

First Regular Session
Seventy-first General Assembly
STATE OF COLORADO

REVISED

*This Version Includes All Amendments Adopted
on Second Reading in the Second House*

LLS NO. 17-0123.01 Jennifer Berman x3286

SENATE BILL 17-026

SENATE SPONSORSHIP

Sonnenberg,

HOUSE SPONSORSHIP

Arndt,

Senate Committees

Agriculture, Natural Resources, & Energy

House Committees

Agriculture, Livestock, & Natural Resources
Appropriations

A BILL FOR AN ACT

101 CONCERNING REQUIREMENTS GOVERNING IMPLEMENTATION OF THE
102 STATE ENGINEER'S FUNCTIONS, AND, IN CONNECTION
103 THEREWITH, RESTRUCTURING THE FEE THAT THE STATE
104 ENGINEER MAY CHARGE FOR RATING CERTAIN TYPES OF WATER
105 INFRASTRUCTURE, REPEALING CERTAIN REQUIREMENTS, AND
106 UPDATING LANGUAGE IN THE STATUTES REGARDING THE
107 DIVISION OF WATER RESOURCES.

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/>.)

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.*

HOUSE
2nd Reading Unamended
February 28, 2017

SENATE
3rd Reading Unamended
January 25, 2017

SENATE
2nd Reading Unamended
January 24, 2017

Water Resources Review Committee. Section 8 of the bill restructures the fee that the state engineer may charge for rating certain types of water infrastructure from \$25 per day for expenses incurred in determining the rating to a flat fee of \$75.

Section 1 specifies the location of the state engineer's office as within the capitol complex.

Section 2 permits the state engineer to use new technology that can accomplish the same functions as satellite or telemetry-based monitoring systems and is more cost effective.

The bill repeals certain requirements as follows:

- ! In **sections 1, 4, and 11**, the requirement that certain officials take an oath and post bond;
- ! In section 8, certain fee requirements; and
- ! In **section 14**, the requirement that the state engineer survey, lay out, and locate a ditch or canal along the Arkansas river.

Section 16 increases the amount of time for filing comments on a substitute water supply plan from 30 days after the state engineer mails the notice to 35 days after mailing the notice.

The bill updates language within the statutes related to the state engineer and the division of water resources.

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

2 **SECTION 1.** In Colorado Revised Statutes, **amend** 37-80-101 as
3 follows:

4 **37-80-101. State engineer.** ~~The governor shall appoint a state~~
5 ~~engineer,~~ Pursuant to section 13 of article XII of the state constitution,
6 THE GOVERNOR SHALL APPOINT A STATE ENGINEER. ~~The office of the~~
7 ~~state engineer shall have his office at~~ MUST BE LOCATED WITHIN the state
8 ~~capital, in suitable rooms to be provided for him with suitable furniture,~~
9 ~~postage, and such proper and~~ CAPITOL COMPLEX. THE STATE ENGINEER
10 SHALL BE PROVIDED THE RESOURCES, INCLUDING AN OPERATING BUDGET,
11 necessary ~~stationery, books, and instruments as are required to best enable~~
12 ~~him~~ to discharge the duties of his THE office. ~~The state engineer, before~~
13 ~~entering on the discharge of his duties, shall take and subscribe to an oath,~~

1 before the judge of a state court of record, to faithfully perform the duties
2 of his office and file said oath with the secretary of state, together with his
3 official bond, in the penal sum of ten thousand dollars, said bond to be
4 executed by a responsible surety company authorized to do business
5 within the state, and conditioned upon the faithful discharge of the duties
6 of his office and for delivering to his successor or other officer authorized
7 by the governor to receive the same all moneys, books, instruments, and
8 other property belonging to the state then in his possession or under his
9 control, or with which he may be legally chargeable as such state
10 engineer.

11 **SECTION 2.** In Colorado Revised Statutes, 37-80-102, **amend**
12 (1)(b), (1)(j), (1)(k), (1)(l), and (10) as follows:

13 **37-80-102. General duties of state engineer - supervision and**
14 **utilization of employees - satellite and telemetry-based monitoring**
15 **systems.** (1) The state engineer is the executive officer in charge of
16 supervising the work of all division engineers and may direct their
17 supervision of their employees. The state engineer has executive
18 responsibility and authority with respect to:

19 (b) Securing and implementing legal opinions and assistance
20 regarding the work within his OR HER jurisdiction;

21 (j) The making and implementing of contracts with public and
22 private agencies, ~~and with~~ individuals, ~~and~~ corporations, AND OTHER
23 ENTITIES AS necessary ~~or incidental to~~ FOR the operation of the division
24 of water resources and performance of the duties of ~~his~~ THE STATE
25 ENGINEER'S office;

26 (k) Such other acts as may be reasonably necessary to enable ~~him~~
27 THE STATE ENGINEER to secure the effective and efficient operation of the

