



THE SOUTHWESTERN WATER CONSERVATION DISTRICT

Developing and Conserving the Waters in the
SAN JUAN AND DOLORES RIVERS AND THEIR TRIBUTARIES
West Building – 841 East Second Avenue
DURANGO, COLORADO 81301
(970) 247-1302

BOARD MEMORANDUM

From: Steve Wolff, General Manager
Subject: Colorado Legislative report – 02/01/22

NOTE: I will be in Denver during our call this week. If possible, I will be joining the zoom call from my computer but may only be on via my phone.

Details on each bill SWCD is currently tracking are provided on the attached bill summary from CLS. You can also click on the Bill Number (hyperlinked) to access a copy of each bill. Also attached is a “quick-reference” table showing the status of each bill. Colorado Water Congress’s bill status sheet is also attached.

One bill we discussed on our last call (SB22-028; Groundwater Compact Compliance Fund), the board may wish to take a position on. Both Colorado Water Congress and the Colorado River District have taken a “Support” position on this bill.

A couple of other draft bills of interest that are being discussed include:

DRAFT Fire Suppression Ponds Water Rights (Hisey) (draft bill attached to this email)

DRAFT Money for Turf Removal & Replacement Funding (Catlin/Roberts) (draft bill attached to this email)

DRAFT Recreational In-Channel Values Reaches (RIVR) (draft language attached to this email)

One bill that is not included in the summary from CLS is HB22-1097 ([Dissolution Of Special Districts](#)). You can access a copy of the bill on this hyperlink. While SWCD isn’t a special district, there are several within SWCD’s boundaries, so it seems like something SWCD board members should be aware of. The bill is sponsored by Senator Simpson and Representative Valdez and based on some discussion we’ve heard is to address an issue in their district. I hope Garin can provide a bit more background on this bill during our call.

Prepared by Colorado Legislative Strategies

Southwestern Water Conservation District

[HB22-1007](#)

Assistance Landowner Wildfire Mitigation

Position:

Calendar

Wednesday, February 9 2022

Notification:

Energy & Environment
Upon Adjournment Room LSB-A
(1) in house calendar.

Short Title:

Assistance Landowner Wildfire Mitigation

Sponsors:

D. Valdez (D) | M. Lynch (R) / C. Simpson (R) | P. Lee (D)

Summary:

Wildfire Matters Review Committee. Section 1 of the bill establishes the wildfire mitigation resources and best practices grant program (grant program) within the Colorado state forest service (forest service). To be eligible to receive a grant, a recipient must be an agency of local government, a county, municipality, special district, a tribal agency or program, or a nonprofit organization.

The forest service is tasked with reviewing grant applications. Grants must be awarded to applicants proposing to conduct outreach among landowners in high wildfire hazard areas and the forest service must consider the potential impact of the applicants' proposed outreach when awarding grants.

The forest service must report to the wildfire matters review committee on the grant program.

Section 2 repeals the existing income tax deduction created to offset the landowner's costs incurred in performing wildfire mitigation measures for the 2023 and subsequent income tax years. **Section 3** creates a state income tax credit to reimburse a landowner for the costs incurred in performing wildfire mitigation measures on the landowner's property. Specifically, a landowner with a federal taxable income at or below \$120,000 for the income tax year commencing on or after January 1, 2023, as adjusted for inflation and rounded to the nearest hundred dollar amount for each income tax year thereafter, is allowed a state income tax credit in an amount equal to 25% of up to \$2,500 in costs for wildfire mitigation measures. The maximum total credit in a taxable year is \$625.

(Note: This summary applies to this bill as introduced.)

Status:

1/12/2022 Introduced In House - Assigned to Energy & Environment

Fiscal Notes:

[Fiscal Note](#)

HB22-1011

Wildfire Mitigation Incentives For Local Governments

Position:

Calendar

Wednesday, February 9 2022

Notification:

Energy & Environment
Upon Adjournment Room LSB-A
(2) in house calendar.

Short Title:

Wildfire Mitigation Incentives For Local Governments

Sponsors:

L. Cutter (D) | M. Snyder (D) / T. Story (D) | P. Lee (D)

Summary:

Wildfire Matters Review Committee. The bill establishes the wildfire mitigation incentives for local government grant program (grant program) in the Colorado state forest service (forest service). The grant program is established to provide state funding assistance in the form of grant awards to local governments to match revenue raised by such governments from a dedicated revenue source that is intended to be used for forest management or wildfire mitigation efforts at the local level. Such wildfire mitigation efforts include, without limitation, projects that promote fuel breaks, forest thinning, a reduction in the amount or extent of fuels contributing to wildfires, outreach and education efforts directed at property owners and other members of the public, and any other means of forest management or wildfire mitigation as determined appropriate for funding by the forest service.

The grant program is administered by the forest service.

On or before March 1, 2023, the forest service is required to adopt polices, procedures, and guidelines for the grant program that include, without limitation:

- Procedures and timelines by which an eligible recipient may apply for a grant;
- Criteria for determining grant eligibility and grant amounts; and
- Reporting requirements for grant recipients.

Any funding awarded under the grant program must match revenues raised by the local government from a dedicated revenue source that is intended to be used for forest management or wildfire mitigation efforts at the local level in accordance with policies, procedures, and guidelines developed by the forest service.

In allocating funding under the grant program, preference will be given to certain eligible recipients based on prioritization factors enumerated in the bill.

Eligible recipients may apply for funding from the grant program, and the recipient's application for funding may be approved by

the forest service, before the local government has created a dedicated revenue source that forms the basis for the match if the electors of the local government approve a ballot issue creating the revenue source at an election that takes place in the same calendar year in which the funding is awarded.

The bill creates the wildfire mitigation incentives local government grant program fund in the state treasury.

On or before November 1, 2024, and on or before November 1 of each year thereafter, the forest service is required to publish a report summarizing the use of all of the money that was awarded under the grant program in the preceding fiscal year. The bill specifies additional required components of the report. The report must be posted on the website of the forest service. The bill requires the Colorado department of higher education to summarize the information contained in the report in its "State Measurement for Accountable, Responsive, and Transparent (SMART) Government Act" hearings.

The bill requires the forest service to prepare educational materials concerning the grant program and to display such materials on its official website. In addition, the forest service is also required to undertake outreach activities to inform local governments located in priority areas for wildfire mitigation of the grant program.

(Note: This summary applies to this bill as introduced.)

Status: 1/12/2022 Introduced In House - Assigned to Energy & Environment

Fiscal Notes: [Fiscal Note](#)

[HB22-1012](#)

Wildfire Mitigation And Recovery

Position:

Calendar

Wednesday, February 9 2022

Notification:

Energy & Environment
Upon Adjournment Room LSB-A
(3) in house calendar.

Short Title:

Wildfire Mitigation And Recovery

Sponsors:

L. Cutter (D) | D. Valdez (D) / J. Ginal (D) | P. Lee (D)

Summary:

Wildfire Matters Review Committee. Section 1 of the bill creates the wildfire mitigation and recovery grant program (grant program) in the Colorado state forest service (forest service) to provide grants to help counties with forested areas prevent and recover from wildfire incidents and ensure that such efforts are undertaken in a manner that reduces the amount of carbon that enters the atmosphere. In expending grant money,

a county, to the extent practicable, shall ensure that biomass that is removed from forests is recycled or disposed of in a manner that reduces the amount of carbon that enters the atmosphere.

The forest service shall administer the grant program and, subject to available appropriations, award grants out of money annually appropriated to the forest service for the grant program. The forest service shall review grant applications in consultation with the division of fire prevention and control in the department of public safety and with the Colorado forest health council in the department of natural resources.

The grant program is repealed, effective September 1, 2028. Before the repeal, the grant program is scheduled for a sunset review by the department of regulatory agencies. **Section 2** schedules this review. *(Note: This summary applies to this bill as introduced.)*

Status: 1/12/2022 Introduced In House - Assigned to Energy & Environment

Fiscal Notes: [Fiscal Note](#)

HB22-1092

Loans From Irrigation Districts To Landowners

Position:

Calendar

NOT ON CALENDAR

Notification:

Short Title:

Loans From Irrigation Districts To Landowners

Sponsors:

M. Soper (R) | D. Roberts (D) / J. Bridges (D) | D. Coram (R)

Summary:

Section 1 of the bill allows a board of directors of an irrigation district (board) to borrow money, which the irrigation district may use to make loans to landowners to be used to make improvements to private water delivery systems or for other types of projects that improve:

- Water conservation or efficiencies on landowner property; or
- Landowner delivery or drainage systems.

An obligation or contract to borrow such money is exempt from the existing requirement that a contract purporting to bind the district to pay any sum in excess of \$500,000 must be ratified by a majority of all the votes cast at a general or special election. Additionally, the district cannot assess landowners to raise money to fund the loans.

A board may adopt rules concerning the issuance of loans to landowners.

Section 2 requires each irrigation district to include in its annual appropriation resolution all amounts payable by landowners to the irrigation district in accordance with loans issued to the landowners and

indicate the amount payable by each tract within the irrigation district for which a landowner has received a loan. **Section 3** requires a county assessor, in assessing land within an irrigation district, to:

- Apply the information provided in the irrigation district's annual appropriation resolution concerning loans issued to landowners; and
- Assess the additional amount payable for each tract for which the landowner has received a loan.

(Note: This summary applies to this bill as introduced.)

Status: 1/20/2022 Introduced In House - Assigned to Agriculture, Livestock, & Water

Fiscal Notes:

[SB22-007](#) Increase Wildfire Risk Mitigation Outreach Efforts

Position:

Calendar

Tuesday, February 1 2022

Notification:

SENATE LOCAL GOVERNMENT COMMITTEE

1:30 PM SCR 352

(2) in senate calendar.

Short Title:

Increase Wildfire Risk Mitigation Outreach Efforts

Sponsors:

P. Lee (D) | T. Story (D) / L. Cutter (D) | M. Snyder (D)

Summary:

Wildfire Matters Review Committee. The bill requires the Colorado state forest service (forest service) to convene a working group (working group) that includes the division of fire prevention and control in the department of public safety (DFPC) and the United States forest service (USFS), and that may include other local, state, or federal partners and entities engaged in wildfire risk mitigation in the wildland-urban interface (WUI).

The working group shall consider how best to conduct enhanced wildfire awareness month outreach campaigns in 2023 and 2024, as well as other outreach efforts that inform and motivate residents in the WUI to engage in more wildfire risk mitigation. The working group's considerations also include how best to distribute educational resources and information and which methods of outreach are most effective in reaching the targeted audience.

After considering feedback from the working group, and subject to available appropriations, the forest service shall implement an enhanced wildfire awareness month outreach campaign in conjunction

with the DFPC and the USFS in 2023 and 2024, as well as other outreach efforts in the 2022-23 and 2023-24 state fiscal years.

In implementing an enhanced wildfire awareness month outreach campaign and other outreach efforts, the forest service may, subject to available appropriations:

- Develop or contract for the development or placement of marketing and educational materials, including videos, direct mail, social media, print media, television and radio spots, and billboards;
- Conduct or contract for educational events targeted to residents in the WUI;
- Retain consultants, as necessary, to implement all or part of an outreach campaign, as well as other outreach efforts;
- Make enhancements to the forest service's web-based clearinghouse for technical assistance and funding resources and coordinate with working group partners and other entities to provide links to web-based educational resources and information; and
- Secure necessary staff to implement the outreach efforts.

The bill requires the state forester to report to the wildfire matters review committee during the 2023 and 2024 legislative interims concerning the outreach efforts implemented pursuant to the bill, including the amount and use of money appropriated for outreach efforts and the impact of those efforts in increasing awareness of wildfire risk mitigation in the WUI.

(Note: This summary applies to this bill as introduced.)

Status: 1/12/2022 Introduced In Senate - Assigned to Local Government

Fiscal Notes: [Fiscal Note](#)

[SB22-013](#)

Boards And Commissions

Position:

Calendar

Tuesday, February 1 2022

Notification:

SENATE APPROPRIATIONS COMMITTEE

8:45 AM LSB-B

(1) in senate calendar.

Short Title:

Boards And Commissions

Sponsors:

S. Fenberg (D) | C. Holbert (R) / A. Garnett (D)

Summary:

The bill makes changes related to the requirements for various boards and commissions (boards).

Section 1 of the bill includes standard provisions that generally apply to boards for which membership is based in full or in part on representation from the congressional districts of the state. Specifically, unless a statute or constitutional provision creating a board provides otherwise:

- If a member appointed to represent a district no longer resides in the district due solely to a change in the district's boundaries following redistricting, the member may serve the remainder of their term notwithstanding the nonresidency;
- If a board increases in size due to the addition of a new congressional district in the state, the appointing authority shall appoint a new member to represent the new district as soon as practicable; and
- If a board decreases in size due to the loss of a congressional district in the state, the appointing authority shall determine which current member's term should be terminated, or, if the member will be replaced by an at-large or other member, which member should be replaced at the expiration of the member's term. The appointing authority must attempt to ensure that the remaining membership adequately represents the remaining congressional districts.

