

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

January 12, 2015 Water Legislation Report # 2 (2015 Legislative Session)

The State Affairs Committee met on Monday January 12, 2015 to discuss water legislation introduced during the 2015 Session. Discussion occurred, or action was taken on the bills included in the summary below. All legislation considered by the Water Congress is included in this week's report, and once the State Affairs Committee has taken action on a bill it will be moved to the status sheet the following week. The First Regular Session of the Seventieth General Assembly convened on January 7, 2015, and the Water Resources Review Committee bills were introduced in the first few days of the Session. The State Affairs Committee considered the Interim Committee bills for possible action at their meeting on Monday. At the request of the Department of Natural Resources, discussion of the draft of the Agricultural Efficiency bill (**HB G**) was tabled to a later meeting, since the bill has not been formally introduced and changes to the bill are still under consideration. The next meeting of the State Affairs Committee will be on Tuesday January 20, 2015, since Martin Luther King Day will be observed on Monday.

The Interim Committee bills are: **SB 8** (Bill A, Promotion Water Conservation in Land Use Planning), **SB 10** (Bill C, Augmentation Requirements Dawson Aquifer), **SB 17** (Bill F, Appellate Process Court Review of Final Agency Action for Groundwater), **HB 1006** (Bill E, Grant Program for Invasive Phreatophytes), **HB 1013** (Bill D, Implementation of Recommendation from South Platte Aquifer Study in HB 12-1278), and **HB 1016** (Bill B, Incentives for Precipitation Harvesting).

Other legislation introduced, or requested for discussion or action since the last meeting include: **HB 1038** – (Flexible Water Markets, *reintroduced from concept last year and discussion by Interim Committee*).

Proposed Legislation: A one-page summary, and two-page technical sheet regarding the capture and temporary retention of storm-water was circulated and discussed by the State Affairs Committee. Work continues on the proposed legislation, and it is not known when the bill will be introduced. Other possible legislation previously discussed by the State Affairs Committee for 2015 include: *water rights change cases*, the *historic consumptive use of previously changed water rights*, 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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Bill No. Title	Sponsors Committee	Concerning	Amendments Comments	When Introduced CWC Action
<p>SB 8</p> <p>Promote Water Conservation in Land Use Planning</p>	<p>S Roberts H Vigil</p> <p>Ag, Nat'l Resources, & Energy</p>	<p>CONCERNING THE PROMOTION OF WATER CONSERVATION IN THE LAND USE PLANNING PROCESS.</p>	<p><i>Water Resources Review Committee.</i> <i>Senator Roberts working on amendment with Colorado Municipal League (CML).</i></p>	<p>01/07/15</p> <p>SUPPORT <i>(with amendment)</i></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 10</p> <p>Repeal New Augmentation Standard Dawson Aquifer</p>	<p>S Hodge H Mitsch Bush</p> <p>Ag, Nat'l Resources, & Energy</p>	<p>CONCERNING AUGMENTATION REQUIREMENTS FOR WELLS 102 WITHDRAWING WATER FROM THE DAWSON AQUIFER.</p>	<p><i>Water Resources Review Committee.</i></p>	<p>01/07/15</p> <p>SUPPORT</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 17</p> <p>Appellate Review of Ground Water Commission's Decisions</p>	<p>S Jones H Coram</p> <p>Judiciary</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> <i>Work on amendment.</i></p>	<p>01/07/15</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 1006</p> <p>Invasive Phreatophyte Management Grant</p>	<p>H Coram/Vigil S Sonnenberg</p> <p>Ag, Livestock, & Nat'l Resources</p>	<p>CONCERNING THE ESTABLISHMENT OF A GRANT PROGRAM FOR THE MANAGEMENT OF INVASIVE PHREATOPHYTES.</p>	<p><i>Water Resources Review Committee.</i></p>	<p>01/07/15</p> <p>SUPPORT</p>
<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>				
<p>HB 1013</p> <p>House Bill 12-1278 Recommendations</p>	<p>H Coram S Sonnenberg/Hodge</p> <p>Ag, Livestock, & Nat'l Resources</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>01/07/15</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 1016 Promote Precipitation Harvesting Pilot Projects	H Coram S Sonnenberg Ag, Livestock, & Nat'l Resources	CONCERNING INCENTIVES FOR PRECIPITATION HARVESTING.	<i>Water Resources Review Committee.</i>	01/07/15 DISCUSSION
<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. 				
HB 1038 Flexible Water Markets	H Arndt S N/A Ag, Livestock, & Nat'l Resources	CONCERNING FLEXIBLE WATER MARKETS.		01/07/15 DISCUSSION
<p>SUMMARY: Currently, water court proceedings governing an application to change the beneficial use of an irrigation water right require the applicant to designate a specific alternative beneficial use identified at the time of the application. The bill creates a more flexible change-in-use system by allowing an applicant who seeks to implement fallowing, regulated deficit irrigation, reduced consumptive use cropping, or other alternatives to the permanent dry-up of irrigated lands to apply for a change in use to any beneficial use, without designating the specific beneficial use to which the water will be applied. Section 1 of the bill defines "flex use" to mean an application of the fully consumptive portion of water that has been subject to a water right change-in-use proceeding to any beneficial use. It also redefines "appropriation" to exclude flex use from the anti-speculation doctrine. Section 2 describes the procedures for obtaining a flex use change-in-use decree, and section 3 describes the procedures for obtaining a flex use substitute water supply plan.</p>				

Bill No. Title	Sponsors Committee	Concerning	Amendments Comments	When Introduced CWC Action
<p>HB G</p> <p>Water Efficiency Savings Instream Use Pilot</p>	<p>H Becker</p> <p>S N/A</p> <p>N/A</p>	<p>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.</p>	<p><i>Department Natural Resources pilot alternative to SB14-23 vetoed by Governor Hickenlooper.</i></p>	<p>N/A</p> <p>DISCUSSION</p>
<p>SUMMARY: <i>The bill summary has not been drafted for this legislation. Unofficial summary:</i> 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>				