1 division of water resources, including power and authority to make and
2 enforce ~~such rules or regulations~~ as he OR SHE may find necessary ~~or~~
3 ~~desirable~~ to effectuate the performance of his OR HER duties. The making
4 of ~~such rules or regulations shall~~ IS not be a prerequisite to control of
5 personnel of the division of water resources or the performance of ~~his~~ THE
6 STATE ENGINEER'S duties under the constitution or laws of Colorado or
7 any compact, treaty, or judicial decree or decision ~~which~~ THAT does not,
8 by its specific terms, require implementation by ~~such rule. or regulation.~~

9 (l) Receiving and expending grants and distributions of money,
10 property, and equipment from the Colorado water conservation board,
11 ANOTHER ENTITY, OR AN INDIVIDUAL for use in making investigations,
12 contracting projects, or otherwise carrying out the purposes of this ~~article~~
13 ARTICLE 80. The grants and distributions from the Colorado water
14 conservation board are continuously appropriated to the state engineer for
15 the purposes set forth in this section.

16 (10) The state engineer is authorized to accept, operate, and house
17 ~~in the Centennial Building at 1313 Sherman Street, Denver, Colorado,~~
18 SUITABLE LOCATIONS automated data processing equipment and programs
19 associated with a satellite OR TELEMETRY-BASED monitoring system ~~to be~~
20 ~~acquired by the Colorado water resources and power development~~
21 ~~authority and~~ SYSTEMS dedicated to the state of Colorado for operation
22 and use by the Colorado state engineer. THE STATE ENGINEER SHALL USE
23 NEW TECHNOLOGY THAT BECOMES AVAILABLE IF THE TECHNOLOGY:

24 (a) CAN ACCOMPLISH THE SAME FUNCTIONS FOR WHICH THE STATE
25 ENGINEER USES SATELLITE OR TELEMETRY-BASED MONITORING SYSTEMS;
26 AND

27 (b) IS MORE COST-EFFECTIVE THAN SATELLITE OR

1 TELEMETRY-BASED MONITORING SYSTEMS WITH RESPECT TO ANY COSTS
2 BORNE BY:

- 3 (I) THE STATE ENGINEER;
- 4 (II) PROGRAM DONORS; AND
- 5 (III) WATER USERS.

6 **SECTION 3.** In Colorado Revised Statutes, **amend** 37-80-105 as
7 follows:

8 **37-80-105. Supervision over division engineers.** (1) The state
9 engineer shall: ~~have general charge over~~

10 (a) SUPERVISE the work of the division engineers; ~~shall~~

11 (b) Furnish ~~them~~ DIVISION ENGINEERS with all the data and
12 information necessary for the proper and intelligent discharge of the
13 duties of their offices; ~~shall~~

14 (c) Require ~~them~~ DIVISION ENGINEERS to report THEIR OFFICIAL
15 ACTIONS to him OR HER at suitable times; ~~their official actions;~~ and ~~shall~~

16 (d) Require ~~of them~~ DIVISION ENGINEERS TO SUBMIT annual
17 ~~statements on blanks to be furnished by him;~~ REPORTS of the amount of
18 water diverted from the public streams in their respective divisions and
19 ~~such~~ ANY other statistics ~~as~~ THAT, in the judgment of the state engineer,
20 will ~~be of benefit to~~ the state.

21 **SECTION 4.** In Colorado Revised Statutes, **amend** 37-80-106 as
22 follows:

23 **37-80-106. Appointment of deputies.** (1) The state engineer may
24 appoint one or more deputies ~~as he may deem proper for assisting him~~ TO
25 ASSIST in the discharge of the duties of ~~his~~ THE STATE ENGINEER'S office.
26 ~~or he~~ THE STATE ENGINEER may deputize any person to ~~do~~ PERFORM a
27 particular service, and ~~he has the power to~~ THE STATE ENGINEER MAY

1 revoke such appointments when, in his OR HER judgment, there is no
2 further need for the services of anyone so appointed or deputized. ~~Such~~
3 ~~THE~~ appointments and revocations ~~thereof shall~~ OF APPOINTMENTS MUST
4 be in writing over the signature and official seal of the state engineer,
5 AND the original of ~~which~~ EACH APPOINTMENT OR REVOCATION shall be
6 ~~filed~~ MAINTAINED in the STATE ENGINEER'S office. ~~of the secretary of~~
7 ~~state.~~ All persons so appointed or deputized shall take and subscribe to an
8 oath, ~~before a judge of a court of record,~~ to faithfully perform the duties
9 of the office to which he is appointed or required to perform; and such
10 oath shall be filed with his appointment in the office of the secretary of
11 state. All such persons so appointed or deputized by the state engineer
12 shall furnish an official bond with surety executed by a responsible surety
13 company, authorized to do business within the state, in the penal sum of
14 not less than one thousand dollars nor more than five thousand dollars.
15 The cost of such bonds shall be paid by said deputies.

16 (2) In addition to the deputies provided for in this section, the
17 state engineer may employ, pursuant to section 13 of article XII of the
18 state constitution, ~~such assistants in performing the duties of his office as~~
19 ~~he may deem~~ THE STATE ENGINEER DEEMS necessary.

