

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

April 2, 2018 Water Legislation Report #10 (2018 Legislative Session)

The State Affairs Committee met on April 2 to discuss proposed water legislation for consideration in the 2018 legislative session. Since the last meeting, **SB 218 (Colorado Water Conservation Board Construction Fund Project)**, **HB 1301 (Protect Water Quality Adverse Mining Impacts)**, and **HB 1338 (Reduced Revenue Severance Tax Operational Fund Transfers)** have been introduced. The next meeting is scheduled for Monday, April 16.

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

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Bill No. Title	Sponsors Committee	Concerning	Amendments Comments	When Introduced CWC Action / SWCD Position
<p>SB 167</p> <p>Enforce Requirements 811 Locate Underground Facilities</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 is meeting to discuss the bill. SA Committee continues to keep this bill on the agenda for possible action.</i></p>	<p>02/12/2018</p> <p>DISCUSSION</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</p>				

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<p>January 1, 2021, all underground facility owners and operators are full members of the notification association with full benefits, and excavators will no longer need to contact the owners or operators to arrange for the marking.</p> <p>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>SB 218</p> <p>Colorado Water Conservation Board Construction Fund Project</p>	<p>S Coram H Arndt</p> <p>Ag, Natural Resources & Energy</p>	<p>CONCERNING THE FUNDING OF COLORADO WATER CONSERVATION BOARD PROJECTS, AND, IN CONNECTION THEREWITH, MAKING APPROPRIATIONS.</p>		<p>03/26//2018</p> <p>SUPPORT</p> <p>SWCD Position: DISCUSSION</p>
<p>SUMMARY: The bill appropriates the following amounts from the Colorado water conservation board (CWCB) construction fund (fund) to the CWCB or the division of water resources in the department of natural resources for the following projects:</p> <ul style="list-style-type: none"> • Continuation of the satellite monitoring system maintenance, \$380,000 (section 1 of the bill); • Continuation of the Colorado floodplain map modernization program, \$100,000 (section 2); • Continuation of the Arkansas river decision support system, \$500,000 (section 3); • Continuation of the weather modification program, \$175,000 (section 4); • Continuation of the Colorado Mesonet, \$150,000 (section 5); • Continuation of the water forecasting partnership project, \$800,000 (section 6); • Acquisition of lidar data, \$200,000 (section 7); • Continuation of technical assistance for federal irrigation improvement cost-sharing program, \$200,000 (section 8); • Continuation of the Chatfield Reservoir channel improvements program, \$200,000 (section 9); • South Platte river basin groundwater level data collection, analysis, and remediation, \$500,000 (section 10); • Central Colorado water conservancy district - Chatfield reservoir reallocation project, \$511,894.20 (section 11); and • Continuation of the watershed restoration program, \$2,000,000 (section 12). <p>Section 13 directs the state treasurer to transfer \$30,000,000 from the loan guarantee fund to the severance tax perpetual base fund on June 30, 2018. Section 14 authorizes the CWCB to loan up to \$17,170,000 from the severance tax perpetual base fund to the Pueblo conservancy district to repair the levees within the City of Pueblo to bring the levees up to federal emergency management agency standards. Section 15 transfers \$4 million on June 30, 2018, from the severance tax</p>				

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<p>perpetual base fund to the fund for the Chatfield reservoir reallocation project; section 16 appropriates this money to the board for this purpose. Section 17 increases loan authorizations from the severance tax perpetual base fund for the Chatfield reservoir reallocation project in the following amounts:</p> <ul style="list-style-type: none"> • Centennial water and sanitation district, an increase of \$9,046,267 for a total of \$53,486,267; • Central Colorado water conservancy district, an increase of \$1,548,229 for a total of \$29,999,929; and • Castle Pines north metro district, an increase of \$1,319,464 for a total of \$7,773,364. <p>Section 18 appropriates \$8,000,000 to the department of natural resources from the fund for Republican river matters. The state treasurer will make the following transfers from the fund:</p> <ul style="list-style-type: none"> • Up to \$500,000 on July 1, 2018, to the flood and drought response fund (section 19); • Up to \$2,000,000 on July 1, 2018, to the litigation fund (section 20); • \$500,000 on July 1, 2018, to the feasibility study small grant fund (section 21); and • \$2,000,000 on June 30, 2018, to the water supply reserve fund (section 22). <p>Section 23 appropriates \$7,000,000 from the fund to the CWCB for continuing implementation of the Colorado water plan as follows:</p> <ul style="list-style-type: none"> • Up to \$3,000,000 to facilitate the development of additional storage, artificial recharge into aquifers, and dredging existing reservoirs; • Up to \$1,000,000 for agricultural projects; • Up to \$1,000,000 for grant funding to implement long-term strategies for conservation, land use, and drought planning; • Up to \$500,000 for grants for water education, outreach, and innovation efforts; and • Up to \$1,500,000 for environmental and recreational projects. <p>Current law:</p> <ul style="list-style-type: none"> • Prohibits the CWCB from using the fund for 'domestic water treatment and distribution systems'; section 24 harmonizes this with other laws by excluding 'water treatment facilities'; • Continuously appropriates money in the emergency dam repair cash fund to the CWCB and authorizes the CWCB to transfer up to \$50,000 from the fund to the emergency dam repair cash fund; section 25 adds the division of water resources to the continuous appropriation and increases the transfer cap to \$500,000; • Repeals the natural hazard mapping fund on July 1, 2018; section 26 extends this to July 1, 2019; and • Authorizes taxpayers to contribute money to the Colorado healthy rivers fund, the department of revenue to deduct its administrative costs from that fund, and the annual transfer of the remaining balance to the fund; section 27 specifies that the transferred money is continuously appropriated to the CWCB. 				
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<p>HB 1215</p> <p><u>Safe Disposal Naturally Occur Radioactive 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>SA Committee continues to keep this bill on the agenda for possible action, as significant amendments are expected in the Senate.</i></p>	<p>02/05/18</p> <p>DISCUSSION</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. 				
<p>HB 1301</p> <p><u>Protect Water Quality Adverse Mining Impacts</u></p>	<p>H Roberts/McLachlan</p> <p>Ag, Livestock & Natural Resources</p>	<p>CONCERNING THE PROTECTION OF WATER QUALITY FROM ADVERSE IMPACTS CAUSED BY MINERAL MINING.</p>		<p>03/19/18</p> <p>MONITOR</p> <p>SWCD Position: DISCUSSION</p>
<p>SUMMARY: Current law does not address reliance on perpetual water treatment as the means to minimize impacts to water quality in a reclamation plan for a mining operation. Section 1 of the bill requires most reclamation plans to demonstrate, by substantial evidence, an end date for any water quality treatment necessary to ensure compliance with applicable water quality standards. Current law allows a mining permittee to submit an audited financial statement as proof that the operator has sufficient funds to meet its reclamation liabilities in lieu of a bond or other financial assurance. Section 2 eliminates this self-bonding option and also requires that all reclamation bonds include financial assurances in an amount sufficient to protect water quality, including costs for any necessary treatment and monitoring costs.</p>				

