

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

February 26, 2018 Water Legislation Report #6 (2018 Legislative Session)

The State Affairs Committee met on February 26 to discuss proposed water legislation for consideration in the 2018 legislative session. Since the last meeting, **HB 1147 (Sunset Process Weather Modification)**, **SB 170 (Reservoir Releases for Fish and Wildlife Mitigation)**, and **SB 176 (Board Meeting Dates Southwestern Water Conservation District)** were introduced.

The following table provides a detailed summary of water-related legislation introduced during the current session. 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 SWCD staff. 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 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
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Bill No. Title	Sponsors Committee	Concerning	Amendments Comments	When Introduced CWC Action / SWCD Position
<p>SB 143</p> <p><u>Parks And Wildlife Measures To Increase Revenue</u></p>	<p>S Fenberg/Coram H Arndt/Wilson</p> <p>Finance</p>	<p>CONCERNING MEASURES TO INCREASE REVENUE FOR THE PARKS AND WILDLIFE DIVISION, AND, IN CONNECTION THEREWITH, SETTING CERTAIN HUNTING, FISHING, PARKS, AND RECREATION FEES</p>		<p>01/29/2018</p> <p>SUPPORT</p> <p>SWCD Position: DISCUSSION</p>
<p>SUMMARY: Section 1 adds a nonstatutory short title. Section 2 of the bill makes legislative findings. Section 3 adds "preference point" to the documents listed under the definition of "license".</p> <p>Sections 4 and 12 add "sponsorships", "contributions", and "donations" to the list of money transfers that the parks and wildlife commission (commission) is authorized to receive and expend. Sections 5 and 9 change the name of the wildlife management public education advisory council to the wildlife council.</p> <p>Section 6 raises the amount of residential and nonresidential license fees, stamp fees, and surcharges for certain hunting and fishing activities. Section 6 also: Authorizes the commission to apply a consumer price index adjustment to hunting and fishing fees; establishes an annual residential youth fishing fee; and, together with section 7, moves a reference to the state migratory waterfowl stamp fee amount.</p> <p>Section 7 also 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 8 authorizes the commission to establish by rule a special licensing program for young adult hunters and anglers.</p> <p>Section 10 requires the division to prepare reports on increased licensing fees and to present the reports to the agricultural committees in the house of representatives and the senate.</p> <p>Section 11 removes the restriction on the commission's ability to raise or lower park fees and charges only if the commission reasonably anticipates that the annual revenues from the fees and charges will not increase by more than 20% above the annual amount earned from fees and charges as they existed on July 1, 2011. Section 11 also establishes a maximum fee increase that the commission may impose by rule for park passes in any one year as a one-dollar increase for a daily park pass and a \$10 increase for an annual park pass.</p> <p>Section 13 removes the \$200,000 limitation on the amount that may be held in the stores revolving fund, which fund is maintained for acquiring stock for warehousing and distributing supplies for retail sales to visitors, and requires that the fund be continuously appropriated.</p> <p>Section 14 removes the \$5 cap on the fee that the division may charge a person to replace a lost or destroyed pass or registration. The fee may be set by the commission by rule in an amount up to 50% of the cost of the original pass or registration.</p> <p>Section 15 removes a requirement that an aspen leaf annual park pass be affixed to the vehicle for which the pass was issued.</p> <p>Section 16 directs the commission to determine, by rule, how the columbine annual park pass will be displayed to enter a state park or recreation area.</p>				

