

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

**January 22, 2019 Water Legislation Report #3 (2019 Legislative Session)**

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The State Affairs Committee met on January 22 to discuss proposed water legislation for consideration in the 2019 legislative session. The Committee took action to support in concept [HB19-1050 \(Encourage Use of Xeriscape in Common Areas\)](#), and to monitor [SB19-037 \(Wildfire Mitigation\)](#) going forward. There was significant discussion and concern expressed about [HB19-1082 \(Water Rights Easement\)](#), and several committee members volunteered to work with the sponsor on revised language.

Since the last meeting, the following new bills were introduced: [HB19-1113 \(Protect Water Quality Adverse Mining Impacts\)](#), which originated from stakeholders in southwestern Colorado. This legislation is a resurrection of [HB18-1301](#), a similar bill introduced in 2018 that passed the House then was killed in the Senate. The 2019 bill includes some language to further clarify that Good Samaritan efforts would not be limited or impact, and also require additional annual water quality reporting from permit holders. The SWCD board voted to support HB19-1113. [HB19-1096 \(Colorado Right to Rest Act\)](#), which would establish basic rights for people experiencing homelessness, was brought to the State Affairs Committee's attention because it would allow access to "any outdoor property owned or leased by a state or local government, or any property with an easement for public use." This includes those properties owned by water managers, and such access may have water quality or safety implications.

The table below 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

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|---|--------------|--|
| 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.<br>Title   | Sponsors<br>Committee  | Concerning  | Amendments<br>Comments | When Introduced<br>CWC Action / SWCD<br>Position                   |
|---|--|---|------------------------|--|
| <p>SB19 016</p> <p><a href="#">Severance Tax Operational Fund Distribution Methodology</a></p>  | <p>S Donovan, Coram<br/>H Esgar, Saine</p> <p>Ag &amp; Natural Resources</p> | <p>CONCERNING THE METHODOLOGY TO DISTRIBUTE MONEY IN THE SEVERANCE TAX OPERATIONAL FUND AFTER CORE DEPARTMENTAL PROGRAMS ARE FUNDED WITHOUT CHANGING THE TRANSFERS TO THE NATURAL RESOURCES AND ENERGY GRANT PROGRAMS</p> |                        | <p>01/04/2019</p> <p>SUPPORT</p> <p>SWCD Position:<br/>SUPPORT</p> |
| <p><b>SUMMARY: Water Resources Review Committee.</b> Money in the severance tax operational fund (operational fund) is primarily used for 2 purposes. The general assembly annually appropriates money from the operational fund for several <b>core departmental programs</b>, which were previously described as "tier-one programs". If money remains after these appropriations and after a reserve requirement for the core departmental programs is satisfied, then the state treasurer transfers money to an array of funds that support <b>natural resources and energy grant programs</b>, which were previously described as "tier-two programs". There is also a requirement that the reserve include an amount equal to 15% of the maximum transfers to natural resources and energy grant programs required by law, and this reserve is used for the transfers, if necessary.</p> <p>The bill <b>changes the distribution of the money</b> in the operational fund as follows:</p> <ul style="list-style-type: none"> <li>• <b>Separates the reserve</b> into the core reserve and the grant program reserve, while maintaining the overall purpose of each reserve;</li> <li>• <b>Increases the maximum grant program reserve</b> to 100% of the maximum transfers to the natural resources and energy grant programs required by law, which currently is equal to \$36,378,072;</li> <li>• Requires the state treasurer to make the transfers to the natural resources and energy grant programs on August 15 after a fiscal year and to base the transfers on <b>actual revenue</b> as opposed to estimated revenue. Money from the grant program reserve may be used for these transfers; and</li> <li>• If all of the appropriations and transfers have been made and both reserves are full, then the state treasurer is required to transfer any money remaining in the operational fund to the severance tax perpetual base fund.</li> </ul> |  |   |                        |  |

