

Second Regular Session
Seventy-third General Assembly
STATE OF COLORADO

INTRODUCED

LLS NO. 22-0535.01 Richard Sweetman x4333

SENATE BILL 22-114

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A BILL FOR AN ACT

101 **CONCERNING FIRE SUPPRESSION PONDS.**

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://leg.colorado.gov>.)

Section 1 of the bill makes legislative findings and declarations. **Section 2** allows a board of county commissioners (board) to apply to the state engineer for the designation of a pond as a fire suppression pond. The director of the division of fire prevention and control (director) in the department of public safety is required to promulgate rules to establish criteria for boards, in consultation with fire protection districts, to use to identify and evaluate potential fire suppression ponds. For each pond that is identified and under consideration as a potential fire suppression pond,

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
*Capital letters or bold & italic numbers indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.*

a board must provide notice of such fact to the state engineer and to interested parties included in the substitute water supply plan notification list established for the water division in which the pond is located.

Section 2 also prohibits the state engineer from draining any pond:

- While the pond is under consideration for designation as a fire suppression pond;
- If the state engineer has designated the pond as a fire suppression pond; or
- On and after the effective date of the bill, and until the date upon which the director promulgates rules, with exceptions.

Section 2 also states that a fire suppression pond and the water associated with it:

- Are not considered a water right;
- Do not have a priority for the purpose of determining water rights; and
- May not be adjudicated as a water right.

Section 3 requires the state engineer to review applications received from boards and, at the state engineer's discretion, designate ponds as fire suppression ponds. An application is presumed to be approved if the state engineer does not respond to the application within 63 days after the application is received by the state engineer. The state engineer may not designate any pond as a fire suppression pond unless the pond existed as of January 1, 1975.

Section 3 also allows the state engineer to impose reasonable requirements on a board as a condition of designating a pond as a fire suppression pond and requires a board and a fire protection district to inspect a fire suppression pond at least annually.

The designation of a pond as a fire suppression pond expires 20 years after the date of the designation. Before the expiration, the board and the fire protection district must perform a needs assessment of the pond. If the needs assessment demonstrates that the pond is in compliance with criteria established in the director's rules, the board and fire protection district shall notify the state engineer of such fact, and the state engineer shall redesignate the pond as a fire suppression pond. If the needs assessment demonstrates that the pond is not in compliance with the criteria, the board and fire protection district may either:

- Notify the state engineer that the designation of the pond as a fire suppression pond should be rescinded or allowed to expire; or
- Provide to the state engineer a plan and a timeline for bringing the pond back into compliance with such criteria.

Section 4 states that the designation of fire suppression ponds by the state engineer does not cause material injury to vested water rights.

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

2 **SECTION 1. Legislative declaration.** (1) The general assembly
3 finds that:

4 (a) Colorado is facing a wildfire crisis;

5 (b) In 2020, Colorado experienced three of the largest wildfires
6 in its history, and in 2021, the Marshall fire broke yet another record,
7 becoming the most destructive fire in Colorado history by burning more
8 than one thousand homes worth five hundred million dollars in total;

9 (c) These four recent and catastrophic wildfires burned more than
10 six hundred thousand acres, causing significant devastation and property
11 loss;

12 (d) The Colorado state forest service and the front range
13 watershed wildfire protection working group have found that
14 high-severity fires can significantly impact water quality and watershed
15 conditions;

16 (e) Recent fires have tended to be much larger and more severe
17 than those in the past, and as such, have severely damaged soils and
18 watersheds, leading to heavy erosion and sediment damage in streams;
19 and

20 (f) Functional watersheds are vital for water quality and healthy
21 ecosystems and to protect water resources from post-fire flood damage.

22 (2) The general assembly also finds that:

23 (a) More resources are needed for wildfire mitigation to reduce
24 fire risk and to keep fires from becoming large and catastrophic;

25 (b) Although Colorado is committed to taking meaningful action
26 to mitigate wildfires, several remote areas in the state lack sufficient

