



SOUTHWESTERN WATER CONSERVATION DISTRICT

2021 State Legislative **Final Report**: June 28, 2021

The first regular session of the 73rd Colorado General Assembly adjourned on June 8, 2021. Below is a summary of 2021 state water-related legislation.

These summaries generally apply to the bills as introduced. Click on the bill number to view the most recent bill language and other information.

THE FOLLOWING BILLS PASSED.

[SB21-054](#) **Transfers for Wildfire Mitigation and Response (Passed & Signed by Governor)**

SWCD Position: Support

CWC Position: Support

Sponsors: Senate (Hansen/Rankin) House (McCluskie)

Committee of Reference: Senate Appropriations

Bill Status: Passed and signed into law.

Title: Concerning transfers from the general fund to cash funds to be used to address wildland fires, and, in connection therewith, making an appropriation.

Summary: SB 54 transfers from the General Fund \$13 million to three cash funds for wildfire preparedness and post-fire mitigation.

- Section 1 transfers \$6 million to the forest restoration and wildfire risk mitigation grant program cash fund.
- Section 2 transfers \$3 million from the general fund to the wildfire preparedness fund. The division of homeland security and emergency management will use these funds as
 - State match for federal hazard mitigation assistance grants to local governments that are used to mitigate wildland fire hazards; and
 - To provide local governments that are eligible to receive the federal grants with strategic planning assistance for wildland fire hazard mitigation.
- Section 3 transfers \$4 million to CWCB construction for the watershed restoration program.

Comments:

[SB21-087](#) **Agricultural Workers' Rights (Passed & Signed by Governor)**

SWCD Position: Oppose

CWC Position: Not discussed

Sponsors: Senate (Danielson), House (McCormick, Caraveo)

Committee of Reference: Senate Business, Labor & Technology; Senate Appropriations

Bill Status: Passed as amended and signed into law.

Title: Concerning agricultural workers' rights.

Summary: This lengthy and detailed bill removes the historical exemption of agricultural labor from state and local labor and minimum wage laws. It also provides detailed directions and limitations on farm-labor operations including, among others:

- Specifies meal breaks and rest periods,
- Even specifically prohibits use of the short-handled or long-handled hoes,
- Creates an agricultural work advisory committee to study and analyze agricultural wages and working conditions and
- Creates an appeal process and enforcement actions, including minimum penalties, for aggrieved agricultural employees, whistleblowers, and key service providers.

Comments:

SB21-189 **Colorado Water Conservation Board Construction Fund Project**
(Passed & Signed by Governor)

SWCD Position: Support
CWC Position: Support
Sponsors: Senate (Donovan), House (Arndt)
Committee of Reference: Senate Agriculture and Natural Resources

Bill Status: Passed as amended and signed into law.

Title: Concerning the funding of Colorado Water Conservation Board projects, and, in connection therewith, making an appropriation.

Summary: SB 189 is the annual construction fund bill for CWCB projects' authorizations. In addition to a pared-down list of authorized operations expenditures (e.g., weather modification, flood plain mapping), this year's bill allows a transfer of up to \$2,000,000 to the interstate litigation fund. It also authorizes the CWCB to make a loan up to \$3,000,000 to assist the confined aquifer recovery project in the San Luis Valley. Finally, in a much shorter than normal projects' bill, Section 7 conditionally reinstates funding for the water efficiency grant program with \$550,000 annually if the general assembly chooses not to spend 100% of the money in the operational fund on core departmental programs.

Comments:

SB21-220 **Reverse Transfers from Severance Tax Operational Fund**
(Passed & Signed by Governor)

SWCD Position: Support
CWC Position: Discussion
Sponsors: Senate (Hansen, Rankin), House (Herod)
Committee of Reference: Senate Appropriations

Bill Status: Passed and signed into law.

Title: Concerning the stabilization of revenue in the severance tax operational fund by returning money that was transferred to natural resources and energy grant programs.