Section 2 establishes standard provisions that apply to all boards unless the statute or constitutional provision creating a board provides differently. The standard provisions include: requiring an appointing authority to fill a vacancy for the remainder of the unexpired term, allowing the designee of a state official to fulfill the official's duties on the board, defining the term "minimum majority" to mean the lowest number of members that is more than half, allowing members to participate in meetings of the board remotely, and clarifying how partial terms count towards any applicable term limit. **Sections 33 and 40** update the statutes that establish the membership of the state board of education and the board of regents of the university of Colorado, respectively, both of which are elected boards created in the state constitution. For the state board of education, **section 33** provides for the election of one new member to represent the eighth congressional district and one new member from the state at large at the 2022 general election. For the board of regents, **section 40** requires the election of a member to represent the eighth congressional district in place of the election of a member representing the state at large at the 2022 general election. **Sections 37, 42, 52, 60, 73, 85, 86, 90, 101, and 107** amend statutes governing boards for which membership is based on the number

of congressional districts in the state. For each board, the total number of members is no longer specified. Instead, each statute provides for the appointment of members from each congressional district in the state plus, as applicable, additional members as is currently provided for each board. Provisions requiring staggering of terms and limits on the number of board members who may be affiliated with a single political party are amended to refer to a "minimum majority" of the board to accommodate any future changes in board membership resulting from changes in the number of Colorado congressional districts. **Section 133** repeals a statute that addressed the impact of redistricting on boards following the 2000 federal decennial census, and a statute that adjusted the lengths of terms of members of certain boards in 1987.

The remaining sections of the bill make changes to statutory provisions governing various boards with appointed members, including:

- Repealing deadlines for events or actions that have already occurred;
- Repealing language setting specific expiration dates or requirements for board members' terms in order to create staggering of the board members' terms, and replacing it with a general requirement that the terms of office are staggered;
- Repealing requirements for notice and hearing before a board member can be removed for cause by an appointing authority;
- Repealing, for certain boards, the requirement that a board member serve until the board member's successor is confirmed by the senate;
- Updating archaic language to conform to current drafting standards;
- Reorganizing sections to clarify requirements related to appointments, qualifications for appointees, and terms of office;
- Clarifying requirements related to the number of board members that may be affiliated with one political party; and
- Making conforming amendments.

(Note: This summary applies to this bill as introduced.)

Status: 1/27/2022 Senate Committee on State, Veterans, & Military Affairs
Refer Amended to Appropriations

Fiscal Notes: [Fiscal Note](#)

[SB22-028](#)

Groundwater Compact Compliance Fund

Position:

Calendar

Notification:

Thursday, February 10 2022

SENATE AGRICULTURE & NATURAL RESOURCES
COMMITTEE

1:30 PM Old Supreme Court
(1) in senate calendar.

Short Title: Groundwater Compact Compliance Fund
Sponsors: C. Simpson (R) | J. Sonnenberg (R) / D. Roberts (D) | M. Catlin (R)
Summary: **Water Resources Review Committee.** The bill creates the groundwater compact compliance and sustainability fund to help finance groundwater use reduction efforts in the Rio Grande river basin and the Republican river basin, such as efforts to buy and retire irrigation wells and irrigated acreage in the river basins. The Colorado water conservation board administers the fund and can make expenditures from the fund based on recommendations from the board of directors of the Rio Grande water conservation district or the Republican river water conservation district. A conservation district's recommendations must first be approved by the state engineer.
(Note: This summary applies to this bill as introduced.)
Status: 1/12/2022 Introduced In Senate - Assigned to Agriculture & Natural Resources
Fiscal Notes: [Fiscal Note](#)

SB22-029

Investment Water Speculation

Position:
Calendar Notification: NOT ON CALENDAR
Short Title: Investment Water Speculation
Sponsors: D. Coram (R) | K. Donovan (D) / K. McCormick (D)
Summary: **Water Resources Review Committee. Section 1** of the bill prohibits a purchaser of agricultural water rights that are represented by shares in a mutual ditch company from engaging in investment water speculation. Investment water speculation is the purchase of agricultural water rights that are represented by shares in a mutual ditch company in the state with the intent, at the time of purchase, to profit from an increase in the water's value in a subsequent transaction or by receiving payment from another person for nonuse of all or a portion of the water subject to the water right.

On or after January 1, 2023, the state engineer or the state engineer's designee (state engineer) may investigate complaints of investment water speculation. If a purchaser holds, or by virtue of a proposed sale or transfer, will hold at least a minimum percent of the shares in a mutual ditch company, about which minimum percent the mutual ditch company must determine and notify the state engineer on or before December 31, 2022, there is a rebuttable presumption that the purchaser is engaged in investment water speculation. The state engineer

may fine a purchaser up to \$10,000 for a violation and require, for a period of up to 2 years after a fine has been imposed, that any sale or transfer of shares in a mutual ditch company to the purchaser be subject to approval by the state engineer.

If the state engineer believes that a complaint is frivolous or was filed for the purpose of harassing a seller or purchaser, the state engineer may refer the matter to the attorney general's office for the attorney general or the attorney general's designee (attorney general) to investigate and, if the attorney general determines that enforcement is warranted, bring a civil action in a court of competent jurisdiction alleging the complaint is frivolous or was filed for the purpose of harassment. If the attorney general prevails in the civil action, the court may fine a complainant up to \$1,000, prohibit the complainant from filing any complaints alleging investment water speculation for up to one year, and grant attorney fees and court costs. **Section 3** authorizes the attorney general to bring a civil action against a complainant if the state engineer refers the matter to the attorney general. **Section 2** requires the board of directors of a mutual ditch company to determine the minimum percent of agricultural water rights held by all of the shareholders in the mutual ditch company that a purchaser holds or, by virtue of the sale or transfer of shares in the mutual ditch company, will hold that creates a rebuttable presumption that the purchaser is engaging in investment water speculation.

(Note: This summary applies to this bill as introduced.)

Status: 1/12/2022 Introduced In Senate - Assigned to Agriculture & Natural Resources

Fiscal Notes: [Fiscal Note](#)

[SB22-030](#)

Expand Water Resources Review Committe To Include Agriculture

Position:

Calendar

Wednesday, February 2 2022

Notification:

SENATE AGRICULTURE & NATURAL RESOURCES
COMMITTEE
Upon Adjournment Old Supreme Court
(1) in senate calendar.

Short Title:

Expand Water Resources Review Committe To Include Agriculture

Sponsors:

K. Donovan (D) | J. Sonnenberg (R) / B. McLachlan (D) | M. Catlin (R)

Summary:

Water Resources Review Committee. The bill changes the name of the water resources review committee to the water resources and agriculture review committee (committee) and expands the scope of the committee to include agriculture issues.

(Note: This summary applies to this bill as introduced.)

January 31, 2022

Status: 1/12/2022 Introduced In Senate - Assigned to Agriculture & Natural Resources

Fiscal Notes: [Fiscal Note](#)

[SJR22-002](#)

Water Projects Eligibility Lists

Position: **Support**

Calendar Wednesday, February 2 2022

Notification: SENATE AGRICULTURE & NATURAL RESOURCES COMMITTEE

Upon Adjournment Old Supreme Court
(2) in senate calendar.

Short Title: Water Projects Eligibility Lists

Sponsors: K. Donovan (D) / K. McCormick (D)

Summary: *** No bill summary available ***

Status: 1/14/2022 Introduced In Senate - Assigned to Agriculture & Natural Resources

Fiscal Notes:

Southwestern Water Conservation District

Bill Matrix

January 19, 2022

Bill #	Position	Calendar Notification	Bill Title	Sponsors	Most Recent Status	Fiscal Note
HB22-1007		Wednesday, February 9 2022 Energy & Environment Upon Adjournment Room LSB-A (1) in house calendar.	Concerning wildfire mitigation assistance for landowners.	D. Valdez (D) M. Lynch (R) / C. Simpson (R) P. Lee (D)	1/12/2022 Introduced In House - Assigned to Energy & Environment	Fiscal Note
HB22-1011		Wednesday, February 9 2022 Energy & Environment Upon Adjournment Room LSB-A (2) in house calendar.	Concerning the establishment of a state grant program that provides funding to local governments that dedicate resources for wildfire mitigation purposes.	L. Cutter (D) M. Snyder (D) / T. Story (D) P. Lee (D)	1/12/2022 Introduced In House - Assigned to Energy & Environment	Fiscal Note
HB22-1012		Wednesday, February 9 2022 Energy & Environment Upon Adjournment Room LSB-A (3) in house calendar.	Concerning healthy forests, and, in connection therewith, creating the wildfire mitigation and recovery grant program.	L. Cutter (D) D. Valdez (D) / J. Ginal (D) P. Lee (D)	1/12/2022 Introduced In House - Assigned to Energy & Environment	Fiscal Note
HB22-1092		NOT ON CALENDAR	Concerning the issuance of loans by irrigation districts to landowners for certain purposes.	M. Soper (R) D. Roberts (D) / J. Bridges (D) D. Coram (R)	1/20/2022 Introduced In House - Assigned to Agriculture, Livestock, & Water	
SB22-007		Tuesday, February 1 2022 SENATE LOCAL GOVERNMENT COMMITTEE 1:30 PM SCR 352 (2) in senate calendar.	Concerning outreach to the public relating to wildfire risk mitigation practices.	P. Lee (D) T. Story (D) / L. Cutter (D) M. Snyder (D)	1/12/2022 Introduced In Senate - Assigned to Local Government	Fiscal Note
SB22-013		Tuesday, February 1 2022 SENATE APPROPRIATIONS COMMITTEE 8:45 AM LSB-B (1) in senate calendar.	Concerning requirements for boards and commissions.	S. Fenberg (D) C. Holbert (R) / A. Garnett (D)	1/27/2022 Senate Committee on State, Veterans, & Military Affairs Refer Amended to Appropriations	Fiscal Note
SB22-028		Thursday, February 10 2022 SENATE AGRICULTURE & NATURAL RESOURCES COMMITTEE 1:30 PM Old Supreme Court (1) in senate calendar.	Concerning the creation of the groundwater compact compliance and sustainability fund.	C. Simpson (R) J. Sonnenberg (R) / D. Roberts (D) M. Catlin (R)	1/12/2022 Introduced In Senate - Assigned to Agriculture & Natural Resources	Fiscal Note

SB22-029		NOT ON CALENDAR	Concerning water speculation in the state.	D. Coram (R) K. Donovan (D) / K. McCormick (D)	1/12/2022 Introduced In Senate - Assigned to Agriculture & Natural Resources	Fiscal Note
SB22-030		Wednesday, February 2 2022 SENATE AGRICULTURE & NATURAL RESOURCES COMMITTEE Upon Adjournment Old Supreme Court (1) in senate calendar.	Concerning the expansion of the water resources review committee to the water resources and agriculture review committee.	K. Donovan (D) J. Sonnenberg (R) / B. McLachlan (D) M. Catlin (R)	1/12/2022 Introduced In Senate - Assigned to Agriculture & Natural Resources	Fiscal Note
SJR22-002	Support	Wednesday, February 2 2022 SENATE AGRICULTURE & NATURAL RESOURCES COMMITTEE Upon Adjournment Old Supreme Court (2) in senate calendar.	Concerning approval of water project revolving fund eligibility lists administered by the Colorado water resources and power development authority.	K. Donovan (D) / K. McCormick (D)	1/14/2022 Introduced In Senate - Assigned to Agriculture & Natural Resources	

Colorado Water Congress

2022 Bill Status Sheet

Bill No.	Short Title	CWC Position	Introduced	1st Committee	2nd Committee	2nd Reading	3rd Reading	Introduced	1st Committee	2nd Reading	3rd Reading	First House Repass	Conference Committee	Governor
HB22-1007	Assistance Landowner Wildfire Mitigation	31-Jan	12-Jan	2/9 EE										
HB22-1011	Wildfire Mitigation Incentives for Local Governments	31-Jan	12-Jan	2/9 EE										
HB22-1012	Wildfire Mitigation and Recovery	31-Jan	12-Jan	2/9 EE										
HB22-1092	Loans from Irrigation Districts to Landowners		20-Jan	Ag										
HB22-1097	Dissolution of Special Districts		20-Jan	2/8 T & LG										
SB22-007	Increase Wildfire Risk Mitigation Outreach Efforts	31-Jan	12-Jan	2/1 LG										
SB22-013	Boards and Commissions		12-Jan	1/27 SVMA	2/1 Ap									
SB22-028	Groundwater Compact Compliance Fund	24-Jan	12-Jan	2/10 Ag										
SB22-029	Investment Water Speculation		12-Jan	Ag										

Bill No.	Short Title	CWC Position	Introduced	1st Committee	2nd Committee	2nd Reading	3rd Reading	Introduced	1st Committee	2nd Reading	3rd Reading	First House Repass	Conference Committee	Governor
SB22-030	Expand Water Resources Review Committee to Include Agriculture		12-Jan	2/2 Ag										
SJR22-002	Water Projects Eligibility Lists	24-Jan	14-Jan	2/2 Ag										

BILL STATUS	ABBREVIATIONS
Bill scheduled for action at next SA meeting (yellow)	Ag = Agriculture, Livestock & Water
Bill not calendared (no fill)	Ap = Appropriations
Bill Passed, date of action (green)	BLEW = Business, Labor, Economic and Workforce Development Committee
Bill no longer active (gray)	CC = Conference Committee
Bill did not go to second committee or no action required (black)	F = Finance Committee

CWC POSITION	HIE= Health, Insurance, and Environment
Bill scheduled for activity in CWC State Affairs (yellow)	J = Judiciary
Support (green)	TLG = Transportation & Local Government
Oppose (orange)	SVMA = State, veterans, and Military Affairs Committee
Amend (blue)	EE = Energy & Environment
Monitor, Neutral, No Position	UA = Upon Adjournment
No Motions Made	UR = Upon Recess
	Ag = Agriculture and Natural Resources Committee
	CD = Capital Development
	TE = Transportation & Energy
	E = Education
	BAL = Business Affairs & Labor

Second Regular Session
Seventy-third General Assembly
STATE OF COLORADO

INTRODUCED

LLS NO. 22-0417.01 Megan McCall x4215

HOUSE BILL 22-1097

HOUSE SPONSORSHIP

Valdez D.,

SENATE SPONSORSHIP

Simpson,

House Committees

Transportation & Local Government

Senate Committees

A BILL FOR AN ACT

101 CONCERNING THE AUTHORITY OF A BOARD OF COUNTY
102 COMMISSIONERS TO FILE AN APPLICATION FOR DISSOLUTION OF
103 A SPECIAL DISTRICT WITH THE SPECIAL DISTRICT'S BOARD OF
104 DIRECTORS, AND, IN CONNECTION THEREWITH, ALLOWING A
105 BOARD OF COUNTY COMMISSIONERS TO CONSENT TO
106 DISSOLUTION BY COURT ORDER WITHOUT AN ELECTION OF A
107 SPECIAL DISTRICT WITH NO OUTSTANDING FINANCIAL
108 OBLIGATIONS OR DEBT.