- 1 resources to suppress fires without external support;
- 2 (c) In emergency situations, rapid action is vital and any delay
3 increases the risk of a fire becoming catastrophic;
- 4 (d) In the past, the general assembly has recognized the need to
5 use any and all available water resources in a fire event, and current law
6 grants the right for emergency use of wells and other water resources;
- 7 (e) It is a shared principle throughout the state that using water
8 resources to preserve life and property in emergencies is a priority over
9 consideration of water rights;
- 10 (f) When water is not available in close proximity, firefighters
11 may also rely on nearby ponds to fill fire trucks and suppress fires as
12 quickly as possible;
- 13 (g) Existing ponds in Colorado have proven to be critical fire
14 suppression resources, particularly in remote areas that are not equipped
15 with other fire suppression resources such as fire hydrants;
- 16 (h) Due to loss of water from evaporation, the state engineer is
17 identifying and ordering the drainage of ponds that do not have storage
18 rights associated with them;
- 19 (i) Some ponds that are subject to drainage may be critical
20 firefighting resources for remote, high-risk areas of Colorado, and if such
21 ponds are drained, firefighters could be left ill-equipped to respond to and
22 suppress fires;
- 23 (j) A process is necessary to preserve ponds that are deemed
24 critical for firefighting purposes; and
- 25 (k) Preserving fire suppression ponds will help:
- 26 (I) Ensure resources are available to help keep communities safe
27 in the event of structure fires, grassland fires, and other fire emergencies;

1 and

2 (II) Keep fires from becoming large and thereby protect lives,
3 homes, critical watersheds, water supply assets, infrastructure, and key
4 ecological and wildlife resources.

5 (3) Therefore, the general assembly declares that it is in the public
6 interest to create a process to identify, designate, and preserve critical fire
7 suppression ponds.

8 **SECTION 2.** In Colorado Revised Statutes, **add** 37-82-107 as
9 follows:

10 **37-82-107. Fire suppression ponds - legislative declaration -**
11 **needs assessment - notice of consideration required - restriction on**
12 **draining of ponds - rules - no water right created - repeal.** (1) THE
13 GENERAL ASSEMBLY HEREBY DECLARES THAT FIRE SUPPRESSION PONDS
14 ARE ESSENTIAL FOR THE PROTECTION OF PUBLIC SAFETY AND WELFARE,
15 PROPERTY, AND THE ENVIRONMENT.

16 (2) A BOARD OF COUNTY COMMISSIONERS, IN CONSULTATION WITH
17 ITS FIRE PROTECTION DISTRICT, MAY APPLY TO THE STATE ENGINEER
18 PURSUANT TO SECTION 37-80-124 FOR THE DESIGNATION OF A POND
19 WITHIN THE BORDERS OF THE COUNTY AS A FIRE SUPPRESSION POND.

20 (3) (a) BEFORE APPLYING FOR THE DESIGNATION OF A POND AS A
21 FIRE SUPPRESSION POND, A BOARD OF COUNTY COMMISSIONERS, IN
22 CONSULTATION WITH ITS FIRE PROTECTION DISTRICT, SHALL:

23 (I) IDENTIFY PONDS IN LOCATIONS WHERE THE OUTBREAK OF A
24 FIRE COULD RESULT IN A MAJOR WILDFIRE DISASTER; AND

25 (II) PERFORM A NEEDS ASSESSMENT OF EACH SUCH POND, WHICH
26 NEEDS ASSESSMENT SHALL BE COMPLETED WITHIN ONE YEAR AFTER THE
27 BOARD PROVIDES THE NOTICE DESCRIBED IN SUBSECTION (4) OF THIS

1 SECTION.

2 (b) IN PERFORMING A NEEDS ASSESSMENT PURSUANT TO
3 SUBSECTION (3)(a)(II) OF THIS SECTION, A BOARD OF COUNTY
4 COMMISSIONERS, IN CONSULTATION WITH ITS FIRE PROTECTION DISTRICT,
5 SHALL:

6 (I) IDENTIFY THE REFILL MECHANISM OF THE POND, WHETHER BY:

7 (A) GROUNDWATER;

8 (B) DIVERSION ON THE STREAM CHANNEL;

9 (C) DIVERSION OFF THE STREAM CHANNEL; OR

10 (D) WELL; AND

11 (II) APPLY THE CRITERIA ESTABLISHED PURSUANT TO RULES
12 PROMULGATED BY THE DIRECTOR OF THE DIVISION OF FIRE PREVENTION
13 AND CONTROL PURSUANT TO SUBSECTION (9) OF THIS SECTION.

14 (4) (a) FOR EACH POND THAT IS IDENTIFIED AND UNDER
15 CONSIDERATION AS A POTENTIAL FIRE SUPPRESSION POND PURSUANT TO
16 SUBSECTION (3) OF THIS SECTION, A BOARD OF COUNTY COMMISSIONERS
17 SHALL PROVIDE NOTICE OF SUCH FACT TO:

18 (I) THE STATE ENGINEER; AND

19 (II) INTERESTED PARTIES INCLUDED IN THE SUBSTITUTE WATER
20 SUPPLY PLAN NOTIFICATION LIST ESTABLISHED PURSUANT TO SECTION
21 37-92-308 (6) FOR THE WATER DIVISION IN WHICH THE POND IS LOCATED.

