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An Act

SENATE BILL 17-026

BY SENATOR(S) Sonnenberg, Crowder, Donovan;
also REPRESENTATIVE(S) Arndt, Mitsch Bush, Rosenthal.

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

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

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

37-80-101. State engineer. ~~The governor shall appoint a state engineer,~~ Pursuant to section 13 of article XII of the state constitution, **THE GOVERNOR SHALL APPOINT A STATE ENGINEER.** ~~The OFFICE OF THE state engineer shall have his office at~~ **MUST BE LOCATED WITHIN the state capital,** ~~in suitable rooms to be provided for him with suitable furniture, postage, and such proper and~~ **CAPITOL COMPLEX.** ~~THE STATE ENGINEER SHALL BE PROVIDED THE RESOURCES, INCLUDING AN OPERATING BUDGET, necessary stationery, books, and instruments as are required to best enable him to~~

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

~~discharge the duties of his THE office. The state engineer, before entering on the discharge of his duties, shall take and subscribe to an oath, before the judge of a state court of record, to faithfully perform the duties of his office and file said oath with the secretary of state, together with his official bond, in the penal sum of ten thousand dollars, said bond to be executed by a responsible surety company authorized to do business within the state, and conditioned upon the faithful discharge of the duties of his office and for delivering to his successor or other officer authorized by the governor to receive the same all moneys, books, instruments, and other property belonging to the state then in his possession or under his control, or with which he may be legally chargeable as such state engineer.~~

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

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

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

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

(k) Such other acts as may be reasonably necessary to enable ~~him~~ THE STATE ENGINEER to secure the effective and efficient operation of the division of water resources, including power and authority to make and enforce ~~such~~ rules ~~or regulations~~ as he OR SHE may find necessary ~~or desirable~~ to effectuate the performance of his OR HER duties. The making of ~~such~~ rules ~~or regulations~~ ~~shall~~ IS not be a prerequisite to control of personnel of the division of water resources or the performance of ~~his~~ THE STATE ENGINEER'S duties under the constitution or laws of Colorado or any compact, treaty, or judicial decree or decision ~~which~~ THAT does not, by its

specific terms, require implementation by ~~such rule. or regulation.~~

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

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

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

(b) IS MORE COST-EFFECTIVE THAN SATELLITE OR TELEMETRY-BASED MONITORING SYSTEMS WITH RESPECT TO ANY COSTS BORNE BY:

(I) THE STATE ENGINEER;

(II) PROGRAM DONORS; AND

(III) WATER USERS.

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

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

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

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

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

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

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

37-80-106. Appointment of deputies. (1) The state engineer may appoint one or more deputies ~~as he may deem proper for assisting him~~ TO ASSIST in the discharge of the duties of ~~his~~ THE STATE ENGINEER'S office. ~~or he~~ THE STATE ENGINEER may deputize any person to ~~do~~ PERFORM a particular service, and ~~he has the power to~~ THE STATE ENGINEER MAY revoke such appointments when, in his OR HER judgment, there is no further need for the services of anyone ~~so~~ appointed or deputized. ~~Such~~ THE appointments and revocations ~~thereof shall~~ OF APPOINTMENTS MUST be in writing over the signature and official seal of the state engineer, AND the original of ~~which~~ EACH APPOINTMENT OR REVOCATION shall be ~~filed~~ MAINTAINED in the STATE ENGINEER'S office. ~~of the secretary of state.~~ All persons ~~so appointed or deputized shall take and subscribe to an oath, before a judge of a court of record, to faithfully perform the duties of the office to which he is appointed or required to perform; and such oath shall be filed with his appointment in the office of the secretary of state.~~ All such persons ~~so appointed or deputized by the state engineer shall furnish an official bond with surety executed by a responsible surety company, authorized to do business within the state, in the penal sum of not less than one thousand dollars nor more than five thousand dollars. The cost of such bonds shall be paid by said deputies.~~

(2) In addition to the deputies provided for in this section, the state engineer may employ, pursuant to section 13 of article XII of the state constitution, ~~such assistants in performing the duties of his office as he may~~

~~deem~~ THE STATE ENGINEER DEEMS necessary.