20 **SECTION 5.** In Colorado Revised Statutes, **amend** 37-80-107 as
21 follows:

22 **37-80-107. Employment of engineers or geologists.** The state
23 engineer ~~has the authority to~~ MAY employ one or more consulting
24 engineers, geologists, or other specialists to advise ~~him~~ THE STATE
25 ENGINEER or any division engineer concerning any diversion or proposed
26 diversion of the waters of the state including the sufficiency of any
27 reservoirs or other structures involved in ~~such~~ THE diversion.

1 **SECTION 6.** In Colorado Revised Statutes, **amend** 37-80-108 as
2 follows:

3 **37-80-108. Appoint deputy for special work.** The state engineer,
4 on request of any party interested and on payment of his OR HER per diem
5 charges and reasonable expenses, ~~shall~~ **MAY** appoint a deputy to measure,
6 compute, and ascertain all necessary data of any canal, dam, reservoir, or
7 other construction, as required or as may be desired to establish court
8 decrees, or for filing statements in compliance with law in the county
9 clerk and recorder's records.

10 **SECTION 7.** In Colorado Revised Statutes, **amend** 37-80-109 as
11 follows:

12 **37-80-109. State engineer's authority to contract for services.**

13 (1) The state engineer shall secure the limited or temporary services of
14 persons necessary to ~~implement~~ ~~carrying~~ **CARRY** out the duties or
15 functions of the division of water resources in ~~those~~ cases where
16 ~~performance by~~ **IT WOULD BE INFEASIBLE OR IMPRACTICAL FOR** regular
17 state employees ~~is infeasible or impractical and more~~ **TO PERFORM THE**
18 **DUTIES OR FUNCTIONS, especially in the following instances:**

19 (a) In which work is of such a nature as to require ~~such~~ special
20 training or aptitudes and is of such limited application that the full-time
21 regular employment normally expected of state employees would be
22 unduly expensive;

23 (b) In nonrecurring situations of ~~such~~ limited duration ~~as to make~~
24 ~~the use of regular employees infeasible, where~~ **IN WHICH** the situation can
25 be concluded within a reasonable time by ~~the securing of~~ special
26 assistants but could not be concluded without such assistance; ~~so as to~~
27 ~~fulfill the proper functions of the division of water resources;~~

1 (c) To meet emergencies ~~which~~ THAT reasonable foresight could
2 not have anticipated; AND

3 (d) To furnish services ~~which~~ THAT THE STATE ENGINEER may be
4 ~~required by the state engineer~~ REQUIRE of ~~those dealing~~ PERSONS WHO
5 DEAL with ~~his~~ THE STATE ENGINEER'S office and who will fully reimburse
6 the state engineer for the services.

7 (2) ~~During any period when~~ WHENEVER there are more hearings
8 or determinations before the state engineer and the division engineers
9 than can be acted upon promptly, the state engineer shall employ and
10 maintain adequate personnel to assist ~~him~~ THE STATE ENGINEER and the
11 division engineers in arriving at required determinations. ~~Such personnel~~
12 ~~may be~~ Regular employees MAY PROVIDE SUCH ASSISTANCE or, in ~~those~~
13 cases falling within the purview of subsection (1) of this section, ~~may be~~
14 temporary employees on a contract basis and may ~~perform their work~~
15 ~~jointly or severally as directed by the state engineer~~ PROVIDE SUCH
16 ASSISTANCE.

17 (3) In the same manner ~~as is~~ provided for a ~~hearings section~~ in
18 subsection (2) of this section, the state engineer may ~~provide~~ EMPLOY AND
19 MAINTAIN personnel ~~as required~~ to adequately staff any water
20 conservation project provided for by law.

21 (4) The state engineer shall ~~provide~~ EMPLOY AND MAINTAIN
22 appropriate personnel for keeping records and making investigations
23 respecting the performance of the functions of ~~his~~ THE STATE ENGINEER'S
24 office and shall provide similar personnel IN THE OFFICE OF EACH DIVISION
25 ENGINEER to function under the general direction of ~~his~~ THE office. ~~in the~~
26 ~~offices of each of the division engineers.~~

27 **SECTION 8.** In Colorado Revised Statutes, 37-80-110, **amend**

1 (1)(i); and **repeal** (1)(a), (1)(b), (1)(c), (1)(d), (1)(f), (1)(g), (1)(h), and (2)
2 as follows:

3 **37-80-110. Fees collected by state engineer.** (1) The state
4 engineer shall collect fees for work done in his or her office as follows:

5 (a) ~~For examination and filing of each map and statement~~
6 ~~describing a claim to a water right, twenty dollars if the amount of water~~
7 ~~claimed does not exceed twenty cubic feet per second of time and an~~
8 ~~additional one dollar for each cubic foot per second of time claimed in~~
9 ~~excess of twenty; but the total collected for examination and filing of each~~
10 ~~claim shall not exceed the sum of one hundred fifty dollars;~~

