

**First Regular Session
Seventieth General Assembly
STATE OF COLORADO**

PREAMENDED

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

LLS NO. 15-0114.01 Jennifer Berman

HOUSE BILL 15-1013

HOUSE SPONSORSHIP

Coram, Mitsch Bush, Vigil

SENATE SPONSORSHIP

Sonnenberg and Hodge,

House Committees

Agriculture, Livestock, & Natural Resources
Appropriations

Senate Committees

A BILL FOR AN ACT

101 **CONCERNING THE IMPLEMENTATION OF RECOMMENDATION NUMBER**
102 **ONE SET FORTH IN THE STUDY OF THE SOUTH PLATTE RIVER**
103 **ALLUVIAL AQUIFER PREPARED BY THE COLORADO WATER**
104 **INSTITUTE PURSUANT TO HOUSE BILL 12-1278.**

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. Section 1 requires the Colorado water conservation board, in consultation with the state engineer, to administer 2 pilot projects in the areas of Gilcrest/LaSalle

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.

and Sterling to evaluate 2 alternative methods of lowering the water table in areas that are experiencing damaging high groundwater levels.

Section 2 of the bill authorizes the state engineer to review an augmentation plan submitted to a water court if it includes the construction of a recharge structure. The water court may approve the augmentation plan only if the state engineer either approves the operation and design of the proposed recharge structure after having determined that the application is not likely to cause injury or proposes changes to the operation and design of the proposed recharge structure as terms and conditions of the application.

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

2 **SECTION 1.** In Colorado Revised Statutes, 37-60-115, **add** (10)
3 as follows:

4 **37-60-115. Water studies - rules - repeal.** (10) **High**
5 **groundwater administration and management pilot projects - report**
6 **- repeal.** (a) THE BOARD, IN CONSULTATION WITH THE STATE ENGINEER,
7 SHALL SELECT TWO PILOT PROJECTS FOR THE PURPOSE OF PROVIDING THE
8 BOARD AND THE STATE ENGINEER WITH SUFFICIENT DATA TO EVALUATE
9 TWO ALTERNATIVE METHODS OF LOWERING THE WATER TABLE IN AREAS
10 ALONG THE SOUTH PLATTE RIVER THAT ARE EXPERIENCING DAMAGING
11 HIGH GROUNDWATER LEVELS.

12 (b) (I) ONE PILOT PROJECT MUST BE LOCATED IN DISTRICT 2 OF
13 DIVISION 1, WITHIN OR NEAR THE TOWN OF GILCREST, COLORADO, OR THE
14 TOWN OF LASALLE, COLORADO. THE OTHER PILOT PROJECT MUST BE
15 LOCATED IN DISTRICT 64 OF DIVISION 1, WITHIN OR NEAR THE CITY OF
16 STERLING, COLORADO. EACH PROJECT MUST BE FOUR YEARS IN DURATION
17 AND MUST BE DESIGNED TO DEMONSTRATE A PROPOSED METHOD FOR
18 EFFECTIVELY LOWERING THE WATER TABLE. THE BOARD, IN
19 CONSULTATION WITH THE STATE ENGINEER, SHALL DETERMINE THAT A
20 PROPOSED METHOD OF LOWERING THE WATER TABLE IS LOCALLY

1 APPROPRIATE FOR THE GEOGRAPHIC AREA IN WHICH THE PILOT PROJECT
2 WILL BE IMPLEMENTED BEFORE APPROVING IT.

3 (II) AN APPROVED PILOT PROJECT MUST:

4 (A) BE ACCURATELY MONITORED IN REAL TIME IN ACCORDANCE
5 WITH TRACKING AND TESTING METHODS DETERMINED BY THE BOARD IN
6 CONSULTATION WITH THE STATE ENGINEER TO DETERMINE THE IMMEDIATE
7 IMPACTS THAT THE PILOT PROJECT HAS ON THE WATER TABLE; AND

8 (B) DURING THE TERM OF THE PILOT PROJECT, OPERATE
9 ACCORDING TO A SUBSTITUTE WATER SUPPLY PLAN [REDACTED] APPROVED
10 ANNUALLY BY THE STATE ENGINEER UNDER SECTION 37-92-308 (4) OR (5).

