

Second Regular Session
Seventieth General Assembly
STATE OF COLORADO

DRAFT
9.18.15

BILL 1

LLS NO. 16-0138 Jennifer Berman x 3286

INTERIM COMMITTEE BILL

Water Resources Review Committee

A BILL FOR AN ACT

101 **CONCERNING THE STATE ENGINEER'S AUTHORITY TO DETERMINE**
102 **THROUGH RULE-MAKING THE AMOUNT OF FEES FOR CERTAIN**
103 **SERVICES PROVIDED BY THE DIVISION OF WATER RESOURCES,**
104 **AND, IN CONNECTION THEREWITH, UPDATING LANGUAGE IN**
105 **STATUTES CONCERNING THE DIVISION OF WATER RESOURCES TO**
106 **CONFORM TO MODERN DRAFTING CONVENTIONS.**

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>.)

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.

Water Resources Review Committee. Section 8 of the bill repeals certain statutory fees collected by the state engineer, including fees related to the filing of maps, judicial decrees, and certificates with the state engineer's office and the copying of maps and records stored at the state engineer's office. Section 8 also authorizes the state engineer to set these fees, and other fees related to the state engineer's general duties, by rule.

Sections 1 through 7 and sections 9 through 17 update language within the statutes related to the state engineer and the division of water resources to conform to modern drafting conventions.

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

SECTION 1. In Colorado Revised Statutes, **amend** 37-80-101 as follows:

37-80-101. State engineer. ~~The governor shall appoint a state engineer,~~ Pursuant to section 13 of article XII of the state constitution, THE GOVERNOR SHALL APPOINT A STATE ENGINEER. The OFFICE OF THE state engineer ~~shall have his office at~~ MUST BE LOCATED WITHIN the state capital ~~in suitable rooms to be provided for him with suitable furniture, postage, and such proper and~~ CAPITOL COMPLEX. THE STATE ENGINEER SHALL BE PROVIDED THE RESOURCES, INCLUDING AN OPERATING BUDGET, necessary stationery, books, and instruments as are required to best enable him to discharge the duties of his THE office. ~~The state engineer, before entering on the discharge of his duties, shall take and subscribe to an oath, before the judge of a state court of record, to faithfully perform the duties of his office and file said oath with the secretary of state, together with his official bond, in the penal sum of ten thousand dollars, said bond to be executed by a responsible surety company authorized to do business within the state, and conditioned upon the faithful discharge of the duties of his office and for delivering to his successor or other officer authorized by the governor to receive the same all moneys, books, instruments, and~~

1 ~~other property belonging to the state then in his possession or under his~~
2 ~~control, or with which he may be legally chargeable as such state~~
3 ~~engineer.~~

4 **SECTION 2.** In Colorado Revised Statutes, 37-80-102, **amend**
5 (1) (b), (1) (j), (1) (k), (1) (l), and (10) as follows:

6 **37-80-102. General duties of state engineer - supervision and**
7 **utilization of employees - satellite and telemetry-based monitoring**
8 **systems.** (1) The state engineer is the executive officer in charge of
9 supervising the work of all division engineers and may direct their
10 supervision of their employees. The state engineer has executive
11 responsibility and authority with respect to:

12 (b) Securing and implementing legal opinions and assistance
13 regarding the work within his OR HER jurisdiction;

14 (j) The making and implementing of contracts with public and
15 private agencies, ~~and with~~ individuals, ~~and~~ corporations, AND OTHER
16 ENTITIES AS necessary ~~or incidental to~~ FOR the operation of the division
17 of water resources and performance of the duties of ~~his~~ THE office;

18 (k) Such other acts as may be reasonably necessary to enable ~~him~~
19 THE STATE ENGINEER to secure the effective and efficient operation of the
20 division of water resources, including power and authority to make and
21 enforce ~~such rules or regulations~~ as he OR SHE may find necessary ~~or~~
22 ~~desirable~~ to effectuate the performance of his OR HER duties. The making
23 of ~~such rules or regulations~~ shall IS not be a prerequisite to control of
24 personnel of the division of water resources or the performance of ~~his~~ THE
25 STATE ENGINEER'S duties under the constitution or laws of Colorado or
26 any compact, treaty, or judicial decree or decision ~~which~~ THAT does not,
27 by its specific terms, require implementation by ~~such rule. or regulation.~~

1 (l) Receiving and expending grants and distributions of money,
2 property, and equipment from the Colorado water conservation board,
3 ANOTHER ENTITY, OR AN INDIVIDUAL for use in making investigations,
4 contracting projects, or otherwise carrying out the purposes of this article.
5 The grants and distributions from the Colorado water conservation board
6 are continuously appropriated to the state engineer for the purposes set
7 forth in this section.

