

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

January 25, 2016 Water Legislation Report # 3 (2016 Legislative Session)

The State Affairs Committee met on Monday, January 25, 2016 to review bills approved by the Water Resources Review Committee (Interim Committee) and other proposed legislation. The Second Regular Session of the Seventieth General Assembly convened on January 13, 2016. The next meeting of the State Affairs Committee is tentatively scheduled for **Monday, February 1, 2016** as determined by need after a review of legislation introduced this week.

Proposed Legislation: The State Affairs Committee also discussed other possible legislation for 2016 regarding: **water loss audit report performance standards** (*accounting for water losses in municipal system*). A draft of this bill has been circulated by Representative K. Becker, but the legislation has not been introduced and is not included in the summary provided below.

Ballot Initiatives: Ballot **Initiative 40** and **Initiative 63** were also discussed at the meeting. Both of these proposed Initiatives are similar to ballot measures that have been previously proposed, and are partly driven by Oil/Gas production and hydro-fracking. Initiative 40 has had a review and rehearing by the Title Board, and is focused on local jurisdiction and local sovereignty. Initiative 63 is similar to past attempts at an “Environmental Rights Measure”, but has had the Public Trust issue removed from the language. This measure had a hearing before the Title Board last week where the Title was approved, but is being scheduled for a re-hearing. Both of these proposed initiatives could have impacts to water rights and water providers in the state. More information can on proposed ballot initiatives can be found on the Colorado Water Stewardship Project web page at <http://cowaterstewardship.com/>

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
HB16 – 1004 Measurable Goals Deadlines CO Climate Action Plan	H Winter/Arndt S N/A Health, Insurance & Environment	CONCERNING A REQUIREMENT TO INCLUDE MEASURABLE GOALS THAT ARE SUBJECT TO DEADLINES IN COLORADO'S CLIMATE ACTION PLAN.		1/13/16 OPPOSE
<p>SUMMARY: The bill requires 1) the state climate action plan to include specific measurable goals, the achievement of which will either reduce Colorado's greenhouse gas emissions or increase Colorado's adaptive capability to respond to climate change, along with associated near-term, mid-term, and long-term deadlines to achieve the goals; and 2) the annual climate report to the general assembly to include an analysis of the progress made in meeting the measurable goals and deadlines specified in the plan.</p>				
HB16 – 1005 Residential Precipitation Collection	H Esgar/Danielson S Merrifield Ag, Livestock & Natural Resources	CONCERNING THE USE OF RAIN BARRELS TO COLLECT PRECIPITATION FROM A RESIDENTIAL ROOFTOP FOR NONPOTABLE OUTDOOR USES.	<i>Tabled for further discussion at future meeting. Sen Sonnenberg circulated amendment giving discretion to State Engineer for augmentation requirement.</i>	1/13/16 DISCUSSION
<p>SUMMARY: Section 1 of the bill allows the collection of precipitation from a residential rooftop if: 1) A maximum of 2 rain barrels with a combined storage capacity of 110 gallons or less are used; 2) 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; 3) The collected precipitation is used on the residential property on which the precipitation is collected; and 4) The collected precipitation is applied to outdoor purposes such as lawn irrigation and gardening. Section 1 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 website.</p> <p>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 website.</p> <p>Section 3 prevents a homeowners' association from prohibiting a unit owner from using rain barrels for precipitation collection.</p>				

