

HB1046\_L.001

## HOUSE COMMITTEE OF REFERENCE AMENDMENT

Committee on Agriculture, Livestock, & Water.HB21-1046 be amended as follows:

- 1 Amend printed bill, page 2, strike line 3 and substitute "as follows":
- 2 Page 2, strike lines 5 through 16 and substitute "**corporation shares.**
- 3 (4) (a) SUBJECT TO ANY DECREE FOR THE WATER RIGHTS HELD IN THE
- 4 NAME OF A MUTUAL DITCH CORPORATION AND TO A MUTUAL DITCH
- 5 CORPORATION'S ARTICLES OF INCORPORATION OR BYLAWS, A MUTUAL
- 6 DITCH CORPORATION DELIVERING DIRECT FLOW WATER RIGHTS MAY
- 7 PROVIDE WATER TO ONLY WATER-REQUESTING STOCKHOLDERS,
- 8 INCLUDING STOCKHOLDERS THAT OWN SHARES FOR WHICH A CHANGE IN
- 9 USE HAS BEEN ADJUDICATED OR APPROVED. CONSISTENT WITH EACH
- 10 STOCKHOLDER'S REQUEST AND THE AVAILABLE WATER SUPPLY, A MUTUAL
- 11 DITCH CORPORATION MAY PROVIDE WATER AT RATES OF FLOW GREATER
- 12 OR LESS THAN EACH STOCKHOLDER'S PRO-RATA OWNERSHIP OF SHARES IN
- 13 THE CORPORATION. WHEN TOTAL STOCKHOLDER DEMAND EXCEEDS
- 14 AVAILABLE WATER SUPPLY, A MUTUAL DITCH CORPORATION SHALL
- 15 PROVIDE, TO THE EXTENT POSSIBLE, A PRO RATA AMOUNT OF WATER TO
- 16 ALL STOCKHOLDERS THAT ARE REQUESTING WATER, EITHER
- 17 SIMULTANEOUSLY OR, IF NECESSARY, BY ROTATING AMONG
- 18 STOCKHOLDERS IN SECTIONS OR BY OTHER EQUITABLE METHODS AS
- 19 DETERMINED BY THE CORPORATION.
- 20 (b) SUBJECT TO SUBSECTION (4)(c)(IV) OF THIS SECTION, IF A
- 21 WATER COURT DECREE AUTHORIZING THE CHANGE IN USE OF THE WATER
- 22 RIGHTS REPRESENTED BY MUTUAL DITCH CORPORATION SHARES CONTAINS
- 23 VOLUMETRIC LIMITS ON THE AMOUNT OF WATER DELIVERABLE TO THE
- 24 CHANGED SHARES, WATER DIVERTED AND DELIVERED BY THE MUTUAL
- 25 DITCH CORPORATION ONLY COUNTS AGAINST THE CHANGED
- 26 STOCKHOLDER'S VOLUMETRIC LIMITS IF THE STOCKHOLDER, OR ITS LESSEE
- 27 OR DESIGNEE, TAKES DELIVERY IN ACCORDANCE WITH THE CHANGE IN USE
- 28 DECREE.
- 29 (c) A COURT SHALL NOT CONSTRUE THIS SUBSECTION (4):
- 30 (I) (A) TO SUPERSEDE OR ABROGATE THE CONDITIONS OF ANY
- 31 FINAL WATER COURT DECREE ENTERED BEFORE THE EFFECTIVE DATE OF
- 32 THIS SUBSECTION (4); OR
- 33 (B) TO APPLY TO ANY WATER COURT APPLICATION FOR WHICH A
- 34 TRIAL WAS HELD BEFORE THE EFFECTIVE DATE OF THIS SUBSECTION (4) OR
- 35 TO AN APPEAL OF ANY WATER COURT DECISION OR DECREE RESULTING
- 36 FROM SUCH A TRIAL;
- 37 (II) TO IMPEDE OR PREVENT A STOCKHOLDER FROM CHANGING THE
- 38 TYPE OF, PLACE OF, TIME OF USE OF, OR POINT OF DIVERSION OF THE WATER
- 39 RIGHTS REPRESENTED BY THE SHARES IN A MUTUAL DITCH CORPORATION;
- 40 (III) TO REQUIRE OR PROHIBIT A REDUCTION IN THE FLOW RATE

1 AVAILABLE TO A STOCKHOLDER OR MUTUAL DITCH CORPORATION WHEN  
2 THE TYPE OF, PLACE OF, TIME OF USE OF, OR POINT OF DIVERSION OF THE  
3 WATER RIGHTS REPRESENTED BY THE SHARES IS LAWFULLY CHANGED;  
4 (IV) (A) TO AMEND OR MODIFY THE STANDARDS IN SECTION  
5 37-92-305 FOR WATER COURT APPROVAL OF A CHANGE IN USE; OR  
6 (B) TO AMEND OR MODIFY THE COURT'S ABILITY TO ORDER  
7 CONDITIONS NECESSARY TO PREVENT AN ENLARGEMENT UPON THE  
8 HISTORICAL USE OF WATER RIGHTS FOR WHICH A CHANGE IS SOUGHT OR TO  
9 PREVENT A DIMINUTION OF RETURN FLOW HISTORICALLY RESULTING FROM  
10 THE USE OF THE CHANGED SHARES TO THE DETRIMENT OF OTHER  
11 APPROPRIATORS; OR  
12 (V) TO IMPAIR THE ABILITY OF A STOCKHOLDER TO ENTER INTO A  
13 PROGRAM IDENTIFIED IN SECTION 37-92-305 (3)(c) OR TO ENTER INTO AN  
14 ACQUISITION TRANSACTION PROVIDED FOR IN EITHER SECTION 37-92-102  
15 (3) OR 37-83-105."

16 Page 3, strike lines 1 through 16.

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