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

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

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

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

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

37-80-109. State engineer's authority to contract for services.
(1) The state engineer shall secure the limited or temporary services of persons necessary to ~~implement carrying~~ CARRY out the duties or functions of the division of water resources in ~~those~~ cases where ~~performance by~~ IT WOULD BE INFEASIBLE OR IMPRACTICAL FOR regular state employees ~~is infeasible or impractical and more~~ TO PERFORM THE DUTIES OR FUNCTIONS, especially in the following instances:

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

(b) In nonrecurring situations of ~~such~~ limited duration ~~as to make~~

~~the use of regular employees infeasible, where~~ IN WHICH the situation can be concluded within a reasonable time by ~~the securing of special assistants~~ but could not be concluded without such assistance; ~~so as to fulfill the proper functions of the division of water resources;~~

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

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

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

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

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

SECTION 8. In Colorado Revised Statutes, 37-80-110, **amend** (1)(i); and **repeal** (1)(a), (1)(b), (1)(c), (1)(d), (1)(f), (1)(g), (1)(h), and (2) as follows:

37-80-110. Fees collected by state engineer. (1) The state engineer

shall collect fees for work done in his or her office as follows:

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

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

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

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

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

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

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

(i) For rating any PIPE, ditch, canal, OR reservoir inlet or outlet, at the request of the owner thereof or of any agent or employee having control of the same, ~~twenty-five PIPE, DITCH, CANAL, OR RESERVOIR INLET OR OUTLET, SEVENTY-FIVE dollars. per day and actual expenses for each day~~

~~actually and necessarily employed by the engineers in making such rating.~~

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

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

37-80-111.5. Fees - rules - satellite monitoring system cash fund - well inspection cash fund - created. (1) (c) The state engineer shall set and collect fees by rule ~~and regulation~~ for the use of the equipment and programs of the satellite AND TELEMETRY-BASED monitoring ~~system~~ SYSTEMS authorized ~~pursuant to~~ UNDER section 37-80-102 (10). All such fees collected by the state engineer and ~~all~~ ANY other ~~moneys~~ MONEY received from whatever source for the satellite AND TELEMETRY-BASED monitoring ~~system~~ SYSTEMS shall be transmitted to the satellite monitoring system cash fund, which fund is hereby created. THE STATE ENGINEER MAY EXPEND ~~moneys~~ MONEY in the satellite monitoring system cash fund ~~may be expended by the state engineer~~ for the purposes of section 37-80-102 (10) and this ~~paragraph (c)~~ SUBSECTION (1)(c), subject to appropriation by the general assembly.

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

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

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

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

37-80-114. Deputy state engineer - powers. (1) The state engineer shall appoint a deputy state engineer, subject to ~~the provisions of~~ section 13 of article XII of the state constitution, ~~relating to the state personnel system;~~

whose duties ~~shall be~~ ARE to assist the state engineer in the administration of ~~his~~ THE STATE ENGINEER'S office. The deputy state engineer has the power to act for the state engineer in all ~~his~~ OF THE STATE ENGINEER'S official duties, including the administration of interstate river compacts, ~~during the absence of~~ WHEN the state engineer ~~from his~~ IS OUT OF THE office or when THE STATE ENGINEER so ~~directed by the state engineer~~ DIRECTS THE DEPUTY STATE ENGINEER.

(2) The salary of the deputy state engineer shall be paid as the salaries of the officers of the executive department of the state are paid. He THE DEPUTY STATE ENGINEER shall also receive reimbursement ~~monthly~~ for the actual necessary expenses incurred in the performance of his OR HER official duties, as THE STATE ENGINEER shall ~~be allotted by the state engineer~~ ALLOT from funds appropriated for ~~such~~ THAT purpose. The controller is authorized to pay warrants for ~~said~~ THE DEPUTY STATE ENGINEER'S salary and expenses upon vouchers approved by the state engineer.

