42-116 as  
24 follows:

25 **7-42-116. Duplicate conclusive against original.** If no claim of  
26 interest or ownership other than that made by the person filing a notice  
27 pursuant to section 7-42-114 or such person's legal representative or  
28 assignee is on file in the records of the secretary of the corporation prior

1 to the date stated in the notice, the corporation shall issue, on or after said  
2 date, a duplicate certificate to the person, ~~or~~ the person's legal  
3 representative or assignee, ~~and~~ OR ANY LIENHOLDER NAMED IN THE BOOKS  
4 OF THE CORPORATION AS A LIENHOLDER ON THE LOST CERTIFICATE. All  
5 rights under the original certificate shall immediately cease ~~and determine~~  
6 and no person shall at any time thereafter assert any claim or demand  
7 against the corporation or any other person on account of the original  
8 certificate.

9 **SECTION 5.** In Colorado Revised Statutes, **amend** 7-42-117 as  
10 follows:

11 **7-42-117. Proof of right to certificate.** The corporation may  
12 require any legal representative or assignee of a stockholder of record to  
13 prove the stockholder's legal right to such certificate as a legal  
14 representative or assignee of the stockholder of record. THE  
15 CORPORATION MAY REQUIRE ANY LIENHOLDER NAMED IN THE BOOKS OF  
16 THE CORPORATION AS A LIENHOLDER ON THE LOST CERTIFICATE TO PROVE  
17 THE LIENHOLDER'S LEGAL RIGHT TO SUCH CERTIFICATE.

18 **SECTION 6. Act subject to petition - effective date -**  
19 **applicability.** (1) This act shall take effect at 12:01 a.m. on the day  
20 following the expiration of the ninety-day period after final adjournment  
21 of the general assembly (August 7, 2012, if adjournment sine die is on  
22 May 9, 2012); except that, if a referendum petition is filed pursuant to  
23 section 1 (3) of article V of the state constitution against this act or an  
24 item, section, or part of this act within such period, then the act, item,  
25 section, or part shall not take effect unless approved by the people at the  
26 general election to be held in November 2012 and shall take effect on the  
27 date of the official declaration of the vote thereon by the governor.

1           (2) The provisions of this act shall apply to requests for duplicate  
2 stock certificates filed on or after the applicable effective date of this act.

Second Regular Session  
Sixty-eighth General Assembly  
STATE OF COLORADO

RESOLUTION A

LLS NO. R12-0113.01 Thomas Morris x4218

SENATE Joint Resolution

---

SENATE SPONSORSHIP

Roberts, Giron, Schwartz

HOUSE SPONSORSHIP

Wilson, Baumgardner, Sonnenberg, Swerdfeger, Vigil

---

Senate Committees

House Committees

---

SENATE JOINT RESOLUTION

101 CONCERNING THE ADVERSE EFFECTS THAT THE DIVERSION OF  
102 REVENUES HAS HAD ON WATER INFRASTRUCTURE IN COLORADO.

1 WHEREAS, Colorado is a semi-arid state, and much of our water  
2 supply is located far from where it can be beneficially used; and

3 WHEREAS, Colorado is therefore heavily dependent upon water  
4 infrastructure to move water to where it can serve the needs of our  
5 agricultural, municipal, and industrial water users; and

6 WHEREAS, Our constitutional prior appropriation doctrine has  
7 always promoted and protected the initiative and economic investments  
8 of water users in building the water diversion, storage, and conveyance  
9 infrastructure needed to put water to beneficial use; and

10 WHEREAS, Federal and state mandates have required the ongoing  
11 construction, improvement, and replacement of treatment facilities for  
12 drinking water and waste water; and

13 Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.

14 *Capital letters indicate new material to be added to existing statute.*

15 *Dashes through the words indicate deletions from existing statute.*

1           WHEREAS, The approval process for these different types of  
2 water facilities and infrastructure has become increasingly expensive,  
3 time-consuming, and uncertain; and

4           WHEREAS, Colorado has long supported the private sector's and  
5 local governments' initiative in building water infrastructure with state  
6 financial incentives, primarily in the form of loans from revolving funds  
7 but also with grants to local governments; and

8           WHEREAS, Due to recent difficult economic conditions and  
9 consequent state budget shortfalls, the General Assembly has had to make  
10 difficult choices in prioritizing its expenditures; and

11           WHEREAS, Since 2009, the General Assembly has authorized the  
12 transfer of almost \$422 million into the general fund from sources that  
13 would otherwise have been available for water infrastructure, including:  
14 \$158 million from the perpetual base account of the severance tax trust  
15 fund and \$10.25 million from the Colorado water conservation board  
16 construction fund, all of which would otherwise have been available for  
17 raw water infrastructure loans; and \$14.95 million from the operational  
18 account of the severance tax trust fund, \$168.8 million from the local  
19 government severance tax fund, \$19.1 million from the local government  
20 permanent fund, and \$46 million from the local government mineral  
21 impact fund, significant portions of which would otherwise have been  
22 available for water infrastructure loans and grants; and

23           WHEREAS, From 2007 to 2010, energy impact assistance grants  
24 totaled approximately \$43.7 million for drinking water projects and \$48.1  
25 million for wastewater projects, and in 2011 all such grants were  
26 suspended;

27           WHEREAS, The diversion of such significant sums from their  
28 originally intended purposes has had a devastating effect on the  
29 maintenance and development of water infrastructure in Colorado; and

30           WHEREAS, The president and president-elect of the National  
31 Conference of State Legislatures sent a letter to congressional leadership  
32 that listed infrastructure as the third-highest priority that should be  
33 protected during deficit reduction efforts, behind only imposing no new  
34 unfunded federal mandates and improving the Medicaid program; and

35           WHEREAS, The Western States Water Council, an organization  
36 created by resolution of the Western Governors' Association, recently  
37 noted that the most recent American Society of Civil Engineers Report  
38 Card gives the "Nation's drinking and wastewater infrastructure a 'D-'  
39 grade, its dams a 'D,' and its levees and inland waterways a 'D-'. The  
40 current deplorable grade for our infrastructure impacts our lives and the  
41 economy, raising public health and safety issues, as well as the looming  
42 specter of future repair, rehabilitation and replacement costs."; and

43           WHEREAS, Further diversions of revenues to the general fund  
44 from water infrastructure will have serious, long-term, adverse effects on  
45 Colorado's economic and social well-being; and

1           WHEREAS, The Water Resources Review Committee has  
2 reviewed the issues raised by this joint resolution and strongly urges the  
3 General Assembly to adopt it; now, therefore,

4           *Be It Resolved by the Senate of the Sixty-eighth General Assembly*  
5 *of the State of Colorado, the House of Representatives concurring herein:*

6           That the General Assembly should avoid future diversions of water  
7 infrastructure revenues for budget balancing purposes and instead direct  
8 these revenues, as intended by existing statute, to protect and develop  
9 Colorado's water resources.