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters or bold & italic numbers indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.

<http://leg.colorado.gov>.)

Under current law, municipalities and regional service authorities are authorized to file an application for dissolution of a special district with the board of directors of the special district. The bill expands current law to authorize a board of county commissioners to file with the special district's board of directors an application for dissolution of the special district if the special district is wholly located in the boundaries of the county and to file jointly with another board of county commissioners a petition for dissolution of a special district located in 2 or more counties.

The bill also expands current law to allow a board of county commissioners and a special district that is wholly within the county's boundaries and that has no financial obligations or outstanding debt to mutually consent to dissolution of the special district via a court order dissolving the special district without an election.

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

2 **SECTION 1.** In Colorado Revised Statutes, 32-1-701, **amend** (5)
3 and (6); and **add** (3.5) and (3.7) as follows:

4 **32-1-701. Initiation - petition - procedure.** (3.5) IF THE
5 TERRITORY ENCOMPASSED BY A SPECIAL DISTRICT LIES WHOLLY WITHIN
6 THE BOUNDARIES OF A COUNTY, THE BOARD OF COUNTY COMMISSIONERS
7 OF ANY SUCH COUNTY MAY FILE AN APPLICATION WITH THE SPECIAL
8 DISTRICT'S BOARD OF DIRECTORS TO DISSOLVE THE SPECIAL DISTRICT, AND
9 THE SPECIAL DISTRICT'S BOARD OF DIRECTORS, PROMPTLY AND IN GOOD
10 FAITH, SHALL TAKE THE NECESSARY STEPS TO DISSOLVE THE DISTRICT IN
11 ACCORDANCE WITH THE PROCEDURES SPECIFIED IN SUBSECTION (2) OF THIS
12 SECTION.

13 (3.7) IF THE TERRITORY ENCOMPASSED BY A SPECIAL DISTRICT LIES
14 WITHIN THE BOUNDARIES OF TWO OR MORE COUNTIES, THE BOARD OF
15 COUNTY COMMISSIONERS OF EACH OF THE COUNTIES MAY JOINTLY FILE AN
16 APPLICATION WITH THE SPECIAL DISTRICT'S BOARD OF DIRECTORS TO
17 DISSOLVE THE SPECIAL DISTRICT, AND THE SPECIAL DISTRICT'S BOARD OF

1 DIRECTORS, PROMPTLY AND IN GOOD FAITH, SHALL TAKE THE NECESSARY
2 STEPS TO DISSOLVE THE DISTRICT IN ACCORDANCE WITH THE PROCEDURES
3 SPECIFIED IN SUBSECTION (2) OF THIS SECTION. THE APPLICATION MUST
4 INCLUDE THE CONSENT OF SUCH COUNTIES TO ASSUME THE
5 RESPONSIBILITIES FOR PROVIDING THE SERVICES THAT HAD BEEN
6 PROVIDED BY THE SPECIAL DISTRICT IN THEIR RESPECTIVE JURISDICTIONS
7 OR EVIDENCE OF AN AGREEMENT TO PROVIDE THE SERVICES ON A
8 CONTRACTUAL BASIS.

9 (5) If the territory encompassed by a special district lies within the
10 boundaries of two or more regional service authorities and if such service
11 authorities provide the same service as that provided by the special
12 district, the two or more service authorities may file jointly an application
13 with the board to dissolve the special district, and the board, promptly and
14 in good faith, shall take the necessary steps to dissolve such district in
15 accordance with the procedures specified in subsection (2) of this section.
16 The application ~~shall~~ MUST include the consent of such service authorities
17 to assume the responsibilities for providing the service in their respective
18 jurisdictions or the consent of one regional service authority to provide
19 the service on a contractual basis.

20 (6) Any application filed with the board to dissolve a special
21 district under subsection (2), (3), (3.5), (3.7), (4), or (5) of this section
22 ~~shall~~ MUST be accompanied by a cash bond in the amount of three
23 hundred dollars to cover the expenses connected with the proceedings if
24 the dissolution is not effected.

25 **SECTION 2.** In Colorado Revised Statutes, 32-1-702, **amend** (1)
26 as follows:

27 **32-1-702. Requirements for dissolution petition.** (1) A petition

1 for dissolution ~~shall~~ MUST generally describe the territory embraced in the
2 special district, ~~shall~~ MUST have a map showing the special district, a
3 current financial statement of the special district, and a plan for final
4 disposition of the assets of the special district and for payment of the
5 financial obligations of the special district, ~~shall~~ MUST state whether or
6 not the services of the special district are to be continued and, if so, by
7 what means, and ~~shall~~ MUST state whether the existing board or a portion
8 thereof ~~shall~~ IS TO continue in office, subject to court appointment to fill
9 vacancies. Said petition may provide for the regional service authority
10 board, THE BOARD OF COUNTY COMMISSIONERS, or the governing body of
11 the municipality to act as the board in accordance with ~~the provisions of~~
12 section 32-1-707.

13 **SECTION 3.** In Colorado Revised Statutes, 32-1-704, **amend**
14 (3)(b) as follows:

15 **32-1-704. Conditions necessary for dissolution - permissible**
16 **provisions - hearings - court powers.** (3) (b) Subject to the provisions
17 of ~~paragraph (c) of this subsection (3)~~ SUBSECTION (3)(c) OF THIS
18 SECTION, the court shall enter an order dissolving the special district
19 pursuant to section 32-1-707 without an election if the special district lies
20 wholly WITHIN THE COUNTY OR within the corporate limits of the
21 municipality, if the special district has no financial obligations or
22 outstanding bonds, and if the special district board and THE BOARD OF
23 COUNTY COMMISSIONERS, IF WITHIN THE COUNTY, OR the governing body
24 of the municipality, IF WITHIN THE CORPORATE LIMITS OF THE
25 MUNICIPALITY, consent to the dissolution.

26 **SECTION 4. Act subject to petition - effective date.** This act
27 takes effect at 12:01 a.m. on the day following the expiration of the

1 ninety-day period after final adjournment of the general assembly; except
2 that, if a referendum petition is filed pursuant to section 1 (3) of article V
3 of the state constitution against this act or an item, section, or part of this
4 act within such period, then the act, item, section, or part will not take
5 effect unless approved by the people at the general election to be held in
6 November 2022 and, in such case, will take effect on the date of the
7 official declaration of the vote thereon by the governor.

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Second Regular Session
Seventy-third General Assembly
STATE OF COLORADO

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LLS NO. 22-0535.01 Richard Sweetman x4333

SENATE BILL

SENATE SPONSORSHIP

Hisey and Story,

HOUSE SPONSORSHIP

Roberts and Catlin, McCluskie, Pico

BILL TOPIC: "Fire Suppression Ponds Water Rights"
DEADLINES: Finalize by: JAN 26, 2022 File by: JAN 28, 2022

A BILL FOR AN ACT

101 CONCERNING FIRE SUPPRESSION PONDS.

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://leg.colorado.gov>.)

Section 1 of the bill makes legislative findings and declarations. **Section 2** allows a board of county commissioners (board) to apply to the state engineer for the designation of a pond as a fire suppression pond. The director of the division of fire prevention and control (director) in the department of public safety is required to promulgate rules to establish criteria for boards, in consultation with fire protection districts, to use to identify and evaluate potential fire suppression ponds. For each pond that is identified and under consideration as a potential fire suppression pond,

*Capital letters or bold & italic numbers indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.*

a board must provide notice of such fact to the state engineer and to interested parties included in the substitute water supply plan notification list established for the water division in which the pond is located.

Section 2 also prohibits the state engineer from draining any pond:

- While the pond is under consideration for designation as a fire suppression pond;
- If the state engineer has designated the pond as a fire suppression pond; or
- On and after the effective date of the bill, and until the date upon which the director promulgates rules, with exceptions.

Section 2 also states that a fire suppression pond and the water associated with it:

- Are not considered a water right;
- Do not have a priority for the purpose of determining water rights; and
- May not be adjudicated as a water right.

Section 3 requires the state engineer to review applications received from boards and, at the state engineer's discretion, designate ponds as fire suppression ponds. An application is presumed to be approved if the state engineer does not respond to the application within 63 days after the application is received by the state engineer. The state engineer may not designate any pond as a fire suppression pond unless the pond existed as of January 1, 1975.

Section 3 also allows the state engineer to impose reasonable requirements on a board as a condition of designating a pond as a fire suppression pond and requires a board and a fire protection district to inspect a fire suppression pond at least annually.

The designation of a pond as a fire suppression pond expires 20 years after the date of the designation. _____ Before the expiration, the board and the fire protection district must perform a needs assessment of the pond. If the needs assessment demonstrates that the pond is in compliance with criteria established in the director's rules, the board and fire protection district shall notify the state engineer of such fact, and the state engineer shall redesignate the pond as a fire suppression pond. If the needs assessment demonstrates that the pond is not in compliance with the criteria, the board and fire protection district may either:

- Notify the state engineer that the designation of the pond as a fire suppression pond should be rescinded or allowed to expire; or
- Provide to the state engineer a plan and a timeline for bringing the pond back into compliance with such criteria.

Section 4 states that the designation of fire suppression ponds by the state engineer does not cause material injury to vested water rights.

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

2 **SECTION 1. Legislative declaration.** (1) The general assembly
3 finds that:

4 (a) Colorado is facing a wildfire crisis;

5 (b) In 2020, Colorado experienced three of the largest wildfires
6 in its history, and in 2021, the Marshall fire broke yet another record,
7 becoming the most destructive fire in Colorado history by burning more
8 than one thousand homes worth five hundred million dollars in total;

9 (c) These four recent and catastrophic wildfires burned more than
10 six hundred thousand acres, causing significant devastation and property
11 loss;

12 (d) The Colorado state forest service and the front range
13 watershed wildfire protection working group have found that
14 high-severity fires can significantly impact water quality and watershed
15 conditions;

16 (e) Recent fires have tended to be much larger and more severe
17 than those in the past, and as such, have severely damaged soils and
18 watersheds, leading to heavy erosion and sediment damage in streams;
19 and

20 (f) Functional watersheds are vital for water quality and healthy
21 ecosystems, and to protect water resources from post-fire flood damage.

22 (2) The general assembly also finds that:

23 (a) More resources are needed for wildfire mitigation to reduce
24 fire risk and to keep fires from becoming large and catastrophic;

25 (b) Although Colorado is committed to taking meaningful action
26 to mitigate wildfires, several remote areas in the state lack sufficient
27 resources to suppress fires without external support;

1 (c) In emergency situations, rapid action is vital and any delay
2 increases the risk of a fire becoming catastrophic;

3 (d) In the past, the general assembly has recognized the need to
4 use any and all available water resources in a fire event, and current law
5 grants the right for emergency use of wells and other water resources;

6 (e) It is a shared principle throughout the state that using water
7 resources to preserve life and property in emergencies is a priority over
8 consideration of water rights;

9 (f) When water is not available in close proximity, firefighters
10 may also rely on nearby ponds to fill fire trucks and suppress fires as
11 quickly as possible;

12 (g) Existing ponds in Colorado have proven to be critical fire
13 suppression resources, particularly in remote areas that are not equipped
14 with other fire suppression resources such as fire hydrants;

15 (h) Due to loss of water from evaporation, the state engineer is
16 identifying and ordering the drainage of ponds that do not have storage
17 rights associated with them;

18 (i) Some ponds that are subject to drainage may be critical
19 firefighting resources for remote, high-risk areas of Colorado, and if such
20 ponds are drained, firefighters could be left ill-equipped to respond to and
21 suppress fires.

22 (j) A process is necessary to preserve ponds that are deemed
23 critical for firefighting purposes; and

24 (k) Preserving fire suppression ponds will help:

25 (I) Ensure resources are available to help keep communities safe
26 in the event of structure fires, grassland fires, and other fire emergencies;
27 and

28 (II) Keep fires from becoming large and thereby protect lives,

1 homes, critical watersheds, water supply assets, infrastructure, and key
2 ecological and wildlife resources.

3 (3) Therefore, the general assembly declares that it is in the public
4 interest to create a process to identify, designate, and preserve critical fire
5 suppression ponds.

6 **SECTION 2.** In Colorado Revised Statutes, **add** 37-82-107 as
7 follows:

8 **37-82-107. Fire suppression ponds - legislative declaration -**
9 **needs assessment - notice of consideration required - restriction on**
10 **draining of ponds - rules - no water right created - repeal.** (1) THE
11 GENERAL ASSEMBLY HEREBY DECLARES THAT FIRE SUPPRESSION PONDS
12 ARE ESSENTIAL FOR THE PROTECTION OF PUBLIC SAFETY AND WELFARE,
13 PROPERTY, AND THE ENVIRONMENT.