8 (10) The state engineer is authorized to accept, operate, and house
9 ~~in the Centennial Building at 1313 Sherman Street, Denver, Colorado,~~
10 ~~SUITABLE LOCATIONS~~ automated data processing equipment and programs
11 associated with a satellite OR TELEMETRY-BASED monitoring system to be
12 ~~acquired by the Colorado water resources and power development~~
13 ~~authority and~~ SYSTEMS dedicated to the state of Colorado for operation
14 and use by the Colorado state engineer. THE STATE ENGINEER SHALL
15 UTILIZE NEW TECHNOLOGY THAT BECOMES AVAILABLE IF THE
16 TECHNOLOGY:

17 (a) CAN ACCOMPLISH THE SAME FUNCTIONS FOR WHICH THE STATE
18 ENGINEER USES SATELLITE OR TELEMETRY-BASED SYSTEMS; AND

19 (b) IS MORE COST-EFFECTIVE THAN SATELLITE OR
20 TELEMETRY-BASED SYSTEMS WITH RESPECT TO ANY COSTS BORNE BY:

21 (I) THE STATE ENGINEER;

22 (II) PROGRAM DONORS; AND

23 (III) WATER USERS.

24 **SECTION 3.** In Colorado Revised Statutes, **amend** 37-80-105 as
25 follows:

26 **37-80-105. Supervision over division engineers.** The state
27 engineer shall: ~~have general charge over~~ SUPERVISE the work of the

1 division engineers; ~~shall~~ furnish them with all the data and information
2 necessary for the proper and intelligent discharge of the duties of their
3 offices; ~~shall~~ require them to report THEIR OFFICIAL ACTIONS to him OR
4 HER at suitable times; ~~their official actions;~~ and ~~shall~~ require of them
5 annual ~~statements on blanks to be furnished by him,~~ REPORTS of the
6 amount of water diverted from the public streams in their respective
7 divisions and ~~such~~ ANY other statistics as THAT, in the judgment of the
8 state engineer, will ~~be of benefit to~~ the state.

9 **SECTION 4.** In Colorado Revised Statutes, **amend** 37-80-106 as
10 follows:

11 **37-80-106. Appointment of deputies.** (1) The state engineer may
12 appoint one or more deputies as ~~he may deem proper for assisting him~~ TO
13 ASSIST in the discharge of the duties of ~~his~~ THE office. ~~or he~~ THE STATE
14 ENGINEER may deputize any person to ~~do~~ PERFORM a particular service,
15 and ~~he~~ THE STATE ENGINEER has the power to revoke such appointments
16 when, in his OR HER judgment, there is no further need for the services of
17 anyone so appointed or deputized. ~~Such~~ THE appointments and
18 revocations ~~thereof shall~~ OF APPOINTMENTS MUST be in writing over the
19 signature and official seal of the state engineer, AND the original of ~~which~~
20 EACH APPOINTMENT OR REVOCATION shall be ~~filed~~ MAINTAINED in the
21 office of the ~~secretary of state~~ ENGINEER. ~~All persons so appointed or~~
22 ~~deputized shall take and subscribe to an oath, before a judge of a court of~~
23 ~~record, to faithfully perform the duties of the office to which he is~~
24 ~~appointed or required to perform; and such oath shall be filed with his~~
25 ~~appointment in the office of the secretary of state. All such persons so~~
26 ~~appointed or deputized by the state engineer shall furnish an official bond~~
27 ~~with surety executed by a responsible surety company, authorized to do~~

1 ~~business within the state, in the penal sum of not less than one thousand~~
2 ~~dollars nor more than five thousand dollars. The cost of such bonds shall~~
3 ~~be paid by said deputies.~~

4 (2) In addition to the deputies provided for in this section, the state
5 engineer may employ, pursuant to section 13 of article XII of the state
6 constitution, such assistants in performing the duties of ~~his~~ THE office OF
7 THE STATE ENGINEER as ~~he may deem~~ THE STATE ENGINEER DEEMS
8 necessary.

9 **SECTION 5.** In Colorado Revised Statutes, **amend** 37-80-107 as
10 follows:

11 **37-80-107. Employment of engineers or geologists.** The state
12 engineer has the authority to employ one or more consulting engineers,
13 geologists, or other specialists to advise ~~him~~ THE STATE ENGINEER or any
14 division engineer concerning any diversion or proposed diversion of the
15 waters of the state including the sufficiency of any reservoirs or other
16 structures involved in ~~such~~ THE diversion.

17 **SECTION 6.** In Colorado Revised Statutes, **amend** 37-80-108 as
18 follows:

19 **37-80-108. Appoint deputy for special work.** The state engineer,
20 on request of any party interested and on payment of his OR HER per diem
21 charges and reasonable expenses, ~~shall~~ MAY appoint a deputy to measure,
22 compute, and ascertain all necessary data of any canal, dam, reservoir, or
23 other construction, as required or as may be desired to establish court
24 decrees, or for filing statements in compliance with law in the county
25 clerk and recorder's records.

