

Second Regular Session  
Sixty-seventh General Assembly  
STATE OF COLORADO

INTRODUCED

LLS NO. 10-0492.02 Thomas Morris

SENATE BILL 10-078

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SENATE SPONSORSHIP

Hodge,

HOUSE SPONSORSHIP

(None),

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Senate Committees  
Agriculture and Natural Resources

House Committees

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A BILL FOR AN ACT

101 CONCERNING THE USE OF REUSABLE EFFLUENT THAT HAS BEEN  
102 DISCHARGED BACK TO A WATER BODY FROM A DOMESTIC  
103 WASTEWATER FACILITY AFTER BEING PUT TO BENEFICIAL USE.

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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://www.leg.state.co.us/billsummaries>.)*

The bill defines the term "decreed consumptive use water", defines "reusable effluent" to include decreed consumptive use water, and:

! Authorizes an appropriator to use, reuse, and make a succession of uses of the return flows of reusable effluent

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.*

- in any place or for any beneficial use and to dispose of such water by exchange or otherwise; and
- ! Directs the state engineer to review contemplated uses of the return flows of reusable effluent to ensure that:
  - ! They originate from reusable effluent;
  - ! The appropriator has established an adequate measuring and accounting system to measure the volume of the return flows of reusable effluent;
  - ! The appropriator has established an adequate means of measuring transit loss between the point of introduction and the point of withdrawal of the return flows of reusable effluent; and
  - ! The appropriator can demonstrate that the return flows of reusable effluent to be withdrawn for use have previously been placed to beneficial use at least one time and discharged back to the water body after passing through a domestic wastewater facility.

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

2           **SECTION 1.** 37-82-106 (2), Colorado Revised Statutes, is  
 3 amended, and the said 37-82-106 is further amended BY THE  
 4 ADDITION OF A NEW SUBSECTION, to read:

5           **37-82-106. Right to reuse of imported water - definitions.**  
 6 (2) To the extent that there exists a right to make a succession of uses of  
 7 foreign, nontributary, or other developed water OR REUSABLE EFFLUENT,  
 8 such right is personal to the developer or ~~his~~ THE DEVELOPER'S successors,  
 9 lessees, contractees, or assigns. Such water, when released from the  
 10 dominion of the user, becomes a part of the natural surface stream where  
 11 released, subject to water rights on such stream in the order of their  
 12 priority, but nothing in this subsection (2) shall affect the rights of the  
 13 developer or ~~his~~ THE DEVELOPER'S successors or assigns with respect to  
 14 such foreign, nontributary, or OTHER developed water OR REUSABLE  
 15 EFFLUENT, nor shall dominion over such water be lost to the owner or

1 user thereof by reason of use of a natural watercourse in the process of  
2 carrying such water to the place of its use or successive use.

3 (3) (a) AN APPROPRIATOR MAY, WITHOUT ANY FURTHER APPROVAL  
4 OF THE WATER COURT OR STATE ENGINEER EXCEPT AS SPECIFICALLY  
5 PROVIDED IN PARAGRAPH (b) OF THIS SUBSECTION (3), USE, REUSE, AND  
6 MAKE A SUCCESSION OF USES OF THE RETURN FLOWS OF REUSABLE  
7 EFFLUENT IN ANY PLACE OR FOR ANY BENEFICIAL USE AND MAY DISPOSE  
8 OF SUCH WATER BY EXCHANGE OR OTHERWISE.