11 (c) AFTER PROVIDING AT LEAST FORTY-FIVE DAYS' NOTICE OF
12 PROPOSED CRITERIA AND GUIDELINES AND AN OPPORTUNITY FOR PUBLIC
13 COMMENT ON THEM, THE BOARD, IN CONSULTATION WITH THE STATE
14 ENGINEER, SHALL ESTABLISH CRITERIA AND GUIDELINES FOR THE PILOT
15 PROGRAM, INCLUDING AT LEAST THE FOLLOWING:

16 (I) AN APPLICATION FEE AND, FOR THE APPROVED PILOT PROJECTS,
17 AN ANNUAL REVIEW FEE;

18 (II) THE INFORMATION TO BE INCLUDED IN THE APPLICATION;

19 (III) A PERIOD OF AT LEAST SEVENTY-FIVE DAYS WITHIN WHICH
20 THE STATE ENGINEER RECEIVES COMMENTS ON AN APPLICATION AFTER
21 PROVIDING NOTICE PURSUANT TO THE PROCESS SET FORTH IN PARAGRAPH.

22 (d) OF THIS SUBSECTION (10). THE COMMENTS MAY INCLUDE:

23 (A) ANY CLAIM OF INJURY;

24 (B) ANY TERMS AND CONDITIONS THAT THE PERSON FILING A
25 COMMENT BELIEVES SHOULD BE IMPOSED ON THE PILOT PROJECT IN ORDER
26 TO PREVENT INJURY TO OTHER WATER RIGHTS, DECREED CONDITIONAL
27 WATER RIGHTS, CONTRACT RIGHTS TO WATER, OR COMPLIANCE WITH ANY

1 INTERSTATE COMPACT; AND

2 (C) OTHER INFORMATION THAT THE PERSON FILING THE COMMENT
3 BELIEVES THE BOARD AND THE STATE ENGINEER SHOULD CONSIDER IN
4 REVIEWING THE APPLICATION.

5 (IV) CRITERIA FOR SELECTING PILOT PROJECTS; AND

6 (V) GUIDELINES FOR THE OPERATION AND ADMINISTRATION OF THE
7 PILOT PROJECTS TO ASSURE THAT THE PILOT PROJECTS WILL NOT CAUSE
8 INJURY TO OTHER WATER RIGHTS, DECREED CONDITIONAL WATER RIGHTS,
9 CONTRACT RIGHTS TO WATER, OR COMPLIANCE WITH ANY INTERSTATE
10 COMPACT.

11 (d) FOR APPROVAL OF A PILOT PROJECT, AN APPLICANT MUST
12 PROVIDE WRITTEN NOTICE OF THE APPLICATION, INCLUDING THE LOCATION
13 OF THE PROPOSED PILOT PROJECT, BY EITHER ELECTRONIC MAIL OR
14 FIRST-CLASS MAIL, TO ALL PARTIES THAT HAVE SUBSCRIBED TO THE
15 SUBSTITUTE WATER SUPPLY PLAN NOTIFICATION LIST, AS DESCRIBED IN
16 SECTION 37-92-308 (6), FOR WATER DIVISION 1. THE APPLICANT MUST FILE
17 PROOF OF THE WRITTEN NOTICE WITH THE BOARD.

18 (e) (I) WHEN THE BOARD, IN CONSULTATION WITH THE STATE
19 ENGINEER, APPROVES OR DENIES A PILOT PROJECT APPLICATION, THE
20 BOARD SHALL SERVE A COPY OF THE DECISION ON ALL PARTIES TO THE
21 APPLICATION BY ELECTRONIC MAIL OR, IF ELECTED BY THE PARTIES, BY
22 FIRST-CLASS MAIL.

23 (II) THE BOARD'S APPROVAL OR DENIAL OF A PILOT PROJECT
24 APPLICATION IS A FINAL AGENCY ACTION THAT MAY BE APPEALED. AN
25 APPEAL MUST BE FILED WITH THE APPROPRIATE WATER JUDGE AND BE
26 MADE WITHIN THIRTY-FIVE DAYS AFTER THE BOARD'S DECISION HAS BEEN
27 SERVED IN ACCORDANCE WITH SUBPARAGRAPH (I) OF THIS PARAGRAPH (e).

