

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

March 14, 2016 Water Legislation Report #9 (2016 Legislative Session)

The State Affairs Committee met on Monday, March 14, 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 on May 11, 2016. The next meeting of the State Affairs Committee is scheduled for **Monday, March 21, 2016.**

Other legislation introduced, or requested for discussion or action since the last meeting: **None.**

Proposed Legislation: The State Affairs Committee also discussed a possible water banking bill.

Discussion of Bills with CWC Position: An update was provided on **HB 1283 (Water Loss Audit Report Standards)**, which Water Congress has taken a position of Opposition on. The bill was heard in the House Ag Committee on March 7 with extended testimony. A vote on the bill was postponed by the Chairman, and the House Ag Committee will vote on the bill on Monday March 21 with no additional testimony. Discussion of **HB 1109 (Application of State Water Law to Federal Agencies)** continues with concerns about the outcome of the House Ag Committee being raised by the Attorney General's office. The bill was heard on March 7, and after a considerable amount of political maneuvering, the Committee voted to move the bill to the House floor as introduced. In the introduced version, the concerns about Federal By-pass Flow and Reserved Rights Authority still exist. *Additional work and/or amendments may be necessary in the Senate if the bill passes the House without addressing the by-pass issue.*

Ballot Initiatives: To date, 113 measures have been introduced and are going through the Initiative process. A few of the later proposals could "raise the bar" for the Initiative process, and change future signature petition requirements. **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 also 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. The State Affairs Committee will consider making a position recommendation to the Water Congress Board on Initiatives 87, and 93-97 at the next meeting on March 14. Although the State Affairs Committee is supportive of the concepts to make it more difficult to change Colorado's Constitution, the **Committee decided to wait to make a recommendation to the Water Congress Board on these Initiatives until they know which version will be pursued by the proponents**. 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

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Bill No. Title	Sponsors Committee	Concerning	Amendments Comments	When Introduced CWC Action / SWCD Position
HB16 – 1313 Authority of Local Govt Master Plan Include Water Plan Goal	H Arndt/Coram Ag, Livestock & Natural Resources	CONCERNING THE AUTHORITY OF LOCAL GOVERNMENT MASTER PLANS TO INCLUDE POLICIES TO IMPLEMENT STATE WATER PLAN GOALS AS A CONDITION OF DEVELOPMENT APPROVALS.	<i>Discussion on 3/14 but tabled for action until next week.</i>	03/02/16 DISCUSSION SWCD Position: OPPOSE
SUMMARY: The bill authorizes local government master plans to include goals specified in the state water plan and to include policies that condition development approvals on implementation of those goals.				
HB16 – 1314 Treat Preexisting Groundwater Depletions Replaced	H Saine/Humphrey S Marble Ag, Livestock & Natural Resources	CONCERNING TREATMENT OF RISING GROUNDWATER LEVELS AS REPLACING GROUNDWATER DEPLETIONS IN WATER DIVISION 1		03/02/16 OPPOSE SWCD Position: NEUTRAL
SUMMARY: Due to rising groundwater levels since 2006, the bill specifies that the state engineer and water judges must treat all out-of-priority groundwater depletions from agricultural wells occurring in water districts 1 through 6 and 64 in water division 1 that accrued between March 15, 1974, and December 31, 2014, as having been fully replaced.				
HB16 – 1337 Appellate Process For Decisions About Groundwater	H Vigil/Coram Ag, Livestock & Natural Resources	CONCERNING THE APPELLATE PROCESS GOVERNING A DISTRICT COURT'S REVIEW OF FINAL AGENCY ACTIONS CONCERNING GROUNDWATER.	<i>Motion to Oppose failed for lack of 2/3 majority. No Position.</i>	03/03/16 NO POSITION SWCD Position: NEUTRAL
SUMMARY: Under current law, the decisions or actions of the ground water commission (commission) or the state engineer regarding groundwater are appealed to a district court and the evidence that the district court may consider is not limited to the evidence presented to the commission or state engineer. Therefore, unlike appeals from other state agencies' decisions or actions under the "State Administrative Procedure Act", a party appealing a decision or action of the commission or state engineer may present new evidence on appeal that was never considered by the commission or state engineer.				
The bill limits the evidence that a district court may consider when reviewing a decision or action of the commission or the state engineer on appeal to the evidence presented to the commission or the state engineer.				

Bill No. Title	Sponsors Committee	Concerning	Amendments Comments	When Introduced CWC Action / SWCD Position
SB16 – 145 Colorado River District Subdistrict Formation	S Baumgardner/ Donovan H Mitsch Bush/Willett Ag, Natural Resources & Energy	CONCERNING AN ALTERNATIVE MECHANISM FOR CREATING A SUBDISTRICT OF THE COLORADO RIVER WATER CONSERVATION DISTRICT.		03/04/16 SUPPORT SWCD Position: SUPPORT
<p>SUMMARY: The Colorado river water conservation district's (district) 1937 organic act provides a mechanism for the creation of a subdistrict within the 15-county district that requires a petition signed by 50% of the property owners of the proposed subdistrict to be presented to, and approved by, a court which may then declare the subdistrict formed. Because of changes in the amount and type of property ownership over the years, the 50% signature threshold is no longer practical.</p> <p>The bill provides an alternative mechanism to petition for the organization of a subdistrict of the district. Following initial approval of the board of directors, including unanimous approval of the directors representing the geographic area that would be covered by the proposed subdistrict, the petition must include the signatures of the lesser of 10% or 200 electors of the geographic area covered by the proposed subdistrict. The petition must then be presented to a court for approval at a hearing, and, upon approval, is put to a vote at a districtwide election. If a majority of the votes are in favor of the formation of the proposed subdistrict, the court shall declare the subdistrict formed.</p>				