22 (b) THE NOTICE DESCRIBED IN SUBSECTION (4)(a) OF THIS SECTION
23 MUST INDICATE:

24 (I) THE TIMELINE OF THE NEEDS ASSESSMENT ASSOCIATED WITH
25 THE POND PURSUANT TO SUBSECTION (3) OF THIS SECTION;

26 (II) THE LOCATION OF THE POND;

27 (III) THE APPROXIMATE SURFACE AREA OF THE POND; AND

1 (IV) THE WATER REFILL MECHANISM OF THE POND, WHETHER BY:

2 (A) GROUNDWATER;

3 (B) DIVERSION ON THE STREAM CHANNEL;

4 (C) DIVERSION OFF THE STREAM CHANNEL; OR

5 (D) WELL.

6 (5) DURING THE THIRTY-FIVE DAYS FOLLOWING THE ISSUANCE OF
7 THE NOTICE DESCRIBED IN SUBSECTION (4) OF THIS SECTION, INTERESTED
8 PERSONS MAY SUBMIT COMMENTS TO THE BOARD OF COUNTY
9 COMMISSIONERS AND THE STATE ENGINEER CONCERNING THE POTENTIAL
10 DESIGNATION OF THE POND AS A FIRE SUPPRESSION POND PURSUANT TO
11 SECTION 37-80-124.

12 (6) IF A POND IS LOCATED IN WHOLE OR IN PART UPON PRIVATE
13 PROPERTY, A BOARD OF COUNTY COMMISSIONERS SHALL ACQUIRE THE
14 VOLUNTARY WRITTEN APPROVAL OF EACH OWNER OF PRIVATE PROPERTY
15 THAT ABUTS THE POND BEFORE THE BOARD APPLIES TO THE STATE
16 ENGINEER FOR THE DESIGNATION OF THE POND AS A FIRE SUPPRESSION
17 POND.

18 (7) IF A BOARD OF COUNTY COMMISSIONERS NOTIFIES THE STATE
19 ENGINEER PURSUANT TO SUBSECTION (4) OF THIS SECTION THAT A POND IS
20 UNDER CONSIDERATION AS A FIRE SUPPRESSION POND, THE BOARD SHALL
21 NOTIFY THE STATE ENGINEER PROMPTLY IF AND WHEN THE POND IS NO
22 LONGER UNDER SUCH CONSIDERATION.

23 (8) NOTWITHSTANDING ANY PROVISION OF LAW TO THE
24 CONTRARY, EXCEPT AS MAY BE REQUIRED TO ADDRESS DAM SAFETY
25 CONCERNS, THE STATE ENGINEER SHALL NOT ORDER ANY POND TO BE
26 DRAINED OR BACKFILLED OR PROCEED WITH ANY EXISTING ORDER TO
27 DRAIN OR BACKFILL A POND:

1 (a) IF THE STATE ENGINEER HAS RECEIVED NOTICE PURSUANT TO
2 SUBSECTION (4) OF THIS SECTION THAT THE POND IS UNDER
3 CONSIDERATION BY A BOARD OF COUNTY COMMISSIONERS FOR
4 DESIGNATION AS A FIRE SUPPRESSION POND, DURING THE PENDENCY OF
5 THAT CONSIDERATION;

6 (b) IF THE STATE ENGINEER HAS DESIGNATED THE POND AS A FIRE
7 SUPPRESSION POND PURSUANT TO SECTION 37-80-124; OR

8 (c) (I) ON AND AFTER THE EFFECTIVE DATE OF THIS SECTION, AND
9 UNTIL THE DATE UPON WHICH THE DIRECTOR OF THE DIVISION OF FIRE
10 PREVENTION AND CONTROL PROMULGATES RULES PURSUANT TO
11 SUBSECTION (9) OF THIS SECTION; EXCEPT THAT, DURING SUCH TIME, THE
12 STATE ENGINEER MAY ENFORCE AN ORDER TO DRAIN A POND, WHICH
13 ORDER EXISTS ON THE EFFECTIVE DATE OF THIS SECTION, IF THE STATE
14 ENGINEER FIRST PROVIDES NOTICE OF THE ORDER TO THE BOARD OF
15 COUNTY COMMISSIONERS OF THE COUNTY IN WHICH THE POND IS LOCATED
16 AND ALLOWS THE BOARD FOURTEEN DAYS TO RESPOND.

