



## SOUTHWESTERN WATER CONSERVATION DISTRICT

2020 State Legislative Update: [January 14, 2020](#)

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The Colorado General Assembly convened on Wednesday, January 8, 2020. Below is a summary of the water-related legislation introduced thus far. The 2020 General Assembly is again led by Senate President Leroy Garcia (D-Pueblo) and House Speaker KC Becker (D-Boulder).

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### **SB20-008**      **Enhance Penalties Water Quality Criminal Violations**

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**SWCD Position:** Discussion  
**CWC Position:** Discussion  
**Sponsors:** Senate (Winter), House (Jackson/Hooton)  
**Committee:** Agriculture & Natural Resources  
**Topic:** Concerning the enhancement of penalties for criminal violations of water quality laws.

**Summary:** Current law specifies that a person who commits criminal pollution of state waters that is committed:

- With criminal negligence or recklessly is subject to a maximum daily fine of \$12,500; and
- Knowingly or intentionally is subject to a maximum daily fine of \$25,000.

Section 1 of the bill makes a:

- Criminally negligent or reckless violation a **misdemeanor** and **increases the penalty to \$25,000, imprisonment of up to one year, or both;** and
- **Knowing or intentional violation a class 5 felony and increases the penalty to \$50,000, imprisonment of up to 3 years, or both.**

Current law specifies that a person who knowingly makes any false representation in a required record or who knowingly renders inaccurate any required water quality monitoring device or method is guilty of a misdemeanor and is subject to a fine of not more than \$10,000, imprisonment in the county jail for not more than 6 months, or both.

Section 2 makes these violations a **class 5 felony** and specifies that if 2 separate offenses occur in 2 separate occurrences during a period of 2 years, the maximum fine and imprisonment for the second offense are double the default amounts.

**Comments:**

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### **SB20-024**      **Require Public Input on Water Demand Management Program**

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**SWCD Position:** Discussion  
**CWC Position:** Discussion  
**Sponsors:** Senate (Coram/Donovan), House (Arndt/Catlin)  
**Committee:** Agriculture & Natural Resources  
**Topic:** Concerning the inclusion of public input in the development of a state water resources demand management program.

**Summary:** **Water Resources Review Committee.**

The bill requires the CWCB and the water resources review committee to involve the public and provide opportunities for public comment, **using procedures similar to those used for initial adoption of the state water plan**, before adopting any final or significantly amended water resources demand management program as part of the Colorado upper basin states' drought contingency plan.

**Comments:**

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**SB20-048 Study Strengthening Water Anti-Speculation Law**

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**SWCD Position:** Discussion

**CWC Position:** Discussion

**Sponsors:** Senate (Donovan/Coram), House (Roberts/Catlin)

**Committee:** Agriculture & Natural Resources

**Topic:** Concerning a study to consider the strengthening of the prohibition on speculative appropriations of water

**Summary:** **Water Resources Review Committee.**

Current law specifies that an appropriation of water cannot be based on speculation, as evidenced by either of the following:

- The applicant does not have either a legally vested interest or a reasonable expectation of procuring such an interest in the lands or facilities to be served by the appropriation, unless the appropriator is a governmental agency or an agent in fact for the persons proposed to be benefited by the appropriation; or
- The applicant does not have a specific plan and intent to divert, store, or otherwise capture, possess, and control a specific quantity of water for specific beneficial uses.

The bill requires the executive director of the department of natural resources to **convene a work group** to explore ways to strengthen current anti-speculation law and to report to the water resources review committee by August 15, 2021, regarding any recommended changes.

**Comments:**

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**HB20-1037 Augmentation of Instream Flows**

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**SWCD Position:** Discussion

**CWC Position:** Discussion

**Sponsors:** House (Arndt), Senate (Coram)

**Committee:** Rural Affairs & Agriculture

**Topic:** Concerning the CWCB's authority to augment stream flows with acquired water rights that have been previously decreed for augmentation use.

