

SB036_L.012

HOUSE COMMITTEE OF REFERENCE AMENDMENT

Committee on Judiciary.

SB17-036 be amended as follows:

1 Amend reengrossed bill, page 2, strike line 3 and substitute "(1)(b)(III);
2 and add (3) as follows:".

3 Page 2, after line 14 insert:

4 "(3) A DISTRICT COURT, IN REVIEWING A DECISION BY THE
5 GROUNDWATER COMMISSION OR THE STATE ENGINEER, MAY CONSIDER A
6 PARTY'S MOTION TO PRODUCE NEW EVIDENCE IF THE DISTRICT COURT
7 DETERMINES THAT THE PARTY OFFERING THE EVIDENCE HAS PROVED BY
8 CLEAR AND CONVINCING EVIDENCE THAT, IN THE EXERCISE OF GOOD FAITH
9 AND REASONABLE DILIGENCE, THE PARTY COULD NOT HAVE OFFERED THE
10 EVIDENCE AT THE ADMINISTRATIVE PROCEEDING. IF THE DISTRICT COURT
11 DENIES THE PARTY'S MOTION BECAUSE THE PARTY DID NOT MEET ITS
12 BURDEN OF PROOF FOR ADMISSION OF THE EVIDENCE, THE DISTRICT COURT
13 SHALL REQUIRE THE PARTY AND THE PARTY'S ATTORNEY TO PAY THE
14 REASONABLE ATTORNEY FEES THAT THE OTHER PARTY OR PARTIES
15 INCURRED IN OPPOSITION TO THE TENDER OF NEW EVIDENCE."

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