

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

April 8, 2019 Water Legislation Report #13 (2019 Legislative Session)

The State Affairs Committee of the Colorado Water Congress met on April 8 to discuss water-related legislation. Since the last report, the following bill was introduced: [HB19-1303 \(No Liability If Landowner Grants Free Access Land\)](#).

The Committee acted to support [SB19-186 \(Expand Agricultural Chemical Management Program Protect Surface Water\)](#) with amendments, [SB19-221 \(Colorado Water Conservation Board Construction Fund Project\)](#), and [HB19-1279 \(Protect Public Health Firefighter Safety Regulation PFAS Polyfluoroalkyl Substances\)](#) with amendments. The Committee has no position on [HB19 1218 \(Loaned Water for Instream Flows to Improve Environment\)](#) and [HB19 1271 \(Augmentation of Instream Flows\)](#). For more details, see the table below.

All the bills SWCD is currently supporting, along with recent reports, can be found at <https://swwcd.org/resources/legislative-updates/>. The table below provides a detailed summary of water-related legislation introduced during the current session. The format of each bill includes five columns and a following **Summary** cell. The 1st, 2nd, 4th, & 5th column each contain two information items as follows: 1st column has both the **Bill No.** and the **Short Title**. The 2nd column has both the **Sponsors** and the assigned **Committee**. The 3rd column contains only the **Concerning** statement, copied directly from the bill. The 4th column will show important **Amendments** and **Comments** provided by SWCD staff. The 5th column shows both **When Introduced**, **CWC Action**, and **SWCD Position**. Once a bill no longer requires SA Comm action I will include it in a summary table, which will also show its progress. Until CWC takes action, the bill will remain in this format. I will however, **highlight in yellow** changes in any of the cells, compared to the prior report. Once, CWC has acted on a bill, I will move it to the **Status table**, where its progress can be more easily monitored.

If you are aware of other entities that would like to receive these reports, please contact the Southwestern Water Conservation District office at 970-247-1302 with e-mail contact information. Once introduced, copies of bills are available at www.leg.state.co.us. Additional info is available at the CWC web site: <http://www.cowatercongress.org/stateaffairs/>

FYI: Legislator Contact Information

Senator Don Coram (SD 6):	303-866-4884	don.coram.senate@state.co.us
Representative Barbara McLachlan (HD 59):	303-866-2914	barbara.mclachlan.house@state.co.us
Representative Marc Catlin (HD 58):	303-866-2955	marc.catlin.house@state.co.us

Bill No. Title	Sponsors Committee	Concerning	Amendments Comments	When Introduced CWC Action / SWCD Position
<p>HB19 1218</p> <p><u>Loaned Water For Instream Flows to Improve Environment</u></p>	<p>H Roberts</p> <p>Energy & Environment</p>	<p>CONCERNING THE COLORADO WATER CONSERVATION BOARD'S AUTHORITY TO USE WATER THAT A WATER RIGHT OWNER VOLUNTARILY LOANS TO THE BOARD FOR INSTREAM FLOW PURPOSES.</p>	<p><i>The motion to reconsider a Water Congress position on the bill failed.</i></p>	<p>03/04/2019</p> <p>NO POSITION</p> <p>SWCD Position: OPPOSE AS WRITTEN</p>
<p>SUMMARY: Under current law, the Colorado water conservation board (board), subject to procedural requirements established to prevent injury to water rights or decreed conditional water rights, may use loaned water for instream flows if the loaned water is used for preserving the natural environment of a stream reach that is subject to a decreed instream flow water right held by the board. The bill expands the number of years within a 10-year period that a loan may be exercised from 3 years to 5 years and allows a loan to be renewed for up to 2 additional 10-year periods.</p> <p>The bill also expands the board's ability to use loaned water for instream flows to allow loans to:</p> <ul style="list-style-type: none"> • Improve the natural environment to a reasonable degree pursuant to a decreed instream flow water right held by the board; or • Preserve or improve the natural environment to a reasonable degree for a stream reach for which the board does not hold a decreed instream flow water right. <p>In considering whether to accept one of the new types of loans authorized by the bill, the board must evaluate the proposed loan based on a biological analysis performed by the division of parks and wildlife. The board is required to promulgate rules regarding the necessary steps for reviewing and accepting such a loan.</p>				
<p>HB19 1271</p> <p><u>Augmentation of Instream Flows</u></p>	<p>H Arndt</p> <p>Rural Affairs & Agriculture</p>	<p>CONCERNING A CLARIFICATION OF THE AUTHORITY OF THE COLORADO WATER CONSERVATION BOARD TO AUGMENT STREAM FLOWS WITH ACQUIRED WATER RIGHTS THAT HAVE BEEN PREVIOUSLY DECREED FOR AUGMENTATION USE</p>	<p><i>Both the motion to refer the bill to the Interim Water Committee and the motion to support the bill failed. The bill passed the House Rural Affairs & Agriculture Committee with amendments.</i></p>	<p>03/25/2019</p> <p>NO POSITION</p> <p>SWCD Position: DISCUSSION</p>
<p>SUMMARY: The bill clarifies that the Colorado water conservation board may augment stream flows to preserve or improve the natural environment to a reasonable degree by use of an acquired water right that has been previously quantified and changed to include augmentation use, without a further change of the water right being required.</p>				

