

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

January 21, 2014 Report #3 Water (2014 Legislative Session)

The State Affairs Committee met on Tuesday January 21, 2014 to discuss water legislation introduced to date during the 2014 Session. 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 Monday, January 27, 2014.

Members of the General Assembly have submitted their bill titles, and a number of water related bills have been introduced. Legislation introduced, or requested for discussion or action since the last meeting include: **SB 65** – (Prohibition on a political subdivision's use of tax revenue), **SB 70** – (Application of "Colorado Open Records Act" to private Associations), **SB 72** (Floods replacing groundwater depletions in South Platte), and **SB 89** – (Prohibition State payment In Lieu of Taxes). A draft of the high efficiency fixture legislation has been distributed, **SB14-0677.01**, and was also on the agenda to be discussed since it will be introduced this week in the Senate.

Proposed Legislation: A representative from Denver Water announced that a draft of the water conservation "fixture" legislation is nearly completed, and will 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
HB 1002 Water Infrastructure Natural Disaster Grant Fund	H Young S Jones Ag, Livestock, & Nat'l Resources	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.		01/08/14 SUPPORT
<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>				
HB 1005 Relocate Ditch Headgate Without Change Case	H Sonnenberg/ Young S Lundberg/Kafalas Ag, Livestock, & Nat'l Resources	CONCERNING CLARIFICATION OF THE REQUIREMENTS APPLICABLE TO A CHANGE OF POINT OF WATER DIVERSION.		01/08/14 DISCUSSION
<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>				

Bill No. Title	Sponsors Committee	Concerning	Amendments Comments	When Introduced CWC Action
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.	<i>Wildfire Matters Review Committee</i>	01/08/14 MONITOR
<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>				

Bill No. Title	Sponsors Committee	Concerning	Amendments Comments	When Introduced CWC Action
<p>HB 1028</p> <p>Oppose Federal Special Use Permit Water Right Term</p>	<p>H Sonnenberg S Roberts</p> <p>Ag, Livestock, & Nat'l Resources</p>	<p>CONCERNING A LIMITATION ON THE UNITED STATES' ABILITY TO IMPOSE CONDITIONS ON A WATER RIGHT OWNER IN EXCHANGE FOR PERMISSION TO USE LAND.</p>	<p><i>Water Resources Review Committee.</i> Tabled until 1/27/14</p>	<p>01/08/14</p> <p>DISCUSSION</p>
<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>				
<p>HB 1030</p> <p>Hydroelectric Generation Incentives</p>	<p>H Coram/Mitsch-Bush S Schwartz/Roberts</p> <p>Transportation & Energy</p>	<p>CONCERNING THE ESTABLISHMENT OF INCENTIVES FOR THE DEVELOPMENT OF HYDROELECTRIC ENERGY SYSTEMS.</p>	<p><i>Water Resources Review Committee.</i> Proposed Sponsor Amendment to Strike Sec 3-5</p>	<p>01/08/14</p> <p>DISCUSSION</p>
<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. 				

Bill No. Title	Sponsors Committee	Concerning	Amendments Comments	When Introduced CWC Action
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. 				
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 DECREED 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>				

Bill No. Title	Sponsors Committee	Concerning	Amendments Comments	When Introduced CWC Action
<p>SB 023</p> <p>Transfer Water Efficiency Savings To Instream Use</p>	<p>S Schwartz H N/A</p> <p>Ag, Nat'l Resources, & Energy</p>	<p>CONCERNING AN AUTHORIZATION OF 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>SA Sub-committee formed met 1/21/14</i></p>	<p>01/08/14</p> <p>DISCUSSION</p>
<p>SUMMARY: Section 1 of the bill defines "water efficiency savings" as that portion of a water right used solely for agricultural irrigation or stock watering purposes in water division 4, 5, 6, or 7 that is nonconsumptive under existing practices and that results from efficiency measures, determined as the difference between:</p> <p>! The lesser of the decreed diversion amount and the maximum amount that had been historically diverted using the existing facilities for a beneficial use under reasonably efficient practices to accomplish without waste the purpose for which the appropriation was lawfully made; and</p> <p>! The diverted amount needed to meet the decreed beneficial use after increased efficiency in the means of diversion, conveyance, storage, application, or use.</p> <p>Section 2 allows water efficiency savings to be changed or loaned, pursuant to existing water court and water loan statutes, only to the Colorado water conservation board, only for instream use, and only if:</p> <ul style="list-style-type: none"> - The application was filed within 2 years after the diversions were decreased due to efficiency measures; - The change or loan will not materially injure decreed water rights; and - The change or loan will not adversely affect Colorado's interstate compact entitlements or obligations. <p>The change decree or loan approval must identify the amount of water efficiency savings and the stream reaches within which water efficiency savings, as changed or loaned, will be used. Water efficiency savings that have been changed or loaned are not subject to abandonment. The parties who enter into a change or loan of water efficiency savings may provide conditions by which the original decreed diversion rate may be preserved for a future use by the water right owner who implements the efficiency measures if use of the efficiency measures is discontinued.</p>				
<p>SB 065</p> <p>Ban On Pledging Bus Personal Property Tax Revenue</p>	<p>S Harvey H Holbert</p> <p>State Veterans, & MilitaryAffairs</p>	<p>CONCERNING THE PROHIBITION ON A POLITICAL SUBDIVISION PLEDGING BUSINESS PERSONAL PROPERTY TAX REVENUE TO PAY FUTURE FINANCIAL OBLIGATIONS.</p>		<p>01/14/14</p> <p>REMOVE FROM AGENDA</p>
<p>SUMMARY: Beginning September 1, 2014, the bill prohibits a political subdivision, which includes counties, municipalities, special districts, and school districts, from pledging any revenues from the property tax levied on business personal property for the payment of interest or principal owed on any type of bond or for the repayment of any other multiple-fiscal year debt or other obligation that requires voter approval.</p>				

