



**THE SOUTHWESTERN WATER CONSERVATION DISTRICT**

Developing and Conserving the Waters in the  
SAN JUAN AND DOLORES RIVERS AND THEIR TRIBUTARIES  
West Building – 841 East Second Avenue  
DURANGO, COLORADO 81301  
(970) 247-1302

**BOARD MEMORANDUM**

**From:** Steve Wolff, General Manager  
**To:** Southwestern Board of Directors  
**Subject:** Colorado Legislative report – 03/01/22

---

**NOTE: This meeting will be held via conference call only. 720-543-2329; 647035#**

Only one new bill (**SB22-136**) of interest has been introduced by the Colorado General Assembly since our last discussion. However, there has been a lot of discussion about amendments to the bills we have previously discussed. Garin will bring us up to date with any new issues, but what we know as of March 1 is:

[HB22-1151 – Turf Replacement Program](#)

Was heard in the House Ag Committee on February 28. The bill passed out of committee with two adopted amendments (attached). The amendments included language to emphasize the goal of creating of defensible space to reduce wildfire risk, addressing the need for some level of accountability from participants, and the authorization of \$4 million to initially fund the program. The bill is now headed to the House Appropriations Committee.

The State Affairs Committee of Colorado Water Congress voted to **support** this bill on Monday, February 28.

**I would recommend that the SWCD board also vote to support HB22-1151.**

[SB22-114 – Fire Suppression Ponds Water Rights](#)

You have voted to support this bill.

CCI continues to work with stakeholders to find language that can be supported by more entities. The Senate Ag Committee did hear testimony on the bill last week but took no action on it. The

latest draft set of amendments (L03) is attached. These amendments replace L01 and L02 which were previously circulated. In listening to the discussions on this bill, I believe its fate is still very uncertain.

#### SB22-126 - Prioritize Water Storage Projects South Platte Basin

You have voted to oppose this bill.

The bill was heard in Senate Ag on February 24. It was amended (see attached L001) and passed unanimously. The bill has been placed on the consent calendar for the Senate Committee of the Whole.

The amended language that was adopted did soften the tone of the bill, but still calls for CWCB to prioritize the funding of projects in the South Platte basin over other basins in Colorado. There has been much discussion on how this bill is too divisive, however the Colorado General Assembly seems intent on passing it.

On 3/01/22 the Senate laid over this bill on second reading to 03/07/2022.

#### SB22-136 - Special District Governance

*“Concerning measures to promote the governance of special districts, and, in connection therewith, requiring greater disclosure of developer-affiliated board activity, requiring processes to facilitate resident representation on special district boards, and extending the powers of initiative and referendum to the electors of special districts.”*

Although this bill doesn't directly impact the SWCD, it does appear to have been targeted at metro districts. Garin can explain some of the background on that. We just felt you should be made aware of this.

#### **DRAFT RIVR Legislation.**

This proposed bill would allow certain public entities to create a “recreation in-channel values reach” (RIVR), a stretch of river up to 400 yards long, which is important to boaters, anglers and waders. Holders of this RIVR segment could then lease water, which would be sent downstream to boost flows in the segment. Attached is the latest draft language for this proposed bill, as well as a fact sheet from the bill's proponents. There was a stakeholder meeting yesterday to continue discussions. There still seems to be significant concerns about this bill from the traditional water user community.

# HB22-1151 Turf Replacement Program

Representatives Catlin & Roberts and Senators Bridges & Simpson

**HB22-1151 will help Coloradans make smart water use choices and benefit the state in four crucial ways:**

- Improving water conservation
- Saving Coloradans money on water bills
- Ensuring our water resources are used efficiently
- Supporting healthy ecosystems

**Promoting the efficient use of Colorado's water resources by decreasing areas of irrigated turf can take pressure off rivers and agriculture for new municipal supplies and increase community resiliency to drought and climate change.** This bill will help drive voluntary changes that will lead to increased water conservation, drought resilience, and smarter water use overall in Colorado by providing incentives for replacing irrigated turf grass with water efficient landscaping.

---

## THE PROBLEM

**Nearly 50% of water used within the municipal and industrial sector in Colorado is used outdoors and a lot of that irrigates non-native turf grasses.** While there are important and appropriate places and uses for irrigated turf (e.g., parks, sports fields, playgrounds, portions of residential yards), much turf receives little, if any, use and *if replaced with water efficient landscapes would save significant amounts of water.*

Turf replacement programs exist today in some parts of the state, but rebate incentives are usually around \$1 per square foot<sup>1</sup> and program budgets are limited. Available funding is not sufficient to cover the costs of a project or adequately incentivize participation.

Currently 4.2 million Coloradans — approximately 75% of the state — live in communities that do not offer turf replacement incentives. Only 19 cities, towns, or water districts in Colorado provide financial incentives for turf replacement for customers.

There is additional demand in the state for this type of program. As of 2022, the annual budget for the 19 turf replacement programs in Colorado was approximately \$1.3 million. These programs serve only about 25% of Coloradans, and several programs run out of money each year. It is clear there is more demand for turf replacement funding in Colorado than is currently available.

---

## THE SOLUTION

**HB22-1151 directs the Colorado Water Conservation Board (CWCB) to develop a voluntary statewide program to replace turf grass. The program will:**

- Match local turf replacement program funding;
- Provide a pathway for people who don't live in communities with turf replacement programs to access funding through a third-party contractor;
- Provide financial incentives for property owners to replace less-used areas of grass with water efficient and climate appropriate landscaping;
- Require waterwise replacement vegetation that provides benefits such as mitigating stormwater runoff, providing pollinator habitat, creating more drought-proof landscapes, lowering water bills and other ownership and maintenance costs, and improving community aesthetics.

**HB22-1151 also provides funding to make a turf replacement project an economically viable, and environmentally sustainable, choice for property owners.**

**Funding will:**

- Incentivize commercial, industrial, institutional, HOA, and multi- and single-family residential property owners to replace turf with lower water use landscaping;
  - Allow the 19 existing local turf replacement programs to scale up through matching funds;
  - Enable existing providers to increase their own turf replacement budget contributions to make it economical for property owners to replace turf;
  - Incentivize communities without turf replacement programs to develop and implement new programs; and
  - Support the 75% of Coloradans statewide who are not served by a local program through a third-party contractor.
-

## HOW TURF REPLACEMENT PROGRAM FUNDING WOULD WORK

While turf replacement programs vary, they are relatively straight forward. For this reason, and to streamline access to funding, HB22-1151 puts the CWCB in charge of establishing grant guidelines. Local communities that pursue matching funds are responsible for developing the details of their turf replacement programs to ensure they are best suited to local needs. This allows the CWCB and communities to modify program requirements over time without having to return to the legislature to change the statute.

### Program Funding Can Be Accessed in Two Ways:

**Matching Grant Funds** - Under HB22-1151, eligible entities can apply for matching funds for existing and new turf replacement programs. This will allow entities to scale up existing programs, provide additional incentives for participation, and may encourage communities without programs to develop one. If a

community has a turf replacement program but currently contracts with an outside organization to administer the program and work directly with property owners (e.g., the non-profit Resource Central), the contractor could apply for the matching funds; and

**Third-Party Contractor Programs** (via RFP) - For Coloradans who don't have access to a turf replacement program, the CWCB would issue a request for proposals (RFP) and select one or more third-party contractors (e.g., Resource Central or organizations with similar capacities) to develop and manage turf replacement programs around the state. These contractors would work directly with individual property owners to provide financial incentives for their turf replacement projects, opening up turf replacement funds to all Coloradans.

### HB22-1151 is Supported by:



**COLORADO  
RIVER  
DISTRICT**



**WESTERN  
RESOURCE  
ADVOCATES**

PROTECTING THE WEST'S LAND, AIR, AND WATER

**RESOURCE  
central**

CONSERVATION MADE EASY

**BUSINESS FOR  
WATER**  
STEWARDSHIP

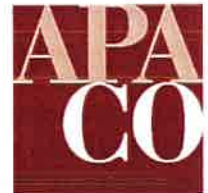


"Voice of the Western Slope"

**Northern Water**



**Conservation Colorado**



**COLORADO  
CATTLEMEN'S  
ASSOCIATION**  
*Advancing the Legacy*



**COLORADO  
MUNICIPAL  
LEAGUE**



**The Nature  
Conservancy**  
Colorado



**COLORADO  
WATER CONGRESS**  
INFORM | CONVENE | TRAIN | ACT



**CCI**  
COLORADO COUNTIES, INC.  
*Educate • Advocate • Empower*

<sup>1</sup> For example, Fort Collins Utilities offers up to \$1 per square foot for residential turf replacement projects and up to \$1.50 per square foot for commercial turf replacement projects. Greeley Water offers residential, commercial and HOA properties \$1 per square foot for converted turf.

HB1151\_L.001

HOUSE COMMITTEE OF REFERENCE AMENDMENT

Committee on Agriculture, Livestock, & Water.

HB22-1151 be amended as follows:

- 1 Amend printed bill, page 8, line 19, strike "AND".
- 2 Page 8, line 23, strike "PROGRAM." and substitute "PROGRAM; AND
- 3 (III) IS ENCOURAGED TO REQUIRE THAT ITS PROGRAM
- 4 PARTICIPANTS MAINTAIN OR CREATE DEFENSIBLE SPACE TO REDUCE
- 5 WILDFIRE RISK."
- 6 Page 10, line 11, strike "AND".
- 7 Page 10, line 13, after "SPECIES;" insert "AND
- 8 (D) THERE IS AN EMPHASIS ON CREATING AND MAINTAINING
- 9 DEFENSIBLE SPACE TO REDUCE WILDFIRE RISK."
- 10 Page 10, line 20, after "RESPONSIBILITIES" insert "AND THE
- 11 ACCOUNTABILITY".
- 12 Page 10, line 22, after "RESPONSIBILITIES" insert "AND ACCOUNTABILITY".
- 13 Page 11, line 3, strike "PROGRAM." and substitute "PROGRAM, INCLUDING
- 14 ADMINISTRATIVE COSTS."
- 15 Page 12, after line 14, insert:
- 16 "(7) NOTHING IN THIS SECTION SHALL BE CONSTRUED TO ADD A
- 17 REQUIREMENT FOR A WATER CONSERVATION PLAN THAT A COVERED
- 18 ENTITY FILES PURSUANT TO SECTION 37-60-126 (2)".

\*\* \*\* \*\* \*\* \*\*

HB1151\_L.002

HOUSE COMMITTEE OF REFERENCE AMENDMENT

Committee on Agriculture, Livestock, & Water.

HB22-1151 be amended as follows:

1 Amend printed bill, page 2, line 6, strike "**definitions.**" and substitute  
2 "**definitions - repeal.**"

3 Page 12, strike lines 12 through 14 and substitute:

4 "(b) MONEY IN THE FUND IS CONTINUOUSLY APPROPRIATED TO THE  
5 BOARD. THE BOARD MAY USE THE MONEY IN THE FUND FOR THE PURPOSES  
6 SET FORTH IN THIS SECTION UNTIL THE MONEY IS EXPENDED.

