

HOUSE COMMITTEE OF REFERENCE AMENDMENT

Committee on Appropriations.

HB12-1278 be amended as follows:

1 Strike the Agriculture, Livestock, and Natural Resources Committee
2 Report, dated February 20, 2012, and substitute:

3 "Amend printed bill, strike everything below the enacting clause and
4 substitute:

5 **"SECTION 1. Legislative declaration.** (1) The general
6 assembly hereby declares that:

7 (a) In 1966, the general assembly commissioned a study of the
8 interaction between the South Platte alluvial aquifer and the surface flows
9 in the South Platte river. The general assembly considered this study in
10 passing the "Water Right Determination and Administration Act of
11 1969", article 92 of title 37, Colorado Revised Statutes, and augmentation
12 plans authorized by the 1969 act are operating on a large scale in the
13 South Platte river basin. Many scientific and technological advances have
14 occurred since the study was completed in 1968, yet no comprehensive
15 study has been conducted since then regarding the impact of alluvial
16 groundwater usage on the South Platte river or the relative success of
17 augmentation plans authorized by the 1969 act in protecting senior
18 surface water diverters and maximizing the use of both groundwater and
19 surface waters of the state. The general assembly finds that the South
20 Platte alluvial aquifer plays a critical role in the state's economy, that
21 development of this aquifer is and will continue to be an important water
22 supply source, and that it is appropriate at this time to engage in an
23 additional study on these matters.

24 (b) Groundwater levels in some areas of the South Platte river
25 alluvium have risen since 2005 to unprecedented high levels and have
26 caused damaging conditions, including crop damage, decreased soil
27 productivity, salt accumulation in soils, deterioration of water quality,
28 failures of wastewater systems and infrastructure, damage to residential
29 and commercial property, increased nonbeneficial consumptive use by
30 phreatophytes, water waste, and significant outflow to Nebraska; and

31 (c) Because of the critical roles that the South Platte river and its
32 alluvial aquifer play in supporting the state's economy, the Colorado
33 water conservation board, beginning in 2012 and in consultation with the
34 state engineer and the Colorado water institute, must conduct
35 comprehensive studies of the available historical hydrologic data through
36 water year 2011 to evaluate the effectiveness of the "Water Right

1 Determination and Administration Act of 1969" in achieving the dual
2 goals of protecting senior water rights and maximizing the beneficial use
3 of both surface waters and groundwaters of the state.

4 **SECTION 2.** In Colorado Revised Statutes, 37-60-115, **add** (7)
5 as follows:

6 **37-60-115. Water studies - rules - repeal. (7) South Platte**
7 **river alluvial aquifer study - study authorized.** (a) THE BOARD SHALL,
8 INCONSULTATION WITH THE STATE ENGINEER AND THE COLORADO WATER
9 INSTITUTE, ESTABLISHED IN SECTION 23-31-801, C.R.S., AND ALSO
10 REFERRED TO IN THIS SECTION AS THE "INSTITUTE", CONDUCT A
11 COMPREHENSIVE STUDY TO COMPILE AND EVALUATE AVAILABLE
12 HISTORICAL HYDROLOGIC DATA THROUGH WATER YEAR 2011. THE
13 STUDY'S OBJECTIVES ARE:

14 (I) TO EVALUATE WHETHER CURRENT LAWS AND RULES THAT
15 GUIDE WATER ADMINISTRATION IN THE SOUTH PLATTE RIVER BASIN
16 ACHIEVE THE DUAL GOALS OF PROTECTING SENIOR WATER RIGHTS AND
17 MAXIMIZING THE BENEFICIAL USE OF BOTH SURFACE WATER AND
18 GROUNDWATER WITHIN THE BASIN;

19 (II) TO IDENTIFY AND DELINEATE AREAS WITHIN THE BASIN
20 ADVERSELY IMPACTED BY HIGH GROUNDWATER LEVELS AND TO CONDUCT
21 A FEASIBILITY-LEVEL EVALUATION OF THE CAUSES OF HIGH
22 GROUNDWATER LEVELS IN THE AFFECTED AREAS;

