

SENATE COMMITTEE OF REFERENCE REPORT

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Chair of Committee

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May 3, 2024  
Date

Committee on Finance.

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

HB24-1379 be amended as follows, and as so amended, be referred to the Committee on Appropriations with favorable recommendation:

- 1 Amend reengrossed bill, page 13, line 26, after "(a)" insert "(I)".
- 2 Page 14, strike lines 5 through 8 and substitute "IMPACTS OF DREDGE AND
- 3 FILL ACTIVITY AND MUST INCORPORATE THE GUIDELINES DEVELOPED
- 4 PURSUANT TO SECTION 404 (b)(1) OF THE FEDERAL ACT.
- 5 (II) THE RULES PROMULGATED PURSUANT TO SUBSECTION (4)(a)(I)
- 6 OF THIS SECTION MUST INCLUDE:".
- 7 Page 14, line 16, strike "AND".
- 8 Page 14, strike lines 22 through 27.
- 9 Page 15, strike lines 1 through 8 and substitute:
- 10 "(E) AN EXEMPTION FOR VOLUNTARY STREAM RESTORATION
- 11 EFFORTS IN EPHEMERAL STREAMS THAT DO NOT REQUIRE COMPENSATORY
- 12 MITIGATION AND ARE DESIGNED SOLELY TO PROVIDE ECOLOGICAL LIFT
- 13 WHERE THE ACTIVITY IS TAKING PLACE. AS USED IN THIS SUBSECTION
- 14 (4)(a)(I)(E), "EPHEMERAL STREAM" MEANS A STREAM CHANNEL OR A
- 15 REACH OF A STREAM CHANNEL THAT CARRIES FLOW DURING, AND FOR A
- 16 SHORT DURATION AS THE DIRECT RESULT OF, PRECIPITATION EVENTS AND
- 17 THAT HAS A CHANNEL BOTTOM THAT IS ALWAYS ABOVE THE
- 18 GROUNDWATER TABLE.
- 19 (III) THE RULES PROMULGATED PURSUANT TO SUBSECTION
- 20 (4)(a)(I) OF THIS SECTION MAY INCLUDE:
- 21 (A) FURTHER MINOR CLARIFICATION OF THE TERMINOLOGY USED
- 22 TO DEFINE THE EXEMPTIONS AND EXCLUSIONS IN SUBSECTIONS (8)(b) AND
- 23 (8)(d) OF THIS SECTION WITHOUT LIMITING OR EXPANDING THE SCOPE OF
- 24 THE EXEMPTIONS AND EXCLUSIONS; AND

1 (B) A DEADLINE SHORTER THAN TWO YEARS FOR THE DIVISION TO  
2 ACT UPON A COMPLETE APPLICATION FOR AN INDIVIDUAL AUTHORIZATION  
3 FOR PROJECTS THAT INVOLVE MINIMAL TO MODERATE COSTS AND HAVE  
4 MINIMAL WATER QUALITY IMPACTS OR LIMITED POTENTIAL WATER  
5 QUALITY IMPACTS.

6 (IV) (A) IN PROMULGATING THE RULES DESCRIBED IN SUBSECTION  
7 (4)(a)(I) OF THIS SECTION, THE COMMISSION SHALL ENSURE THAT THE  
8 RULES ARE AS PROTECTIVE AS THE GUIDELINES SET FORTH IN SECTION 404  
9 (b)(1) OF THE FEDERAL ACT AND IN EFFECT AS OF THE EFFECTIVE DATE OF  
10 THIS SECTION.

11 (B) IF THE COMMISSION FINDS, BASED ON A DEMONSTRATION AT  
12 A PUBLIC RULEMAKING HEARING, THAT THE GUIDELINES SET FORTH IN  
13 SECTION 404 (b)(1) OF THE FEDERAL ACT ARE NOT PROTECTING STATE  
14 WATERS, THE COMMISSION SHALL AMEND ITS RULES OR ADOPT NEW RULES  
15 TO PROTECT STATE WATERS. SUCH A HEARING MAY BE INITIATED BY THE  
16 COMMISSION UPON ITS OWN MOTION OR UPON A PETITION FROM THE  
17 DIVISION. ANY INTERESTED PERSON MAY PETITION TO THE COMMISSION TO  
18 INITIATE A HEARING, AND THE COMMISSION MAY GRANT OR DENY SUCH A  
19 REQUEST.

