

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

March 12, 2018 Water Legislation Report #8 (2018 Legislative Session)

The State Affairs Committee met on March 12 to discuss proposed water legislation for consideration in the 2018 legislative session. Since the last meeting, no new legislation has been introduced. SB 194 (Contributions to a Colorado Natural Resources Foundation Fund) was brought up during other business, and will be included on the agenda next week for discussion.

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
Representative Marc Catlin (HD 58):	303-866-2955	marc.catlin.house@state.co.us

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>Lack of 2/3 majority for State Affairs position. A subcommittee was formed discuss the bill. Further consideration postponed until next week on 3/19 after subcommittee meets.</i></p>	<p>02/12/2018</p> <p>POSTPONED</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</p>				

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<p>need to contact the owners or operators to arrange for the marking. 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>HB 1215</p> <p><u>Safe Disposal</u> <u>Naturally Occur</u> <u>Radioactive</u> <u>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 action was again postponed until the meeting next week on 3/19.</i></p>	<p>02/05/18</p> <p>POSTPONED</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. 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. 				