23 (III) TO PROVIDE INFORMATION TO USE AS A BASIS FOR
24 IMPLEMENTATION OF MEASURES TO MITIGATE ADVERSE IMPACTS IN AREAS
25 EXPERIENCING HIGH GROUNDWATER LEVELS; AND

26 (IV) TO PROVIDE INFORMATION TO THE GENERAL ASSEMBLY, THE
27 BOARD, AND THE STATE ENGINEER TO FACILITATE THE LONG-TERM
28 SUSTAINABLE USE OF SOUTH PLATTE WATER SUPPLIES.

29 (b) THE BOARD SHALL ENTER INTO A CONTRACT WITH THE
30 INSTITUTE, USING EXISTING PROCUREMENT MECHANISMS AND
31 AGREEMENTS BETWEEN THE BOARD AND THE INSTITUTE, TO CONDUCT,
32 OVERSEE, AND COORDINATE ALL ASPECTS OF THE STUDY. THE BOARD
33 SHALL FUND THE STUDY FROM EXISTING RESEARCH RESOURCES AT LEVELS
34 AGREED TO BETWEEN THE BOARD AND THE INSTITUTE.

35 (c) THE INSTITUTE SHALL CONDUCT THE STUDY INDEPENDENTLY
36 USING RELEVANT, AVAILABLE, CURRENT, AND HISTORICAL HYDROLOGIC
37 DATA AND DOCUMENTS. THE STUDY IS RESTRICTED TO WATER USE IN
38 WATER DISTRICTS 1, 2, AND 64 WITHIN WATER DIVISION 1. IN CONDUCTING
39 THE STUDY, THE INSTITUTE SHALL CONSIDER THE IMPACTS OF ALL WATER
40 RIGHTS AND INTERSTATE OBLIGATIONS IN WATER DIVISION 1 AND SHALL
41 INVESTIGATE, COMPILE, AND EVALUATE HYDROLOGIC VARIABLES AND

1 FACTORS, INCLUDING:
2 (I) THE NUMBER AND LOCATION OF ALLUVIAL WELLS THAT ARE
3 CURRENTLY WITHDRAWING GROUNDWATER;
4 (II) THE NUMBER AND LOCATION OF ALLUVIAL WELLS THAT ARE
5 CURRENTLY CURTAILED FROM PUMPING, EITHER FULLY OR PARTIALLY;
6 (III) THE NUMBER AND LOCATION OF EXISTING ARTIFICIAL
7 RECHARGE FACILITIES AND THE HISTORICAL VOLUME OF WATER
8 RECHARGED;
9 (IV) HISTORICAL VOLUMES OF WATER PUMPED FOR EACH
10 HIGH-CAPACITY IRRIGATION, MUNICIPAL, INDUSTRIAL, OR OTHER WELL
11 NOT EXEMPTED UNDER SECTION 37-92-602;
12 (V) HISTORICAL AMOUNTS OF WATER LEAVING THE STATE IN
13 EXCESS OF THE REQUIREMENTS OF RIVER COMPACTS AND OF THE "PLATTE
14 RIVER COOPERATIVE AGREEMENT" OF 1997;
15 (VI) HISTORICAL WATER DELIVERIES TO SURFACE WATER RIGHTS;
16 (VII) GROUNDWATER LEVEL DATA AVAILABLE FROM EXISTING
17 OBSERVATION WELLS AND THE HISTORICAL FLUCTUATIONS OF
18 GROUNDWATER LEVELS BASED ON THE DATA;
19 (VIII) THE SOUTH PLATTE DECISION SUPPORT SYSTEM'S EXISTING
20 PHREATOPHYTE GROUNDWATER EVAPOTRANSPIRATION MODULE AND,
21 USING AVAILABLE DATA, THE RELATIONSHIP BETWEEN HIGH
22 GROUNDWATER LEVELS AND NONBENEFICIAL CONSUMPTIVE USE BY
23 PHREATOPHYTES FROM 2001 THROUGH 2011;
24 (IX) THE NUMBER AND SIZE OF AUGMENTATION PLANS IN
25 OPERATION IN THE STUDY AREA; AND
26 (X) THE IMPACT OF TRANSBASIN SUPPLIES, REUSE OF FULLY
27 CONSUMABLE SUPPLIES, CONSERVATION PRACTICES, AND THE
28 INSTALLATION OF LINED STORAGE FACILITIES IN THE ALLUVIUM.
29 (d) THE INSTITUTE SHALL EVALUATE AND REPORT ITS FINDINGS
30 AND CONCLUSIONS TO THE BOARD AND THE GENERAL ASSEMBLY
31 REGARDING SPECIFIC ISSUES, INCLUDING:
32 (I) WHETHER, AND TO WHAT EXTENT, DEPLETIONS CAUSED BY
33 PAST PUMPING OF WELLS HAVE DELAYED IMPACTS ON SURFACE STREAMS
34 AND, IF SO, THE MOST APPROPRIATE METHODS FOR QUANTIFYING THE
35 IMPACTS;
36 (II) WHETHER, AND TO WHAT EXTENT, AUGMENTATION PLANS ARE
37 PREVENTING INJURY TO OTHER WATER RIGHTS HOLDERS OR POTENTIALLY
38 CAUSING OVER-AUGMENTATION OF WELL DEPLETIONS;
39 (III) WHETHER ADDITIONAL USAGE OF THE ALLUVIAL AQUIFERS
40 COULD BE PERMITTED IN A MANNER CONSISTENT WITH PROTECTING SENIOR
41 SURFACE WATER RIGHTS; AND