20 (C) THE COMMISSION'S FINDINGS TO SUPPORT ANY CHANGES TO ITS  
21 RULES MUST BE BASED ON SOUND SCIENTIFIC OR TECHNICAL EVIDENCE IN  
22 THE RECORD DEMONSTRATING THAT RULES MORE PROTECTIVE THAN THE  
23 GUIDELINES SET FORTH IN SECTION 404 (b)(1) OF THE FEDERAL ACT ARE  
24 NECESSARY TO PROTECT THE CHEMICAL, PHYSICAL, AND BIOLOGICAL  
25 INTEGRITY OF STATE WATERS. THE FINDINGS MUST BE ACCOMPANIED BY  
26 A STATEMENT OF BASIS AND PURPOSE REFERRING TO AND EVALUATING  
27 THE INFORMATION AND STUDIES CONTAINED IN THE RECORD, WHICH FORM  
28 THE BASIS FOR THE COMMISSION'S CONCLUSION."

29 Page 16, line 10, strike "ACTIVITY;" and substitute "ACTIVITY ON THE  
30 CHEMICAL, PHYSICAL, AND BIOLOGICAL INTEGRITY OF STATE WATERS;"

31 Page 18, line 20, strike "(A)".

32 Page 19, strike lines 14 and 15.

33 Page 25, line 11, strike "UNEXPIRED".

34 Page 25, line 15, strike "STATES;" and substitute "STATES UNLESS THERE  
35 HAS BEEN A SIGNIFICANT HYDROLOGICAL CHANGE SINCE THE  
36 DETERMINATION WAS ISSUED;"

37 Page 25, line 21, strike "STATES;" and substitute "STATES UNDER THE

1 SECTION 404 PERMIT AND ARE NOT OTHERWISE EXCLUDED UNDER THIS  
2 SECTION;"

3 Page 26, strike lines 20 through 23 and substitute "A DRAINAGE DITCH,  
4 ROADSIDE DITCH, OR A DITCH OR CANAL CONVEYING WASTEWATER OR  
5 WATER. CONSTRUCTION OF NEW WORK OR TO EXTEND, EXPAND, OR  
6 RELOCATE AN IRRIGATION DITCH OR ACEQUIA FOR MUNICIPAL OR  
7 INDUSTRIAL PURPOSES IS NOT AN EXEMPT ACTIVITY. AS USED IN THIS  
8 SUBSECTION (8)(b)(VII):"

9 Page 27, strike lines 19 and 20 and substitute "IF A DITCH CARRIES WATER  
10 THAT IS USED FOR IRRIGATION, IRRIGATION RETURN FLOWS OR RETURN  
11 FLOW OBLIGATIONS, AQUIFER RECHARGE, AQUIFER OR STREAM  
12 AUGMENTATION OR REPLACEMENT, OR PRECIPITATION OR SNOWMELT  
13 THAT"

14 Page 28, line 2, after "A" insert "DRAINAGE DITCH, A ROADSIDE DITCH, OR  
15 A"

16 Page 29, line 13, after "RECLAMATION FACILITIES," insert "WATER  
17 MANAGEMENT FACILITIES,"

18 Page 29, strike lines 17 and 18 and substitute "SYSTEMS, WEIRS, GATES,  
19 CLARIFIERS, SOLIDS HANDLING, FILTERS, SEDIMENTATION BASINS,  
20 TREATMENT PONDS AND LAGOONS, AND RELATED FEATURES, WHICH  
21 MAINTENANCE ACTIVITIES KEEP THE"

22 Page 36, after line 8 insert:

23 "SECTION 7. In Colorado Revised Statutes, 25-8-305, **add** (5)  
24 as follows:

25 **25-8-305. Annual report - repeal.** (5) (a) ON OR BEFORE  
26 OCTOBER 1, 2026, AND FOR EACH YEAR THEREAFTER, THE REPORT  
27 DESCRIBED IN SUBSECTION (1) OF THIS SECTION MUST PROVIDE AN  
28 OVERALL UNDERSTANDING OF THE STATE OF IMPLEMENTATION OF THE  
29 DREDGE AND FILL DISCHARGE AUTHORIZATION PROGRAM DESCRIBED IN  
30 SECTION 25-8-205.1. FOR THIS PURPOSE, THE DIVISION SHALL DEVELOP A  
31 TWELVE-MONTH REPORTING PERIOD. AT A MINIMUM, THE REPORT MUST  
32 INCLUDE:

