

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

**January 27, 2014 Report #4 Water (2014 Legislative Session)**

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The State Affairs Committee met on Monday January 27, 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 has been moved to Tuesday, February 4, 2014 to accommodate travel and celebration needs after a **Denver Bronco victory on Super Bowl Sunday!**

There are a number of water related bills that have been introduced by the members of the General Assembly, and many of the bills are now being heard by the respective Committees in the Senate and House. Legislation introduced, and requested for discussion or action since the last meeting include: **SB 103** – (High Efficiency Water Fixtures) which was listed in draft form last week as **SB14-0677.01** with Denver Water as the primary bill proponent. A meeting was also convened by Senator Roberts to discuss **SB 17** (Limitation Lawn Grass to reduce pressures for agricultural dry-up), and there have been two State Affairs sub-committee meetings to discuss **SB 23** regarding transfer of agricultural water efficiency savings to the Colorado Water Conservation Board.

Proposed Legislation: It is anticipated that the Colorado Water Conservation Board (CWCB) and the Colorado Water Resources and Power Development Authority (CWRPDA) will both introduce their annual project and funding bills to the Legislature in the near future. Rumors of other legislation include a bill regarding Colorado's Water Plan sponsored by Senator Roberts, and a bill regarding South Platte groundwater issues related to the South Platte Groundwater Study by the Colorado Water Institute.

**Ballot Initiative 63 "Right of the People to Local Self Government"** was submitted by Clifton Willmeng from Lafayette, and is driven by the hydraulic-fracking controversy on the Front Range. Initiative could have broad impacts to water interests in the entire state.

The format of each bill includes five columns and a following **Summary** cell. The 1<sup>st</sup>, 2<sup>nd</sup>, 4<sup>th</sup>, & 5<sup>th</sup> column each contain two information items as follows: 1<sup>st</sup> column has both the **Bill No.** and the **Short Title**. The 2<sup>nd</sup> column has both the **Sponsors** and the assigned **Committee**. The 3<sup>rd</sup> column contains only the **Concerning** statement, copied directly from the bill. The 4<sup>th</sup> column will show important **Amendments** and **Comments** provided by either me or John Porter. The 5<sup>th</sup> 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](http://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	<a href="mailto:ellen.roberts.senate@state.co.us">ellen.roberts.senate@state.co.us</a>
Representative Mike McLachlan:	303-866-2914	<a href="mailto:mike.mclachlan.house@state.co.us">mike.mclachlan.house@state.co.us</a>
Representative Don Coram:	303-866-2955	<a href="mailto:don.coram.house@state.co.us">don.coram.house@state.co.us</a>

Bill No. Title	Sponsors Committee	Concerning	Amendments Comments	When Introduced CWC Action
<b>HB 1005</b>  <b>Relocate Ditch Headgate Without Change Case</b>	<b>H Sonnenberg/ Young</b> <b>S Lundberg/Kafalas</b>  <b>Ag, Livestock, &amp; Nat'l Resources</b>	CONCERNING CLARIFICATION OF THE REQUIREMENTS APPLICABLE TO A CHANGE OF POINT OF WATER DIVERSION.		<b>01/08/14</b>  <b>NO POSITION</b> (No Vote)
<p><b>SUMMARY:</b> 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 <b>clarifies</b> 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>				
<b>HB 1026</b>  <b>Water Flexible Markets</b>	<b>H Fischer S Schwartz</b>  <b>Ag, Livestock, &amp; Nat'l Resources</b>	CONCERNING THE AUTHORIZATION OF FLEXIBLE WATER MARKETS.	<i>Water Resources Review Committee.</i> <i>Support with amendments including; clarification of intent, limitation 3 years continuous, retained jurisdiction, prohibition transfer one water division to another.</i>	<b>01/08/14</b>  <b>SUPPORT</b>
<p><b>SUMMARY: Water Resources Review Committee.</b> 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 <b>creates</b> 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><b>Section 1</b> of the bill <b>defines</b> "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><b>Sections 2 and 3</b> 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><b>HB 1028</b></p> <p><b>Oppose Federal Special Use Permit Water Right Term</b></p>	<p><b>H Sonnenberg S Roberts</b></p> <p><b>Ag, Livestock, &amp; Nat'l Resources</b></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>  <i>Federal agencies to schedule meeting with stakeholders Feb 4<sup>th</sup>.</i></p>	<p><b>01/08/14</b></p> <p><b>SUPPORT</b></p>
<p><b>SUMMARY: Water Resources Review Committee.</b> The bill <b>specifies</b> 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><b>HB 1030</b></p> <p><b>Hydroelectric Generation Incentives</b></p>	<p><b>H Coram/Mitsch-Bush S Schwartz/Roberts</b></p> <p><b>Transportation &amp; Energy</b></p>	<p>CONCERNING THE ESTABLISHMENT OF INCENTIVES FOR THE DEVELOPMENT OF HYDROELECTRIC ENERGY SYSTEMS.</p>	<p><i>Water Resources Review Committee.</i>  <i>Sponsor Amendment to Strike Sec 3-5</i></p>	<p><b>01/08/14</b></p> <p><b>MONITOR</b></p>
<p><b>SUMMARY: Water Resources Review Committee.</b> 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"> <li>- <b>Section 1</b> of the bill <b>requires</b> 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;</li> <li>- <b>Section 2</b> <b>authorizes</b> 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</li> <li>- <b>Section 3</b> <b>incorporates</b> 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.</li> </ul>				