26 **SECTION 7.** In Colorado Revised Statutes, **amend** 37-80-109 as
27 follows:

1 **37-80-109. State engineer's authority to contract for services.**

2 (1) The state engineer shall secure the limited or temporary services of
3 persons necessary to ~~implement~~~~carrying~~ CARRY out the duties or
4 functions of the division of water resources in ~~those~~ cases where
5 ~~performance by~~ IT WOULD BE INFEASIBLE OR IMPRACTICAL FOR regular
6 state employees ~~is infeasible or impractical and more~~ TO PERFORM THE
7 DUTIES OR FUNCTIONS, especially in the following instances:

8 (a) In which work is of such a nature as to require ~~such~~ special
9 training or aptitudes and is of such limited application that the full-time
10 regular employment normally expected of state employees would be
11 unduly expensive;

12 (b) In nonrecurring situations of ~~such~~ limited duration ~~as to make~~
13 IN WHICH the use of regular employees IS infeasible, ~~where~~ AND the
14 situation can be concluded within a reasonable time by ~~the securing of~~
15 special assistants but could not be concluded without such assistance. ~~so~~
16 ~~as to fulfill the proper functions of the division of water resources;~~

17 (c) To meet emergencies ~~which~~ THAT reasonable foresight could
18 not have anticipated;

19 (d) To furnish services ~~which~~ THAT THE STATE ENGINEER may ~~be~~
20 ~~required by the state engineer~~ REQUIRE of ~~those dealing~~ PERSONS WHO
21 DEAL with ~~his~~ THE STATE ENGINEER'S office and who will fully reimburse
22 the state engineer for the services.

23 (2) ~~During any period when~~ WHENEVER there are more hearings
24 or determinations before the state engineer and the division engineers
25 than can be acted upon promptly, the state engineer shall employ and
26 maintain adequate personnel to assist ~~him~~ THE STATE ENGINEER and the
27 division engineers in arriving at required determinations. ~~Such personnel~~

1 ~~may be~~ Regular employees MAY PROVIDE SUCH ASSISTANCE or, in those
2 cases falling within the purview of subsection (1) of this section, ~~may be~~
3 temporary employees on a contract basis ~~and may perform their work~~
4 ~~jointly or severally as directed by the state engineer~~ PROVIDE SUCH
5 ASSISTANCE.

6 (3) In the same manner ~~as is provided for a hearings section in~~
7 subsection (2) of this section, the state engineer may ~~provide~~ EMPLOY
8 AND MAINTAIN personnel ~~as required~~ to adequately staff any water
9 conservation project provided for by law.

10 (4) The state engineer shall ~~provide~~ EMPLOY AND MAINTAIN
11 appropriate personnel for keeping records and making investigations
12 respecting the performance of the functions of ~~his~~ THE office and shall
13 provide similar personnel IN THE OFFICE OF EACH DIVISION ENGINEER to
14 function under the general direction of ~~his~~ THE STATE ENGINEER'S office.
15 ~~in the offices of each of the division engineers.~~

16 **SECTION 8.** In Colorado Revised Statutes, 37-80-110, **amend**
17 **as it will become effective September 1, 2016**, (1) introductory portion;
18 **repeal** (1) (a), (1) (b), (1) (c), (1) (d), (1) (f), (1) (g), (1) (h), (1) (i), and
19 (2); and **add** (3) as follows:

20 **37-80-110. Fees collected by state engineer - rules.** (1) Fees
21 THE STATE ENGINEER shall ~~be collected by the state engineer~~ COLLECT
22 FEES for work done in his OR HER office as follows:

23 (a) ~~For examination and filing of each map and statement~~
24 ~~describing a claim to a water right, twenty dollars if the amount of water~~
25 ~~claimed does not exceed twenty cubic feet per second of time and an~~
26 ~~additional one dollar for each cubic foot per second of time claimed in~~
27 ~~excess of twenty; but the total collected for examination and filing of each~~

1 claim shall not exceed the sum of one hundred fifty dollars;

2 (b) ~~For examination and filing of each map and statement~~
3 ~~describing a claim to water for storage, twenty dollars for each one~~
4 ~~thousand acre-feet or fraction thereof of storage capacity claimed; but no~~
5 ~~fees shall be charged for amended maps and statements where no~~
6 ~~additional capacity is claimed, and, where additional capacity is claimed,~~
7 ~~the fees shall be charged for such additional capacity as for original~~
8 ~~filings; but the total amount of fees collected for examination and filing~~
9 ~~of each claim on any original or amended map and statement shall not~~
10 ~~exceed the sum of one hundred fifty dollars. In cases where no fee is~~
11 ~~charged for filing a map and statement describing a claim to water, the~~
12 ~~claimant shall pay the required fee for all blueprints or other~~
13 ~~reproductions.~~

14 (c) ~~For filing each judicial decree ordering the transfer of a water~~
15 ~~right or the change of a point of diversion, two dollars;~~

16 (d) ~~For each certificate, other than those which may be required~~
17 ~~in the case of original filings of claims to water rights, requiring official~~
18 ~~signature and seal, two dollars;~~

19 (f) ~~For copies of maps, two dollars for each hour or fraction~~
20 ~~thereof necessary for the making of such copies;~~

21 (g) ~~For each blueprint of a tracing forming a public record, two~~
22 ~~dollars;~~

23 (h) ~~For copies of records, fifty cents a folio;~~

24 (i) ~~For rating any ditch, canal, reservoir inlet or outlet, at the~~
25 ~~request of the owner thereof or of any agent or employee having control~~
26 ~~of the same, twenty-five dollars per day and actual expenses for each day~~
27 ~~actually and necessarily employed by the engineers in making such~~

1 rating.

