

First Regular Session  
Seventy-first General Assembly  
STATE OF COLORADO

INTRODUCED

LLS NO. 17-1095.01 Thomas Morris x4218

HOUSE BILL 17-1291

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HOUSE SPONSORSHIP

Arndt and Becker J.,

SENATE SPONSORSHIP

(None),

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House Committees

Agriculture, Livestock, & Natural Resources

Senate Committees

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A BILL FOR AN ACT

101 CONCERNING THE ABILITY TO STORE WATER AT AN ALTERNATE PLACE  
102 OF STORAGE IF THE HISTORICAL CONSUMPTIVE USE OF THE  
103 WATER RIGHT HAS ALREADY BEEN QUANTIFIED IN A PREVIOUS  
104 CHANGE OF THE WATER RIGHT.

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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://leg.colorado.gov>.)*

Current law allows water to be stored only at a location that has been specifically identified in a decree. The bill allows a water right for which the historical consumptive use was previously quantified to be

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.*

stored in any reservoir, without the necessity of adjudicating an additional change of water right, if:

- ! The water will be diverted from a point of diversion that has already been decreed for that water right;
- ! Previous notice is given to the division engineer;
- ! Transit and ditch losses are assessed from the decreed point of diversion to the alternate place of storage; and
- ! The division engineer approves the proposed accounting of the storage.

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

2 **SECTION 1.** In Colorado Revised Statutes, 37-87-101, **add** (3)  
3 as follows:

4 **37-87-101. Storage of water.** (3) WATER ATTRIBUTABLE TO A  
5 WATER RIGHT FOR WHICH A PREVIOUS CHANGE OF WATER RIGHT HAS BEEN  
6 JUDICIALLY APPROVED, THAT HAS BEEN DECREED FOR STORAGE, AND FOR  
7 WHICH THE HISTORICAL CONSUMPTIVE USE WAS PREVIOUSLY QUANTIFIED  
8 MAY BE STORED IN ANY RESERVOIR, INCLUDING AN AQUIFER IF THE  
9 REQUIREMENTS OF SUBSECTION (2) OF THIS SECTION ARE COMPLIED WITH,  
10 AS AN ALTERNATE PLACE OF STORAGE IF:

11 (a) THE WATER THAT IS TO BE STORED AT THE ALTERNATE PLACE  
12 OF STORAGE IS DIVERTED FROM A POINT OF DIVERSION THAT HAS ALREADY  
13 BEEN DECREED FOR THAT WATER RIGHT;

14 (b) THE OWNER OR OPERATOR OF THE STORAGE WATER RIGHT  
15 GIVES PREVIOUS NOTICE TO THE DIVISION ENGINEER THAT IDENTIFIES THE  
16 WATER RIGHT, ALTERNATE PLACE OF STORAGE, DECREED POINT OF  
17 DIVERSION, AND HOW THE STORAGE OF THE WATER IN THE ALTERNATE  
18 PLACE OF STORAGE WILL BE ACCOUNTED FOR;

19 (c) TRANSIT AND DITCH LOSSES, IF APPLICABLE, ARE ASSESSED  
20 AGAINST THE WATER RIGHT FROM THE DECREED POINT OF DIVERSION TO

1 THE ALTERNATE PLACE OF STORAGE; AND

2 (d) THE DIVISION ENGINEER HAS APPROVED THE ACCOUNTING FOR  
3 THE STORAGE OF THE WATER IN THE ALTERNATE PLACE OF STORAGE.

4 **SECTION 2.** In Colorado Revised Statutes, 37-92-103, **amend**  
5 the introductory portion and (5) as follows:

6 **37-92-103. Definitions.** As used in this ~~article~~ ARTICLE 92, unless  
7 the context otherwise requires:

8 (5) "Change of water right":

9 (a) Means a change in the type, place, or time of use, a change in  
10 the point of diversion except as specified in section 37-86-111 (2), a  
11 change from a fixed point of diversion to alternate or supplemental points  
12 of diversion, a change from alternate or supplemental points of diversion  
13 to a fixed point of diversion, a change in the means of diversion, a change  
14 in the place of storage EXCEPT AS SPECIFIED IN SECTION 37-87-101 (3), a  
15 change from direct application to storage and subsequent application, a  
16 change from storage and subsequent application to direct application, a  
17 change from a fixed place of storage to alternate places of storage, a  
18 change from alternate places of storage to a fixed place of storage, or any  
19 combination of such changes; ~~The term "change of water right" AND~~

20 (b) Includes changes of conditional water rights as well as  
21 changes of water rights.

22 **SECTION 3. Act subject to petition - effective date -**  
23 **applicability.** (1) This act takes effect at 12:01 a.m. on the day following  
24 the expiration of the ninety-day period after final adjournment of the  
25 general assembly (August 9, 2017, if adjournment sine die is on May 10,  
26 2017); except that, if a referendum petition is filed pursuant to section 1  
27 (3) of article V of the state constitution against this act or an item, section,

1 or part of this act within such period, then the act, item, section, or part  
2 will not take effect unless approved by the people at the general election  
3 to be held in November 2018 and, in such case, will take effect on the  
4 date of the official declaration of the vote thereon by the governor.

5 (2) This act applies to water diverted for storage on or after the  
6 applicable effective date of this act.