17 (II) THIS SUBSECTION (8)(c) IS REPEALED, EFFECTIVE JULY 1, 2023.

18 (9) (a) ON OR BEFORE MAY 1, 2023, THE DIRECTOR OF THE
19 DIVISION OF FIRE PREVENTION AND CONTROL IN THE DEPARTMENT OF
20 PUBLIC SAFETY, PURSUANT TO THE DIRECTOR'S AUTHORITY UNDER
21 SECTION 24-33.5-1203.5, SHALL PROMULGATE RULES ESTABLISHING
22 CRITERIA FOR BOARDS OF COUNTY COMMISSIONERS, IN CONSULTATION
23 WITH FIRE PROTECTION DISTRICTS, TO USE TO IDENTIFY AND EVALUATE
24 POTENTIAL FIRE SUPPRESSION PONDS, AS DESCRIBED IN SUBSECTION (3) OF
25 THIS SECTION. THE CRITERIA MUST INCLUDE CONSIDERATION OF:

26 (I) WHETHER THE POND IS READILY ACCESSIBLE BY A FIRE
27 DISTRICT, FIRE DEPARTMENT, OR OTHER LOCAL FIREFIGHTING ENTITY;

1 (II) WHETHER THE POND IS LOCATED IN THE WILDLAND-URBAN
2 INTERFACE OR ANOTHER LOCATION THAT FACES AN ELEVATED THREAT OF
3 FIRE RISK;

4 (III) WHETHER THE POND IS LOCATED IN AN AREA WITHOUT
5 TIMELY OR ADEQUATE ACCESS TO FIRE HYDRANTS OR OTHER WATER
6 SUPPLIES AND WHERE THE POND PROVIDES A NEEDED SUPPLY;

7 (IV) THE APPROXIMATE SURFACE AREA OF THE POND;

8 (V) THE MAXIMUM SURFACE AREA OF THE POND, IN ORDER TO
9 LIMIT IMPACTS TO STREAMFLOW THAT MAY RESULT FROM DEPLETIONS
10 FROM THE POND;

11 (VI) WHETHER THE POND IS INCLUDED IN AN EXISTING PLAN FOR
12 AUGMENTATION, AS DEFINED IN SECTION 37-92-103 (9);

13 (VII) WHETHER THE POND IS LOCATED IN A DESIGNATED
14 GROUNDWATER BASIN, AS DESCRIBED IN SECTION 37-92-602 (1); AND

15 (VIII) WHETHER THE POND IS LOCATED IN AN AREA WHERE THE
16 LACK OF AVAILABILITY OF AUGMENTATION WATER OR THE EXCESSIVE
17 COST OF AUGMENTATION WATER PRESENTS A SIGNIFICANT BARRIER TO THE
18 ESTABLISHMENT OF A DECREED PLAN FOR AUGMENTATION, AS DEFINED IN
19 SECTION 37-92-103 (9), BY A LOCAL GOVERNMENT.

20 (b) BEFORE PROMULGATING THE RULES DESCRIBED IN SUBSECTION
21 (9)(a) OF THIS SECTION, THE DIRECTOR OF THE DIVISION OF FIRE
22 PREVENTION AND CONTROL SHALL SOLICIT AND CONSIDER INPUT FROM:

23 (I) THE STATE ENGINEER;

24 (II) LOCAL GOVERNMENTS, INCLUDING COUNTIES;

25 (III) WATER PROVIDERS; AND

26 (IV) FIRE PROTECTION DISTRICTS AND OTHER FIREFIGHTING
27 ENTITIES.

1 (10) NOTWITHSTANDING ANY PROVISION OF LAW TO THE
2 CONTRARY, A FIRE SUPPRESSION POND AND THE WATER ASSOCIATED WITH
3 IT:

4 (a) ARE NOT CONSIDERED A WATER RIGHT, AS DEFINED IN SECTION
5 37-92-103 (12);

6 (b) DO NOT HAVE A PRIORITY, AS DEFINED IN SECTION 37-92-103
7 (10); AND

8 (c) MAY NOT BE ADJUDICATED PURSUANT TO SECTION 37-92-302.

