



Legislative Council Staff

Nonpartisan Services for Colorado's Legislature

Fiscal Note

Drafting Number: LLS 23-0640 **Date:** April 10, 2023
Prime Sponsors: Sen. Roberts; Simpson **Bill Status:** Senate Agriculture
Rep. McCormick **Fiscal Analyst:** Alexa Kelly | 303-866-3469
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Bill Topic: **PROJECTS TO RESTORE NATURAL STREAM SYSTEMS**

Summary of Fiscal Impact: State Revenue TABOR Refund
 State Expenditure Local Government
 State Transfer Statutory Public Entity

The bill creates a rebuttable presumption that a stream restoration project does not cause material injury to a vested water right, and outlines the qualification requirements for a stream restoration project. It increases state expenditures on an ongoing basis.

Appropriation Summary: No appropriation is required.

Fiscal Note Status: The fiscal note reflects the introduced bill.

Summary of Legislation

The bill creates a rebuttable presumption that a stream restoration project does not cause material injury to a vested water right. If a water right holder believes a stream restoration project has caused material injury to their water right, they may challenge this rebuttable presumption by presenting evidence of the material injury in the appropriate division water court. The bill defines a stream restoration project as one that is designed and constructed within a natural stream system for the purpose of:

- wildfire or flood mitigation;
- bank stabilization;
- water quality protection or restoration;
- habitat, species, or ecosystem restoration;
- drought resilience;
- source water protection;
- infrastructure protection; or
- sediment and erosion management.

These projects may not increase water surface area of the natural stream system by more than a quarter acre per structure or treatment, and may not exceed a total increase of eight surface acres within one stream mile.

Project registration. The bill requires the owner or proponent of a stream restoration project to register the project, provide notice to the substitute water supply plan notification list, and file a completion report with the State Engineer in the Division of Water Resources in the Department of Natural Resources (DNR).

Reporting requirements. The bill requires that the division report the number of registered stream restoration projects, complaints from water rights holders, and the results of any studies conducted by the State Engineer on the effects of the stream restoration projects. The report must be sent to the Senate Agriculture and Natural Resources Committee and the House Agriculture, Water, and Natural Resources Committee.

State Expenditures

Workload in the DNR will increase minimally to manage the stream restoration registrations and completion reports, and to compile the required report to the legislature. Colorado Parks and Wildlife staff will review stream restoration projects to determine if registration is required. This increase in workload can be absorbed within existing resources and no change in appropriations is required.

The bill creates a new cause of action, which may result in additional cases filed in the Judicial Department, specifically in water courts. It is expected that the majority of entities covered under the bill will comply with the law, so any impact is minimal. No change in appropriations is required.

Effective Date

The bill takes effect upon signature of the Governor, or upon becoming law without his signature.

State and Local Government Contacts

Judicial

Natural Resources