

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

March 9, 2015 Water Legislation Report #10 (2015 Legislative Session)

The State Affairs Committee met on Monday, March 9, 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, March 16, 2015.

Other legislation introduced, or requested for discussion or action, since the last meeting: **SB 198 (Expand Fallowing Pilot Program Non-municipal Uses)**, **HB 1252 (Extend Healthy Rivers Fund Voluntary Contribution)** and **HB 1259 (Residential Precipitation Collection Rain Barrels)**.

Proposed Legislation: Work continues on the proposed *Stormwater legislation*, and a draft of the bill was circulated for discussion. The intent of the bill is to codify that adverse effects of retention of storm water runoff would not materially injure water rights. The CWCB construction fund "*Projects Bill*" is yet to be introduced. Other possible legislation includes a bill that was discussed again at the Monday SA meeting *regarding drains and groundwater levels* related to housing developments and foundation work. The drain bill is the result of a denial action by the Ground Water Commission in a designated basin for the Meridian subdivision proposal, but the proposed legislation could be much broader and have a statewide impact. Proponents and Opponents of the bill that were parties to the case were given a chance to address the State Affairs Committee. There is another bill up for possible discussion by the SA Committee addressing "*Infrastructure Resistance and Solar Flare Legislation*." Initial concerns about the proposed bill are related to pipelines and irrigation systems being considered as "life-line infrastructure" which means it they could fall under jurisdiction of the PUC. A draft bill was also circulated and discussed concerning the *use of agricultural water rights for the cultivation of marijuana*.

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
Representative J. Paul Brown:	303-866-2914	jpaul.brown.house@state.co.us
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 198</p> <p>Expand Fallowing Pilot Program Non-municipal Uses</p>	<p>S Crowder H Vigil</p> <p>Ag, Nat'l Resources, & Energy</p>	<p>CONCERNING MODIFICATIONS TO THE COLORADO WATER CONSERVATION BOARD'S FALLOWING PILOT PROGRAM, AND, IN CONNECTION THEREWITH, EXPANDING THE PROGRAM TO ALLOW AN AGRICULTURAL WATER RIGHT OWNER TO LEASE AN AGRICULTURAL WATER RIGHT FOR TEMPORARY AGRICULTURAL, ENVIRONMENTAL, INDUSTRIAL, OR RECREATIONAL USE.</p>	<p><i>Expanding uses for temporary agricultural fallowing in Arkansas Basin.</i></p>	<p>03/03/15</p> <p>DISCUSSION</p>
<p>SUMMARY: The current fallowing pilot program administered by the Colorado water conservation board (board) allows an agricultural water right owner to lease the agricultural water right to a municipality for up to 3 out of 10 years. During the period of nonagricultural use, the owner fallows the affected agricultural land. The bill expands the program to allow leases for temporary agricultural, environmental, industrial, or recreational use. The bill also reduces the time period for receiving comments on a pilot project application from 75 days to 60 days and requires the state engineer, within 15 days after a conference report has been filed or, if the board does not receive any comments on the pilot project application, within 30 days after the period of time for comments has expired, to review the application and make a determination on the issues of injury and compact compliance with respect to the application.</p>				
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<p>HB 1178</p> <p>Emergency Well Pumping Damaging High Groundwater</p>	<p>H Saine, Humphrey S Marble</p> <p>Ag, Livestock, & Nat'l Resources</p>	<p>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.</p>	<p><i>Bill has been amended significantly by a strike below amendment, and may be requested for reconsideration by SA next week on 3/16. Bill as introduced was opposed by SA.</i></p>	<p>1/29/15</p> <p>DISCUSSION</p>
<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 1222</p> <p>Water Efficiency Savings Instream Use Pilot</p>	<p>H Becker S N/A</p> <p>Ag, Livestock, & Nat'l Resources</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>A 2/3 majority vote to support, or to oppose, was not achieved</i></p>	<p>02/17/2015</p> <p>NO POSITION</p>
<p>SUMMARY: The bill authorizes the Colorado water conservation board to select the sponsors of up to 12 pilot projects for the board's acquisition of water efficiency savings for instream flow use without the need for a water court-decreed change of water right. The board may approve up to 5 pilot projects in any one water division, but only in divisions 4, 5, 6, and 7. In order to be able to collect sufficient data, each project should operate for at least 10 years. The board cannot accept an application for a pilot project after July 1, 2020. Each pilot project must cease operations within 10 years after its approval and after the conclusion of any water court appeals; except that if no claim of injury due to the operation of a pilot project has been filed or if all such claims have been resolved to the satisfaction of the party who filed the claim, the board may extend the operation of the pilot project for up to an additional 15 years.</p> <p>The board will establish criteria and guidelines for the pilot projects. The bill specifies procedures for the board's consideration of pilot project applications, including ways to resolve claims of injury to other water rights through the imposition of terms and conditions to prevent injury. The amount of water efficiency savings acquired by the board cannot be more than the minimum amount necessary to preserve the natural environment to a reasonable degree. A party can appeal the board's determination with the appropriate water judge within 35 days after the board's decision has been mailed to the appropriate water clerk. A party may also file comments with the board by January 1 of the year following each year that a pilot project is operated concerning potential injury to such party's water rights due to the operation of the pilot project, in which case the original procedural safeguards must again be followed. By December 31, 2025, the board will file a report with the general assembly that evaluates and makes recommendations regarding the pilot projects' operation.</p>				
<p>HB 1247</p> <p>State Engineer Dam Safety Review Fees</p>	<p>H Saine S Neville</p> <p>Finance</p>	<p>CONCERNING FEES COLLECTED BY THE STATE ENGINEER FOR REVIEW OF DAM SAFETY.</p>	<p><i>The SA Committee voted to propose an amendment to the legislation to strike the \$2000 fee provision for dams under a storage restriction.</i></p>	<p>02/25/2015</p> <p>AMEND</p>
<p>SUMMARY: Legislative Audit Committee. The bill increases the fee that the state engineer collects with regard to dam project design review. The fee collected for the examination and filing of each set of plans and specifications required to be filed with the state engineer for a proposed dam project is increased from \$3 for each \$1,000 of the estimated cost of the proposed project to \$6 for each \$1,000 of the estimated cost of the proposed project, with the maximum fee raised from \$3,000 to \$30,000.</p> <p>The bill adds a fee of \$2,000 per year for the annual inspection required of a dam against which the state engineer has imposed storage restrictions. The state engineer cannot impose the fee in the first year that the dam has been put under storage restrictions. The state engineer may waive the fee in any year that the state engineer determines that the owner or operator has taken reasonable steps toward curing deficiencies.</p>				