9 **SECTION 3.** In Colorado Revised Statutes, **add** 37-80-124 as
10 follows:

11 **37-80-124. State engineer - designation of fire suppression**
12 **ponds - conditional requirements - inspections - expiration of**
13 **designation - database.** (1) FOR THE PURPOSES OF SECTION 37-82-107,
14 THE STATE ENGINEER SHALL:

15 (a) REVIEW APPLICATIONS RECEIVED FROM BOARDS OF COUNTY
16 COMMISSIONERS CONCERNING THE DESIGNATION OF PONDS AS FIRE
17 SUPPRESSION PONDS; AND

18 (b) AT THE STATE ENGINEER'S DISCRETION, DESIGNATE PONDS AS
19 FIRE SUPPRESSION PONDS.

20 (2) IN CONSIDERING WHETHER TO DESIGNATE A POND AS A FIRE
21 SUPPRESSION POND, THE STATE ENGINEER SHALL CONSIDER WHETHER THE
22 POND SATISFIES THE CRITERIA ESTABLISHED BY RULES PROMULGATED BY
23 THE DIVISION OF FIRE PREVENTION AND CONTROL PURSUANT TO SECTION
24 37-82-107 (9).

25 (3) THE STATE ENGINEER MAY ESTABLISH A STANDARD WRITTEN
26 OR ELECTRONIC FORM FOR BOARDS OF COUNTY COMMISSIONERS TO USE TO
27 APPLY FOR THE DESIGNATION OF A POND AS A FIRE SUPPRESSION POND.

1 (4) IF A BOARD OF COUNTY COMMISSIONERS SUBMITS TO THE
2 STATE ENGINEER AN APPLICATION FOR THE DESIGNATION OF A POND AS A
3 FIRE SUPPRESSION POND PURSUANT TO SECTION 37-82-107, THE
4 APPLICATION IS PRESUMED TO BE APPROVED IF THE STATE ENGINEER DOES
5 NOT RESPOND TO THE APPLICATION WITHIN SIXTY-THREE DAYS AFTER THE
6 APPLICATION IS RECEIVED BY THE STATE ENGINEER.

7 (5) AS A CONDITION OF DESIGNATING A POND AS A FIRE
8 SUPPRESSION POND PURSUANT TO THIS SECTION, THE STATE ENGINEER
9 MAY IMPOSE REASONABLE REQUIREMENTS ON A BOARD OF COUNTY
10 COMMISSIONERS, INCLUDING REQUIREMENTS FOR MEASURING AND
11 RECORDING DEVICES.

12 (6) IF THE STATE ENGINEER DESIGNATES A POND AS A FIRE
13 SUPPRESSION POND PURSUANT TO THIS SECTION, THE BOARD OF COUNTY
14 COMMISSIONERS OF THE COUNTY IN WHICH THE POND IS LOCATED AND THE
15 FIRE PROTECTION DISTRICT SHALL INSPECT THE POND AT LEAST ANNUALLY
16 TO ENSURE THAT:

- 17 (a) THE POND IS PROPERLY MAINTAINED;
- 18 (b) ANY FIREFIGHTING INFRASTRUCTURE ASSOCIATED WITH THE
19 POND IS FUNCTIONAL; AND
- 20 (c) THE APPROXIMATE SURFACE AREA OF THE POND HAS NOT
21 CHANGED.

22 (7) IF THE STATE ENGINEER DENIES AN APPLICATION FOR THE
23 DESIGNATION OF A POND AS A FIRE SUPPRESSION POND, THE STATE
24 ENGINEER SHALL PROVIDE THE APPLICANT BOARD OF COUNTY
25 COMMISSIONERS THE REASONS FOR THE STATE ENGINEER'S DENIAL AND AN
26 OPPORTUNITY TO DISCUSS THE DENIAL WITH THE STATE ENGINEER.

27 (8) (a) THE DESIGNATION OF A POND AS A FIRE SUPPRESSION POND

1 PURSUANT TO THIS SECTION EXPIRES TWENTY YEARS AFTER THE DATE OF
2 THE DESIGNATION.

3 (b) BEFORE THE EXPIRATION OF THE DESIGNATION OF A POND AS
4 A FIRE SUPPRESSION POND, THE BOARD OF COUNTY COMMISSIONERS OF THE
5 COUNTY IN WHICH THE POND IS LOCATED AND THE FIRE PROTECTION
6 DISTRICT SHALL PERFORM A NEEDS ASSESSMENT OF THE POND, AS
7 DESCRIBED IN SECTION 37-82-107 (3).