7 (c) (I) ON THE EFFECTIVE DATE OF THIS SUBSECTION (6)(c), THE  
8 STATE TREASURER SHALL TRANSFER FOUR MILLION DOLLARS FROM THE  
9 GENERAL FUND TO THE TURF REPLACEMENT FUND.

10 (II) THIS SUBSECTION (6)(c) IS REPEALED, EFFECTIVE JULY 1,  
11 2023."

\*\* \*\* \*\* \*\* \*\*

SB114\_L.003

SENATE COMMITTEE OF REFERENCE AMENDMENT

Committee on Agriculture & Natural Resources.

SB22-114 be amended as follows:

- 1 Amend printed bill, page 4, strike lines 5 through 9 and substitute "use available
- 2 water resources in a fire event and has authorized the emergency use of wells
- 3 for firefighting purposes;
- 4 (e) Using water resources to fight fires in emergencies is in the public
- 5 interest and may be critical in protecting life, property, and infrastructure;"
  
- 6 Page 4, strike lines 16 through 18 and substitute:
  
- 7 "(h) The state engineer may order ponds to be drained or backfilled if
- 8 they are found to deplete streams out of priority, which poses the risk of leaving
- 9 remote communities without sufficient water resources to fight fires;"
  
- 10 Page 6, line 13, strike "(9)" and substitute "(8)".
  
- 11 Page 6, line 14, strike "(a)".
  
- 12 Page 6, strike lines 17 through 27 and substitute "SHALL PROVIDE NOTICE OF
- 13 SUCH FACT TO THE STATE ENGINEER. THE NOTICE MUST INDICATE THE
- 14 LOCATION AND APPROXIMATE SURFACE AREA OF THE POND."
  
- 15 Page 7, strike lines 1 through 11.
  
- 16 Renumber succeeding subsections accordingly.
  
- 17 Page 8, line 7, strike "37-80-124;" and substitute "37-80-124 AND THE POND
- 18 IS OPERATING IN ACCORDANCE WITH THE DESIGNATION;"
  
- 19 Page 8, line 11, strike "(9)" and substitute "(8)".
  
- 20 Page 8, lines 12 and 13, strike "POND, WHICH ORDER EXISTS ON THE EFFECTIVE
- 21 DATE OF THIS SECTION," and substitute "POND".
  
- 22 Page 8, line 17, strike "(8)(c)" and substitute "(7)(c)".
  
- 23 Page 8, line 18, strike "(9) (a)" and substitute "(8) (a)".
  
- 24 Page 8, strike lines 25 through 27 and substitute:
- 25 "THIS SECTION. AT A MINIMUM, THE CRITERIA MUST REQUIRE THAT A FIRE
- 26 SUPPRESSION POND:

- 1 (I) BE READILY ACCESSIBLE BY A FIRE DISTRICT, FIRE DEPARTMENT,  
2 OR OTHER FIREFIGHTING ENTITY;  
3 (II) BE LOCATED IN THE WILDLAND-URBAN INTERFACE OR ANOTHER  
4 LOCATION THAT FACES AN ELEVATED THREAT OF FIRE RISK; AND  
5 (III) BE LOCATED IN AN AREA WITHOUT TIMELY OR ADEQUATE  
6 ACCESS TO FIRE HYDRANTS OR OTHER WATER SUPPLIES AND WHERE THE POND  
7 PROVIDES A NEEDED SUPPLY."

8 Page 9, strike lines 1 through 19.

9 Page 9, line 21, strike "(9) (a)" and substitute "(8) (a)".

10 Page 10, after line 8 insert:

11 "(10) THE COLORADO WATER CONSERVATION BOARD OR THE  
12 DIVISION OF FIRE PREVENTION AND CONTROL IN THE DEPARTMENT OF PUBLIC  
13 SAFETY, SUBJECT TO AVAILABLE APPROPRIATIONS, MAY PROVIDE FINANCIAL  
14 SUPPORT TO A BOARD OF COUNTY COMMISSIONERS TO FACILITATE THE  
15 BOARD'S ACQUISITION OF AUGMENTATION WATER FOR PONDS THAT SATISFY  
16 THE CRITERIA ESTABLISHED BY RULES PROMULGATED PURSUANT TO  
17 SUBSECTION (8) OF THIS SECTION BUT ARE NOT DESIGNATED AS FIRE  
18 SUPPRESSION PONDS."

19 Page 10, line 13, strike "database." and substitute "database - reviews by  
20 water courts."

21 Page 12, line 24, strike "DISCRETE".

22 Page 12, line 27, after "(10)" insert "(a)".

23 Page 13, strike lines 2 and 3 and substitute:

24 "FIRE SUPPRESSION POND UNLESS:

25 (I) THE POND EXISTED WITH THE SAME OR GREATER SURFACE AREA  
26 AS OF JUNE 1, 1972;

27 (II) DECREED STORAGE RIGHTS FOR THE POND ARE LIMITED TO USE  
28 WITHIN THE POND AND ONLY LIVESTOCK WATERING, WILDLIFE, OR OTHER  
29 NON-CONSUMPTIVE USES;

30 (III) THE POND IS NOT INCLUDED AS A STRUCTURE IN A DECREED PLAN  
31 FOR AUGMENTATION, APPROPRIATIVE RIGHT OF EXCHANGE, OR STATE-  
32 APPROVED SUBSTITUTE WATER SUPPLY PLAN;

33 (IV) THE SURFACE AREA OF THE POND DOES NOT EXCEED SIX ACRES,  
34 AND

35 (V) THE BOARD OF COUNTY COMMISSIONERS THAT REQUESTED THE



1 DESIGNATION HAS PROVIDED NOTICE OF THE REQUEST TO INTERESTED PARTIES  
2 INCLUDED IN THE SUBSTITUTE WATER SUPPLY PLAN NOTIFICATION LIST  
3 ESTABLISHED PURSUANT TO SECTION 37-92-308 (6) FOR THE WATER DIVISION  
4 IN WHICH THE POND IS LOCATED.

5 (b) THE NOTICE DESCRIBED IN SUBSECTION (10)(a)(V) OF THIS SECTION  
6 MUST INCLUDE:

7 (I) THE RESULTS OF THE NEEDS ASSESSMENT CONDUCTED FOR THE  
8 POND PURSUANT TO SECTION 37-82-107 (3)(a)(II);

9 (II) A COPY OF THE APPLICATION FOR DESIGNATION OF THE POND AS  
10 A FIRE SUPPRESSION POND, WHICH APPLICATION WAS SUBMITTED TO THE  
11 STATE ENGINEER BY THE BOARD OF COUNTY COMMISSIONERS; AND

12 (III) A STATEMENT THAT, PURSUANT TO SUBSECTION (11) OF THIS  
13 SECTION, IF THE STATE ENGINEER DESIGNATES THE POND AS A FIRE  
14 SUPPRESSION POND, THE OWNERS OF DECREED WATER RIGHTS HAVE THIRTY-  
15 FIVE DAYS AFTER SUCH DESIGNATION TO FILE WITH THE APPLICABLE WATER  
16 COURT A PETITION FOR REVIEW OF THE STATE ENGINEER'S DECISION.

17 (11) (a) WITHIN THIRTY-FIVE DAYS AFTER THE STATE ENGINEER  
18 DESIGNATES A POND AS A FIRE SUPPRESSION POND, A HOLDER OF A DECREED  
19 WATER RIGHT THAT ALLEGES A MATERIAL INJURY TO VESTED WATER RIGHTS  
20 MAY FILE WITH THE WATER CLERK OF THE WATER DIVISION IN WHICH THE  
21 FIRE SUPPRESSION POND IS LOCATED A PETITION FOR REVIEW OF THE STATE  
22 ENGINEER'S DECISION.

23 (b) UPON RECEIVING A PETITION DESCRIBED IN SUBSECTION (11)(a) OF  
24 THIS SECTION, A WATER JUDGE SHALL CONDUCT A REVIEW OF THE STATE  
25 ENGINEER'S DECISION DE NOVO BASED ON THE ADMINISTRATIVE RECORD.

26 (c) NOTWITHSTANDING ANY PROVISION OF THIS SECTION TO THE  
27 CONTRARY, IF A WATER JUDGE DETERMINES THAT A HOLDER OF A DECREED  
28 WATER RIGHT HAS PROVIDED SUFFICIENT EVIDENCE THAT MATERIAL INJURY  
29 HAS OCCURRED OR WILL OCCUR TO THE DECREED WATER RIGHT, AS  
30 DESCRIBED IN SECTION 37-92-602 (8)(i), THE WATER JUDGE MAY OVERRULE  
31 AND NULLIFY THE STATE ENGINEER'S DESIGNATION. <{*This language*  
32 *tracks with the rebuttable presumption language of the paragraph (i)*  
33 *created on pages 3-4 of this amendment.*}>

34 Page 13, strike line 5 and substitute "(8)(a) and (8)(b) introductory portion; and  
35 **add** (8)(b)(III) and (8)(i) as".

36 Page 13, line 13, strike "THAT" and substitute "WITH WATER THAT MAY BE  
37 USED IN A FIRE EMERGENCY, WHICH POND".

38 Page 13, strike lines 19 through 26 and substitute:

39 "(i) IF A BOARD OF COUNTY COMMISSIONERS APPLIES TO THE STATE

1 ENGINEER FOR THE DESIGNATION OF A FIRE SUPPRESSION POND PURSUANT TO  
2 SECTION 37-80-124, AND THE REQUIREMENTS OF SECTION 37-80-124 (10)  
3 AND ANY RULES PROMULGATED BY THE DIVISION OF FIRE PREVENTION AND  
4 CONTROL PURSUANT TO SECTION 24 37-82-107 (8) ARE SATISFIED, THE  
5 PROPOSED FIRE SUPPRESSION POND IS PRESUMED TO CAUSE NO MATERIAL  
6 INJURY TO THE VESTED WATER RIGHTS OF OTHERS. A HOLDER OF A DECREED  
7 WATER RIGHT MAY REBUT THE PRESUMPTION BY PROVIDING EVIDENCE TO A  
8 WATER COURT, AS DESCRIBED IN SECTION 37-80-124 (11), SUFFICIENT TO  
9 SHOW THAT MATERIAL INJURY HAS OCCURRED OR WILL OCCUR TO THE  
10 DECREED WATER RIGHT.". <*I changed this to refer to the water court*  
11 *rather than the state engineer.*>

\*\* \*\*

SENATE COMMITTEE OF REFERENCE AMENDMENT

Committee on Agriculture & Natural Resources.

