

**Second Regular Session
Sixty-ninth General Assembly
STATE OF COLORADO**

BILL 11

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LLS NO. 14-0244.01 Thomas Morris x4218

INTERIM COMMITTEE BILL

Water Resources Review Committee

House Committees

Senate Committees

A BILL FOR AN ACT

101 **CONCERNING LIMITATIONS ON THE UNITED STATES' ABILITY TO**
102 **IMPOSE CONDITIONS ON A WATER RIGHT OWNER IN EXCHANGE**
103 **FOR PERMISSION TO USE LAND.**

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. The bill specifies, in the contexts of rights-of-way for water rights and the basic tenets of Colorado water law, that:

- The United States (U.S.) cannot demand as a condition of

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.*

- granting a right-of-way or special use permit, and a court cannot order as a condition of an eminent domain proceeding, that a water right or conditional water right owner assign to the U.S. partial or joint ownership of the water right or limit the alienability of the water right; and
- Any such condition is void and unenforceable as against public policy.

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

2 **SECTION 1.** In Colorado Revised Statutes, **amend** 37-86-102 as
3 follows:

4 **37-86-102. Right-of-way through other lands.** (1) Any person
5 owning a water right or conditional water right ~~shall be~~ IS entitled to a
6 right-of-way through the lands ~~which~~ THAT lie between the point of
7 diversion and point of use or proposed use for the purpose of transporting
8 water for beneficial use in accordance with ~~said~~ THE water right or
9 conditional water right.

10 (2) THE UNITED STATES SHALL NOT DEMAND AS A CONDITION OF
11 GRANTING A RIGHT-OF-WAY OR SPECIAL USE PERMIT THAT THE OWNER OF
12 A WATER RIGHT OR CONDITIONAL WATER RIGHT ASSIGN TO THE UNITED
13 STATES PARTIAL OR JOINT OWNERSHIP OF THE WATER RIGHT OR LIMIT THE
14 ALIENABILITY OF THE WATER RIGHT. ANY SUCH CONDITION IS VOID AND
15 UNENFORCEABLE AS AGAINST PUBLIC POLICY.

16 **SECTION 2.** In Colorado Revised Statutes, 37-92-102, **add** (8)
17 as follows:

18 **37-92-102. Legislative declaration - basic tenets of Colorado**
19 **water law.** (8) THE UNITED STATES SHALL NOT DEMAND AS A CONDITION
20 OF GRANTING A RIGHT-OF-WAY OR SPECIAL USE PERMIT THAT THE OWNER
21 OF A WATER RIGHT OR CONDITIONAL WATER RIGHT ASSIGN TO THE UNITED
22 STATES PARTIAL OR JOINT OWNERSHIP OF THE WATER RIGHT OR LIMIT THE

1 ALIENABILITY OF THE WATER RIGHT. ANY SUCH CONDITION IS VOID AND
2 UNENFORCEABLE AS AGAINST PUBLIC POLICY.

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

13 (2) This act applies to acts occurring on or after the applicable
14 effective date of this act.

15 <*Do you want a safety clause or a specific effective date?*>