

Second Regular Session
Seventieth General Assembly
STATE OF COLORADO

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9.1.15

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LLS NO. 16-0175 Jennifer Berman x3286

SENATE BILL

SENATE SPONSORSHIP

Sonnenberg,

HOUSE SPONSORSHIP

(None),

Senate Committees

House Committees

A BILL FOR AN ACT

101 CONCERNING A WATER PROVIDER'S AUTHORITY TO PERMIT
102 RESIDENTIAL CUSTOMERS TO ENGAGE IN A DIVERSION OF THE
103 WATERS OF THE STATE THROUGH SMALL-SCALE PRECIPITATION
104 COLLECTION CONDITIONED ON THE WATER PROVIDER
105 REPLACING THE DIVERTED WATER.

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>.)

The bill allows a water provider to permit residential consumers

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.

1 TO THEIR USE IN ACCORDANCE WITH SECTIONS 5 AND 6 OF ARTICLE XVI OF
2 THE COLORADO CONSTITUTION, AND AS OTHERWISE PROVIDED BY LAW. AS
3 SUCH, UNLESS AND UNTIL SUFFICIENT DATA CONCERNING PRECIPITATION
4 RUNOFF AND GROUNDWATER FLOW CLEARLY DEMONSTRATES OTHERWISE,
5 PRECIPITATION THAT FALLS WITHIN THE BORDERS OF THE STATE IS
6 TRIBUTARY TO THE SURFACE WATERS OF THE STATE.

7 (2) THE GENERAL ASSEMBLY FURTHER DECLARES THAT ANY
8 PRECIPITATION THAT FALLS WITHIN THE BORDERS OF THE STATE IS
9 SUBJECT TO THE DOCTRINE OF PRIOR APPROPRIATION AND SHALL BE
10 ADMINISTERED IN ACCORDANCE WITH THE PRIORITY SYSTEM ESTABLISHED
11 UNDER THE LAWS OF THIS STATE OR AS OTHERWISE PROVIDED FOR IN THIS
12 PART 2.

13 **37-82-202. Applicability of part.** THIS PART 2 APPLIES TO ALL
14 PRECIPITATION WITHIN THE BORDERS OF THE STATE EXCEPT FOR
15 PRECIPITATION THAT IS COLLECTED AND ADMINISTERED IN ACCORDANCE
16 WITH SECTION 37-60-115, 37-90-105, OR 37-92-602.

17 **37-82-203. Small-scale residential precipitation collection.**

18 (1) A WATER PROVIDER MAY ALLOW A RESIDENTIAL CONSUMER SERVED
19 BY THE WATER PROVIDER TO INSTALL AND UTILIZE UP TO TWO CONTAINERS
20 TO COLLECT PRECIPITATION THAT RUNS OFF OF THE CONSUMER'S
21 RESIDENTIAL ROOFTOP, SUBJECT TO THE FOLLOWING CONDITIONS AND
22 LIMITATIONS:

23 (a) THE CONSUMER'S BUILDING IS SOLELY RESIDENTIAL AND
24 CONTAINS FOUR OR FEWER UNITS;

25 (b) EACH CONTAINER USED TO COLLECT PRECIPITATION HAS A
26 STORAGE CAPACITY OF FIFTY-FIVE GALLONS OR LESS AND IS DESIGNED TO
27 PREVENT THE CAPTURE OF EXCESS PRECIPITATION;

1 (c) EACH CONTAINER IS INSTALLED FULLY ABOVEGROUND; AND

2 (d) THE RESIDENTIAL CONSUMER IS SOLELY RESPONSIBLE FOR
3 MAINTAINING THE CONTAINER IN A SANITARY CONDITION. THE
4 RESIDENTIAL CONSUMER SHALL TAKE NECESSARY PRECAUTIONS TO KEEP
5 MOSQUITOES AND OTHER INSECTS, BIRDS, RODENTS, OR OTHER ANIMALS
6 FROM GETTING INSIDE THE CONTAINER. THE OWNER OF THE CONTAINER
7 SHALL COMPLY WITH ALL RULES, GUIDELINES, OR OTHER STANDARDS
8 PERTINENT TO THE OUTDOOR STORAGE OF WATER, AS ESTABLISHED BY THE
9 COLORADO DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT OR ANY
10 LOCAL PUBLIC HEALTH AGENCY.

11 (2) EACH WATER PROVIDER THAT ALLOWS PRECIPITATION
12 COLLECTION IS ENCOURAGED TO PROVIDE A MECHANISM FOR A
13 RESIDENTIAL CONSUMER TO EASILY, AND AT NO COST TO THE RESIDENTIAL
14 CONSUMER, REGISTER HIS OR HER USE OF A PRECIPITATION COLLECTION
15 CONTAINER WITH THE WATER PROVIDER. A WATER PROVIDER THAT
16 PROVIDES A REGISTRATION MECHANISM SHOULD SHARE THE AGGREGATE
17 REGISTRATION DATA, OMITTING ANY PERSONAL INFORMATION ABOUT
18 SPECIFIC CONSUMERS, WITH THE DIRECTOR OF RESEARCH OF THE
19 LEGISLATIVE COUNCIL TO ASSIST WITH THE DIRECTOR'S REVIEW
20 CONDUCTED UNDER SECTION 37-82-205.

