

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

January 6, 2014 Report #2 Water (2014 Legislative Session)

The State Affairs Committee met on Monday January 13th to discuss water legislation introduced to date during the 2014 Session. The Second Regular Session of the Sixty-ninth General Assembly convened last week on January 8, 2014. The 5 bills proposed by the Water Resources Review Committee have been introduced and now have bill numbers and Committee assignments. The Resolution proposed by the Interim Committee has yet to be introduced. 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 scheduled meeting of the State Affairs Committee is on a Tuesday, January 21, 2014, due to observance of the Martin Luther King holiday by the State Legislature.

Members of the General Assembly have submitted their initial bill titles, and a number of bills were introduced during the first week of the session. Legislation introduced, or requested for discussion or action since the last meeting include: **HB 1002** – (Grant Program, Flood Damage & Infrastructure), **HB 1005** – (Clarification requirements for change point of diversion due to flooding), **HB 1008** (Forest Health loans to private entities by CWR&PDA), **HB 1026** – *Interim Water Committee* (Flexible use and water markets), **HB 1028** – *Interim Water Committee* (Limit United States ability to impose water rights transfer conditions for land use permits), **HB 1030** *Interim Water Committee* (Incentives for development of hydroelectric systems), **HB 1052** (Increase enforcement authority Ground Water Management Districts), **SB 17** (Limitation on lawn grass in new developments that use agricultural dry-up as water source), **SB 23** (Water Efficiency Savings transfer to Colorado Water Conservation Board), **SB 25** *Interim Water Committee* (Grants small communities wastewater treatment), **SB 26** *Interim Water Committee* (Removal printing requirements Division of Water Resources).

Proposed Legislation: A representative from Denver Water announced that a draft of the water conservation “fixture” legislation is nearly completed, and may be introduced on or before January 24th. Other legislation related to ground water issues and management in the South Platte is likely including; augmentation requirements and outcomes resulting from the study done by the Colorado Water Institute at the request of the legislature from last 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 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

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| Bill No. Title | Sponsors Committee | Concerning | Amendments Comments | When Introduced CWC Action |
|--|---|---|------------------------|---|
| <p>HB 1002</p> <p>Water Infrastructure Natural Disaster Grant Fund</p> | <p>H Young S Jones</p> <p>Ag, Livestock, & Nat'l Resources</p> | <p>CONCERNING THE ESTABLISHMENT OF A GRANT PROGRAM UNDER THE "COLORADO WATER QUALITY CONTROL ACT" TO REPAIR WATER INFRASTRUCTURE IMPACTED BY A NATURAL DISASTER, AND, IN CONNECTION THEREWITH, MAKING AN APPROPRIATION.</p> | | <p>01/08/14</p> <p>DISCUSSION</p> |
| <p>SUMMARY: The bill creates a natural disaster grant fund and directs the division of administration in the department of public health and environment (division) to award grants from the fund to local governments, including local governments accepting grants on behalf of and in coordination with not-for-profit public water systems, under rules promulgated by the water quality control commission for the planning, design, construction, improvement, renovation, or reconstruction of domestic wastewater treatment works and public drinking water systems that have been impacted, damaged, or destroyed in connection with a natural disaster. The division may only award grants to be used in counties for which the governor has declared a disaster emergency by executive order or proclamation under section 24-33.5-704, C.R.S.</p> <p>The division is required to award grants for the 2014-15 fiscal year and, as needed, for the 2015-16 fiscal year, to eligible local governments that have domestic wastewater treatment works, public drinking water systems, or on-site wastewater treatment systems impacted, damaged, or destroyed in connection with the flood of September 2013.</p> <p>The bill appropriates \$12,000,000 to the fund. On September 1, 2015, the state treasurer is directed to transfer any unencumbered moneys remaining in the fund to the nutrients grant fund.</p> | | | | |
| <p>HB 1005</p> <p>Relocate Ditch Headgate Without Change Case</p> | <p>H Sonnenberg/ Young S Lundberg/Kafalas</p> <p>Ag, Livestock, & Nat'l Resources</p> | <p>CONCERNING CLARIFICATION OF THE REQUIREMENTS APPLICABLE TO A CHANGE OF POINT OF WATER DIVERSION.</p> | | <p>01/08/14</p> <p>DISCUSSION</p> |
| <p>SUMMARY: A statute enacted in 1881 allows the owner of a ditch to relocate the ditch's headgate if changes to the stream prevent the headgate from effectuating the diversion. The "Water Right Determination and Administration Act of 1969" (1969 act) requires changes of water rights, including changes of points of diversion, to be adjudicated. The 1969 act does not exempt changes authorized by the 1881 act. The bill clarifies that a water right owner may relocate a ditch headgate pursuant to the 1881 act without filing for a change of water right under the 1969 act if the relocation does not physically interfere with the complete use or enjoyment of other water rights.</p> | | | | |

