

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

April 3, 2017 Water Legislation Report #13 (2017 Legislative Session)

The State Affairs Committee met on Monday, April 3 to review proposed bills. Legislation that has been introduced or requested for consideration since the last meeting include: **SB 252** (Utility Cost-Saving Contract for Local Governments); **SB 259** (General Fund Transfers Protect Natural Resources); **HB 1291** (Alternate Storage Not Change If Already Qualified) *previously discussed in draft form as LLS 1095*; and **HB 1306** (Test Lead in Public School's Drinking Water). The next meeting of the State Affairs Committee is scheduled for Monday, April 10.

Discussions continue regarding **SB 40** (Public Access to Electronic Files), and recent amendments that have been introduced. The Secretary of State is supportive of the legislation, but the Water Congress has taken a position of opposition to the bill with concerns about impacts to small Districts and the possibility of data-mining for profit by outside interests. As the bill moves forward, the Water Congress staff will continue to push for amendments that address those concerns as well as project security related issues. Additional discussion also continued on **HB 1177** (Mediating Disputes Under CORA), which had a strike below amendment in Committee. The bills were up for Reconsideration of Position on Monday April 3, but further action was postponed until next Monday April 10.

There was lengthy discussion about the draft bill (**LLS 1109**) being proposed by Northern Water regarding mitigation releases from proposed NISP facilities. Additional changes have been made to the draft by the proponents, and the bill was introduced later on Monday after the State Affairs Committee as **SB 282** (Dedication of Reservoir Releases for Environmental Purposes). Concerns have been raised regarding impacts to existing and/or future exchanges and augmentation plans; and other unintended impacts to existing decrees or practices that already provide protections for releases or delivery of stored water. The bill provides for a secondary beneficial use as protection through a dedication of releases through the CWCB In-stream Flow Program (preserve and/or improve). Other issues that have been raised are whether the ISF program is the appropriate tool to accomplish the shepherding of reservoir releases or whether it should be a separate program for mitigation under the CWCB; and whether the entire reach from point of release to point of delivery for diversion and decreed purposes should be included in the dedication to CWCB or just a designation of the reach required for mitigation purposes. Although the bill is being proposed to address mitigation issues for NISP, the legislation as introduced will apply statewide in all basins.

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**. 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 or individuals 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 Don Coram (SD 6):	303-866-4884	don.coram.senate@state.co.us
Representative Barbara McLachlan (HD 59):	303-866-2914	barbara.mclachlan.house@state.co.us
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Bill No. Title	Sponsors Committee	Concerning	Amendments Comments	When Introduced CWC Action / SWCD Position
SB 252 Utility Cost-Savings Contract Local Governments	S Tate H Liston, Coleman Local Government	CONCERNING THE AUTHORITY OF A BOARD OF ANY POLITICAL SUBDIVISION TO ENTER INTO CONTRACTS FOR UTILITY COST 103 SAVINGS.		03/16/17 DISCUSSION SWCD Position: DISCUSSION
<p>SUMMARY: Current law allows boards of political subdivisions to enter into energy cost-savings contracts for utility cost savings. Utility cost savings are defined in law to include an installation, modification, or service that is designed to reduce energy consumption and related operating costs in buildings and other facilities. The bill specifies that the boards may also enter into energy cost-savings contracts for increasing meter accuracy, which is defined as a utility cost-savings measure. The bill also changes the definition of "operation and maintenance cost savings" to clarify that the calculation must be made on a net basis.</p>				
SB 259 General Fund Transfers Protect Natural Resources	S Lundberg H Rankin Appropriations	CONCERNING A TRANSFER OF MONEY FROM THE GENERAL FUND TO CASH FUNDS ADMINISTERED BY STATE DEPARTMENTS FOR THE PROTECTION OF THE STATE'S NATURAL RESOURCES.	<i>Action taken by unanimous consent of SA Committee</i>	03/27/17 SUPPORT SWCD Position: DISCUSSION
<p>SUMMARY: Joint Budget Committee. On July 1, 2017, the bill requires the state treasurer to transfer money from the general fund as follows:</p> <ul style="list-style-type: none"> - \$2,272,727 million to the forest restoration and wildfire risk mitigation grant program cash fund; - \$4,090,909 million to the species conservation trust fund; - \$2,452,193 million to the division of parks and outdoor recreation aquatic nuisance species fund; and - \$1,184,171 million to the division of wildlife aquatic nuisance species fund. 				

