



**Colorado
Legislative
Council
Staff**

Bill 8

FISCAL NOTE

FISCAL IMPACT: State Local Statutory Public Entity Conditional No Fiscal Impact

Drafting Number: LLS 16-0297
Prime Sponsor(s):

Date: October 23, 2015
Bill Status: Interim Water Resources Review
Committee Bill Request
Fiscal Analyst: Clare Pramuk, (303) 866-2677

BILL TOPIC: PROHIBIT UNAUTHORIZED WATER DIVERSIONS

Fiscal Impact Summary	FY 2016-2017	FY 2017-2018
State Revenue		
State Expenditures	Minimal increase in workload.	
FTE Position Change		
Appropriation Required: None		
Future Year Impacts: None.		

Summary of Legislation

Under current law, if the supply from a water source is not sufficient to meet all existing water rights on that source, the source is subject to administration, and one or more junior water right holders are required to restrict their water use. This bill, **requested by the Water Resources Review Committee**, specifies that when a source of water is subject to administration, a person who takes more than 50 gallons of water from that source without a water right is guilty of a misdemeanor. Penalties include a fine of \$50 to \$750 or imprisonment in a county jail for up to 90 days. The offender is also required to make full restitution to the victim. A peace officer and the appropriate district attorney may enforce the prohibitions in this bill.

State Expenditures

This bill is expected to have a minimal impact on workload for the Department of Natural Resources. Staff from the Division of Water Resources (DWR) may be required to testify in court in cases brought for the theft of water. If Colorado Parks and Wildlife (CPW) law enforcement staff encounter water theft, they will enforce the bill requirements. Neither the increased workload for DWR or CPW are expected to require additional appropriations.

Local Government Impact

This bill will increase workload and costs for local law enforcement officers who arrest, and district attorneys who investigate and prosecute, people who steal more than 50 gallons of water. The fiscal note assumes that these increases will be minimal. County courts that impose fines will keep that additional revenue but may have additional costs as noted below.

Misdemeanor offenses in county courts. To the extent that this bill increases misdemeanor convictions and offenders are sentenced to jail, costs will increase. Because the courts have the discretion of incarceration or imposing a fine, the precise impact at the local level cannot be determined. The cost to house an offender in county jails varies from about \$53 to \$114 per day. For the current fiscal year, the state reimburses county jails at a daily rate of \$52.74 to house state inmates. It is assumed that the impact of this bill will be minimal.

Comparable Crime

Colorado law requires Legislative Council Staff to include certain information in the fiscal note for any bill that creates a new crime, changes the classification of an existing crime, or changes an element of the existing crime that creates a new factual basis for the offense. This bill clarifies that taking 50 gallons or more of water from an administered water source is a misdemeanor under current law. To date, no charges have been brought under the water theft statute. For this reason, no information about the gender or minority status of offenders are available.

Effective Date

The bill takes effect August 10, 2016, if the General Assembly adjourns on May 11, 2016, as scheduled, and no referendum petition is filed.

State and Local Government Contacts

Counties	District Attorneys	Judicial
Law	Municipalities	Natural Resources
Public Safety	Revenue	Sheriffs