14 (2) A BOARD OF COUNTY COMMISSIONERS, IN CONSULTATION WITH
15 ITS FIRE PROTECTION DISTRICT, MAY APPLY TO THE STATE ENGINEER
16 PURSUANT TO SECTION 37-80-124 FOR THE DESIGNATION OF A POND
17 WITHIN THE BORDERS OF THE COUNTY AS A FIRE SUPPRESSION POND.

18 (3) (a) BEFORE APPLYING FOR THE DESIGNATION OF A POND AS A
19 FIRE SUPPRESSION POND, A BOARD OF COUNTY COMMISSIONERS, IN
20 CONSULTATION WITH ITS FIRE PROTECTION DISTRICT, SHALL:

21 (I) IDENTIFY PONDS IN LOCATIONS WHERE THE OUTBREAK OF A
22 FIRE COULD RESULT IN A MAJOR WILDFIRE DISASTER; AND

23 (II) PERFORM A NEEDS ASSESSMENT OF EACH SUCH POND, WHICH
24 NEEDS ASSESSMENT SHALL BE COMPLETED WITHIN ONE YEAR AFTER THE
25 BOARD PROVIDES THE NOTICE DESCRIBED IN SUBSECTION (4) OF THIS
26 SECTION.

27 (b) IN PERFORMING A NEEDS ASSESSMENT PURSUANT TO
28 SUBSECTION (3)(a)(II) OF THIS SECTION, A BOARD OF COUNTY

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1 COMMISSIONERS, IN CONSULTATION WITH ITS FIRE PROTECTION DISTRICT,
2 SHALL:

3 (I) IDENTIFY THE REFILL MECHANISM OF THE POND, WHETHER BY:

4 (A) GROUNDWATER;

5 (B) DIVERSION ON THE STREAM CHANNEL;

6 (C) DIVERSION OFF THE STREAM CHANNEL; OR

7 (D) WELL; AND

8 (II) APPLY THE CRITERIA ESTABLISHED PURSUANT TO RULES
9 PROMULGATED BY THE DIRECTOR OF THE DIVISION OF FIRE PREVENTION
10 AND CONTROL PURSUANT TO SUBSECTION (9) OF THIS SECTION.

11 (4) (a) FOR EACH POND THAT IS IDENTIFIED AND UNDER
12 CONSIDERATION AS A POTENTIAL FIRE SUPPRESSION POND PURSUANT TO
13 SUBSECTION (3) OF THIS SECTION, A BOARD OF COUNTY COMMISSIONERS
14 SHALL PROVIDE NOTICE OF SUCH FACT TO:

15 (I) THE STATE ENGINEER; AND

16 (II) INTERESTED PARTIES INCLUDED IN THE SUBSTITUTE WATER
17 SUPPLY PLAN NOTIFICATION LIST ESTABLISHED PURSUANT TO SECTION
18 37-92-308 (6) FOR THE WATER DIVISION IN WHICH THE POND IS LOCATED.

19 (b) THE NOTICE DESCRIBED IN SUBSECTION (4)(a) OF THIS SECTION
20 MUST INDICATE:

21 (I) THE TIMELINE OF THE NEEDS ASSESSMENT ASSOCIATED WITH
22 THE POND PURSUANT TO SUBSECTION (3) OF THIS SECTION;

23 (II) THE LOCATION OF THE POND;

24 (III) THE APPROXIMATE SURFACE AREA OF THE POND; AND

25 (IV) THE WATER REFILL MECHANISM OF THE POND, WHETHER BY:

26 (A) GROUNDWATER;

27 (B) DIVERSION ON THE STREAM CHANNEL;

28 (C) DIVERSION OFF THE STREAM CHANNEL; OR

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1 (D) WELL.
2 (5) DURING THE THIRTY-FIVE DAYS FOLLOWING THE ISSUANCE OF
3 THE NOTICE DESCRIBED IN SUBSECTION (4) OF THIS SECTION, INTERESTED
4 PERSONS MAY SUBMIT COMMENTS TO THE BOARD OF COUNTY
5 COMMISSIONERS AND THE STATE ENGINEER CONCERNING THE POTENTIAL
6 DESIGNATION OF THE POND AS A FIRE SUPPRESSION POND PURSUANT TO
7 SECTION 37-80-124.

8 (6) IF A POND IS LOCATED IN WHOLE OR IN PART UPON PRIVATE
9 PROPERTY, A BOARD OF COUNTY COMMISSIONERS SHALL ACQUIRE THE
10 VOLUNTARY WRITTEN APPROVAL OF EACH OWNER OF PRIVATE PROPERTY
11 THAT ABUTS THE POND BEFORE THE BOARD APPLIES TO THE STATE
12 ENGINEER FOR THE DESIGNATION OF THE POND AS A FIRE SUPPRESSION
13 POND.

14 (7) IF A BOARD OF COUNTY COMMISSIONERS NOTIFIES THE STATE
15 ENGINEER PURSUANT TO SUBSECTION (4) OF THIS SECTION THAT A POND IS
16 UNDER CONSIDERATION AS A FIRE SUPPRESSION POND, THE BOARD SHALL
17 NOTIFY THE STATE ENGINEER PROMPTLY IF AND WHEN THE POND IS NO
18 LONGER UNDER SUCH CONSIDERATION.

19 (8) NOTWITHSTANDING ANY PROVISION OF LAW TO THE
20 CONTRARY, EXCEPT AS MAY BE REQUIRED TO ADDRESS DAM SAFETY
21 CONCERNS, THE STATE ENGINEER SHALL NOT ORDER ANY POND TO BE
22 DRAINED OR BACKFILLED OR PROCEED WITH ANY EXISTING ORDER TO
23 DRAIN OR BACKFILL A POND:

24 (a) IF THE STATE ENGINEER HAS RECEIVED NOTICE PURSUANT TO
25 SUBSECTION (4) OF THIS SECTION THAT THE POND IS UNDER
26 CONSIDERATION BY A BOARD OF COUNTY COMMISSIONERS FOR
27 DESIGNATION AS A FIRE SUPPRESSION POND, DURING THE PENDENCY OF
28 THAT CONSIDERATION;

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1 (b) IF THE STATE ENGINEER HAS DESIGNATED THE POND AS A FIRE
2 SUPPRESSION POND PURSUANT TO SECTION 37-80-124; OR

3 (c) (I) ON AND AFTER THE EFFECTIVE DATE OF THIS SECTION, AND
4 UNTIL THE DATE UPON WHICH THE DIRECTOR OF THE DIVISION OF FIRE
5 PREVENTION AND CONTROL PROMULGATES RULES PURSUANT TO
6 SUBSECTION (9) OF THIS SECTION; EXCEPT THAT, DURING SUCH TIME, THE
7 STATE ENGINEER MAY ENFORCE AN ORDER TO DRAIN A POND, WHICH
8 ORDER EXISTS ON THE EFFECTIVE DATE OF THIS SECTION, IF THE STATE
9 ENGINEER FIRST PROVIDES NOTICE OF THE ORDER TO THE BOARD OF
10 COUNTY COMMISSIONERS OF THE COUNTY IN WHICH THE POND IS LOCATED
11 AND ALLOWS THE BOARD FOURTEEN DAYS TO RESPOND.

12 (II) THIS SUBSECTION (8)(c) IS REPEALED, EFFECTIVE JULY 1, 2023.

13 (9) (a) ON OR BEFORE MAY 1, 2023, THE DIRECTOR OF THE
14 DIVISION OF FIRE PREVENTION AND CONTROL IN THE DEPARTMENT OF
15 PUBLIC SAFETY, PURSUANT TO THE DIRECTOR'S AUTHORITY UNDER
16 SECTION 24-33.5-1203.5, SHALL PROMULGATE RULES ESTABLISHING
17 CRITERIA FOR BOARDS OF COUNTY COMMISSIONERS, IN CONSULTATION
18 WITH FIRE PROTECTION DISTRICTS, TO USE TO IDENTIFY AND EVALUATE
19 POTENTIAL FIRE SUPPRESSION PONDS, AS DESCRIBED IN SUBSECTION (3) OF
20 THIS SECTION. THE CRITERIA MUST INCLUDE CONSIDERATION OF:

21 (I) WHETHER THE POND IS READILY ACCESSIBLE BY A FIRE
22 DISTRICT, FIRE DEPARTMENT, OR OTHER LOCAL FIREFIGHTING ENTITY;

23 (II) WHETHER THE POND IS LOCATED IN THE WILDLAND-URBAN
24 INTERFACE OR ANOTHER LOCATION THAT FACES AN ELEVATED THREAT OF
25 FIRE RISK;

26 (III) WHETHER THE POND IS LOCATED IN AN AREA WITHOUT
27 TIMELY OR ADEQUATE ACCESS TO FIRE HYDRANTS OR OTHER WATER
28 SUPPLIES, AND WHERE THE POND PROVIDES A NEEDED SUPPLY;

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1 (IV) THE APPROXIMATE SURFACE AREA OF THE POND;

2 (V) THE MAXIMUM SURFACE AREA OF THE POND, IN ORDER TO
3 LIMIT IMPACTS TO STREAMFLOW THAT MAY RESULT FROM DEPLETIONS
4 FROM THE POND;

5 _____
6 (VI) WHETHER THE POND IS INCLUDED IN AN EXISTING PLAN FOR
7 AUGMENTATION, AS DEFINED IN SECTION 37-92-103 (9);

8 (VII) WHETHER THE POND IS LOCATED IN A DESIGNATED
9 GROUNDWATER BASIN, AS DESCRIBED IN SECTION 37-92-602 (1); AND

10 (VIII) WHETHER THE POND IS LOCATED IN AN AREA WHERE THE
11 LACK OF AVAILABILITY OF AUGMENTATION WATER OR THE EXCESSIVE
12 COST OF AUGMENTATION WATER PRESENTS A SIGNIFICANT BARRIER TO THE
13 ESTABLISHMENT OF A DECREED PLAN FOR AUGMENTATION, AS DEFINED IN
14 SECTION 37-92-103 (9), BY A LOCAL GOVERNMENT.

15 (b) BEFORE PROMULGATING THE RULES DESCRIBED IN SUBSECTION
16 (9)(a) OF THIS SECTION, THE DIRECTOR OF THE DIVISION OF FIRE
17 PREVENTION AND CONTROL SHALL SOLICIT AND CONSIDER INPUT FROM:

18 (I) THE STATE ENGINEER;

19 (II) LOCAL GOVERNMENTS, INCLUDING COUNTIES;

20 (III) WATER PROVIDERS; AND

21 (IV) FIRE PROTECTION DISTRICTS AND OTHER FIREFIGHTING
22 ENTITIES.

23 (10) NOTWITHSTANDING ANY PROVISION OF LAW TO THE
24 CONTRARY, A FIRE SUPPRESSION POND AND THE WATER ASSOCIATED WITH
25 IT:

26 (a) ARE NOT CONSIDERED A WATER RIGHT, AS DEFINED IN SECTION
27 37-92-103 (12);

28 (b) DO NOT HAVE A PRIORITY, AS DEFINED IN SECTION 37-92-103

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1 (10); AND

2 (c) MAY NOT BE ADJUDICATED PURSUANT TO SECTION 37-92-302.

3 **SECTION 3.** In Colorado Revised Statutes, **add** 37-80-124 as

4 follows:

5 **37-80-124. State engineer - designation of fire suppression**

6 **ponds - conditional requirements - inspections - expiration of**

7 **designation - database.** (1) FOR THE PURPOSES OF SECTION 37-82-107,

8 THE STATE ENGINEER SHALL:

9 (a) REVIEW APPLICATIONS RECEIVED FROM BOARDS OF COUNTY

10 COMMISSIONERS CONCERNING THE DESIGNATION OF PONDS AS FIRE

11 SUPPRESSION PONDS; AND

12 (b) AT THE STATE ENGINEER'S DISCRETION, DESIGNATE PONDS AS

13 FIRE SUPPRESSION PONDS.

14 (2) IN CONSIDERING WHETHER TO DESIGNATE A POND AS A FIRE

15 SUPPRESSION POND, THE STATE ENGINEER SHALL CONSIDER WHETHER THE

16 POND SATISFIES THE CRITERIA ESTABLISHED BY RULES PROMULGATED BY

17 THE DIVISION OF FIRE PREVENTION AND CONTROL PURSUANT TO SECTION

18 37-82-107 (9).

19 (3) THE STATE ENGINEER MAY ESTABLISH A STANDARD WRITTEN

20 OR ELECTRONIC FORM FOR BOARDS OF COUNTY COMMISSIONERS TO USE TO

21 APPLY FOR THE DESIGNATION OF A POND AS A FIRE SUPPRESSION POND.

22 (4) IF A BOARD OF COUNTY COMMISSIONERS SUBMITS TO THE

23 STATE ENGINEER AN APPLICATION FOR THE DESIGNATION OF A POND AS A

24 FIRE SUPPRESSION POND PURSUANT TO SECTION 37-82-107, THE

25 APPLICATION IS PRESUMED TO BE APPROVED IF THE STATE ENGINEER DOES

26 NOT RESPOND TO THE APPLICATION WITHIN SIXTY-THREE DAYS AFTER THE

27 APPLICATION IS RECEIVED BY THE STATE ENGINEER.

28 (5) AS A CONDITION OF DESIGNATING A POND AS A FIRE

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1 SUPPRESSION POND PURSUANT TO THIS SECTION, THE STATE ENGINEER
2 MAY IMPOSE REASONABLE REQUIREMENTS ON A BOARD OF COUNTY
3 COMMISSIONERS, INCLUDING REQUIREMENTS FOR MEASURING AND
4 RECORDING DEVICES.