2 (2) ~~The provisions of this section shall not apply to operations~~
3 ~~conducted under the supervision of the United States for irrigation of~~
4 ~~lands entirely within the state of Colorado.~~

5 (3) (a) THE STATE ENGINEER SHALL SET FEES BY RULE FOR:

6 (I) COPIES, CERTIFIED COPIES, AND MAP AND LARGE-FORMAT
7 PRINTS;

8 (II) THE HYDROGRAPHIC MEASUREMENT OR RATING OF A WATER
9 DIVERSION MEASUREMENT STRUCTURE AS REQUESTED BY ITS OWNER;

10 (III) THE CERTIFICATION OF A WELL METER TESTER, AS REQUIRED
11 BY WELL MEASUREMENT RULES; AND

12 (IV) THE PERFORMANCE OF OTHER DUTIES SET FORTH IN SECTION
13 37-80-102.

14 (b) THE STATE ENGINEER SHALL NOT SET FEES BY RULE FOR THE
15 PERFORMANCE OF DUTIES LISTED UNDER SUBSECTION (1) OF THIS SECTION.

16 **SECTION 9.** In Colorado Revised Statutes, 37-80-111.5, **amend**
17 (1) (c) and (3) as follows:

18 **37-80-111.5. Fees - satellite monitoring system cash fund - well**
19 **inspection cash fund - created.** (1) (c) The state engineer shall set and
20 collect fees by rule ~~and regulation~~ for the use of the equipment and
21 programs of the satellite AND TELEMETRY-BASED monitoring ~~system~~
22 SYSTEMS authorized pursuant to UNDER section 37-80-102 (10). All such
23 fees collected by the state engineer and ~~all~~ ANY other moneys received
24 from whatever source for the satellite AND TELEMETRY-BASED monitoring
25 ~~system~~ SYSTEMS shall be transmitted to the satellite monitoring system
26 cash fund, which fund is hereby created. THE STATE ENGINEER MAY
27 EXPEND moneys in the satellite monitoring system cash fund ~~may be~~

1 ~~expended by the state engineer~~ for the purposes of section 37-80-102 (10)
2 and this paragraph (c), subject to appropriation by the general assembly.

3 (3) Nothing in this section ~~shall be interpreted to require~~ REQUIRES
4 the purchase of any publication referred to in this section.

5 **SECTION 10.** In Colorado Revised Statutes, **amend** 37-80-112
6 as follows:

7 **37-80-112. Report of state engineer.** The state engineer shall
8 report to the executive director of the department of natural resources at
9 such times and on such matters concerning ~~his~~ THE STATE ENGINEER'S
10 office and the division of water resources as the executive director may
11 require.

12 **SECTION 11.** In Colorado Revised Statutes, **amend** 37-80-114
13 as follows:

14 **37-80-114. Deputy state engineer - powers.** (1) The state
15 engineer shall appoint a deputy state engineer, subject to ~~the provisions~~
16 ~~of~~ section 13 of article XII of the state constitution, ~~relating to the state~~
17 ~~personnel system~~, whose duties ~~shall be~~ ARE to assist the state engineer
18 in the administration of ~~his~~ THE STATE ENGINEER'S office. The deputy
19 state engineer has the power to act for the state engineer in all OF his OR
20 HER official duties, including the administration of interstate river
21 compacts, ~~during the absence of~~ WHEN the state engineer ~~from his~~ IS OUT
22 OF THE office or when THE STATE ENGINEER so ~~directed by the state~~
23 ~~engineer~~ DIRECTS THE DEPUTY STATE ENGINEER.

24 (2) The salary of the deputy state engineer shall be paid as the
25 salaries of the officers of the executive department of the state are paid.
26 ~~He~~ THE DEPUTY STATE ENGINEER shall also receive reimbursement
27 ~~monthly~~ for the actual necessary expenses incurred in the performance of

1 his OR HER official duties, as THE STATE ENGINEER shall be allotted by the
2 ~~state engineer~~ ALLOT from funds appropriated for ~~such~~ THAT purpose.
3 The controller is authorized to pay warrants for ~~said~~ THE DEPUTY STATE
4 ENGINEER'S salary and expenses upon vouchers approved by the state
5 engineer.

