

AUDUBON COLORADO LEGISLATIVE REPORT

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Common Acronyms:

CDPHE – Colorado Department of Public Health and Environment

COGCC - Colorado Oil and Gas Conservation Commission

CWCB – Colorado Water Conservation Board

CWPDA – Colorado Water and Power Development Authority

DNR – Department of Natural Resources

DOLA – Department of Local Affairs

DOW – Division of Wildlife

GEO – Governor’s Energy Office

ISF – In Stream Flow

SEO – State Engineer’s Office

TIF – Tax Increment Financing

WQCC – Water Quality Control Commission

PRIORITY BILLS

***HB1292 RULES REVIEW BILL**

(McGihon, Veiga)

Position: Support

Status: Passed

HB1292 is the annual legislative review of all rules promulgated by all state agencies for the last year. This year it includes the new COGCC rules for oil and gas. The rules are the result of an eighteen month rulemaking process. The final rules represent significant compromises with industry. We preferred the draft rules, which contained much stronger protections for wildlife. The final rules, however, are much better than the status quo. After a long and arduous fight, the rules passed with only minor changes. The legislature kicked three provisions of the rules back to the COGCC for clarification. The COGCC will convene emergency rulemaking hearings to address the language concerns raised in those three rules. The resulting rewrites will appear in next year's rule review bill.

HB1292 is the endgame of a nearly three year fight to protect wildlife from the impacts of oil and gas drilling. While there are still issues to be addressed through stakeholder processes, and the rewriting of the three

disallowed rules, the passage of HB1292 provides significant protections for public health and for critical species of wildlife. We all owe a huge debt of gratitude to those legislators who voted in favor of HB1292.

***SB235 HABITAT STAMP**

(Isgar, Merrifield)
Position: Support
Floor

Status: Senate

SB235 is the reauthorization of the habitat stamp. There are several changes from current statute. First, the stamp will no longer be required of nongame people for access to State Wildlife Areas. Instead, the bill sets up rulemaking authority for the wildlife commission to create a wildlife passport. Passports can be marketed through non TLS vendors so that they are more accessible to nongame users. Second, the bill allows the 60% set aside for big game winter range to sunset next year as expected. Third, the bill repeals the requirement that a five dollar stamp be purchased on each of the first two licenses, and instead requires purchase of a single ten dollar stamp.

Sen. Penry is looking at amendment to require \$500,000 from the habitat stamp fund for instream flow protections. We are working with him and other stakeholders to ensure that the funds are not a replacement for existing CWCB funds, and that the process for application to the habitat stamp fund remains an open process.

***HB1255 LIMIT COGCC RULES CONSULTATIONS**

(Gardner, Kopp)
Position: Oppose

Status: Dead

HB1255 eliminates the requirement that oil and gas operators consult with the DOW about whether wildlife protections are reasonable. The bill requires the COGCC to make the sole determination about the reasonableness of wildlife mitigation requirements. The bill also imposes strict requirements for surface owner consent to all wildlife related restrictions.

***SB4 DELAY OIL/GAS RULES**

(Brophy, Bradford)
Position: Oppose

Status: Dead

SB4 would have delayed implementation of the recently promulgated oil;

and gas rules until July, 2010. After eighteen months of public hearings, the COGCC approved new rules to protect human health and wildlife from the effects of oil and gas exploration and drilling. The rules are critically important to protect the environment as soon as possible. After such intense public and industry input, there was no reason to delay implementation. Thank you to those who opposed SB4, Senators Foster, Newell, and Schwartz.

***HB1167 COGCC RULES NOT APPLICABLE TO EXISTING WELLS**

(McKinley)

Position: Oppose

Status: Dead

HB1167 declared that after September 1, 2009, the COGCC was prohibited from promulgating any rule that related to wildlife if the rules would impact existing wells. Since rules are intended to be somewhat flexible, and modified over time, locking the current rules in place perpetually was clearly poor policy. Additionally, the stakeholder process to deal with riparian buffers is scheduled to begin in April. HB1167 would have foreclosed any rules resulting from the process.

The House Ag committee killed HB1167 this week. Many thanks to those who voted against the bill: Reps. Hullinghorst, Labuda, Pace, Solano, Vigil, Fischer, and Curry.

***HB1067 TAX CREDIT FOR ISF**

(Pommer, White)

Position: Support

Status: House Approp

HB1067 allows a tax credit for donation of water rights for instream flows. The bill allows the credits to be transferred and carried forward for up to six years.

***HB1126 SOLAR THERMAL INCENTIVES**

(Hullinghorst, Shaffer)

Position: Support

Status: House Fin

HB1126 allows local governments to offer the same incentives for installation of solar thermal systems as currently exist for solar electric systems.

***HB1098 STREAMLINE CLEAN COAL APPROVAL**

(Baumgardner, Brophy)

Position: Oppose

Status: Dead

HB1098 creates a new council to initiate approval coordination procedures upon application by the sponsor of a “clean coal” generation plant.

***HB 1199 MITIGATE WILDFIRE RISKS OMNIBUS**

(Scanlan, Gibbs)

Position: Amend

Status: House

Approp

HB1199 directs the state forester to do a laundry list of things to reduce wildfire risks. Most are things we support, though there is one that requires some modification. The state forester is to:

- 1 Develop statewide standards for community wildfire protection plans
- 2 Concentrate on protection of lives, homes, and community infrastructure to reduce the risk of wildfire
- 3 Support land managers and communities in moving from wildfire risk reduction to ecological restoration
- 4 Administer loans from a newly created fund to increase utilization of beetle kill
- 5 Request proposals for loans to businesses for acquisition of equipment to harvest or use beetle kill OR OTHER TIMBER removed from private, municipal, state OR FEDERAL lands.