1 (IV) WHETHER, AND TO WHAT EXTENT, THE USE OF WATER IN THE
2 BASIN COULD BE IMPROVED OR MAXIMIZED BY AFFORDING THE STATE
3 ENGINEER ADDITIONAL AUTHORITY TO ADMINISTER WATER RIGHTS WHILE
4 ENSURING PROTECTION OF SENIOR SURFACE WATER RIGHTS.

5 (e) THE BOARD SHALL COMMISSION THE STUDY AS SOON AS
6 PRACTICABLE. THE INSTITUTE SHALL PREPARE A FINAL REPORT, INCLUDING
7 ITS CONCLUSIONS, AND PRESENT IT TO THE GENERAL ASSEMBLY NO LATER
8 THAN DECEMBER 31, 2013. THE INSTITUTE SHALL PREPARE A PROGRESS
9 REPORT AND PRESENT IT TO A JOINT MEETING OF THE HOUSE OF
10 REPRESENTATIVES COMMITTEE ON AGRICULTURE, LIVESTOCK, AND
11 NATURAL RESOURCES AND THE SENATE COMMITTEE ON AGRICULTURE,
12 NATURAL RESOURCES, AND ENERGY, OR THEIR SUCCESSOR COMMITTEES,
13 DURING THE FIRST REGULAR SESSION OF THE SIXTY-NINTH GENERAL
14 ASSEMBLY IN 2013. THE INSTITUTE SHALL PRESENT THE FINAL REPORT TO
15 A JOINT MEETING OF THE HOUSE OF REPRESENTATIVES COMMITTEE ON
16 AGRICULTURE, LIVESTOCK, AND NATURAL RESOURCES AND THE SENATE
17 COMMITTEE ON AGRICULTURE, NATURAL RESOURCES, AND ENERGY, OR
18 THEIR SUCCESSOR COMMITTEES, DURING THE SECOND REGULAR SESSION
19 OF THE SIXTY-NINTH GENERAL ASSEMBLY IN 2014.

20 **SECTION 3. Safety clause.** The general assembly hereby finds,
21 determines, and declares that this act is necessary for the immediate
22 preservation of the public peace, health, and safety."

23 Page 1, strike line 101 and substitute "**CONCERNING THE**
24 **AUTHORIZATION OF A STUDY OF THE SOUTH PLATTE RIVER ALLUVIAL**
25 **AQUIFER.**".

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