6 (3) ~~The deputy state engineer, before entering on the discharge of~~
7 ~~his duties, shall take and subscribe to an oath before the judge of a state~~
8 ~~court of record to faithfully perform the duties of his office and file said~~
9 ~~oath with the secretary of state, together with his official bond in the~~
10 ~~penal sum of ten thousand dollars. The bond shall be executed by a~~
11 ~~responsible surety company authorized to do business within the state and~~
12 ~~conditioned upon the faithful discharge of the duties of his office.~~

13 **SECTION 12.** In Colorado Revised Statutes, **amend** 37-84-117
14 as follows:

15 **37-84-117. Reservoirs in streams.** (1) The owners of any
16 reservoir ~~situate~~ LOCATED upon or in the bed of any natural stream or
17 through which any natural stream flows, for the purpose of storing or
18 diverting water, at the expense of the owner, shall ~~cause~~ FURNISH a
19 complete survey of the contour lines of ~~said~~ THE reservoir ~~to be made,~~
20 ~~which said survey may be approved by the state engineer~~ FOR THE STATE
21 ENGINEER'S APPROVAL, or, in the discretion of the state engineer, A
22 SURVEY OF THE CONTOUR LINES OF THE RESERVOIR shall be made under
23 the supervision of the state engineer or ~~his~~ THE deputy STATE ENGINEER
24 or the division engineer of the division in which ~~such~~ THE reservoir is
25 located. ~~Said~~ Contour lines ~~shall~~ MUST be ascertained for at least every
26 vertical foot in depth and, ~~in all cases~~ where deemed necessary by the
27 state engineer, for fractions of a foot. ~~There~~ THE OWNERS OF ANY

1 RESERVOIR shall be prepared PREPARE a table to be filed in duplicate with
2 and approved by the state engineer, showing the capacity, of said
3 reservoir, in cubic feet, for each foot in depth or fraction thereof, one OF
4 A FOOT IN DEPTH OF THE RESERVOIR. THE OWNERS OF THE RESERVOIR
5 SHALL FILE A copy of which said THE table shall be furnished to WITH the
6 division engineer in whose division such THE reservoir is situate
7 LOCATED. All maps, plats, field notes, and the table of such reservoir,
8 survey, and capacity TABLES, AND SURVEYS FOR A RESERVOIR shall be
9 filed with and approved by the state engineer and remain a part of the
10 records of his THE STATE ENGINEER'S office.

11 (2) The owners of such A reservoir DESCRIBED IN SUBSECTION (1)
12 OF THIS SECTION, at their own expense, under the supervision and with the
13 approval of the state engineer, shall permanently fix and maintain a gauge
14 rod OR OTHER INSTRUMENT, OR BOTH, AS DIRECTED BY THE STATE
15 ENGINEER, TO MEASURE THE SURFACE ELEVATION OF THE RESERVOIR at
16 or near the outlet of such THE reservoir, marked in feet and tenths and
17 one-hundredths of a foot, and in correspondence with the contour lines,
18 from and by means of which the amount of water stored in or taken from,
19 said THE reservoir may be correctly ascertained. and, at the expense of
20 such THE owners, AT THEIR OWN EXPENSE, and under the supervision and
21 with the approval of the state engineer, shall construct and permanently
22 maintain a suitable and permanent measuring weir or flume STRUCTURE
23 equipped with self-registering devices, according to plans and
24 specifications approved by the state engineer, EITHER in the bed and
25 channel of every natural stream or watercourse discharging waters into
26 said THE reservoir OR ON EACH RELEASE FROM THE RESERVOIR by means
27 of which, IN COMBINATION WITH THE AMOUNT OF WATER STORED, all of

1 the water flowing into ~~said~~ THE reservoir from ~~and through each such~~ THE
2 NATURAL stream or watercourse ~~at all times~~ may be ~~definitely~~
3 DEFINITELY ascertained and determined AT ALL TIMES.

4 (3) (a) ~~Such gauge rods, flumes or weirs, and devices shall be at~~
5 ~~all times~~ ANY INSTRUMENTS OR STRUCTURES DESCRIBED IN SUBSECTION
6 (2) OF THIS SECTION ARE ~~subject and open~~ to inspection AT ALL TIMES by
7 the owner or duly authorized agent or representative of the owners of any
8 appropriation of water from the stream upon or in which ~~such~~ THE
9 reservoir is constructed or operated.