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

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

37-84-117. Reservoirs in streams. (1) The owners of any reservoir ~~situate~~ LOCATED upon or in the bed of any natural stream or through which any natural stream flows, for the purpose of storing or diverting water, at the expense of the owner, shall ~~cause~~ FURNISH a complete survey of the contour lines of ~~said~~ THE reservoir ~~to be made, which said survey may be approved by the state engineer, or,~~ FOR THE STATE ENGINEER'S APPROVAL. ALTERNATIVELY, in the discretion of the state engineer, A SURVEY OF THE CONTOUR LINES OF THE RESERVOIR shall be made under the supervision of the state engineer, ~~or his~~ THE deputy STATE ENGINEER, or the division engineer of the division in which ~~such~~ THE reservoir is located. ~~Said~~ Contour lines ~~shall~~ MUST be ascertained for at least every vertical foot in

depth and, ~~in all cases~~ where deemed necessary by the state engineer, for fractions of a foot. ~~There~~ THE OWNERS OF ANY RESERVOIR shall ~~be prepared~~ PREPARE a table to be filed ~~in duplicate~~ with and approved by the state engineer, showing the capacity, ~~of said reservoir,~~ in cubic feet, for each foot in depth or fraction ~~thereof, one~~ OF A FOOT IN DEPTH OF THE RESERVOIR. THE OWNERS OF THE RESERVOIR SHALL FILE A COPY OF ~~which said~~ THE table ~~shall be furnished to~~ WITH the division engineer in whose division ~~such~~ THE reservoir is ~~situate~~ LOCATED. All maps, plats, field notes, ~~and the table of such reservoir, survey, and capacity~~ TABLES, AND SURVEYS FOR A RESERVOIR shall be filed with and approved by the state engineer and remain a part of the records of ~~his~~ THE STATE ENGINEER'S office.

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

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

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

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

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

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

(4) ~~Upon complaint in any manner made to~~ IF the state engineer or ~~the~~ A division engineer ~~by~~ RECEIVES FROM the ~~owners~~ OWNER of any ~~appropriation of~~ A WATER RIGHT APPROPRIATING water from ~~any~~ A stream upon which ~~any such~~ A reservoir is located, or ~~any~~ A stream of which ~~such stream~~ THAT is a tributary ~~charging~~ TO SUCH A STREAM, A COMPLAINT ALLEGING FACTS AGAINST THE OWNER OF THE RESERVOIR THAT, IF TRUE, WOULD AMOUNT TO a violation of ~~any of the requirements of~~ this section, the state engineer or division engineer shall ~~thereupon forthwith inquire into the truth of such~~ INVESTIGATE THE complaint and, if the ~~charges~~

ALLEGATIONS are found to be true, shall enforce ~~the provisions of this section.~~

(5) ~~Upon order of The state engineer there shall be released from the water in storage in each stream bed reservoir such quantities~~ MAY ORDER THAT AN OWNER OF A RESERVOIR RELEASE AN AMOUNT of water as FROM THE RESERVOIR THAT, in the determination of the state engineer, ~~are~~ IS necessary to prevent evaporation ~~from~~ ON the surface of ~~such~~ THE reservoir from depleting the natural flow of the stream running through ~~such~~ THE reservoir ~~which~~ THAT would otherwise be available for use by other appropriators. In determining the quantity of any evaporation release under this section, the state engineer shall compute the surface evaporation from the reservoir and deduct ~~therefrom~~ FROM THE SURFACE EVAPORATION any accretions to the stream flow resulting from the existence of the reservoir and any natural depletions to the stream flow ~~which~~ THAT would have resulted if the reservoir were not in existence.

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

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

~~water is to be taken from the stream or again stored are in the same water district.~~

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

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

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

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

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

37-92-308. Substitute water supply plans - special procedures for review - water adjudication cash fund - legislative declaration - repeal. (4) (a) Beginning January 1, 2002, if an application for approval of a plan for augmentation, rotational crop management contract, or change of water right has been filed with a water court and the court has not issued a decree, the state engineer may approve the temporary operation of such plan, contract, or change of water right as a substitute water supply plan if the following conditions are met:

(III) The state engineer has given those to whom notice was provided ~~thirty~~ THIRTY-FIVE days after the date of mailing of ~~such~~ THE notice to file comments on the substitute water supply plan. ~~Such~~ THE comments ~~shall~~ MUST include any claim of injury, any terms and conditions that should be imposed upon the plan to prevent injury to an opposer's water

rights or decreed conditional water rights, and any other information an opposer wishes the state engineer to consider in reviewing the substitute water supply plan request.

