

Second Regular Session
Seventieth General Assembly
STATE OF COLORADO

DRAFT
10.9.15

BILL 7

LLS NO. 16-0295 Jennifer Berman x3286

INTERIM COMMITTEE BILL

Water Resources Review Committee

BILL TOPIC: "Small-scale Precipitation Collection"

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>.)

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

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

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

15 **37-82-202. Applicability of part.** (1) THIS PART 2 APPLIES TO ALL
16 PRECIPITATION WITHIN THE BORDERS OF THE STATE EXCEPT FOR
17 PRECIPITATION THAT IS COLLECTED AND ADMINISTERED IN ACCORDANCE
18 WITH SECTION

19 (2) NOTHING IN THIS PART 2 LIMITS A PERSON'S RIGHT TO COLLECT
20 PRECIPITATION UNDER A PLAN FOR AUGMENTATION THAT A WATER COURT
21 HAS APPROVED IN ACCORDANCE WITH SECTION 37-92-305 OR A
22 SUBSTITUTE WATER SUPPLY PLAN THAT THE STATE ENGINEER HAS
23 APPROVED IN ACCORDANCE WITH SECTION 37-92-308.

24 **37-82-203. Small-scale residential precipitation collection.**

25 (1) A WATER PROVIDER MAY ALLOW A RESIDENTIAL CUSTOMER SERVED
26 BY THE WATER PROVIDER TO INSTALL AND UTILIZE UP TO TWO
27 CONTAINERS TO COLLECT PRECIPITATION THAT RUNS OFF OF THE

1 CUSTOMER'S RESIDENTIAL ROOFTOP, SUBJECT TO THE FOLLOWING
2 CONDITIONS AND LIMITATIONS:

3 (a) THE CUSTOMER'S BUILDING IS SOLELY RESIDENTIAL AND
4 CONTAINS FOUR OR FEWER UNITS;

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

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

9 (d) THE RESIDENTIAL CUSTOMER IS SOLELY RESPONSIBLE FOR
10 MAINTAINING THE CONTAINER IN A SANITARY CONDITION. THE
11 RESIDENTIAL CUSTOMER SHALL TAKE NECESSARY PRECAUTIONS TO KEEP
12 MOSQUITOES AND OTHER INSECTS, BIRDS, RODENTS, OR OTHER ANIMALS
13 FROM GETTING INSIDE THE CONTAINER. THE OWNER OF THE CONTAINER
14 SHALL COMPLY WITH ALL RULES, GUIDELINES, OR OTHER STANDARDS
15 PERTINENT TO THE OUTDOOR STORAGE OF WATER, AS ESTABLISHED BY
16 THE COLORADO DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT OR
17 ANY LOCAL PUBLIC HEALTH AGENCY.

18 (2) EACH WATER PROVIDER THAT ALLOWS PRECIPITATION
19 COLLECTION IS ENCOURAGED TO PROVIDE A MECHANISM FOR A
20 RESIDENTIAL CUSTOMER TO EASILY, AND AT NO COST TO THE RESIDENTIAL
21 CUSTOMER, REGISTER HIS OR HER USE OF A PRECIPITATION COLLECTION
22 CONTAINER WITH THE WATER PROVIDER. A WATER PROVIDER THAT
23 PROVIDES A REGISTRATION MECHANISM SHOULD SHARE THE AGGREGATE
24 REGISTRATION DATA, OMITTING ANY PERSONAL INFORMATION ABOUT
25 SPECIFIC CUSTOMERS, WITH THE DIRECTOR OF RESEARCH OF THE
26 LEGISLATIVE COUNCIL TO ASSIST WITH THE DIRECTOR'S REVIEW
27 CONDUCTED UNDER SECTION 37-82-205.

1 **37-82-204. Depletions to be replaced.** (1) THE COLLECTION OF
2 PRECIPITATION FROM A RESIDENTIAL ROOFTOP IN ACCORDANCE WITH
3 SECTION 37-82-203 IS A DIVERSION OF THE WATERS OF THIS STATE. TO
4 PREVENT INJURY TO WATER RIGHTS, A WATER PROVIDER WHO AUTHORIZES
5 PRECIPITATION COLLECTION WITHIN ITS SERVICE AREA MUST REPLACE
6 PRECIPITATION COLLECTED BY ITS RESIDENTIAL CUSTOMERS IN ONE OF
7 THE FOLLOWING MANNERS:

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

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

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

23 **37-82-205. Review by the director of research of the legislative**
24 **council.** (1) COMMENCING IN 2018, AND EVERY TWO YEARS THEREAFTER,
25 THE DIRECTOR OF RESEARCH OF THE LEGISLATIVE COUNCIL, OR HIS OR HER
26 DESIGNEE, SHALL REVIEW THE IMPLEMENTATION OF THIS PART 2,
27 UTILIZING ANY DATA PROVIDED BY WATER PROVIDERS ON RESIDENTIAL

1 CUSTOMER USAGE OF PRECIPITATION COLLECTION CONTAINERS WITHIN
2 THEIR SERVICE AREA TO DETERMINE:

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

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

7 (c) FOR THE TWO YEARS PRECEDING THE REVIEW, THE ESTIMATED
8 AMOUNT OF PRECIPITATION COLLECTED BY COLORADO RESIDENTS UNDER
9 THIS PART 2.

10 (2) THE DIRECTOR OF THE LEGISLATIVE COUNCIL, OR HIS OR HER
11 DESIGNEE, SHALL REPORT THE FINDINGS OF THE REVIEW CONDUCTED
12 UNDER SUBSECTION (1) OF THIS SECTION TO THE WATER RESOURCES
13 REVIEW COMMITTEE, CREATED IN SECTION 37-98-102, ON OR BEFORE
14 NOVEMBER 1, 2018, AND ON OR BEFORE NOVEMBER 1 OF EACH
15 EVEN-NUMBERED YEAR THEREAFTER.

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