5 (6) IF THE STATE ENGINEER DESIGNATES A POND AS A FIRE
6 SUPPRESSION POND PURSUANT TO THIS SECTION, THE BOARD OF COUNTY
7 COMMISSIONERS OF THE COUNTY IN WHICH THE POND IS LOCATED AND THE
8 FIRE PROTECTION DISTRICT SHALL INSPECT THE POND AT LEAST ANNUALLY
9 TO ENSURE THAT:

10 (a) THE POND IS PROPERLY MAINTAINED;

11 (b) ANY FIREFIGHTING INFRASTRUCTURE ASSOCIATED WITH THE
12 POND IS FUNCTIONAL; AND

13 _____

14 (c) THE APPROXIMATE SURFACE AREA OF THE POND HAS NOT
15 CHANGED.

16 (7) IF THE STATE ENGINEER DENIES AN APPLICATION FOR THE
17 DESIGNATION OF A POND AS A FIRE SUPPRESSION POND, THE STATE
18 ENGINEER SHALL PROVIDE THE APPLICANT BOARD OF COUNTY
19 COMMISSIONER THE REASONS FOR THE STATE ENGINEER'S DENIAL AND AN
20 OPPORTUNITY TO DISCUSS THE DENIAL WITH THE STATE ENGINEER.

21 (8)(a) THE DESIGNATION OF A POND AS A FIRE SUPPRESSION POND
22 PURSUANT TO THIS SECTION EXPIRES TWENTY YEARS AFTER THE DATE OF
23 THE DESIGNATION.

24 (b) _____ BEFORE THE EXPIRATION OF THE DESIGNATION OF A
25 POND AS A FIRE SUPPRESSION POND, THE BOARD OF COUNTY
26 COMMISSIONERS OF THE COUNTY IN WHICH THE POND IS LOCATED AND THE
27 FIRE PROTECTION DISTRICT SHALL PERFORM A NEEDS ASSESSMENT OF THE
28 POND, AS DESCRIBED IN SECTION 37-82-107 (3).

1 (c) IF THE NEEDS ASSESSMENT DESCRIBED IN SUBSECTION (8)(b) OF
2 THIS SECTION INDICATES THAT THE POND CONTINUES TO SATISFY THE
3 CRITERIA ESTABLISHED BY RULES PROMULGATED PURSUANT TO SECTION
4 37-82-107 (9), THE BOARD AND THE FIRE PROTECTION DISTRICT SHALL
5 NOTIFY THE STATE ENGINEER OF SUCH FACT, AND THE STATE ENGINEER
6 SHALL REDESIGNATE THE POND AS A FIRE SUPPRESSION POND.

7 (d) IF THE NEEDS ASSESSMENT DESCRIBED IN SUBSECTION (8)(b)
8 OF THIS SECTION INDICATES THAT THE POND NO LONGER SATISFIES THE
9 CRITERIA ESTABLISHED BY RULES PROMULGATED PURSUANT TO SECTION
10 37-82-107 (9), THE BOARD AND THE FIRE PROTECTION DISTRICT SHALL
11 EITHER:

12 (I) NOTIFY THE STATE ENGINEER THAT THE DESIGNATION OF THE
13 POND AS A FIRE SUPPRESSION POND SHOULD BE RESCINDED OR ALLOWED
14 TO EXPIRE; OR

15 (II) PROVIDE TO THE STATE ENGINEER A PLAN AND TIMELINE FOR
16 BRINGING THE POND BACK INTO COMPLIANCE WITH THE CRITERIA.

17 (9) THE STATE ENGINEER SHALL ESTABLISH A DISCRETE DATABASE
18 FOR THE ADMINISTRATION OF PONDS THAT ARE DESIGNATED AS FIRE
19 SUPPRESSION PONDS PURSUANT TO THIS SECTION.

20 (10) NOTWITHSTANDING ANY PROVISION OF LAW TO THE
21 CONTRARY, THE STATE ENGINEER SHALL NOT DESIGNATE ANY POND AS A
22 FIRE SUPPRESSION POND UNLESS THE POND EXISTED AS OF JANUARY 1,
23 1975.

24 **SECTION 4.** In Colorado Revised Statutes, 37-92-602, **amend**
25 (8)(a), (8)(b) introductory portion, and (8)(c)(I); and **add** (8)(b)(III) as
26 follows:

27 **37-92-602. Exemptions - presumptions - legislative declaration**
28 **- definitions.** (8) (a) The general assembly hereby declares that storm

1 water detention and infiltration facilities, ~~and~~ post-wildland fire facilities,
2 AND FIRE SUPPRESSION PONDS are essential for the protection of public
3 safety and welfare, property, and the environment.

4 (b) ~~For the purposes of AS USED IN this subsection (8):~~

5 (III) "FIRE SUPPRESSION POND" MEANS A POND THAT HAS BEEN:

6 (A) IDENTIFIED AS A POTENTIAL FIRE SUPPRESSION POND BY A
7 BOARD OF COUNTY COMMISSIONERS IN CONSULTATION WITH A FIRE
8 PROTECTION DISTRICT PURSUANT TO SECTION 37-82-107; AND

9 (B) DESIGNATED AS A FIRE SUPPRESSION POND BY THE STATE
10 ENGINEER PURSUANT TO SECTION 37-80-124.

11 (c) (I) Storm water detention and infiltration facilities in existence
12 on August 5, 2015, that are operated in compliance with ~~paragraphs (b)~~
13 ~~and (e) of this subsection (8) and~~ SUBSECTIONS (8)(b) AND (8)(e) OF THIS
14 SECTION; post-wildland fire facilities that are operated in compliance with
15 ~~paragraphs (b) and (e) of this subsection (8)~~ SUBSECTIONS (8)(b) AND
16 (8)(e) OF THIS SECTION; AND THE DESIGNATION OF PONDS AS FIRE
17 SUPPRESSION PONDS BY THE STATE ENGINEER PURSUANT TO SECTION
18 37-80-124 do not cause material injury to vested water rights.

19 **SECTION 5. Act subject to petition - effective date.** This act
20 takes effect at 12:01 a.m. on the day following the expiration of the
21 ninety-day period after final adjournment of the general assembly; except
22 that, if a referendum petition is filed pursuant to section 1 (3) of article V
23 of the state constitution against this act or an item, section, or part of this
24 act within such period, then the act, item, section, or part will not take
25 effect unless approved by the people at the general election to be held in
26 November 2022 and, in such case, will take effect on the date of the
27 official declaration of the vote thereon by the governor.

Second Regular Session
Seventy-third General Assembly
STATE OF COLORADO

DRAFT

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LLS NO. 22-0573.02 Jennifer Berman x3286

HOUSE BILL

HOUSE SPONSORSHIP

Catlin and Roberts,

SENATE SPONSORSHIP

(None),

BILL TOPIC: "Money For Turf Replacement Funding"
DEADLINES: Finalize by: JAN 31, 2022 File by: FEB 2, 2022

A BILL FOR AN ACT

101 CONCERNING MEASURES TO INCENTIVIZE WATER-WISE LANDSCAPES,
102 AND, IN CONNECTION THEREWITH, CREATING A STATE PROGRAM
103 TO FINANCE THE VOLUNTARY _____ REPLACEMENT OF
104 IRRIGATED TURF. _____

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://leg.colorado.gov>.)

The bill requires the Colorado water conservation board (board)
<{ *You've suggested adding "or board" here, but that is not appropriate, so I've changed "CWCB" to "board. Please note that the bill summary*

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is separate from the bill language and does not itself have legal force. Use of "board" in the body of the bill is made clear by the bill being placed in article 60 of title 37 because section 37-60-101 of existing statute defines "board" for all of article 60 of title 37 as the Colorado water conservation board. }> to develop a statewide program to provide financial incentives for the voluntary replacement of irrigated turf with water-wise landscaping (turf replacement program). The bill defines water-wise landscaping as a water- and plant-management practice that emphasizes using plants with lower water needs. Local governments, certain districts, Native American tribes, and nonprofit organizations with their own turf replacement programs may apply to the board for _____ money to help finance their turf replacement programs. The board will contract with one or more third parties to administer one or more turf replacement programs in areas where local turf replacement programs do not exist.

1 *Be it enacted by the General Assembly of the State of Colorado:*
2 **SECTION 1.** In Colorado Revised Statutes, **add** 37-60-134 as
3 follows:
4 **37-60-134. State turf replacement program - creation -**
5 **administration - turf replacement fund - creation - legislative**
6 **declaration - definitions - repeal.** (1) THE GENERAL ASSEMBLY FINDS
7 AND DECLARES THAT:
8 (a) PROMOTING THE EFFICIENT AND MAXIMUM UTILIZATION OF
9 COLORADO'S WATER RESOURCES BY DECREASING THE AMOUNT OF
10 IRRIGATED TURF CAN:
11 (I) INCREASE COMMUNITIES' RESILIENCE REGARDING DROUGHT
12 AND CLIMATE CHANGE;
13 (II) REDUCE THE SALE OF AGRICULTURAL WATER RIGHTS IN
14 RESPONSE TO INCREASED DEMAND FOR MUNICIPAL WATER USE; AND
15 (III) PROTECT RIVER FLOWS;
16 (b) IRRIGATION OF OUTDOOR LANDSCAPING ACCOUNTS FOR
17 NEARLY HALF OF WATER USE WITHIN THE MUNICIPAL AND INDUSTRIAL
18 SECTORS OF THE STATE AND IS MOSTLY USED FOR IRRIGATION OF

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1 NONNATIVE TURF GRASS;
2 (c) WHILE THERE ARE APPROPRIATE AND IMPORTANT USES FOR
3 IRRIGATED TURF, INCLUDING FOR PARKS, SPORTS FIELDS, PLAYGROUNDS,
4 AND PORTIONS OF RESIDENTIAL YARDS, MUCH OF THE TURF IN THE STATE
5 IS NONESSENTIAL AND IS LOCATED IN AREAS THAT RECEIVE LITTLE, IF ANY,
6 USE. SUCH IRRIGATED TURF COULD BE REPLACED WITH WATER-WISE
7 LANDSCAPING WITHOUT IMPACTING QUALITY OF LIFE OR LANDSCAPE
8 FUNCTIONALITY.

- 9 (d) EXAMPLES OF NONESSENTIAL TURF INCLUDE TURF USED FOR:
10 (I) MEDIANS;
11 (II) AREAS ADJACENT TO OPEN SPACES OR TRANSPORTATION
12 CORRIDORS;
13 (III) AREAS SLOPED WITH MORE THAN A TWENTY-FIVE PERCENT
14 GRADE;
15 (IV) STORM WATER DRAINAGE AND DETENTION BASINS;
16 (V) COMMERCIAL, INSTITUTIONAL, OR INDUSTRIAL PROPERTIES;
17 (VI) COMMON ELEMENTS IN A COMMON INTEREST COMMUNITY, AS
18 THOSE TERMS ARE DEFINED IN SECTION 38-33.3-103; AND
19 (VII) PORTIONS OF RESIDENTIAL YARDS;

20 (e) WATER-WISE LANDSCAPING MUST PLAY A CRITICAL ROLE IN
21 PROVIDING SUBSTANTIAL AND PERMANENT WATER SAVINGS AND IN
22 MINIMIZING WATER WASTE IN COLORADO COMMUNITIES;

23 (f) LOCAL JURISDICTIONS SHOULD ESTABLISH POLICIES THAT
24 REDUCE NONESSENTIAL TURF USED FOR NEW DEVELOPMENTS OR
25 REDEVELOPED AREAS AND INCREASE THE USE OF WATER-WISE
26 LANDSCAPING;

27 (g) THE STATE MUST PRIORITIZE THE USE OF WATER-WISE
28 LANDSCAPING FOR EXISTING AND NEW STATE GOVERNMENT PROPERTIES;

29 (h) TURF REPLACEMENT PROGRAMS PROVIDE A PROVEN AND

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1 EFFECTIVE STRATEGY FOR REDUCING OUTDOOR WATER DEMAND
2 SIGNIFICANTLY, AND EVIDENCE FROM EXISTING PROGRAMS
3 DEMONSTRATES THAT, FOR EACH ACRE OF TURF REMOVED, ONE TO TWO
4 ACRE-FEET PER YEAR OF WATER SAVINGS CAN BE REALIZED, MEANING
5 THAT FOR EVERY ONE HUNDRED ACRES OF TURF CONVERTED TO
6 WATER-WISE LANDSCAPES, UP TO TWO HUNDRED ACRE-FEET PER YEAR OF
7 WATER MAY BE CONSERVED; AND <{ ***Just to clarify, where you've asked***
8 ***to change "up to two acre-feet" to "one to two acre feet" based on a***
9 ***concern that reference to "up to two acre-feet" over-promises, use of***
10 ***"up to two acre-feet" includes within its range 0.5 acre-feet - based on***
11 ***use of the phrase "up to" - whereas "one to two acre-feet" does not.***
12 ***Therefore, using "one to two acre feet" in fact promises more than does***
13 ***the original language.***>

14 (i) THE BOARD SHOULD DEVELOP A STATE TURF REPLACEMENT
15 PROGRAM TO INCENTIVIZE THE VOLUNTARY REMOVAL AND REPLACEMENT
16 OF IRRIGATED TURF ON RESIDENTIAL PROPERTIES _____AND COMMERCIAL,
17 INSTITUTIONAL, OR INDUSTRIAL PROPERTIES AS A MEANS OF RESPONDING
18 TO INCREASED WATER DEMAND THROUGHOUT THE STATE.