Bill No. Title	Sponsors Committee	Concerning	Amendments Comments	When Introduced CWC Action
<p>HB 1249</p> <p>Recodify Water Pollution Control Fees</p>	<p>H Becker S Hodge</p> <p>Finance</p>	<p>CONCERNING AMENDMENTS TO THE FEES ASSOCIATED WITH WATER POLLUTION CONTROL.</p>		<p>02/27/2015</p> <p>DISCUSSION</p>
<p>SUMMARY: The bill amends the statutory fee schedule that the department of public health and environment charges for the discharge of pollutants into state waters. The bill recodifies the existing statutory fee structure and does not change the amounts of the existing fees, but does reorganize the existing fees into 5 new sectors. The bill introduces 3 new fees for regulated activities associated with the application of pesticides, the costs associated with reviewing requests for certifications under section 401 of the "Clean Water Act", and an application fee for new permits which will be credited toward the annual permit fee. The bill also extends the existing statutory expiration dates for permits associated with animal feeding operations.</p>				
<p>HB 1252</p> <p>Extend Healthy Rivers Fund Voluntary Contribution</p>	<p>H Mitsch Bush S Sonnenberg</p> <p>Finance</p>	<p>CONCERNING AN EXTENSION OF THE NUMBER OF YEARS THE INDIVIDUAL INCOME TAX RETURN INCLUDES A VOLUNTARY CONTRIBUTION DESIGNATION FOR THE COLORADO HEALTHY RIVERS FUND.</p>		<p>03/02/2015</p> <p>DISCUSSION</p>
<p>SUMMARY: The bill extends the number of years the individual income tax return form includes a voluntary contribution designation for the Colorado healthy rivers fund.</p>				
<p>HB 1259</p> <p>Residential Precipitation Collection Rain Barrels</p>	<p>H Esgar, Danielson S Merrifield</p> <p>Ag, Livestock, & Nat'l Resources</p>	<p>CONCERNING THE USE OF RAIN BARRELS TO COLLECT PRECIPITATION FROM A RESIDENTIAL ROOFTOP FOR NONPOTABLE OUTDOOR USES.</p>		<p>03/04/2015</p> <p>DISCUSSION</p>
<p>SUMMARY: Section 1 of the bill allows the collection of precipitation from a residential rooftop if:</p> <ul style="list-style-type: none"> • A maximum of 2 rain barrels with a combined storage capacity of 100 gallons or less are used; • Precipitation is collected from the rooftop of a building that is used primarily as a single-family residence or a multi-family residence with 4 or fewer units; • The collected precipitation is used on the residential property on which the precipitation is collected; and • The collected precipitation is applied to outdoor purposes such as lawn irrigation and gardening. <p>Section 1 of the bill also requires the state engineer, to the extent practicable within existing resources, to provide information on the permitted use of rain barrels on the state engineer's web site. Section 2 requires the department of public health and environment, to the extent practicable within existing resources, to develop best practices for nonpotable usage of collected precipitation and vector control and to post any best practices developed on the department's web site. Section 3 prevents a homeowners' association from prohibiting a unit owner from using rain barrels for precipitation collection.</p>				