

STATE
REVISED FISCAL IMPACT
(replaces fiscal note dated January 22, 2013)

Drafting Number: LLS 13-0104	Date: February 18, 2013
Prime Sponsor(s): Sen. Giron	Bill Status: House Agriculture
Rep. Sonnenberg	Fiscal Analyst: Kirk Mlinek (303-866-2756)

TITLE: CONCERNING POINTS OF DIVERSION THAT ARE NOT LOCATED AT THE PHYSICAL LOCATION SPECIFIED IN THE DECREES FOR DIVERTED WATER RIGHTS.

Fiscal Impact Summary	FY 2013-2014	FY 2014-2015
State Revenue		
Cash Funds		
Judicial Stabilization Cash Fund — <i>Reduction</i>	(<\$5,000)	(<\$5,000)
State Expenditures	See State Expenditures section.	
FTE Position Change		
Effective Date: August 7, 2013, if the General Assembly adjourns on May 8, 2013, as scheduled, and no referendum petition is filed.		
Appropriation Summary for FY 2013-2014: None required.		
Local Government Impact: None.		

Summary of Legislation

The **reengrossed** version of the bill will allow the owners and users of water rights to correct an established, but erroneously described, point of diversion location description in a decree without having to file an application for a change in water right. The bill clarifies the circumstances under which a water right is deemed to be diverted at its decreed location and not erroneously described. Erroneously described points of diversion that are the result of a clerical error may be corrected by petitioning the water clerk up to 3 years after the diverter becomes aware of the mistake. The bill also sets forth a process for correcting erroneously described points of diversion not attributable to a clerical error.

Background

Some water rights in Colorado are affected by erroneous point of diversion location descriptions. A point of diversion is a specifically named place where water is removed from a body of water. Erroneous descriptions are the result of clerical errors, changes in landmark or survey methods, and other minor inaccuracies. The bill provides an alternative process for modifying the decreed location of an erroneously located point of diversion.

State Revenue

The bill will reduce cash fund revenue received by the water courts, but by less than \$5,000 annually. Current law requires that a total fee of \$182 be paid to file an application, complaint, petition, or other pleading initiating a water matter, except for changes in water right or approval for an augmentation plan, for which the total fee is \$363. Under the bill, persons seeking to correct erroneously located points of diversion for existing water rights are not required to seek a change in a water right, meaning that the standard total fee of \$182 will apply. The number of such filings is expected to be small and the fiscal note assumes that the corresponding reduction in revenue will be minimal. Application fees are deposited in the Judicial Stabilization Cash Fund.

State Expenditures

The bill creates a new process for certain cases that are already subject to adjudication in water court and does not, by itself, either increase or decrease the overall number of filings. Therefore, the workload of the water courts is not expected to change.

Up to 10 percent of water rights administered by the Division of Water Resources (DWR) in the Department of Natural Resources could be affected by the bill. Point of diversion cases are already handled by DWR staff and, since the bill is not expected to change the number of filings, the bill is not expected to affect the DWR's workload.

Departments Contacted

Natural Resources

Judicial