

Second Regular Session
Seventy-second General Assembly
STATE OF COLORADO

DRAFT
5.1.20

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LLS NO. 20-1206.01 Thomas Morris x4218

COMMITTEE BILL

Joint Budget Committee

BILL TOPIC: "Raise Div Water Resources Fees Budget Balance Bill"

A BILL FOR AN ACT

101 **CONCERNING INCREASES IN FEES CHARGED BY THE DIVISION OF WATER**
102 **RESOURCES.**

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/>.)

Joint Budget Committee. Effective July 1, 2020, the bill increases, establishes, or allocates fees of the division of water resources as follows:

- **Section 1** of the bill increases the fees for state engineer review of dam plans and specifications from \$6 for each \$1,000 of the estimated cost of the structure with a \$30,000

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

cap to 4% of the first \$100,000; 3% of the next \$400,000, 2% of the next \$500,000; and .5% of the cost in excess of \$1,000,000. This increased revenue, up to \$30,000 per project, is credited to the water resources cash fund (**section 2**).

- **Section 3** increases the fee for: A new small capacity well from \$100 to \$665; recording a small capacity well with the state engineer's office from \$100 to \$365; and a replacement well from \$60 to \$365. Section 3 also adds a \$305 fee for an extension of the deadline to construct a small capacity well.
- **Section 4** increases the fee for a determination of a Denver basin groundwater right in a designated basin from \$60 to \$760 and increases the fee for a well permit in the Denver basin aquifers that are not located in a designated basin from \$100 to \$665;
- **Section 5** establishes a new \$600 filing fee for approval of a replacement plan in a designated basin;
- **Section 6** increases the fee for: Applying for a new well from \$100 to \$665; obtaining a permit to modify or replace an existing well from \$100 to \$365; changing a well permit issued by the ground water commission from \$100 to \$665; and an extension of the time to drill a well that is not a small capacity well from \$60 to \$305;
- **Section 7** increases the fee for: A new well outside of the Denver basins or a designated basin from \$100 to \$665; a replacement of such a well from \$100 to \$200; and an extension of the deadline to construct such a well from \$60 to \$305;
- Fees for geothermal permits are currently set by rule. **Section 9** sets the fee in statute: To construct a new well, change or expand the use under an existing permit, or register and replace an existing well at \$665; and to replace a well, extend an existing permit, or register an existing well at \$365. Section 9 also establishes a new permit fee for the construction of loop fields for geoexchange systems (which terms are defined in **section 8**) at \$665.
- **Section 10** increases the fee for a substitute water supply plan from \$300 to \$2,000; and
- **Section 11** increases the fee for a new exempt well from \$100 to \$665 and the fee to relocate an exempt well from \$60 to \$365. The fee for an extension of the deadline to construct an exempt well is established at \$305, and the fee for recording an exempt well with the state engineer's office is increased from \$100 to \$365.

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

2 **SECTION 1.** In Colorado Revised Statutes, 37-80-110, **amend**
3 (1) introductory portion and (1)(e) as follows:

4 **37-80-110. Fees collected by state engineer.** (1) The state
5 engineer shall collect fees for work done in ~~his or her~~ THE STATE
6 ENGINEER'S office as follows:

7 (e) EFFECTIVE JULY 1, 2020, with respect to a proposed project for
8 a dam, for the examination and filing of each set of plans and
9 specifications required by law to be filed in the office of the state
10 engineer, ~~six dollars for each one thousand dollars or fraction thereof of~~
11 A FEE CALCULATED PURSUANT TO THE FOLLOWING SCHEDULE BASED ON
12 the estimated cost of a proposed project: ~~but the total amount of fees for~~
13 ~~examination and filing of each set of plans and specifications must not be~~
14 ~~less than one hundred dollars nor more than thirty thousand dollars;~~

15 (I) FOUR PERCENT OF THE FIRST HUNDRED THOUSAND DOLLARS;

16 (II) THREE PERCENT OF THE NEXT FOUR HUNDRED THOUSAND
17 DOLLARS;

18 (III) TWO PERCENT OF THE NEXT FIVE HUNDRED THOUSAND
19 DOLLARS; AND

20 (IV) ONE-HALF OF ONE PERCENT OF THE COST IN EXCESS OF ONE
21 MILLION DOLLARS.

