

HOUSE COMMITTEE OF REFERENCE REPORT

Chair of Committee

Date

April 8, 2019

Committee on Rural Affairs & Agriculture.

After consideration on the merits, the Committee recommends the following:

HB19-1271 be amended as follows, and as so amended, be referred to the Committee of the Whole with favorable recommendation:

- 1 Amend printed bill, page 4, strike lines 8 through 11 and substitute "~~shall~~
2 MUST file a change of water right application or other application with the
3 water court AS MAY BE REQUIRED to obtain a decreed right to use water
4 for instream flow purposes under a contract or agreement for a lease or
5 loan of water, water".

- 6 Page 4, line 12, after "The" insert "BOARD MUST FILE A WATER COURT
7 APPLICATION WITH THE WATER COURT FOR APPROVAL OF A PLAN FOR
8 AUGMENTATION TO AUGMENT STREAM FLOWS TO PRESERVE OR IMPROVE
9 THE NATURAL ENVIRONMENT TO A REASONABLE DEGREE. FOR A CHANGE
10 OF WATER RIGHT, THE".

- 11 Page 5, strike lines 6 through 9 and substitute "ENVIRONMENT TO A
12 REASONABLE DEGREE IN A STREAM REACH AND MAY USE ANY WATER
13 RIGHT FOR WHICH THE HISTORICAL USE HAS PREVIOUSLY BEEN QUANTIFIED
14 AND FOR WHICH A PREVIOUS CHANGE OF THE WATER RIGHT TO INCLUDE
15 AUGMENTATION USE HAS BEEN JUDICIALLY APPROVED WITHOUT A
16 FURTHER CHANGE OF THAT WATER RIGHT BEING REQUIRED; EXCEPT THAT
17 ANY SUCH USE BY THE BOARD IS SUBJECT".

- 18 Page 5, strike lines 20 through 22 and substitute "DIVERTED WITHIN THAT
19 STREAM REACH BY EXCHANGES, PLANS FOR SUBSTITUTION, PLANS FOR
20 AUGMENTATION, OR OTHER MEANS THAT CAUSE A REDUCTION OF SUCH
21 WATER IN THE STREAM, BUT IS SUBJECT TO SUCH REASONABLE TRANSIT
22 LOSSES WITHIN THAT STREAM REACH AS MAY BE IMPOSED BY THE WATER
23 COURT OR THE STATE OR DIVISION ENGINEER. Prior to the initiation of any

1 such appropriation".

2 Page 6, strike line 6 and substitute:

3 "(f) THE PORTION OF THIS SUBSECTION (3) THAT CLARIFIES THE
4 COLORADO WATER CONSERVATION BOARD'S AUTHORITY TO USE A PLAN
5 FOR AUGMENTATION TO AUGMENT STREAM FLOWS TO PRESERVE OR
6 IMPROVE THE ENVIRONMENT, AS ENACTED IN HOUSE BILL 19-1271,
7 ENACTED IN 2019:".

8 Page 6, after line 20 insert:

9 "SECTION 2. In Colorado Revised Statutes, 37-92-305, amend
10 (8)(c) as follows:

11 **37-92-305. Standards with respect to rulings of the referee and**
12 **decisions of the water judge - definitions.** (8) (c) A plan for
13 augmentation shall be sufficient to permit the continuation of diversions
14 when curtailment would otherwise be required to meet a valid senior call
15 for water, to the extent that the applicant shall provide replacement water
16 necessary to meet the lawful requirements of a senior diverter at the time
17 and location and to the extent the senior DIVERTER would be deprived of
18 ~~his or her~~ THE SENIOR DIVERTER'S lawful entitlement by the applicant's
19 diversion. A proposed plan for augmentation that relies upon a supply of
20 augmentation water that, by contract or otherwise, is limited in duration
21 shall not be denied solely upon the ground that the supply of
22 augmentation water is limited in duration, if the terms and conditions of
23 the plan prevent injury to vested water rights. Said terms and conditions
24 shall require replacement of out-of-priority depletions that occur after any
25 groundwater diversions cease. Decrees approving plans for augmentation
26 shall require that the state engineer curtail all out-of-priority diversions,
27 the depletions from which are not so replaced as to prevent injury to
28 vested water rights. A plan for augmentation, INCLUDING A COLORADO
29 WATER CONSERVATION BOARD PLAN TO AUGMENT STREAM FLOWS UNDER
30 SECTION 37-92-102 (3), may provide procedures to allow additional or
31 alternative sources of AUGMENTATION OR replacement water, including
32 water leased on a yearly or less frequent basis, to be used in the plan after
33 the initial decree is entered if the use of said additional or alternative
34 sources is part of a substitute water supply plan approved pursuant to
35 section 37-92-308 or if such sources are decreed for such use."

36 Renumber succeeding section accordingly.

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