



**COLORADO**

**Colorado Water  
Conservation Board**

Department of Natural Resources

1313 Sherman Street, Room 718  
Denver, CO 80203

P (303) 866-3441  
F (303) 866-4474

Jared Polis, Governor

Dan Gibbs, DNR Executive Director

Rebecca Mitchell, CWCB Director

**TO:** Colorado Water Conservation Board Members

**FROM:** Russ Sands, Water Supply Planning Section

**DATE:** January, 24, 2023

**AGENDA ITEM:** #21 Turf Replacement Program Update

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**Staff Recommendation:** This item is informational only; no Board action is requested.

**Background:** Staff are providing this update to the board to explain how staff intend to implement House Bill 22-1151 (the Turf Bill) and to gather feedback prior to the planned January 25, 2023 rollout. Staff are aiming to initiate this program early this year in order to help those who are able to take advantage of the funding to utilize it during the upcoming irrigation season - especially as all funds have to be spent by June of 2025.

Additionally, staff are trying to get this program out in an effort to be responsive to what has been a consistent and sustained interest in understanding how the program will work and how much water can be saved. Staff also hosted a [Colorado Landscape Summit](#) and worked with BBC Research & Consulting to write an [Exploratory Analysis of Potential Water Savings, Costs and Benefits of Turf Replacement in Colorado](#).

### Overview of the Turf Bill

The passage of the Turf Bill provided \$2 million to the CWCB for staffing and the creation of a turf replacement incentive program. The bill requires the Colorado Water Conservation Board to provide matching funds for eligible entities who have existing turf replacement programs (to expand their efforts), to support new eligible entities who are considering starting a program and to hire at least one third party contractor to help administer new programs where they do not currently exist.

### Eligible Entities

Eligible entities are defined in the legislation as Local Governments, Districts, Native American tribes and Nonprofits (defined below). Some of these are well defined in the legislation. In other cases the definitions of the eligible groups are less clear and staff are clarifying eligibility based on the perceived legislative intent.



- **Clearly Defined Eligible Entities In the Legislation**

The following eligible entities are clearly defined in the Turf Bill.

- **Local Governments** are defined as “a statutory or home rule municipality, county or city and county.”
- **Districts** have multiple callouts in the legislation to include special districts, water and sanitation districts, water districts, water conservancy and water conservation districts.

- **Definitions for Eligibility Based on Legislative Intent**

Legislation is less clear on defining Native American tribes and Nonprofit organizations. However, as single family residential customers are not eligible and existing programs focus on service providers who can provide rebates to single family, multifamily and/or commercial customers, the legislative intent seems to focus on entities capable of running or administering turf replacement programs. This means eligibility is incumbent on having some combination of a larger service area or jurisdiction, staffing capacity to administer a program across multiple properties, and the ability to maintain those programs over time. As such staff will consider the following.

- **Native American Tribes** is interpreted to refer to Colorado’s two federally recognized tribes (the Ute Mountain Ute and Southern Ute Indian Tribes).
- **Nonprofit Organizations** is interpreted to refer explicitly to 501(c)3 entities who work to coordinate water resource conservation or efficiency projects as their primary purpose and who can demonstrate the ability to coordinate turf replacement programs for other eligible entities rather than perform projects for their organization alone (e.g. Resource Central; High Country Conservation, etc.) To that end, homeowners associations (HOA) who are generally classified as 501(c)4 and who may be interested in doing work on their specific property/properties would *not* be considered an eligible nonprofit organization. However, an HOA may be able to participate in a turf replacement program if their water provider/district or a third party is able to provide support through that entity's efforts.

### Additional Conditions of Eligibility

To receive funds, eligible entities must also meet core requirements of the legislation. This includes providing up to 50% matching funds<sup>1</sup> and ensuring that funds are *not* spent on anything expressly prohibited in legislation (e.g. replacing turf with new turf or installing artificial turf, impermeable concrete, water features or invasive species). The CWCB is not precluded from making other requirements as long as they do not conflict with the legislation or the legislative intent.