11 (b) ~~For examination and filing of each map and statement~~
12 ~~describing a claim to water for storage, twenty dollars for each one~~
13 ~~thousand acre-feet or fraction thereof of storage capacity claimed; but no~~
14 ~~fees shall be charged for amended maps and statements where no~~
15 ~~additional capacity is claimed, and, where additional capacity is claimed,~~
16 ~~the fees shall be charged for such additional capacity as for original~~
17 ~~filings; but the total amount of fees collected for examination and filing~~
18 ~~of each claim on any original or amended map and statement shall not~~
19 ~~exceed the sum of one hundred fifty dollars. In cases where no fee is~~
20 ~~charged for filing a map and statement describing a claim to water, the~~
21 ~~claimant shall pay the required fee for all blueprints or other~~
22 ~~reproductions.~~

23 (c) ~~For filing each judicial decree ordering the transfer of a water~~
24 ~~right or the change of a point of diversion, two dollars;~~

25 (d) ~~For each certificate, other than those which may be required~~
26 ~~in the case of original filings of claims to water rights, requiring official~~
27 ~~signature and seal, two dollars;~~

1 (f) ~~For copies of maps, two dollars for each hour or fraction~~
2 ~~thereof necessary for the making of such copies;~~

3 (g) ~~For each blueprint of a tracing forming a public record, two~~
4 ~~dollars;~~

5 (h) ~~For copies of records, fifty cents a folio;~~

6 (i) ~~For rating any PIPE, ditch, canal, OR reservoir inlet or outlet, at~~
7 ~~the request of the owner thereof or of any agent or employee having~~
8 ~~control of the same, twenty-five PIPE, DITCH, CANAL, OR RESERVOIR INLET~~
9 ~~OR OUTLET, SEVENTY-FIVE dollars. per day and actual expenses for each~~
10 ~~day actually and necessarily employed by the engineers in making such~~
11 ~~rating.~~

12 (2) ~~The provisions of this section shall not apply to operations~~
13 ~~conducted under the supervision of the United States for irrigation of~~
14 ~~lands entirely within the state of Colorado.~~

15 **SECTION 9.** In Colorado Revised Statutes, 37-80-111.5, **amend**
16 (1)(c) and (3) as follows:

17 **37-80-111.5. Fees - rules - satellite monitoring system cash**
18 **fund - well inspection cash fund - created.** (1) (c) The state engineer
19 shall set and collect fees by rule ~~and regulation~~ for the use of the
20 equipment and programs of the satellite AND TELEMETRY-BASED
21 monitoring ~~system~~ SYSTEMS authorized ~~pursuant to~~ UNDER section
22 37-80-102 (10). All such fees collected by the state engineer and ~~all~~ ANY
23 other ~~moneys~~ MONEY received from whatever source for the satellite AND
24 TELEMETRY-BASED monitoring ~~system~~ SYSTEMS shall be transmitted to
25 the satellite monitoring system cash fund, which fund is hereby created.
26 THE STATE ENGINEER MAY EXPEND ~~moneys~~ MONEY in the satellite
27 monitoring system cash fund ~~may be expended by the state engineer~~ for

1 the purposes of section 37-80-102 (10) and this ~~paragraph (c)~~ SUBSECTION
2 (1)(c), subject to appropriation by the general assembly.

3 (3) Nothing in this section ~~shall be interpreted to require~~ REQUIRES
4 the purchase of any publication referred to in this section.

5 **SECTION 10.** In Colorado Revised Statutes, **amend** 37-80-112
6 as follows:

7 **37-80-112. Report of state engineer.** The state engineer shall
8 report to the executive director of the department of natural resources at
9 such times and on such matters concerning ~~his~~ THE STATE ENGINEER'S
10 office and the division of water resources as the executive director may
11 require.

12 **SECTION 11.** In Colorado Revised Statutes, **amend** 37-80-114
13 as follows:

14 **37-80-114. Deputy state engineer - powers.** (1) The state
15 engineer shall appoint a deputy state engineer, subject to ~~the provisions~~
16 ~~of section 13 of article XII of the state constitution, relating to the state~~
17 ~~personnel system,~~ whose duties ~~shall be~~ ARE to assist the state engineer
18 in the administration of ~~his~~ THE STATE ENGINEER'S office. The deputy
19 state engineer has the power to act for the state engineer in all ~~his~~ OF THE
20 STATE ENGINEER'S official duties, including the administration of
21 interstate river compacts, ~~during the absence of~~ WHEN the state engineer
22 ~~from his~~ IS OUT OF THE office or when THE STATE ENGINEER so ~~directed~~
23 ~~by the state engineer~~ DIRECTS THE DEPUTY STATE ENGINEER.

24 (2) The salary of the deputy state engineer shall be paid as the
25 salaries of the officers of the executive department of the state are paid.
26 ~~He~~ THE DEPUTY STATE ENGINEER shall also receive reimbursement
27 ~~monthly~~ for the actual necessary expenses incurred in the performance of

1 his OR HER official duties, as THE STATE ENGINEER shall ~~be allotted by the~~
2 ~~state engineer~~ ALLOT from funds appropriated for ~~such~~ THAT purpose. The
3 controller is authorized to pay warrants for ~~said~~ THE DEPUTY STATE
4 ENGINEER'S salary and expenses upon vouchers approved by the state
5 engineer.