**Summary:** The bill authorizes the CWCB to 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.

**Comments:**

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**HB20-1042 PFAS Polyfluoroalkyl Substances Manufacturer Notice Requirements**

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**SWCD Position:** Discussion

**CWC Position:** Discussion

**Sponsors:** House (Valdez, McKean), Senate (Moreno/Tate)

**Committee:** Transportation & Local Government

**Topic:** Concerning a modification of the notice requirements for manufacturers of perfluoroalkyl and polyfluoroalkyl substances.  
**Summary:** **Statutory Revision Committee.**

House Bill 19-1279, enacted in 2019, requires manufacturers of class B firefighting foam that contains intentionally added polyfluoroalkyl substances to notify, in writing, sellers of their products about the state's new regulations of these products "no less than one year prior to the effective date of section 25-5-1303", which is impossible because the notice requirements did not exist prior to the bill's effective date on August 2, 2019. The bill **addresses this error** by modifying the effective date of the required notice to prior to August 2, 2020.

**Comments:**

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**[HB20-1069](#) Add Water Well Inspectors Identify High-Risk Wells**

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**SWCD Position:** Discussion  
**CWC Position:** Discussion  
**Sponsors:** House (Saine/Titone), Senate (Sonnenberg/Coram)  
**Committee:** Rural Affairs & Agriculture  
**Topic:** Concerning the inspection of water wells.  
**Summary:** **Water Resources Review Committee.**

The bill requires the state engineer to employ a minimum of 4 water well inspectors in the state's water well inspection program.

The bill requires the state board of water well construction and pump installation contractors, on or before November 1, 2020, to promulgate rules for identifying high-risk water wells that should be prioritized for inspection. Thereafter, the state engineer shall use the rules to identify high-risk water wells and shall prioritize the inspection of high-risk water wells.

The bill clarifies that money in the well inspection cash fund shall be appropriated to and expended by the state engineer only for the well inspection program.

**Comments:**

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**[HB20-1072](#) Study Emerging Technologies for Water Management**

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**SWCD Position:** Discussion  
**CWC Position:** Discussion  
**Sponsors:** House (Arndt/Saine), Senate (Sonnenberg/Bridges)  
**Committee:** Rural Affairs & Agriculture  
**Topic:** Concerning a requirement that the university of Colorado study potential uses of emerging technologies to more effectively manage Colorado's water supply, and, in connection therewith, making an appropriation, conditioned on the receipt of matching funds from gifts, grants, and donations.  
**Summary:** **Water Resources Review Committee.**

The bill declares that new technologies, such as blockchain, telemetry, improved sensors, and advanced aerial observation platforms, can improve monitoring, management, conservation, and trading of water and enhance confidence in the reliability of data underlying water rights transactions. To advance the potential use of these new technologies, the bill:

- Authorizes and directs the University of Colorado, in collaboration with the Colorado water institute at Colorado state university, to conduct feasibility studies and pilot

deployments of these new technologies to improve water management in Colorado;  
and

- Appropriates \$40,000 from the general fund, contingent on the university of Colorado's receipt of a matching \$40,000 in gifts, grants, and donations, for the purpose of funding the studies and pilot programs.

**Comments:**

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Monitoring legislation is integral to keeping a finger on the pulse of dynamic water policy in the state. On behalf of its diverse constituents in southwestern Colorado, the Southwestern Water Conservation District (SWCD) tracks state water legislation closely, specifically through participation in the Colorado Water Congress State Affairs Committee. Beth Van Vurst, SWCD General Counsel, and Frank Kugel, SWCD Executive Director, participate in the State Affairs Committee meetings weekly during the legislative session (January-May) and ensure southwestern Colorado is considered as the State legislature enacts new laws affecting water management.

SWCD staff provides this written summary of water-related legislation, updated throughout the session, via email to interested stakeholders and public. To be added to the list, please contact [lauras@swwcd.org](mailto:lauras@swwcd.org). We hope that you find the updates beneficial and informative.

To reach out to state legislators representing southwestern Colorado, please see their contact information below:

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Representative Barbara McLachlan (HD 59):	303-866-2914	<a href="mailto:barbara.mclachlan.house@state.co.us">barbara.mclachlan.house@state.co.us</a>
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