1 (III) THE WATER JUDGE SHALL USE THE PROCEDURES AND
2 STANDARDS SET FORTH IN SECTIONS 37-92-304 AND 37-92-305 TO
3 DETERMINE MATTERS REREFERRED TO THE WATER JUDGE BY THE REFEREE;
4 EXCEPT THAT THE WATER JUDGE SHALL NOT DEEM A PARTY'S FAILURE
5 EITHER TO APPEAL ALL OR ANY PART OF THE BOARD'S DECISION OR TO
6 STATE ANY GROUNDS FOR THE APPEAL TO PRECLUDE THE PARTY FROM
7 RAISING A CLAIM OF INJURY IN A FUTURE PROCEEDING BEFORE THE WATER
8 JUDGE. THE PILOT PROJECT APPLICANT IS DEEMED TO BE THE APPLICANT
9 FOR PURPOSES OF THE PROCEDURES AND STANDARDS THAT THE WATER
10 JUDGE APPLIES TO THE APPEAL.

11 (f) THE BOARD, IN CONSULTATION WITH THE STATE ENGINEER,
12 SHALL ANNUALLY REPORT TO THE WATER RESOURCES REVIEW COMMITTEE,
13 CREATED IN SECTION 37-98-102, OR ITS SUCCESSOR COMMITTEE, ON THE
14 REPORTED RESULTS OF THE PILOT PROJECTS. THE BOARD, IN
15 CONSULTATION WITH THE STATE ENGINEER, SHALL PROVIDE A FINAL
16 REPORT TO THE WATER RESOURCES REVIEW COMMITTEE OR ITS SUCCESSOR
17 COMMITTEE BY SEPTEMBER 1, 2020.

18 (g) THIS SECTION IS REPEALED, EFFECTIVE JULY 1, 2021.

19 **SECTION 2.** In Colorado Revised Statutes, 37-92-305, **add** (4)
20 (a) (V.5) and (18) as follows:

21 **37-92-305. Standards with respect to rulings of the referee and**
22 **decisions of the water judge.** (4) (a) Terms and conditions to prevent
23 injury as specified in subsection (3) of this section may include:

24 (V.5) IF THE APPLICATION IS FOR AN AUGMENTATION PLAN THAT
25 INCLUDES THE CONSTRUCTION OF A RECHARGE STRUCTURE, CHANGES TO
26 THE OPERATION AND DESIGN OF THE PROPOSED RECHARGE STRUCTURE AS
27 RECOMMENDED BY THE STATE ENGINEER AFTER THE STATE ENGINEER HAS

1 REVIEWED THE APPLICATION UNDER SUBSECTION (18) OF THIS SECTION;
2 (18) IN THE CASE OF AN AUGMENTATION PLAN THAT INCLUDES THE
3 CONSTRUCTION OF A RECHARGE STRUCTURE, THE COURT SHALL NOT
4 APPROVE THE APPLICATION UNLESS THE STATE ENGINEER HAS REVIEWED
5 THE APPLICATION AND:
6 (a) HAS APPROVED THE OPERATION AND DESIGN OF THE PROPOSED
7 RECHARGE STRUCTURE AFTER HAVING DETERMINED THAT THE
8 APPLICATION IS NOT LIKELY TO CAUSE INJURY; OR
9 (b) HAS PROPOSED CHANGES TO THE OPERATION AND DESIGN OF
10 A PROPOSED RECHARGE STRUCTURE AS TERMS AND CONDITIONS PURSUANT
11 TO SUBSECTION (4) OF THIS SECTION.

12 **SECTION 3. Act subject to petition - effective date.** This act
13 takes effect at 12:01 a.m. on the day following the expiration of the
14 ninety-day period after final adjournment of the general assembly (August
15 5, 2015, if adjournment sine die is on May 6, 2015); except that, if a
16 referendum petition is filed pursuant to section 1 (3) of article V of the
17 state constitution against this act or an item, section, or part of this act
18 within such period, then the act, item, section, or part will not take effect
19 unless approved by the people at the general election to be held in
20 November 2016 and, in such case, will take effect on the date of the
21 official declaration of the vote thereon by the governor.