6 (3) ~~The deputy state engineer, before entering on the discharge of~~
7 ~~his duties, shall take and subscribe to an oath before the judge of a state~~
8 ~~court of record to faithfully perform the duties of his office and file said~~
9 ~~oath with the secretary of state, together with his official bond in the~~
10 ~~penal sum of ten thousand dollars. The bond shall be executed by a~~
11 ~~responsible surety company authorized to do business within the state and~~
12 ~~conditioned upon the faithful discharge of the duties of his office.~~

13 **SECTION 12.** In Colorado Revised Statutes, **amend** 37-84-117
14 as follows:

15 **37-84-117. Reservoirs in streams.** (1) The owners of any
16 reservoir ~~situate~~ LOCATED upon or in the bed of any natural stream or
17 through which any natural stream flows, for the purpose of storing or
18 diverting water, at the expense of the owner, shall ~~cause~~ FURNISH a
19 complete survey of the contour lines of ~~said~~ THE reservoir ~~to be made,~~
20 ~~which said survey may be approved by the state engineer, or,~~ FOR THE
21 STATE ENGINEER'S APPROVAL. ALTERNATIVELY, in the discretion of the
22 state engineer, A SURVEY OF THE CONTOUR LINES OF THE RESERVOIR shall
23 be made under the supervision of the state engineer, ~~or his~~ THE deputy
24 STATE ENGINEER, or the division engineer of the division in which ~~such~~
25 THE reservoir is located. ~~Said~~ Contour lines ~~shall~~ MUST be ascertained for
26 at least every vertical foot in depth and, ~~in all cases~~ where deemed
27 necessary by the state engineer, for fractions of a foot. ~~There~~ THE

1 OWNERS OF ANY RESERVOIR shall ~~be prepared~~ PREPARE a table to be filed
2 ~~in duplicate~~ with and approved by the state engineer, showing the
3 capacity, ~~of said reservoir,~~ in cubic feet, for each foot in depth or fraction
4 ~~thereof, one~~ OF A FOOT IN DEPTH OF THE RESERVOIR. THE OWNERS OF THE
5 RESERVOIR SHALL FILE A copy of ~~which said~~ THE table ~~shall be furnished~~
6 ~~to~~ WITH the division engineer in whose division ~~such~~ THE reservoir is
7 ~~situate~~ LOCATED. All maps, plats, field notes, ~~and the table of such~~
8 ~~reservoir, survey, and capacity~~ TABLES, AND SURVEYS FOR A RESERVOIR
9 shall be filed with and approved by the state engineer and remain a part
10 of the records of ~~his~~ THE STATE ENGINEER'S office.

11 (2) The owners of ~~such~~ A reservoir DESCRIBED IN SUBSECTION (1)
12 OF THIS SECTION, at their own expense, under the supervision and with the
13 approval of the state engineer, shall permanently fix and maintain a gauge
14 rod OR OTHER INSTRUMENT, OR BOTH, AS DIRECTED BY THE STATE
15 ENGINEER, TO MEASURE THE SURFACE ELEVATION OF THE RESERVOIR at or
16 near the outlet of ~~such~~ THE reservoir, marked in feet and tenths and
17 one-hundredths of a foot, and in correspondence with the contour lines,
18 from and by means of which the amount of water stored in ~~or taken from,~~
19 ~~said~~ THE reservoir may be correctly ascertained. ~~and, at the expense of~~
20 ~~such~~ THE owners, AT THEIR OWN EXPENSE, and under the supervision and
21 with the approval of the state engineer, shall construct and permanently
22 maintain a suitable and permanent measuring ~~weir or flume~~ STRUCTURE
23 equipped with self-registering devices, according to plans and
24 specifications approved by the state engineer, EITHER in the bed and
25 channel of every natural stream or watercourse discharging waters into
26 ~~said~~ THE reservoir OR ON EACH RELEASE FROM THE RESERVOIR by means
27 of which, IN COMBINATION WITH THE AMOUNT OF WATER STORED, all of

1 the water flowing into ~~said~~ THE reservoir from ~~and through each such~~ THE
2 NATURAL stream or watercourse ~~at all times~~ may be ~~definitely~~
3 DEFINITELY ascertained and determined AT ALL TIMES.

4 (3) (a) ~~Such gauge rods, flumes or weirs, and devices shall be at~~
5 ~~all times~~ ANY INSTRUMENTS OR STRUCTURES DESCRIBED IN SUBSECTION
6 (2) OF THIS SECTION ARE subject ~~and open~~ to inspection AT ALL TIMES by
7 the owner or duly authorized agent or representative of the owners of any
8 appropriation of water from the stream upon or in which ~~such~~ THE
9 reservoir is constructed or operated.