22 **SECTION 2.** In Colorado Revised Statutes, **amend** 37-80-111 as
23 follows:

24 **37-80-111. Fees deposited with department of the treasury.** At
25 the end of each month, the sum of the fees collected during the month, as
26 provided in section 37-80-110, shall be transmitted to the department of

1 the treasury with a complete statement showing the amounts thus received
2 and the sources from which they are derived, and the said amounts shall
3 be credited to the general fund; EXCEPT THAT THE FEES GENERATED BY
4 SECTION 37-80-110 (1)(e) THAT ARE IN EXCESS OF SIX DOLLARS FOR EACH
5 ONE THOUSAND DOLLARS OR FRACTION THEREOF, UP TO A MAXIMUM OF
6 THIRTY THOUSAND DOLLARS, OF THE ESTIMATED COST OF THE PROJECT
7 THAT IS SPECIFIED IN THE PLANS AND SPECIFICATIONS SHALL BE DEPOSITED
8 IN THE WATER RESOURCES CASH FUND CREATED IN SECTION 37-80-111.7
9 (1).

10 **SECTION 3.** In Colorado Revised Statutes, 37-90-105, **amend**
11 (3)(a)(I)(C), (3)(e)(II), and (4)(a)(II) as follows:

12 **37-90-105. Small capacity wells - definition.**

13 (3) (a) (I) (C) Effective July 1, ~~2006~~ 2020, wells of the type described in
14 this section may be constructed only upon the issuance of a permit in
15 accordance with the provisions of this section. A fee of ~~one~~ SIX hundred
16 SIXTY-FIVE dollars shall accompany any application for a new well permit
17 under this section. A fee of ~~sixty~~ THREE HUNDRED SIXTY-FIVE dollars shall
18 accompany any application for a replacement well of the type described
19 in subsection (1) of this section.

20 (e) (II) Effective July 1, ~~2006~~ 2020, wells for which permits have
21 been granted or may be granted shall be constructed within two years
22 after the permit is issued, which time may be extended for successive
23 years at the discretion of the state engineer for good cause shown AND
24 UPON PAYMENT OF A FEE OF THREE HUNDRED FIVE DOLLARS.

25 (4) (a) (II) Effective July 1, ~~2006~~ 2020, any wells of the type
26 described by this section that were put to beneficial use prior to May 8,
27 1972, and any wells that were used exclusively for monitoring and

1 observation purposes prior to August 1, 1988, not of record in the office
2 of the state engineer, may be recorded in that office upon written
3 application, payment of a processing fee of ~~one~~ THREE hundred
4 SIXTY-FIVE dollars, and permit approval. The record shall include the date
5 the water is claimed to have been first put to beneficial use.

6 <{Note that this conflicts with section 3 of HB 20-1069, which (as
7 amended) increases the fees in (3)(a)(I)(C) from \$100 to \$135 and \$60
8 to \$95 and the fees in (4)(a)(II) from \$100 to \$135.}>

9 SECTION 4. In Colorado Revised Statutes, 37-90-107, **amend**
10 (7)(c)(I)(C) and (7)(d)(I)(C) as follows:

11 **37-90-107. Application for use of groundwater - publication**
12 **of notice - conditional permit - hearing on objections - well permits.**