9 (b) THE STATE ENGINEER SHALL REVIEW THE NATURE AND  
10 CONTEMPLATED USE OF THE RETURN FLOWS OF REUSABLE EFFLUENT IN  
11 ORDER TO ENSURE THAT:

12 (I) THEY ORIGINATE FROM REUSABLE EFFLUENT;

13 (II) THE APPROPRIATOR HAS ESTABLISHED AN ADEQUATE  
14 MEASURING AND ACCOUNTING SYSTEM TO MEASURE THE VOLUME OF THE  
15 RETURN FLOWS OF REUSABLE EFFLUENT AND DISTINGUISH THEM, AT THE  
16 POINT OF WITHDRAWAL, FROM THE VOLUME OF THE STREAMS OR OTHER  
17 WATER BODIES INTO WHICH THEY HAVE BEEN INTRODUCED;

18 (III) THE APPROPRIATOR HAS ESTABLISHED AN ADEQUATE MEANS  
19 OF MEASURING TRANSIT LOSS BETWEEN THE POINT OF INTRODUCTION AND  
20 THE POINT OF WITHDRAWAL OF THE RETURN FLOWS OF REUSABLE  
21 EFFLUENT AND OF DETERMINING THE AMOUNT OF THE RETURN FLOWS OF  
22 REUSABLE EFFLUENT THAT ARE AVAILABLE FOR USE AFTER TAKING INTO  
23 ACCOUNT SUCH LOSS; AND

24 (IV) THE APPROPRIATOR CAN DEMONSTRATE THAT THE RETURN  
25 FLOWS OF REUSABLE EFFLUENT TO BE WITHDRAWN FOR USE PURSUANT TO  
26 THIS SUBSECTION (3) HAVE PREVIOUSLY BEEN PLACED TO BENEFICIAL USE  
27 AT LEAST ONE TIME AND DISCHARGED BACK TO THE WATER BODY AFTER

1 PASSING THROUGH A DOMESTIC WASTEWATER FACILITY.

2 (c) NOTHING IN THIS SECTION SHALL BE INTERPRETED TO MODIFY  
3 OR AMEND ANY PRIOR CONTRACTUAL CONSTRAINTS UPON THE USE OR  
4 DISPOSITION OF REUSABLE EFFLUENT OR THE RESTRICTIONS ON THE USE OF  
5 REUSABLE EFFLUENT ESTABLISHED IN THE "BLUE RIVER DECREE" OF THE  
6 FEDERAL DISTRICT COURT FOR THE DISTRICT OF COLORADO IN CIVIL  
7 ACTION NUMBERS 2782, 5016, AND 5017, IF ANY, UNLESS THE PARTIES TO  
8 THE CONTRACT OR DECREE ASSENT IN WRITING. ALL AUGMENTATION OR  
9 RECHARGE PLANS USING REUSABLE EFFLUENT AS AN AUGMENTATION OR  
10 RECHARGE SOURCE MUST BE APPROVED BY THE WATER COURT.

11 (d) AS USED IN THIS SECTION:

12 (I) "DECREED CONSUMPTIVE USE WATER" MEANS THE PORTION OF  
13 A WATER RIGHT DETERMINED BY A WATER COURT TO BE REUSABLE TO  
14 EXTINCTION WITHOUT CAUSING INJURY TO OTHER VESTED WATER RIGHTS.

15 (II) "REUSABLE EFFLUENT" MEANS THE RETURN FLOWS FROM  
16 FOREIGN WATER, NONTRIBUTARY WATER, OR DECREED CONSUMPTIVE USE  
17 WATER THAT HAS BEEN PLACED TO BENEFICIAL USE AT LEAST ONE TIME  
18 AND DISCHARGED BACK TO A WATER BODY AFTER PASSING THROUGH A  
19 DOMESTIC WASTEWATER FACILITY.

20 **SECTION 2. Act subject to petition - effective date -**  
21 **applicability.** (1) This act shall take effect at 12:01 a.m. on the day  
22 following the expiration of the ninety-day period after final adjournment  
23 of the general assembly (August 11, 2010, if adjournment sine die is on  
24 May 12, 2010); except that, if a referendum petition is filed pursuant to  
25 section 1 (3) of article V of the state constitution against this act or an  
26 item, section, or part of this act within such period, then the act, item,  
27 section, or part shall not take effect unless approved by the people at the

1 general election to be held in November 2010 and shall take effect on the  
2 date of the official declaration of the vote thereon by the governor.

3 (2) The provisions of this act shall apply to effluent reused on or  
4 after the applicable effective date of this act.