

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

March 21, 2016 Water Legislation Report #10 (2016 Legislative Session)

The State Affairs Committee met on Monday, March 21, 2016 to review bills as introduced or amended and other proposed legislation. The Second Regular Session of the Seventieth General Assembly convened on January 13, 2016, and is scheduled to adjourn on May 11, 2016. The next meeting of the State Affairs Committee is scheduled for **Monday, March 28, 2016.**

Other legislation introduced, or requested for discussion or action since the last meeting: **HB 1315 (Seaplanes Land in State Parks)**, **HB 1382 (Divert Water Piscatorial Aesthetic Beneficial Use)** and **HB 1392 (Water Bank Administration)**.

Proposed Legislation: **Work on budget “Long Bill” in the House to begin next week 3/28.** There has been a 70% reduction in Severance Tax revenues. It is anticipated that there will additional cuts needed of \$60 million to \$100 million on top of \$70 million in cuts already proposed to balance the budget.

Discussion of Bills with CWC Position: An update was provided on **HB 1283 (Water Loss Audit Report Standards)**, which Water Congress has taken a position of Opposition on. The bill was heard in the House Ag Committee on March 7 with extended testimony. A vote on the bill was postponed by the Chairman, of the House Ag Committee, and the bill sponsor announced it is not on the Committee calendar due to additional work being done on the legislation.

Ballot Initiatives: **Initiative 40** and **Initiative 63** are similar to ballot measures that have been previously proposed, and are partly driven by Oil/Gas production and hydro-fracking. Initiative 40 is focused on local jurisdiction and local sovereignty. On Monday March 14, the State Affairs Committee recommended a position of **Opposition** to Initiative 40 to the Water Congress Board. Initiative 63 is similar to past attempts at an “Environmental Rights Measure,” but has had the Public Trust issue removed from the language. The Titles have been approved for both of these Initiatives. These proposed measures could have impacts to water rights and water providers in the state.

There have also been a number of Initiatives that have had the Title set that would increase the requirements for ballot initiatives in Colorado. **Initiative 87** would require preparation of a Fiscal Impact Statement for proposed Initiatives, **Initiatives 93 and 94** are

specific to Constitutional Amendments and would increase the number of votes needed for a Constitutional Amendment from 50% to 55%. **Initiatives 95, 96 and 97** are specific to Constitutional Amendments and would not change the total number of signatures required but would require that the signatures include 2% of the registered voters in each Senate District. The State Affairs Committee will consider making a position recommendation to the Water Congress Board on Initiatives 87, and 93-97 at the next meeting on March 14. Although the State Affairs Committee is supportive of the concepts to make it more difficult to change Colorado's Constitution, the Committee decided to wait to make a recommendation to the Water Congress Board on these Initiatives until they know which version will be pursued by the proponents. More information can on proposed ballot initiatives can be found on the Colorado Water Stewardship Project web page at <http://cowaterstewardship.com/>

Click on the following links to read the full ballot initiative language:

[Initiative 40](#) (Oppose)
[Initiative 63](#)

[Initiative 87](#)
[Initiative 95](#)

[Initiative 93](#)
[Initiative 96](#)

[Initiative 94](#)
[Initiative 97](#)

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**, **CWC Action**, and **SWCD Position**. 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
Representative J. Paul Brown: 303-866-2914
Representative Don Coram: 303-866-2955

ellen.roberts.senate@state.co.us
jpaul.brown.house@state.co.us
don.coram.house@state.co.us