Bill No. Title	Sponsors Committee	Concerning	Amendments Comments	When Introduced CWC Action / SWCD Position
<p>SB 167</p> <p><u>Enforce Requirements 811</u> <u>Locate Underground Facilities</u></p>	<p>S Scott/Donovan H Winter/Saine</p> <p>Financial Services & Commerce</p>	<p>CONCERNING INCREASED ENFORCEMENT OF REQUIREMENTS RELATED TO THE LOCATION OF UNDERGROUND FACILITIES.</p>	<p><i>State Affairs Committee will consider action at 3/5 meeting.</i></p>	<p>02/12/2018</p> <p>TABLED</p> <p>SWCD Position: DISCUSSION</p>
<p>SUMMARY: Current law requires a person, before conducting an excavation, to contact a nonprofit notification association (comprised of all owners and operators of underground facilities) by dialing "811" to learn the location of underground facilities in the excavation project area. The owners and operators must then accurately mark the location of their facilities. Violations of the excavation damage prevention law are enforced exclusively through civil actions initiated by damaged parties to collect specified civil penalties and damages. In 2016, the United States department of transportation's pipeline and hazardous materials safety administration (PHMSA) conducted an adequacy evaluation of Colorado's enforcement of its excavation damage prevention law and determined that the enforcement is inadequate, which may eventually result in the withholding of federal funds from Colorado.</p> <p>The bill creates the underground damage prevention safety commission (commission) as an independent agency within the department of labor and employment. The commission has rule-making and enforcement authority regarding the excavation damage prevention law and is required to enter into a memorandum of understanding with the notification association to facilitate implementation and administration of the law. The notification association is required to provide administrative support to the commission in performing its duties.</p> <p>A review committee of the commission initially determines whether a violation of the law has occurred and, if appropriate, recommends remedial action, potentially including a fine. Fines range from \$250 for a single minor violation within the previous 12 months to \$75,000 for a fourth major violation within the previous 12 months. The full commission is bound by the review committee's determination of facts but determines the final agency action regarding alleged violations. Fines are credited to the damage prevention fund, which the commission will use to develop educational programming, including by making grants, that is designed to improve worker and public safety relating to excavation and underground facilities.</p> <p>Current law allows only an excavator to submit a location request to the notification association. The bill authorizes a licensed professional engineer designing excavation to submit a location request. The engineer is required to ensure that the engineering plans meet certain standards established by the American Society of Civil Engineers for defining the accuracy of an underground facility location. The notification association will collect a fee for each location request, which is deposited in the safety commission fund and used to pay the commission's expenses.</p> <p>Current law creates 2 tiers of membership in the notification association. Tier 2 members are limited members with limited benefits and include certain special districts, local governments, cable television providers, and small telecommunications providers; tier 1 members are full members with full benefits, and tier 1 consists of all other owners and operators. If, after receiving a location request, the notification association determines that a tier 1 member owns or operates the underground facilities, the notification association contacts the tier 1 member to arrange for the marking of the underground facilities. If a tier 2 member owns or operates the underground facilities, the excavator must contact the tier 2 member to arrange for the marking of the underground -2- SB18-167 facilities. Effective January 1, 2021, all underground facility owners and operators are full members of the notification association with full benefits, and excavators will no longer need to contact the owners or operators to arrange for the marking.</p>				