SB22-126 be amended as follows:

- 1 Amend printed bill, page 2, after line 3 insert:
  - 2 "(a) As a headwaters state, all of Colorado's major rivers flow
  - 3 downstream to 18 states and Mexico. Coloradans recognize that each
  - 4 river basin in the state is unique, but that all are vital to the viability of the
  - 5 state's overall economy and way of life.
  - 6 (b) Coloradans recognize that we are all connected through the
  - 7 state's rivers, streams, watersheds, and irrigation and water delivery
  - 8 systems. When the state's interstate compact entitlements are threatened
  - 9 in one basin, the water supplies of other basins may be impacted.
  - 10 (c) Colorado will protect and defend its water rights throughout
  - 11 the state and preserve Colorado's interstate compact entitlements,
  - 12 agreements, and decrees;"
- 13 Reletter succeeding paragraphs accordingly.
- 14 Page 3, strike lines 18 through 25 and substitute "INCLUDING THE SOUTH
- 15 PLATTE RIVER;"

\*\* \*\* \*\* \*\* \*\*

Second Regular Session  
Seventy-third General Assembly  
STATE OF COLORADO

INTRODUCED

LLS NO. 22-0662.02 Bob Lackner x4350

**SENATE BILL 22-136**

---

**SENATE SPONSORSHIP**

Story,

**HOUSE SPONSORSHIP**

Weissman and Boesenecker,

---

**Senate Committees**

Local Government

**House Committees**

---

**A BILL FOR AN ACT**

101     **CONCERNING MEASURES TO PROMOTE THE GOVERNANCE OF SPECIAL**  
102             **DISTRICTS, AND, IN CONNECTION THEREWITH, REQUIRING**  
103             **GREATER DISCLOSURE OF DEVELOPER-AFFILIATED BOARD**  
104             **ACTIVITY, REQUIRING PROCESSES TO FACILITATE RESIDENT**  
105             **REPRESENTATION ON SPECIAL DISTRICT BOARDS, AND**  
106             **EXTENDING THE POWERS OF INITIATIVE AND REFERENDUM TO**  
107             **THE ELECTORS OF SPECIAL DISTRICTS.**

---

**Bill Summary**

*(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://leg.colorado.gov>.)*

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.  
Capital letters or bold & italic numbers indicate new material to be added to existing statute.  
Dashes through the words indicate deletions from existing statute.

**Section 1** of the bill extends the powers of the initiative and referendum reserved to the people in the state constitution to the electors of special districts.

**Section 2** requires each developer-affiliated board (board) of a special district (district) to issue an agenda and board packet for each board meeting. The board must send the agenda and board packet by regular United States mail and by e-mail to each resident of the district along with a separate statement that expressly discloses to each resident the fact that the board has a conflict of interest with the residents and that residents of the district may serve on the board.

The bill also requires each board to send a self-nomination form to each resident of the district with each agenda and board packet with instructions that a resident may follow for completing the form and delivering the completed form to the manager and legal counsel of the district.

Immediately upon receiving a self-nomination form from a resident for a position on the board, the board must identify the board position to be terminated and immediately appoint the resident who submitted the self-nomination form to fill the position. A developer-affiliated position is immediately terminated upon receipt by the board of a self-nomination form from a resident. If self-nomination forms are received from residents in an amount that exceeds the positions on the board, the board is required to immediately call a special election to fill all of the developer-affiliated positions.

---

1 *Be it enacted by the General Assembly of the State of Colorado:*

2           **SECTION 1.** In Colorado Revised Statutes, **add** 32-1-810 as  
3 follows:

4           **32-1-810. Initiative and referendum powers - electors of**  
5 **special districts.** NOTWITHSTANDING ANY OTHER PROVISION OF LAW, THE  
6 POWERS OF THE INITIATIVE AND REFERENDUM RESERVED TO THE PEOPLE  
7 IN SECTION 1 OF ARTICLE V OF THE STATE CONSTITUTION ARE HEREBY  
8 EXTENDED TO THE ELECTORS OF SPECIAL DISTRICTS. TO THE EXTENT  
9 APPLICABLE, SPECIAL DISTRICT INITIATIVES AND REFERENDA ARE  
10 GOVERNED IN ACCORDANCE WITH THE REQUIREMENTS SPECIFIED IN  
11 ARTICLE 11 OF TITLE 31, AS SUCH REQUIREMENTS MAY BE SUPPLEMENTED

1 OR MODIFIED BY THE BOARD OF THE SPECIAL DISTRICT. IN CONNECTION  
2 WITH THE APPLICATION OF THE REQUIREMENTS IN ARTICLE 11 OF TITLE 31  
3 TO THE EXERCISE OF THE RIGHTS OF INITIATIVE AND REFERENDA GRANTED  
4 BY THIS SECTION, THE DISTRICT SHALL IMPLEMENT THE REQUIREMENTS  
5 LIBERALLY SO AS TO FACILITATE AND NOT OBSTRUCT SUCH RIGHTS.

6 **SECTION 2.** In Colorado Revised Statutes, **add** 32-1-903.5 as  
7 follows:

8 **32-1-903.5. Developer-affiliated boards - transition to control**  
9 **by resident controlled boards - disclosure - definitions.** (1) AS USED  
10 IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE REQUIRES:

11 (a) "BOARD PACKET" MEANS A COLLECTION OF INFORMATIONAL  
12 MATERIALS DISTRIBUTED TO BOARD MEMBERS IN ADVANCE OF A BOARD  
13 MEETING THAT CONTAIN USEFUL INFORMATION FOR DISCUSSION AT THE  
14 BOARD MEETING.

15 (b) "DEVELOPER-AFFILIATED BOARD" MEANS THE BOARD OF  
16 DIRECTORS OF A SPECIAL DISTRICT, THE MAJORITY OF WHICH MEMBERS OF  
17 THE BOARD ARE NOT RESIDENTS OF THE DISTRICT AND QUALIFY FOR  
18 SERVICE ON THE BOARD PURSUANT TO SECTION 32-1-808 (2).

19 (c) "DEVELOPER-AFFILIATED POSITION" MEANS A POSITION ON A  
20 DEVELOPER-AFFILIATED BOARD THAT IS HELD BY AN INDIVIDUAL WHO IS  
21 NOT A RESIDENT OF THE DISTRICT AND QUALIFIES FOR SERVICE ON THE  
22 BOARD PURSUANT TO SECTION 32-1-808 (2).

23 (2) EACH DEVELOPER-AFFILIATED BOARD SHALL ISSUE AN AGENDA  
24 AND BOARD PACKET FOR EACH BOARD MEETING. THE BOARD SHALL SEND  
25 THE AGENDA AND BOARD PACKET BY REGULAR UNITED STATES MAIL AND  
26 BY E-MAIL TO EACH RESIDENT OF THE DISTRICT ALONG WITH A SEPARATE  
27 STATEMENT THAT EXPRESSLY DISCLOSES TO EACH RESIDENT THE FACT

1 THAT THE DEVELOPER-AFFILIATED BOARD HAS A CONFLICT OF INTEREST  
2 WITH THE RESIDENTS AND THAT RESIDENTS OF THE SPECIAL DISTRICT MAY  
3 SERVE ON THE BOARD.

4 (3) THE BOARD SHALL ALSO SEND A SELF-NOMINATION FORM TO  
5 EACH RESIDENT OF THE SPECIAL DISTRICT WITH EACH AGENDA AND BOARD  
6 PACKET WITH INSTRUCTIONS THAT A RESIDENT MAY FOLLOW FOR  
7 COMPLETING THE FORM AND DELIVERING THE COMPLETED FORM TO THE  
8 MANAGER AND LEGAL COUNSEL OF THE DISTRICT.

9 (4) IMMEDIATELY UPON RECEIVING A SELF-NOMINATION FORM  
10 FROM A RESIDENT FOR A POSITION ON THE BOARD, THE  
11 DEVELOPER-AFFILIATED BOARD SHALL IDENTIFY THE BOARD POSITION TO  
12 BE TERMINATED AND IMMEDIATELY APPOINT THE RESIDENT WHO  
13 SUBMITTED THE SELF-NOMINATION FORM TO FILL THE POSITION. A  
14 DEVELOPER-AFFILIATED POSITION IS IMMEDIATELY TERMINATED UPON  
15 RECEIPT BY THE DEVELOPER-AFFILIATED BOARD OF A SELF-NOMINATION  
16 FORM FROM A RESIDENT. IF SELF-NOMINATION FORMS ARE RECEIVED FROM  
17 RESIDENTS IN AN AMOUNT THAT EXCEEDS THE POSITIONS ON THE BOARD,  
18 THE BOARD SHALL IMMEDIATELY CALL A SPECIAL ELECTION TO FILL ALL  
19 OF THE DEVELOPER-AFFILIATED POSITIONS.

20 **SECTION 3. Act subject to petition - effective date.** This act  
21 takes effect at 12:01 a.m. on the day following the expiration of the  
22 ninety-day period after final adjournment of the general assembly; except  
23 that, if a referendum petition is filed pursuant to section 1 (3) of article V  
24 of the state constitution against this act or an item, section, or part of this  
25 act within such period, then the act, item, section, or part will not take  
26 effect unless approved by the people at the general election to be held in

- 1 November 2022 and, in such case, will take effect on the date of the
- 2 official declaration of the vote thereon by the governor.



**Draft RIVR Legislation**  
**February 25, 2022**

SECTION 1. Legislative declaration.

- (1) The general assembly finds that:
  - (a) Healthy rivers support vibrant communities and economies by providing high-quality recreation experiences that attract residents and visitors, and stream flows are declining from historical levels due to the effects of climate change; and
  - (b) River recreation annually contributes very significantly to Colorado's economy, tax revenue and job creation; and
- (2) The general assembly also finds that:
  - (a) Today, Colorado communities are pursuing investments in river-based recreation as a place-based strategy that diversifies local and regional economies and increases economic resilience;
  - (b) Colorado communities need to have tools available to protect and enhance their natural stream flows for boating, fishing, or wade angling; and
  - (c) Ensuring protection for healthy stream flows is necessary to support sustainable outdoor recreation economies in Colorado.
- (3) Now, therefore, the general assembly declares its intent to:
  - (a) Authorize communities and other public entities to identify and propose stream reaches as recreational in-channel values reaches; and
  - (b) Authorize the delivery of water to such stream recreational in-channel values reaches without appropriating any water right or calling out or curtailing existing water rights including existing rights of exchange.

SECTION 2. In Colorado Revised Statutes, add 37-60-134 as follows:

37-60-134. Recreational in-channel values reaches - request for designation - designation process - recommended flow rates - acquisition of water, water rights, and water interests - definitions - rules.

