

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

February 4, 2014 Report #5 Water (2014 Legislative Session)

The State Affairs Committee met on Tuesday February 4, 2014 to discuss water legislation introduced 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 Monday February 10, 2014.

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: **HB 1184** – (Concerning Conservancy Districts), **HB 1218** – (Surface Water to Replace Groundwater Depletions as State Engineer Pilot Program), **HB 1219** – (Water Conveyance Structures Crossing Highways), **SB 105** – (Eliminate Transfer of Fees From Water Resources Cash Fund to General Fund), **SB 115** – (Procedural Requirements For State Water Plans), **SB 134** – *Joint Budget Committee* (Repeal Statutory Fees Applicable Water Quality), **SJR 004** – (Colorado Water Resources & Power Development Authority Revolving Fund Eligibility List).

A third State Affairs sub-committee meeting was held to discuss **SB 23** regarding transfer of agricultural water efficiency savings to the Colorado Water Conservation Board. The sub-committee will recommend support of the legislation with amendments to the State Affairs Committee next week, when an official position on the bill will be established.

Proposed Legislation: It is anticipated that the Colorado Water Conservation Board (CWCB) will introduce their annual project and funding bills to the Legislature in the near future. Rumors of other legislation include an additional bill regarding South Platte groundwater issues to be introduced by Senator Renfroe.

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.

Ballot Initiative 69 “Recall From Office” was submitted on Monday, and is a broadly worded initiative for the recall of “elective” and “non-elective” officials. Initiative is intended to increase public accountability of public servants.

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.cwatercongress.org/stateaffairs/>

FYI: Legislator Contact Information

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Bill No. Title	Sponsors Committee	Concerning	Amendments Comments	When Introduced CWC Action
HB 1184 Elect Pueblo Conservancy Dist Bd Flood Mitigation	H Vigil S Grantham Local Government	CONCERNING CONSERVANCY DISTRICTS.	<i>Tabled for discussion to next week on 2/10/14</i>	01/29/14 DISCUSSION
<p>SUMMARY: Conservancy districts may be formed by a local election to reduce flood risk, conserve or develop water resources, or participate in the development of parks or recreational facilities.</p> <p>Section 1 of the bill clarifies that when a director no longer resides within a conservancy district, a vacancy is created on the district's board of directors. The remainder of the bill applies only to the Pueblo conservancy district.</p> <p>Section 1 increases the board of directors from 3 to 7 directors, makes the existing 3 directors at-large representatives, and specifies that the 4 new directors represent, respectively, the Colorado city metropolitan district (whose initial term is 2 years), the city of Pueblo (whose initial term is 3 years), the Pueblo West metropolitan district (whose initial term is 4 years), and those portions of Pueblo county not already represented (who serves a full 5-year term). All new vacancies must be filled by election rather than appointment by a district court judge.</p> <p>Section 2 specifies that the Pueblo conservancy district may spend district revenues, including from its construction and maintenance funds, for the following purposes, in the following order of priority:</p> <ul style="list-style-type: none"> - First, for the maintenance, repair, replacement, or improvement of the district's existing flood control levees; - Second, for flood mitigation projects located in whole or part within the district, whether capital or otherwise, in the affected watershed upstream of the district's existing flood control levees; and - Third, for flood mitigation projects located in whole or part within the district, whether capital or otherwise, in the affected watershed downstream of the district's existing flood control levees. 				

