

Colorado Water Congress
State Affairs Committee Meeting
Report prepared by Bruce Whitehead
Sponsored by the Southwestern Water Conservation District

January 5, 2015 Water Legislation Report # 1 (2015 Legislative Session)

The State Affairs Committee met on Monday January 5, 2015 to review bills approved by the Water Resources Review Committee (Interim Committee) and other proposed legislation, and to discuss State Affairs Committee procedures and possible amendments to the committee rules in preparation for the 2015 Legislative Session. On September 30 2014, the Interim Committee approved six bills which will be introduced early in the session. The First Regular Session of the Seventieth General Assembly convened on January 7, 2015. No official position was taken on the Interim bills by the Water Congress, but since the proposed bills have now been on the agenda for discussion at two State Affairs meetings they will be scheduled for action at the next committee meeting set for Monday January 12, 2015. At the last meeting, representatives of the Department of Natural Resources presented a draft of the Agricultural Efficiency bill that will be introduced to provide pilot efficiency projects as the alternative to SB 23 that was vetoed by the Governor last year. The summary provided below of bills to be introduced by the Water Resources Review Committee, as well as the Ag Efficiency legislation.

The Interim Committee bills are (**SB's A, C, F and HB's B, D, E**), and the Ag Efficiency bill is anticipated to start in the House and is listed below as (**HB G**). These bills are yet to be introduced, so bill numbers or committee assignments have not been made at this point.

Proposed Legislation: Other Bills that were under consideration by the Water Resources Review Committee, but will not be introduced as Interim Bills include: **Draft Bill 1** (Increase State Facilities' Water Conservation) **Draft Bill 5** More Water Protection Voluntary Clean-up) **Draft Bill 7** (Water Conservation in State Landscaping) and **Draft Bill 10** (Water Flexible Markets). It is possible that these bills could be introduced during the session by individual legislators. The State Affairs Committee also discussed other proposed legislation for 2015 regarding; *water rights change cases*, the *historic consumptive use of previously changed water rights*, *storm water legislation*, and possible legislation allowing "*for profit*" *water entities to form Water Authorities to qualify for funding from the Colorado Water Resources Authority (CWR&PDA)*. Drafts of these bills have not been made available yet, so they are not included in the summary provided below.

The format of each bill includes five columns and a following **Summary** cell. The 1st, 2nd, 4th, & 5th column each contain two information items as follows: 1st column has both the **Bill No.** and the **Short Title**. The 2nd column has both the **Sponsors** and the assigned **Committee**. The 3rd column contains only the **Concerning** statement, copied directly from the bill. The 4th column will show important **Amendments** and **Comments** provided by either me or John Porter. The 5th column shows both **When Introduced** and **CWC Action**. Once a bill no longer requires SA Comm action I will include it in a summary table, which will also show its progress. Until CWC takes action, the bill will remain in this format. I will however, **highlight in yellow** changes in any of the cells, compared to the prior report. Once, CWC has acted on a bill, I will move it to the **Status table**, where its' progress can be more easily monitored.

If you are aware of other entities that would like to receive these reports, please contact the Southwestern Water Conservation District office at 970-247-1302 with e-mail contact information.

Once introduced, copies of bills are available at www.leg.state.co.us. Additional info is available at the CWC web site: <http://www.cowatercongress.org/stateaffairs/>

FYI: Legislator Contact Information

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Representative Don Coram:	303-866-2955	don.coram.house@state.co.us