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| HB 1008 Allow CWRPDA Private Entity Forest Health Loans | H Hammer S N/A Ag, Livestock, & Nat'l Resources | CONCERNING THE AUTHORIZATION OF THE COLORADO WATER RESOURCES AND POWER DEVELOPMENT AUTHORITY TO MAKE LOANS TO PRIVATE ENTITIES FOR PURPOSES OF FOREST HEALTH PROJECTS. | | 01/08/14 DISCUSSION |
| <p>SUMMARY: Wildfire Matters Review Committee. The bill authorizes the Colorado water resources and power development authority to make loans to private entities for purposes of forest health projects contemplated by legislation passed in 2013.</p> | | | | |
| HB 1026 Water Flexible Markets | H Fischer S Schwartz Ag, Livestock, & Nat'l Resources | CONCERNING THE AUTHORIZATION OF FLEXIBLE WATER MARKETS. | <i>Water Resources Review Committee.</i> | 01/08/14 DISCUSSION |
| <p>SUMMARY: Water Resources Review Committee. Under the anti-speculation doctrine, current water court proceedings governing an application to change the beneficial use of an irrigation water right require the applicant to designate a specific alternative beneficial use identified at the time of the application. The bill creates a more flexible change-in-use system by allowing an applicant who seeks to implement fallowing, regulated deficit irrigation, reduced consumptive use cropping, or other alternatives to the permanent dry-up of irrigated lands to apply for a change in use to any beneficial use, without designating the specific beneficial use to which the water will be applied.</p> <p>Section 1 of the bill defines "flex use" to mean an application of the fully consumptive portion of water that has been subject to a water right change-in-use proceeding to any beneficial use. It also redefines "appropriation" to exclude flex use from the anti-speculation doctrine.</p> <p>Sections 2 and 3 describe the procedures for obtaining a flex use change-in-use decree and a flex use substitute water supply plan.</p> | | | | |

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|---|--|--|--|--|
| HB 1028 Oppose Federal Special Use Permit Water Right Term | H Sonnenberg S Roberts Ag, Livestock, & Nat'l Resources | CONCERNING A LIMITATION ON THE UNITED STATES' ABILITY TO IMPOSE CONDITIONS ON A WATER RIGHT OWNER IN EXCHANGE FOR PERMISSION TO USE LAND. | <i>Water Resources Review Committee.</i> | 01/08/14 DISCUSSION |
| <p>SUMMARY: Water Resources Review Committee. The bill specifies that if the United States obtains a water right as a result of a transfer or conveyance required as a condition to a special use permit or other authorization to enter upon or use federally owned land, the water right was originally appropriated by a person other than the United States, and the water right is not a federal reserved water right, the water right is presumed to be held by the United States for speculative purposes. Such a water right is not automatically abandoned but is forfeited by the United States and reverts to the prior owner for continued use under its original priority.</p> | | | | |
| HB 1030 Hydroelectric Generation Incentives | H Coram/Mitsch- Bush S Schwartz/Roberts Transportation & Energy | CONCERNING THE ESTABLISHMENT OF INCENTIVES FOR THE DEVELOPMENT OF HYDROELECTRIC ENERGY SYSTEMS. | <i>Water Resources Review Committee.</i> | 01/08/14 DISCUSSION |
| <p>SUMMARY: Water Resources Review Committee. In order to promote the construction and operation of hydroelectric energy facilities in Colorado, the bill provides the following incentives:</p> <ul style="list-style-type: none"> - Section 1 of the bill requires the state electrical board to approve the installation of a motor as a generator for a hydroelectric energy facility if the installation would be approved but for the fact that the motor is not being used in a manner commensurate with its nameplate; - Section 2 authorizes the department of natural resources to serve as the coordinating state agency for obtaining and compiling state agency comments about an application license or license exemption from the federal energy regulatory commission; and - Section 3 incorporates community hydroelectric energy facilities into the community solar garden statute, so that a group of community members may jointly subscribe to and receive electricity from a small hydroelectric energy facility located in or near the community. | | | | |