10 (b) ~~Upon the failure or neglect of the owners of any such~~ THE
11 STATE ENGINEER OR DIVISION ENGINEER MAY REFUSE TO ALLOW ANY
12 WATER TO BE TAKEN INTO OR DIVERTED FROM A reservoir IF:

13 (I) THE OWNERS OF THE RESERVOIR FAIL to construct or
14 permanently maintain ~~such gauge rods, measuring flumes, or weirs~~ ANY
15 REQUIRED INSTRUMENTS OR STRUCTURES, equipped as ~~provided~~
16 DESCRIBED in SUBSECTION (2) OF this section; or

17 (II) ~~upon the failure or neglect of such owners~~ AFTER THIRTY
18 DAYS FROM THE DATE UPON WHICH THE STATE ENGINEER OR DIVISION
19 ENGINEER HAS PROVIDED WRITTEN NOTICE TO THE OWNERS OR THEIR
20 AGENTS OR EMPLOYEES DIRECTING THE OWNERS TO MAKE A CONTOUR
21 SURVEY, AS DESCRIBED IN SUBSECTION (1) OF THIS SECTION, THE OWNERS
22 FAIL to cause A complete survey of the contour lines of ~~said~~ THE reservoir
23 to be made. ~~after thirty days' notice in writing, directing such contour~~
24 ~~survey to be made, duly served upon such owners, or their agent or~~
25 ~~employee, by the state engineer or division engineer, the state engineer~~
26 ~~or division engineer shall refuse to allow any water whatsoever to be~~
27 ~~taken into or diverted from or by means of said reservoir.~~

1 (c) ~~When~~ IF suitable ~~weirs, flumes, gauge rods, and measuring~~
2 ~~devices~~ INSTRUMENTS AND STRUCTURES have been installed and equipped
3 AND THE OWNERS, THEIR AGENTS, OR THEIR EMPLOYEES ARE MAKING
4 GOOD-FAITH EFFORTS TO COMPLETE THE CONTOUR SURVEY, the state
5 engineer and division engineer may allow water to be stored in any such
6 reservoir after thirty days have expired after the giving of ~~said~~ notice ~~in~~
7 ~~the event that the survey of said contour lines is then being prosecuted in~~
8 ~~good faith~~ AS DESCRIBED IN SUBPARAGRAPH (II) OF PARAGRAPH (b) OF
9 THIS SUBSECTION (3).

10 (4) ~~Upon complaint in any manner made to~~ IF the state engineer
11 ~~or the~~ A division engineer ~~by~~ RECEIVES FROM the ~~owners~~ OWNER of ~~any~~
12 ~~appropriation of~~ A WATER RIGHT APPROPRIATING water from ~~any~~ A stream
13 upon which ~~any such~~ A reservoir is located, or ~~any~~ A stream of ~~which~~
14 ~~such stream~~ THAT is a tributary ~~charging~~ TO SUCH A STREAM, A
15 COMPLAINT ALLEGING FACTS AGAINST THE OWNERS OF THE RESERVOIR
16 THAT, IF TRUE, WOULD AMOUNT TO a violation of ~~any of the requirements~~
17 ~~of this section,~~ the state engineer or division engineer shall ~~thereupon~~
18 ~~forthwith inquire into the truth of such~~ INVESTIGATE THE complaint and,
19 if the ~~charges~~ ALLEGATIONS are found to be true, shall enforce the
20 provisions of this section.

21 (5) ~~Upon order of~~ The state engineer ~~there shall be released from~~
22 ~~the water in storage in each stream bed reservoir such quantities~~ MAY
23 ORDER THAT AN OWNER OF A RESERVOIR RELEASE AN AMOUNT of water
24 ~~as~~ FROM THE RESERVOIR THAT, in the determination of the state engineer,
25 ~~are~~ IS necessary to prevent evaporation ~~from~~ ON the surface of ~~such~~ THE
26 reservoir from depleting the natural flow of the stream running through
27 ~~such~~ THE reservoir ~~which~~ THAT would otherwise be available for use by

1 other appropriators. In determining the quantity of any evaporation
2 release under this section, the state engineer shall compute the surface
3 evaporation from the reservoir and deduct ~~therefrom~~ FROM THE SURFACE
4 EVAPORATION any accretions to the stream flow resulting from the
5 existence of the reservoir and any natural depletions to the stream flow
6 ~~which~~ THAT would have resulted if the reservoir were not in existence.

7 **SECTION 13.** In Colorado Revised Statutes, **amend** 37-87-103
8 as follows:

9 **37-87-103. Notice of release of stored waters.** The owners of
10 ~~reservoirs~~ OWNER OF A RESERVOIR who ~~avail themselves of the provisions~~
11 ~~of this section and section 37-87-102~~ USES THE RESERVOIR FOR WATER
12 STORAGE shall give reasonable ~~prior~~ notice to the ~~irrigation~~ division
13 engineer of the ~~irrigation~~ division in which the reservoir is located ~~or to~~
14 ~~the chief administrative water official of such irrigation division~~ of the
15 date on which ~~they desire~~ THE RESERVOIR OWNER DESIRES to release
16 stored ~~waters~~ WATER into any natural streams, together with the ~~quantity~~
17 ~~thereof~~ AMOUNT TO BE RELEASED in cubic feet per second, ~~of time,~~ the
18 ~~length of period to be covered by such~~ DURATION OF THE releases, and the
19 name of the ~~ditch, canal, pipeline, or reservoir~~ STRUCTURE OR OTHER
20 LOCATION to which the water ~~so~~ released from storage is to be delivered,
21 to ~~the end that~~ ALLOW the water officials in ~~responsible~~ charge of any
22 stream into which ~~such~~ THE stored water is released ~~shall have ample time~~
23 ~~in which~~ to make AND RECORD the necessary ~~observations~~ measurements
24 of flow and storage ~~and records thereof~~ and to provide for a proper patrol
25 of the ~~said~~ stream, for the protection of the reservoir owner and ~~also~~ all
26 other appropriators along the stream whose interests might be affected as
27 a result of ~~such~~ THE reservoir release. ~~Such notice may be given to the~~