- (1) AS USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE REQUIRES:
  - (a) "RECREATIONAL IN-CHANNEL VALUES REACH" MEANS A SEGMENT OF A STREAM THAT THE BOARD HAS DESIGNATED AS A RECREATIONAL IN-CHANNEL VALUES REACH PURSUANT TO SUBSECTION (2) OF THIS SECTION.
  - (b) "RECREATIONAL IN-CHANNEL VALUES REACH RECOMMENDED FLOW" MEANS A RATE OF STREAM FLOW WITHIN A RECREATIONAL IN-CHANNEL VALUES REACH WHICH RATE IS NECESSARY FOR BOATING, FISHING, OR WADE ANGLING.
- (2) (a) ON AND AFTER THE EFFECTIVE DATE OF THIS ACT, UPON APPLICATION BY ANY OF THE PARTIES DESCRIBED IN SUBSECTION (2)(c) OF THIS SECTION, AFTER CONSIDERATION OF ANY COMMENTS RECEIVED ON THE APPLICATION, DELIBERATION IN A PUBLIC MEETING, AND MAKING WRITTEN FINDINGS, THE

BOARD SHALL DESIGNATE AS A RECREATIONAL IN-CHANNEL VALUES REACH A SEGMENT OF A STREAM MEETING THE FOLLOWING CRITERIA

- (I) THE EXISTENCE OF A RECREATIONAL ACTIVITY OR OF RECREATIONAL ACTIVITIES, WHICH MAY BE BOATING, FISHING, OR WADE ANGLING, AS DEMONSTRATED BY STUDIES, COMMUNITY PLANNING DOCUMENTS, OR OTHER DOCUMENTATION;
- (II) THE EXISTENCE OF PUBLIC ACCESS, BY PUBLIC LAND STATUS OR LANDOWNER CONSENT, OR BOTH;
- (III) A MAXIMUM LENGTH OF 400 YARDS;
- (IV) THAT DESIGNATION AND ADMINISTRATION OF FLOWS TO THE RECREATIONAL IN-CHANNEL VALUES REACH WOULD NOT MATERIALLY IMPAIR THE ABILITY OF COLORADO TO FULLY DEVELOP AND PLACE TO CONSUMPTIVE BENEFICIAL USE ITS COMPACT ENTITLEMENTS;
- (V) THE AVAILABILITY BY LEASE, ACQUISITION OR TRANSFER OF A VOLUME OR FLOW RATE OF WATER SUFFICIENT TO SUSTAIN OR ACHIEVE RECREATIONAL USE OF THE REACH;
- (VI) THAT DESIGNATION OF THE RECREATIONAL IN-CHANNEL VALUES REACH WOULD NOT CAUSE INJURY TO AN INSTREAM FLOW WATER RIGHT;
- (VII) THAT DESIGNATION OF THE RECREATIONAL IN-CHANNEL VALUES REACH WOULD NOT CAUSE INJURY TO DECREED WATER RIGHTS OR DECREED CONDITIONAL WATER RIGHTS;
- (VIII) EVIDENCE INCLUDING BUT NOT LIMITED TO FISHABLE ACREAGE ANALYSIS, CREEL SURVEY ANALYSIS, USER SURVEYS, OR OTHER STUDIES OR DOCUMENTATION DEMONSTRATING THE APPROPRIATENESS OF RECOMMENDED FLOWS FOR THE CLAIMED RECREATIONAL ACTIVITY OR ACTIVITIES.

(b) PRIOR TO DESIGNATING ANY RECREATIONAL IN-CHANNEL VALUES REACH, THE BOARD SHALL:

- (I) WITHIN FIFTEEN DAYS UPON RECEIPT OF AN APPLICATION, PROVIDE A NOTICE CONTAINING THE APPLICATION TO THE PUBLIC AND COMMENT PERIOD OF AT LEAST SIXTY DAYS;
- (II) CONSIDER ALL COMMENTS SUBMITTED DURING THE PERIOD OF NOTICE AND COMMENT;
- (III) PROVIDE OPPORTUNITY FOR COMMENT BY OR CONSULTATION WITH THE STATE ENGINEER, THE DIVISION OF PARKS AND WILDLIFE IN THE DEPARTMENT OF NATURAL RESOURCES, AND THE OUTDOOR RECREATION INDUSTRY OFFICE WITHIN THE OFFICE OF ECONOMIC DEVELOPMENT;

(IV) ENSURE THAT THE APPLICANT HAS COMPLIED WITH ALL PUBLIC NOTIFICATION REQUIREMENTS DESCRIBED IN SUBSECTION (5) OF THIS SECTION.

(c) ON AND AFTER THE EFFECTIVE DATE OF THIS ACT, ANY OF THE FOLLOWING ENTITIES MAY FILE AN APPLICATION WITH THE BOARD TO DESIGNATE A SEGMENT OF A STREAM LOCATED WITHIN THE JURISDICTION OF SUCH ENTITY AS A RECREATIONAL IN-CHANNEL VALUES REACH; PROVIDED, HOWEVER, THAT THE APPLICATION SHALL NOT BE WITHIN ONE MILE OF ANOTHER RECREATIONAL IN-CHANNEL VALUES REACH:

(I) A COUNTY OR A CITY AND COUNTY;

(II) A MUNICIPALITY;

(III) A WATER DISTRICT;

(IV) A WATER AND SANITATION DISTRICT;

(V) A WATER CONSERVATION DISTRICT;

(VI) A WATER CONSERVANCY DISTRICT; AND

(VII) A FEDERALLY RECOGNIZED TRIBE THAT HAS RESERVATION LAND WITHIN COLORADO.

(d) THE COLORADO WATER CONSERVATION BOARD IS NOT REQUIRED TO HOLD A FORMAL HEARING PRIOR TO DESIGNATING A RECREATIONAL IN-CHANNEL VALUES REACH, BUT MAY CONDUCT A FORMAL HEARING IF THE BOARD FINDS IT NECESSARY TO ADDRESS COMMENTS OR ISSUES WITH THE APPLICATION.

(3) FOR EACH STREAM SEGMENT THAT THE BOARD DESIGNATES AS A RECREATIONAL IN-CHANNEL VALUES REACH, THE BOARD MAY ESTABLISH UP TO THREE RECOMMENDED FLOWS, EACH OF WHICH FLOWS MUST BE ASSOCIATED WITH A SPECIFIC RECREATIONAL ACTIVITY SET OUT IN SECTION 134(2)(A)(I), AND EACH OF WHICH FLOWS MUST BE SUPPORTED BY EVIDENCE REGARDING THE APPROPRIATENESS OF THE FLOW FOR THE SPECIFIC RECREATIONAL ACTIVITY AS SET OUT IN SECTION 134(2)(A)(VIII).

(4) THE DESIGNATION OF A RECREATIONAL IN-CHANNEL VALUES REACH BY THE BOARD:

(a) SHALL NOT CONSTITUTE THE APPROPRIATION OF A WATER RIGHT OR CONDITIONAL WATER RIGHT;

(b) DOES NOT IMPAIR OR IN ANY WAY AFFECT ANY WATER COURT DECREE, ADMINISTRATIVE AUTHORIZATION, OR AGREEMENT THAT ALLOWS WATER TO BE STORED, RELEASED, AND ADMINISTERED FOR RECREATIONAL PURPOSE INCLUDING THE MAINTENANCE OF DOMINION AND CONTROL OVER THE WATER RELEASES FROM A SPECIFIED RESERVOIR;

(c) IS NOT INTENDED TO BE THE EXCLUSIVE MEANS OF AUTHORIZING WATER TO BE STORED, RELEASED, AND ADMINISTERED FOR RECREATIONAL PURPOSES, INCLUDING THE MAINTENANCE OF DOMINION AND CONTROL OVER THE WATER RELEASED FROM A SPECIFIC RESERVOIR; AND

- (d) DOES NOT AUTHORIZE, RESTRICT, OR PRECLUDE FUTURE WATER RIGHTS, APPROPRIATIONS, ADMINISTRATIVE AUTHORIZATIONS, OR OTHER AGREEMENTS FOR RECREATIONAL PURPOSES.
- (5) THE APPLICANT FOR THE DESIGNATION OF A RECREATIONAL IN-CHANNEL VALUES REACH SHALL PROVIDE NOTICE OF THE APPLICATION TO EACH PARTY INCLUDED IN THE SUBSTITUTE WATER SUPPLY PLAN NOTIFICATION LIST ESTABLISHED BY THE STATE ENGINEER PURSUANT TO SECTION 37-92-308 (6) FOR EACH WATER DIVISION WITHIN WHICH A SEGMENT OF THE REQUESTED RECREATIONAL IN-CHANNEL VALUES REACH IS LOCATED, AND A REGISTERED AGENT OF A DITCH COMPANY, IRRIGATION DISTRICT, WATER USERS' ASSOCIATION, OR OTHER WATER SUPPLY OR DELIVERY ENTITY WITHIN WHOSE SYSTEM THE RECREATIONAL IN-CHANNEL VALUES REACH IS LOCATED. THE APPLICANT MUST FILE PROOF OF THE WRITTEN NOTICE WITH THEIR APPLICATION TO THE BOARD.
- (6) (a) THE HOLDER OF A RECREATIONAL IN-CHANNEL VALUES REACH MAY ACQUIRE INTERESTS IN WATER FOR THE PURPOSE OF INCREASING STREAMFLOW UP TO THE RECOMMENDED FLOW WITHIN THE RECREATIONAL IN-CHANNEL VALUES REACH. ANY WATER SO ACQUIRED MUST BE AUTHORIZED FOR SUCH USE PURSUANT TO SUBSECTION (7)(a) OR SUBSECTION (7)(b) OF THIS SECTION.
- (b) AT THE REQUEST OF THE HOLDER OF A RECREATIONAL IN-CHANNEL VALUES REACH, THE STATE ENGINEER AND DIVISION ENGINEERS SHALL DELIVER TO AND THROUGH THE RECREATIONAL IN-CHANNEL VALUES REACH WATER ACQUIRED BY THE HOLDER PURSUANT TO THIS SECTION (6); PROVIDED, HOWEVER:
- (I) THE HOLDER OF THE RECREATIONAL IN-CHANNEL VALUES REACH SHALL BE RESPONSIBLE FOR OBTAINING PERMISSION FOR THE USE OF ANY STREAM FACILITIES OR DIVERSION STRUCTURES REQUIRED FOR DELIVERY OF WATER TO AND THROUGH THE RECREATIONAL IN-CHANNEL VALUE REACH;
- (II) THE HOLDER OF THE RECREATIONAL IN-CHANNEL VALUES REACH SHALL BE RESPONSIBLE FOR REASONABLE TRANSIT LOSSES INCURRED UPON WATER BEING DELIVERED TO THE RECREATIONAL IN-CHANNEL VALUES REACH AS ASSESSED BY THE DIVISION ENGINEER;
- (III) THE HOLDER OF THE RECREATIONAL IN-CHANNEL VALUES REACH MAY NOT RESTRICT ANY OTHER PARTY FROM OPERATING EXCHANGES ON WATER ACQUIRED BY THE HOLDER FOR DELIVERY TO THE REACH PROVIDED SUCH EXCHANGE DOES NOT REDUCE THE AMOUNT OF SUCH DELIVERY TO THE RECREATIONAL IN-CHANNEL VALUES REACH;
- (7) (a) THE HOLDER OF A RECREATIONAL IN-CHANNEL VALUES REACH MAY APPLY TO THE STATE ENGINEER TO OBTAIN TEMPORARY AUTHORIZATION TO USE WATER OR INTERESTS IN WATER FOR THE PURPOSE OF ACHIEVING,