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<p>HB 1338</p> <p><u>Reduced Revenue Severance Tax Operational Fund Transfers</u></p>	<p>H Rankin S Lambert</p> <p>Appropriations</p>	<p>CONCERNING TRANSFERS TO ADDRESS THE REDUCTION OF REVENUES IN THE SEVERANCE TAX OPERATIONAL FUND.</p>		<p>03/26/18</p> <p>SUPPORT</p> <p>SWCD Position: DISCUSSION</p>
<p>SUMMARY: Joint Budget Committee. Under current law, money is transferred from the severance tax operational fund (operational fund) to certain cash funds to benefit programs that are commonly referred to as the tier 2 programs. On June 30, 2018, the bill requires the state treasurer to transfer money to the operational fund from the following cash funds to recoup money that was previously transferred in this fiscal year for tier 2 programs:</p> <ul style="list-style-type: none"> ! \$727,888 from the species conservation trust fund (section 8 of the bill); ! \$393,272 from the division of parks and outdoor recreation aquatic nuisance species fund (section 9); ! \$189,912 from the division of wildlife aquatic nuisance species fund (section 9); ! \$18,488 from the special account in the general fund used by the mined land reclamation board for reclaiming certain lands (section 10); ! \$80,068 from the water efficiency grant program cash fund (section 11); ! \$108,465 from the interbasin compact committee operation fund (section 12); and ! \$1,455,776 from the water supply reserve fund (section 14). <p>To replace funding from the operational fund, the bill requires the state treasurer to transfer the following amounts on July 1, 2018, from the general fund to pay for tier 2 programs for the next fiscal year:</p> <ul style="list-style-type: none"> ! \$954,545 to the forest restoration and wildfire risk mitigation grant program cash fund (section 1); ! \$1,186,363 to the healthy forests and vibrant communities fund (section 2); ! \$3,000,000 to the species conservation trust fund (section 3); ! \$45,455 to the wildland-urban interface training fund (section 4); ! \$86,364 to the wildfire preparedness fund (section 5); ! \$127,000 to the special account in the general fund established by the mined land reclamation board (section 6); ! \$450,000 to the conservation district grant fund (section 7); ! \$2,452,193 to the division of parks and outdoor recreation aquatic nuisance species fund (section 9); and ! \$1,184,171 to the division of wildlife aquatic nuisance species fund (section 9). <p>Section 16 further appropriates the \$3 million transferred to the species conservation trust fund for programs submitted by the executive director of the department of natural resources that are designed to conserve native species that state or federal law list as threatened or endangered or that are candidate species or are likely to become candidate species as determined by the United States fish and wildlife service.</p> <p>If, prior to July 1, 2018, there is insufficient money in the severance tax reserve, which is used to make severance tax refunds, then under current law, money would be recouped from the various severance tax cash funds in order to make the refunds. Section 13 requires income tax revenue that would otherwise be deposited in the general fund to be deposited in the reserve to make the refund instead of recouping money from the operational fund.</p>				

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<p>Section 15 requires the state treasurer to make 3 transfers from the general fund to the operational fund: ! \$17,030,925 on July 1, 2018, which amount will fund the programs commonly known as the tier 1 programs; ! \$3,000,000 on January 1, 2019; and ! On July 1, 2019, an amount equal to the operational fund reserve required for the fiscal year commencing on July 1, 2019, or \$14,214,854, whichever is less. The transfers made in 2019 will be used to fund the tier 1 operational fund reserve. To offset the general fund transfers, section 14 requires revenue, up to a maximum of \$40,942,016, that was or otherwise would be deposited in the operational fund from February 1, 2018, through June 30, 2019, to instead be transferred or deposited in the general fund.</p> <p>Section 15 also prohibits the state treasurer from making any transfers from the operational fund to benefit the tier 2 programs for the next fiscal year, unless severance tax receipts are deposited in the operational fund during the fiscal year and there is sufficient money in the operational fund reserve so that no transfer will be made to the fund from the general fund on July 1, 2019.</p>				