

**First Regular Session
Sixty-ninth General Assembly
STATE OF COLORADO**

PREAMENDED

*This Unofficial Version Includes Committee
Amendments Not Yet Adopted on Second Reading*

LLS NO. 13-0309.01 Thomas Morris x4218

SENATE BILL 13-019

SENATE SPONSORSHIP

Schwartz,

HOUSE SPONSORSHIP

Fischer,

Senate Committees

Agriculture, Natural Resources, & Energy
Appropriations

House Committees

Agriculture, Livestock, & Natural Resources

A BILL FOR AN ACT

101 **CONCERNING THE PROMOTION OF WATER CONSERVATION MEASURES.**

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>.)

Section 1 of the bill declares that increasing water use efficiency by appropriators promotes the maximum utilization of Colorado's water resources and is in the public interest.

The amount of water that currently can be changed to a new type or place of use is limited by the amount of water that was historically consumed by the original type and place of use. Therefore, a water user has no incentive to reduce the amount of water diverted. Current law

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.

SENATE
3rd Reading Unamended
March 20, 2013

SENATE
Amended 2nd Reading
March 19, 2013

encourages the conservation of water in some contexts by eliminating from the determination of abandonment the period during which water is conserved under a variety of government-sponsored programs. However, in these contexts, the water conserved through a reduction in the application of the water to a beneficial use results in a reduction of consumptive use. **Section 2** directs the water judge to disregard the decrease in use of water from such programs in its determinations of historical consumptive use in change of water right cases and adds to the list a decrease in water use to provide for compact compliance.

Section 3 defines "conserved water", and **section 4** directs water judges to allow a change of water right for conserved water.

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

2 **SECTION 1. Legislative declaration.** (1) The general assembly
3 hereby:

4 (a) Finds that some water appropriators may wish to reduce their
5 water consumption, in part to ameliorate the effects of drought on low
6 stream flows, but there is a disincentive in current law that penalizes
7 appropriators who decrease their consumptive use of water;

8 (b) Determines that, at a time when Colorado can expect drought
9 conditions to increase in frequency and severity, the general assembly
10 should give appropriators a safe harbor when they decrease their
11 consumptive use of water by participating in a variety of
12 government-sponsored water conservation programs; and

13 (c) Declares that this act promotes the maximum utilization of
14 Colorado's water resources, can help alleviate the effects of drought on
15 river flows, and is in the public interest.

16 **SECTION 2.** In Colorado Revised Statutes, 37-92-305, add (3)
17 (c) as follows:

18 **37-92-305. Standards with respect to rulings of the referee and**
19 **decisions of the water judge.** (3) (c) IN DETERMINING THE AMOUNT OF

1 HISTORICAL CONSUMPTIVE USE FOR A WATER RIGHT IN DIVISION 4, 5, OR
2 6, THE WATER JUDGE SHALL NOT CONSIDER ANY DECREASE IN USE
3 RESULTING FROM THE FOLLOWING:

4 (I) THE LAND ON WHICH THE WATER FROM THE WATER RIGHT HAS
5 BEEN HISTORICALLY APPLIED IS ENROLLED UNDER A FEDERAL LAND
6 CONSERVATION PROGRAM; OR

7 (II) THE NONUSE OR DECREASE IN USE OF THE WATER FROM THE
8 WATER RIGHT BY ITS OWNER FOR A MAXIMUM OF FIVE YEARS IN ANY
9 CONSECUTIVE TEN-YEAR PERIOD AS A RESULT OF PARTICIPATION IN:

10 (A) A WATER CONSERVATION PROGRAM APPROVED BY A STATE
11 AGENCY, WATER CONSERVATION DISTRICT, WATER DISTRICT, WATER
12 AUTHORITY, OR WATER CONSERVANCY DISTRICT FOR LANDS THAT ARE
13 WITHIN THE ENTITY'S JURISDICTIONAL BOUNDARIES;

14 (B) A WATER CONSERVATION PROGRAM ESTABLISHED THROUGH
15 FORMAL WRITTEN ACTION OR ORDINANCE BY A WATER DISTRICT, WATER
16 AUTHORITY, OR MUNICIPALITY OR ITS MUNICIPAL WATER SUPPLIER FOR
17 LANDS THAT ARE WITHIN THE ENTITY'S JURISDICTIONAL BOUNDARIES;

18 (C) AN APPROVED LAND FALLOWING PROGRAM AS PROVIDED BY
19 LAW IN ORDER TO CONSERVE WATER OR TO PROVIDE WATER FOR COMPACT
20 COMPLIANCE; OR

21 (D) A WATER BANKING PROGRAM AS PROVIDED BY LAW.

22 **SECTION 3. Applicability.** This act applies to historical
23 consumptive use determinations made on or after the effective date of this
24 act.

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