19 (2) AS USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE
20 REQUIRES:

21 (a) "CAMPUS" MEANS A COLLECTION OF TWO OR MORE BUILDINGS
22 THAT ARE OWNED AND OPERATED BY THE SAME PERSON AND HAVE A
23 SHARED PURPOSE AND FUNCTION AS A SINGLE PROPERTY.

24 (b) "COMMERCIAL, INSTITUTIONAL, OR INDUSTRIAL" OR "CII":

25 (I) MEANS THE COMMERCIAL, INSTITUTIONAL, OR INDUSTRIAL
26 SECTOR IN THE STATE; AND

27 (II) INCLUDES LOCAL GOVERNMENTS, SCHOOLS, AND BUSINESSES.

28 _____

29 (c) "DISTRICT" INCLUDES:

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1 (I) A DISTRICT OR SPECIAL DISTRICT REGULATED UNDER TITLE 32,
2 INCLUDING A METROPOLITAN DISTRICT, AS DEFINED IN SECTION 32-1-103
3 (10); A WATER AND SANITATION DISTRICT, AS DEFINED IN SECTION
4 32-1-103 (24); AND A WATER DISTRICT, AS DEFINED IN SECTION 32-1-103
5 (25);

6 (II) A WATER CONSERVANCY DISTRICT ESTABLISHED UNDER
7 ARTICLE 45 OF THIS TITLE 37; OR

8 (III) A WATER CONSERVATION DISTRICT, AS SET FORTH IN
9 ARTICLES 46 TO 50 OF THIS TITLE 37.

10 (d) "ELIGIBLE ENTITY" MEANS ANY OF THE FOLLOWING ENTITIES
11 THAT ALREADY ADMINISTER OR PLAN TO ADMINISTER A TURF
12 REPLACEMENT PROGRAM IN THE STATE:

13 (I) A LOCAL GOVERNMENT;

14 (II) A DISTRICT;

15 (III) A NATIVE AMERICAN TRIBE; OR

16 (IV) A NONPROFIT ORGANIZATION.

17 (e) "INVASIVE PLANT SPECIES" MEANS PLANTS THAT ARE NOT
18 NATIVE TO THE STATE AND THAT:

19 (I) ARE INTRODUCED INTO THE STATE ACCIDENTALLY OR
20 INTENTIONALLY;

21 (II) HAVE NO NATURAL COMPETITORS OR PREDATORS IN THE STATE
22 BECAUSE THE STATE IS OUTSIDE OF THEIR COMPETITORS' OR PREDATORS'
23 RANGE; AND

24 (III) HAVE HARMFUL EFFECTS ON THE STATE'S ENVIRONMENT OR
25 ECONOMY OR BOTH.

26 (f) "LOCAL GOVERNMENT" MEANS A STATUTORY OR HOME RULE
27 MUNICIPALITY, COUNTY, OR CITY AND COUNTY.

28 (g) "RESIDENTIAL PROPERTY" INCLUDES:

29 (I) BOTH UNITS AND COMMON ELEMENTS IN A COMMON INTEREST

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1 COMMUNITY, AS THOSE TERMS ARE DEFINED IN SECTION 38-33.3-103; AND
2 (II) SINGLE-FAMILY DETACHED PROPERTIES AND SINGLE-FAMILY
3 ATTACHED PROPERTIES THAT ARE NOT IN A COMMON INTEREST
4 COMMUNITY.

5 <{*The definition as I had drafted it was appropriate because it did not*
6 *mean that "residential property" only means HOAs as you've asserted.*
7 *"Includes" indicates a nonexhaustive list, so it is just stating one*
8 *example of what is meant by "residential property". I've added the*
9 *language you've requested, but please note that where the word*
10 *"includes" is used in statute, it does not mean that other examples,*
11 *uses, etc. are disallowed. Also, I did not add "yard" in the language*
12 *because I think it confuses things to refer to a "single-family attached*
13 *yard" and so I've used "property" instead.*>

- 14 (h) "SCHOOL" MEANS:
- 15 (I) A PUBLIC SCHOOL MAINTAINED AND OPERATED BY A SCHOOL
- 16 DISTRICT CREATED PURSUANT TO ARTICLE 30 OF TITLE 22;
- 17 (II) A DISTRICT CHARTER SCHOOL AS DEFINED IN SECTION
- 18 22-11-103 (12);
- 19 (III) AN INSTITUTE CHARTER SCHOOL AS DEFINED IN SECTION
- 20 22-11-103 (17);
- 21 (IV) A PRIVATE SCHOOL AS DEFINED IN SECTION 22-30.5-103 (6.5);
- 22 (V) A STATE INSTITUTION OF HIGHER EDUCATION AS DEFINED IN
- 23 SECTION 23-1-108 (7)(g)(II); OR
- 24 (VI) A PRIVATE INSTITUTION OF HIGHER EDUCATION AS DEFINED
- 25 IN SECTION 23-18-102 (9).

26 _____

27 (i) "TURF" _____ MEANS _____ CONTINUOUS PLANT COVERAGE

28 CONSISTING OF NONNATIVE GRASSES OR GRASSES THAT HAVE NOT BEEN

29 HYBRIDIZED FOR ARID CONDITIONS AND WHICH, WHEN REGULARLY

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1 MOWED, FORM A DENSE GROWTH OF LEAF BLADES AND ROOTS.
2 (j) "TURF REPLACEMENT FUND" OR "FUND" MEANS THE TURF
3 REPLACEMENT FUND CREATED IN SUBSECTION (6) OF THIS SECTION.

4 (k) "TURF REPLACEMENT PROGRAM" OR "PROGRAM" MEANS A
5 PROGRAM THROUGH WHICH FINANCIAL COMPENSATION OR IN-KIND OR
6 SUBSIDIZED GOODS OR SERVICES ARE PROVIDED TO ASSIST WITH THE
7 VOLUNTARY _____ REPLACEMENT OF IRRIGATED TURF FOR:

- 8 (I) RESIDENTIAL PROPERTIES; _____ AND
- 9 (II) CII PROPERTIES, INCLUDING INDUSTRIAL AND BUSINESS
- 10 CAMPUSES.

11 _____

12 (l) "WATER-WISE LANDSCAPE" OR "WATER-WISE LANDSCAPING":
13 (I) MEANS A WATER- AND PLANT- MANAGEMENT PRACTICE THAT:

- 14 (A) IS INTENDED TO BE FUNCTIONAL AND ATTRACTIVE;
- 15 (B) EMPHASIZES THE USE OF PLANTS THAT REQUIRE LOWER
- 16 SUPPLEMENTAL WATER, SUCH AS NATIVE AND DROUGHT-TOLERANT
- 17 PLANTS; AND

18 (II) PRIORITIZES THE FOLLOWING SEVEN KEY PRINCIPLES:

- 19 (A) PLANNING AND DESIGN FOR WATER CONSERVATION, BEAUTY,
- 20 AND UTILITY;
- 21 (B) IMPROVING SOIL;
- 22 (C) APPLYING EFFICIENT IRRIGATION;
- 23 (D) LIMITING TURF TO HIGH TRAFFIC, ESSENTIAL AREAS;
- 24 (E) SELECTING PLANTS THAT HAVE LOW WATER DEMAND;
- 25 (F) APPLYING MULCH; AND
- 26 (G) MAINTAINING THE LANDSCAPE.

27 (3) ON OR BEFORE JULY 1, 2023, THE BOARD SHALL DEVELOP A
28 STATE TURF REPLACEMENT PROGRAM:

29 (a) TO PROVIDE _____ MONEY TO AN ELIGIBLE ENTITY THAT ITSELF

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1 PROVIDES MATCHING MONEY IN AN AMOUNT UP TO FIFTY PERCENT OF THE
2 DIRECT AND INDIRECT COSTS THAT THE ELIGIBLE ENTITY AND ANY THIRD
3 PARTY IT CONTRACTS WITH IN DEVELOPING OR IMPLEMENTING A TURF
4 REPLACEMENT PROGRAM WILL INCUR; OR

5 (b) THROUGH ONE OR MORE THIRD-PARTY CONTRACTORS CHOSEN
6 IN ACCORDANCE WITH SUBSECTION (5) OF THIS SECTION, TO ADMINISTER
7 ONE OR MORE TURF REPLACEMENT PROGRAMS IN AREAS THROUGHOUT THE
8 STATE IN WHICH NO ELIGIBLE ENTITY HAS DEVELOPED OR IS PLANNING TO
9 IMPLEMENT A TURF REPLACEMENT PROGRAM DURING A SPECIFIED
10 IRRIGATION SEASON. TURF REPLACEMENT PROGRAMS DEVELOPED
11 PURSUANT TO THIS SUBSECTION (3)(b) MAY SERVE RESIDENTIAL
12 PROPERTIES; COMMERCIAL, INSTITUTIONAL, OR INDUSTRIAL PROPERTIES;
13 OR BOTH.

14 (4) (a) WITH REGARD TO AN ELIGIBLE ENTITY APPLICANT SEEKING
15 MATCHING MONEY FOR A TURF REPLACEMENT PROGRAM THAT IT
16 ADMINISTERS OR PLANS TO ADMINISTER, THE ELIGIBLE ENTITY MAY APPLY
17 TO THE BOARD IN THE FORM AND MANNER DETERMINED BY THE BOARD
18 FOR _____ MONEY TO ASSIST THE ELIGIBLE ENTITY IN PROVIDING TURF ____
19 REPLACEMENT FOR:

- 20 (I) ITS OWN PROPERTY;
- 21 (II) RESIDENTIAL PROPERTY WITHIN THE ELIGIBLE ENTITY'S
22 BOUNDARIES OR SERVICE AREA; _____ OR
- 23 (III) COMMERCIAL, INSTITUTIONAL, OR INDUSTRIAL PROPERTY
24 LOCATED WITHIN THE ELIGIBLE ENTITY'S BOUNDARIES OR SERVICE AREA.

25 (b) AN ELIGIBLE ENTITY AWARDED _____ MONEY:
26 (I) MAY USE A PORTION OF THE _____ MONEY TO COVER ITS DIRECT
27 AND INDIRECT COSTS, INCLUDING THE DIRECT AND INDIRECT COSTS
28 INCURRED BY ANY THIRD-PARTY CONTRACTOR, IN DEVELOPING AND
29 ADMINISTERING A TURF REPLACEMENT PROGRAM; AND

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1 (II) IS ENCOURAGED TO REQUIRE THAT ITS PROGRAM PARTICIPANTS
2 UPDATE IRRIGATION SYSTEMS TO EFFICIENTLY IRRIGATE WATER-WISE
3 LANDSCAPING AS A CONDITION OF PARTICIPATING IN THE ELIGIBLE
4 ENTITY'S TURF REPLACEMENT PROGRAM.

5 (c) THE BOARD'S APPLICATION REQUIREMENTS FOR APPLICATIONS
6 RECEIVED PURSUANT TO THIS SUBSECTION (4) MUST INCLUDE A
7 REQUIREMENT THAT THE ELIGIBLE ENTITY DEMONSTRATE TO THE
8 SATISFACTION OF THE BOARD THAT:

9 (I) THE ELIGIBLE ENTITY WILL START USING ANY MONEY AWARDED
10 FOR IMPLEMENTATION OF A TURF REPLACEMENT PROGRAM WITHIN
11 TWELVE MONTHS AFTER BEING AWARDED THE MONEY;

12 (II) IF THE ELIGIBLE ENTITY HAS AN EXISTING TURF REPLACEMENT
13 PROGRAM, THE ELIGIBLE ENTITY WILL USE THE MONEY AWARDED IN A
14 MANNER THAT EXPANDS ITS TURF REPLACEMENT PROGRAM, EITHER BY
15 INCREASING THE FINANCIAL INCENTIVES OFFERED PER PROPERTY OR BY
16 EXPANDING THE ANNUAL TOTAL ACREAGE OF TURF REPLACED UNDER THE
17 PROGRAM; AND

18 (III) THE ELIGIBLE ENTITY WILL NOT ALLOW THE USE OF _____
19 MONEY FOR THE REPLACEMENT OF TURF WITH ANY OF THE FOLLOWING:

- 20 (A) IMPERMEABLE CONCRETE;
- 21 (B) ARTIFICIAL TURF;
- 22 (C) WATER FEATURES SUCH AS FOUNTAINS; _____
- 23 (D) INVASIVE PLANT SPECIES; OR
- 24 (E) TURF.