MAINTAINING, OR ENHANCING FLOW WITHIN THE RECREATIONAL IN-CHANNEL VALUES REACH FOR A PERIOD NOT TO EXCEED ONE HUNDRED TWENTY DAYS IN A SINGLE CALENDAR YEAR. IN DETERMINING WHETHER TO APPROVE SUCH A REQUEST FOR TEMPORARY AUTHORIZATION THE STATE ENGINEER SHALL ENSURE THAT THE FOLLOWING CONDITIONS ARE MET:

- (I) THE APPLICANT HAS FILED A REQUEST FOR TEMPORARY AUTHORIZATION TO USE WATER FOR A RECREATIONAL IN-CHANNEL VALUES REACH WITH THE STATE ENGINEER, TOGETHER WITH A FILING FEE IN THE AMOUNT OF ONE HUNDRED DOLLARS. THE STATE ENGINEER SHALL TRANSMIT THE FEE TO THE STATE TREASURER, WHO SHALL DEPOSIT THE FEE IN THE WATER RESOURCES CASH FUND CREATED IN SECTION 37-80-111.7 (1).
- (II) THE APPLICANT HAS SUBMITTED PROOF TO THE STATE ENGINEER, IN A FORM AND MANNER DETERMINED BY THE STATE ENGINEER, DEMONSTRATING THAT THE APPLICANT PROVIDED WRITTEN NOTICE OF THE REQUEST FOR APPROVAL OF THE AUTHORIZATION BY FIRST-CLASS MAIL OR ELECTRONIC MAIL TO:
  - (A) ALL PARTIES ON THE SUBSTITUTE WATER SUPPLY PLAN NOTIFICATION LIST ESTABLISHED PURSUANT TO SECTION 37-92-308 (6) FOR THE WATER DIVISION IN WHICH THE PROPOSED LOAN IS LOCATED; AND
  - (B) A REGISTERED AGENT OF A DITCH COMPANY, IRRIGATION DISTRICT, WATER USERS' ASSOCIATION, OR OTHER WATER SUPPLY OR DELIVERY ENTITY WITHIN WHOSE SYSTEM THE WATER RIGHTS FALL.
- (III) THE STATE ENGINEER HAS GIVEN THE OWNERS OF DECREED WATER RIGHTS AND DECREED CONDITIONAL WATER RIGHTS SIXTY DAYS AFTER THE DATE OF MAILING OF NOTICE OF THE REQUEST FOR AUTHORIZATION TO PROVIDE COMMENTS ON THE REQUEST. THE COMMENTS MUST INCLUDE ANY CLAIM OF INJURY OR ANY TERMS AND CONDITIONS THAT SHOULD BE IMPOSED UPON THE PROPOSED LOAN TO PREVENT INJURY TO A PARTY'S WATER RIGHTS AND ANY OTHER INFORMATION THE COMMENTING PARTY WISHES THE STATE ENGINEER TO CONSIDER IN REVIEWING THE PROPOSED LOAN.
- (IV) THE STATE ENGINEER, AFTER CONSIDERATION OF ANY COMMENTS RECEIVED, HAS DETERMINED THAT THE OPERATION AND ADMINISTRATION OF THE PROPOSED LOAN WILL NOT CAUSE INJURY TO OTHER DECREED WATER RIGHTS, DECREED EXCHANGES, OR OTHER WATER USERS' UNDECREED EXISTING EXCHANGES OF WATER TO THE EXTENT THAT THE UNDECREED EXISTING EXCHANGES HAVE BEEN ADMINISTRATIVELY APPROVED BEFORE THE DATE OF THE FILING OF THE REQUEST FOR APPROVAL OF THE TEMPORARY AUTHORIZATION AND WILL NOT AFFECT COLORADO'S COMPACT ENTITLEMENTS. THE STATE ENGINEER SHALL IMPOSE SUCH TERMS AND CONDITIONS AS ARE NECESSARY TO ENSURE THAT THESE STANDARDS ARE MET. IN MAKING THE DETERMINATIONS

SPECIFIED IN THIS SUBSECTION (7)(a), THE STATE ENGINEER NEED NOT HOLD ANY FORMAL HEARINGS OR CONDUCT ANY OTHER FORMAL PROCEEDINGS, BUT MAY CONDUCT A HEARING OR FORMAL PROCEEDING IF THE STATE ENGINEER FINDS IT NECESSARY TO ADEQUATELY ADDRESS THE ISSUES.

- (V) THE STATE ENGINEER SHALL APPROVE OR DENY THE TEMPORARY AUTHORIZATION WITHIN TEN DAYS AFTER THE PERIOD FOR COMMENTS ON THE PROPOSED TEMPORARY AUTHORIZATION HAS EXPIRED.
- (VI) WHEN THE STATE ENGINEER APPROVES OR DENIES A REQUEST FOR A TEMPORARY AUTHORIZATION, THE STATE ENGINEER SHALL SERVE A COPY OF THE DECISION ON ALL PARTIES TO THE APPLICATION BY FIRST-CLASS MAIL OR, IF THE PARTIES HAVE SO ELECTED, BY ELECTRONIC MAIL. NEITHER THE APPROVAL NOR THE DENIAL BY THE STATE ENGINEER CREATES ANY PRESUMPTIONS OR SERVES AS A DEFENSE IN ANY LEGAL ACTION THAT MAY BE INITIATED CONCERNING THE AUTHORIZATION. A PARTY MAY FILE AN APPEAL OF A DECISION BY THE STATE ENGINEER CONCERNING THE AUTHORIZATION PURSUANT TO THIS SECTION TO THE WATER JUDGE IN THE APPLICABLE WATER DIVISION WITHIN SIXTY DAYS AFTER THE DATE THAT THE STATE ENGINEER, FOLLOWING THE STATE ENGINEER'S CONSIDERATION OF ANY COMMENTS SUBMITTED PURSUANT TO THIS SECTION, SERVES THE DECISION ON THE PARTIES TO THE APPLICATION. IN ANY SUCH APPEAL THE APPLICANT HAS THE BURDEN OF PROOF TO DEMONSTRATE THAT THE TEMPORARY AUTHORIZATION DOES NOT CAUSE INJURY TO OTHER VESTED OR CONDITIONALLY DECREED WATER RIGHTS, DECREED EXCHANGES, OR UNDECREED EXCHANGES AS DESCRIBED IN SUBSECTION (7)(a)(IV) OF THIS SECTION. THE WATER JUDGE SHALL HEAR AND DETERMINE THE APPEAL ON AN EXPEDITED BASIS USING THE PROCEDURES AND STANDARDS SET FORTH IN SECTION 37-92-304(3) CONCERNING MATTERS RE-REFERRED TO THE WATER JUDGE BY THE WATER REFEREE.
- (VII) ANY TEMPORARY AUTHORIZATION APPROVED PURSUANT TO THIS SUBSECTION (7)(a) SHALL REMAIN IN EFFECT FOR NO LONGER THAN ONE YEAR FROM THE DATE THE STATE ENGINEER SERVES THE DECISION ON THE PARTIES TO THE APPLICATION, OR IF SUCH DECISION IS APPEALED THE DATE THE WATER JUDGE HEARS AND ISSUES A DETERMINATION ON AN APPEAL OF A LOAN.
- (VIII) AN APPLICANT MAY REAPPLY FOR AND THE STATE ENGINEER MAY REAPPROVE A TEMPORARY AUTHORIZATION PURSUANT TO THIS SUBSECTION (7)(a) NO MORE THAN TEN TIMES; PROVIDED, HOWEVER THAT AN APPLICANT MUST SUBMIT AND SATISFY ALL REQUIREMENTS SET FORTH IN THIS SUBSECTION (7)(a) FOR EACH SUCH REAPPLICATION.

(b) THE HOLDER OF A RECREATIONAL IN-CHANNEL VALUES REACH SEEKING TO OBTAIN TEMPORARY AUTHORIZATION TO USE WATER OR INTERESTS IN WATER FOR THE PURPOSE OF ACHIEVING, MAINTAINING, OR ENHANCING FLOW WITHIN THE RECREATIONAL IN-CHANNEL VALUES WHO IS NO LONGER ELIGIBLE TO SEEK SUCH AUTHORIZATION PURSUANT TO SUBSECTION (7)(a) OF THIS SECTION, OR WHO IS SEEKING TO ENHANCE FLOW WITHIN THE RECREATIONAL IN-CHANNEL VALUES REACH FOR A PERIOD EXCEEDING ONE HUNDRED TWENTY DAYS IN A SINGLE CALENDAR YEAR, MAY OBTAIN SUCH AUTHORIZATION ONLY BY APPLYING TO THE WATER COURT FOR APPROVAL OF AN AUGMENTATION PLAN PURSUANT TO THE PROCEDURES, STANDARDS, AND REQUIREMENTS OF ARTICLE 92 FOR PLANS FOR AUGMENTATION. IN ADDITION TO THOSE PROCEDURES, STANDARDS, AND REQUIREMENTS, THE APPLICANT FOR SUCH AN AUGMENTATION PLAN MUST COMPLY WITH THE FOLLOWING:

- (I) TO OBTAIN A DECREED PLAN FOR AUGMENTATION UNDER THIS SUBSECTION (7)(b), THE HOLDER OF SUCH REACH, EITHER AS SOLE APPLICANT OR TOGETHER WITH AN OWNER OF A DECREED WATER RIGHT FOR WHICH A CHANGE OF WATER RIGHTS TO INCLUDE ANY AUGMENTATION USE HAS BEEN JUDICIALLY APPROVED, MUST FILE AN APPLICATION WITH THE WATER COURT FOR APPROVAL OF A PLAN FOR AUGMENTATION TO AUGMENT STREAM FLOWS AND PROTECT AUGMENTATION DELIVERIES MADE PURSUANT TO THE PLAN FOR AUGMENTATION, AT THE RECOMMENDED FLOW RATES THE COLORADO WATER CONSERVATION BOARD HAS DETERMINED ARE APPROPRIATE FOR THE RECREATIONAL IN-CHANNEL VALUES REACH.
- (II) AN APPLICANT MAY APPLY FOR A PLAN FOR AUGMENTATION UNDER THIS SUBSECTION (7)(b) ONLY IF THE OWNERS OF ALL WATER RIGHTS THAT WILL BE USED FOR AUGMENTATION UNDER THE PLAN ARE IDENTIFIED IN THE APPLICATION AND CONSENT TO THE APPLICATION.
- (III) THE PROCEDURES, STANDARDS, AND REQUIREMENTS OF THIS ARTICLE 92 FOR PLANS FOR AUGMENTATION APPLY TO APPLICATIONS FILED UNDER THIS SUBSECTION (7)(b).
- (IV) A PLAN FILED UNDER THIS SUBSECTION (7)(b) MUST USE, FOR AUGMENTATION ONLY, WATER RIGHTS:
  - (A) FOR WHICH THE HISTORICAL CONSUMPTIVE USE HAS BEEN QUANTIFIED; AND
  - (B) FOR WHICH A CHANGE OF WATER RIGHTS TO INCLUDE AUGMENTATION USE HAS BEEN JUDICIALLY APPROVED; PROVIDED, HOWEVER, THAT AN APPLICANT MAY FILE FOR A CHANGE OF WATER RIGHTS TO ALLOW USE OF WATER FOR AUGMENTATION CONCURRENTLY WITH FILING AN APPLICATION FOR APPROVAL OF A PLAN FOR AUGMENTATION UNDER THIS SUBSECTION.

