

Second Regular Session
Seventy-first General Assembly
STATE OF COLORADO

DRAFT
9.14.17

BILL 1

LLS NO. 18-0223.01 Thomas Morris x4218

INTERIM COMMITTEE BILL

Water Resources Review Committee

BILL TOPIC: "Connected Mun Use Not Change If Already Quantified"

A BILL FOR AN ACT

101 **CONCERNING THE ABILITY TO USE WATER THAT HAS BEEN**
102 **ADJUDICATED FOR MUNICIPAL USE IN A RELATED MUNICIPAL**
103 **WATER SUPPLY SYSTEM IF THE HISTORICAL CONSUMPTIVE USE**
104 **OF THE WATER RIGHT HAS ALREADY BEEN QUANTIFIED IN A**
105 **PREVIOUS CHANGE OF THE WATER RIGHT.**

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://leg.colorado.gov/>.)

Water Resources Review Committee. Current law limits the place of use of water that has been decreed for use in a treated domestic

*Capital letters indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.*

or municipal water supply system to only that system. The bill authorizes the use of water in an interconnected treated domestic or municipal water supply system if:

- The water is attributable to a water right for which the historical consumptive use has previously been quantified, diverted from a point of diversion that has already been decreed for that water right, and delivered from the decreed system to the interconnected system without water being returned to the natural stream;
- The owner or operator of the water right has given written notice to the division engineer that identifies the proposed accounting for the use of the water right and the division engineer has approved the accounting; and
- Applicable transit losses are assessed against the water right from the decreed point of diversion to the interconnected municipal water supply system.

A person who is entitled to claim injury to a water right may argue in a de novo hearing before the water judge that the use in the interconnected treated domestic or municipal water supply system injures the person's water right. Other than the place of use, all of the terms and conditions of the previous change of water right decree continue to apply to the water right. A claim to any return flows from the use of the water right in the interconnected treated domestic or municipal water supply system must be approved by the water judge.

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

2 **SECTION 1.** In Colorado Revised Statutes, **add** 37-82-107 as
3 follows:

4 **37-82-107. Use of previously changed municipal water -**
5 **definition.** (1) SUBJECT TO ALL REQUIREMENTS SPECIFIED IN THIS
6 SECTION, WATER MAY BE USED IN THE TREATED DOMESTIC OR MUNICIPAL
7 WATER SUPPLY SYSTEMS FOR WHICH IT IS DECREED, AND IN AN
8 INTERCONNECTED TREATED DOMESTIC OR MUNICIPAL WATER SUPPLY
9 SYSTEM, IF:

10 (a) THE WATER IS:

11 (I) ATTRIBUTABLE TO A WATER RIGHT:

1 (A) THAT HAS BEEN DECREED FOR TREATED DOMESTIC OR
2 MUNICIPAL WATER SUPPLY USE; AND

3 (B) FOR WHICH A PREVIOUS CHANGE OF WATER RIGHT HAS BEEN
4 JUDICIALLY APPROVED AND THE HISTORICAL CONSUMPTIVE USE WAS
5 PREVIOUSLY QUANTIFIED;

6 (II) DIVERTED FROM A POINT OF DIVERSION THAT HAS ALREADY
7 BEEN DECREED FOR THAT WATER RIGHT; AND

8 (III) DELIVERED FROM THE DECREED SYSTEM TO THE
9 INTERCONNECTED SYSTEM WITHOUT WATER BEING RETURNED TO THE
10 NATURAL STREAM;

11 (b) (I) THE OWNER OR OPERATOR OF THE WATER RIGHT GIVES
12 PREVIOUS WRITTEN NOTICE TO THE DIVISION ENGINEER IDENTIFYING THE
13 WATER RIGHT, THE INTERCONNECTED TREATED DOMESTIC OR MUNICIPAL
14 WATER SUPPLY SYSTEM, THE DECREED POINT OF DIVERSION, AND HOW THE
15 USE IN THE INTERCONNECTED TREATED DOMESTIC OR MUNICIPAL WATER
16 SUPPLY SYSTEM WILL BE ACCOUNTED FOR; AND