25 _____

26 (5) (a) THE BOARD SHALL CONTRACT WITH ONE OR MORE THIRD
27 PARTIES, SELECTED IN COMPLIANCE WITH THE "PROCUREMENT CODE",
28 ARTICLES 101 TO 112 OF TITLE 24, TO ADMINISTER ONE OR MORE TURF
29 REPLACEMENT PROGRAMS IN ACCORDANCE WITH SUBSECTION (3)(b) OF

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1 THIS SECTION. THE BOARD AND THIRD-PARTY CONTRACTOR OR
2 CONTRACTORS MAY USE MONEY FROM THE TURF REPLACEMENT FUND TO
3 COVER THEIR DIRECT AND INDIRECT COSTS IN DEVELOPING AND
4 ADMINISTERING ONE OR MORE TURF REPLACEMENT PROGRAMS UNDER THIS
5 SUBSECTION (5). THE BOARD AND THIRD-PARTY CONTRACTOR OR
6 CONTRACTORS SHALL COLLABORATE TO DEVELOP ONE OR MORE TURF
7 REPLACEMENT PROGRAMS THAT:

8 (I) ARE BASED ON INDUSTRY BEST PRACTICES AND WHICH MAY
9 THEN SERVE AS A MODEL FOR LOCAL TURF REPLACEMENT PROGRAMS THAT
10 ELIGIBLE ENTITIES ADMINISTER;

11 (II) ARE DESIGNED TO REQUIRE THAT:

12 (A) REMOVED TURF BE REPLACED WITH A MINIMUM PERCENTAGE
13 OF LIVING PLANT SPECIES;

14 (B) LOW OR MEDIUM WATER-USE PLANT SPECIES OR BOTH ARE
15 USED INSTEAD OF HIGH WATER-USE PLANT SPECIES IN REPLACING THE
16 TURF; AND

17 (C) THERE IS AN EMPHASIS ON USING NATIVE AND
18 POLLINATOR-FRIENDLY PLANT SPECIES;

19 (III) OFFER REBATES OR IN-KIND OR SUBSIDIZED GOODS OR
20 SERVICES TO PROPERTY OWNERS IN AN AMOUNT THAT BALANCES
21 INCENTIVIZING PROPERTY OWNERS TO VOLUNTARILY PARTICIPATE IN THE
22 PROGRAM WHILE NOT DISCOURAGING ELIGIBLE ENTITIES IN THE AREA
23 FROM DEVELOPING A LOCAL PROGRAM TO SERVE THE AREA.

24 (b) THE BOARD SHALL ESTABLISH THE RESPONSIBILITIES OF THE
25 THIRD-PARTY CONTRACTOR OR CONTRACTORS IN MANAGING THE
26 PROGRAM PURSUANT TO THIS SUBSECTION (5), WHICH RESPONSIBILITIES
27 MUST INCLUDE:

28 (I) ENSURING ALL PROJECT WORK IS BEING COMPLETED IN AN
29 EFFICIENT MANNER AND WITHIN THE PROJECT BUDGET;

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1 (II) DEVELOPING AND SUBMITTING PROGRAM INVOICES TO THE
2 BOARD; AND

3 (III) PROVIDING THE BOARD WITH PROGRESS REPORTS ABOUT THE
4 PROGRAM AND A FINAL REPORT REGARDING USE OF THE MONEY AWARDED
5 FOR THE PROGRAM.

6 (c) A RESIDENTIAL PROPERTY OWNER OR CII PROPERTY OWNER OR
7 MANAGER MAY APPLY TO A THIRD-PARTY CONTRACTOR, IN A FORM AND
8 MANNER DETERMINED BY THE BOARD AND THE THIRD-PARTY
9 CONTRACTOR, FOR MONEY FOR TURF _____ REPLACEMENT ON THE
10 APPLICANT'S PROPERTY AS PART OF A TURF REPLACEMENT PROGRAM
11 ESTABLISHED PURSUANT TO THIS SUBSECTION (5). THE APPLICATION
12 DEVELOPED BY THE BOARD AND THIRD-PARTY CONTRACTOR MUST
13 INCLUDE INFORMATION INFORMING AN APPLICANT THAT APPLICANTS
14 RECEIVING _____ MONEY UNDER THIS SUBSECTION (5):

15 (I) MAY USE THE MONEY TO COVER THE COST OF ALL DESIGN,
16 MATERIALS, PLANTINGS, AND LABOR REQUIRED TO COMPLETE
17 LANDSCAPING AND IRRIGATION SYSTEM MODIFICATIONS TO REMOVE TURF
18 AND REPLACE IT WITH WATER-WISE LANDSCAPING;

19 (II) ARE ENCOURAGED TO UPDATE IRRIGATION SYSTEMS TO
20 EFFICIENTLY IRRIGATE WATER-WISE LANDSCAPING AS PART OF THE
21 APPLICANTS' PARTICIPATION IN THE PROGRAM; AND

22 (III) SHALL NOT USE THE MONEY TO REPLACE TURF WITH ANY OF
23 THE FOLLOWING:

- 24 (A) IMPERMEABLE CONCRETE;
- 25 (B) ARTIFICIAL TURF;
- 26 (C) WATER FEATURES SUCH AS FOUNTAINS; _____
- 27 (D) INVASIVE PLANT SPECIES; OR
- 28 TURE.

29 (6) (a) (I) _____ THE TURF REPLACEMENT FUND IS HEREBY

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1 CREATED IN THE STATE TREASURY TO BE ADMINISTERED BY THE BOARD
2 FOR IMPLEMENTATION OF THIS SECTION. THE FUND CONSISTS OF MONEY
3 THAT THE GENERAL ASSEMBLY MAY APPROPRIATE OR TRANSFER TO THE
4 FUND, ANY FEDERAL MONEY THAT THE BOARD RECEIVES FOR THE
5 PROGRAM, OR ANY GIFTS, GRANTS, OR DONATIONS THAT THE BOARD
6 RECEIVES FROM PRIVATE OR PUBLIC SOURCES PURSUANT TO SUBSECTION
7 (6)(a)(II) OF THIS SECTION. THE STATE TREASURER SHALL CREDIT ALL
8 INTEREST AND INCOME DERIVED FROM THE DEPOSIT AND INVESTMENT OF
9 MONEY IN THE FUND TO THE FUND.

10 (II) THE BOARD MAY SEEK, ACCEPT, AND EXPEND GIFTS, GRANTS,
11 OR DONATIONS FROM PRIVATE OR PUBLIC SOURCES FOR THE PURPOSES OF
12 THIS SECTION.

13 (b) SUBJECT TO ANNUAL APPROPRIATION BY THE GENERAL
14 ASSEMBLY, THE BOARD MAY EXPEND MONEY FROM THE FUND TO
15 IMPLEMENT THIS SECTION.

16 _____
17 **SECTION 2. Act subject to petition - effective date. This act**
18 **takes effect at 12:01 a.m. on the day following the expiration of the**
19 **ninety-day period after final adjournment of the general assembly; except**
20 **that, if a referendum petition is filed pursuant to section 1 (3) of article V**
21 **of the state constitution against this act or an item, section, or part of this**
22 **act within such period, then the act, item, section, or part will not take**
23 **effect unless approved by the people at the general election to be held in**
24 **November 2022 and, in such case, will take effect on the date of the**
25 **official declaration of the vote thereon by the governor.**

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Recreational In-Channel Values Reach-- RIVR

DRAFT-- Legislation Conceptual Outline

Problem Statement:

Recreational water use is integral to Colorado's lifestyle and economy, yet increased development and climate change are diminishing flows. Current law allows for the protection of flows via qualifying structures, but there's an absence of policy protecting recreation in naturally occurring river channels. This threatens river dependent businesses, tax revenue, and opportunities to grow the outdoor recreation economy.

Retain Existing RICD Water Right Provisions

- A recreational in-channel water right (RICD) should not be granted if it would materially impair the ability to fully develop for beneficial use Colorado's entitlements under the Compacts of 1922 and 1948.
- Water rights for recreational uses must be reasonably efficient and promote maximum utilization of Colorado's waters.

Greater Flexibility for Maintenance of Existing Decreed RICD

- Subject to approval by the division engineer and objection from other water users, minor modification to a decreed RICD to address maintenance, environmental, or administrative concerns does not constitute a change of such water right or otherwise provide a basis for water court review.

Create New Recreation In-Channel Values Reach (RIVR)

- Artificial RICD "control structure" not required for RIVR segment.
- RIVR segment is NOT a water right and may not appropriate or call for water.
- Applicant may designate stream segment as "recreational in-channel values reach" ("RIVR") for purposes of promoting recreational use of such stream segment.
- Applicant must be county, municipality, city and county, water district, water and sanitation district, water conservation district, water conservancy district, or federally approved Tribe (identical to existing RICD rights, with addition of tribes).
- Holder of RIVR segment may acquire by purchase or lease water to be delivered to and shepherded through RIVR segment by Division Engineer.
- Recreational uses limited to boating, fishing, and wading.

Provide for Lease or Sale of Water to traditional RICD and/or Recreational In-Channel Values Reach (RIVR)

- Clarifies existing legal authority to allow water right holders to voluntarily share water through lease or other means to support recreational flows through standard water court change of use proceedings and administrative processes such as Interruptible Water Supply Agreements

- Clarify leasing of water right to RIVR segment:
 - Cannot be used as evidence of abandonment or right.
 - Does not affect historical use computation for right..

Create Administrative Path for Approval of RIVR Segment.

- Administrative proceeding before CWCB in coordination with CPW and the Outdoor Recreation Industry Office.
- Applicant must demonstrate proposed RIVR segment provides existing or intended future recreational opportunities, based on factors such as:
 - Historical use of segment for recreational purposes;
 - Incorporation of community planning process such as (comprehensive or master plan, stream management plan, or parks and recreation plan).
 - Expert testimony;
 - User surveys.
- RIVR segment accessible from public land

**For more information contact: Josh Kuhn (615.483.9041 /Josh@conservationco)
or Becky Long (907.389.2719/Becky@siegelpa.com)**

Draft RIVR Legislation

January 28, 2022

SECTION 1. Legislative declaration.

(1) The general assembly finds that:

- (a) Healthy rivers support vibrant communities and economies by providing high-quality recreation experiences that attract residents and visitors, and river levels are declining from historical levels due to the effects of climate change; and
- (b) River recreation annually contributes nearly nineteen billion dollars to Colorado's economy, two million seven hundred thousand dollars in tax revenue, and more than one hundred thirty thousand jobs;
- (c) Existing procedures for protecting instream recreation channels require the installation of artificial structures in order to perfect a water right, whereas the use of artificial structures should not be required for certain stream reaches where a water right is not necessary to meet recreational needs.

(2) The general assembly also finds that:

- (a) Today, Colorado communities need to have tools available to protect and enhance their natural river flow rates for paddling, fishing, swimming, and floating; and
- (b) Ensuring protection for healthy river flows is necessary to support sustainable outdoor recreation in Colorado.

(3) Now, therefore, the general assembly declares its intent to:

- (a) Authorize communities and other public entities to designate stream reaches as recreational in-channel values reaches; and
- (b) Provide for the delivery of water to such stream recreational in-channel values reaches without appropriating any water right or calling out or curtailing existing water rights.

SECTION 2. In Colorado Revised Statutes, add 37-60-134 as follows:

37-60-134. Recreational in-channel values reaches - request for designation - designation process - recommended flow rates - acquisition of water, water rights, and water interests - definitions - rules.

(1) AS USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE REQUIRES:

- (a) "RECREATIONAL IN-CHANNEL VALUES REACH" MEANS A PORTION OF A STREAM THAT THE BOARD HAS DESIGNATED AS A RECREATIONAL IN-CHANNEL VALUES REACH PURSUANT TO SUBSECTION (2) OF THIS SECTION.
- (b) "RECREATIONAL IN-CHANNEL VALUES REACH RECOMMENDED FLOW" MEANS A RATE OF STREAM FLOW WITHIN A RECREATIONAL IN-CHANNEL VALUES REACH WHICH RATE IS NECESSARY FOR A SPECIFIC RECREATIONAL ACTIVITY OR ACTIVITIES.

(2) (a) ON AND AFTER THE EFFECTIVE DATE OF THIS ACT, UPON APPLICATION BY ANY OF THE PARTIES DESCRIBED IN SUBSECTION (2)(c) OF THIS SECTION,

AFTER DELIBERATION IN A PUBLIC MEETING AND MAKING WRITTEN FINDINGS, THE BOARD SHALL DESIGNATE A PORTION OF A STREAM MEETING THE FOLLOWING CRITERIA AS A RECREATIONAL IN-CHANNEL VALUES REACH:

- (I) THE EXISTENCE OF CURRENT OR POTENTIAL RECREATIONAL ACTIVITY;
- (II) THE EXISTENCE OF PUBLIC ACCESS, BY PUBLIC LAND STATUS OR LANDOWNER CONSENT, OR BOTH;
- (III) A MAXIMUM LENGTH OF 400 YARDS;
- (IV) THAT ADJUDICATION AND ADMINISTRATION OF THE RECREATIONAL IN-CHANNEL VALUES REACH WOULD NOT MATERIALLY IMPAIR THE ABILITY OF COLORADO TO FULLY DEVELOP AND PLACE TO CONSUMPTIVE BENEFICIAL USE OF ITS COMPACT ENTITLEMENTS;
- (V) THE AVAILABILITY OF THE VOLUME OR FLOW RATE OF WATER NECESSARY TO SUSTAIN THE RECREATIONAL USES OF THE REACH FOR SPECIFIED PERIODS OF TIME.

(b) PRIOR TO DESIGNATING ANY RECREATIONAL IN-CHANNEL VALUES REACH, THE BOARD SHALL:

- (I) PROVIDE A PERIOD OF NOTICE TO THE PUBLIC AND COMMENT OF AT LEAST THIRTY DAYS;
- (II) CONSIDER ANY COMMENTS SUBMITTED DURING THE PERIOD OF NOTICE AND COMMENT; AND
- (III) CONSULT WITH THE STATE ENGINEER, THE DIVISION OF PARKS AND WILDLIFE IN THE DEPARTMENT OF NATURAL RESOURCES, AND THE OUTDOOR RECREATION INDUSTRY OFFICE WITHIN THE OFFICE OF ECONOMIC DEVELOPMENT.