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<p>All new underground facilities installed on or after January 1, 2020, must be electronically locatable when installed. Home rule local governments are not subject to the commission's enforcement authority, but the governing body of a home rule local government is required to either adopt a similar enforceable damage prevention safety program or waive its exemption and delegate its damage prevention enforcement authority to the commission.</p> <p>Information regarding the location of underground facilities is exempt from the "Colorado Open Records Act", pursuant to the existing exemption for specialized details of critical infrastructure.</p>				
<p>SB 170</p> <p><u>Reservoir Releases for Fish and Wildlife Mitigation</u></p>	<p>S Sonnenberg H Hansen/McKean</p>	<p>CONCERNING A WATER COURT PROCESS BY WHICH AN OWNER OF A STORAGE WATER RIGHT ALLOWING WATER TO BE STORED IN NEW RESERVOIR CAPACITY MAY RELEASE WATER INTO AN IDENTIFIED STREAM REACH IN A MANNER THAT PROTECTS THE WATER RELEASES WHILE COMPLYING WITH MITIGATION MEASURES IDENTIFIED IN A FISH AND WILDLIFE MITIGATION PLAN APPROVED BY THE COLORADO WATER CONSERVATION BOARD.</p>		<p>02/21/2018</p> <p>SUPPORT</p> <p>SWCD Position: DISCUSSION</p>
<p>SUMMARY: Current law requires an applicant for a water diversion, delivery, or storage facility that requires an application for a permit, license, or other approval from the United States to submit for approval a proposal to the Colorado water conservation board (board), parks and wildlife commission, and the division of parks and wildlife for a fish and wildlife mitigation plan (mitigation plan), which mitigation plan, when approved, is communicated to each federal, state, or other governmental agency from the which the applicant must obtain a permit, license, or other approval. The bill establishes a water court process by which an owner of a water storage right allowing water to be stored in a newly constructed reservoir or an enlarged existing reservoir may comply with the mitigation measures identified in a mitigation plan by contracting with the board to dedicate to the board, pursuant to a water court decree, an amount of water for release into, and protection from diversion and use through, a qualifying stream reach to avoid, minimize, or mitigate the probable impacts that the newly constructed or expanded reservoir has on fish and wildlife resources.</p>				

Bill No. Title	Sponsors Committee	Concerning	Amendments Comments	When Introduced CWC Action / SWCD Position
<p>SB 176</p> <p>Board Meeting Dates Southwestern Water Conservation District</p>	<p>S Coram H McLachlan, Catlin</p>	<p>CONCERNING CHANGES TO THE REQUIREMENTS FOR MEETING DATES FOR THE BOARD OF THE SOUTHWESTERN WATER CONSERVATION DISTRICT</p>		<p>02/21/2018</p> <p>DISCUSSION</p> <p>SWCD Position: DISCUSSION</p>
<p>SUMMARY: The board of the southwestern water conservation district (board) is currently required to meet on the fourth Tuesday of January, April, July, and October. Section 1 of the bill requires the board to meet once every 3 months and eliminates the specific date requirement. Section 2 makes conforming amendments to the provisions governing the terms of board members and of the board president.</p>				
<p>HB 1147</p> <p>Sunset Process Weather Modification</p>	<p>H Ginal/Ranson S Coram</p> <p>Health, Insurance, and Environment Committee</p>	<p>CONCERNING THE CONTINUATION OF THE REGULATION OF PEOPLE WHO MODIFY THE WEATHER, AND, IN CONNECTION THEREWITH, IMPLEMENTING THE SUNSET REVIEW RECOMMENDATIONS OF THE DEPARTMENT OF REGULATORY AGENCIES.</p>		<p>02/22/2018</p> <p>DISCUSSION</p> <p>SWCD Position: DISCUSSION</p>
<p>SUMMARY: Sections 1 and 2 of the bill continue the regulation of people who modify the weather until 2033. Section 3 repeals a provision that prohibits weather modification that benefits another state if the other state prohibits weather modification that benefits Colorado.</p>				
<p>HB 1151</p> <p>CWCB Approve Deficit Irrigation Pilot Projects</p>	<p>H Arndt/Catlin S Crowder</p> <p>Ag, Livestock & Natural Resources</p>	<p>CONCERNING THE AUTHORIZATION OF DEFICIT IRRIGATION PILOT PROJECTS APPROVED BY THE COLORADO WATER CONSERVATION BOARD.</p>	<p><i>Lack of 2/3 majority for SA position. Possible amendment for specific areas for inclusion. Position may be reconsidered at 3/5 meeting.</i></p>	<p>01/31/18</p> <p>NO POSITION</p> <p>SWCD Position: DISCUSSION</p>
<p>SUMMARY: Current law allows the Colorado water conservation board to approve up to 15 pilot projects for agricultural water leasing or fallowing projects. The bill expands the types of projects that may be approved to include deficit irrigation projects, which use less than the optimal amount of water on a particular crop. The bill also excludes from the determination of historical consumptive use decreases in use resulting from deficit irrigation projects to conserve or lease water.</p>				

