

**STATE and LOCAL  
FISCAL IMPACT**

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<b>Drafting Number:</b> LLS 13-0374	<b>Date:</b> January 29, 2013
<b>Prime Sponsor(s):</b> Sen. Hodge; Roberts Rep. Fischer; Sonnenberg	<b>Bill Status:</b> Senate Agriculture <b>Fiscal Analyst:</b> Kirk Mlinek (303-866-2756)

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**TITLE:** CONCERNING THE PROTECTION OF STORED WATER, AND, IN CONNECTION THEREWITH, PRESERVING SUPPLIES FOR DROUGHT AND LONG-TERM NEEDS.

Fiscal Impact Summary	FY 2013-2014	FY 2014-2015
<b>State Revenue</b>		
<b>State Expenditures</b>	See State Expenditures section.	
<b>FTE Position Change</b>		
<b>Effective Date:</b> August 7, 2013, if the General Assembly adjourns on May 8, 2013, as scheduled, and no referendum petition is filed.		
<b>Appropriation Summary for FY 2013-2014:</b> None required.		
<b>Local Government Impact:</b> See Local Government Impact section.		

**Summary of Legislation**

In June 2011 the Colorado Supreme Court issued its decision in *Upper Yampa Water Conservancy District v. Wolfe*. According to the holding in that case, to perfect a conditional water right that allows storage, an applicant must show both actual storage and actual beneficial use of a specific amount of water. Further, quantifiable evidence of actual beneficial use in excess of existing absolute decrees is required. This bill is intended to reverse the decision by clarifying that the term "beneficial use" includes the impoundment of water for firefighting or storage for any decreed purpose, and by further specifying that:

- a system with multiple water storage features may be granted an absolute water storage right without evidence of full utilization of all component water rights;
- a water storage right shall be made absolute for the volume that has been captured, possessed, and controlled at the decreed storage structure; and
- a water right is not abandoned when the water is in long-term storage.

The bill applies to diligence decrees entered on or after its effective date.

### **State Expenditures**

By clarifying the status of water storage rights, this bill could result in additional filings to establish such rights, particularly by local governments. The number of filings is not expected to significantly impact the water courts' workload.

For the Department of Natural Resources, the bill does not change the number or complexity of water rights administered by the Division of Water Resources. The expanded definition of "beneficial use" could provide additional water rights management flexibility for the Division of Parks and Wildlife. The bill does not have expenditure implications for either agency.

### **Local Government Impact**

The bill could result in savings for local governments through more efficient use of an existing portfolio. Local governments will have the increased flexibility to store water for flood control, for fire and drought protection, and to perfect existing conditional water rights.

Local governments may experience reduced administrative workload to secure water rights for drought and other contingencies. Some local governments could choose to acquire additional storage rights, temporarily increasing municipal and county expenditures.

### **Departments Contacted**

Natural Resources  
Judicial  
Special Districts

Law  
Municipalities

Local Affairs  
Counties