



COLORADO

Colorado Water
Conservation Board

Department of Natural Resources

2016 COLORADO LEGISLATIVE RECAP

Water & Natural Resources

HB16-1005: Residential Precipitation Collection

Sponsored by Reps. Esgar and Danielson and Senator Merrifield

For several sessions, legislation has been introduced to allow Colorado residents to collect residential rainwater through the use of household rain barrels. HB16-1005 allows the collection of precipitation from the roof of a home in up to two barrels with a combined storage capacity of 110 gallons or less. Collected water can be used for outdoor purposes on the residential property. The proponents of the bill added language to the legislative declaration stating that the bill does not affect the prior appropriation doctrine. In addition, the State Engineer's Office has to report to the House and Senate Agriculture Committees before 2021 and 2026 on whether the rain barrel collection has had any discernible impact on the amount of water available to downstream users.

The bill was signed by the Governor on May 12th.

HB16-1228: Ag Protection Water Right Transfer Mechanism

Sponsored by Reps. Arndt and J Becker and Senator Donovan

The bill allows the owner of an agricultural water right to seek a change-in-use decree in water court to allow the transfer of up to 50% of the water right to any beneficial use for renewable one year periods without designating the specific beneficial use if the owner has obtained a substitute water supply plan. The bill directs the Colorado Water Conservation Board (CWCB) to develop minimum criteria and guidelines, which may be different for each division, to establish an agricultural water protection program. The CWCB must post and update the draft rules on its website, take comments, and hold meetings with an eligible entity upon the request of that entity. The CWCB must hold at least one public meeting in each water division to present and take comment on the draft criteria and guidelines.

The bill was signed by the Governor on May 18th.

HB16-1255: Manage Forests to Improve Water Supply Conditions

Sponsored by Reps. Coram and Vigil and Senator Baumgardner

The bill directs the Colorado State Forest Service (CFS) to conduct demonstration pilot projects to implement forest management treatments that improve forest health and resilience, supply forest products to Colorado businesses, and target a Colorado watershed. The CFS, in conjunction with the Colorado Water Conservation Board (CWCB), is required to conduct a study to quantify and document the relationship between Colorado's Water Plan and the importance of forest management in protecting and managing Colorado's water resources.

The bill was signed by the Governor on April 21st.

HB16-1256: South Platte Water Storage Study

Sponsored by Rep. Brown and Senator Sonnenberg

The bill requires the Colorado Water Conservation Board (CWCB) and the State Engineer's Office to conduct a hydrology study of the South Platte river basin to determine for each of the 20 previous years the amount of water that has been delivered to Nebraska in excess of

compact requirements. The study must also list locations that have been identified as possible water storage sites, including the amount of water that could have been stored at each site, cost to construct the reservoir, land ownership, and a cost benefit analysis of dam construction. The study requires approval by the South Platte Basin and Metro Basin Roundtables and requires it meet guidelines for a grant from the Water Supply Reserve Account. The study must be completed by October 31, 2017 and provided to the committees of reference for natural resources by December 31, 2017.

The bill was signed by the Governor on June 9th.

HB16-1283: Water Loss Audit Report Performance Standards

Sponsored by Rep. KC Becker

The bill would have required covered entities (municipal and special district drinking water providers supplying 2,000 or more acre-feet of water annually to customers) to complete an annual water loss audit using standards adopted by the Colorado Water Conservation Board (CWCB). Within 4 years, the CWCB would have had to establish a score that a covered entity's water loss audit report should attain. Failure to properly complete the audit requirement could lead to withholding of grant and loan funding.

This bill was postponed indefinitely in the House Agriculture and Natural Resources Committee.

HB16-1314: Treat Pre-existing Groundwater Depletions Replaced

Sponsored by Reps. Saine and Humphrey and Senator Marble

The bill would have required the State Engineer and Water Judges to treat out-of-priority groundwater depletions from agricultural wells that occurred between March 15, 1974 and December 31, 2014 in Water Division 1, Districts 1 through 6 and 64, as having been fully replaced due to rising groundwater levels since January 1, 2006.

