

First Regular Session
Sixty-ninth General Assembly
STATE OF COLORADO

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BILL 2

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LLS NO. 13-0102.01 Thomas Morris x4218

INTERIM COMMITTEE BILL

Water Resources Review Committee

SHORT TITLE: "Designated Ground Water District Enforcement"

A BILL FOR AN ACT

101 **CONCERNING AN INCREASE IN THE ENFORCEMENT AUTHORITY OF**
102 **GROUND WATER MANAGEMENT DISTRICTS.**

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. Ground water management districts are currently authorized to enforce the terms of permits issued for small capacity wells. The bill authorizes a district to enforce permits for all wells located within the district, to enforce the district's rules with regard to those wells, to issue orders requiring

*Capital letters indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.*

compliance with the rules and permits, and to apply to a district court to collect civil fines against a well owner who does not comply with an order.

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

2 **SECTION 1.** In Colorado Revised Statutes, 37-90-130, **amend**
3 (4) as follows:

4 **37-90-130. Management districts - board of directors -**
5 **enforcement.** (4) (a) After the issuance of any well permit ~~for a small~~
6 ~~capacity well~~ within the district, ~~pursuant to section 37-90-105~~, the
7 district has the authority to enforce compliance with the terms and
8 conditions OF THE PERMIT, THE DISTRICT'S RULES, AND ANY ORDER ISSUED
9 BY THE DISTRICT governing the use of the ground water allowed by such
10 permit to ensure that such use is within the scope of what is allowed by
11 ~~section 37-90-105~~ THIS ARTICLE, THE DISTRICT'S RULES, ANY ORDER
12 ISSUED BY THE DISTRICT CONCERNING THE WELL, and the well permit.

13 (b) THE DISTRICT MAY PROCEED PURSUANT TO SECTION
14 37-90-111.5 AGAINST A WELL OWNER WHO DOES NOT COMPLY WITH AN
15 ORDER ISSUED UNDER PARAGRAPH (a) OF THIS SUBSECTION (4).

16 **SECTION 2.** In Colorado Revised Statutes, 37-90-111.5, **amend**
17 (1) (a) introductory portion, (2), (5) (a) (I), (5) (a) (II), (5) (b), and (6) as
18 follows:

19 **37-90-111.5. Well enforcement - injunction - fines.** (1) (a) If an
20 order of the commission, GROUND WATER MANAGEMENT DISTRICT, or ~~the~~
21 state engineer issued pursuant to section 37-90-105, 37-90-107,
22 37-90-108, 37-90-110, OR 37-90-130 (4) in relation to designated ground
23 water or TO SECTION 37-90-111 is not complied with, the commission,
24 GROUND WATER MANAGEMENT DISTRICT, or ~~the~~ state engineer in the name

1 of the people of the state of Colorado, through the attorney general, shall
2 apply to the district court in the county in which the water right or well is
3 situated:

4 (2) In the case of an order with respect to the withdrawal of
5 designated ground water, the designated ground water judge in ruling
6 upon such injunction shall consider, depending on the basis for the order,
7 whether the designated ground water is being applied to a beneficial use,
8 whether the withdrawal is causing or will cause injury to persons or
9 entities owning or entitled to use water under vested water rights, and
10 whether the withdrawal of designated ground water is in violation of the
11 statute, the rules adopted by the commission, GROUND WATER
12 MANAGEMENT DISTRICT, or state engineer, or the well permit's terms and
13 conditions.

14 (5) (a) (I) Any person who diverts designated ground water
15 contrary to a valid order of the commission, GROUND WATER
16 MANAGEMENT DISTRICT, or state engineer issued pursuant to section
17 37-90-105, 37-90-107, 37-90-108, 37-90-110, or 37-90-111, OR
18 37-90-130 (4), or in violation of rules adopted by the commission,
19 GROUND WATER MANAGEMENT DISTRICT, or state engineer, shall forfeit
20 and pay a sum not to exceed five hundred dollars for each day such
21 violation continues.

22 (II) Any person who, when required to do so by rules adopted by
23 the commission, GROUND WATER MANAGEMENT DISTRICT, or state
24 engineer, fails to submit data as to the amounts of designated ground
25 water pumped from a well, makes a false or fictitious report of the
26 amounts of designated ground water pumped from a well, falsifies any
27 data as to amounts pumped from a well, makes a false or fictitious report

1 of a power coefficient for a well, or falsifies any power coefficient test
2 shall forfeit and pay a sum not to exceed five hundred dollars for each
3 violation; except that this subparagraph (II) ~~shall~~ DOES not apply to an
4 order issued pursuant to section 37-90-110 (1) (i). ~~or 37-90-130 (4) (c).~~

5 (b) The state engineer shall transmit all fines collected for
6 violations of paragraph (a) of this subsection (5) to the state treasurer,
7 who shall deposit them in the water resources cash fund created in section
8 37-80-111.7 (1); EXCEPT THAT A GROUND WATER MANAGEMENT DISTRICT
9 SHALL COLLECT THE FINES COLLECTED FOR A VIOLATION OF AN ORDER OF
10 THE GROUND WATER MANAGEMENT DISTRICT.

11 (6) Any person required by a valid order of the commission,
12 GROUND WATER MANAGEMENT DISTRICT, or ~~the~~ state engineer, or by
13 existing rules of the commission, GROUND WATER MANAGEMENT
14 DISTRICT, or state engineer, to cease diversions of designated ground
15 water or replace depletions caused by diversions of designated ground
16 water, and whose failure to adhere to such order or rule results in the
17 violation of an interstate compact, ~~shall be~~ IS liable for all direct, actual,
18 and necessary expenses incurred by the state of Colorado in performing
19 any action, including the purchase of water or payment of damages,
20 necessary for the state of Colorado to remedy the violation of such
21 compact. The commission, GROUND WATER MANAGEMENT DISTRICT, or
22 state engineer in the name of the people of the state of Colorado, through
23 the attorney general, shall apply to the district court in the county in
24 which the water right or well is situated to recover such expenses. If the
25 commission, GROUND WATER MANAGEMENT DISTRICT, or ~~the~~ state
26 engineer prevails, the court shall also award the costs of the proceeding
27 and reasonable attorney fees.

1 **SECTION 3. Act subject to petition - effective date -**
2 **applicability.** (1) This act takes effect at 12:01 a.m. on the day following
3 the expiration of the ninety-day period after final adjournment of the
4 general assembly (August 7, 2013, if adjournment sine die is on May 8,
5 2013); except that, if a referendum petition is filed pursuant to section 1
6 (3) of article V of the state constitution against this act or an item, section,
7 or part of this act within such period, then the act, item, section, or part
8 will not take effect unless approved by the people at the general election
9 to be held in November 2014 and, in such case, will take effect on the
10 date of the official declaration of the vote thereon by the governor.
11 (2) The provisions of this act apply to acts occurring on or after
12 the applicable effective date of this act. <*Do you want a safety clause*
13 *or a specific effective date?*>