

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

April 10, 2017 Water Legislation Report #14 (2017 Legislative Session)

The State Affairs Committee met on Monday, April 10 to review proposed bills. Legislation that has been introduced or requested for consideration since the last meeting include: **HB 1321** (Parks and Wildlife Financial Sustainability). The next meeting of the State Affairs Committee is scheduled for Monday, April 17.

Discussions continue regarding **SB 40** (Public Access to Electronic Files), and recent amendments that have been introduced. An amendment was proposed by the Water Congress staff at the request of the SA Committee to address security regarding water infrastructure, and the bill as amended passed out of the Senate. On Monday, the SA Committee reconsidered the position on the bill (previously Opposed) and passed a motion to **SUPPORT** the bill as passed out of the Senate with the Water Congress amendment. If the amendment is removed in the House, the official position of the CWC will be to Oppose.

Additional discussion also continued on **HB 1177** (Mediating Disputes Under CORA), which had a strike below amendment in the House Committee. The bill is now being considered in the Senate, and the State Affairs Committee reconsidered their position of Opposition, and a motion was passed to **SUPPORT** the legislation as amended.

Once again, there was lengthy discussion about **SB 282** (Dedication of Reservoir Releases for Environmental Purposes) which is being proposed by the Northern District to protect reservoir releases dedicated for permitting and mitigation purposes for NISP. Additional changes are being considered, including a proposed amendment by Northern to limit the bill to new projects, or to an expansion of an existing storage project. The SWCD board voted to **Oppose the legislation as introduced** at their Board meeting on April 6, and made a number of suggestions to the proponents to address the SWCD concerns. Concerns have also been expressed by others 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 (pursuant to CRS 37-60-122.2); 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 dedication of the critical 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
Representative Marc Catlin (HD 58):	303-866-2955	marc.catlin.house@state.co.us

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 282 Dedicate Reservoir Release Environmental Purposes	S Sonnenberg H Esgar, McKean Agriculture, Natural Resources & Energy	CONCERNING THE DEDICATION OF RESERVOIR RELEASES FOR ENVIRONMENTAL PURPOSES.	<i>Postpone action, while work continues on possible amendments. Not scheduled for Committee yet.</i>	04/03/17 DISCUSSION SWCD Position: OPPOSE as introduced
<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 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>No Position, lack of a 2/3 majority vote.</i>	03/23/17 NO POSITION 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>				
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.	<i>Postpone action until April 17 meeting, to allow for additional discussions with bill Sponsor.</i>	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. 				

Bill No. Title	Sponsors Committee	Concerning	Amendments Comments	When Introduced CWC Action / SWCD Position
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.		04/05/17 SUPPORT 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>				

Bill No. Title	Sponsors Committee	Concerning	Amendments Comments	When Introduced CWC Action / SWCD Position
HB 1321 Parks and Wildlife Financial Sustainability	H Arndt S Wilson Ag, Livestock & Natural Resources	CONCERNING THE PARKS AND WILDLIFE COMMISSION'S AUTHORITY TO SET CERTAIN CHARGES ASSESSED ON PEOPLE ENGAGING IN ACTIVITIES REGULATED BY THE DIVISION OF PARKS AND WILDLIFE, AND, IN CONNECTION THEREWITH, SETTING CERTAIN HUNTING, FISHING, PARKS, AND RECREATION FEES AND FINES, CREATING AN AQUATIC NUISANCE SPECIES STICKER AND ASSOCIATED FEE STRUCTURE, AND REQUIRING REPORTING BY THE DIVISION OF PARKS AND WILDLIFE ON FEE AMOUNTS AND THE USE OF DIVISION-MANAGED LANDS BY NONCONSUMPTIVE 110 USERS.		03/29/17 DISCUSSION SWCD Position: DISCUSSION
<p>SUMMARY: Section 1 of the bill provides a nonstatutory legislative declaration.</p> <p>Section 2 adds "voucher" and "preference point" to the documents listed under the definition of "license".</p> <p>Sections 3 and 17 add "sponsorships" and "donations" to the list of money transfers that the parks and wildlife commission (commission) is authorized to receive and expend.</p> <p>Section 4 prohibits the commission from using revenue generated from increased license fee amounts authorized by the bill for the purchase of any fee title interest in real property or any interest in water.</p> <p>Section 6 clarifies that the Colorado outdoor recreation search and rescue card fee is nonrefundable.</p> <p>Sections 7, 14, 15, and 18 raise the maximum fee amounts that the commission may assess by rule for certain licenses, permits, and passes.</p> <p>Sections 7, 14, 15, and 18 also authorize the commission to apply a consumer price index adjustment to a fee that has been set at the maximum fee amount allowed, which fee adjustment does not count toward the maximum fee amounts set.</p> <p>Section 8 allows the division of parks and wildlife (division) to grant up to 25% of the money derived from sales of the state migratory waterfowl stamp to nonprofit organizations implementing the North American waterfowl management plan.</p> <p>Section 9 removes references to the fee assessed for the youth small game hunting license since the maximum fee amount for the license is listed in another part of statute.</p> <p>Section 9 also authorizes the commission to establish by rule a special licensing program for young adult hunters and anglers and requires that, if the commission establishes such a licensing program by rule, the commission must define "young adult" in a manner that does not include adults 26 years of age or older.</p> <p>Section 10 changes the name of the wildlife management public education advisory council to the wildlife council.</p> <p>Section 11 requires the division to prepare reports on the status of certain license fee increases that the commission is authorized to promulgate pursuant to the bill and nonconsumptive users' use of division-managed land, and to present the reports to the agriculture committees in the house of representatives and the senate.</p>				