Bill No. Title	Sponsors Committee	Concerning	Amendments Comments	When Introduced CWC Action / SWCD Position
<p>HB 1199</p> <p><u>Aquifer Storage-and-Recovery Plans</u></p>	<p>H Catlin S Coram</p> <p>Ag, Livestock & Natural Resources</p>	<p>CONCERNING A PROCESS FOR THE GROUND WATER COMMISSION TO USE FOR APPROVING AQUIFER STORAGE-AND-RECOVERY PLANS, AND, IN CONNECTION THEREWITH, REQUIRING THAT THE GROUND WATER COMMISSION PROMULGATE RULES GOVERNING ITS IMPLEMENTATION OF THE PROCESS.</p>		<p>02/05/18</p> <p>SUPPORT</p> <p>SWCD Position: DISCUSSION</p>
<p>SUMMARY: The bill authorizes a person to apply to the ground water commission (commission) for approval of an aquifer storage-and-recovery plan and requires the commission to promulgate rules governing the application process and the requirements that an aquifer storage-and-recovery plan must meet to be approved.</p>				
<p>HB 1201</p> <p><u>Severance Tax Voter-Approved Revenue Change</u></p>	<p>H Thurlow S Coram</p> <p>Finance</p>	<p>CONCERNING A VOTER-APPROVED REVENUE CHANGE TO ALLOW THE STATE TO RETAIN AND SPEND AN AMOUNT EQUAL TO STATE SEVERANCE TAX REVENUES.</p>		<p>02/05/18</p> <p>MONITOR</p> <p>SWCD Position: DISCUSSION</p>
<p>SUMMARY: The bill requires the secretary of state to refer a ballot issue at the general election held on November 6, 2018, to seek voter approval for the state to retain and spend an amount equal to state severance tax revenue. The change only has effect in years when the state would otherwise be required to make a refund under section 20 of article X of the state constitution (TABOR) and is conditioned on the state not:</p> <ul style="list-style-type: none"> • Repealing or reducing any of the existing severance tax exemptions or credits; or • Reducing the percentage of the severance tax revenue that is allocated to local governments. <p>If the state does any of these actions, then the state's authority to retain and spend revenues based on the voters' approval of the referred ballot issue is rescinded at that time and going forward.</p>				

Bill No. Title	Sponsors Committee	Concerning	Amendments Comments	When Introduced CWC Action / SWCD Position
<p>HB 1215</p> <p><u>Safe Disposal Naturally Occur Radioactive Material</u></p>	<p>H Arndt</p> <p>Health, Insurance & Environment</p>	<p>CONCERNING ENHANCED PROTECTIONS REGARDING THE DISPOSAL OF NATURALLY OCCURRING RADIOACTIVE MATERIALS.</p>	<p><i>State Affairs Committee will consider action at 3/5 meeting.</i></p>	<p>02/05/18</p> <p>TABLED</p> <p>SWCD Position: DISCUSSION</p>
<p>SUMMARY: Current law allows the state board of health to adopt rules concerning the disposal of naturally occurring radioactive materials (NORM) only after the federal environmental protection agency (EPA) has adopted rules concerning the disposal of NORM. The EPA has not adopted the rules.</p> <p>The bill:</p> <ul style="list-style-type: none"> • Requires the state board to adopt rules for the disposal of NORM and technologically enhanced NORM (TENORM); and • While the state board is conducting its rule-making investigation, temporarily prohibits the disposal of oil and gas exploration and production waste (EP waste) with potentially high concentrations of radionuclides at a facility that is not specifically approved and designated to receive the waste unless: <ul style="list-style-type: none"> ○ The generator of the waste has sampled and tested the EP waste on a per-shipment basis or in a representative and statistically valid manner approved by the state board; and ○ The results of the test indicate that the EP waste contains low levels of TENORM. A generator of EP waste must file reports with the state board. 				
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