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<sup>1</sup> Cash matching funds will be prioritized. In-kind matching funds may be allowed under special circumstances.



### Available Funds

There are up to three staff positions supported by the funding dedicated in HB 22-1151 and the fiscal note for the legislation also identifies funds for other support technology, including database creation and maintenance. Internal calculations by CWCB staff on the total costs of these items suggest that the expected total amount of funds available for incentives will be approximately \$1.5 million.

### Direct Contract Funding Process

Staff plan to contract directly with selected applicants following a preliminary eligibility screening for several reasons:

- Applications are expected to be relatively small (\$25K or less per entity per funding cycle) based on the available funds and the known amounts being spent by water providers working with Resource Central for their turf removal services.
- Grant pathways already exist through both Water Plan Grants and WSRF grants for applicants to apply for water conservation and drought resilience grants (which could include turf removal).
- CWCB has worked hard to reduce the total number of grant programs to limit confusion for applicants.
- The Turf Bill sunsets in June of 2025 and, unless reauthorized, is not a permanent program.

### Funding Timeline & Funding Cycles

The Turf Bill allocated funding from June 1, 2022 through June 30, 2025. There is a requirement that CWCB will have launched its turf replacement incentive program no later than July 1, 2023. Since CWCB wants to capitalize on both the 2023 irrigation season and the 2024 irrigation season, staff are working to get a program intake form up and launched in January to allow time for applications and contracting.

Some eligible entities (particularly those with existing programs) may be able to immediately take advantage of funding and be contracted as soon as this spring. Others may not be able to move as quickly, either because they do not have a program or need to build in budget and/or secure contracting for the 2024 irrigation season. For these reasons and to help distribute funds more fairly, staff plan to divide the \$1.5 million into two funding cycles.

- **\$750K April Funding Cycle** (Intake January - March) - The first funding cycle will be open to take applications from January 25 - March 31, with application review and contracting beginning April 1, 2023. This funding cycle plans to cap spending at \$750,000 with approximately \$550,000 allocated for existing programs and reserving \$200,000 to help support new programs, including third



party programs.

- **\$750K September Funding Cycle** (Intake July - August) - The second funding cycle will be open July 1- August 31, 2023, with application review and contracting beginning September 1, 2023. This funding cycle plans to similarly cap spending at \$750,000 with approximately \$550,000 allocated for existing programs and reserving \$200,000 to help support new programs and third parties (see details below in “Third Party Contractor”). Any unused dollars from the first funding cycle would also potentially be made available.

If not all funds are expended by the end of these two funding cycles, CWCB will look to open additional funding cycles in 2024.

### **Estimated Funding Disbursement Across Applicant Types**

The following are estimates of how CWCB will distribute funding within the program. CWCB will need flexibility to adjust the program in its early stages, but anticipates the following funding breakdown for the purposes of this memo and explaining how the program may work to the public.

- **Existing Programs (\$550K anticipated per funding cycle)** - Eligible entities who are applying for funds to expand their existing turf replacement programs are eligible for funding under the legislation. In general, monies will be divided fairly between applicants. If the 22 known water providers who have existing turf replacement programs were to all apply, each would stand to receive up to \$25,000 (\$550,000 across all existing program providers). They will be funded through direct contract and the total number of dollars (\$550,000) will be divided up among the total number of applicants at the close of the intake period. There are several reasons a qualified existing program may receive a lower amount which could include:
  - **Lower Dollar Requested/Lower Match** - The applicant may request a lower amount based on what they can bring for (up to 50%) match.
  - **Ineligible Items Included in Request** - The applicant may not be awarded a full amount if their funding request includes funding for things (e.g. artificial turf) the legislation prohibits.
  - **Higher Volume of Eligible Applicants** - The total number of applicants is greater than expected and spreading the funding across applicants reduces the amount any single entity can receive.
  - **Lower Quality Application** - The quality of the application is insufficient to justify the funding level being requested. See *Review and Quality Control/Quality Assurance (QAQC) of Applications in the following section.*