Bill No. Title	Sponsors Committee	Concerning	Amendments <i>Comments</i>	When Introduced CWC Action / SWCD Position
<p>Section 12 increases the fine imposed against a person who violates a wildlife statute or rule that does not have a specific penalty listed for the violation from \$50 to \$100.</p> <p>Section 13 raises the penalty for a number of wildlife-license-related offenses to an amount equal to twice the cost of -2- HB17-1321 the most expensive license for the species.</p> <p>Section 13 also clarifies that engaging in conduct that requires a license without a license is a violation subject to an assessment of 10 license suspension points and a fine amount equal to twice the cost of the most expensive license issued for the activity that the person unlawfully engaged in without the requisite license; except that a violation based on fishing without a license is subject to a \$125 fine and an assessment of 10 license suspension points.</p> <p>Section 23 requires a person to purchase an aquatic nuisance species sticker to operate or use a vessel on the waters of the state or possess a vessel at a vessel staging area. The fees collected on the sale of aquatic nuisance species stickers are credited to the division of parks and wildlife aquatic nuisance species fund to help fund inspections of vessels and associated conveyances for the presence of aquatic nuisance species, decontamination of vessels or conveyances with the presence of aquatic nuisance species, lake monitoring for the presence of aquatic nuisance species, and outreach efforts. Under current law, "pass" or "registration" is defined as a document issued by the division authorizing the use of land or water under the division's control.</p> <p>Section 16 adds "sticker" to the definition to encompass the aquatic nuisance species sticker created in section 23.</p> <p>Section 19 establishes that a violation of the requirement to obtain an aquatic nuisance species sticker is a class 2 petty offense, punishable by a fine equal to twice the cost of a nonresident motorboat or sailboat aquatic nuisance species sticker. Section 20 repeals the division of wildlife aquatic nuisance species fund and renames the division of parks and outdoor recreation aquatic nuisance species fund as the division of parks and wildlife aquatic nuisance species fund, combining the 2 existing funds into one fund.</p> <p>Sections 5 and 26 make conforming amendments regarding the combining of the 2 funds into one renamed fund.</p> <p>Section 21 removes the \$5 cap on the fee that the division may charge a person for replacement of a lost or destroyed pass or registration. The fee is set at 50% of the cost of the original pass or registration.</p> <p>Section 22 defines "nonmotorboat".</p> <p>Section 24 changes the penalty for a violation of statutes and rules concerning parks and recreation for which a specific penalty is not listed from a class 2 petty offense to a misdemeanor and raises the fine from \$50 to \$100.</p> <p>Section 25 establishes that engaging in conduct that requires a permit, pass, or sticker issued by the division without a permit, pass, or sticker is a violation subject to a fine amount equal to twice the cost of the most expensive permit, pass, or sticker issued for the activity that the person unlawfully engaged in without the requisite permit, pass, or sticker.</p>				