



Legislative  
Council Staff

*Nonpartisan Services for Colorado's Legislature*

HB 19-1218

# FINAL FISCAL NOTE

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

**Date:** May 30, 2019  
**Bill Status:** Postponed Indefinitely  
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**Bill Topic:** LOANED WATER FOR INSTREAM FLOWS TO IMPROVE ENVIRONMENT

**Summary of  
Fiscal Impact:**

- State Revenue
- State Expenditure (*minimal*)
- State Transfer
- TABOR Refund
- Local Government
- 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 reengrossed bill. This bill was not enacted into law; therefore, the impacts identified in this analysis do not take effect.

## 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 improve the natural environment to a reasonable degree pursuant to a decreed instream flow water right held by the CWCB.

The CWCB is required to promulgate rules for reviewing and accepting loans and to require that the CWCB request and review a biological analysis performed by Colorado Parks and Wildlife (CPW) in the DNR. In an appeal of the determination of the state engineer to the water court, the applicant has the burden of proof that the loaned water right does not cause injury to other vested or conditionally decreed water rights.

## 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 was postponed indefinitely by the Senate Agriculture and Natural Resources Committee on April 17, 2019.

## State and Local Government Contacts

Information Technology

Judicial

Law

Natural Resources