Bill No. Title	Sponsors Committee	Concerning	Amendments Comments	When Introduced CWC Action
HB 1218 Replace Groundwater Depletions With Surface Water	H Fischer S N/A Ag, Livestock, & Nat'l Resources	CONCERNING THE USE OF SURFACE WATER TO REPLACE OUT-OF-PRIORITY GROUNDWATER DEPLETIONS WITHOUT REQUIRING ADDITIONAL WATER COURT APPROVAL PURSUANT TO A STREAMLINED APPROACH ADOPTED BY THE STATE ENGINEER AS A PILOT PROJECT.		01/30/14 DISCUSSION
<p>SUMMARY: The bill allows the use of surface water to replace or augment out-of-priority groundwater depletions without the necessity of filing an application for a change of water right if both the surface water and the well have been decreed or permitted for use on the same parcel of land, the use of the surface water does not result in any enlargement in the use of water, and the use complies with a rule adopted by the state engineer.</p> <p>Section 1 of the bill alters the definition of a change of a water right, and</p> <p>Section 2 amends the augmentation and replacement statute for tributary water.</p> <p>Section 3 authorizes the state engineer to adopt the rule as a pilot project and repeals the authority on September 1, 2020.</p>				
HB 1219 Water Conveying Structure Maintenance Obligations	H Rankin S N/A Local Government	CONCERNING CLARIFICATION THAT THE OBLIGATION OF A LOCAL GOVERNMENT TO MAINTAIN AT ITS OWN EXPENSE A STRUCTURE THAT ALLOWS WATER TO CROSS THE PATH OF A HIGHWAY WITHOUT INTERFERING WITH TRAVEL ON THE HIGHWAY DOES NOT REQUIRE THE LOCAL GOVERNMENT TO BEAR THE COSTS OF CONSTRUCTING ANY NEW STRUCTURE OR COMPLETELY RECONSTRUCTING OR REPLACING ANY EXISTING STRUCTURE.		01/30/14 MONITOR
<p>SUMMARY: Current law requires a person or corporation that owns a ditch, race, drain, or flume to construct a culvert, bridge, or similar structure (structure) when necessary to ensure that water being conveyed by the ditch, race, drain, or flume does not interfere with safe and convenient travel on any highway, or to pay the costs incurred by a local government in constructing a structure. The local government in which the structure is located must then maintain the structure at its own expense. The bill clarifies that the maintenance obligation of a local government does not include construction of a new structure or complete reconstruction or replacement of an existing structure and that any such costs must be paid by the person or corporation that owns the affected ditch, race, drain, or flume.</p>				

Bill No. Title	Sponsors Committee	Concerning	Amendments Comments	When Introduced CWC Action
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.	<i>Meeting convened by Senator Roberts on January 23, 2014</i> <i>Split vote to oppose, 2/3 majority 18-8, 12 members abstained.</i>	01/08/14 OPPOSE
<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>				
SB 023 Transfer Water Efficiency Savings To Instream Use	S Schwartz H N/A Ag, Nat'l Resources, & Energy	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.	<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 sub-committee meeting held on 2/4/14. Sub-committee to recommend support with amendments to full SA on 2/10/14.</i>	01/08/14 DISCUSSION
<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> <ul style="list-style-type: none"> ! 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 ! The diverted amount needed to meet the decreed beneficial use after increased efficiency in the means of diversion, conveyance, storage, application, or use. <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>				

Bill No. Title	Sponsors Committee	Concerning	Amendments Comments	When Introduced CWC Action
SB 072 Treat Preflood Groundwater Depletions As Replaced	S Brophy H Fischer Ag, Nat'l Resources, & Energy	CONCERNING TREATMENT OF THE SEPTEMBER 2013 FLOODS AS REPLACING CERTAIN OUT-OF-RIORITY GROUNDWATER DEPLETIONS IN WATER DIVISION 1.	<i>Vote to oppose legislation was unanimous with 2 abstained.</i>	01/14/14 OPPOSE
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.				
SB 103 Phase In High Efficiency Water Fixture Options	S Guzman H Fischer Ag, Nat'l Resources, & Energy	CONCERNING THE PHASE-OUT OF THE SALE OF CERTAIN LOW-EFFICIENCY PLUMBING FIXTURES.	<i>Vote to support legislation was unanimous with 5 abstained.</i>	01/24/14 SUPPORT
SUMMARY: The bill defines a "watersense-listed plumbing fixture" as one that has been: <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. Current law requires water-efficient indoor plumbing fixtures in only three contexts: <ul style="list-style-type: none"> - Builders of new single-family detached residences must offer the buyers toilets, faucets, and showerheads that meet the current standards of the WaterSense program; - 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 - 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. Section 1 of the bill prohibits 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. Sections 2 through 5 amend or repeal conflicting portions of current law.				