10 (b) ~~Upon the failure or neglect of the owners of any such~~ THE
11 STATE ENGINEER OR DIVISION ENGINEER MAY REFUSE TO ALLOW ANY
12 WATER TO BE TAKEN INTO OR DIVERTED FROM A reservoir IF:

13 (I) THE OWNERS OF THE RESERVOIR FAIL to construct or
14 permanently maintain ~~such gauge rods, measuring flumes, or weirs~~ ANY
15 REQUIRED INSTRUMENTS OR STRUCTURES, equipped as ~~provided~~
16 DESCRIBED in SUBSECTION (2) OF this section; or

17 (II) ~~upon the failure or neglect of such owners~~ EXCEPT AS
18 SPECIFIED IN SUBSECTION (3)(c) OF THIS SECTION, WITHIN THIRTY-FIVE
19 DAYS AFTER THE STATE ENGINEER OR DIVISION ENGINEER HAS PROVIDED
20 WRITTEN NOTICE TO THE OWNERS OR THEIR AGENTS OR EMPLOYEES
21 DIRECTING THE OWNERS TO MAKE A CONTOUR SURVEY, AS DESCRIBED IN
22 SUBSECTION (1) OF THIS SECTION, THE OWNERS FAIL to cause A complete
23 survey of the contour lines of ~~said~~ THE reservoir to be made. ~~after thirty~~
24 ~~days' notice in writing, directing such contour survey to be made, duly~~
25 ~~served upon such owners, or their agent or employee, by the state~~
26 ~~engineer or division engineer, the state engineer or division engineer shall~~
27 ~~refuse to allow any water whatsoever to be taken into or diverted from or~~

1 ~~by means of said reservoir.~~

2 (c) ~~When~~ IF suitable ~~weirs, flumes, gauge rods, and measuring~~
3 ~~devices~~ INSTRUMENTS AND STRUCTURES have been installed and equipped
4 AND THE OWNERS, THEIR AGENTS, OR THEIR EMPLOYEES ARE MAKING
5 GOOD-FAITH EFFORTS TO COMPLETE THE CONTOUR SURVEY, the state
6 engineer and division engineer may allow water to be stored in any such
7 reservoir after THE EXPIRATION OF THE ~~thirty~~ THIRTY-FIVE days ~~have~~
8 ~~expired after the giving of said notice in the event that the survey of said~~
9 ~~contour lines is then being prosecuted in good faith~~ AS DESCRIBED IN
10 SUBSECTION (3)(b)(II) OF THIS SECTION.

11 (4) ~~Upon complaint in any manner made to~~ IF the state engineer
12 ~~or the~~ A division engineer ~~by~~ RECEIVES FROM the ~~owners~~ OWNER of any
13 ~~appropriation of~~ A WATER RIGHT APPROPRIATING water from any A stream
14 upon which ~~any such~~ A reservoir is located, or any A stream of which
15 ~~such stream~~ THAT is a tributary ~~charging~~ TO SUCH A STREAM, A
16 COMPLAINT ALLEGING FACTS AGAINST THE OWNER OF THE RESERVOIR
17 THAT, IF TRUE, WOULD AMOUNT TO a violation of ~~any of the requirements~~
18 ~~of this section,~~ the state engineer or division engineer shall ~~thereupon~~
19 ~~forthwith inquire into the truth of such~~ INVESTIGATE THE complaint and,
20 if the ~~charges~~ ALLEGATIONS are found to be true, shall enforce ~~the~~
21 ~~provisions of~~ this section.

22 (5) ~~Upon order of~~ The state engineer ~~there shall be released from~~
23 ~~the water in storage in each stream bed reservoir such quantities~~ MAY
24 ORDER THAT AN OWNER OF A RESERVOIR RELEASE AN AMOUNT of water
25 ~~as~~ FROM THE RESERVOIR THAT, in the determination of the state engineer,
26 ~~are~~ IS necessary to prevent evaporation ~~from~~ ON the surface of ~~such~~ THE
27 reservoir from depleting the natural flow of the stream running through

1 ~~such~~ THE reservoir ~~which~~ THAT would otherwise be available for use by
2 other appropriators. In determining the quantity of any evaporation
3 release under this section, the state engineer shall compute the surface
4 evaporation from the reservoir and deduct ~~therefrom~~ FROM THE SURFACE
5 EVAPORATION any accretions to the stream flow resulting from the
6 existence of the reservoir and any natural depletions to the stream flow
7 ~~which~~ THAT would have resulted if the reservoir were not in existence.