13 (7) (c) (I) (C) Effective July 1, ~~2006~~ 2020, rights to designated
14 groundwater in the Dawson, Denver, Arapahoe, or Laramie-Fox Hills
15 aquifers to be allocated pursuant to ~~paragraph (a) of this subsection (7)~~
16 SUBSECTION (7)(a) OF THIS SECTION may be determined in accordance
17 with ~~the provisions~~ of this section. Any person desiring to obtain such a
18 determination shall make application to the commission in a form to be
19 prescribed by the commission. A fee of SEVEN HUNDRED sixty dollars
20 shall be submitted with the application for each aquifer, which sum shall
21 not be refunded. The application may also include a request for approval
22 of a replacement plan if one is required under commission rules to replace
23 any depletions to alluvial aquifers caused due to withdrawal of
24 groundwater from the Dawson, Denver, Arapahoe, or Laramie-Fox Hills
25 aquifers.

26 (d) (I) (C) Effective July 1, ~~2006~~ 2020, any person desiring a
27 permit for a well to withdraw groundwater for a beneficial use from the

1 Dawson, Denver, Arapahoe, or Laramie-Fox Hills aquifers shall make
2 application to the commission on a form to be prescribed by the
3 commission. A fee of ~~one~~ SIX hundred SIXTY-FIVE dollars shall be
4 submitted with the application, which sum shall not be refunded.

5 **SECTION 5.** In Colorado Revised Statutes, **amend** 37-90-107.5
6 as follows:

7 **37-90-107.5. Replacement plans.** Any person desiring to obtain
8 an approval of a replacement plan within the boundaries of a designated
9 groundwater basin pursuant to ~~the provisions of this article~~ ARTICLE 90
10 shall ~~make an application~~ APPLY to the commission in a form prescribed
11 by the commission. THE APPLICANT SHALL SUBMIT A FILING FEE OF SIX
12 HUNDRED DOLLARS WITH THE APPLICATION, WHICH SUM SHALL NOT BE
13 REFUNDED. The applicant shall also submit a summary of the application
14 to the commission for publication. If the commission determines the
15 application to be complete, it shall be published pursuant to section
16 37-90-112 within sixty days after the filing of such an application. If an
17 objection is filed, a hearing shall be held pursuant to section 37-90-113.
18 The commission shall approve the replacement plan if the commission
19 determines that the replacement plan meets the requirements of this
20 ~~article~~ ARTICLE 90 and rules adopted by the commission. A replacement
21 plan shall not be used as a vehicle for avoiding limitations on existing
22 wells, including ~~but not limited to~~ restrictions on change of well location.
23 Therefore, before approving any replacement plan that includes existing
24 wells, the commission shall require independent compliance with all rules
25 governing those existing wells in addition to compliance with any
26 guidelines or rules governing replacement plans.

27 **SECTION 6.** In Colorado Revised Statutes, 37-90-116, **amend**

1 (1)(a)(II), (1)(c)(II), (1)(h)(II), and (1)(i)(II) as follows:

2 **37-90-116. Fees.** (1) The state engineer or the commission shall
3 collect the following fees:

4 (a) (II) Effective July 1, ~~2006~~ 2020, with an application for the use
5 of groundwater, ~~one~~ SIX hundred SIXTY-FIVE dollars, which sum shall not
6 be refunded.

7 (c) (II) Effective July 1, ~~2006~~ 2020, for issuing a permit to modify
8 or replace an existing well, ~~one~~ THREE hundred SIXTY-FIVE dollars.

9 (h) (II) Effective July 1, ~~2006~~ 2020, with an application for any
10 change in a well permit, whether conditional or final, submitted pursuant
11 to section 37-90-111 (1)(g), ~~one~~ SIX hundred SIXTY-FIVE dollars, which
12 sum shall not be refunded.

13 (i) (II) Effective July 1, ~~2006~~ 2020, with a request to extend the
14 expiration date on a well permit, other than a well permit issued pursuant
15 to section 37-90-105, ~~sixty~~ THREE HUNDRED FIVE dollars.