Summary: Money in the severance tax operational fund is primarily used for two purposes. The General Assembly annually appropriates money from the operational fund for several core departmental programs. If money remains after these core appropriations and the reserve requirement for the core programs is met, then the state treasurer transfers money to several

funds that support natural resources and energy grant programs. (These used to be called “Tier II” programs.)

Based on recent forecasts, there will be insufficient revenue in the operational fund for even the core departmental programs. To avoid a fund deficit in the operational fund, this JBC bill reverses five transfers made in the following amounts:

\$1,998,205 for the Species Conservation Trust Fund (SCTF);
\$1,600,964 for CPW’s aquatic nuisance species (ANS) fund;
\$219,803 for the CWCB’s water efficiency grant program cash fund;
\$297,759 for the Inter-Basin Compact Committee’s (IBCC) operating fund; and
\$3,996,410 for the water supply reserve fund (WSRF).

Comments:

[SB21-234](#) **General Fund Transfer Agriculture and Drought Resiliency
(Passed & Signed by Governor)**

SWCD Position: Support
CWC Position: Discussion
Sponsors: Senate (Lewis, Sonnenberg), House (Cutter, Holtorf)
Committee of Reference: Senate Agriculture & Natural Resources

Bill Status: Passed as amended and signed into law.

Title: Concerning creation of the agriculture and drought resiliency fund, and, in connection therewith, transferring money from the general fund to the fund and making an appropriation.

Summary: SB 234 creates a short-lived agriculture and drought resiliency fund in the Colorado Department of Agriculture with a one-time \$3 million General Fund transfer from the current fiscal year’s budget. The Department of Agriculture would use the fund to anticipate, prepare for, mitigate, adapt to, or respond to events, trends, or climatological disturbances related to drought or climate.” The bill directs the development of a “hay bank” to provide “adequate resources for livestock in times of drought” and “supporting recovery of grazing lands following wildfire(s).” The fund is repealed September 1, 2022.

Comments:

[SB21-237](#) **Create Forest Health Council in Department of Natural Resources
(Passed & Signed into Law)**

SWCD Position: Monitor
CWC Position: Discussion
Sponsors: Senate (Donovan), House (McCluskie)
Committee of Reference: Senate Agriculture & Natural Resources

Bill Status: Passed as amended and signed into law.

Title: Concerning creation of the Colorado Forest Health Council in the Department of Natural Resources, and, in connection therewith, repealing the forest health advisory council within the state forest service.

Summary: Under current law, the forest health advisory council was created within the state forest service, which is within Colorado state university. Section 4 of the bill repeals the forest health advisory council and section 2 creates the Colorado forest health council within the division of forestry within the department of natural resources and specifies the new council's membership and duties. Section 1 schedules the new council for sunset review in 2026.

Comments:

SB21-240 Watershed Restoration Grant Program Stimulus (Passed & Signed by Governor)

SWCD Position: Support

CWC Position: Support

Sponsors: Senate (Danielson, Simpson), House (Kipp, Catlin)

Committee of Reference: Senate Agriculture & Natural Resources

Bill Status: Passed as amended and signed into law.

Title: Concerning the transfer of money from the general fund to the Colorado water conservation board construction fund for watershed protection programs, and, in connection therewith, making an appropriation.

Summary: The bill transfers \$15 million from the general fund to the Colorado Water Conservation Board construction fund for use by the Colorado water conservation board (CWCB) to protect watersheds against the impacts of wildfires through the existing watershed restoration grant program and for conducting a statewide watershed analysis to investigate the susceptibility of life, safety, infrastructure, and water supplies to wildfire impacts. The CWCB can use up to 5% of the money to administer the grant program and up to 10% to provide technical engineering services to grantees. The CWCB is directed to:

- Spend up to \$500,000 by December 31, 2022, to conduct the analysis; and
- Award at least \$10 million dollars in grants under the grant program by July 1, 2022, and award the remaining money, less the money the CWCB uses to administer the grant program and provide technical engineering services, in grants by December 31, 2022.

(Note: This summary applies to this bill as introduced.)