Bill No. Title	Sponsors Committee	Concerning	Amendments Comments	When Introduced CWC Action / SWCD Position
HB16 – 1313 Authority of Local Govt Master Plan Include Water Plan Goal	H Arndt/Coram Ag, Livestock & Natural Resources	CONCERNING THE AUTHORITY OF LOCAL GOVERNMENT MASTER PLANS TO INCLUDE POLICIES TO IMPLEMENT STATE WATER PLAN GOALS AS A CONDITION OF DEVELOPMENT APPROVALS.	<i>Motion to Support failed for lack of a second. Motion passed to take No Position on the bill. CML (Colorado Municipal League) and others oppose the bill.</i>	03/02/16 NO POSITION SWCD Position: OPPOSE
SUMMARY: The bill authorizes local government master plans to include goals specified in the state water plan and to include policies that condition development approvals on implementation of those goals.				
HB16 – 1315 Allow Seaplanes in State Parks like Motorboats	H Melton Transportation & Energy	CONCERNING AN AUTHORIZATION FOR SEAPLANES TO OPERATE WHERE MOTORBOATS MAY BE OPERATED.	<i>Bill scheduled in committee this week, so SA agreed to consider bill for position by unanimous consent. Motion to Oppose passed. Primary concern is possible introduction of invasive species.</i>	03/02/16 OPPOSE SWCD Position: N/A
SUMMARY: Current state park law excludes seaplanes from the definition of a "vessel", and applicable park rules essentially prohibit seaplanes from landing in or taking off from state park water bodies. The bill includes seaplanes in the definition of a "vessel" (sections 1 and 3 of the bill) and prohibits the commission's rules (sections 2 and 4), and those of municipalities and special districts (section 6), from arbitrarily excluding the operation of a seaplane from waters of the state that are open to the operation of motorboats. Because seaplanes must be registered pursuant to federal law, section 5 exempts seaplanes from state registration.				
HB16 – 1382 Divert Water Piscatorial Aesthetic Beneficial Use	H Becker Ag, Livestock & Natural Resources	CONCERNING THE CONFIRMATION OF CERTAIN USES OF WATER AS BEING BENEFICIAL		03/16/16 DISCUSSION SWCD Position: N/A
SUMMARY: In the case of St. Jude's Co. v. Roaring Fork Club, LLC, 351 P.3d 442 (Colo. 2015) (St. Jude's Co.), the Colorado Supreme Court held that diversions of water for aesthetic, recreational, and piscatorial purposes, without impoundment, are not beneficial uses of water under Colorado water law. The bill supersedes the court's holding in St. Jude's Co. by: *diversion or release from storage of water for any purpose for which an appropriation is lawfully made, including piscatorial, recreational, and aesthetic purposes; and *Confirming that decrees entered before, on, or after the effective date of the bill for such beneficial uses shall be given full effect and enforced according to their specific terms.				

Bill No. Title	Sponsors Committee	Concerning	Amendments Comments	When Introduced CWC Action / SWCD Position
<p>HB16 – 1392</p> <p>Water Banks Administration</p>	<p>H Arndt/Vigil S Crowder</p> <p>Ag, Livestock & Natural Resources</p>	<p>CONCERNING THE ADMINISTRATION OF WATER BANKS.</p>	<p><i>Concerns expressed that this may be premature for West Slope-Colorado River Water Bank. Process is complicated. Sub-committee will be formed to work on the legislation.</i></p>	<p>03/17/16</p> <p>DISCUSSION</p> <p>SWCD Position: N/A</p>
<p>SUMMARY: The bill provides water banking throughout the state by authorizing the Colorado water conservation board (board) to adopt rules establishing a water bank and authorizing the board, after the board has operated the water bank for at least 2 years, to delegate operation of a portion of the water bank to a water conservation district or a water conservancy district that chooses to operate a portion of the water bank and has demonstrated to the board's satisfaction that it can effectively operate a portion of the water bank.</p> <p>The board's rules must allow a person to deposit water for renewable periods of up to 10 years each. The board's rules must limit the amount of water a person may deposit into the water bank to depositing all of the water subject to a decree for up to 3 years in any consecutive 10-year period or depositing up to 30% of the water subject to the decree in any consecutive 10-year period. The board's rules must also prohibit a lease, loan, or trade of water from the water bank that would negatively affect an interstate obligation or result in transferring water out of the Rio Grande or Arkansas River basins or across the continental divide.</p> <p>As part of the application process that the board is required to establish by rule, the board, in conjunction with the state engineer, shall develop a streamlined process by which a person may calculate the historical consumptive use and return flows of the person's water right and any potential material injury arising from a deposit of water from the person's water right. The state engineer will use the streamlined process to certify water deposit applications.</p> <p>Individual water bank transactions will not require water court approval. However, the board's rules governing the water bank will be published before becoming effective, and a person may protest the board's rules in a water division designated by the Colorado supreme court in the same manner that a person would protest a water referee's ruling in water court.</p>				
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