

AUDUBON COLORADO

LEGISLATIVE UPDATE

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The 2010 legislative session convened on Jan 13. The watchword for the year is money, money, money. The state faces another year of record shortfalls. After cutting nearly \$2 billion in the last two years, we must cut another \$600 million for the current year (2009-2010), and find another \$897 million in reductions for the 2010-2011 fiscal year. As a point of reference, last year's total budget was about \$6 billion. Clearly any bill with a fiscal note of more than a nickel will be dead on arrival. Much of the session will hinge on trying to protect funding for critical programs that currently exist. This promises to be a brutal and often depressing year. With the recession as a backdrop, here's a look at what bills are already introduced, and a few that we know are coming.

PRIORITY BILLS

***HB1051 DATA COLLECTION**

(Pommer, Whitehead)

Position: Support

Status: House Ag

HB1051 requires water providers over a threshold size to provide additional information to the CWCB as part of their water conservation plans. In particular, providers must report annually, and must detail the amount of water saved through implementation of their plans. Additionally, the bill requires that water conservation plans include consideration of specific efficiency devices such as high efficiency toilets, and low flow shower fixtures. Plans must also include the population served by the water provider, and the amount of water used by various segments of that population (residential and nonresidential).

Water providers have raised numerous concerns about cost and availability of information. We are working on amendments to address their concerns.

***HB1197 CONSERVATION EASEMENT TAX CREDIT**

(Ferrandino, Heath)

Position: Grudging acceptance

Status: Senate Floor

HB1197 is the reduction in available funds for the conservation easement tax credit program. Under current law donors are limited to a credit for 50% of the value of the donation, with the amount of the credit capped at \$375,000. HB1197 reduces the cap to \$135,000 for donations after Jan 1 of 2011. As amended in the House, the bill caps the total funds available to the program at \$26 million for two years. At the end of 2013, the cap is raised to \$52 million (the current value of the program).

***SB25 EXTEND FUNDING FOR WATER EFFICIENCY GRANT PROGRAM**

(Whitehead, Baumgardner)

Position: Support

Status: Senate Approp

SB25 extends the water efficiency grant program until 2020. It also extends the current funding mechanisms until 2012, at which time the funding shifts to the operational account from severance tax.

***HB1292 TAKINGS**

(Murray, Harvey)

Position: Watch

Status: House Floor

HB1292 amends the only takings bill we ever lost. The Regulatory Impairment of Property Rights Act (RIPRA) requires compensation by local governments for site specific exactions, as conditions of approval, that do not meet the Nollan and Dolan standards of essential nexus and rough proportionality; unless the conditions are legislatively adopted. As introduced, HB1292 clarifies that if conditions are legislatively adopted, they do not have to meet Nollan and Dolan. So long as there are NO changes to the bill, we do not oppose, but this bill could easily become a huge problem.

OPEN SPACE

SB71 LIFETIME SENIOR PARKS PASS

(Morse, Reisberg)

Position: Oppose

Status: Senate Approp

SB71 creates a lifetime parks pass for seniors. As introduced, the cost of the pass is set at \$150. Given the level of cuts the parks system has already endured, it makes little sense to further reduce their revenue stream

by offering a fixed cost lifetime pass. SB71 was amended by the Senate Ag committee to make it less problematic, but it remains a bad deal for the Division of Parks in this economic climate.

SB98 REALLOCATE LOTTERY MONEY

(Tochtrop, Sonnenberg)

Position: Oppose

Recommend priority status

Status: Senate Floor

CALLS NEEDED TO MEMBERS OF HOUSE AG: Reps. Baumgardner, Curry, Fischer, Hulinghorst, Looper, McKinley, Pace, Ryden, Solano, Sonnenberg, Vigil SEE ATTACHED FACT SHEET

As introduced, SB98 removed \$7.5 million from the local government share of lottery revenue, and transferred it to the Department of Agriculture. The Department of Ag was then to redistribute \$2.5 million back to local entities for noxious weed removal, while the other \$5 million was used to fund conservation districts within the department of Ag. Clearly, funding soil conservation districts was not the intended purpose of lottery proceeds.

SB98 was completely rewritten in Senate Ag. It remains a terrible bill. In its current form, the bill contains a long legislative declaration which laments the loss of funding for noxious weed control, mentions the constitutional amendment creating GOCO, then proceeds to extol the virtues of soil conservation districts, and finally allows local governments to use their share of lottery money to contract with soil conservation districts to accomplish the intended goals of the soil conservation district act.