1 ~~division engineer when the reservoir from which the water is to be~~
2 ~~released and the point where the water is to be taken from the stream or~~
3 ~~again stored are in the same water district.~~

4 **SECTION 14.** In Colorado Revised Statutes, **repeal** 37-88-102
5 as follows:

6 **37-88-102. State engineer shall survey, lay out, and locate.** ~~The~~
7 ~~state engineer, under the direction of the department of corrections, shall~~
8 ~~survey, lay out, and locate a ditch or canal upon the most feasible route~~
9 ~~on either side of the Arkansas river, which said ditch or canal shall be of~~
10 ~~sufficient capacity to cover at least thirty thousand acres of good arable~~
11 ~~land between Canon City and Pueblo; but work shall only be commenced~~
12 ~~and performed upon one main ditch, canal, reservoir, or feeder at a time,~~
13 ~~and a second shall not be commenced until the completion of the first.~~

14 **SECTION 15.** In Colorado Revised Statutes, 37-90-116, **amend**
15 (2) as follows:

16 **37-90-116. Fees.** (2) Departments and agencies of the state of
17 Colorado ~~shall be~~ THAT OWN AND OPERATE WELLS ON STATE LAND ARE
18 exempt from the payment of fees for applications for the use of
19 groundwater or for a permit to construct a well.

20 **SECTION 16.** In Colorado Revised Statutes, 37-92-308, **amend**
21 (4) (a) (III) as follows:

22 **37-92-308. Substitute water supply plans - special procedures**
23 **for review - water adjudication cash fund - legislative declaration -**
24 **repeal.** (4) (a) Beginning January 1, 2002, if an application for approval
25 of a plan for augmentation, rotational crop management contract, or
26 change of water right has been filed with a water court and the court has
27 not issued a decree, the state engineer may approve the temporary

1 operation of such plan, contract, or change of water right as a substitute
2 water supply plan if the following conditions are met:

3 (III) The state engineer has given those to whom notice was
4 provided ~~thirty~~ THIRTY-FIVE days after the date of mailing of ~~such~~ THE
5 notice to file comments on the substitute water supply plan. ~~Such~~ THE
6 comments ~~shall~~ MUST include any claim of injury, any terms and
7 conditions that should be imposed upon the plan to prevent injury to an
8 opposer's water rights or decreed conditional water rights, and any other
9 information an opposer wishes the state engineer to consider in reviewing
10 the substitute water supply plan request.

11 **SECTION 17.** In Colorado Revised Statutes, 37-92-401, **amend**
12 (1) (b), (1) (c), (2), and (4) as follows:

13 **37-92-401. Tabulations of priorities and decennial**
14 **abandonment lists.** (1) (b) In determining the priority of a water right
15 in relation to other water rights deriving their supply from the same
16 common source, the following procedures and definitions ~~shall~~ apply:

17 (I) A common source means and includes all of those waters in a
18 water division, either surface or underground, ~~which~~ THAT if left in their
19 natural state would join together to form a single natural watercourse
20 ~~prior to exit from~~ BEFORE EXITING the water division.

21 (II) As among water rights decreed in the same water district in
22 the same adjudication suit, the historic date of initiation of appropriation
23 ~~shall determine~~ DETERMINES the relative priorities, beginning with the
24 earliest right.

25 (III) As among water rights decreed in the same water district in
26 different adjudication suits, all water rights decreed in an adjudication suit
27 ~~shall be~~ ARE senior to all water rights decreed in any subsequent

1 adjudication suit.

2 (IV) As among water rights decreed in the various original
3 adjudication suits in the various water districts of the same water division,
4 the decreed date of initiation of appropriation ~~shall determine~~
5 DETERMINES the relative priorities in numbered sequence, beginning with
6 the earliest right.

7 (V) As among water rights decreed in the various supplemental
8 adjudication suits in the various water districts of the same water division,
9 the actual priority date of any decree in any district ~~shall~~ DOES not extend
10 back further than the day following the entry of the final decree in the
11 preceding adjudication suit in ~~such~~ THE district.