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

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

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

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

(III) As among water rights decreed in the same water district in different adjudication suits, all water rights decreed in an adjudication suit ~~shall be~~ ARE senior to all water rights decreed in any subsequent adjudication suit.

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

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

(VI) If, in the preparation of the tabulations provided for in this

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

(c) In making his OR HER determinations with respect to abandonment, the division engineer shall investigate the circumstances relating to each water right for which the available water has not been fully applied to a beneficial use and ~~in such cases~~ shall be guided by the criteria set out in section 37-92-402 (11). The decennial abandonment list, when concluded by judgment and decree as provided in this section, ~~shall be~~ IS conclusive as to absolute water rights or portions thereof determined to have been abandoned.

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

(b) No later than July 31, 1990, and every tenth anniversary thereafter, the division engineer shall mail a copy of the respective decennial abandonment list by certified mail, return receipt requested, to the owner or last-known owner or claimant, if known, of every absolute water right ~~which~~ THAT the division engineer has found to have been abandoned in whole or in part. The division engineer shall make ~~such~~ AN APPROPRIATE examination ~~as is reasonably appropriate~~ to determine the owner or claimant of such absolute water rights. ~~He~~ THE DIVISION ENGINEER shall also ~~cause publication to be made of~~ PUBLISH the respective portion of the decennial abandonment list in each county in which the points of diversion of any absolute water rights on the list are located. ~~Such~~ THE publication shall be ~~made~~ CONTINUED for four successive weeks and shall be published, if possible, in a newspaper published in the county where the decreed point of diversion of the water right is located. The publication and mailing requirements of this ~~paragraph (b)~~ shall SUBSECTION (2)(b) apply only to

absolute water rights or portions thereof which OF ABSOLUTE WATER RIGHTS THAT previously have not been adjudged to have been abandoned.

(4) (a) Not later than December 31, 1991, and every tenth anniversary thereafter, the division engineer shall make ~~such~~ ANY revisions ~~if any, as~~ he OR SHE deems proper to the decennial abandonment list. In considering the matters raised by statements of objection, the division engineer may consult with any interested ~~persons~~ PERSON. The division engineer shall consult with the state engineer and shall make any revisions in the decennial abandonment list determined by the state engineer to be necessary or advisable.

(b) Repealed.

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

(d) If the decennial abandonment list is revised, the water clerk, in cooperation with the division engineer, not later than January 31, 1992, and every tenth anniversary thereafter, shall ~~cause~~ PROVIDE notice of the ~~availability of such~~ revision to be included in the resume described in ~~section 37-92-302 (3) of cases filed in the respective water divisions during said~~ THE month of December stating that the revision may be inspected or a copy thereof obtained as specified in ~~paragraph (c) of this subsection (4)~~ SUBSECTION (4)(c) OF THIS SECTION. In addition, the water clerk shall ~~cause such publication of~~ PUBLISH the notice as is necessary to obtain general circulation once in each county or THE portion thereof which OF THE COUNTY THAT is in the division.

SECTION 18. Act subject to petition - effective date - applicability. (1) This act takes effect at 12:01 a.m. on the day following

the expiration of the ninety-day period after final adjournment of the general assembly (August 9, 2017, if adjournment sine die is on May 10, 2017); except that, if a referendum petition is filed pursuant to section 1 (3) of article V of the state constitution against this act or an item, section, or part of this act within such period, then the act, item, section, or part will not take effect unless approved by the people at the general election to be held in November 2018 and, in such case, will take effect on the date of the official declaration of the vote thereon by the governor.

(2) This act applies to fees owed on or after the applicable effective date of this act.

Kevin J. Grantham
PRESIDENT OF
THE SENATE

Crisanta Duran
SPEAKER OF THE HOUSE
OF REPRESENTATIVES

Effie Ameen
SECRETARY OF
THE SENATE

Marilyn Eddins
CHIEF CLERK OF THE HOUSE
OF REPRESENTATIVES

APPROVED _____

John W. Hickenlooper
GOVERNOR OF THE STATE OF COLORADO