Bill No. Title	Sponsors Committee	Concerning	Amendments Comments	When Introduced CWC Action
<b>HB 1052</b>  <b>Ground Water Management Dist Enforcement Auth</b>	<b>H Fischer</b> <b>S Jones</b>  <b>Ag, Livestock, &amp; Nat'l Resources</b>	<b>CONCERNING AN INCREASE IN THE ENFORCEMENT AUTHORITY OF GROUND WATER MANAGEMENT DISTRICTS.</b>		<b>01/08/14</b>  <b>NO POSITION (Failed Motion)</b>
<p><b>SUMMARY:</b> Ground water management districts are currently authorized to enforce the terms of permits issued for small-capacity wells. The bill <b>authorizes</b> a district to:</p> <ul style="list-style-type: none"> <li>- <b>Enforce</b> permits for all wells located within the district;</li> <li>- <b>Enforce</b> the district's rules with regard to those wells;</li> <li>- <b>Issue</b> orders requiring compliance with the rules and permits; and</li> <li>- <b>Apply</b> to a district court to collect civil fines against a well owner who does not comply with an order.</li> </ul>				
<b>SB 017</b>  <b>Limit Use Of Ag Water For Lawn Irrigation</b>	<b>S Roberts/Hodge</b> <b>H Coram/Vigil</b>  <b>Ag, Nat'l Resources, &amp; Energy</b>	<b>CONCERNING A LIMITATION ON THE APPROVAL OF REAL ESTATE DEVELOPMENTS THAT USE WATER RIGHTS DECREED FOR AGRICULTURAL PURPOSES TO IRRIGATE LAWN GRASS.</b>	<b>Meeting convened by Senator Roberts on January 23, 2014</b>	<b>01/08/14</b>  <b>DISCUSSION</b>
<p><b>SUMMARY:</b> The bill <b>prohibits</b> 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><b>SB 023</b></p> <p><b>Transfer Water Efficiency Savings To Instream Use</b></p>	<p><b>S Schwartz</b> <b>H N/A</b></p> <p><b>Ag, Nat'l Resources, &amp; Energy</b></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 on 1/21/14 and 1/27/14. Twelve issues identified at first meeting with response from bill proponents at second meeting. Third meeting set after SA meeting on 2/4/14.</i></p>	<p><b>01/08/14</b></p> <p><b>DISCUSSION</b></p>
<p><b>SUMMARY:</b> 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> <ul style="list-style-type: none"> <li>! 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</li> <li>! The diverted amount needed to meet the decreed beneficial use after increased efficiency in the means of diversion, conveyance, storage, application, or use.</li> </ul> <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"> <li>- The application was filed within 2 years after the diversions were decreased due to efficiency measures;</li> <li>- The change or loan will not materially injure decreed water rights; and</li> <li>- The change or loan will not adversely affect Colorado's interstate compact entitlements or obligations.</li> </ul> <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><b>SB 072</b></p> <p><b>Treat Preflood Groundwater Depletions As Replaced</b></p>	<p><b>S Brophy</b> <b>H Fischer</b></p> <p><b>Ag, Nat'l Resources, &amp; Energy</b></p>	<p>CONCERNING TREATMENT OF THE SEPTEMBER 2013 FLOODS AS REPLACING CERTAIN OUT-OF-RIORITY GROUNDWATER DEPLETIONS IN WATER DIVISION 1.</p>		<p><b>01/14/14</b></p> <p><b>DISCUSSION</b></p>
<p><b>SUMMARY:</b> 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>				

Bill No. Title	Sponsors Committee	Concerning	Amendments Comments	When Introduced CWC Action
<p><b>SB 103</b></p> <p><b>Phase In High Efficiency Water Fixture Options</b></p>	<p><b>S Guzman</b> <b>H Fischer</b></p> <p>Ag, Nat'l Resources, &amp; Energy</p>	<p>CONCERNING THE PHASE-OUT OF THE SALE OF CERTAIN LOW-EFFICIENCY PLUMBING FIXTURES.</p>	<p><i>Formally listed as Draft Legislation SB 0667.01</i></p>	<p><b>01/24/14</b></p> <p><b>DISCUSSION</b></p>
<p><b>SUMMARY:</b> The bill <b>defines</b> a "watersense-listed plumbing fixture" as one that has been:</p> <ul style="list-style-type: none"> <li>- Tested by an accredited third-party certifying body or laboratory in accordance with the federal environmental protection agency's WaterSense program;</li> <li>- Certified by such body or laboratory as meeting the performance and efficiency requirements of the program; and</li> <li>- Authorized by the program to use its label.</li> </ul> <p>Current law requires water-efficient indoor plumbing fixtures in only three contexts:</p> <ul style="list-style-type: none"> <li>- Builders of new single-family detached residences must offer the buyers toilets, faucets, and showerheads that meet the current standards of the WaterSense program;</li> <li>- 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; and</li> <li>- 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.</li> </ul> <p><b>Section 1</b> of the bill <b>prohibits</b> the sale of lavatory faucets, shower heads, flushing urinals, tank-type toilets, and tank-type water closets on and after September 1, 2016, unless they are a watersense-listed plumbing fixture.</p> <p><b>Sections 2 through 5 amend or repeal</b> conflicting portions of current law.</p>				

Bill No. Title	Sponsors Committee	Concerning	Amendments Comments	When Introduced CWC Action
<b>Resolution A</b>  <b>Forest Products Transport Interstate Weight Limit</b>	<b>H Coram S Schwartz</b>  <b>N/A</b>	<b>CONCERNING A SPECIAL EXEMPTION FROM INTERSTATE HIGHWAY WEIGHT LIMITS FOR DIVISIBLE TRUCK LOADS CARRYING FOREST PRODUCTS.</b>	<i>Water Resources Review Committee.</i>	<b>N/A</b>  <b>DISCUSSION (No Position as IWRRC bill)</b>
<p><b>SUMMARY:</b> <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. <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>				