

HOUSE COMMITTEE OF REFERENCE AMENDMENT

Committee on Agriculture, Livestock, & Water.

HB21-1046 be amended as follows:

- 1 Amend printed bill, page 2, strike line 3 and substitute "as follows:".
- 2 Page 2, strike lines 5 through 16 and substitute "**corporation shares**.
(4) (a) SUBJECT TO ANY DECREE FOR THE WATER RIGHTS HELD IN THE
3 NAME OF A MUTUAL DITCH CORPORATION AND TO A MUTUAL DITCH
4 CORPORATION'S ARTICLES OF INCORPORATION OR BYLAWS, A MUTUAL
5 DITCH CORPORATION DELIVERING DIRECT FLOW WATER RIGHTS MAY
6 PROVIDE WATER TO ONLY WATER-REQUESTING STOCKHOLDERS,
7 INCLUDING STOCKHOLDERS THAT OWN SHARES FOR WHICH A CHANGE IN
8 USE HAS BEEN ADJUDICATED OR APPROVED. CONSISTENT WITH EACH
9 STOCKHOLDER'S REQUEST AND THE AVAILABLE WATER SUPPLY, A MUTUAL
10 DITCH CORPORATION MAY PROVIDE WATER AT RATES OF FLOW GREATER
11 OR LESS THAN EACH STOCKHOLDER'S PRO-RATA OWNERSHIP OF SHARES IN
12 THE CORPORATION. WHEN TOTAL STOCKHOLDER DEMAND EXCEEDS
13 AVAILABLE WATER SUPPLY, A MUTUAL DITCH CORPORATION SHALL
14 PROVIDE, TO THE EXTENT POSSIBLE, A PRO RATA AMOUNT OF WATER TO
15 ALL STOCKHOLDERS THAT ARE REQUESTING WATER, EITHER
16 SIMULTANEOUSLY OR, IF NECESSARY, BY ROTATING AMONG
17 STOCKHOLDERS IN SECTIONS OR BY OTHER EQUITABLE METHODS AS
18 DETERMINED BY THE CORPORATION.
(b) SUBJECT TO SUBSECTION (4)(c)(IV) OF THIS SECTION, IF A
21 WATER COURT DECREE AUTHORIZING THE CHANGE IN USE OF THE WATER
22 RIGHTS REPRESENTED BY MUTUAL DITCH CORPORATION SHARES CONTAINS
23 VOLUMETRIC LIMITS ON THE AMOUNT OF WATER DELIVERABLE TO THE
24 CHANGED SHARES, WATER DIVERTED AND DELIVERED BY THE MUTUAL
25 DITCH CORPORATION ONLY COUNTS AGAINST THE CHANGED
26 STOCKHOLDER'S VOLUMETRIC LIMITS IF THE STOCKHOLDER, OR ITS LESSEE
27 OR DESIGNEE, TAKES DELIVERY IN ACCORDANCE WITH THE CHANGE IN USE
28 DECREE.
(c) A COURT SHALL NOT CONSTRUE THIS SUBSECTION (4):
(I) (A) TO SUPERSEDE OR ABROGATE THE CONDITIONS OF ANY
31 FINAL WATER COURT DECREE ENTERED BEFORE THE EFFECTIVE DATE OF
32 THIS SUBSECTION (4); OR
(B) TO APPLY TO ANY WATER COURT APPLICATION FOR WHICH A
34 TRIAL WAS HELD BEFORE THE EFFECTIVE DATE OF THIS SUBSECTION (4) OR
35 TO AN APPEAL OF ANY WATER COURT DECISION OR DECREE RESULTING
36 FROM SUCH A TRIAL;
(II) TO IMPEDE OR PREVENT A STOCKHOLDER FROM CHANGING THE
38 TYPE OF, PLACE OF, TIME OF USE OF, OR POINT OF DIVERSION OF THE WATER
39 RIGHTS REPRESENTED BY THE SHARES IN A MUTUAL DITCH CORPORATION;
(III) TO REQUIRE OR PROHIBIT A REDUCTION IN THE FLOW RATE

1 AVAILABLE TO A STOCKHOLDER OR MUTUAL DITCH CORPORATION WHEN
2 THE TYPE OF, PLACE OF, TIME OF USE OF, OR POINT OF DIVERSION OF THE
3 WATER RIGHTS REPRESENTED BY THE SHARES IS LAWFULLY CHANGED;

4 (IV) (A) TO AMEND OR MODIFY THE STANDARDS IN SECTION
5 37-92-305 FOR WATER COURT APPROVAL OF A CHANGE IN USE; OR

6 (B) TO AMEND OR MODIFY THE COURT'S ABILITY TO ORDER
7 CONDITIONS NECESSARY TO PREVENT AN ENLARGEMENT UPON THE
8 HISTORICAL USE OF WATER RIGHTS FOR WHICH A CHANGE IS SOUGHT OR TO
9 PREVENT A DIMINUTION OF RETURN FLOW HISTORICALLY RESULTING FROM
10 THE USE OF THE CHANGED SHARES TO THE DETRIMENT OF OTHER
11 APPROPRIATORS; OR

12 (V) TO IMPAIR THE ABILITY OF A STOCKHOLDER TO ENTER INTO A
13 PROGRAM IDENTIFIED IN SECTION 37-92-305 (3)(c) OR TO ENTER INTO AN
14 ACQUISITION TRANSACTION PROVIDED FOR IN EITHER SECTION 37-92-102
15 (3) OR 37-83-105.".

16 Page 3, strike lines 1 through 16.

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