Bill No. Title	Sponsors Committee	Concerning	Amendments Comments	When Introduced CWC Action
<p>SB A</p> <p>Promote Water Conservation in Land Use Planning</p>	<p>S Roberts H Vigil</p> <p>N/A</p>	<p>CONCERNING THE PROMOTION OF WATER CONSERVATION IN THE LAND USE PLANNING PROCESS.</p>	<p><i>Water Resources Review Committee.</i></p>	<p>N/A</p> <p>DISCUSSION</p>
<p>SUMMARY: Water Resources Review Committee. The bill directs the Colorado water conservation board (CWCB), in consultation with the division of planning in the department of local affairs (DOLA), to:</p> <ul style="list-style-type: none"> - Develop and provide free training programs, on a recurring basis, for local government water use, water demand, and land use planners regarding best management practices for water demand management and water conservation; and - Make recommendations regarding how to better integrate water demand management and conservation planning into land use planning, including, as appropriate, legislative, regulatory, and guidance or policy recommendations. <p>The CWCB and the Colorado water resources and power development authority, in determining whether to render financial assistance to a local governmental water supply entity, must consider whether the entity's planners, if it has any, have taken the training and are actively applying it in their planning decisions.</p>				
<p>SB C</p> <p>Repeal New Augmentation Standard Dawson Aquifer</p>	<p>S Hodge H N/A</p> <p>N/A</p>	<p>CONCERNING AUGMENTATION REQUIREMENTS FOR WELLS 102 WITHDRAWING WATER FROM THE DAWSON AQUIFER.</p>	<p><i>Water Resources Review Committee.</i></p>	<p>N/A</p> <p>DISCUSSION</p>
<p>SUMMARY: Water Resources Review Committee. Current law specifies that, beginning July 1, 2015, augmentation requirements for the withdrawal of water from the Dawson aquifer must be based on actual aquifer conditions. The bill repeals this requirement, thereby continuing current law, which requires replacement of actual out-of-priority depletions to the stream; except that the replacement of post-pumping depletions is required only if necessary to compensate for injury.</p>				

Bill No. Title	Sponsors Committee	Concerning	Amendments Comments	When Introduced CWC Action
<p>SB F</p> <p>Appellate Review of Ground Water Commission's Decisions</p>	<p>S Jones H Coram</p> <p>N/A</p>	<p>CONCERNING THE APPELLATE PROCESS GOVERNING A DISTRICT COURT'S REVIEW OF FINAL AGENCY ACTIONS CONCERNING GROUNDWATER.</p>	<p><i>Water Resources Review Committee.</i></p>	<p>N/A</p> <p>DISCUSSION</p>
<p>SUMMARY: Water Resources Review Committee. Decisions or actions of the ground water commission (commission) or the state engineer regarding groundwater are appealed to a district court. Under current statute, the evidence that a district court may consider on appeal when reviewing a decision or action of the commission or state engineer is not limited to the evidence presented to the commission or state engineer. Therefore, unlike appeals from other state agencies' decisions or actions under the "State Administrative Procedure Act", a party appealing a decision or action of the commission or state engineer may present new evidence on appeal that was never considered by the commission or state engineer. The bill limits the evidence that a district court may consider when reviewing a decision or action of the commission or the state engineer on appeal to the evidence presented to the commission or the state engineer.</p>				