Comments:

SB21-248 Loan Program for Colorado Agriculture (Passed & Awaiting Governor's Consideration)

SWCD Position: Monitor

CWC Position: Discussion

Sponsors: Senate (Donovan/Simpson), House (McCormick/Holtorf)

Committee of Reference: Senate Agriculture & Natural Resources

Bill Status: Passed as amended and awaiting governor's consideration.

Title: Concerning assistance for agriculture in Colorado, and, in connection therewith, establishing a loan program in the Department of Agriculture and transferring money from the general fund to a new agricultural future loan program cash fund to be used for the loan program.

Summary: The bill creates the Colorado agricultural loan program in the Department of Agriculture to provide: Farm-to-market infrastructure loans to eligible applicants and low-interest loans to eligible farmers or ranchers and eligible ag-related businesses in Colorado. It funds the

program with a one-time \$30 million General Fund transfer to the Dept. of Ag. with direction to provide:

- Ag processor loans; and
- Low-interest loans to eligible farmers, ranchers and ag businesses.

The Department is directed to award:

- At least \$5 million but no more than \$10 million in loans to ag processors by June 30, 2022; and
- At least \$10 million but no more than \$20 million in the form of low-interest loans to eligible farmers, ranchers, and ag-related businesses by December 31, 2022.

After January 1, 2023, the Department is directed to prioritize loans to farmers or ranchers who have owned or operated a farm or ranch for less than 10 years or represent a population that is underserved or underrepresented in Colorado agriculture.

Comments:

SB21-258 Wildfire Risk Mitigation (Passed & Signed by Governor)

SWCD Position: Monitor

CWC Position: Support

Sponsors: Senate (Ginal/Rankin), House (Snyder/Hanks)

Committee of Reference: Senate Local Government

Bill Status: Passed and signed into law.

Title: Concerning the administration of state assistance programs to mitigate the risk of wildfire, and, in connection therewith, creating the wildfire mitigation capacity development fund and the hazard mitigation fund; transferring money into specially designed wildfire funds; and making an appropriation.

Summary: The bill creates two funds. First is the wildfire mitigation capacity development fund. Money for this fund is continuously appropriated to the DNR for a number of wildfire related programs. The second is the hazard mitigation fund to assist local jurisdictions in obtaining the matching funds required for certain federal grants.

The bill directs the following transfers and appropriations:

- \$5 million from the General Fund to the healthy forests and vibrant communities fund;
- \$2.5 million from the General Fund to the wildfire risk mitigation revolving fund for loans issued by the wildfire risk mitigation loan program;
- \$17.5 million from the General Fund to the wildfire mitigation capacity development fund;
- \$3 million from the wildfire preparedness fund to the hazard mitigation fund; and
- \$600,000 from the wildfire preparedness fund and \$1.2 million from the Colorado firefighting air corps fund to the wildfire emergency response fund.

Additionally, the bill allows the state forest service to issue forest restoration and wildfire risk mitigation grants for projects on federal lands. The bill also generously expands the allowable uses of the forest restoration and wildfire risk mitigation grant program by allowing the program to fund capacity-building efforts for local governments, community groups, and collaborative forestry efforts.

Comments:

HJR21-1002	Water Projects Eligibility Lists (Passed & Signed by Governor)
SWCD Position:	Support
CWC Position:	Support
Sponsors:	House (Arndt), Senate (Donovan)
Committee of Reference:	House Agriculture, Livestock & Water
Bill Status:	Passed and signed into law.
Title:	Concerning approval of water project revolving fund eligibility lists administered by the Colorado water resources and power development authority.
Summary:	See bill text for full fund eligibility lists.
Comments:	

HB21-1008	Forest Health Project Financing (Passed & Signed by Governor)
SWCD Position:	Support as amended
CWC Position:	Support
Sponsors:	House (Arndt/Catlin), Senate (Cooke/Hansen)
Committee of Reference:	House Agriculture, Livestock & Water, House Finance
Bill Status:	Passed as amended and signed into law.
Title:	Concerning increased options for financing forest health projects, and, in connection therewith, financing wildfire mitigation treatments.
Summary:	<p>HB 1008 provides additional options for financing forest health projects by authorizing:</p> <ul style="list-style-type: none"> • Creation of special improvement districts by a combination of local governments, • Special assessments on property specially benefited by the improvement district, including forest health projects, • Specifically authorizing counties, municipalities, special districts, water conservancy districts, the Colorado River District, and the <u>Southwestern Water Conservation District</u> to participate in and finance forest health projects; and • A forest improvement district to use sales tax revenue for forest health projects. <p>The bill also extends the statutory sunset of the Colorado Water Resources Power and Development Authority to issue bonds to fund watershed protection and forest health projects from July 1, 2023, to July 1, 2033.</p>
Comments:	