12 (VI) If, in the preparation of the tabulations provided for in this
13 section, the application of the preceding principles would cause in any
14 particular case a substantial change in the priority of a particular water
15 right to the extent ~~theretofore~~ THE RIGHT WAS lawfully enjoyed for a
16 period of not less than eighteen years, then the division engineer shall
17 designate the priority for that water right in accordance with historic
18 practice. In no event ~~shall the provisions of~~ DOES this subparagraph (VI)
19 entitle a water right to a priority senior to its actual date of initial
20 appropriation or to freedom from regulation and administration in the
21 priority system.

22 (c) In making his OR HER determinations with respect to
23 abandonment, the division engineer shall investigate the circumstances
24 relating to each water right for which the available water has not been
25 fully applied to a beneficial use and ~~in such cases~~ shall be guided by the
26 criteria set out in section 37-92-402 (11). The decennial abandonment list,
27 when concluded by judgment and decree as provided in this section, ~~shall~~

1 ~~be~~ IS conclusive as to absolute water rights or portions thereof determined
2 to have been abandoned.

3 (2) (a) The state engineer and the respective division engineer
4 shall make a copy of the tabulation available for inspection in their offices
5 at any time during regular office hours, as well as on the state engineer's
6 web site, and shall ~~make~~ PROVIDE A COPY OF the tabulation ~~available for~~
7 ~~purchase~~ for a fee of ~~ten dollars~~ AS SET FORTH IN SECTION 37-80-110 (3)
8 (a).

9 (b) No later than July 31, 1990, and every tenth anniversary
10 thereafter, the division engineer shall mail a copy of the respective
11 decennial abandonment list by certified mail, return receipt requested, to
12 the owner or last-known owner or claimant, if known, of every absolute
13 water right which the division engineer has found to have been
14 abandoned in whole or in part. The division engineer shall make ~~such~~ AN
15 APPROPRIATE examination ~~as is reasonably appropriate~~ to determine the
16 owner or claimant of such absolute water rights. ~~He~~ THE DIVISION
17 ENGINEER shall also ~~cause publication to be made of~~ PUBLISH the
18 respective portion of the decennial abandonment list in each county in
19 which the points of diversion of any absolute water rights on the list are
20 located. ~~Such~~ IF POSSIBLE, publication shall be ~~made~~ CONTINUED for four
21 successive weeks ~~and shall be published, if possible,~~ in a newspaper
22 published in the county where the decreed point of diversion of the water
23 right is located. The publication and mailing requirements of this
24 paragraph (b) shall apply only to absolute water rights or portions thereof
25 which previously have not been adjudged to have been abandoned.

26 (4) (a) Not later than December 31, 1991, and every tenth
27 anniversary thereafter, the division engineer shall make ~~such~~ revisions,

1 if any, as he OR SHE deems proper to the decennial abandonment list. In
2 considering the matters raised by statements of objection, the division
3 engineer may consult with any interested ~~persons~~ PERSON. The division
4 engineer shall consult with the state engineer and shall make any
5 revisions in the decennial abandonment list determined by the state
6 engineer to be necessary or advisable.

7 (b) Repealed.

8 (c) The division engineer shall file the decennial abandonment
9 list, together with any revisions, signed by the division engineer and the
10 state engineer or his or her duly authorized deputy, with the water clerk
11 as promptly as possible, but not later than December 31, 1991, and every
12 tenth anniversary thereafter. Each respective division engineer, water
13 clerk, and the state engineer shall make a copy of the decennial
14 abandonment list, together with any revisions, available for inspection in
15 their offices at any time during regular office hours, as well as on the state
16 engineer's web site, and the division engineer shall furnish or mail a copy
17 to anyone requesting a copy upon payment of a fee in an amount set in
18 ACCORDANCE WITH section ~~37-80-110 (1) (h)~~ 37-80-110 (3) (a).

19 (d) If the decennial abandonment list is revised, the water clerk,
20 in cooperation with the division engineer, not later than January 31, 1992,
21 and every tenth anniversary thereafter, shall cause notice of the
22 availability of ~~such~~ THE revision to be included in the resume described
23 in section 37-92-302 (3) of cases filed in the respective water divisions
24 during ~~said~~ THE month of December stating that the revision may be
25 inspected or a copy thereof obtained as specified in paragraph (c) of this
26 subsection (4). In addition, the water clerk shall ~~cause such publication~~
27 ~~of~~ PUBLISH the notice as is necessary to obtain general circulation once

1 in each county or portion thereof which is in the division.

2 **SECTION 18. Act subject to petition - effective date -**
3 **applicability.** (1) This act takes effect at 12:01 a.m. on the day following
4 the expiration of the ninety-day period after final adjournment of the
5 general assembly (August 10, 2016, if adjournment sine die is on May 11,
6 2016); except that, if a referendum petition is filed pursuant to section 1
7 (3) of article V of the state constitution against this act or an item, section,
8 or part of this act within such period, then the act, item, section, or part
9 will not take effect unless approved by the people at the general election
10 to be held in November 2016 and, in such case, will take effect on the
11 date of the official declaration of the vote thereon by the governor.

12 (2) This act applies to fees owed on or after the applicable
13 effective date of this act.

14