

**NOTE: The governor signed this measure on 5/18/2013.**

# An Act

SENATE BILL 13-019

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

CONCERNING THE PROMOTION OF WATER CONSERVATION MEASURES.

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

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

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

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

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

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

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

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

(I) THE LAND ON WHICH THE WATER FROM THE WATER RIGHT HAS BEEN HISTORICALLY APPLIED IS ENROLLED UNDER A FEDERAL LAND CONSERVATION PROGRAM; OR

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

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

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

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

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

**SECTION 3. Applicability.** This act applies to historical consumptive use determinations made on or after the effective date of this