

First Regular Session
Sixty-ninth General Assembly
STATE OF COLORADO

DRAFT
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BILL 9

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LLS NO. 13-0109.01 Jennifer Berman x3286

INTERIM COMMITTEE BILL

Water Resources Review Committee

SHORT TITLE: "Irrigation Water Right Historical Use Acreage"

A BILL FOR AN ACT

101 **CONCERNING THE LAWFUL MAXIMUM AMOUNT OF ACREAGE**
102 **IRRIGATED BY DITCHES DECREED BEFORE JANUARY 1, 1937,**
103 **ABSENT AN EXPRESS ACREAGE LIMIT IN THE DECREE.**

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. Current law requires irrigation water right decrees to specify the acreage on which the water may be used, but some older decrees do not include an acreage limitation. For such decrees, water courts look to the original appropriator's intent in

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

determining the lawful historical consumptive use of a decreed irrigation water right; however, it is often very difficult to determine the original appropriator's intent, which has resulted in cases that substantially decrease the acreage that has historically been irrigated by a water right.

The bill creates a mechanism to determine the amount of acreage for an irrigation water right for which the original decree predates 1937 and is unclear about the amount of acreage that may be irrigated under the water right.

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

2 **SECTION 1.** In Colorado Revised Statutes, 37-92-305, **amend**
3 (4) (a) (I) as follows:

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

7 (I) (A) A limitation on the use of the water that is subject to the
8 change, taking into consideration the historical use and the flexibility
9 required by annual climatic differences.

10 (B) FOR PURPOSES OF ADMINISTRATION AND DETERMINING
11 LAWFUL HISTORICAL CONSUMPTIVE USE, IF A DECREE ENTERED BEFORE
12 JANUARY 1, 1937, ESTABLISHES AN IRRIGATION WATER RIGHT AND DOES
13 NOT EXPRESSLY LIMIT THE NUMBER OF ACRES THAT THE APPROPRIATOR
14 MAY IRRIGATE UNDER THE WATER RIGHT, THE LAWFUL MAXIMUM AMOUNT
15 OF IRRIGATED ACREAGE EQUALS THE MAXIMUM AMOUNT OF ACREAGE
16 IRRIGATED DURING THE FIRST FIFTY YEARS AFTER ENTRY OF THE ORIGINAL
17 DECREE, UNLESS A COURT OF COMPETENT JURISDICTION HAS ENTERED AN
18 ORDER TO THE CONTRARY.

19 **SECTION 2. Act subject to petition - effective date.** This act
20 takes effect at 12:01 a.m. on the day following the expiration of the
21 ninety-day period after final adjournment of the general assembly (August

1 7, 2013, if adjournment sine die is on May 8, 2013); except that, if a
2 referendum petition is filed pursuant to section 1 (3) of article V of the
3 state constitution against this act or an item, section, or part of this act
4 within such period, then the act, item, section, or part will not take effect
5 unless approved by the people at the general election to be held in
6 November 2014 and, in such case, will take effect on the date of the
7 official declaration of the vote thereon by the governor.