



Ninety-Ninth Legislature - Second Session - 2006
Introducer's Statement of Intent
LB 1226

Chairperson: Ed Schrock
Committee: Natural Resources
Date of Hearing: February 9, 2006

The following constitutes the reasons for this bill and the purposes which are sought to be accomplished thereby:

This proposal makes several changes to water laws relating to concerns and problems incurred in implementing LB 962.

First, the bill requires water for instream flow to be in the public interest if the flow rate is available 85 percent of the time. This is a similar standard to water rights granted for other purposes. Changes made with LB 962 in 2004 now allow natural resource districts to manage for instream flows. Flow rights granted that are only there 20 percent of the time would be difficult, if not impossible, to manage as all other water uses could be shut down and still not make the flows available 85-100 percent of the time.

Second, the bill would allow natural resource districts to request the Department of Natural Resources to call for a stay on issuance of surface water rights in an area, basin, subbasin or reach of a ground water management area that has controls authorized under subdivision (1) (a), (e), (f) or (m) of section 46-739. These subdivisions refer to (a) allocations, (e) reduction in irrigated acres, (f) limit or prevent expansion of irrigated acres or (m) closing an area to permits.

Third, the bill would require the data used in reports from the department on determinations of a basin's fully appropriated status to ensure that the conclusions and results contained in the report are accurate to a reasonable degree of scientific certainty. No requirement exists in current law.

Fourth, the bill clarifies that an evaluation be done rather than a determination of the department on existing uses to determine fully appropriated status. It also eliminates the term "reasonably foreseeable future" and replaces it with a specific 10-year time frame for the evaluation period. Again, the evaluation results would have to ensure that all results and conclusions be verified and are accurate to a reasonable degree of certainty.

Fifth, the proposal would require the department to notice districts by certified mail of determinations made. Existing law states the districts will be noticed but does not outline a procedure.

Sixth, the bill clarifies that well permits existing prior to a determination could be completed but would be subject to conditions imposed by the district. Further, wells would have to be completed within the existing one-year time frame allowed under the permit (46-738).

Finally, water not hydrologically connected would be exempt from regulations unless required by a compact or the local natural resource district chooses to add all users within the district boundary to the management plan. The bill also clarifies that an area water use would be subject to only one management plan.

Principal Introducer:

_____ **Senator Chris Langemeier**