17 (II) THE DIVISION ENGINEER HAS APPROVED THE ACCOUNTING FOR
18 THE USE OF THE WATER IN THE INTERCONNECTED TREATED DOMESTIC OR
19 MUNICIPAL WATER SUPPLY SYSTEM; AND

20 (c) TRANSIT LOSSES, IF APPLICABLE, ARE ASSESSED AGAINST THE
21 WATER RIGHT FROM THE DECREED POINT OF DIVERSION TO THE
22 INTERCONNECTED TREATED DOMESTIC OR MUNICIPAL WATER SUPPLY
23 SYSTEM.

24 (2) (a) A PERSON WHO IS ENTITLED TO CLAIM INJURY TO A WATER
25 RIGHT HAS THE RIGHT TO A DE NOVO HEARING BEFORE THE WATER JUDGE
26 TO ARGUE THAT THE USE OF WATER IN THE INTERCONNECTED TREATED
27 DOMESTIC OR MUNICIPAL WATER SUPPLY SYSTEM INJURES THE PERSON'S

1 WATER RIGHT.

2 (b) OTHER THAN THE PLACE OF USE, ALL OF THE TERMS AND
3 CONDITIONS OF THE PREVIOUS CHANGE OF WATER RIGHT DECREE
4 CONTINUE TO APPLY TO THE WATER RIGHT.

5 (c) A CLAIM TO ANY RETURN FLOWS FROM THE USE OF THE WATER
6 RIGHT IN THE INTERCONNECTED TREATED DOMESTIC OR MUNICIPAL WATER
7 SUPPLY SYSTEM MUST BE APPROVED BY THE WATER JUDGE.

8 (3) AS USED IN THIS SECTION, "INTERCONNECTED" MEANS HAVING
9 SHARED INFRASTRUCTURE OR SHARING ONE OR MORE POINTS OF PHYSICAL
10 CONNECTION BETWEEN THE DOMESTIC OR MUNICIPAL WATER SUPPLY
11 SYSTEMS SO THAT WATER THAT HAS BEEN DIVERTED FROM THE NATURAL
12 STREAM CAN BE DELIVERED FROM ONE SYSTEM TO ANOTHER WITHOUT
13 WATER BEING RETURNED TO THE NATURAL STREAM.

14 **SECTION 2.** In Colorado Revised Statutes, 37-92-103, **amend**
15 (5)(a) as follows:

16 **37-92-103. Definitions.** As used in this article 92, unless the
17 context otherwise requires:

18 (5) "Change of water right":

19 (a) Means a change in the type OF USE, place OF USE EXCEPT AS
20 SPECIFIED IN SECTION 37-82-107, or time of use, a change in the point of
21 diversion except as specified in section 37-86-111 (2), a change from a
22 fixed point of diversion to alternate or supplemental points of diversion,
23 a change from alternate or supplemental points of diversion to a fixed
24 point of diversion, a change in the means of diversion, a change in the
25 place of storage except as specified in section 37-87-101 (3), a change
26 from direct application to storage and subsequent application, a change
27 from storage and subsequent application to direct application, a change

1 from a fixed place of storage to alternate places of storage, a change from
2 alternate places of storage to a fixed place of storage, or any combination
3 of such changes; and

4 **SECTION 3. Act subject to petition - effective date -**
5 **applicability.** (1) This act takes effect at 12:01 a.m. on the day following
6 the expiration of the ninety-day period after final adjournment of the
7 general assembly (August 8, 2018, if adjournment sine die is on May 9,
8 2018); except that, if a referendum petition is filed pursuant to section 1
9 (3) of article V of the state constitution against this act or an item, section,
10 or part of this act within such period, then the act, item, section, or part
11 will not take effect unless approved by the people at the general election
12 to be held in November 2018 and, in such case, will take effect on the
13 date of the official declaration of the vote thereon by the governor.

14 (2) This act applies to conduct occurring on or after the applicable
15 effective date of this act.

16 <{*Do you want a specific effective date or a safety clause?*}>