HB21-1046	Water Share Right Mutual Ditch Corporation (Passed & Signed by Governor)
SWCD Position:	Monitor
CWC Position:	Support
Sponsors:	House (Arndt/Catlin), Senate (Fields/Sonnenberg)
Committee of Reference:	House Agriculture, Livestock & Water
Bill Status:	Passed as amended and signed into law.

Title: Concerning the use of a water right obtained through a mutual ditch corporation.

Summary: The House Ag. Committee unanimously voted to adopt the sponsors' amendment rewriting the entirety of HB21-1046. The strike below (SBEC) amendment resulted from extensive stakeholder outreach and collaboration at the State Affairs Committee of CWC. The resulting SBEC amendment reflects a consensus compromise for a workable bill addressing the most troubling elements of recent water court rulings. The amended bill clarifies that, subject to the Articles of Incorporation and Bylaws of the corporation:

- When stockholder demand exceeds supply, mutual ditch corporations may limit or otherwise rotate delivery of water ratably among the stockholders;
- When a stockholder is not using some of or all of the available water under the stockholder's shares, the remaining stockholders taking delivery of water through the ditch may use any unused portion of the water that would otherwise have been available to that stockholder's shares, absent certain exceptions; and
- The provision is not intended to prevent a stockholder from changing the use of the water rights represented by the stockholder's shares, create any impediments to changes in use, affect storage water rights, or change the standards for water court approval to change a water right.

Comments:

HB21-1105 **Low-Income Utility Payment Assistance Contributions**
(Passed & Awaiting Governor's Signature)

SWCD Position: Support
CWC Position: No action
Sponsors: House (Kennedy), Senate (Hansen)
Committee of Reference: House Finance

Bill Status: Passed as amended and awaiting the governor's consideration.

Title: Concerning utility customers' financial contributions for low-income utility assistance.

Summary: This 17-section bill has several water-related elements. Section 1 removes the low-income energy assistance program (LEAP) from the "tier 2" severance tax operational fund money, something the water community has advocated for years. Later sections provide for voluntary, opt-in charges that a water utility may offer its customers to help finance a water utility bill payment assistance program. Alternatively, HB 1105 allows a water utility to implement its own water utility bill payment assistance program.

Comments:

HB21-1226 **More Robust Check Station Aquatic Nuisance Species** **(Passed & Signed by Governor)**

SWCD Position: Support

CWC Position: Support

Sponsors: House (Esgar, Will), Senate (Coram, Donovan)

Committee of Reference: House Agriculture, Livestock & Water

Bill Status: Passed as amended and signed into law.

Title: Concerning additional measures to control aquatic nuisance species, and, in connection therewith, prohibiting a person from refusing to stop at a check station and directing the division of parks and wildlife to report to the general assembly regarding implementation of the act.

Summary: Current law allows qualified peace officers to stop a conveyance, including a boat trailer and a boat, and inspect the conveyance for the presence of aquatic nuisance species before the boat is launched onto waters of the state and before departing from the waters of the state or a vessel staging area, and to impound and quarantine a conveyance that is contaminated until it is decontaminated. Authorized agents can detain and inspect conveyances but cannot impound or quarantine conveyances. Section 1 of the bill directs the division of parks and wildlife in the department of natural resources to investigate the methods that other states are using with respect to the location and operation of check stations and report regarding its investigation and the operation of check stations pursuant to the bill to the general assembly's committees with jurisdiction over wildlife. Section 2 authorizes a qualified peace officer to stop and inspect for the presence of aquatic nuisance species a conveyance that has encountered an aquatic nuisance species check station. Section 3 prohibits a person who encounters a check station from failing or refusing to stop at the check station while transporting a conveyance during the check station's hours of operation without presenting the conveyance for inspection.

