

## CHAPTER 189

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**WATER AND IRRIGATION**


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**HOUSE BILL 17-1233**

BY REPRESENTATIVE(S) Arndt, Becker K., Esgar, Exum, Garnett, Ginal, Hamner, Hansen, Herod, Hooton, Kraft-Tharp, Lontine, McLachlan, Mitsch Bush, Pabon, Saine, Salazar, Valdez, Young, Duran, Gray, Weissman;  
also SENATOR(S) Crowder, Donovan, Guzman, Jones, Kagan, Merrifield, Todd, Williams A.

**AN ACT****CONCERNING PROTECTION OF THE HISTORICAL CONSUMPTIVE USE ANALYSIS OF A WATER RIGHT INVOLVED IN A WATER CONSERVATION PROGRAM.**

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

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

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

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

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

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

(B) A water conservation program, INCLUDING A PILOT PROGRAM, established through formal written action or ordinance by a water district, water authority, or municipality or its municipal water supplier for lands that are within the entity's

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*Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.*

jurisdictional boundaries;

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

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

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

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

Approved: May 3, 2017