

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

February 2, 2015 Water Legislation Report #5 (2015 Legislative Session)

The State Affairs Committee met on Monday, February 2, 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 next meeting of the State Affairs Committee will be on Monday, February 9, 2015.

Other legislation introduced, or requested for discussion or action, since the last meeting include: **SB 121** – (Drinking Water Fund Assistance Nonprofit Entities), **HB 1144** – (Prohibit Plastic Microbeads Personal Care Products), **HB 1159** – (Instream Flow Incentive Tax Credit), **HB 1166** – (South Platte Alluvial Aquifer Monitoring Network), **HB 1167** – (South Platte River Storage Study), **HB 1178** – (Emergency Well Pumping, Damaging High Groundwater). An update was also provided on **HB 1013** (Implementation Recommendation One in the South Platte Aquifer Study), and further work on possible amendments was discussed.

Proposed Legislation: A one-page summary and two-page technical sheet regarding the capture and temporary retention of storm water has been circulated and discussed by the State Affairs Committee. Work continues on the proposed legislation, and the proponents are working with possible sponsors for the bill. It was reported by the Department of Natural Resources that the Agriculture Efficiency Bill (**HB G**) will be introduced by the middle of February, and DNR has scheduled another meeting with interested parties prior to the bill being introduced.

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

Senator Ellen Roberts:	303-866-4884	ellen.roberts.senate@state.co.us
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Bill No. Title	Sponsors Committee	Concerning	Amendments Comments	When Introduced CWC Action
<p>SB 17</p> <p>Appellate Process for Decisions About Groundwater</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. Amendment distributed for discussion.</i> 2/3 Majority for position not achieved.</p>	<p>01/07/15</p> <p>NO POSITION</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.</p> <p>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>				
<p>SB 55</p> <p>Return Of Water From Tail Ditch</p>	<p>S Hodge</p> <p>Ag, Nat'l Resources, & Energy</p>	<p>CONCERNING STATE ENGINEER ADMINISTRATION OF TAILWATER DITCHES</p>		<p>01/12/15</p> <p>SUPPORT</p>
<p>SUMMARY: The bill permits a person to use a tail ditch to return variable amounts of water to a stream. The state engineer shall not require the delivery of a minimum amount of water to the stream, except as required by a court decree.</p>				
<p>SB 121</p> <p>Drinking Water Fund Assistance Nonprofit Entities</p>	<p>S Crowder</p> <p>Ag, Nat'l Resources, & Energy</p>	<p>CONCERNING THE ELIGIBILITY FOR FINANCING PROVIDED BY THE COLORADO WATER RESOURCES AND POWER DEVELOPMENT AUTHORITY OF A PUBLIC WATER SYSTEM THAT IS NOT OWNED BY A GOVERNMENTAL AGENCY</p>		<p>01/26/15</p> <p>DISCUSSION</p>
<p>SUMMARY: Section 1 of the bill specifies that the drinking water revolving fund may be used to provide financial assistance to private, nonprofit entities. Section 2 clarifies that public water systems may be owned or operated by private, nonprofit entities.</p>				

Bill No. Title	Sponsors Committee	Concerning	Amendments Comments	When Introduced CWC Action
<p>HB 1013</p> <p>South Platte Aquifer Study 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. Oppose Section 2 of the bill (SEO approval of operation and design of recharge structure)</i> <i>Neutral position on Section 1.</i> <i>Update and further discussion on 2/2/15.</i></p>	<p>01/07/15</p> <p>OPPOSE (Section 2)</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.</p> <p>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>				
<p>HB 1016</p> <p>Promote Precipitation Harvesting Pilot Projects</p>	<p>H Coram S Sonnenberg</p> <p>Ag, Livestock, & Nat'l Resources</p>	<p>CONCERNING INCENTIVES FOR PRECIPITATION HARVESTING</p>	<p><i>Oppose legislation as introduced & request Ag Committee to lay the bill over for further work on amendments.</i> <i>2/3 Majority for position not achieved.</i></p>	<p>01/07/15</p> <p>NO POSITION</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. 				