Comments:

HB21-1233 **Conservation Easement Tax Credit Modifications** **(Passed & Awaiting Governor's Consideration)**

SWCD Position: Monitor

CWC Position: Discussion

Sponsors: House (Roberts, Will), Senate (Donovan, Winter)

Committee of Reference: House Agriculture, Livestock & Water

Bill Status: Passed as amended and awaiting the governor's consideration.

Title: Concerning modifications to the requirements for claiming an income tax credit for the donation of a perpetual conservation easement.

Summary: HB 1233 makes numerous changes affecting claims for an income tax credit for the donation of a perpetual conservation easement. The proposed changes are generally favorable and clarifying for potential easement donors.

Comments:

[HB21-1260](#) **General Fund Transfer Implement State Water Plan
(Passed & Awaiting Governor's Consideration)**

SWCD Position: Support
CWC Position: Support
Sponsors: House (Garnett/Catlin), Senate (Donovan/Simpson)
Committee of Reference: House Agriculture, Livestock & Water

Bill Status: Passed as amended and awaiting the governor's consideration.

Title: Concerning transfers of money from the general fund to implement the state water plan, and, in connection therewith, making an appropriation.

Summary: The bill allocates \$20 million from the general fund to the Colorado water conservation board (CWCB) to be spent to implement the state water plan as follows:

- \$15 million, which is transferred to the water plan implementation cash fund for expenditures and grants administered by the CWCB to implement the state water plan; and
- \$5 million, which is transferred to the water supply reserve fund for CWCB to disperse to the basin roundtables.

Comments:

[HB21-1266](#) **Environmental Justice Disproportionate Impacted Community
(Passed & Awaiting Governor's Consideration)**

SWCD Position: Monitor
CWC Position: Discussion
Sponsors: House (Jackson), Senate (Winter, Buckner)
Committee of Reference: House Energy & Environment

Bill Status: Passed as amended and awaiting the governor's consideration.

Title: Concerning efforts to redress the effects of environmental injustice on disproportionately impacted communities.

Summary: Section 3 of the bill defines "disproportionately impacted community". Section 4 requires the air quality control commission to promote outreach to and engage with disproportionately impacted communities by creating new ways to gather input from communities across the state, using multiple languages and multiple formats, and transparently sharing information about adverse effects resulting from its proposed actions. Section 5 creates the environmental justice action task force (task force) in the department of public health and environment (department), the goal of which is to propose recommendations to the general assembly regarding practical means of addressing environmental justice inequities. The task force will:

- Hold meetings to solicit public comment concerning the development of a state agency-wide environmental justice strategy and a plan to implement that strategy, including ways to address data gaps and data sharing between state agencies and the engagement of disproportionately impacted communities;
- Evaluate and propose recommended revisions to the definition of "disproportionately impacted community" and the state agencies and their proposed actions that are subject to section 3; and

- File a final report by November 14, 2022, regarding its recommendations. The department will report on the task force during the department's "SMART Act" presentations.
(Note: This summary applies to this bill as introduced.)

Comments:

HB21-1268 Study Emerging Technologies for Water Management (Passed & Signed by Governor)

SWCD Position: Monitor
CWC Position: Discussion
Sponsors: House (Titone), Senate (Will)
Committee of Reference: House Agriculture, Livestock and Water

Bill Status: Passed as amended and signed into law.

Title: Concerning a requirement that Colorado institutions of higher education study potential uses of emerging technologies to more effectively manage Colorado's water supply, and, in connection therewith, making an appropriation conditioned on the receipt of matching funds from gifts, grants, and donations.

