

CHAPTER 18

WATER AND IRRIGATION

HOUSE BILL 05-1039

BY REPRESENTATIVE(S) Curry, Berens, Boyd, Buescher, Carroll T., Cerbo, Crane, Frangas, Gallegos, Garcia, Green, Harvey, Hodge, Larson, Lindstrom, Madden, Marshall, Massey, McFadyen, Merrifield, Paccione, Plant, Pommer, Ragsdale, Romanoff, Rose, Solano, and Todd;
also SENATOR(S) Isgar, Entz, Groff, Kester, Taylor, Teck, and Tochtrop.

AN ACT**CONCERNING THE CONDITIONS PURSUANT TO WHICH LOANS OF WATER RIGHTS MAY BE MADE FOR INSTREAM FLOW PURPOSES.**

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

SECTION 1. The introductory portion to 37-83-105 (2) (a), Colorado Revised Statutes, is amended, and the said 37-83-105 (2) (a) is further amended BY THE ADDITION OF THE FOLLOWING NEW SUBPARAGRAPHS, to read:

37-83-105. Owner may loan agricultural water right - loans to Colorado water conservation board for instream flows. (2) (a) ~~In any basin or county in which the governor declares a drought emergency or in which any other emergency is declared,~~ A water right ~~owners~~ OWNER may loan water to the Colorado water conservation board for use as instream flows PURSUANT TO A DECREED INSTREAM FLOW WATER RIGHT HELD BY THE BOARD for a period not to exceed one hundred twenty days, subject to the following:

(IV) A LOAN APPROVED PURSUANT TO THIS PARAGRAPH (a) SHALL NOT BE EXERCISED FOR MORE THAN THREE YEARS IN A TEN-YEAR PERIOD, FOR WHICH ONLY A SINGLE APPROVAL BY THE STATE ENGINEER IS REQUIRED. THE TEN-YEAR PERIOD SHALL BEGIN WHEN THE STATE ENGINEER APPROVES THE LOAN. THE STATE ENGINEER SHALL NOT APPROVE A LOAN PURSUANT TO THIS PARAGRAPH (a) FOR ANOTHER TEN-YEAR PERIOD; EXCEPT THAT, IF THE AGREEMENT HAS NOT BEEN EXERCISED DURING THE TERM OF THE AGREEMENT, AN APPLICANT MAY REAPPLY ONE TIME BY REPEATING THE APPLICATION PROCESS PURSUANT TO THIS SUBSECTION (2).

(V) A PARTY MAY FILE COMMENTS CONCERNING POTENTIAL INJURY TO SUCH

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

PARTY'S WATER RIGHTS OR DECREED CONDITIONAL WATER RIGHTS DUE TO THE OPERATIONS OF THE LOAN OF A WATER RIGHT TO A DECREED INSTREAM FLOW RIGHT WITH THE STATE ENGINEER BY JANUARY 1 OF THE YEAR FOLLOWING EACH YEAR THAT THE LOAN IS EXERCISED. THE PROCEDURES OF PARAGRAPH (b) OF THIS SUBSECTION (2) REGARDING NOTICE, OPPORTUNITY TO COMMENT, THE STATE ENGINEER'S DECISION, AND AN APPEAL OF SUCH DECISION SHALL AGAIN BE FOLLOWED WITH REGARD TO SUCH PARTY'S COMMENTS.

SECTION 2. Effective date - applicability. (1) This act shall take effect at 12:01 a.m. on the day following the expiration of the ninety-day period after final adjournment of the general assembly that is allowed for submitting a referendum petition pursuant to article V, section 1 (3) of the state constitution (August 10, 2005, if adjournment sine die is on May 11, 2005); except that, if a referendum petition is filed against this act or an item, section, or part of this act within such period, then the act, item, section, or part, if approved by the people, shall take effect on the date of the official declaration of the vote thereon by proclamation of the governor.

(2) The provisions of this act shall apply to loans approved on or after the applicable effective date of this act.

Approved: March 25, 2005