

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

May 9, 2016 Water Legislation Report #16 (2016 Legislative Session)

The State Affairs Committee met on Monday, May 9, 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 this Wednesday on **May 11, 2016**. The State Affairs Committee's last scheduled meeting for this session was **Monday, May 9, 2016**.

Other legislation introduced, or requested for discussion or action since the last meeting: **SB 218 (Matters Related to Severance Tax Refunds)**. This bill was introduced Friday evening, May 6, in response to a recent Colorado Supreme Court decision issued on April 25, 2016. The court held that the “plain language of Colorado severance tax statute authorizes a deduction for any transportation, manufacturing, and processing costs, including the cost of capital” (at issue in this case). This case will require that significant refunds will be paid in FY 15/16 and FY 16/17, with amended tax returns for industry dating back to 3 years per the statute of limitations. These deductions for the industry will also apply going forward absent a change in the state statutes. The Department of Revenue estimates these refunds to be about \$98.4 million, which could impact the State budget that was just approved by the legislature. SB 218 would restrict the use of funds in the severance tax perpetual base fund, severance tax operational fund, and local government severance tax fund. The restriction would remain in place until released by a majority vote of the Joint Budget Committee. **The Supreme Court decision and resulting legislation in the final days of the session could have a serious impact on the funds available for water projects that rely on severance tax revenues.** It is possible that a special session of the State Legislature will be necessary, if the budget issue cannot be resolved over the next few days.

Proposed Legislation: CWC staff met with the Representative Vigil, who will Chair the Interim Water Resources Review Committee this summer, to discuss possible topics for the Interim Committee this summer. At the last meeting, the State Affairs Committee (CWC) discussed those suggestions, and added a few potential topics to the list. These potential topics and legislation for the Interim Committee meetings this summer include; a follow up to the water banking legislation that was PI'd this session, expansion of alternative transfer methods, aging infrastructure (including diversion, storage, and domestic delivery systems), further discussion of water loss audit reporting legislation that was PI'd this year, financing alternatives for water projects, beneficial uses of water and use fees (idea from Rep. Coram).

Bills for Possible Reconsideration: N/A

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 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. Regarding Initiatives 93-97, two of those Initiatives have been withdrawn, and the other three are on appeal to the Supreme Court. Pending the outcome of the decision, it is likely that one or more of these remaining Initiatives will move forward that include the signatory threshold as well as the 55% of the votes requirement. The Water Congress will wait to take a position until it is clear which version of these initiatives will move forward. 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 | 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 / SWCD Position |
|---|---|---|--|---|
| <p>SB16 – 200</p> <p>Create Director Water Project Permit Coordination</p> | <p>S Sonnenberg H Vigil</p> <p>Ag, Natural Resources & Energy</p> | <p>CONCERNING THE CREATION OF A POSITION IN THE OFFICE OF THE GOVERNOR THAT COORDINATES THE PERMITTING OF WATER PROJECTS.</p> | <p><i>Amended in the Senate, scheduled for House SA Monday afternoon 5/9. CWC support as amended.</i></p> | <p>04/27/16</p> <p>SUPPORT</p> <p>SWCD Position: N/A</p> |
| <p>SUMMARY: Section 1 of the bill creates a position in the office of the governor, designated as the director of water project permitting, to coordinate the permitting of: raw water diversion, storage, or delivery projects, including associated hydroelectric facilities and both consumptive and nonconsumptive uses of water; and water projects that are either assessed a water quality certification fee or are eligible for financing from the Colorado water conservation board construction fund. Sections 2 and 3 direct the annual transfer of \$ each from the water quality certification sector fund and the Colorado water conservation board construction fund to the newly created water permitting coordination fund.</p> | | | | |
| <p>SB16 – 218</p> <p>State Severance Tax Refunds</p> | <p>S Lambert-Steadman H Hamner-Rankin</p> <p>Appropriations</p> | <p>CONCERNING MATTERS RELATED TO STATE SEVERANCE TAX REFUNDS.</p> | <p><i>Result of Supreme Court decision 4/25/16. Could impact severance funds available for water projects.</i></p> | <p>05/06/16</p> <p>DISCUSSION</p> <p>SWCD Position: N/A</p> |
| <p>SUMMARY: Joint Budget Committee. Section 1 of the bill reduces the amount of the general fund reserve for the fiscal year 2015-16 by an amount equal to the amount of income tax revenue that is deposited in a reserve to make severance tax refunds. Section 3 establishes the reserve in which all severance tax revenues are set aside and maintained in order to make severance tax refunds, prior to allocation to the severance tax trust fund and the local government severance tax fund. Until July 1, 2017, income tax revenue that would otherwise be deposited in general fund may instead be deposited in the reserve if needed to make the refunds. Section 2 makes a conforming change related to this use of the income tax revenue. Section 4 extends a repeal date, so that severance tax revenue can continue to be allocated to the severance tax trust fund and the local government severance tax fund between January 1, 2017, and July 1, 2017. The following amounts are restricted from being used for any purpose whatsoever:</p> <ul style="list-style-type: none"> - \$19.1 million dollars from the severance tax perpetual base fund; (section 5) - \$10 million dollars from the severance tax operational fund; and (section 6) - \$48 million dollars from the local government severance tax fund. (section 7) <p>The money in these funds remains restricted until such time that the joint budget committee, by a majority vote, releases the restriction on some or all of the money.</p> | | | | |
| | | | | |
| | | | | |
| | | | | |
| | | | | |