Bill No. Title	Sponsors Committee	Concerning	Amendments Comments	When Introduced CWC Action
HB 1144 Prohibit Plastic Microbeads Personal Care Products	H Primavera S Todd Public Health Care & Human Services	CONCERNING THE PROHIBITION OF SYNTHETIC PLASTIC MICROBEADS IN PERSONAL CARE PRODUCTS		01/28/15 DISCUSSION
<p>SUMMARY: The bill prohibits the production, manufacture, or acceptance for sale of personal care products, including over-the-counter drugs, that contain synthetic plastic microbeads. The prohibition is phased in from January 1, 2018, through January 1, 2020. The penalty for each violation may be from \$1,000 to \$10,000.</p>				
HB 1159 Instream Flow Incentive Tax Credit	H Arndt S Donovan Ag, Livestock, & Nat'l Resources	CONCERNING THE INSTREAM FLOW INCENTIVE TAX CREDIT FOR WATER RIGHTS HOLDERS		01/29/15 DISCUSSION
<p>SUMMARY: In 2009, the general assembly enacted the instream flow incentive tax credit for water rights holders for 6 years. When enacted, the tax credit included a trigger that made the credit unavailable if total general fund revenues for a particular fiscal year would not be sufficient to grow the total state general fund appropriations by 6% over the previous fiscal year's appropriations.</p> <p>The bill extends the instream flow incentive tax credit for water rights holders for an additional 5 income tax years. The bill also makes a change to the requirements of the donation, specifying that the donation may either <i>preserve or improve</i> the environment, rather than requiring that the donation only preserve the environment as originally enacted.</p> <p>Additionally, the bill removes the application of the trigger to the tax credit.</p>				

Bill No. Title	Sponsors Committee	Concerning	Amendments Comments	When Introduced CWC Action
<p>HB15 1166</p> <p>South Platte Alluvial Aquifer Monitoring Network</p>	<p>H Saine & Arndt S Marble</p> <p>Ag, Livestock, & Nat'l Resources</p>	<p>CONCERNING THE CREATION OF A TRIBUTARY GROUNDWATER MONITORING NETWORK IN THE SOUTH PLATTE RIVER ALLUVIAL AQUIFER</p>		<p>1/29/15</p> <p>DISCUSSION</p>
<p>SUMMARY: In 2012, the general assembly enacted House Bill 12-1278, which directed the Colorado water conservation board to contract with the Colorado Water Institute to conduct a study of the South Platte river alluvial aquifer. Recommendation 3.B. of the final study report was to implement a basin-wide groundwater monitoring network.</p> <p>Section 1 of the bill directs the state engineer, in consultation with the board, to design and operate a tributary groundwater monitoring network in the South Platte river alluvial aquifer. The monitoring network consists of the following components:</p> <ul style="list-style-type: none"> • Groundwater wells to be used for monitoring groundwater levels with the goal of identifying ambient groundwater conditions and anthropogenic influences on the aquifer, including: <ul style="list-style-type: none"> ○ The existing division of water resources groundwater monitoring network, the addition of data loggers on up to 20 existing wells in the network, and up to 10 wells to be added to the network in areas where there are data gaps; ○ Wells that are part of an independent monitoring network and owned by qualified parties other than the division of water resources who submit their groundwater monitoring data to the monitoring network; and ○ Wells that are owned or operated by a state agency, water conservancy district, special district, county, municipality, or other unit of state or local government and designated by the state engineer; • Data analysis standards and protocols established by the state engineer; and • Dissemination of the monitoring data on the division's web site. <p>Section 2 authorizes the use of the water resources cash fund to pay for the operation and maintenance of the network, and section 3 authorizes the use of the Colorado water conservation board construction fund to pay for the construction and maintenance of the network.</p>				

Bill No. Title	Sponsors Committee	Concerning	Amendments Comments	When Introduced CWC Action
HB15 1167 South Platte River Mainstem Storage Study	H Brown S Sonnenberg Ag, Livestock, & Nat'l Resources	CONCERNING A STUDY REGARDING THE CREATION OF ADDITIONAL WATER SUPPLIES IN THE SOUTH PLATTE RIVER BASIN		1/29/15 DISCUSSION
<p>SUMMARY: The bill directs the Colorado water conservation board to study the feasibility of supplementing water supplies in the South Platte river basin through the construction of a new reservoir on the mainstem of the South Platte river between Greeley and Julesburg and the importation of water into Colorado from the Missouri river basin. The study must also estimate the volume of water that has been delivered to Nebraska above the amounts required to be delivered by the South Platte river compact and that could otherwise have been stored in the lower South Platte river basin for each of the previous 20 years. The board must provide the water resources review committee and the governor's office with an update concerning the study by October 31, 2015, include the findings from the study in the Colorado water plan, complete the study by December 31, 2015, and provide a summary report on the study to the general assembly and the governor's office by February 15, 2016.</p>				
HB15 1178 Emergency Well Pumping Damaging High Groundwater	H Saine, Humphrey S Marble Ag, Livestock, & Nat'l Resources	CONCERNING THE STATE ENGINEER'S AUTHORITY TO ALLOW WELL USERS TO LOWER THE WATER TABLE IN AN AREA THAT THE STATE ENGINEER DETERMINES IS EXPERIENCING DAMAGING HIGH GROUNDWATER LEVELS		1/29/15 DISCUSSION
<p>SUMMARY: The bill authorizes the state engineer, for the purpose of lowering the water table in an area that the state engineer determines is experiencing damaging high groundwater levels, to rescind an order or to decline to order a well user in the area to discontinue an out-of-priority diversion or to replace an amount of water otherwise required by an augmentation plan or a 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 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; 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.</i></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>				