



Legislative  
Council Staff

*Nonpartisan Services for Colorado's Legislature*

HB 19-1218

# FISCAL NOTE

**Drafting Number:** LLS 19-0327  
**Prime Sponsors:** Rep. Roberts

**Date:** March 20, 2019  
**Bill Status:** House Energy & Environment  
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**Bill Topic:** LOANED WATER FOR INSTREAM FLOWS TO IMPROVE ENVIRONMENT

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**Summary of Fiscal Impact:**

<input type="checkbox"/> State Revenue	<input type="checkbox"/> TABOR Refund
<input checked="" type="checkbox"/> State Expenditure ( <i>minimal</i> )	<input type="checkbox"/> Local Government
<input type="checkbox"/> State Transfer	<input type="checkbox"/> Statutory Public Entity

The bill expands the number of years within a ten-year period that water loaned for instream flow purposes may be exercised from three years to five years and allows a loan to be renewed for up to two additional ten-year periods. This will minimally increase state workload on an ongoing basis.

**Appropriation Summary:** No appropriation is required.

**Fiscal Note Status:** The fiscal note reflects the introduced bill.

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## Summary of Legislation

Under current law, the Colorado Water Conservation Board (CWCB) in the Department of Natural Resources (DNR) may use loaned water for instream flows if the loaned water is used for preserving the natural environment of a stream reach that is subject to a decreed instream flow water right held by the CWCB. The bill expands the number of years within a ten-year period that a loan may be exercised from three years to five years, and allows a loan to be renewed by the State Engineer in the DNR for up to two additional ten-year periods. If an agreement has not been exercised during the term of any ten-year period of the agreement, an applicant may reapply one additional time. The bill also expands the CWCB's ability to use loaned water for instream flows to allow loans to:

- improve the natural environment to a reasonable degree pursuant to a decreed instream flow water right held by the CWCB; or
- preserve or improve the natural environment to a reasonable degree for a stream reach for which the CWCB does not hold a decreed instream flow water right.

The CWCB is required to promulgate rules for reviewing and accepting loans for instream flow use to preserve or improve the natural environment to a reasonable degree and to require that the CWCB request and review a biological analysis performed by Colorado Parks and Wildlife (CPW) in the DNR.

## State Expenditures

This bill will minimally increase workload for the DNR and Judicial Department as explained below.

**DNR - CWCB.** The CWCB will have an increase in workload to update its rules and may process additional temporary loans of water, but this workload can be accomplished within existing appropriations.

**DNR - CPW.** The CPW currently performs biological analyses for permanent instream flow acquisitions. The bill is expected to increase the volume of biological analyses, but the increase can be accomplished within existing appropriations.

**Judicial Department.** Decisions made by the CWCB may create work for Colorado water courts through an increase in the number of water rights applications and appeals of State Engineer decisions. This increase is expected to be minimal and can be accomplished within existing court appropriations.

## Effective Date

The bill takes effect August 2, 2019, if the General Assembly adjourns on May 3, 2019, as scheduled, and no referendum petition is filed.

## State and Local Government Contacts

Information Technology

Judicial

Law

Natural Resources