The bill was postponed indefinitely in the House Agriculture and Natural Resources Committee.

HB16-1315: Allow Seaplanes in State Parks Like Motorboats

Sponsored by Rep. Melton and Senator Todd

The bill would have allowed seaplane access to state-controlled waterways where motorboats are allowed.

The bill was postponed indefinitely in the House Transportation and Energy Committee.

HB16-1337: Appellate Process Groundwater Decisions

Sponsored by Reps. Vigil and Coram and Senator Scott

The bill would have limited the evidence that could be considered when appealing a decision by the Ground Water Commission or State Engineer to a district court.

The bill was postponed indefinitely in the Senate Judiciary Committee.

HB16-1382: Divert Water Piscatorial Aesthetic Beneficial Use

Sponsored by Rep. KC Becker

The bill would have clarified the definition of beneficial water use to include diversion or release from storage of water for any purposes for which the appropriation is lawfully made, including piscatorial (fishing) and aesthetic uses. This bill would have overturned the recent Supreme Court Decision in the St. Jude's Case, which contains language that clarifies that aesthetic purposes are not beneficial uses.

The bill was postponed indefinitely in the House Agriculture and Natural Resources Committee.

HB16-1392: Water Banks Administration

Sponsored by Reps. Arndt and Vigil and Senator Crowder

The bill would have provided for water banking throughout the State of Colorado by authorizing the Colorado Water Conservation Board (CWCB) to adopt rules establishing a water bank. HB16-1392 would have further authorized the CWCB Board, after the Board had operated the water bank for at least 2 years, to delegate the operation of a portion of the water bank to a water conservation district or a water conservancy district that had demonstrated to the board's satisfaction that it could effectively do so.

The bill was postponed indefinitely in the House Agriculture and Natural Resources Committee.

SB16-200: Create Director Water Project Permit Coordination

Sponsored by Rep. Vigil and Senator Sonnenberg

This bill creates a position in the office of the governor, designated as the director of water project permitting, to coordinate the permitting of:

- 1) Raw water diversion, storage, or delivery projects, including associated hydroelectric facilities and both consumptive and nonconsumptive uses of water; and
- 2) Water projects that are either assessed a water quality certification fee or are eligible for financing from the Colorado Water Conservation Board (CWCB) construction fund.

The bill also directs the annual transfer of an unspecified amount of money in equal amounts from the water quality certification sector fund and the CWCB construction fund to the newly created water permitting coordination fund.

The bill was signed by the Governor on June 8th.

SB16-218: State Severance Tax Refunds

Sponsored by Reps. Hammer and Rankin and Senators Lambert and Steadman

This bill addresses a Colorado Supreme Court decision from April 2016 that had impacts on the State of Colorado. The Colorado Supreme Court held that BP America can deduct "any transportation, manufacturing, and processing costs including the cost of capital" from gross proceeds in calculating its severance tax obligation under the Colorado Oil and Gas severance tax statute. In essence, due to this ruling, the State of Colorado was collecting too much in taxes from oil and gas companies and now is liable to refund that amount. Oil and gas companies may amend their severance tax filings for this current year and the previous three years. The State of Colorado's refund liability could reach \$125 million. This is the state's best current estimate. This bill establishes an allocation formula to take uncommitted and unspent balances from the various severance tax funds (state and local), as well as the General Fund statutory reserve to cover the refund claims as they come in.

View the ruling:

https://www.courts.state.co.us/userfiles/file/Court_Probation/Supreme_Court/Opinions/2013/13SC996.pdf

This bill was signed by the Governor on June 10th.

For more information on legislation: <https://legiscan.com/CO>

Thank you to the Colorado Water Congress and Brandeberry McKenna Public Affairs for contributing information.