- ***New Programs (\$200K anticipated for third parties and other new programs)***
  - ***Self Supporting New Programs (\$150K anticipated across each funding cycle) -***  
 New programs are intended to refer to programs that have not yet been created and/or are being planned. These efforts may be seeking consultation support to help understand best practices, some initial seed money to stand-up a program, or assistance in finding other resources that could help their program advance. New programs will follow the same approach for dividing up available funds based on demands. Funds for new programs will be allocated with the aim of helping the eligible entity establish a program that could come in under the Existing Program category in a future round. CWCB staff will work with applicants to tailor the best approach that can be supported by the funds that are available.
  - ***Third Party Contractor (\$50K anticipated across each funding cycle)***  
 The CWCB is authorized to hire at least one third party contractor to help administer a turf removal program in areas that wouldn't otherwise have a program. The CWCB is not required to hire more than one contractor and does not anticipate it will.

To satisfy this requirement, the CWCB is working to contract with Resource Central to develop a **Transformative Landscape Change (TLC) Challenge**. This would run concurrent to the launch of the intake form and would ask for submissions by March 1, 2023. Entities who may not otherwise be considering a turf replacement program may identify a project that could demonstrate the benefits of turf replacement in their area. Those submitting would pitch their best concept, identify any partnerships, matching funds (cash and/or in-kind), water savings and describe the community benefits of the project. This could include replacing turf in a park or in a set of medians. Three winning applicants will be selected in March and Resource Central will work with them to remove up to 2,000 square feet of turf at a single site in their community. If this pilot is successful, the CWCB will work with Resource Central to run another contest for the September funding cycle (for work that will be completed in the spring of 2024).

If another eligible entity is interested in providing third party services that could reasonably advance turf replacement efforts, CWCB is open to discussing new concepts. However, concepts that are not considered to add value are those where a third party only aims to replicate the CWCB process and charge their own administrative fees. For example,



providing administrative services for pass-through dollars that result in the third party collecting an administrative fee or charging for staff time that does not demonstrate how it adds value and/or does not reasonably result in reductions in turf and water savings would not be funded.

- **Intake Form Overview**

The intake form CWCB is creating is an initial step towards developing a larger database that can integrate with the CWCB's online portal. The intake form will ask applicants questions that determine their eligibility, if they have an existing program or not, what efforts they have in place that can support this funding and other details including their contact information.

- **Review and QA/QC of Applications** - As with all funding programs CWCB staff are responsible for helping ensure funds are spent in a manner that is consistent with any applicable rules, guidelines or legislation. This includes ensuring that applications are providing quality projects that are beneficial.

Within the Turf Bill, there are several items which are “emphasized” or “encouraged” including using xeriscape to replace turf and considering defensible space against wildfire. Additionally, the turf bill aims to replace turf for the express purpose of saving water. These considerations will factor into whether a project is funded and to what level it is funded, if at all. While it is not the intent of the CWCB to overly scrutinize specific plant materials, replacement irrigation materials or other factors, the extent to which the project is actually saving water, the volume of savings, the breadth of the program (e.g. community benefit), the applicant's ability to produce reports, administer funds and adequately administer a program must all be considered in order to help ensure projects that are funded will have the highest likelihood of success and can serve as examples for others to follow.

All things being equal, if funding requests exceed available funds to the extent that CWCB has to apply more stringent criteria in considering funding requests, the following considerations may be applied:

- Applicant's ability to track water savings pre and post turf replacement.
- Extent that irrigation systems are being updated.
- Use of native or well adjusted low-water xeriscape plants versus other annuals, trees or higher water using plant materials.
- The extent to which local codes, ordinances, water rates and other tools in place can support sustained water savings.
- The ability of the applicant to verify the work was done properly and in compliance with the legislation.



- The ability to maximize the public benefit of the project by encouraging larger parcels rather than several small parcels, or public facing parcels rather than private.
- The extent to which newly planted xeriscape will be maintained over time.
- The extent to which potable water is being saved such that water is actually being reduced in the distribution system.
- How equity considerations are being incorporated into local planning as it relates to turf replacement.