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|---|---|--|------------------------|--|
| <p>SB19 037</p> <p><a href="#">Wildfire Mitigation</a></p>  | <p>S Woodward</p> <p>State, Veterans &amp; Military Affairs</p> | <p>CONCERNING MEASURES TO MITIGATE WILDFIRES, AND, IN CONNECTION THEREWITH, PERMITTING COUNTY PERSONNEL TO ENTER LAND OWNED BY THE FEDERAL OR STATE GOVERNMENT TO REMOVE WILDFIRE FUEL SOURCES AND APPROPRIATING MONEY FOR THE USE OF THE FOREST RESTORATION AND WILDFIRE RISK MITIGATION GRANT PROGRAM.</p> |                        | <p>01/04/2019</p> <p>MONITOR</p> <p>SWCD Position: MONITOR</p> |
| <p><b>SUMMARY:</b> In connection with any land area that is owned by the federal or state government that is located either within the territorial boundaries of a county or outside of but within 5 miles of the territorial boundaries of a county, where a supply of wildfire fuel materials exists on the land that is sufficiently concentrated posing a substantial threat of causing or aggravating a wildfire in such area, or where the federal or state government has failed to create a defensible space on such land to reduce the potential for damage from a wildfire, section 1 of the bill <b>permits the board of county commissioners</b> of any county to use persons employed by the county or to contract with for-profit or not-for-profit organizations or entities to supply persons able to <b>enter the federal or state land for the sole purpose of removing such fuel materials or creating such defensible space</b>. Under the bill, a person employed by or contracting with the county is not liable for any damages caused by any conduct he or she undertakes in accordance with this authority unless the person's conduct was due to willful misconduct, gross negligence, or bad faith. Section 2 appropriates \$10 million for the 2019-20 state fiscal year, from the general fund to the department of higher education for allocation to the Colorado state university system to be used for the forest restoration and wildfire mitigation grant program.</p> |   |  |                        |  |
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| <p><b>HB19 1006</b></p> <p><a href="#">Wildfire Mitigation<br/>Wildland-urban<br/>Interface Areas</a></p>  | <p><b>H McLachlan, Carver<br/>S Fields</b></p> <p>Rural Affairs &amp; Ag</p> | <p>CONCERNING MEASURES TO MITIGATE THE EFFECTS OF WILDFIRES WITHIN WILDLAND-URBAN INTERFACE AREAS, AND, IN CONNECTION THEREWITH, CREATING A STATE GRANT PROGRAM TO PROMOTE FOREST MANAGEMENT FUELS REDUCTION PROJECTS IN SUCH AREAS</p> | <p><i>The SA committee postponed action on the bill until 1/28. The sponsor may introduce an amendment to expand the current grant program to HOAs, rather than create a competing grant program.</i></p>                   | <p><b>01/04/2019</b></p> <p><b>POSTPONED</b></p> <p>SWCD Position:<br/><b>DISCUSSION</b></p>           |
| <p><b>SUMMARY: Wildfire Matters Review Committee.</b> The bill creates a state grant program to be administered by the Colorado state forest service (forest service) to fund proactive forest management fuels reduction projects to reduce the impacts to life, property, and critical infrastructure caused by wildfires. To be eligible for a grant award, a grant recipient must be any one of a group of individual landowners as specified in the bill whose real property that is the subject of a grant application is located within a land area that is covered by a community wildfire protection plan. The bill specifies requirements pertaining to the evaluation of grant proposals. The forest service is to select the proposals that will receive funding, administer the grant program, and develop procedures by which applicants are to apply for grants. The bill imposes a monetary limit on the amount of a grant to be awarded and also requires a grant applicant to demonstrate an available amount of matching funds to be awarded a grant. The bill creates the forest management fuels reduction projects grant program cash fund in the state treasury. The bill requires the forest service to report annually to the general assembly on the number, location, and benefits of all projects for which a grant award is made.</p> |  |   |   |  |
| <p><b>HB19 1015</b></p> <p><a href="#">Recreation of the<br/>Colorado Water<br/>Institute</a></p>  | <p><b>H Arndt</b></p> <p>Rural Affairs &amp; Ag</p>                          | <p>CONCERNING THE RECREATION OF THE COLORADO WATER INSTITUTE</p>  |   | <p><b>01/04/2019</b></p> <p><b>SUPPORT</b></p> <p>SWCD Position:<br/><b>SUPPORT</b></p>                |
| <p><b>SUMMARY:</b> The Colorado water institute was created in 1981 and automatically repealed in 2017. The bill recreates the institute.</p>  |  |   |   |  |
| <p><b>HB19 1050</b></p> <p><a href="#">Encourage Use of<br/>Xeriscape in<br/>Common Areas</a></p>  | <p><b>H Titone</b></p> <p>Energy &amp; Environment</p>                       | <p>CONCERNING THE PROMOTION OF WATER-EFFICIENT LANDSCAPING ON PROPERTY SUBJECT TO MANAGEMENT BY LOCAL SUPERVISORY ENTITIES.</p>   | <p><i>An amendment was introduced further clarifying which common areas would be affected in an HOA. The SA committee acted to support the bill in concept, as it allows for more water conservation opportunities.</i></p> | <p><b>01/04/2019</b></p> <p><b>SUPPORT IN<br/>CONCEPT</b></p> <p>SWCD Position:<br/><b>MONITOR</b></p> |
| <p><b>SUMMARY:</b> Section 1 of the bill augments an existing law that establishes the right of unit owners in common interest communities to use water-efficient landscaping, subject to reasonable aesthetic standards, by specifically <b>extending the same policy</b> to common areas under the control of the community's governing board. Sections 2 and 3 <b>extend existing water conservation</b> requirements, currently applicable only to certain public entities that supply water at retail and their customers, to <b>property management districts and other special districts</b> that manage areas of parkland and open space.</p>  |  |   |   |  |