21 **37-82-204. Depletions to be replaced.** (1) THE COLLECTION OF
22 PRECIPITATION FROM A RESIDENTIAL ROOFTOP IN ACCORDANCE WITH
23 SECTION 37-82-203 IS A DIVERSION OF THE WATERS OF THIS STATE. TO
24 PREVENT INJURY TO WATER RIGHTS, A WATER PROVIDER WHO AUTHORIZES
25 PRECIPITATION COLLECTION WITHIN ITS SERVICE AREA MUST REPLACE
26 PRECIPITATION COLLECTED BY ITS RESIDENTIAL CONSUMERS IN ONE OF THE
27 FOLLOWING MANNERS:

1 (a) ACCOUNT FOR THE DEPLETIONS IN A PLAN FOR AUGMENTATION
2 IN ACCORDANCE WITH SECTION 37-92-305, AS APPROVED BY A WATER
3 COURT;

4 (b) ACCOUNT FOR THE DEPLETIONS THROUGH A SUBSTITUTE
5 WATER SUPPLY PLAN IN ACCORDANCE WITH SECTION 37-92-308, AS
6 APPROVED BY THE STATE ENGINEER; OR

7 (c) NOTIFY THE STATE ENGINEER IN WRITING THAT THE WATER
8 PROVIDER ALLOWS THE INSTALLATION AND USE OF SMALL-SCALE
9 RESIDENTIAL PRECIPITATION COLLECTION CONTAINERS IN ACCORDANCE
10 WITH THIS PART 2 AND AGREES TO PROVIDE REPLACEMENT WATER IN THE
11 FOLLOWING AMOUNT THAT ACCOUNTS FOR THE WATER DIVERTED
12 THROUGH SMALL-SCALE RESIDENTIAL PRECIPITATION COLLECTION: THE
13 AMOUNT OF REPLACEMENT WATER THAT ACCOUNTS FOR THE DIVERSION
14 IS SIXTY-SIX GALLONS PER YEAR, MULTIPLIED BY THE WATER PROVIDER'S
15 TOTAL NUMBER OF CUSTOMERS DURING THE YEAR OF THE CALCULATION.

16 **37-82-205. Review by the director of research of the legislative**
17 **council.** (1) COMMENCING IN 2018, AND EVERY TWO YEARS THEREAFTER,
18 THE DIRECTOR OF RESEARCH OF THE LEGISLATIVE COUNCIL, OR HIS OR HER
19 DESIGNEE, SHALL REVIEW THE IMPLEMENTATION OF THIS PART 2,
20 UTILIZING ANY DATA PROVIDED BY WATER PROVIDERS ON RESIDENTIAL
21 CONSUMER USAGE OF PRECIPITATION COLLECTION CONTAINERS WITHIN
22 THEIR SERVICE AREA TO DETERMINE:

23 (a) THE ESTIMATED NUMBER OF COLORADO RESIDENTS
24 PARTICIPATING IN PRECIPITATION COLLECTION UNDER THIS PART 2;

25 (b) THE GEOGRAPHIC DISTRIBUTION OF COLORADO RESIDENTS
26 PARTICIPATING IN PRECIPITATION COLLECTION UNDER THIS PART 2; AND

27 (c) FOR THE TWO YEARS PRECEDING THE REVIEW, THE ESTIMATED

1 AMOUNT OF PRECIPITATION COLLECTED BY COLORADO RESIDENTS UNDER
2 THIS PART 2.

3 (2) THE DIRECTOR OF THE LEGISLATIVE COUNCIL, OR HIS OR HER
4 DESIGNEE, SHALL REPORT THE FINDINGS OF THE REVIEW CONDUCTED
5 UNDER SUBSECTION (1) OF THIS SECTION TO THE WATER RESOURCES
6 REVIEW COMMITTEE, CREATED IN SECTION 37-98-102, ON OR BEFORE
7 NOVEMBER 1, 2018, AND ON OR BEFORE NOVEMBER 1 OF EACH
8 EVEN-NUMBERED YEAR THEREAFTER.

9 **SECTION 2. Act subject to petition - effective date.** This act
10 takes effect at 12:01 a.m. on the day following the expiration of the
11 ninety-day period after final adjournment of the general assembly (August
12 10, 2016, if adjournment sine die is on May 11, 2016); except that, if a
13 referendum petition is filed pursuant to section 1 (3) of article V of the
14 state constitution against this act or an item, section, or part of this act
15 within such period, then the act, item, section, or part will not take effect
16 unless approved by the people at the general election to be held in
17 November 2016 and, in such case, will take effect on the date of the
18 official declaration of the vote thereon by the governor.