

SENATE COMMITTEE OF REFERENCE REPORT

Chair of Committee

April 10, 2024
Date

Committee on Agriculture & Natural Resources.

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

SB24-197 be amended as follows, and as so amended, be referred to the Committee of the Whole with favorable recommendation:

- 1 Amend printed bill, page 3, strike line 27.
- 2 Page 4, line 4, strike "2023-24" and substitute "2024-25".
- 3 Page 4, strike line 5 and substitute "year; and
- 4 (f) The protections provided to electric utility water rights in
- 5 sections 4, 5, and 6 of the bill are for the benefit of the entire Yampa river
- 6 basin water resources, in particular during low-flow conditions that have
- 7 resulted in the administration of a call on the Yampa river in recent years.
- 8 The nondiversion or nonuse will provide a benefit to all water use sectors,
- 9 balancing multiple beneficial uses of water on the Yampa river system."
- 10 Page 6, line 4, strike "DURING" and substitute "SUBJECT TO SECTION
- 11 37-92-305 (3)(f), DURING".
- 12 Page 7, line 8, strike "(3)(c)(I) and (3)(c)(II)(D);" and substitute "(3)(c)(I),
- 13 (3)(c)(II)(D), (19)(a)(I), and (19)(c) introductory portion;" and after
- 14 "(3)(c)(III)" insert "and (3)(f)".
- 15 Page 7, line 21, strike "THE" and substitute "SUBJECT TO SUBSECTION
- 16 (3)(f) OF THIS SECTION, THE".
- 17 Page 7, line 25, after "LEASED" insert "OR LOANED".
- 18 Page 8, line 1, strike "LEASE." and substitute "LEASE OR LOAN."
- 19 Page 8, after line 1 insert:

1 (f) (I) To QUALIFY FOR HISTORICAL CONSUMPTIVE USE
2 PROTECTION PURSUANT TO SUBSECTION (3)(c)(III) OF THIS SECTION OR TO
3 QUALIFY FOR THE EXCEPTION TO ABANDONMENT PURSUANT TO SECTION
4 37-92-103 (2)(c), AN ELECTRIC UTILITY THAT MANAGES ALL UNITS OF A
5 GENERATING STATION IN DIVISION 6 SHALL, FOR ITSELF AND ON BEHALF OF
6 THE OTHER OWNERS OF THE GENERATING STATION, FILE WITH THE
7 DIVISION 6 WATER COURT AN APPLICATION SEEKING QUANTIFICATION OF
8 THE HISTORICAL CONSUMPTIVE USE FOR THE ABSOLUTE DIRECT FLOW
9 WATER RIGHTS SERVING THE GENERATING STATION. THE APPLICATION
10 MUST BE FILED WITH THE DIVISION 6 WATER COURT WITHIN ONE YEAR
11 AFTER THE DATE THAT THE FINAL UNIT OF THE GENERATING STATION IS
12 TAKEN OFFLINE.

13 (II) THE APPLICATION DESCRIBED IN SUBSECTION (3)(f)(I) OF THIS
14 SECTION IS A CLAIM FOR A DETERMINATION OF A WATER RIGHT, AND THE
15 DIVISION 6 WATER COURT HAS JURISDICTION TO DETERMINE THE
16 HISTORICAL CONSUMPTIVE USE FOR THE ABSOLUTE DIRECT FLOW WATER
17 RIGHTS SERVING THE GENERATING STATION IN ACCORDANCE WITH THIS
18 SECTION USING THE STANDARDS AND PROCEDURES SET FORTH IN SECTIONS
19 37-92-302, 37-92-303, AND 37-92-304 AND THIS SECTION, INCLUDING
20 STANDARDS AND PROCEDURES RELATED TO NOTICE AND PARTICIPATION
21 OF OPPOSERS; EXCEPT THAT A CHANGE OF WATER RIGHT IS NOT REQUIRED
22 AS A PREREQUISITE FOR THE QUANTIFICATION OF THE HISTORICAL
23 CONSUMPTIVE USE BY THE DIVISION 6 WATER COURT. IF THE DIVISION 6
24 WATER COURT ENTERS A DECREE QUANTIFYING THE HISTORICAL
25 CONSUMPTIVE USE, SUBSECTION (3)(e) of this section applies to the
26 absolute direct flow water rights.

27 (19) **Agricultural water protection - definitions.** (a) (I) After
28 the state engineer's proposed rules promulgated under section 37-80-123
29 are reviewed and finalized pursuant to section 37-80-123 (1)(c) and after
30 the Colorado water conservation board has finalized the criteria and
31 guidelines developed pursuant to section 37-60-133, the owner of an
32 absolute decreed irrigation water right ~~in water division 1 or 2~~ used for
33 agricultural purposes may apply in water court to change the use of the
34 water right to an agricultural water protection water right. ~~A water right~~
35 ~~decreed in water division 3, 4, 5, 6, or 7 is not eligible for a change in~~
36 ~~water right to an agricultural water protection water right.~~ As used in this
37 section, an "agricultural water protection water right" means a water right
38 decreed to allow the lease, loan, or trade of up to fifty percent of the water
39 subject to the water right.

40 (c) As used in this subsection (19), an "eligible entity" means an
41 entity ~~in water division 1 or 2~~ that:

42 **SECTION 7.** In Colorado Revised Statutes, 37-92-308, **amend**
43 (12)(a) as follows:

1 **37-92-308. Substitute water supply plans - special procedures**
2 **for review - water adjudication cash fund - legislative declaration.**
3 **(12) Agricultural water protection.** (a) After a person has obtained a
4 decreed agricultural water protection water right pursuant to section
5 37-92-305 (19), ~~which water right is available only in water division 1 or~~
6 ~~2~~; the person may apply for a substitute water supply plan pursuant to this
7 subsection (12).".

8 Renumber succeeding sections accordingly.

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