33 (I) PROGRAM STAFFING AND BUDGET OVER THE TWELVE-MONTH  
34 REPORTING PERIOD;

35 (II) GENERAL AUTHORIZATION PROGRAM COMPONENTS OVER THE  
36 TWELVE-MONTH REPORTING PERIOD, INCLUDING:

37 (A) THE TOTAL NUMBER OF PRECONSTRUCTION NOTIFICATIONS OR

1 COVERAGE VERIFICATION REQUESTS RECEIVED DURING THE  
2 TWELVE-MONTH REPORTING PERIOD;

3 (B) THE TOTAL NUMBER OF PROJECTS AUTHORIZED TO PROCEED  
4 DURING THE TWELVE-MONTH REPORTING PERIOD;

5 (C) THE TOTAL NUMBER OF PROJECTS AUTHORIZED TO PROCEED  
6 DURING THE TWELVE-MONTH REPORTING PERIOD THAT INCLUDED SPECIAL  
7 CONDITIONS;

8 (D) THE TOTAL NUMBER OF PROJECTS AUTHORIZED TO PROCEED  
9 UNDER SECTION 25-8-205.1 (5)(d) DURING THE TWELVE-MONTH  
10 REPORTING PERIOD;

11 (E) THE TOTAL NUMBER OF PROJECTS DENIED GENERAL  
12 AUTHORIZATION COVERAGE DURING THE TWELVE-MONTH REPORTING  
13 PERIOD AND A SUMMARY OF THE REASONS FOR DENIALS;

14 (F) THE RANGE OF TIME AND AVERAGE TIME REQUIRED TO PROCESS  
15 PRECONSTRUCTION NOTIFICATIONS AND COVERAGE VERIFICATION  
16 REQUESTS FROM RECEIPT TO FINAL DECISION DURING THE TWELVE-MONTH  
17 REPORTING PERIOD; AND

18 (G) THE TOTAL NUMBER OF FULL-TIME EMPLOYEES TASKED WITH  
19 PROCESSING PRECONSTRUCTION NOTIFICATIONS, COVERAGE VERIFICATION  
20 REQUESTS, AND TECHNICAL ASSISTANCE DURING THE TWELVE-MONTH  
21 REPORTING PERIOD; AND

22 (III) INDIVIDUAL AUTHORIZATION PROGRAM COMPONENTS,  
23 INCLUDING:

24 (A) THE TOTAL NUMBER OF AUTHORIZATION APPLICATIONS  
25 RECEIVED DURING THE TWELVE-MONTH REPORTING PERIOD;

26 (B) THE TOTAL NUMBER OF PROJECTS AUTHORIZED TO PROCEED  
27 DURING THE TWELVE-MONTH REPORTING PERIOD;

28 (C) THE TOTAL NUMBER OF PROJECTS DENIED AUTHORIZATION  
29 COVERAGE DURING THE TWELVE-MONTH REPORTING PERIOD AND A  
30 SUMMARY OF THE REASONS FOR DENIALS;

31 (D) THE TOTAL NUMBER OF APPLICATIONS AWAITING ACTION AT  
32 THE END OF THE TWELVE-MONTH REPORTING PERIOD;

33 (E) THE RANGE OF TIME AND AVERAGE TIME REQUIRED TO  
34 PROCESS INDIVIDUAL AUTHORIZATION APPLICATIONS FROM RECEIPT TO  
35 FINAL DECISION DURING THE TWELVE-MONTH REPORTING PERIOD; AND

36 (F) THE TOTAL NUMBER OF FULL-TIME EMPLOYEES TASKED WITH  
37 PROCESSING INDIVIDUAL AUTHORIZATIONS DURING THE TWELVE-MONTH  
38 REPORTING PERIOD.

39 (b) ON A QUARTERLY BASIS, THE DIVISION SHALL REPORT TO THE  
40 JOINT BUDGET COMMITTEE THE NUMBER OF INDIVIDUAL DREDGE AND FILL  
41 AUTHORIZATIONS AND NOTICES OF AUTHORIZATION THAT THE DIVISION  
42 PROJECTS TO ISSUE FOR THE FISCAL YEAR. THE DIVISION SHALL SUBMIT  
43 THESE REPORTS SO THAT THEY COINCIDE WITH QUARTERLY BUDGET

1 FORECASTS."

2 Renumber succeeding sections accordingly.

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