(c) ON AND AFTER THE EFFECTIVE DATE OF THIS ACT, ANY OF THE FOLLOWING ENTITIES MAY FILE AN APPLICATION WITH THE BOARD TO DESIGNATE A PORTION OF A STREAM AS A RECREATIONAL IN-CHANNEL VALUES REACH:

- (I) A COUNTY OR A CITY AND COUNTY;
- (II) A MUNICIPALITY;
- (III) A WATER DISTRICT;
- (IV) A WATER AND SANITATION DISTRICT;
- (V) A WATER CONSERVATION DISTRICT;
- (VI) A WATER CONSERVANCY DISTRICT; AND
- (VII) A FEDERALLY RECOGNIZED TRIBE THAT HAS RESERVATION LAND WITHIN COLORADO.

(3) FOR EACH STREAM PORTION THAT THE BOARD DESIGNATES AS A RECREATIONAL IN-CHANNEL VALUES REACH, THE BOARD MAY ESTABLISH UP TO THREE RECOMMENDED FLOWS, EACH OF WHICH FLOWS MUST BE ASSOCIATED WITH A SPECIFIC RECREATIONAL ACTIVITY AS AUTHORIZED HEREIN.

- (4) THE DESIGNATION OF A RECREATIONAL IN-CHANNEL VALUES REACH BY THE BOARD:
- (a) SHALL NOT CONSTITUTE THE APPROPRIATION OF A WATER RIGHT OR CONDITIONAL WATER RIGHT, AND A PARTY THAT OBTAINS SUCH A DESIGNATION PURSUANT TO SUBSECTION (2)(c) OF THIS SECTION MAY NOT REQUEST A CALL FOR WATER THAT HAS BEEN LAWFULLY STORED OR APPROPRIATED BY ANOTHER APPROPRIATOR.
 - (b) SHALL NOT IMPAIR OR IN ANY WAY AFFECT ANY WATER COURT DECREE, ADMINISTRATIVE AUTHORIZATION, OR ADMINISTRATIVE AGREEMENT THAT ALLOWS WATER TO BE STORED, RELEASED, AND ADMINISTERED FOR ENVIRONMENTAL, PISCATORIAL, WATER QUALITY, RECREATIONAL, MUNICIPAL, OR OTHER IN-CHANNEL PURPOSES, INCLUDING THE MAINTENANCE OF DOMINION AND CONTROL OVER THE WATER RELEASES FROM A SPECIFIED RESERVOIR;
 - (c) IS NOT INTENDED TO BE THE EXCLUSIVE MEANS OF AUTHORIZING WATER TO BE STORED, RELEASED, AND ADMINISTERED FOR ENVIRONMENTAL, PISCATORIAL, WATER QUALITY, RECREATIONAL, MUNICIPAL, OR ANY OTHER IN-CHANNEL PURPOSES, INCLUDING THE MAINTENANCE OF DOMINION AND CONTROL OVER THE WATER RELEASED FROM A SPECIFIC RESERVOIR; AND
 - (d) DOES NOT AUTHORIZE, RESTRICT, OR PRECLUDE FUTURE WATER RIGHTS, APPROPRIATIONS, ADMINISTRATIVE AUTHORIZATIONS, OR OTHER AGREEMENTS FOR THE PURPOSES LISTED IN SUBSECTION ____ OF THIS SECTION.
- (5) THE APPLICANT FOR THE DESIGNATION OF A RECREATIONAL IN-CHANNEL VALUES REACH SHALL PROVIDE NOTICE OF THE APPLICATION TO EACH PARTY INCLUDED IN THE SUBSTITUTE WATER SUPPLY PLAN NOTIFICATION LIST ESTABLISHED BY THE STATE ENGINEER PURSUANT TO SECTION 37-92-308 (6) FOR EACH WATER DIVISION WITHIN WHICH A PORTION OF THE REQUESTED RECREATIONAL IN-CHANNEL VALUES REACH IS LOCATED.
- (6) AFTER THE BOARD DESIGNATES A RECREATIONAL IN-CHANNEL VALUES REACH, THE APPLICANT FOR THE RECREATIONAL IN-CHANNEL VALUES REACH MAY REQUEST THAT THE BOARD, IN CONSULTATION WITH THE DIVISION OF PARKS AND WILDLIFE IN THE DEPARTMENT OF NATURAL RESOURCES AND THE OUTDOOR RECREATION INDUSTRY OFFICE WITHIN THE OFFICE OF ECONOMIC DEVELOPMENT, COLLABORATE WITH THE APPLICANT TO ESTABLISH A DEVELOPMENT PLAN FOR THE RECREATIONAL IN-CHANNEL VALUES REACH.
- (7) (a) THE HOLDER OF A RECREATIONAL IN-CHANNEL VALUES REACH MAY ACQUIRE WATER, WATER RIGHTS, OR INTERESTS IN WATER THROUGH PURCHASE, DONATION, GRANT, BEQUEST, LEASE, LOAN, OR OTHER CONVEYANCE FOR THE PURPOSE OF ACHIEVING, MAINTAINING, OR ENHANCING FLOW WITHIN THE

RECREATIONAL IN-CHANNEL VALUES REACH. ANY WATER SO ACQUIRED MUST BE AUTHORIZED FOR SUCH USE PURSUANT TO WATER COURT DECREE OR THROUGH APPROVAL OF A SUBSTITUTE WATER SUPPLY PLAN PURSUANT TO SECTION 37-92-308; PROVIDED, HOWEVER THAT THE HOLDER OF A RECREATIONAL IN-CHANNEL VALUES REACH MAY RENEW A SUBSTITUTE WATER SUPPLY PLAN APPROVED PURSUANT TO SUBSECTION 37-92-308(5) WITHOUT REGARD FOR THE FIVE-YEAR LIMITATION SET FORTH AT SUBSECTION 37-92-308(5)(b)(I).

- (b) AT THE REQUEST OF THE HOLDER OF A RECREATIONAL IN-CHANNEL VALUES REACH, THE STATE ENGINEER AND DIVISION ENGINEERS SHALL DELIVER TO AND THROUGH THE RECREATIONAL IN-CHANNEL VALUES REACH WATER ACQUIRED BY THE HOLDER PURSUANT TO SUBSECTION (7)(a) OF THIS SECTION.
- (8) (a) THE BOARD MAY IMPOSE A REASONABLE STANDARD APPLICATION FEE TO ACCOMPANY AN APPLICATION FOR THE DESIGNATION OF A RECREATIONAL IN-CHANNEL VALUES REACH, AND WAIVE SUCH FEE UPON SHOWING OF FINANCIAL HARDSHIP.

(b) THE BOARD, THE DIVISION OF PARKS AND WILDLIFE IN THE DEPARTMENT OF NATURAL RESOURCES, AND THE OUTDOOR RECREATION INDUSTRY OFFICE WITHIN THE OFFICE OF ECONOMIC DEVELOPMENT SHALL PROVIDE TECHNICAL ASSISTANCE TO AN APPLICANT APPLYING FOR DESIGNATION OF A RECREATIONAL IN-CHANNEL VALUES REACH.
- (9) THE COLORADO WATER CONSERVATION BOARD'S FINAL DECISION TO DESIGNATE, DECLINE TO DESIGNATE, OR DESIGNATE WITH MODIFICATIONS OR CONDITIONS A RECREATIONAL IN-CHANNEL VALUES REACH IS SUBJECT TO REVIEW PURSUANT TO THE PROVISIONS OF THE "STATE ADMINISTRATIVE PROCEDURE ACT," ARTICLE 4 OF TITLE 24, C.R.S, EXCEPT THAT VENUE FOR SUCH REVIEW LIES EXCLUSIVELY WITH THE WATER JUDGE OR JUDGES FOR THE WATER DIVISION WITHIN WHICH THE RECREATIONAL IN-CHANNEL VALUES REACH IS LOCATED.

SECTION 3. In Colorado Revised Statutes 37-92-103, amend (2) introductory portion, (2)(b)(V), and (2)(b)(VI); and add (2)(b)(VII) as follows:

37-92-103. Definitions. As used in this article 92, unless the context otherwise requires:

- (2) "Abandonment of a water right" means the termination of a water right in whole or in part as a result of the intent of the owner ~~thereof~~ OF THE WATER RIGHT to discontinue permanently the use of all or part of the water available ~~thereunder~~ UNDER THE WATER RIGHT. Any period of nonuse of any portion of a water right shall be tolled, and no intent to discontinue permanent use shall be found for purposes of determining an abandonment of a

water right or a reduction in the historical diversions or lawful historical consumptive use during any period that:

- (b) The nonuse of a water right for its decreed purposes by its owner is a result of participation in:
 - (V) A loan of water to the Colorado water conservation board for instream flow use under section 37-83-105 (2); or
 - (VI) Any contract or agreement with the Colorado water conservation board that allows the board to use all or a part of a water right to preserve or improve the natural environment to a reasonable degree under section 37-92-102 (3); OR
 - (VII) A LOAN OR LEASE OF WATER TO ACHIEVE, MAINTAIN OR ENHANCE A RECREATIONAL IN-CHANNEL VALUES REACH RECOMMENDED FLOW, AS DEFINED IN SECTION 37-60-134 (1)(b).

SECTION 4. In Colorado Revised Statutes, 37-92-305, add (3)(c.5) 6 and (13)(g) as follows:

37-92-305. Standards with respect to rulings of the referee and decisions of the water judge - definitions.

- (3) (c.5) IN DETERMINING THE AMOUNT OF HISTORICAL DIVERSIONS AND HISTORICAL CONSUMPTIVE USE FOR A WATER RIGHT, THE WATER JUDGE SHALL NOT CONSIDER ANY DECREASE IN USE RESULTING FROM THE NONUSE OR DECREASE IN USE OF THE WATER RIGHT BY ITS OWNER AS A RESULT OF A LOAN OR LEASE OF WATER TO ACHIEVE, MAINTAIN OR ENHANCE A RECREATIONAL IN-CHANNEL VALUES REACH MINIMUM FLOW RATE, AS DEFINED IN SECTION 37-60-134 (1)(b).
- (13) (g) (I) A MINOR MODIFICATION TO A CONTROL STRUCTURE FOR A DECREED RECREATIONAL IN-CHANNEL DIVERSION WATER RIGHT FOR PURPOSES OF ADDRESSING MAINTENANCE, ENVIRONMENTAL, OR ADMINISTRATIVE CONCERNS THAT DOES NOT RELOCATE THE CONTROL STRUCTURE MORE THAN 100 FEET OR SUBSTANTIALLY ALTER THE AMOUNT OF WATER CONTROLLED BY SUCH STRUCTURE DOES NOT CONSTITUTE A CHANGE OF THE WATER RIGHT OR OTHERWISE PROVIDE A BASIS FOR WATER COURT REVIEW IF THE PERSON WHO INITIATES THE MINOR MODIFICATION SATISFIES THE REQUIREMENT DESCRIBED IN SUBSECTION (13)(g)(II) OF THIS SECTION.
 - (II) BEFORE INITIATING A PROPOSED MINOR MODIFICATION TO A CONTROL STRUCTURE FOR A DECREED RECREATIONAL IN-CHANNEL DIVERSION WATER RIGHT, THE HOLDER OF SUCH WATER RIGHT MUST PROVIDE NOTICE BY FIRST-CLASS MAIL OR ELECTRONIC MAIL TO THE DIVISION ENGINEER, THE OPPOSERS TO THE ORIGINAL APPLICATION FOR THE RECREATIONAL IN-CHANNEL DIVERSION WATER RIGHT AND THE SUBSTITUTE WATER SUPPLY PLAN NOTIFICATION LIST ESTABLISHED BY THE STATE ENGINEER PURSUANT TO SECTION 37-92-308 (6) FOR THE

WATER DIVISION WITHIN WHICH THE RECREATIONAL IN-CHANNEL DIVERSION IS LOCATED OF THE WATER RIGHT HOLDER'S INTENT TO PERFORM THE MODIFICATION AS WELL AS A DESCRIPTION OF THE PROPOSED MODIFICATION. ANY PERSON MAY OBJECT TO THE PROPOSED MODIFICATION WITHIN THIRTY-FIVE DAYS AFTER THE DATE OF SERVICE OF THE NOTIFICATION. THE DIVISION ENGINEER SHALL REVIEW THE NOTICE AND ANY OBJECTIONS AND APPROVE, DISAPPROVE, OR APPROVE WITH CONDITIONS OR AMENDMENTS THE PROPOSED MODIFICATION WITHIN FORTY-NINE DAYS AFTER SERVICE OF NOTICE.

(III) THE HOLDER OF THE RECREATIONAL IN-CHANNEL DIVERSION FOR WHICH A MODIFICATION IS SOUGHT OR ANY PERSON WHO SUBMITTED AN OBJECTION THERETO MAY APPEAL THE DIVISION ENGINEER'S APPROVAL OR DISAPPROVAL OF THE PROPOSED MODIFICATION BY PETITION TO THE WATER COURT THAT ISSUED THE DECREE FOR THE RECREATIONAL IN-CHANNEL DIVERSION WATER RIGHT, AND THE WATER COURT SHALL PROMPTLY CONSIDER AND RULE ON SUCH PETITION.

SECTION 5. Act subject to petition - effective date. This act takes effect at 12:01 a.m. on the day following the expiration of the ninety-day period after final adjournment of the general assembly; except that, if a referendum petition is filed pursuant to section 1 (3) of article V of the state constitution against this act or an item, section, or part of this act within such period, then the act, item, section, or part will not take effect unless approved by the people at the general election to be held in November 2022 and, in such case, will take effect on the date of the official declaration of the vote thereon by the governor.