We are sympathetic to soil districts, and the hardships they face in this climate. The fact remains, however, that the people of Colorado have voted three times to create lottery as a dedicated funding source for parks and open space. Water delivery, range protection, energy conservation and small acreage management are NOT, and were NEVER intended to be valid uses of lottery money.

HB1107 EXCLUDE AG LAND FROM URBAN RENEWAL AREAS

(Fischer, M. Carroll)

Position: Support

Status: Senate SA

HB1107 precludes cities from including agricultural land in urban renewal area for “redevelopment”. Urban renewal areas and Tax increment financing are valid tools for redevelopment of blighted area within city boundaries. Many cities, however, have abused the mechanism to entice developers into an area, often at the expense of counties and special districts which rely on property tax revenue to provide services. One concern is the fact that the state is required to backfill lost tax revenue to school districts. Closing loopholes in TIF policies could mean significant savings for the State budget situation. More significantly for the conservation community, most Ag land provides productive habitat for many species. We definitely prefer that it stay productive habitat rather than sprawling development.

WATER

HB1006 DIVISION OF WATER RESOURCES A TIER I ENTITY

(Curry, Brophy)

Position: Tepid Support

Status: Dead

HB1006 funded the division of water resources with up to 5% of the operational account of severance tax as a tier 1 entity. The bill removed the 5% from the division of wildlife in order to keep the tier 2 programs in the same fiscal shape they currently have. Rep Curry intended to amend the bill to leave DOW's authority in place, but "borrow" about half of their allocation for two years in order to fund 5.3 FTE in the division of water resources. Several legislators objected to Rep. Curry amending a bill that had been approved by the interim water committee. She opted to request that the bill be killed. We expect to see a very similar bill reintroduced outside the structure of the interim committee.

HB1159 BASIN OF ORIGIN PROTECTION

(Pace, Gibbs)

Position: Support

Status: Dead

HB1159 required that applicants seeking to move water from one water division to another needed to enter into mitigation agreements with the water conservancy or conservation districts in the area from which the water was to be moved. Mitigation plans had to at least consider economic and ecologic consequences resulting from the movement of the water.

If the parties could not reach agreement for mitigation, then the water court was required to include terms and conditions in the decree to "ensure that present and future beneficial uses are not increased in cost" for the residents of the sending area.

SB67 EXEMPT SCHOOL WELLS FROM PRIOR APPROPRIATION

(Hodge)

Position: Oppose

Status: Dead

SB67 declared that irrigation wells producing less than 15 gallons per minute owned by small school districts, or schools within those districts were exempt from the prior appropriation system. While there are likely not many wells that met the criteria in the bill, each time a category of water use is allowed to bypass water law the pressures on remaining water supplies are increased.

SB27 FINES FOR ILLEGAL DIVERSION OF SURFACE WATER

(Sandoval, Roberts)

Position: Support

Status: House Ag

SB27 creates a fine of \$500 per day for illegal diversions of surface water. This fine currently exists for illegal diversion of groundwater, and the bill merely imposes the same sanctions for surface water violations.

AIR QUALITY/ ENERGY

HB1001 RENEWABLE ENERGY STANDARDS

(Tyler, Schwartz)

Position: Neutral

Status: Senate T&E

HB1001 is the administration's number one priority. It requires utilities to produce 30% of their energy from renewable sources by 2020. It also requires a graduated percentage of that energy to be from distributive generation technologies (individual home systems).

While Audubon supports development of renewable energy, we recognize that siting of facilities poses significant risks to native wildlife. Clean energy does not necessarily mean green energy. We are unable to support further increases to the renewable energy standard until siting issues are addressed.

SB95 REMOVE WELD COUNTY FROM ENHANCED EMISSION AREA

(Renfro, Vaad)

Position: Oppose

Status: Dead

SB95 repealed SB3 from last year. In particular it removed Weld County from the emissions enforcement area. It also loosened the definition of collectors' vehicles, allowing more high emitting vehicles on the road.