- (V) IF THE AUGMENTATION WATER RIGHT MEETS THE REQUIREMENTS OF SUBSECTION (7)(b)(IV) OF THIS SECTION, NO FURTHER CHANGE OF THAT AUGMENTATION WATER RIGHT IS REQUIRED.
- (VI) THE USE OF WATER AS PART OF A PLAN FOR AUGMENTATION TO AUGMENT STREAM FLOWS UNDER THIS SUBSECTION (7)(c) IS SUBJECT TO THE TERMS AND CONDITIONS OF ANY APPLICABLE DECREE TO WHICH THAT WATER IS SUBJECT.
- (VII) ADDITIONAL TERMS AND CONDITIONS MUST BE IMPOSED ON THE USE OF WATER AS PART OF A PLAN FOR AUGMENTATION UNDER THIS SUBSECTION (7)(b) AS NECESSARY TO PREVENT INJURY TO THE OWNERS OF VESTED WATER RIGHTS OR DECREED CONDITIONAL WATER RIGHTS. THE TERMS AND CONDITIONS MUST INCLUDE TERMS AND CONDITIONS TO PREVENT INJURY TO OTHER WATER RIGHTS THAT RESULT FROM ANY CHANGE IN THE TIME, PLACE, OR AMOUNT OF WATER AVAILABLE FOR DIVERSION OR EXCHANGE TO THE EXTENT THAT OTHER APPROPRIATORS HAVE RELIED UPON THE STREAM CONDITIONS THAT RESULTED FROM THE HISTORICAL USE OF THE AUGMENTATION WATER RIGHTS DESCRIBED IN SUBSECTION (7)(b)(IV) OF THIS SECTION BEFORE THEIR USE IN A PLAN FOR AUGMENTATION UNDER THIS SUBSECTION (7)(b). A JUNIOR APPROPRIATOR IS ENTITLED TO THE CONTINUATION OF STREAM CONDITIONS AS THE CONDITIONS EXISTED AT THE TIME OF THE JUNIOR APPROPRIATOR'S APPROPRIATION.
- (VIII) AN APPLICANT MUST PROVE THAT A PLAN FOR AUGMENTATION UNDER THIS SUBSECTION (7)(b) WILL NOT INJURE OTHER WATER USERS' UNDECREED EXISTING EXCHANGES OF WATER TO THE EXTENT THE UNDECREED EXISTING EXCHANGES OF WATER HAVE BEEN ADMINISTRATIVELY APPROVED BEFORE THE DATE OF THE FILING OF THE APPLICATION FOR APPROVAL OF THE PLAN FOR AUGMENTATION.
- (IX) AUGMENTATION WATER USED TO AUGMENT STREAM FLOWS WITHIN A RECREATIONAL IN-CHANNEL VALUES REACH PURSUANT TO A PLAN FOR AUGMENTATION UNDER THIS SUBSECTION (7)(b) MAY BE DIVERTED BY AN EXCHANGE, PLAN FOR SUBSTITUTION, PLAN FOR AUGMENTATION, OR OTHER MEANS PROVIDED THAT SUCH DIVERSION SHALL NOT CAUSE A REDUCTION OF THE AUGMENTATION WATER AVAILABLE WITHIN THE RECREATIONAL IN CHANNEL VALUES REACH.
- (X) AUGMENTATION WATER USED TO AUGMENT STREAM FLOWS WITHIN A RECREATIONAL IN-CHANNEL VALUES REACH PURSUANT TO A PLAN FOR AUGMENTATION UNDER THIS SUBSECTION (7)(b) IS SUBJECT TO SUCH REASONABLE TRANSIT LOSSES AS MAY BE IMPOSED BY THE WATER COURT OR THE STATE AND DIVISION ENGINEERS.
- (XI) IF OPERATION OF A PLAN FOR AUGMENTATION UNDER THIS SUBSECTION (7)(b) REQUIRES THE USE OF, OR MAKING OF PHYSICAL MODIFICATIONS TO, AN EXISTING DIVERSION STRUCTURE WITHIN A STREAM REACH TO ALLOW THE



AUGMENTATION WATER TO BYPASS THE STRUCTURE, THE OPERATOR OF THE PLAN MUST HAVE CONSENT FROM THE OWNER OF THE EXISTING STRUCTURE AND BEAR ALL REASONABLE CONSTRUCTION COSTS ASSOCIATED WITH ANY PHYSICAL MODIFICATIONS AND ALL REASONABLE OPERATIONAL AND MAINTENANCE COSTS INCURRED BY THE OWNER OF THE STRUCTURE THAT WOULD NOT HAVE BEEN INCURRED IN THE ABSENCE OF THE PHYSICAL MODIFICATIONS TO THE STRUCTURE.

- (8) THE BOARD MAY IMPOSE A REASONABLE STANDARD APPLICATION FEE TO ACCOMPANY AN APPLICATION FOR THE DESIGNATION OF A RECREATIONAL IN-CHANNEL VALUES REACH AND WAIVE SUCH FEE UPON SHOWING OF FINANCIAL HARDSHIP.
- (9) A PARTY MAY FILE AN APPEAL OF THE COLORADO WATER CONSERVATION BOARD'S FINAL DECISION TO DESIGNATE, DECLINE TO DESIGNATE, OR DESIGNATE WITH MODIFICATIONS OR CONDITIONS A RECREATIONAL IN-CHANNEL VALUES REACH WITHIN SIXTY DAYS OF WHEN SUCH DECISION IS SERVED ON THE PARTIES TO THE APPLICATION. THE WATER JUDGE OR JUDGES FOR THE WATER DIVISION WITHIN WHICH THE RECREATIONAL IN-CHANNEL VALUES REACH IS LOCATED SHALL HEAR SUCH AND DETERMINE THE APPEAL ON AN EXPEDITED BASIS USING THE PROCEDURES AND STANDARDS SET FORTH IN SECTION 37-92-304 (3) CONCERNING MATTERS REREFERRED TO THE WATER JUDGE BY THE WATER REFEREE. SUCH APPEAL SHALL BE CONDUCTED PURSUANT TO A "DE NOVO" STANDARD, AND THE APPLICANT HAS THE BURDEN OF PROOF TO DEMONSTRATE THAT DESIGNATION OF THE RECREATIONAL IN-CHANNEL VALUES REACH DOES NOT CAUSE INJURY TO OTHER VESTED OR CONDITIONALLY DECREED WATER RIGHTS. IN ANY SUCH APPEAL THE COLORADO WATER CONSERVATION BOARD'S FINAL DECISION MAY NOT BE OFFERED AS EVIDENCE AND DOES NOT CREATE ANY PRESUMPTION OR OTHERWISE SHIFT THE BURDEN OF PROOF IN ANY MANNER.

SECTION 3. In Colorado Revised Statutes 37-92-103, amend (2) introductory portion, (2)(b)(V), and (2)(b)(VI); and add (2)(b)(VII) as follows:

37-92-103. Definitions. As used in this article 92, unless the context otherwise requires:

- (2) "Abandonment of a water right" means the termination of a water right in whole or in part as a result of the intent of the owner ~~thereof~~ OF THE WATER RIGHT to discontinue permanently the use of all or part of the water available ~~thereunder~~ UNDER THE WATER RIGHT. Any period of nonuse of any portion of a water right shall be tolled, and no intent to discontinue permanent use shall be found for purposes of determining an abandonment of a water right or a reduction in the historical diversions or lawful historical consumptive use during any period that:

- (b) The nonuse of a water right for its decreed purposes by its owner is a result of participation in:

- (V) A loan of water to the Colorado water conservation board for instream flow use under section 37-83-105 (2); or
- (VI) Any contract or agreement with the Colorado Water Conservation Board that allows the board to use all or a part of a water right to preserve or improve the natural environment to a reasonable degree under section 37-92-102 (3); OR
- (VII) A LOAN OR LEASE OF WATER TO ACHIEVE, MAINTAIN OR ENHANCE A RECREATIONAL IN-CHANNEL VALUES REACH RECOMMENDED FLOW, AS DEFINED IN SECTION 37-60-134 (1)(b).

SECTION 4. In Colorado Revised Statutes, 37-92-305, add (3)(c.5) 6 and (13)(g) as follows:

37-92-305. Standards with respect to rulings of the referee and decisions of the water judge - definitions.

- (3) (c.5) IN DETERMINING THE AMOUNT OF HISTORICAL DIVERSIONS AND HISTORICAL CONSUMPTIVE USE FOR A WATER RIGHT, THE WATER JUDGE SHALL NOT CONSIDER ANY DECREASE IN USE RESULTING FROM THE NONUSE OR DECREASE IN USE OF THE WATER RIGHT BY ITS OWNER AS A RESULT OF A LOAN OR LEASE OF WATER TO ACHIEVE, MAINTAIN OR ENHANCE A RECREATIONAL IN-CHANNEL VALUES REACH RECOMMENDED FLOW, AS DEFINED IN SECTION 37-60-134(1)(b).

SECTION 5. Act subject to petition - effective date. This act takes effect at 12:01 a.m. on the day following the expiration of the ninety-day period after final adjournment of the general assembly; except that, if a referendum petition is filed pursuant to section 1 (3) of article V of the state constitution against this act or an item, section, or part of this act within such period, then the act, item, section, or part will not take effect unless approved by the people at the general election to be held in November 2022 and, in such case, will take effect on the date of the official declaration of the vote thereon by the governor.

# **Recreational In-Channel Values Reach-- RIVR**

## **DRAFT-- Legislation Conceptual Outline**

### **Problem Statement:**

Recreational water use is integral to Colorado's lifestyle and economy, yet increased development and climate change are diminishing flows. Current law allows for the protection of flows via qualifying structures, but there's an absence of policy protecting recreation in naturally occurring river channels. This threatens river dependent businesses, tax revenue, and opportunities to grow the outdoor recreation economy.

