

CHAPTER 242

WATER AND IRRIGATION

SENATE BILL 13-019

BY SENATOR(S) Schwartz, Aguilar, Carroll, Crowder, Heath, Jones, Kefalas, Kerr, King, Newell, Tochtrop, Todd;
also REPRESENTATIVE(S) Fischer, Duran, Exum, Fields, Ginal, Hamner, Hullinghorst, Kraft-Tharp, Labuda, Lebsock, Lee,
Mitsch Bush, Pabon, Pettersen, Rosenthal, Schafer, Stephens, Young.

AN ACT**CONCERNING THE PROMOTION OF WATER CONSERVATION MEASURES.**

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

SECTION 1. Legislative declaration. (1) The general assembly hereby:

(a) Finds that some water appropriators may wish to reduce their water consumption, in part to ameliorate the effects of drought on low stream flows, but there is a disincentive in current law that penalizes appropriators who decrease their consumptive use of water;

(b) Determines that, at a time when Colorado can expect drought conditions to increase in frequency and severity, the general assembly should give appropriators a safe harbor when they decrease their consumptive use of water by participating in a variety of government-sponsored water conservation programs; and

(c) Declares that this act promotes the maximum utilization of Colorado's water resources, can help alleviate the effects of drought on river flows, and is in the public interest.

SECTION 2. In Colorado Revised Statutes, 37-92-305, **add** (3) (c) as follows:

37-92-305. Standards with respect to rulings of the referee and decisions of the water judge. (3) (c) IN DETERMINING THE AMOUNT OF HISTORICAL CONSUMPTIVE USE FOR A WATER RIGHT IN DIVISION 4, 5, OR 6, THE WATER JUDGE SHALL NOT CONSIDER ANY DECREASE IN USE RESULTING FROM THE FOLLOWING:

(I) THE LAND ON WHICH THE WATER FROM THE WATER RIGHT HAS BEEN

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

HISTORICALLY APPLIED IS ENROLLED UNDER A FEDERAL LAND CONSERVATION PROGRAM; OR

(II) THE NONUSE OR DECREASE IN USE OF THE WATER FROM THE WATER RIGHT BY ITS OWNER FOR A MAXIMUM OF FIVE YEARS IN ANY CONSECUTIVE TEN-YEAR PERIOD AS A RESULT OF PARTICIPATION IN:

(A) A WATER CONSERVATION PROGRAM APPROVED BY A STATE AGENCY, WATER CONSERVATION DISTRICT, WATER DISTRICT, WATER AUTHORITY, OR WATER CONSERVANCY DISTRICT FOR LANDS THAT ARE WITHIN THE ENTITY'S JURISDICTIONAL BOUNDARIES;

(B) A WATER CONSERVATION PROGRAM ESTABLISHED THROUGH FORMAL WRITTEN ACTION OR ORDINANCE BY A WATER DISTRICT, WATER AUTHORITY, OR MUNICIPALITY OR ITS MUNICIPAL WATER SUPPLIER FOR LANDS THAT ARE WITHIN THE ENTITY'S JURISDICTIONAL BOUNDARIES;

(C) AN APPROVED LAND FALLOWING PROGRAM AS PROVIDED BY LAW IN ORDER TO CONSERVE WATER OR TO PROVIDE WATER FOR COMPACT COMPLIANCE; OR

(D) A WATER BANKING PROGRAM AS PROVIDED BY LAW.

SECTION 3. Applicability. This act applies to historical consumptive use determinations made 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 18, 2013