Bill No. Title	Sponsors Committee	Concerning	Amendments Comments	When Introduced CWC Action / SWCD Position
SB 282 Dedicate Reservoir Release Environmental Purposes	S Sonnenberg H Esgar, McKean Agriculture, Natural Resources & Energy	CONCERNING THE DEDICATION OF RESERVOIR RELEASES FOR ENVIRONMENTAL PURPOSES.		04/03/17 DISCUSSION SWCD Position: DISCUSSION
<p>SUMMARY: The bill creates a process whereby an owner of a storage water right may obtain a decree that authorizes releases from storage to a downstream point of diversion or delivery for decreed beneficial uses to be dedicated to, and used by, the Colorado water conservation board in the intervening stream reach to preserve or improve the natural environment to a reasonable degree if specified conditions are satisfied.</p>				

Bill No. Title	Sponsors Committee	Concerning	Amendments Comments	When Introduced CWC Action / SWCD Position
HB 1273 Real Estate Development Demonstrate Water Conservation	H Hansen, McKean S N/A Ag, Livestock & Natural Resources	CONCERNING A REQUIREMENT THAT AN APPLICANT FOR A REAL ESTATE DEVELOPMENT PERMIT DEMONSTRATE WATER CONSERVATION MEASURES THAT WILL BE IMPLEMENTED IN THE DEVELOPMENT.	<i>Motion failed lack of 2/3 majority vote. No Position due to failed motion.</i>	03/17/17 NO POSITION SWCD Position: DISCUSSION
<p>SUMMARY: Current law's definition of a water supply that is "adequate" for purposes of a local government's approval of a real estate development permit merely allows the inclusion of reasonable conservation measures and water demand management measures to account for hydrologic variability. The bill amends the definition to include reasonable conservation measures and water demand management measures to reduce water needs and account for hydrologic variability (section 2 of the bill) and prohibits the local government from approving the permit application unless the applicant demonstrates that appropriate water conservation and demand management measures have been included in the water supply plan (section 3). Current law also requires an applicant for a real estate development permit to demonstrate to the local government issuing the permit:</p> <ul style="list-style-type: none"> - The water conservation measures, if any, that may be implemented within the development; and - The water demand management measures, if any, that may be implemented to account for hydrologic variability. <p>Section 4 requires the applicant to demonstrate:</p> <ul style="list-style-type: none"> - The water conservation measures that will be implemented within the development to reduce indoor and outdoor demand; and = The water demand management measures that will be implemented to account for hydrologic variability. 				
HB 1289 State Engineer Rules Historical Consumptive Use	H Valdez, Hansen S Coram, Crowder Ag, Livestock & Natural Resources	CONCERNING A REQUIREMENT THAT THE STATE ENGINEER PROMULGATE RULES THAT ESTABLISH AN OPTIONAL STREAMLINED APPROACH TO CALCULATE THE HISTORICAL CONSUMPTIVE USE OF A WATER RIGHT.	<i>Postpone action until April 10 meeting.</i>	03/23/17 DISCUSSION SWCD Position: DISCUSSION
<p>SUMMARY: When a water right owner wishes to change a water right—whether a temporary loan or change approved by the state engineer or a permanent change approved by a water judge—the determination of the amount of water that can be loaned or changed relies on a calculation of the historical consumptive use of the water right. The bill directs the state engineer to promulgate rules that take into account local conditions that an applicant can use to calculate historical consumptive use. The results of the calculation carry no presumptive weight before the state engineer, water referee, or water judge.</p>				

Bill No. Title	Sponsors Committee	Concerning	Amendments Comments	When Introduced CWC Action / SWCD Position
HB 1291 Alternate Storage Not Changed If Already Qualified	H Arndt, J Becker S N/A Ag, Livestock & Natural Resources	CONCERNING THE ABILITY TO STORE WATER AT AN ALTERNATE PLACE OF STORAGE IF THE HISTORICAL CONSUMPTIVE USE OF THE WATER RIGHT HAS ALREADY BEEN QUANTIFIED IN A PREVIOUS CHANGE OF THE WATER RIGHT.	Postpone action until April 10 meeting	03/24/17 DISCUSSION SWCD Position: DISCUSSION
<p>SUMMARY: Current law allows water to be stored only at a location that has been specifically identified in a decree. The bill allows a water right for which the historical consumptive use was previously quantified to be stored in any reservoir, without the necessity of adjudicating an additional change of water right, if:</p> <ul style="list-style-type: none"> - The water will be diverted from a point of diversion that has already been decreed for that water right; - Previous notice is given to the division engineer; - Transit and ditch losses are assessed from the decreed point of diversion to the alternate place of storage; and - The division engineer approves the proposed accounting of the storage. 				
HB 1306 Test Lead in Public Schools Drinking Water	H McLachlan, Exum S N/A Education	CONCERNING THE FINANCING OF TESTING FOR LEAD IN PUBLIC SCHOOLS' DRINKING WATER, AND, IN CONNECTION THEREWITH, MAKING AN APPROPRIATION.		03/29/17 DISCUSSION SWCD Position: DISCUSSION
<p>SUMMARY: The bill directs the department of public health and environment (department) to establish a grant program to test for lead in public schools' drinking water. The department will give the highest priority to the oldest public elementary schools, then the oldest public schools that are not elementary schools, and then all other public schools. The department may also consider ability to pay in administering the program. The department is directed to use its best efforts to complete all testing and analysis by June 30, 2020. The public school must provide at least 10% local matching funds and give the test results to its local public health agency, its supplier of water, its school board, and the department. The department may use up to \$300,000 per year for 3 years for grants beginning on or after July 1, 2017, from the water quality improvement fund if there is money available after fully funding existing programs. The department shall provide 4 annual reports to the general assembly regarding implementation of the grant program, including any legislative proposals that may be warranted. The bill appropriates \$440,000 and 1.0 FTE to the department of public health and environment for the implementation of the act.</p>				