8 **SECTION 13.** In Colorado Revised Statutes, **amend** 37-87-103
9 as follows:

10 **37-87-103. Notice of release of stored water.** The ~~owners of~~
11 ~~reservoirs~~ OWNER OF A RESERVOIR who ~~avail themselves of the provisions~~
12 ~~of this section and section 37-87-102~~ USES THE RESERVOIR FOR WATER
13 STORAGE shall give reasonable ~~prior~~ notice to the ~~irrigation~~ division
14 engineer of the ~~irrigation~~ division in which the reservoir is located ~~or to~~
15 ~~the chief administrative water official of such irrigation division~~ of the
16 date on which ~~they desire~~ THE RESERVOIR OWNER DESIRES to release
17 stored ~~waters~~ WATER into any natural streams, together with the ~~quantity~~
18 ~~thereof~~ AMOUNT TO BE RELEASED in cubic feet per second, ~~of time,~~ the
19 ~~length of period to be covered by such~~ DURATION OF THE releases, and the
20 name of the ~~ditch, canal, pipeline, or reservoir~~ STRUCTURE OR OTHER
21 LOCATION to which the water ~~so~~ released from storage is to be delivered,
22 to ~~the end that~~ ALLOW the water officials in ~~responsible~~ charge of any
23 stream into which ~~such~~ THE stored water is released ~~shall have ample time~~
24 ~~in which~~ to make AND RECORD the necessary ~~observations~~ measurements
25 of flow and storage ~~and records thereof~~ and to provide for a proper patrol
26 of the ~~said~~ stream, for the protection of the reservoir owner and ~~also~~ all
27 other appropriators along the stream whose interests might be affected as

1 a result of ~~such~~ THE reservoir release. ~~Such notice may be given to the~~
2 ~~division engineer when the reservoir from which the water is to be~~
3 ~~released and the point where the water is to be taken from the stream or~~
4 ~~again stored are in the same water district.~~

5 **SECTION 14.** In Colorado Revised Statutes, **repeal** 37-88-102
6 as follows:

7 **37-88-102. State engineer shall survey, lay out, and locate.** ~~The~~
8 ~~state engineer, under the direction of the department of corrections, shall~~
9 ~~survey, lay out, and locate a ditch or canal upon the most feasible route~~
10 ~~on either side of the Arkansas river, which said ditch or canal shall be of~~
11 ~~sufficient capacity to cover at least thirty thousand acres of good arable~~
12 ~~land between Canon City and Pueblo; but work shall only be commenced~~
13 ~~and performed upon one main ditch, canal, reservoir, or feeder at a time,~~
14 ~~and a second shall not be commenced until the completion of the first.~~

15 **SECTION 15.** In Colorado Revised Statutes, 37-90-116, **amend**
16 (2) as follows:

17 **37-90-116. Fees.** (2) Departments and agencies of the state of
18 Colorado ~~shall be~~ THAT OWN AND OPERATE WELLS ON STATE LAND ARE
19 exempt from the payment of fees for applications for the use of
20 groundwater or for a permit to construct a well.

21 **SECTION 16.** In Colorado Revised Statutes, 37-92-308, **amend**
22 (4)(a)(III) as follows:

23 **37-92-308. Substitute water supply plans - special procedures**
24 **for review - water adjudication cash fund - legislative declaration -**
25 **repeal.** (4) (a) Beginning January 1, 2002, if an application for approval
26 of a plan for augmentation, rotational crop management contract, or
27 change of water right has been filed with a water court and the court has

1 not issued a decree, the state engineer may approve the temporary
2 operation of such plan, contract, or change of water right as a substitute
3 water supply plan if the following conditions are met:

4 (III) The state engineer has given those to whom notice was
5 provided ~~thirty~~ THIRTY-FIVE days after the date of mailing of ~~such~~ THE
6 notice to file comments on the substitute water supply plan. ~~Such~~ THE
7 comments ~~shall~~ MUST include any claim of injury, any terms and
8 conditions that should be imposed upon the plan to prevent injury to an
9 opposer's water rights or decreed conditional water rights, and any other
10 information an opposer wishes the state engineer to consider in reviewing
11 the substitute water supply plan request.

12 **SECTION 17.** In Colorado Revised Statutes, 37-92-401, **amend**
13 (1)(b), (1)(c), (2), and (4) as follows:

14 **37-92-401. Tabulations of priorities and decennial**
15 **abandonment lists.** (1) (b) In determining the priority of a water right
16 in relation to other water rights deriving their supply from the same
17 common source, the following procedures and definitions ~~shall~~ apply:

18 (I) A common source means and includes all of those waters in a
19 water division, either surface or underground, ~~which~~ THAT if left in their
20 natural state would join together to form a single natural watercourse
21 ~~prior to exit from~~ BEFORE EXITING the water division.

22 (II) As among water rights decreed in the same water district in
23 the same adjudication suit, the historic date of initiation of appropriation
24 ~~shall determine~~ DETERMINES the relative priorities, beginning with the
25 earliest right.

26 (III) As among water rights decreed in the same water district in
27 different adjudication suits, all water rights decreed in an adjudication suit

1 ~~shall be~~ ARE senior to all water rights decreed in any subsequent
2 adjudication suit.

3 (IV) As among water rights decreed in the various original
4 adjudication suits in the various water districts of the same water division,
5 the decreed date of initiation of appropriation ~~shall determine~~
6 DETERMINES the relative priorities in numbered sequence, beginning with
7 the earliest right.

8 (V) As among water rights decreed in the various supplemental
9 adjudication suits in the various water districts of the same water division,
10 the actual priority date of any decree in any district ~~shall~~ DOES not extend
11 back further than the day following the entry of the final decree in the
12 preceding adjudication suit in ~~such~~ THE district.