Bill No. Title	Sponsors Committee	Concerning	Amendments Comments	When Introduced CWC Action
SB 105 Stop Water Cash Fund Transfers To General Fund	S Lambert H Duran/Gerou Appropriations	CONCERNING THE ELIMINATION OF THE REQUIREMENT THAT A PORTION OF THE FEES COLLECTED FOR THE WATER RESOURCES CASH FUND BE TRANSFERRED TO THE STATE GENERAL FUND.	<i>Joint Budget Committee. Scheduled for Appropriations Committee hearing. SA took position of support after unanimous consent for action at first meeting.</i>	01/27/14 SUPPORT
SUMMARY: Joint Budget Committee. The division of water resources collects and administers multiple fees that are deposited into the water resources cash fund. For some of those fees, a portion is currently required to be credited to the general fund. Commencing July 1, 2014, the bill repeals this requirement so that all of the fee revenue goes to the water resources cash fund.				
SB 115 State Water Plan Public Review & GA Approval	S Roberts/Schwartz H Fischer/Coram Ag, Nat'l Resources, & Energy	CONCERNING PROCEDURAL REQUIREMENTS APPLICABLE TO STATE WATER PLANS.	<i>Considerable discussion by SA, Senator Roberts, and John Stulp (IBCC). CWC offered to assist in discussions between Executive and Legislative Branch if requested.</i>	01/27/14 DISCUSSION
SUMMARY: The bill requires the Colorado water conservation board to hold a hearing on a draft state water plan within each basin roundtable, update the plan based on public comments, and present the draft plan to the water resources review committee. The committee must vote on whether to introduce legislation that would approve the plan. The plan does not embody state water policy unless the general assembly, acting by bill, approves the plan.				
SB 134 Repeal Statutory Water Quality Fee Schedules	S Hodge H May/Gerou Appropriations	CONCERNING THE REPEAL OF STATUTORY FEE SCHEDULES APPLICABLE TO WATER QUALITY.	<i>Joint Budget Committee</i>	01/27/14 DISCUSSION
SUMMARY: Joint Budget Committee. Section 1 of the bill: <ul style="list-style-type: none"> - Repeals the water quality control fund and the statutory schedule of fees applicable to numerous categories and subcategories of water quality discharge permits; - Creates the public and private utilities fund, construction fund, commerce and industry fund, pesticides fund, and water quality certifications fund; - Identifies the particular entities that must pay fees into the new funds and the services for which the fees must be set to cover; and - Gives the water quality control commission rule-making authority to set the fees for the various funds and categories of water quality discharge permits. The animal feeding operations fund is reenacted, as are the procedural requirements applicable to the review, issuance, and appeal of water pollutant discharge permits. Sections 2 through 4 make conforming amendments. Section 5 repeals the drinking water cash fund's statutory schedule of fees applicable to numerous categories and subcategories of public water systems and gives the water quality control commission rule-making authority to set the fees.				

Bill No. Title	Sponsors Committee	Concerning	Amendments Comments	When Introduced CWC Action
SJR 004 Water Projects Revolving Fund Eligibility Lists	S Schwartz H Fischer Ag, Nat'l Resources, & Energy	CONCERNING APPROVAL OF WATER PROJECT REVOLVING FUND ELIGIBILITY LISTS ADMINISTERED BY THE COLORADO WATER RESOURCES AND POWER DEVELOPMENT AUTHORITY.	<i>Scheduled for Committee hearing. SA took position of support after unanimous consent for action at first meeting.</i>	01/27/14 SUPPORT
<p>SUMMARY: <i>Be It Resolved by the Senate of the Sixty-ninth General Assembly of the State of Colorado, the House of Representatives concurring herein:</i> 1. That the following additions, modifications, or deletions to the Drinking Water Project Eligibility List as defined in section 37-95-103(4.8) and pursuant to section 37-95-107.8 (4) (c), Colorado Revised Statutes, are adopted: ... (See List)</p>				
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 IWRRRC 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. <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>				