16 **SECTION 7.** In Colorado Revised Statutes, 37-90-137, **amend**
17 (2)(a)(II) and (3)(a)(I)(B) as follows:

18 **37-90-137. Permits to construct wells outside designated**
19 **basins - fees - permit no groundwater right - evidence - time**
20 **limitation - well permits - rules.** (2) (a) (II) Effective July 1, ~~2006~~ 2020,
21 upon receipt of an application for a replacement well or a new, increased,
22 or additional supply of groundwater from an area outside the boundaries
23 of a designated groundwater basin, accompanied by a filing fee of ~~one~~ SIX
24 hundred SIXTY-FIVE dollars, the state engineer shall make a determination
25 as to whether or not the exercise of the requested permit will materially
26 injure the vested water rights of others; EXCEPT THAT, IF THE APPLICATION
27 IS FOR ONLY A REPLACEMENT WELL, THE FILING FEE IS TWO HUNDRED

1 DOLLARS.

2 (3) (a) (I) A permit to construct a well outside the boundaries of
3 a designated groundwater basin issued on or after April 21, 1967, shall
4 expire one year after issuance unless, before the expiration and on forms
5 as may be prescribed by the state engineer, the applicant to whom the
6 permit was issued, or the well construction contractor, furnishes to the
7 state engineer:

8 (B) A showing of good cause as to why the well has not been
9 constructed nor the pump installed and an estimate of time necessary to
10 complete the tasks, upon which the state engineer may extend the permit
11 for only one additional period, not to exceed one year. The limitation on
12 the extension of well permits provided in this ~~sub-subparagraph (B)~~ shall
13 SUBSECTION (3)(a)(I)(B) DOES not apply to well permits for federally
14 authorized water projects contained in ~~paragraph (d) of this subsection~~
15 ~~(3). The state engineer shall charge a fee of two hundred dollars for the~~
16 ~~extension; except that,~~ SUBSECTION (3)(d) OF THIS SECTION. On and after
17 July 1, ~~2006~~ 2020, the state engineer shall charge a fee of ~~sixty~~ THREE
18 HUNDRED FIVE dollars for the extension.

19 **SECTION 8.** In Colorado Revised Statutes, 37-90.5-103, **amend**
20 the introductory portion; and **add** (1.3) and (4.5) as follows:

21 **37-90.5-103. Definitions.** As used in this ~~article~~ ARTICLE 90.5,
22 unless the context otherwise requires:

23 (1.3) "GEOEXCHANGE SYSTEM" MEANS A HEAT PUMP OR HEAT
24 EXCHANGE SYSTEM WITH A CLOSED LOOP THAT PROVIDES HEAT TRANSFER
25 BETWEEN A FULLY CONTAINED HEAT EXCHANGE CIRCULATING MEDIUM,
26 WHETHER FLUID OR VAPOR, AND THE GROUND OR WATER.

27 (4.5) "LOOP FIELD" MEANS AN EXCAVATION OF A BOREHOLE

1 CONSTRUCTED FOR THE INSTALLATION OF PIPING TO CONTAIN A FLUID OR
2 VAPOR FOR CIRCULATION IN THE OPERATION OF A GEOEXCHANGE SYSTEM.

3 **SECTION 9.** In Colorado Revised Statutes, 37-90.5-106, **amend**
4 (1)(b) as follows:

5 **37-90.5-106. Drilling permits - reinjection - rules.**

6 (1) (b) Effective July 1, ~~2006~~ 2020, prior to constructing a geothermal
7 resource exploration, production, or reinjection well, a permit shall be
8 obtained from the state engineer. THE STATE ENGINEER SHALL COLLECT
9 A FEE FOR EACH PERMIT. THE FEE TO CONSTRUCT A NEW WELL, CHANGE OR
10 EXPAND THE USE UNDER AN EXISTING PERMIT, OR REGISTER AND REPLACE
11 AN EXISTING WELL IS SIX HUNDRED SIXTY-FIVE DOLLARS. THE FEE TO
12 REPLACE A WELL, EXTEND AN EXISTING PERMIT, OR REGISTER AN EXISTING
13 WELL IS THREE HUNDRED SIXTY-FIVE DOLLARS. PRIOR TO CONSTRUCTION
14 OF LOOP FIELDS FOR GEOEXCHANGE SYSTEMS, AN INDIVIDUAL SHALL
15 OBTAIN CERTIFICATION AND AN ANNUAL PERMIT FROM THE STATE
16 ENGINEER. THE STATE ENGINEER SHALL COLLECT A FEE OF SIX HUNDRED
17 SIXTY-FIVE DOLLARS FOR EACH SUCH PERMIT. The state engineer shall
18 adopt such rules as are necessary to protect the public health, safety, and
19 welfare and the environment and to prevent the waste of any geothermal
20 resource. ~~The state engineer shall also adopt rules for the assessment of~~
21 ~~reasonable fees for the processing and granting of a permit under this~~
22 ~~section.~~

23 **SECTION 10.** In Colorado Revised Statutes, 37-92-308, **amend**
24 (8) as follows:

25 **37-92-308. Substitute water supply plans - special procedures**
26 **for review - water adjudication cash fund - legislative declaration.**

27 (8) ~~After~~ EFFECTIVE July 1, ~~2002~~ 2020, water users requesting approval

1 of a new plan or a substitute water supply plan pursuant to this section
2 shall pay a fee of ~~three hundred~~ TWO THOUSAND dollars. The state
3 engineer shall collect the fees and transmit them to the state treasurer,
4 who shall deposit them in the water resources cash fund created in section
5 37-80-111.7 (1).

6 **SECTION 11.** In Colorado Revised Statutes, 37-92-602, **amend**
7 (3)(a)(II), (3)(d)(II), and (5)(b) as follows:

8 **37-92-602. Exemptions - presumptions - legislative declaration**
9 **- definitions.** (3) (a) (II) Effective July 1, ~~2006~~ 2020, wells of the type
10 described in ~~paragraphs (b) to (d) of subsection (1)~~ SUBSECTIONS (1)(b)
11 TO (1)(d) AND (1)(f) of this section may be constructed only upon the
12 issuance of a permit in accordance with the provisions of this subsection
13 (3). A person desiring to use such a well shall submit an application for
14 a permit accompanied by a fee of ~~sixty~~ THREE HUNDRED SIXTY-FIVE
15 dollars for an application under ~~paragraph (c) of this subsection (3)~~
16 SUBSECTION (3)(c) OF THIS SECTION and a fee of ~~one~~ SIX hundred
17 SIXTY-FIVE dollars for an application under ~~paragraph (b) of this~~
18 ~~subsection (3)~~ SUBSECTION (3)(b) OF THIS SECTION.

19 (d) (II) Effective July 1, ~~2006~~ 2020, wells for which permits have
20 been granted or may be granted shall be constructed within two years
21 after the permit is issued, which time may be extended for successive
22 years at the discretion of the state engineer for good cause shown AND
23 UPON PAYMENT OF A FEE OF THREE HUNDRED FIVE DOLLARS.

24 (5) (b) Effective July 1, ~~2006~~ 2020, any wells exempted by this
25 section that were put to beneficial use prior to May 8, 1972, and any wells
26 that were used exclusively for monitoring and observation purposes prior
27 to August 1, 1988, not of record in the office of the state engineer may be

1 recorded in that office upon written application, payment of a processing
2 fee of ~~one~~ THREE hundred SIXTY-FIVE dollars, and permit approval. The
3 record ~~shall~~ MUST include the date the water is claimed to have been
4 appropriated or first put to beneficial use.

5 **SECTION 12. Effective date - applicability.** This act takes
6 effect July 1, 2020, and applies to applications filed on or after said date.

7 **SECTION 13. Safety clause.** The general assembly hereby finds,
8 determines, and declares that this act is necessary for the immediate
9 preservation of the public peace, health, or safety.