Bill No. Title	Sponsors Committee	Concerning	Amendments Comments	When Introduced CWC Action / SWCD Position
HB19 1279 Protect Public Health Firefighter Safety Regulation PFAS Polyfluoroalkyl Substances	H Exum, Landgraf S Lee, Hisey Energy & Environment	CONCERNING A CLARIFICATION OF THE CONCERNING THE USE OF PERFLUOROALKYL AND POLYFLUOROALKYL SUBSTANCES.		03/27/2019 SUPPORT WITH AMENDMENTS SWCD Position: DISCUSSION
<p>SUMMARY: The bill prohibits the use of class B firefighting foam that contains intentionally added perfluoroalkyl and polyfluoroalkyl substances (PFAS foam) for training purposes and creates a civil penalty for doing so. The bill also creates the "Firefighting Foams Control Act" (act) which:</p> <ul style="list-style-type: none"> • Prohibits the sale of PFAS foam in certain circumstances; • Requires manufacturers of PFAS foam to notify sellers of the provisions of the act; • Requires manufacturers to disclose whether the personal protective equipment they produce contains perfluoroalkyl and polyfluoroalkyl substances; • Allows for the department of public health and environment to request a certificate of compliance from a manufacturer of class B firefighting foam or firefighting personal protective equipment to ensure that those manufacturers are complying with the limitations on the manufacture of PFAS foam as set forth in the act; • Creates a civil penalty for violating the provisions of the act; and • Requires the department of public health and environment to conduct a survey to determine the amount of PFAS foam currently held, used, and disposed of by fire departments. 				
HB19 1303 No Liability If Landowner Grants Free Access Land	H Will/Valdez Judiciary	CONCERNING A GRANT OF IMMUNITY FROM LIABILITY FOR A LANDOWNER RELATED TO THE LANDOWNER'S FAILURE TO WARN AGAINST A KNOWN DANGEROUS CONDITION ON THE LANDOWNER'S LAND WHEN THE LANDOWNER HAS GRANTED A PERSON ACCESS TO USE THE LAND FOR RECREATIONAL PURPOSES WITHOUT CHARGING THE PERSON.		04/01/2019 DISCUSSION SWCD Position: DISCUSSION
<p>SUMMARY: Under current law, a landowner that grants access to another person, without charge, to use the landowner's land for recreational purposes, such as hunting, fishing, or camping, is not liable for any injuries the person sustains while using the land; except that a landowner is liable to the person for the landowner's willful and malicious failure to guard or warn against a known dangerous condition, use, structure, or activity on the land likely to cause harm. The bill removes the exception.</p>				