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| HB 1052 Ground Water Management Dist Enforcement Auth | H Fischer S Jones Ag, Livestock, & Nat'l Resources | CONCERNING AN INCREASE IN THE ENFORCEMENT AUTHORITY OF GROUND WATER MANAGEMENT DISTRICTS. | | 01/08/14 DISCUSSION |
| <p>SUMMARY: Ground water management districts are currently authorized to enforce the terms of permits issued for small-capacity wells. The bill authorizes a district to:</p> <ul style="list-style-type: none"> - Enforce permits for all wells located within the district; - Enforce the district's rules with regard to those wells; - Issue orders requiring compliance with the rules and permits; and - Apply to a district court to collect civil fines against a well owner who does not comply with an order. | | | | |
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| SB 017 Limit Use Of Ag Water For Lawn Irrigation | S Roberts/Hodge H Coram/Vigil Ag, Nat'l Resources, & Energy | CONCERNING A LIMITATION ON THE APPROVAL OF REAL ESTATE DEVELOPMENTS THAT USE WATER RIGHTS DECREEED FOR AGRICULTURAL PURPOSES TO IRRIGATE LAWN GRASS. | | 01/08/14 DISCUSSION |
| <p>SUMMARY: The bill prohibits a local government from approving an application for a development permit unless the local government has adopted an enforceable resolution or ordinance that limits, as a prerequisite for approval of the development permit, the amount of irrigated grass on residential lots in the development to no more than 15% of the total aggregate area of all residential lots in the development. "Irrigated" means supplied with water for lawn grass and does not include the use of raw water for irrigation. The 15% limit applies only if any part of the water supply for the development is changed from agricultural irrigation purposes to municipal or domestic use on or after January 1, 2016.</p> | | | | |

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| <p>SB 025</p> <p>Wastewater Treatment Small Communities Grants</p> | <p>S Hodge H Fischer</p> <p>Ag, Nat'l Resources, & Energy</p> | <p>CONCERNING GRANTS FOR DOMESTIC WASTEWATER TREATMENT WORKS FOR SMALL COMMUNITIES.</p> | <p><i>Water Resources Review Committee.</i></p> | <p>01/08/14</p> <p>MONITOR</p> |
| <p>SUMMARY: Water Resources Review Committee. Sections 1 and 2 of the bill clarify that severance tax dollars credited to the small communities water and wastewater grant fund may be used for domestic wastewater treatment works. Section 3 repeals a statute that separately governs the funding, through grant-making, of domestic wastewater treatment works for small municipalities and that substantially duplicates the provisions added and amended by sections 1 and 2.</p> | | | | |
| <p>SB 026</p> <p>Div Water Resources Remove Printing Requirements</p> | <p>S Hodge H Vigil</p> <p>Ag, Nat'l Resources, & Energy</p> | <p>CONCERNING THE REMOVAL OF CERTAIN STATUTORY PRINTING REQUIREMENTS FOR INFORMATION PROVIDED BY THE DIVISION OF WATER RESOURCES.</p> | <p><i>Water Resources Review Committee.</i></p> | <p>01/08/14</p> <p>SUPPORT</p> |
| <p>SUMMARY: Water Resources Review Committee. The state engineer and the division engineers throughout the state are required to make a number of reports, tabulations, and other written materials available to the public by printing them out and mailing them to interested parties. With electronic mail and the internet, these written materials can be disseminated without printing copies. The bill updates statutes to remove printing requirements for the following written materials:</p> <ul style="list-style-type: none"> - The state engineer's annual report to the general assembly, as reflected in section 1; - Division engineers' tabulations of decreed and conditional water rights, as reflected in section 2; and - Decisions concerning substitute water supply plans, as reflected in section 3 of the bill. | | | | |

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| Resolution A Forest Products Transport Interstate Weight Limit | H Coram S Schwartz N/A | CONCERNING A SPECIAL EXEMPTION FROM INTERSTATE HIGHWAY WEIGHT LIMITS FOR DIVISIBLE TRUCK LOADS CARRYING FOREST PRODUCTS. | <i>Water Resources Review Committee.</i> | N/A DISCUSSION (No Position as IWRRC bill) |
| <p>SUMMARY: <i>Be It Resolved by the House of Representatives of the Sixty-ninth General Assembly of the State of Colorado, the Senate concurring herein:</i> That we, the members of the Colorado General Assembly, urge Congress to pass legislation creating a special exemption from the federal maximum weight limit on interstate highways for forest product industries.</p> <p><i>Be It Further Resolved,</i> That copies of this Joint Resolution be sent to members of Colorado's, Arizona's, New Mexico's, Oregon's, Utah's, and Wyoming's congressional delegations.</p> | | | | |
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