Bill No. Title	Sponsors Committee	Concerning	Amendments Comments	When Introduced CWC Action
<p>HB B</p> <p>Promote Precipitation Harvesting Pilot Projects</p>	<p>H Coram S N/A</p> <p>N/A</p>	<p>CONCERNING INCENTIVES FOR PRECIPITATION HARVESTING.</p>	<p><i>Water Resources Review Committee.</i></p>	<p>N/A</p> <p>DISCUSSION</p>
<p>SUMMARY: Water Resources Review Committee. In 2009, the general assembly authorized up to 10 precipitation harvesting pilot projects for new real estate developments of residential housing or mixed uses. Only one project has been approved. To encourage more projects, the bill:</p> <ul style="list-style-type: none"> - Includes the redevelopment of residential housing or mixed uses and new or redeveloped multi-building nonresidential property as potential pilot projects; - Directs the Colorado water conservation board to update its approval criteria and guidelines, including regionally applicable factors that sponsors can use for substitute water supply and augmentation plans that specify the amount of evapotranspiration of preexisting natural vegetative cover, to which the state engineer and water judges must give presumptive effect, subject to rebuttal; - Reduces the amount of water needed for a project's temporary substitute water supply plan and permanent augmentation plan by the amount of historic natural depletion to the waters of the state, if any, caused by the preexisting natural vegetative cover and evaporation on the surface of the area that will be, or that has been, made impermeable as part of the pilot project; and - Specifies that a project's temporary retention of storm water for the purpose of improving water quality is not subject to an order of the state or division engineers if the retention complies with the board's criteria and guidelines and the applicable requirements of the state's water quality laws. 				
<p>HB D</p> <p>House Bill 12-1278 Recommendations</p>	<p>H Coram S N/A</p> <p>N/A</p>	<p>CONCERNING THE IMPLEMENTATION OF RECOMMENDATION NUMBER ONE SET FORTH IN THE STUDY OF THE SOUTH PLATTE RIVER ALLUVIAL AQUIFER PREPARED BY THE COLORADO WATER INSTITUTE PURSUANT TO HOUSE BILL 12-1278.</p>	<p><i>Water Resources Review Committee.</i></p>	<p>N/A</p> <p>DISCUSSION</p>
<p>SUMMARY: Section 1 requires the Colorado water conservation board, in consultation with the state engineer, to administer 2 pilot projects in the areas of Gilcrest/LaSalle and Sterling to evaluate 2 alternative methods of lowering the water table in areas that are experiencing damaging high groundwater levels. Section 2 of the bill authorizes the state engineer to review an augmentation plan submitted to a water court if it includes the construction of a recharge structure. The water court may approve the augmentation plan only if the state engineer either approves the operation and design of the proposed recharge structure after having determined that the application is not likely to cause injury or proposes changes to the operation and design of the proposed recharge structure as terms and conditions of the application.</p>				

Bill No. Title	Sponsors Committee	Concerning	Amendments Comments	When Introduced CWC Action
HB E Invasive Phreatophyte Management Grant	H Coram/Vigil S N/A N/A	CONCERNING THE ESTABLISHMENT OF A GRANT PROGRAM FOR THE MANAGEMENT OF INVASIVE PHREATOPHYTES.	<i>Water Resources Review Committee.</i>	N/A DISCUSSION
<p>SUMMARY: The bill establishes a 5-year grant program for the management of invasive phreatophytes, which are deep-rooted plants that consume water from the water table or the layer of soil just above the water table. Section 1 of the bill creates the invasive phreatophyte grant program account in the noxious weed management fund. Section 2 creates the grant program. The department of agriculture administers the grant program under its authority to manage noxious weeds. To qualify for a grant, an applicant must propose a project for the management of invasive phreatophytes that utilizes best management practices.</p>				
HB G Water Efficiency Savings Instream Use Pilot	H Becker S N/A N/A	CONCERNING AN AUTHORIZATION OF PILOT PROJECTS FOR THE VOLUNTARY TRANSFER OF WATER EFFICIENCY SAVINGS TO THE COLORADO WATER CONSERVATION BOARD FOR INSTREAM USE PURPOSES IN WATER DIVISIONS THAT INCLUDE LANDS WEST OF THE CONTINENTAL DIVIDE.	<i>Department Natural Resources pilot alternative to SB14-23 vetoed by Governor Hickenlooper.</i>	N/A DISCUSSION
<p>SUMMARY: <i>The bill summary has not been drafted for this legislation.</i> Unofficial summary; The bill would allow the Colorado Water Conservation Board to acquire non-consumptive agricultural water efficiency savings for instream flow use as pilot projects approved by the Board in consultation with the State Engineer without the need for a water court decreed change of water right. The pilot projects are limited to Water Divisions 4, 5, 6, 7, and the Board can approve up to a total of twelve pilot projects with up to five projects in any one Division.</p> <p>-In order to collect sufficient data, the projects should operate for at least five years, and may operate for up to ten years. Applications will not be accepted after July 1, 2020, and each pilot project must cease operations within ten years of approval and after the conclusion of any water court appeals.</p> <p>-After at least five years of operation of a pilot project, the Board may acquire water efficiency savings as a water right or interest in water that was not historically consumed, and may file an application for a water court-decreed change of water rights for instream use of water efficiency savings.</p>				