

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

February 23, 2015 Water Legislation Report #8 (2015 Legislative Session)

The State Affairs Committee met on Monday, February 23, 2015 to discuss water legislation introduced during the 2015 Session. Discussion occurred, or action was taken on the bills included in the summary below. All legislation considered by the Water Congress is included in this week's report, and once the State Affairs Committee has taken action on a bill it will be moved to the status sheet the following week. The next meeting of the State Affairs Committee will be on Monday, March 2, 2015.

Other legislation introduced, or requested for discussion or action, since the last meeting: **SB-183 (Quantify Water Rights Historical Consumptive Use)** and **HB-1222 (Water Efficiency Savings Instream Use Pilot)**.

Proposed Legislation: Work continues on the proposed Stormwater legislation, and the proponents are working with possible sponsors for the bill. The CWCB construction fund "Projects Bill" is yet to be introduced, and other possible legislation includes rain barrel water collection and water quality fees.

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
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Representative Don Coram:	303-866-2955	don.coram.house@state.co.us

Bill No. Title	Sponsors Committee	Concerning	Amendments Comments	When Introduced CWC Action
SB 183 Quantify Water Rights Historical Consumptive Use	S Hodge & Sonnenberg H N/A Ag, Nat'l Resources, & Energy	CONCERNING THE QUANTIFICATION OF THE HISTORICAL CONSUMPTIVE USE OF A WATER RIGHT.		02/17/15 DISCUSSION
<p>SUMMARY: When a water judge decrees a change of water right, the bill:</p> <ul style="list-style-type: none"> • Requires that a quantification of the actual historical consumptive use of the water right be based on a representative study period that: <ul style="list-style-type: none"> ○ Includes wet years, dry years, and average years; ○ Does not include years of undecreed use of the subject water right; and ○ Need not include every year of the entire history of use of the subject water or periods of nonuse of the water right. • Prohibits reconsideration or requantification of the historical consumptive use if the historical consumptive use has already been quantified in a previous change decree. 				
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HB 1159 Instream Flow Incentive Tax Credit	H Arndt S Donovan Ag, Livestock, & Nat'l Resources	CONCERNING THE INSTREAM FLOW INCENTIVE TAX CREDIT FOR WATER RIGHTS HOLDERS.	<i>Scheduled for committee on 3/2.</i> <i>A two-thirds majority in support as introduced was not achieved, A second motion to support with an amendment to strike "or improve" did not achieve a two-thirds majority either.</i>	01/29/15 NO POSITION
<p>SUMMARY: In 2009, the general assembly enacted the instream flow incentive tax credit for water rights holders for 6 years. When enacted, the tax credit included a trigger that made the credit unavailable if total general fund revenues for a particular fiscal year would not be sufficient to grow the total state general fund appropriations by 6% over the previous fiscal year's appropriations.</p> <p>The bill extends the instream flow incentive tax credit for water rights holders for an additional 5 income tax years. The bill also makes a change to the requirements of the donation, specifying that the donation may either <i>preserve or improve</i> the environment, rather than requiring that the donation only preserve the environment as originally enacted. Additionally, the bill removes the application of the trigger to the tax credit.</p>				

Bill No. Title	Sponsors Committee	Concerning	Amendments Comments	When Introduced CWC Action
<p>HB 1210</p> <p>General Assembly Review Environmental Rules Required In Lieu Fed Law</p>	<p>H Dore S N/A</p> <p>State, Veterans & Military Affairs</p>	<p>CONCERNING REVIEW BY THE GENERAL ASSEMBLY OF ENVIRONMENTAL RULES REQUIRED TO MAINTAIN THE OPERATION OF STATE ENVIRONMENTAL LAW IN LIEU OF FEDERAL ENVIRONMENTAL LAW.</p>	<p><i>Scheduled for committee on 2/23.</i></p>	<p>2/3/15</p> <p>MONITOR</p>
<p>SUMMARY: The bill requires the air quality control commission, water quality control commission, and solid and hazardous waste commission to submit an annual report to the general assembly regarding all new and amended rules that are required by new or amended regulations proposed or adopted by the federal environmental protection agency (EPA) pursuant to the federal clean air, clean water, and hazardous waste laws to maintain state primacy regarding the enforcement of state environmental law operating in lieu of federal environmental law. A rule specified in the report cannot be submitted for EPA's approval unless the general assembly has acted by bill to approve the submission of that particular rule. A bill to approve the submission of one or more rules specified in the report is exempt from the 5-bill limit.</p>				
<p>HB 1222</p> <p>Water Efficiency Savings Instream Use Pilot</p>	<p>H Becker</p> <p>Ag, Livestock, & Nat'l Resources</p>	<p>CONCERNING AN AUTHORIZATION OF PILOT PROJECTS FOR THE VOLUNTARY TRANSFER OF WATER EFFICIENCY SAVINGS TO THE COLORADO WATER CONSERVATION BOARD FOR INSTREAM USE PURPOSES IN WATER DIVISIONS THAT INCLUDE LANDS WEST OF THE CONTINENTAL DIVIDE.</p>	<p><i>Possible action postponed at the request of the bill sponsor; amendments forthcoming.</i></p>	<p>02/17/2015</p> <p>DISCUSSION</p>
<p>SUMMARY: The bill authorizes the Colorado water conservation board to select the sponsors of up to 12 pilot projects for the board's acquisition of water efficiency savings for instream flow use without the need for a water court-decreed change of water right. The board may approve up to 5 pilot projects in any one water division, but only in divisions 4, 5, 6, and 7. In order to be able to collect sufficient data, each project should operate for at least 10 years. The board cannot accept an application for a pilot project after July 1, 2020. Each pilot project must cease operations within 10 years after its approval and after the conclusion of any water court appeals; except that if no claim of injury due to the operation of a pilot project has been filed or if all such claims have been resolved to the satisfaction of the party who filed the claim, the board may extend the operation of the pilot project for up to an additional 15 years.</p> <p>The board will establish criteria and guidelines for the pilot projects. The bill specifies procedures for the board's consideration of pilot project applications, including ways to resolve claims of injury to other water rights through the imposition of terms and conditions to prevent injury. The amount of water efficiency savings acquired by the board cannot be more than the minimum amount necessary to preserve the natural environment to a reasonable degree. A party can appeal the board's determination with the appropriate water judge within 35 days after the board's decision has been mailed to the appropriate water clerk. A party may also file comments with the board by January 1 of the year following each year that a pilot project is operated concerning potential injury to such party's water rights due to the operation of the pilot project, in which case the original procedural safeguards must again be followed. By December 31, 2025, the board will file a report with the general assembly that evaluates and makes recommendations regarding the pilot projects' operation.</p>				