8 (c) IF THE NEEDS ASSESSMENT DESCRIBED IN SUBSECTION (8)(b) OF
9 THIS SECTION INDICATES THAT THE POND CONTINUES TO SATISFY THE
10 CRITERIA ESTABLISHED BY RULES PROMULGATED PURSUANT TO SECTION
11 37-82-107 (9), THE BOARD AND THE FIRE PROTECTION DISTRICT SHALL
12 NOTIFY THE STATE ENGINEER OF SUCH FACT, AND THE STATE ENGINEER
13 SHALL REDESIGNATE THE POND AS A FIRE SUPPRESSION POND.

14 (d) IF THE NEEDS ASSESSMENT DESCRIBED IN SUBSECTION (8)(b)
15 OF THIS SECTION INDICATES THAT THE POND NO LONGER SATISFIES THE
16 CRITERIA ESTABLISHED BY RULES PROMULGATED PURSUANT TO SECTION
17 37-82-107 (9), THE BOARD AND THE FIRE PROTECTION DISTRICT SHALL
18 EITHER:

19 (I) NOTIFY THE STATE ENGINEER THAT THE DESIGNATION OF THE
20 POND AS A FIRE SUPPRESSION POND SHOULD BE RESCINDED OR ALLOWED
21 TO EXPIRE; OR

22 (II) PROVIDE TO THE STATE ENGINEER A PLAN AND TIMELINE FOR
23 BRINGING THE POND BACK INTO COMPLIANCE WITH THE CRITERIA.

24 (9) THE STATE ENGINEER SHALL ESTABLISH A DISCRETE DATABASE
25 FOR THE ADMINISTRATION OF PONDS THAT ARE DESIGNATED AS FIRE
26 SUPPRESSION PONDS PURSUANT TO THIS SECTION.

27 (10) NOTWITHSTANDING ANY PROVISION OF LAW TO THE

1 CONTRARY, THE STATE ENGINEER SHALL NOT DESIGNATE ANY POND AS A
2 FIRE SUPPRESSION POND UNLESS THE POND EXISTED AS OF JANUARY 1,
3 1975.

4 **SECTION 4.** In Colorado Revised Statutes, 37-92-602, **amend**
5 (8)(a), (8)(b) introductory portion, and (8)(c)(I); and **add** (8)(b)(III) as
6 follows:

7 **37-92-602. Exemptions - presumptions - legislative declaration**
8 **- definitions.** (8) (a) The general assembly hereby declares that storm
9 water detention and infiltration facilities, ~~and~~ post-wildland fire facilities,
10 AND FIRE SUPPRESSION PONDS are essential for the protection of public
11 safety and welfare, property, and the environment.

12 (b) ~~For the purposes of AS USED IN this subsection (8):~~

13 (III) "FIRE SUPPRESSION POND" MEANS A POND THAT HAS BEEN:

14 (A) IDENTIFIED AS A POTENTIAL FIRE SUPPRESSION POND BY A
15 BOARD OF COUNTY COMMISSIONERS IN CONSULTATION WITH A FIRE
16 PROTECTION DISTRICT PURSUANT TO SECTION 37-82-107; AND

17 (B) DESIGNATED AS A FIRE SUPPRESSION POND BY THE STATE
18 ENGINEER PURSUANT TO SECTION 37-80-124.

19 (c) (I) Storm water detention and infiltration facilities in existence
20 on August 5, 2015, that are operated in compliance with ~~paragraphs (b)~~
21 ~~and (c) of this subsection (8) and~~ SUBSECTIONS (8)(b) AND (8)(e) OF THIS
22 SECTION; post-wildland fire facilities that are operated in compliance with
23 ~~paragraphs (b) and (c) of this subsection (8)~~ SUBSECTIONS (8)(b) AND
24 (8)(e) OF THIS SECTION; AND THE DESIGNATION OF PONDS AS FIRE
25 SUPPRESSION PONDS BY THE STATE ENGINEER PURSUANT TO SECTION
26 37-80-124 do not cause material injury to vested water rights.

27 **SECTION 5. Act subject to petition - effective date.** This act

1 takes effect at 12:01 a.m. on the day following the expiration of the
2 ninety-day period after final adjournment of the general assembly; except
3 that, if a referendum petition is filed pursuant to section 1 (3) of article V
4 of the state constitution against this act or an item, section, or part of this
5 act within such period, then the act, item, section, or part will not take
6 effect unless approved by the people at the general election to be held in
7 November 2022 and, in such case, will take effect on the date of the
8 official declaration of the vote thereon by the governor.