### **Retain Existing RICD Water Right Provisions**

- A recreational in-channel water right (RICD) should not be granted if it would materially impair the ability to fully develop for beneficial use Colorado's entitlements under the Compacts of 1922 and 1948.
- Water rights for recreational uses must be reasonably efficient and promote maximum utilization of Colorado's waters.

### **Greater Flexibility for Maintenance of Existing Decreed RICD**

- Subject to approval by the division engineer and objection from other water users, minor modification to a decreed RICD to address maintenance, environmental, or administrative concerns does not constitute a change of such water right or otherwise provide a basis for water court review.

### **Create New Recreation In-Channel Values Reach (RIVR)**

- Artificial RICD "control structure" not required for RIVR segment.
- RIVR segment is NOT a water right and may not appropriate or call for water.
- Applicant may designate stream segment as "recreational in-channel values reach" ("RIVR") for purposes of promoting recreational use of such stream segment.
- Applicant must be county, municipality, city and county, water district, water and sanitation district, water conservation district, water conservancy district, or federally approved Tribe (identical to existing RICD rights, with addition of tribes).
- Holder of RIVR segment may acquire by purchase or lease water to be delivered to and shepherded through RIVR segment by Division Engineer.
- Recreational uses limited to boating, fishing, and wading.

### **Provide for Lease or Sale of Water to traditional RICD and/or Recreational In-Channel Values Reach (RIVR)**

- Clarifies existing legal authority to allow water right holders to voluntarily share water through lease or other means to support recreational flows through standard water court change of use proceedings and administrative processes such as Interruptible Water Supply Agreements

- Clarify leasing of water right to RIVR segment:
  - Cannot be used as evidence of abandonment or right.
  - Does not affect historical use computation for right..

**Create Administrative Path for Approval of RIVR Segment.**

- Administrative proceeding before CWCB in coordination with CPW and the Outdoor Recreation Industry Office.
- Applicant must demonstrate proposed RIVR segment provides existing or intended future recreational opportunities, based on factors such as:
  - Historical use of segment for recreational purposes;
  - Incorporation of community planning process such as (comprehensive or master plan, stream management plan, or parks and recreation plan).
  - Expert testimony;
  - User surveys.
- RIVR segment accessible from public land

**For more information contact: Josh Kuhn (615.483.9041 /Josh@conservationco)  
or Becky Long (907.389.2719/Becky@siegelpa.com)**

**Bill Matrix**  
February 28, 2022

Bill #	SWCD Position	CRD Position	CWC Position	Calendar Notification	Short Title	Sponsors	Most Recent Status	Fiscal Note
<a href="#">HB22-1007</a>				NOT ON CALENDAR	Assistance Landowner Wildfire Mitigation	D. Valdez (D)   M. Lynch (R) / C. Simpson (R)   P. Lee (D)	2/17/2022 House Committee on Energy & Environment Refer Amended to Finance	<a href="#">Fiscal Note</a>
<a href="#">HB22-1011</a>				NOT ON CALENDAR	Wildfire Mitigation Incentives For Local Governments	L. Cutter (D)   M. Snyder (D) / T. Story (D)   P. Lee (D)	2/17/2022 House Committee on Energy & Environment Refer Amended to Appropriations	<a href="#">Fiscal Note</a>
<a href="#">HB22-1012</a>				NOT ON CALENDAR	Wildfire Mitigation And Recovery	L. Cutter (D)   D. Valdez (D) / J. Ginal (D)   P. Lee (D)	2/17/2022 House Committee on Energy & Environment Refer Amended to Appropriations	<a href="#">Fiscal Note</a>
<a href="#">HB22-1092</a>				Tuesday, March 1 2022 GENERAL ORDERS - SECOND READING OF BILLS (1) in house calendar.	Loans From Irrigation Districts To Landowners	M. Soper (R)   D. Roberts (D) / J. Bridges (D)   D. Coram (R)	2/24/2022 House Committee on Agriculture, Livestock, & Water Refer Amended to House Committee of the Whole	<a href="#">Fiscal Note</a>
<a href="#">HB22-1097</a>				Tuesday, March 1 2022 SENATE LOCAL GOVERNMENT COMMITTEE 2:00 PM SCR 352 (1) in senate calendar.	Dissolution Of Special Districts	D. Valdez (D) / C. Simpson (R)	2/17/2022 Introduced In Senate - Assigned to Local Government	<a href="#">Fiscal Note</a>
<a href="#">HB22-1151</a>	Monitor	Support	Support	Monday, February 28 2022 Agriculture, Livestock, & Water 1:30 p.m. Room 0107 (2) in house calendar.	Turf Replacement Program	M. Catlin (R)   D. Roberts (D) / J. Bridges (D)   C. Simpson (R)	2/4/2022 Introduced In House - Assigned to Agriculture, Livestock, & Water	<a href="#">Fiscal Note</a>

Bill #	SWCD Position	CRD Position	CWC Position	Calendar Notification	Short Title	Sponsors	Most Recent Status	Fiscal Note
<a href="#">SB22-007</a>				NOT ON CALENDAR	Increase Wildfire Risk Mitigation Outreach Efforts	P. Lee (D)   T. Story (D) / L. Cutter (D)   M. Snyder (D)	2/1/2022 Senate Committee on Local Government Refer Amended to Appropriations	<a href="#">Fiscal Note</a>
<a href="#">SB22-013</a>				NOT ON CALENDAR	Boards And Commissions	S. Fenberg (D)   C. Holbert (R) / A. Garnett (D)   H. McKean (R)	2/24/2022 Signed by the President of the Senate	<a href="#">Fiscal Note</a>
<a href="#">SB22-028</a>	Support	Support	Support	NOT ON CALENDAR	Groundwater Compact Compliance Fund	C. Simpson (R)   J. Sonnenberg (R) / D. Roberts (D)   M. Catlin (R)	2/17/2022 Introduced In House - Assigned to Agriculture, Livestock, & Water	<a href="#">Fiscal Note</a>
<a href="#">SB22-029</a>				NOT ON CALENDAR	Investment Water Speculation	D. Coram (R)   K. Donovan (D) / K. McCormick (D)	1/12/2022 Introduced In Senate - Assigned to Agriculture & Natural Resources	<a href="#">Fiscal Note</a>
<a href="#">SB22-030</a>				NOT ON CALENDAR	Expand Water Resources Review Committe To Include Agriculture	K. Donovan (D)   J. Sonnenberg (R) / B. McLachlan (D)   M. Catlin (R)	2/17/2022 Introduced In House - Assigned to Agriculture, Livestock, & Water	<a href="#">Fiscal Note</a>
<a href="#">SB22-114</a>	Support			Thursday, March 3 2022 SENATE AGRICULTURE & NATURAL RESOURCES COMMITTEE 1:30 PM Old Supreme Court (1) in senate calendar.	Fire Suppression Ponds Water Rights	D. Hisey (R)   T. Story (D) / D. Roberts (D)   M. Catlin (R)	2/17/2022 Senate Committee on Agriculture & Natural Resources Witness Testimony and/or Committee Discussion Only	<a href="#">Fiscal Note</a>
<a href="#">SB22-115</a>				Wednesday, March 9 2022 Judiciary 1:30 p.m. Room 0107 (3) in house calendar.	Clarifying Terms Related To Landowner Liability	S. Jaquez Lewis (D)   B. Gardner (R) / M. Soper (R)   K. Tipper (D)	2/23/2022 Introduced In House - Assigned to Judiciary	<a href="#">Fiscal Note</a>
<a href="#">SB22-126</a>	Oppose			Tuesday, March 1 2022 GENERAL ORDERS - SECOND READING OF BILLS - CONSENT CALENDAR (2) in senate calendar.	Prioritize Water Storage Projects South Platte Basin	J. Sonnenberg (R)   K. Donovan (D) / R. Holtorf (R)	2/24/2022 Senate Committee on Agriculture & Natural Resources Refer Amended - Consent Calendar to Senate Committee of the Whole	<a href="#">Fiscal Note</a>
<a href="#">SB22-131</a>				Thursday, March 3 2022 SENATE AGRICULTURE & NATURAL RESOURCES COMMITTEE 1:30 PM Old Supreme Court (2) in senate calendar.	Protect Health Of Pollinators And People	S. Jaquez Lewis (D)   K. Priola (R) / C. Kipp (D)   M. Froelich (D)	2/10/2022 Introduced In Senate - Assigned to Agriculture & Natural Resources	<a href="#">Fiscal Note</a>
<a href="#">SJR22-002</a>	Support	Support	Support	Monday, February 28 2022 Agriculture, Livestock, & Water 1:30 p.m. Room 0107 (1) in house calendar.	Water Projects Eligibility Lists	K. Donovan (D) / K. McCormick (D)   M. Catlin (R)	2/24/2022 House Committee on Agriculture, Livestock, & Water Lay Over Unamended - Amendment(s) Failed	

---

## Southwestern Water Conservation District

---

### HB22-1092

### Loans From Irrigation Districts To Landowners

---

**Position:**

**Calendar**

Thursday, February 24 2022

**Notification:**

Agriculture, Livestock, & Water  
Upon Adjournment Room 0107  
(2) in house calendar.

**Short Title:**

Loans From Irrigation Districts To Landowners

**Sponsors:**

M. Soper (R) | D. Roberts (D) / J. Bridges (D) | D. Coram (R)

**Summary:**

Under current law, the board of directors of an irrigation district may only enter into a contract to commit payments in excess of \$500,000 if the contract is first ratified at a general or special election. This bill permits a board of directors to enter into any obligation or contract to borrow money, which the irrigation district may use to issue loans to landowners to make improvements to private water delivery systems, or for other types of projects that improve water delivery, drainage, conservation, or efficiencies on landowner property. The board may not assess district land in order to raise money to issue the loans; however, the board may use other sources of money to issue loans.

An obligation or contract to borrow such money is exempt from the existing requirement that a contract purporting to bind the district to pay any sum in excess of \$500,000 must be ratified by a majority of all the votes cast at a general or special election. Additionally, the district cannot assess landowners to raise money to fund the loans.

The irrigation district's annual appropriation resolution to county commissioners must include the amounts needed to meet loan obligations and the amounts payable by landowners to the irrigation district. When assessing land within an irrigation district, the bill requires that the county assessor apply the information in the annual appropriation resolution concerning loans to landowners and assess the additional amount payable for each tract for which the landowner has received a loan.