Bill No. Title	Sponsors Committee	Concerning	Amendments Comments	When Introduced CWC Action
HB16 – 1019 Broadcast Burns Watershed Protection	H Becker S Jones/Roberts Ag, Livestock & Natural Resources	CONCERNING INCREASED AUTHORITY TO USE BROADCAST BURNING AS A TOOL TO PROMOTE WATERSHED RESTORATION.		1/13/16 MONITOR
<p>SUMMARY: Wildfire Matters Review Committee. The bill adds broadcast burning, the method by which fire is applied generally to most or all of an area within well-defined boundaries, to the types of projects and methods for which the state forest service may award grants from the healthy forests and vibrant communities fund and the forest restoration program cash fund to help restore community watersheds.</p>				
HB16 – 1109 Application Of State Water Law To Federal Agencies	H Becker/Becker S Sonnenberg/Donnovan Ag, Livestock & Natural Resources	CONCERNING LIMITS THAT THE BASIC TENETS OF COLORADO WATER LAW PLACE ON THE ABILITY OF CERTAIN FEDERAL AGENCIES TO IMPOSE CONDITIONS ON A WATER RIGHT OWNER IN EXCHANGE FOR PERMISSION TO USE FEDERAL LAND.		1/20/16 SUPPORT
<p>SUMMARY: Section 1 of the bill states basic tenets of Colorado water law concerning water as a transferable property right. Section 2 specifies that the United States forest service (USFS) or the federal bureau of land management (bureau) shall establish federal water rights in accordance with the federal reserved water rights doctrine or Colorado water law. Section 2 prohibits the state and division engineers from enforcing or administering any USFS or bureau effort that:</p> <ul style="list-style-type: none"> • Requires a full or partial transfer of ownership in a water right to the USFS or the bureau; • Restricts the use or alienability of the water right; or • Requires a third party that supplies water to a federal special use permit holder to supply the water for a set period of time or in a set amount. <p>Sections 1 and 2 clarify that the bill does not impact any federal government authority to impose bypass flow requirements in connection with a special use permit or other authorization.</p>				

Bill No. Title	Sponsors Committee	Concerning	Amendments Comments	When Introduced CWC Action
SB16 -037 Public Access Digitally Stored Data Under CORA	S Kefalas H Pabon State, Veterans & Military Affairs	CONCERNING REQUIRED PUBLIC ACCESS UNDER THE "COLORADO OPEN RECORDS ACT" TO PUBLIC RECORDS AS DEFINED BY SUCH ACT CONTAINED IN DIGITALLY STORED DATA MAINTAINED BY GOVERNMENTAL BODIES.		1/13/16 OPPOSE
<p>SUMMARY: The bill makes the following modifications to existing legal requirements under the "Colorado Open Records Act" (CORA) pertaining to the inspection of public records:</p> <ul style="list-style-type: none"> • Updates outmoded statutory language used to describe public records kept in miniaturized, electronic, or digital form as a foundation for inspection requirements in connection with such records; • Deletes existing language requiring the official custodian to take such measures as are necessary to assist the public in locating the specific records sought and to ensure public access to the public records without unreasonable delay or cost. In place of such language, the bill substitutes provisions requiring the official custodian to provide records, or any portion of such records, in any nonproprietary file format and storage medium specified by a records requestor including digital copies of any computer files on any digital storage medium in common usage at the time of the request, via electronic mail, records uploaded to an online storage location shared with the requestor, access through viewing stations for public records kept on microfiche, or, in the discretion of the official custodian, direct electronic access. If requested, the official custodian must provide the records, or any portion of such records, in the same database or other file format in which the records are maintained by the official custodian unless, in the sole discretion of the official custodian, providing the records or any portion of such records, in the same database or other file format in which the records are maintained by the official custodian will result in the public disclosure of confidential or proprietary information of third parties or specialized details of security arrangements or investigations. In such cases, the official custodian is required to export the data into an alternative machine-readable digital format in common usage at the time of the request. <p>Requires the official custodian to manipulate electronically or digitally stored data in order to delete any confidential data in response to a records request. Removal of confidential information or data does not trigger certain requirements specified in CORA for the payment of fees for the generation or copy of a public record. However, the official custodian may charge the requestor for the actual cost of the digital storage medium used, if any, and a research and retrieval fee for the time spent removing such information.</p>				
Senate Joint Resolution 003 Water Projects Eligibility Lists	S Sonnenberg H Vigil Ag, Natural Resources & Energy	CONCERNING APPROVAL OF WATER PROJECT REVOLVING FUND ELIGIBILITY LISTS ADMINISTERED BY THE COLORADO WATER RESOURCES AND POWER DEVELOPMENT AUTHORITY.		1/20/16 SUPPORT
<p>SUMMARY: The resolution makes several additions, modifications, and deletions to the drinking water project eligibility list.</p>				