HB1018 WASTE TIRES

(Looper, Gibbs)

Position: Watch

Status: House Approp

HB1018 shifts the money in the waste tire recycling fund yet again. There is a perpetual war between end use recycling processors and higher education research into additional recycling opportunities over how the money in the fund should be divided. HB1018 reallocates the money according to a new formula – which is changing daily. Of some concern this time is that monofills may apply for grants directly to aid in cleanup. Since the fastest, and easiest (and probably cheapest) method of cleanup is incineration, allowing monofill owners access to funds may result in additional tire burning for cement kiln energy production. We are working to remove this provision, though others believe that incineration is less harmful than equivalent energy production from coal-fired plants.

HB1042 STREAMLINE AIR PERMITTING

(Peniston, Hodge)

Position: Monitor

Status: Passed House

HB1042 modifies the air permitting system in Colorado to mirror changes that have occurred in the Clean Air Act. The most significant change is that newly permitted operations may notify the health department that they are beginning operation within 15 days after commencing operation. Under existing law, they are required to give 30 days advance notice prior to beginning operation.

MINING**HB1348 URANIUM PROCESSORS CLEANUP**

(McFadyen, Kester)

Position: Support

Status: House T&E

HB1348 requires that uranium processors demonstrate compliance with environmental laws before receiving upgrades to their permits. Processors must also provide reports to those whose wells are within one mile of contaminated groundwater. They must also report to the legislature regarding progress of cleanup.

HB1060 PENALTY FOR FAILURE TO WITHHOLD SEVERANCE TAX

(Kagan, Steadman)

Position: Support

Status: House Approp

Under current law, a producer who disburses funds to an interest owner, must generally withhold 1% of the gross income and remit it to the Department of Revenue. HB1060 creates a penalty (10% of the amount owed, plus interest) for failure to make such payment. The bill also creates a penalty for failure to file annual reports of payments made.

MISCELLANEOUS

HB1131 NO CHILD LEFT INSIDE

(Scanlan, Gibbs)

Position: Support

Status: House Approp

HB1131 sets up a framework for outdoor and environmental education. A basic curriculum will be provided by DNR. There is money expected to become available from a similar federal program, and HB1107 prepares the State to accept and use the money.

HB1238 WILDLIFE CROSSING ZONES

(Curry, Schwartz)

Position: Support

Status: House T&E

HB1238 creates increased penalties for traffic violations within designated wildlife crossing areas. CDOT is responsible for determining appropriate zones, limited to a cumulative 100 miles of state highways. They are authorized to provide signs to designate crossing areas. The intent is to reduce wildlife collisions with vehicles.

Audubon Colorado Respectfully Opposes SB98

1. The People of Colorado Created Lottery to Fund Parks, Recreation, and Open Space

- In order not to compete with other funding needs of the state, the people have voted 3 times (1976, 1980, 1992) to create a separate revenue base for parks, trails, wildlife and open space.
- The Colorado Constitution stipulates that 40% of net lottery proceeds are to be put in the Local Conservation Trust fund to be spent “**for parks, recreation, and open space purposes.**” (Art XXVII 3 b 1)
- SB98’s revised fiscal note states that sharing the dedicated lottery dollars “*with conservation districts and noxious weed control programs not currently authorized to receive such moneys will result in less money being available for other functions*”, i.e. the functions (parks and recreation purposes) mandated by constitution.
- SB98 violates (Art XXVII 3 b 1) of the state constitution as initiated by the people

2. While we are sympathetic to the funding needs prompting SB98, Lottery was created to address just this sort of “either/or” dilemma. Otherwise, parks would always be at the end of the funding line.

3. Other possible sources of money exist for weed control

- Soil conservation districts have statutory authority to assess costs. Counties receive other funds that are not restricted.
- ‘Spill over’ Funds
Constitutionally, the 50% of lottery dollars to GOCO are capped at \$35million in 1992 dollars adjusted annually for inflation. Excess dollars spill over to the general fund to be spent as the legislature sees fit. Spill over dollars are directed by state statute.

4. In 1993 interrogatories to the Colorado Supreme Court, The General Assembly declared that “*...net lottery proceeds (are) constitutionally dedicated to parks, wildlife and open space purpose by the adoption of Amendment No. 8 (the “GOCO” amendment)...*” SB98 would permit lottery funds to be diverted to other purposes.

We respectfully request that you vote no on SB98.

For more information contact Jen Boulton, Audubon Lobbyist, 303-579-9334