

First Regular Session  
Seventy-first General Assembly  
STATE OF COLORADO

**REREVISED**

*This Version Includes All Amendments  
Adopted in the Second House*

LLS NO. 17-0984.01 Thomas Morris x4218

**HOUSE BILL 17-1233**

**HOUSE SPONSORSHIP**

**Arndt,**

**SENATE SPONSORSHIP**

**Crowder,**

**House Committees**

Agriculture, Livestock, & Natural Resources

**Senate Committees**

Agriculture, Natural Resources, & Energy

**A BILL FOR AN ACT**

101 **CONCERNING PROTECTION OF THE HISTORICAL CONSUMPTIVE USE**  
102 **ANALYSIS OF A WATER RIGHT INVOLVED IN A WATER**  
103 **CONSERVATION PROGRAM.**

**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>.)*

When a water right owner wishes to change a water right, the amount of water that can be changed is limited to the historical consumptive use of the water right. Current law provides that the reduced water usage that results from participation in a government-sponsored water conservation program will not be considered in analyzing the

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

SENATE  
3rd Reading Unamended  
April 12, 2017

SENATE  
Amended 2nd Reading  
April 11, 2017

HOUSE  
3rd Reading Unamended  
March 24, 2017

HOUSE  
2nd Reading Unamended  
March 23, 2017

historical consumptive use of the water right, but only in water divisions 4, 5, or 6. The bill applies this rule statewide, includes water conservation pilot programs, and limits state agencies that can approve a water conservation program to only those that have explicit statutory jurisdiction over water conservation or water rights.

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

2 **SECTION 1.** In Colorado Revised Statutes, 37-92-305, **amend**  
3 (3)(c) as follows:

4 **37-92-305. Standards with respect to rulings of the referee and**  
5 **decisions of the water judge - definitions.** (3) (c) In determining the  
6 amount of historical consumptive use for a water right in division 4, 5, or  
7 6 1, 2, 3, 4, 5, OR 6, the water judge shall not consider any decrease in use  
8 resulting from the following:

9 (I) The land on which the water from the water right has been  
10 historically applied is enrolled under a federal land conservation program;  
11 or

12 (II) The nonuse or decrease in use of the water from the water  
13 right by its owner for a maximum of five years in any consecutive  
14 ten-year period as a result of participation in:

15 (A) A water conservation program, INCLUDING A PILOT PROGRAM,  
16 approved IN ADVANCE by a ~~state agency~~, water conservation district,  
17 water district, water authority, or water conservancy district for lands that  
18 are within the entity's jurisdictional boundaries OR BY A STATE AGENCY  
19 WITH EXPLICIT STATUTORY JURISDICTION OVER WATER CONSERVATION OR  
20 WATER RIGHTS;

21 (B) A water conservation program, INCLUDING A PILOT PROGRAM,  
22 established through formal written action or ordinance by a water district,  
23 water authority, or municipality or its municipal water supplier for lands

1 that are within the entity's jurisdictional boundaries;

2 (C) An approved land fallowing program as provided by law in  
3 order to conserve water or to provide water for compact compliance; or

4 (D) A water banking program as provided by law.

5 **SECTION 2. Applicability.** This act applies to decreases in  
6 water use occurring on or after the effective date of this act.

7 **SECTION 3. Safety clause.** The general assembly hereby finds,  
8 determines, and declares that this act is necessary for the immediate  
9 preservation of the public peace, health, and safety.