Bill No. Title	Sponsors Committee	Concerning	Amendments Comments	When Introduced CWC Action / SWCD Position
SB19 186 Expand Agricultural Chemical Management Program Protect Surface Water	S Donovan H Coram, Arndt Agriculture & Natural Resources	CONCERNING THE EXPANSION OF AGRICULTURAL CHEMICAL MANAGEMENT PLANS TO PROTECT SURFACE WATER.		03/05/2019 SUPPORT WITH AMENDMENTS SWCD Position: DISCUSSION
<p>SUMMARY: Under current law, the commissioner of agriculture is responsible for the management of the use of agricultural chemicals to protect groundwater, and the commissioner adopts rules establishing agricultural management plans for this purpose. The bill expands the scope of the commissioner's agricultural management plans to include the protection of state waters, which includes surface and subsurface waters.</p>				
SB19 221 CWCB Construction Fund Project	S Donovan H Roberts Agriculture & Natural Resources	CONCERNING THE FUNDING OF COLORADO WATER CONSERVATION BOARD PROJECTS, AND, IN CONNECTION THEREWITH, MAKING AN APPROPRIATION.		03/29/2019 SUPPORT SWCD Position: DISCUSSION
<p>SUMMARY: The bill appropriates the following amounts from the Colorado water conservation board (CWCB) construction fund (fund) to the CWCB or the division of water resources in the department of natural resources for the following projects:</p> <ul style="list-style-type: none"> • Continuation of the satellite monitoring system operation and maintenance, \$380,000 (section 1 of the bill); • Continuation of the Colorado floodplain map modernization program, \$500,000 (section 2); • Continuation of the weather modification permitting program, \$175,000 (section 3); • Continuation of the Colorado Mesonet project, \$150,000 (section 4); • Continuation of instream flow engineering support services, \$250,000 (section 5); • Acquisition of LIDAR data, \$200,000 (section 6); and • Technical assistance grants for beneficiaries of the federal "Colorado River Storage Project Act", \$200,000 (section 7). <p>The state treasurer will make the following transfers from the fund:</p> <ul style="list-style-type: none"> • Up to \$2,000,000 on July 1, 2019, to the litigation fund (section 8); and • \$2,500,000 on June 30, 2019, to the water supply reserve fund (section 9). 				

Bill No. Title	Sponsors Committee	Concerning	Amendments <i>Comments</i>	When Introduced CWC Action / SWCD Position
<p>Section 10 appropriates \$17,500,000 from the fund to the CWCB for continuing implementation of the state water plan as follows:</p> <ul style="list-style-type: none"> • Up to \$4,000,000 to support watershed health goals; • Up to \$3,000,000 to facilitate the development of additional storage, artificial recharge into aquifers, and dredging existing reservoirs; • Up to \$1,000,000 for agricultural projects; • Up to \$1,000,000 for grant funding to implement long-term strategies for conservation, land use, and drought planning; • Up to \$500,000 for grants for water education, outreach, and innovation efforts; • Up to \$1,500,000 for environmental and recreational projects; • Up to \$1,000,000 to provide continued funding for the alternative agricultural grant program; and • Up to \$5,500,000 to fund updates to basin implementation plans, improve basin data collection and metrics for tracking state water plan implementation, and for use of the data for future updates of the state water plan. <p>Section 11 authorizes the CWCB to make loans up to \$15,150,000 from the fund for the Walker recharge project, a water supply retiming effort that uses the alluvial aquifer of the South Platte river to increase irrigation opportunities for agricultural production. Current law:</p> <ul style="list-style-type: none"> • Makes money appropriated for use in Republican river matters available until June 30, 2019; section 12 extends -2- SB19-221 availability until the money is fully expended; • Authorizes and directs the state treasurer to transfer \$200,000 from the from the fund to the feasibility study small grant fund; section 13 makes this an annual obligation on July 1 of each year and increases the transfer cap to \$500,000 in order to restore the unencumbered balance in the fund up to \$500,000; and • Creates the flood and drought response fund; section 14 authorizes and directs the state treasurer to annually transfer money on July 1 of each year from the fund to the flood and drought response fund to restore the unencumbered balance in the fund to \$500,000. <p>Section 15 changes a continuing annual transfer established in statute of \$10 million from the severance tax perpetual base fund to the fund for implementation of the state water plan to a single transfer of \$10 million on July 1, 2019.</p>				