| Bill No.<br>Title  | Sponsors<br>Committee                                 | Concerning   | Amendments<br>Comments  | When Introduced<br>CWC Action / SWCD<br>Position                 |
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| HB19 1082<br><br><a href="#">Water Rights Easements</a>  | H Catlin, Valdez<br>S Coram<br><br>Rural Affairs & Ag | CONCERNING THE RIGHTS OF A WATER RIGHTS EASEMENT HOLDER.     | <i>Diverse opinions were expressed regarding the unintended consequences of this bill, and several SA committee members volunteered to work with the sponsor on revised language.</i> | 01/11/2019<br><br>DISCUSSION<br><br>SWCD Position:<br>DISCUSSION |
| <p><b>SUMMARY:</b> The bill <b>clarifies</b> that water rights easement holders may maintain, repair, and improve their easement.</p>  |   |  |   |  |
| HB19 1096<br><br><a href="#">Colorado Right to Rest Act</a>  | H Melton<br><br>Transportation & Local Government     | CONCERNING THE CREATION OF THE "COLORADO RIGHT TO REST ACT." | <i>There was discussion about drafting language to exclude public water interests and property from the "public space" definition in the bill.</i>                                    | 01/14/2019<br><br>DISCUSSION<br><br>SWCD Position:<br>DISCUSSION |
| <p><b>SUMMARY:</b> The bill <b>creates</b> the "Colorado Right to Rest Act", which establishes basic rights for people experiencing homelessness, including but not limited to the right to rest in public spaces, to shelter themselves from the elements, to eat or accept food in any public space where food is not prohibited, to occupy a legally parked vehicle, and to have a reasonable expectation of privacy of their property.</p> <p>The bill <b>prohibits</b> discrimination based on housing status. The bill <b>creates</b> an exemption of the basic right to rest for people experiencing homelessness for any county, city, municipality, or subdivision that can demonstrate that, for 3 consecutive months, the waiting lists for all local public housing authorities contain fewer than 50 people. The bill allows the general assembly to appropriate money from the marijuana tax cash fund to the department of local affairs for the purpose of enabling governmental entities that do not meet the exemption requirement to reduce the housing waiting lists to fewer than 50 people for at least 6 months per year. The bill allows any person whose rights have been violated to seek enforcement in a civil action.</p> |   |  |   |  |

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| <p><b>HB19 1113</b></p> <p><a href="#">Protect Water Quality Adverse Mining Impacts</a></p>   | <p><b>H Roberts, McLachlan</b></p> <p>Rural Affairs &amp; Ag</p>    | <p>CONCERNING THE PROTECTION OF WATER QUALITY FROM ADVERSE IMPACTS CAUSED BY MINERAL MINING.</p> |                        | <p><b>01/15/2019</b></p> <p><b>DISCUSSION</b></p> <p>SWCD Position:<br/><b>SUPPORT</b></p> |
| <p><b>SUMMARY:</b> 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 <b>requires</b> most reclamation plans to demonstrate, by substantial evidence, <b>an end date for any water quality treatment</b> necessary to ensure compliance with applicable water quality standards.</p> <p>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 <b>eliminates this self-bonding option</b> 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> |   |  |                        |  |
| <p><b>HJR19 1005</b></p> <p><a href="#">Water Projects Eligibility List</a></p>   | <p><b>H Roberts<br/>S Donovan</b></p> <p>Rural Affairs &amp; Ag</p> | <p>CONCERNING WATER PROJECTS ELIGIBILITY LISTS.</p>  |                        | <p><b>01/10/2019</b></p> <p><b>SUPPORT</b></p> <p>SWCD Position:<br/><b>SUPPORT</b></p>    |
| <p><b>SUMMARY:</b> The <b>annual eligibility list for the water projects revolving fund</b> is set forth in this House Joint Resolution. The Water Quality Control Commission has made changes to the list, and the legislature must approve them before funding can take place. The list must be submitted to the legislature on or before January 15 and must be presented to the governor by April 1 of each year.</p>   |   |  |                        |  |