13 (VI) If, in the preparation of the tabulations provided for in this
14 section, the application of the preceding principles would cause in any
15 particular case a substantial change in the priority of a particular water
16 right to the extent ~~thereof~~ THE RIGHT WAS lawfully enjoyed for a
17 period of not less than eighteen years, then the division engineer shall
18 designate the priority for that water right in accordance with historic
19 practice. In no event ~~shall the provisions of~~ DOES this subparagraph (VI)
20 SUBSECTION (1)(b)(VI) entitle a water right to a priority senior to its
21 actual date of initial appropriation or to freedom from regulation and
22 administration in the priority system.

23 (c) In making his OR HER determinations with respect to
24 abandonment, the division engineer shall investigate the circumstances
25 relating to each water right for which the available water has not been
26 fully applied to a beneficial use and ~~in such cases~~ shall be guided by the
27 criteria set out in section 37-92-402 (11). The decennial abandonment list,

1 when concluded by judgment and decree as provided in this section, ~~shall~~
2 ~~be~~ IS conclusive as to absolute water rights or portions thereof determined
3 to have been abandoned.

4 (2) (a) The state engineer and the respective division engineer
5 shall make a copy of the tabulation available for inspection in their offices
6 at any time during regular office hours, as well as on the state engineer's
7 website, and shall ~~make~~ PROVIDE A COPY OF the tabulation ~~available for~~
8 ~~purchase~~ for a fee ~~of ten dollars~~ AS SET FORTH IN SECTION 24-72-205 (5).

9 (b) No later than July 31, 1990, and every tenth anniversary
10 thereafter, the division engineer shall mail a copy of the respective
11 decennial abandonment list by certified mail, return receipt requested, to
12 the owner or last-known owner or claimant, if known, of every absolute
13 water right ~~which~~ THAT the division engineer has found to have been
14 abandoned in whole or in part. The division engineer shall make ~~such~~ AN
15 APPROPRIATE examination ~~as is reasonably appropriate~~ to determine the
16 owner or claimant of such absolute water rights. ~~He~~ THE DIVISION
17 ENGINEER shall also ~~cause publication to be made of~~ PUBLISH the
18 respective portion of the decennial abandonment list in each county in
19 which the points of diversion of any absolute water rights on the list are
20 located. ~~Such~~ THE publication shall be ~~made~~ CONTINUED for four
21 successive weeks and shall be published, if possible, in a newspaper
22 published in the county where the decreed point of diversion of the water
23 right is located. The publication and mailing requirements of this
24 ~~paragraph (b) shall~~ SUBSECTION (2)(b) apply only to absolute water rights
25 or portions ~~thereof which~~ OF ABSOLUTE WATER RIGHTS THAT previously
26 have not been adjudged to have been abandoned.

27 (4) (a) Not later than December 31, 1991, and every tenth

1 anniversary thereafter, the division engineer shall make ~~such~~ ANY
2 revisions ~~if any, as he OR SHE~~ deems proper to the decennial abandonment
3 list. In considering the matters raised by statements of objection, the
4 division engineer may consult with any interested ~~persons~~ PERSON. The
5 division engineer shall consult with the state engineer and shall make any
6 revisions in the decennial abandonment list determined by the state
7 engineer to be necessary or advisable.

8 (b) Repealed.

9 (c) The division engineer shall file the decennial abandonment
10 list, together with any revisions, signed by the division engineer and the
11 state engineer or his or her duly authorized deputy, with the water clerk
12 as promptly as possible, but not later than December 31, 1991, and every
13 tenth anniversary thereafter. Each respective division engineer, water
14 clerk, and the state engineer shall make a copy of the decennial
15 abandonment list, together with any revisions, available for inspection in
16 their offices at any time during regular office hours, as well as on the state
17 engineer's website, and the division engineer shall furnish or mail a copy
18 to anyone requesting a copy upon payment of a fee in an amount set in
19 ACCORDANCE WITH section ~~37-80-110 (1) (h)~~ 24-72-205 (1)(b) AND (5).

20 (d) If the decennial abandonment list is revised, the water clerk,
21 in cooperation with the division engineer, not later than January 31, 1992,
22 and every tenth anniversary thereafter, shall ~~cause~~ PROVIDE notice of the
23 ~~availability of such~~ revision ~~to be included~~ in the resume described in
24 section 37-92-302 (3) of cases filed in the respective water divisions
25 during ~~said~~ THE month of December stating that the revision may be
26 inspected or a copy thereof obtained as specified in ~~paragraph (c) of this~~
27 ~~subsection (4)~~ SUBSECTION (4)(c) OF THIS SECTION. In addition, the water

1 clerk shall ~~cause such publication of~~ PUBLISH the notice as is necessary to
2 obtain general circulation once in each county or THE portion thereof
3 which OF THE COUNTY THAT is in the division.

4 **SECTION 18. 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 9, 2017, if adjournment sine die is on May 10,
8 2017); 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 fees owed on or after the applicable
15 effective date of this act.