

**Second Regular Session
Seventieth General Assembly
STATE OF COLORADO**

PREAMENDED

*This Unofficial Version Includes Committee
Amendments Not Yet Adopted on Second Reading*

LLS NO. 16-1035.01 Jennifer Berman x3286

HOUSE BILL 16-1337

HOUSE SPONSORSHIP

Vigil and Coram,

SENATE SPONSORSHIP

Scott,

House Committees

Agriculture, Livestock, & Natural Resources

Senate Committees

A BILL FOR AN ACT

101 **CONCERNING THE APPELLATE PROCESS GOVERNING A DISTRICT**
102 **COURT'S REVIEW OF FINAL AGENCY ACTIONS CONCERNING**
103 **GROUNDWATER.**

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://www.leg.state.co.us/bills summaries>.)

Under current law, the decisions or actions of the ground water commission (commission) or the state engineer regarding groundwater are appealed to a district court and the evidence that the district court may consider is not limited to the evidence presented to the commission or state engineer. Therefore, unlike appeals from other state agencies'

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.*

decisions or actions under the "State Administrative Procedure Act", a party appealing a decision or action of the commission or state engineer may present new evidence on appeal that was never considered by the commission or state engineer.

The bill limits the evidence that a district court may consider when reviewing a decision or action of the commission or the state engineer on appeal to the evidence presented to the commission or the state engineer.

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

2 **SECTION 1.** In Colorado Revised Statutes, 37-90-115, **amend**
3 (1) (b) (III) as follows:

4 **37-90-115. Judicial review of actions of the ground water**
5 **commission or the state engineer.** (1) (b) (III) ~~Proceedings upon appeal~~
6 ~~shall be de novo; except that evidence taken in any administrative~~
7 ~~proceeding appealed from may be considered as original evidence,~~
8 ~~subject to legal objection, as if said evidence were originally offered in~~
9 ~~such district court.~~ IN ANY APPEAL OF THE COMMISSION'S OR THE STATE
10 ENGINEER'S DECISION OR ACTION PURSUANT TO THIS SUBSECTION (1) OR
11 FROM AN ADMINISTRATIVE HEARING HELD PURSUANT TO SECTION
12 37-90-113 OR 37-90-114, A DISTRICT COURT SHALL REVIEW THE
13 COMMISSION'S OR THE STATE ENGINEER'S DECISION OR ACTION DE NOVO,
14 CONSIDERING ONLY EVIDENCE THAT WAS TAKEN IN THE ADMINISTRATIVE
15 PROCEEDING APPEALED FROM AND INCLUDED IN THE RECORD. IF THE
16 DISTRICT COURT DETERMINES THAT EVIDENCE WAS WRONGLY EXCLUDED
17 IN THE ADMINISTRATIVE PROCEEDING, THE COURT MAY TAKE AND
18 CONSIDER THAT WRONGLY EXCLUDED EVIDENCE.

19 **SECTION 2. Act subject to petition - effective date -**
20 **applicability.** (1) This act takes effect at 12:01 a.m. on the day following
21 the expiration of the ninety-day period after final adjournment of the
22 general assembly (August 10, 2016, if adjournment sine die is on May 11,

1 2016); except that, if a referendum petition is filed pursuant to section 1
2 (3) of article V of the state constitution against this act or an item, section,
3 or part of this act within such period, then the act, item, section, or part
4 will not take effect unless approved by the people at the general election
5 to be held in November 2016 and, in such case, will take effect on the
6 date of the official declaration of the vote thereon by the governor.

7 (2) This act applies to appeals filed on or after the applicable
8 effective date of this act.