

CHAPTER 276

WATER AND IRRIGATION

SENATE BILL 04-032

BY SENATOR(S) Isgar, Taylor, Entz, Fitz-Gerald, Groff, Grossman, Hanna, Kester, Nichol, Sandoval, Teck, and Tupa;
 also REPRESENTATIVE(S) Salazar, Hoppe, Miller, Rippey, Briggs, Brophy, Carroll, Coleman, Hefley, Hodge, Jahn, Johnson R.,
 Larson, Madden, Marshall, Plant, Ragsdale, Romano ff, Spradley, Stafford, Vigil, Wiens, and Young.

AN ACT

**CONCERNING AN AUTHORIZATION FOR LOANS OF AGRICULTURAL IRRIGATION WATER RIGHTS, AND
 MAKING AN APPROPRIATION IN CONNECTION THEREWITH.**

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

SECTION 1. 37-83-105 (1), the introductory portion to 37-83-105 (2) (b), and 37-83-105 (2) (b) (III), (2) (b) (VI), and (2) (b) (VII), Colorado Revised Statutes, are amended to read:

37-83-105. Owner may loan water right - agricultural loans - drought loans to Colorado water conservation board for instream flows. (1) ~~It is lawful for the owners of ditches and water rights taking water from the same stream to exchange with, and loan to, each other, for a limited time, the water to which each may be entitled, for the purpose of saving crops or using the water in a more economical manner; except that the owners making such loan or exchange shall give notice in writing, signed by all the owners participating in said loan or exchange, stating that such loan or exchange has been made and for what length of time the same shall continue, whereupon said division engineer shall recognize the same in his or her distribution of water.~~ **SUBJECT TO THE LIMITATIONS OF THIS SUBSECTION (1) AND PURSUANT TO THE PROCEDURES SET FORTH IN PARAGRAPH (b) OF SUBSECTION (2) OF THIS SECTION, THE OWNER OF A WATER RIGHT DECREED AND USED SOLELY FOR AGRICULTURAL IRRIGATION PURPOSES MAY LOAN ALL OR A PORTION OF THE WATER RIGHT TO ANOTHER OWNER OF A DECREED WATER RIGHT ON THE SAME STREAM SYSTEM AND THAT IS USED SOLELY FOR AGRICULTURAL IRRIGATION PURPOSES FOR NO MORE THAN ONE HUNDRED EIGHTY DAYS DURING ANY ONE CALENDAR YEAR IF THE DIVISION ENGINEER APPROVES SUCH LOAN IN ADVANCE AND THE LOAN DOES NOT CAUSE INJURY TO OTHER DECREED WATER RIGHTS.**

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

(2) (b) In determining whether ~~or not~~ injury will occur, the division engineer shall ensure THAT the following conditions are met:

(III) The proposed use of the loaned water right is for AGRICULTURAL IRRIGATION PURPOSES OR FOR instream flow purposes BY THE COLORADO WATER CONSERVATION BOARD;

(VI) The division engineer, after consideration of any comments received, has determined that the operation and administration of the proposed loan will not cause ~~material~~ injury to other DECREED water rights ~~or impact~~ AND FOR LOANS MADE PURSUANT TO PARAGRAPH (a) OF THIS SUBSECTION (2), WILL NOT AFFECT Colorado's compact entitlements. The division engineer shall impose such terms and conditions as are necessary to ensure that these standards are met. In making the determinations specified in this subparagraph (VI), the division engineer shall not be required to hold any formal hearings or conduct any other formal proceedings, but may conduct a hearing or formal proceeding if the division engineer finds it necessary to address the issues.

(VII) The division engineer shall approve or deny the proposed loan within twenty days after the date of mailing of notice under subparagraph (II) of this paragraph (b), or within five days after the applicant provides evidence that all persons entitled to notice of the application under subparagraph (II) of this paragraph (b) have either consented to or commented on the application, WHICHEVER IS EARLIER.

SECTION 2. Appropriation. In addition to any other appropriation, there is hereby appropriated, out of any moneys in the ground water management cash fund created in section 37-80-111.5, Colorado Revised Statutes, not otherwise appropriated, to the department of natural resources, for allocation to division of water resources, for the fiscal year beginning July 1, 2004, the sum of three hundred dollars (\$300), or so much thereof as may be necessary, for the implementation of this act.

SECTION 3. Applicability. This act shall apply to loans of agricultural water rights occurring on or after the effective date of this act.

SECTION 4. 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 21, 2004