

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

**April 16, 2018 Water Legislation Report #11 (2018 Legislative Session)**

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The State Affairs Committee met on April 16 to discuss proposed water legislation for consideration in the 2018 legislative session. Since the last meeting, **HB 1383 (Bonding Requirements for Public Projects Using Private Financing)** was introduced. At their April 5 meeting, the SWCD board acted to support **HB 1301 (Protect Water Quality Adverse Mining Impacts)** and **SB 218 (Colorado Water Conservation Board Construction Fund Projects)**. The next meeting of the State Affairs Committee is scheduled for Monday, April 23.

John McClow reported that Jim Yahn (South Platte), Curran Trick (North Platte), and Steve Anderson (Gunnison) were appointed by the governor to serve on the CWCB board. Senate confirmation hearings for those appointments, along with Jack Goble (Arkansas), Heather Dutton (Rio Grande), and Celene Hawkins (San Juan, Dolores), will likely be held in the coming weeks.

At the April 16 meeting, the State Affairs Committee heard from former House Speaker Frank McNulty on two proposal ballot initiatives that would amend the Colorado constitution with the intention of making district boundary drawing more neutral, and thereby creating more competitive districts, for both congressional ([No. 170](#)) and state legislative seats ([No. 171](#)). The initiatives' sponsors intend to introduce legislation (Referendum) during this session with substantively similar language as the ballot initiatives.

There was also discussion of topics to suggest to the Interim Water Resources Review Committee, including stabilization of severance tax revenue, the reauthorization of the South Platte Recovery Program, state drought response, and lead control in drinking water. Other ideas should be provided to Committee staff soon, as they begin to plan the summer discussions.

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 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 SWCD staff. The 5<sup>th</sup> 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](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 Don Coram (SD 6):	303-866-4884	<a href="mailto:don.coram.senate@state.co.us">don.coram.senate@state.co.us</a>
Representative Barbara McLachlan (HD 59):	303-866-2914	<a href="mailto:barbara.mclachlan.house@state.co.us">barbara.mclachlan.house@state.co.us</a>
Representative Marc Catlin (HD 58):	303-866-2955	<a href="mailto:marc.catlin.house@state.co.us">marc.catlin.house@state.co.us</a>

Bill No. Title	Sponsors Committee	Concerning	Amendments Comments	When Introduced CWC Action / SWCD Position
SB 167  <a href="#">Enforce Requirements 811</a> <a href="#">Locate Underground Facilities</a>	S Scott/Donovan H Winter/Saine  Financial Services & Commerce	CONCERNING INCREASED ENFORCEMENT OF REQUIREMENTS RELATED TO THE LOCATION OF UNDERGROUND FACILITIES.	<i>Lack of 2/3 majority for State Affairs position. A CWC subcommittee was formed to address concerns. State Affairs Chair Montano directed that the bill be moved to CWC's monitor list.</i>	02/12/2018  MONITOR  SWCD Position: DISCUSSION
<b>SUMMARY:</b> Current law <b>requires</b> 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.				

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<p>The bill <b>creates</b> 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 <b>allows</b> only an excavator to submit a location request to the notification association. The bill <b>authorizes</b> 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 <b>creates</b> 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 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>				

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<p><b>HB 1215</b></p> <p><a href="#"><u>Safe Disposal Naturally Occur Radioactive Material</u></a></p>	<p><b>H Arndt</b></p> <p><b>Health, Insurance &amp; Environment</b></p>	<p>CONCERNING ENHANCED PROTECTIONS REGARDING THE DISPOSAL OF NATURALLY OCCURRING RADIOACTIVE MATERIALS.</p>	<p><i>State Affairs Chair Montano directed that the bill be moved to monitor list.</i></p>	<p><b>02/05/18</b></p> <p><b>MONITOR</b></p> <p><b>SWCD Position: DISCUSSION</b></p>
<p><b>SUMMARY:</b> 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"> <li>• <b>Requires</b> the state board to adopt rules for the disposal of NORM and technologically enhanced NORM (TENORM); and</li> <li>• While the state board is conducting its rule-making investigation, <b>temporarily prohibits</b> 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"> <li>○ 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</li> </ul> </li> </ul> <p>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>				
<p><b>HB 1383</b></p> <p><a href="#"><u>Bonding Requirements for Public Projects Using Private Financing</u></a></p>	<p><b>H Winter S Priola</b></p> <p><b>Business Affairs &amp; Labor</b></p>	<p>CONCERNING BONDING REQUIREMENTS FOR A CONTRACTOR THAT IS PARTY TO A CONTRACT THAT USES PRIVATE FINANCING FOR CONSTRUCTION CONTRACTS ON PUBLIC PROPERTY</p>		<p><b>04/12/18</b></p> <p><b>DISCUSSION</b></p> <p><b>SWCD Position: DISCUSSION</b></p>
<p><b>SUMMARY:</b> Pursuant to current law, when a person, company, firm, corporation, or contractor (contractor) enters into a contract with certain governmental entities or governmental bodies to perform work in connection with certain projects, the contractor is required to execute performance bonds and payment bonds. The bill <b>specifies</b> that these bonding requirements apply to all construction contracts situated or located on public real property using public or <b>private money, public or private financing, or public real property.</b></p>				