*(Note: This summary applies to this bill as introduced.)*

**Status:**

1/20/2022 Introduced In House - Assigned to Agriculture, Livestock, & Water

**Fiscal Notes:**

[Fiscal Note](#)

---

**HB22-1151**      **Turf Replacement Program**

---

**Position:**

**Calendar**                      NOT ON CALENDAR

**Notification:**

**Short Title:**                      Turf Replacement Program

**Sponsors:**                      M. Catlin (R) | D. Roberts (D) / J. Bridges (D) | C. Simpson (R)

**Summary:**                      The bill requires the Colorado water conservation board (board) to develop a statewide program to provide financial incentives for the voluntary replacement of irrigated turf with water-wise landscaping (turf replacement program). The bill defines water-wise landscaping as a water- and plant-management practice that emphasizes using plants with lower water needs. Local governments, certain districts, Native American tribes, and nonprofit organizations with their own turf replacement programs may apply to the board for money to help finance their turf replacement programs. The board will contract with one or more third parties to administer one or more turf replacement programs in areas where local turf replacement programs do not exist.  
*(Note: This summary applies to this bill as introduced.)*

**Status:**                              2/4/2022 Introduced In House - Assigned to Agriculture, Livestock, & Water

**Fiscal Notes:**

---

**SB22-114**                      **Fire Suppression Ponds Water Rights**

---

**Position:**

**Calendar**                      Thursday, February 17 2022

**Notification:**                      SENATE AGRICULTURE & NATURAL RESOURCES  
COMMITTEE  
1:30 PM Old Supreme Court  
(1) in senate calendar.

**Short Title:**                      Fire Suppression Ponds Water Rights

**Sponsors:**                      D. Hisey (R) | T. Story (D) / D. Roberts (D) | M. Catlin (R)

**Summary:**                      This bill allows a board of county commissioners to apply to the state engineer for the designation of a pond as a fire suppression pond. The director of the division of fire prevention and control in the department of public safety is required to promulgate rules to establish criteria for boards, in consultation with fire protection districts, to use to identify and evaluate potential fire suppression ponds. For each pond that is identified and under consideration as a potential fire suppression pond, a board must provide notice of such fact to the state engineer and to interested parties included in the substitute water supply plan notification list established for the water division in which the pond is located.



The bill also prohibits the state engineer from draining any pond:

- While the pond is under consideration for designation as a fire suppression pond;
- If the state engineer has designated the pond as a fire suppression pond; or
- On and after the effective date of the bill, and until the date upon which the director promulgates rules, with exceptions.

Finally, the bill also states that a fire suppression pond and the water associated with it:

- Are not considered a water right;
- Do not have a priority for the purpose of determining water rights; and
- May not be adjudicated as a water right.

The bill grants the authority to the state engineer to review applications received from boards and, at the state engineer's discretion, designate ponds as fire suppression ponds. The state engineer may not designate any pond as a fire suppression pond unless the pond existed as of January 1, 1975.

The bill specifies that the designation of a pond as a fire suppression pond expires 20 years after the date of the designation. Before the expiration, the board and the fire protection district must perform a needs assessment of the pond. If the needs assessment demonstrates that the pond is in compliance with criteria established in the director's rules, the board and fire protection district shall notify the state engineer of such fact, and the state engineer shall redesignate the pond as a fire suppression pond. If the needs assessment demonstrates that the pond is not in compliance with the criteria, the board and fire protection district may either:

- Notify the state engineer that the designation of the pond as a fire suppression pond should be rescinded or allowed to expire; or
- Provide to the state engineer a plan and a timeline for bringing the pond back into compliance with such criteria.

The bill also states that the designation of fire suppression ponds by the state engineer does not cause material injury to vested water rights.  
*(Note: This summary applies to this bill as introduced.)*

**Status:** 2/3/2022 Introduced In Senate - Assigned to Agriculture & Natural Resources

**Fiscal Notes:**

---

**SB22-115**

**Clarifying Terms Related To Landowner Liability**

---

**Position:**

**Calendar**

Wednesday, February 16 2022

**Notification:**

SENATE JUDICIARY COMMITTEE

Upon Adjournment SCR 352

(4) in senate calendar.

**Short Title:**

Clarifying Terms Related To Landowner Liability

**Sponsors:**

S. Jaquez Lewis (D) | B. Gardner (R) / M. Soper (R) | K. Tipper (D)

**Summary:**

The bill clarifies the meaning of terms related to landowner liability and declares that the Colorado court of appeals and supreme court decisions in *Rocky Mountain Planned Parenthood, Inc. v. Wagner* should not be relied upon to the extent that those decisions determined:

- The foreseeability of third-party criminal conduct based upon whether the goods or services offered by a landowner are controversial; and
- That a landowner could be held liable as a substantial factor in causing harm without considering whether a third-party criminal act was the predominant cause of that harm.

*(Note: This summary applies to this bill as introduced.)*

**Status:**

2/3/2022 Introduced In Senate - Assigned to Judiciary

**Fiscal Notes:**

---

**SB22-126**

**Prioritize Water Storage Projects South Platte Basin**

---

**Position:**

**Calendar**

Thursday, February 17 2022

**Notification:**

SENATE AGRICULTURE & NATURAL RESOURCES

COMMITTEE

1:30 PM Old Supreme Court

(2) in senate calendar.

**Short Title:**

Prioritize Water Storage Projects South Platte Basin

**Sponsors:**

J. Sonnenberg (R) | K. Donovan (D) / R. Holtorf (R)

**Summary:**

The CWCB finances water projects throughout the state. Current law requires the board to prioritize projects that will increase the beneficial consumptive use of Colorado's undeveloped compact-entitled waters. The bill includes within this priority a specific priority for projects that increase or improve water storage in the South Platte River basin as a means of increasing the beneficial consumptive use of undeveloped water entitled under the South Platte River compact and in a manner that reduces reliance on transmountain diversions.

*(Note: This summary applies to this bill as introduced.)*

February 28, 2022

**Status:** 2/4/2022 Introduced In Senate - Assigned to Agriculture & Natural Resources

**Fiscal Notes:** [Fiscal Note](#)

---

**SB22-131**

---

**Protect Health Of Pollinators And People**

---

**Position:**

**Calendar**

NOT ON CALENDAR

**Notification:**

**Short Title:**

Protect Health Of Pollinators And People

**Sponsors:**

S. Jaquez Lewis (D) | K. Priola (R) / C. Kipp (D) | M. Froelich (D)

**Summary:**

The bill implements a number of measures to protect pollinators and people throughout the state.

- Restricts the use of pesticides on the grounds of a school, preschool program, child care center, or children's resident camp.
- Requires DNR to conduct a study on how to address pollinator decline and increase pollinator health in the state. A report is due to the legislature by January 1, 2024.
- Creates a pilot program through CDA to provide financial grants to agricultural producers to test the use of noncoated seed-applied systemic insecticide on their crops
- Requires CDA to promulgate rules designating certain products that are neonicotinoids as restricted use chemicals. Specific exemptions are included such as use in pet care, personal care, wood preservatives, indoor pest control and on golf courses. The commissioner's rules will not affect the use of the restricted-use pesticides for agricultural purposes.
- Authorizes local governments to regulate pesticide use and remove certain preemptions regarding local government regulation of pesticide use. This does not apply to pesticides used for agricultural pesticides or on agricultural irrigation ditches.

*(Note: This summary applies to this bill as introduced.)*

**Status:** 2/10/2022 Introduced In Senate - Assigned to Agriculture & Natural Resources

**Fiscal Notes:**

# Colorado Water Congress 2022 Bill Status Sheet

Bill No.	Short Title	CWC Position	Introduced	1st Committee	2nd Committee	2nd Reading	3rd Reading	Introduced	1st Committee	2nd Reading	3rd Reading	First House Repass	Conference Committee	Governor
HB22-1007	Assistance Landowner Wildfire Mitigation	31-Jan	12-Jan	2/17 EE	F									
HB22-1011	Wildfire Mitigation Incentives for Local Governments	31-Jan	12-Jan	2/17 EE	Ap									
HB22-1012	Wildfire Mitigation and Recovery	31-Jan	12-Jan	2/17 EE	Ap									
HB22-1092	Loans from Irrigation Districts to Landowners		20-Jan	2/24 Ag										
HB22-1097	Dissolution of Special Districts	7-Feb	20-Jan	2/8 T & LG		11-Feb	14-Feb	17-Feb	3/1 LG					
HB22-1138	Reduce Employee Single-Occupancy Vehicle Trips		4-Feb	2/28 F										
HB22-1148	Wildfire Camera Pilot Program	22-Feb	4-Feb	2/28 Ag										
HB22-1151	Turf Replacement Program	28-Feb	4-Feb	2/28 Ag										
HB22-1152	Prohibig Employer Adverse Action Marijuana Use	22-Feb	4-Feb	3/10 BAL										

Bill No.	Short Title	CWC Position	Introduced	1st Committee	2nd Committee	2nd Reading	3rd Reading	Introduced	1st Committee	2nd Reading	3rd Reading	First House Repass	Conference Committee	Governor
SB22-007	Increase Wildfire Risk Mitigation Outreach Efforts	31-Jan	12-Jan	2/1 LG	Ap									
SB22-013	Boards and Commissions		12-Jan	1/27 SVMA	2/1 Ap	1-Feb	3-Feb	4-Feb	2/9 TLG	17-Feb	18-Feb	24-Feb	24-Feb	
SB22-028	Groundwater Compact Compliance Fund	24-Jan	12-Jan	2/10 Ag		15-Feb	17-Feb	17-Feb	Ag					
SB22-029	Investment Water Speculation	22-Feb	12-Jan	Ag										
SB22-030	Expand Water Resources Review Committee to Include Agriculture		12-Jan	2/10 Ag		15-Feb	17-Feb	17-Feb	Ag					
SB22-114	Fire Suppression Ponds Water Rights		3-Feb	3/3 Ag										
SB22-115	Clarifying terms Related to Landowner Liability		3-Feb	2/16 J		22-Feb	23-Feb	23-Feb	3/9 J					
SB22-126	Prioritize Water Storage Projects South Platte Basin		4-Feb	2/24 Ag										
SB22-131	Protect Health of Pollinators and People		10-Feb	3/3 Ag										
SB22-136	Special District Governance		16-Feb	3/1 LG										
SJR22-002	Water Projects Eligibility Lists	24-Jan	14-Jan	2/10 Ag		15-Feb	17-Feb	17-Feb	2/28 Ag					

BILL STATUS	ABBREVIATIONS
Bill scheduled for action at next SA meeting (yellow)	Ag = Agriculture, Livestock & Water
Bill not calendared (no fill)	Ap = Appropriations
Bill Passed, date of action (green)	BLEW = Business, Labor, Economic and Workforce Development Committee
Bill no longer active (gray)	CC = Conference Committee
Bill did not go to second committee or no action required (black)	F = Finance Committee
<b>CWC POSITION</b>	HIE= Health, Insurance, and Environment
Bill scheduled for activity in CWC State Affairs (yellow)	J = Judiciary
Support (green)	TLG = Transportation & Local Government

Oppose (orange)	SVMA = State, Veterans, and Military Affairs Committee
Amend (blue)	EE = Energy & Environment
Monitor, Neutral, No Position	UA = Upon Adjournment
No Motions Made	UR = Upon Recess
	Ag = Agriculture and Natural Resources Committee
	CD = Capital Development
	TE = Transportation & Energy
	E = Education
	BAL = Business Affairs & Labor