Bill No. Title	Sponsors Committee	Concerning	Amendments Comments	When Introduced CWC Action
<p>SB 070</p> <p>Application CORA Assns Elected Officials</p>	<p>S Lundberg H N/A</p> <p>Judiciary</p>	<p>CONCERNING THE APPLICATION OF THE "COLORADO OPEN RECORDS ACT" TO PRIVATE ASSOCIATIONS OF ELECTED OFFICIALS FUNDED AT LEAST PARTIALLY THROUGH PUBLIC MONEYS.</p>		<p>01/14/14</p> <p>REMOVE FROM AGENDA</p>
<p>SUMMARY: The bill modifies the definition of "public records" under the "Colorado Open Records Act" to include all writings made, maintained, or kept by a private association whose membership consists primarily of elected officials of one or more political subdivisions of the state or individuals holding a covered state office, as applicable, and that receives at least 10% of its revenues on an annual basis from public moneys.</p>				
<p>SB 072</p> <p>Treat Preflood Groundwater Depletions As Replaced</p>	<p>S Brophy H Fischer</p> <p>Ag, Nat'l Resources, & Energy</p>	<p>CONCERNING TREATMENT OF THE SEPTEMBER 2013 FLOODS AS REPLACING CERTAIN OUT-OF-RIORITY GROUNDWATER DEPLETIONS IN WATER DIVISION 1.</p>		<p>01/14/14</p> <p>DISCUSSION</p>
<p>SUMMARY: Due to the September 2013 flooding, the bill specifies that the state engineer and water judges must treat all out-of-priority groundwater depletions occurring in water district 1 through 7 or 64 in water division 1 that accrued on or before September 12, 2013, as having been fully replaced.</p>				
<p>SB 089</p> <p>Prohibit State Agreements Payment In Lieu Of Tax</p>	<p>S Schwartz/Jahn H Fischer/Szabo</p> <p>Finance</p>	<p>CONCERNING A PROHIBITION FOR THE STATE TO ENTER INTO AN AGREEMENT FOR A PAYMENT IN LIEU OF TAXES.</p>	<p><i>Capital Development Committee</i></p>	<p>01/14/14</p> <p>MONITOR</p>
<p>SUMMARY: Capital Development Committee. The bill clarifies that the state is exempt from any requirement for a payment in lieu of property taxes for property that it owns or leases. The bill also specifies that neither the state nor any of its political subdivisions may agree to make any form of a payment in lieu of property taxes in connection with any property that it owns or leases.</p>				

Bill No. Title	Sponsors Committee	Concerning	Amendments Comments	When Introduced CWC Action
<p>SB 0667.01</p> <p>Phase In High Efficiency Water Fixture Options</p>	<p>S Guzman H Fischer</p> <p>N/A</p>	<p>CONCERNING THE PHASE-OUT OF THE SALE OF CERTAIN LOW-EFFICIENCY PLUMBING FIXTURES.</p>	<p><i>Draft Legislation, To Be Introduced This Week</i></p>	<p>N/A</p> <p>DISCUSSION</p>
<p>SUMMARY: The bill defines a "watersense-listed plumbing fixture" as one that has been:</p> <ul style="list-style-type: none"> - Tested by an accredited third-party certifying body or laboratory in accordance with the federal environmental protection agency's WaterSense program; - Certified by such body or laboratory as meeting the performance and efficiency requirements of the program; and - Authorized by the program to use its label. <p><u>Current law requires water-efficient indoor plumbing fixtures in only three contexts:</u></p> <ul style="list-style-type: none"> - <u>Builders of new single-family detached residences must offer the buyers toilets, faucets, and showerheads that meet the current standards of the WaterSense program;</u> - <u>Tank-type water closets and flushometer toilets in new state buildings must meet certain standards that are either less stringent than or as stringent as the current WaterSense standards;</u> - <u>New construction and renovation of residential structures and office, commercial, or industrial buildings must meet standards that are less stringent than the current WaterSense standards.</u> <p>Section 1 of the bill prohibits the <u>installation</u> and sale of lavatory faucets, shower heads, flushing urinals, tank-type toilets, and tank-type water closets on and after January 1, <u>2016</u>, unless they are a watersense-listed plumbing fixture.</p> <p>Sections 2 through 5 amend or repeal conflicting portions of current law.</p>				
<p>Resolution A</p> <p>Forest Products Transport Interstate Weight Limit</p>	<p>H Coram S Schwartz</p> <p>N/A</p>	<p>CONCERNING A SPECIAL EXEMPTION FROM INTERSTATE HIGHWAY WEIGHT LIMITS FOR DIVISIBLE TRUCK LOADS CARRYING FOREST PRODUCTS.</p>	<p><i>Water Resources Review Committee.</i></p>	<p>N/A</p> <p>DISCUSSION (No Position as IWRRC bill)</p>
<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>				

Bill No. <i>Title</i>	Sponsors <i>Committee</i>	Concerning	Amendments <i>Comments</i>	When Introduced <i>CWC Action</i>