Summary: The bill declares that new technologies, such as blockchain, telemetry, improved sensors, and advanced aerial observation platforms, can improve monitoring, management, conservation, and trading of water and enhance confidence in the reliability of data underlying water rights transactions. To advance the potential use of these new technologies, the bill:

- Authorizes and directs the university of Colorado and Colorado state university, in collaboration with the Colorado water institute at Colorado state university, to conduct feasibility studies and pilot deployments of these new technologies to improve water management in Colorado; and
- Appropriates \$20,000 to each university from the general fund, contingent on the universities' receipt of a matching \$40,000 in gifts, grants, and donations, for the purpose of funding the feasibility studies and pilot deployments.

(Note: This summary applies to this bill as introduced.)

Comments:

THE FOLLOWING BILLS WERE LOST.

SB21-034 Water Resources Financing Enterprise (Postponed Indefinitely)

SWCD Position: Monitor
CWC Position: No Position
Sponsors: Senate (Coram)
Committee of Reference: Senate Agriculture & Natural Resources

Bill Status: Postponed indefinitely by the Senate Agriculture and Natural Resources Committee.

Title: Concerning the creation of an enterprise that is exempt from the requirements of section 20 of article X of the state constitution to administer a fee-based water resources financing program.

Summary: This bill creates the water resources financing enterprise. The board of the enterprise would consist of the combined boards of the Colorado Water Resources and Power Development Authority and the Colorado Water Conservation Board. The enterprise will provide financing (including grants and low interest loans) to drinking water suppliers, wastewater treaters, and raw water suppliers. "Raw water suppliers" are limited to those providing raw water for treatment and use as drinking water.

The enterprise would be funded with a \$0.25/1000 gal. fee above 4,000 gal./mo. minimum on drinking water bills. The fee would be collected by drinking water utilities and remitted to the state. As a fee-based enterprise, new revenues collected would not be included in any TABOR calculations for state budget caps. Fees may be adjusted annually for inflation and to address "certain equity concerns."

Although clearly established as an enterprise fund, voters will be asked in November 2022 to authorize the creation of the enterprise.

Comments:

[SB21-164](#) Uniform Easement Relocation Act (Postponed Indefinitely)

SWCD Position: Oppose

CWC Position: Oppose

Sponsors: Senate (Gardner)

Committee of Reference: Senate Agriculture & Natural Resources

Bill Status: Postponed indefinitely by Senate Agriculture and Natural Resources.

Title: Concerning the "Uniform Easement Relocation Act".

Summary: The bill would enact the "Uniform Easement Relocation Act," drafted by the Uniform Law Commission. The bill sets procedures to relocate most easements. Nearly half of this lengthy bill outlines what must not be done in order to relocate an easement.

Comments:

[HB21-1043](#) Study Underground Water Storage Maximum Beneficial Use (Laid Over)

SWCD Position: Monitor

CWC Position: Support

Sponsors: House (Holtorf), Senate (Sonnenberg)

Committee of Reference: House Agriculture, Livestock & Water

Bill Status: Laid over by House Committee on Appropriations.

Title: Concerning a study of underground water storage to maximize the beneficial use of water within Colorado.

Summary: This bill directs the CWCB, in consultation with the state engineer, to sponsor a study of underground water storage for later recovery. The study must identify:

- Specific aquifers that are hydrologically and legally available to be used for underground storage and subsequent beneficial use;
- Sources of revenue that could be used to pay for underground storage projects;

- Planned, potential or existing underground storage projects that meet the objectives identified in the study; and
- Recommend legislative changes needed to implement underground storage projects.

The bill directs the study be submitted to the Water Resources Review Committee by August 1, 2022, including recommended legislation to implement the study's recommendations

Comments:

Monitoring legislation is integral to keeping a finger on the pulse of dynamic water policy in the state. On behalf of its diverse constituents in southwestern Colorado, the Southwestern Water Conservation District (SWCD) tracks state water legislation closely. Beth Van Vurst, SWCD General Counsel, and Chris Treese, lobbyist, ensure the views and priorities of southwestern Colorado are considered as the State legislature enacts new laws affecting water resources.

SWCD staff provides this written summary of water-related legislation, updated throughout the session via email to interested stakeholders and public. To be added to the list, please contact lauras@swgcd.org. We hope that you find the updates beneficial and informative.