Clearly this last directive needs some work before we can consider supporting rather than opposing the bill.

***HB1258 EXTRA TERRITORIAL CONDEMNATION**

(B. Gardner, Mitchell)

Position: Oppose

Status: Dead

HB1258 attempts to reinstate the prohibition of local government condemnations outside their territorial boundaries. It also declares “just compensation” to be 150% of fair market value for highest and best use.

WILDLIFE

SB24 GAME DAMAGE

(White, Sonnenberg)

Position: Oppose

Status: House Approp

SB24 requires DOW to contact a complainant within 48 hours to schedule a meeting within five days to discuss mitigation to prevent future damages. The bill also removes the \$100 cap that landowners can charge for hunting access. We are working with proponents to find a middle ground, but the outlook is still questionable. The House Ag committee changed the \$100 cap to \$500, and added a requirement that DOW issue kill permits when damages exceed a 25 percent threshold. This last provision is cause for some concern as there is no definition of the measure of damages (i.e. 25% of what? yearly income? one crop? one bale?)

SB27 COYOTES

(Foster, Miklosi)

Position: Oppose

Status: Dead

SB27 required the Department of Ag and DNR to give a higher priority to predator control in areas where coyotes present a risk to human safety.

HJR~~XXXX~~ SHORTGRASS PRAIRIE PRESERVATION

(Unknown)

Position Support

Status: not yet introduced

HJR1026 is a resolution calling on the State to adopt policies to preserve and protect short grass prairie habitat and species. The problematic clauses from last year have been eliminated. The Ag community, however, remains adamantly opposed.

ENERGY

HB1038 EXEMPT OIL SHALE FROM SEVERANCE TAX

(Lundberg)

Position: Oppose

Status: Dead

HB1038 exempts 20% of oil shale production from severance tax until 2021. The bill died due to the appointment of Rep Lundberg to the Senate. He is free to reintroduce it as a senate bill.

HB1051 USE FEDERAL MINERAL LEASE REVENUES FOR

TRANSPORTATION

(Baumgardner)

Position: Neutral as amended

Status:

Dead

HB1051 required DOLA to collaborate with local governments in affected counties to develop a prioritized list of transportation projects. Starting in 2010, it required DOLA to expend 50% of its severance tax revenues for projects on the priority list.

The House Ag committee completely rewrote the bill. In its final form it reprioritized money among several DOLA accounts for the next 10 years. The only potential loser in the equation was higher education, which lost an earmark created in a bill last year.

HB1055 UTILITIES DISCLOSE CO2 USE

(Green)

Position: Monitor

Status: Dead

HB1055 requires utilities to disclose on each utility bill, the amount of carbon dioxide emitted during the last billing cycle, and the amount of the carbon dioxide that is attributable to the customer.

HB1149 SOLAR PREWIRE

(Merrifield, M. Carroll)

Position: Support

Status: Senate Floor

HB1149 requires developers to offer solar electric pre-wiring as an option in new homes. There are a few problems with the bill, such as the omission of solar thermal. There is also angst from other renewable generation suppliers, such as wind, since the bill is specific to solar, rather than technology neutral. The bill may need to be reintroduced to address these issues as the title is very narrow.

HB1268 FOSSIL FUEL REDUCTION

(C. Gardner, Kopp)

Position: Oppose

Status: Dead

In addition to boasting the longest title in history, HB1268 contains a number of provisions intended to reduce consumption of fossil fuels. The primary method for reduction is the addition of nuclear power in the RPS and development of siting specifications for plants.

WATER

SB15 MOVE WHITE RIVER TO DIVISION 6

(Tochtrop, C. Gardner)

Position: Support

Status: Passed

SB15 is merely a cleanup bill to align water division assignment with existing judicial and administrative oversight.

SB80 EXEMPT CISTERNS

(Isgar, Looper)

Position: Support

Status: Passed

SB80 permits the use of cisterns to collect precipitation from up to 3000 square feet of rooftop. The bill restricts the use of the collected water to fire protection, livestock watering, household use, or irrigation of up to one acre of lawns or gardens. The bill requires those interested in using cisterns to apply for a permit from and pay a fee to the State Engineer's Office (like a well permit today). Finally the bill restricts use of exempt cisterns to residential dwellings.

SB125 CWCB PROJECTS

(Isgar, Curry)

Position: Support

Status: House Approp

SB125 is the yearly projects bill for the CWCB. There are no controversial provisions this year.

HB1017 WATER EFFICIENCY GRANT FUND

(Pace, Hodge)

Position: Support

Status: House Approp

HB1017 is a cleanup of the statutory language surrounding the water efficiency grant fund for local governments to do water efficiency plans.

HB1062 WATER QUALITY IN PICEANCE BASIN

(Curry, Schwartz)

Position: Support in concept

Status: Dead

HB1062 required the COGCC to contract with USGS to implement baseline water quality monitoring programs. The bill specified that the monitoring was to determine accurate and consistent data to discern long term water quality trends and to promote effective management of water use during energy development.

HB1129 CISTERN PILOT PROJECTS

(Looper, Romer)

Position: Support

Status: Senate Approp

HB1129 directs the CWCB to select up to ten new developments to participate in the cistern pilot program. The bill specifies that the criteria of the program include baseline data for native plant water consumption, measuring return flow patterns, evaluating cistern design, and quantifying precipitation for augmentation purposes. HB1126 requires the CWCB to report the results of the pilot program to the State Engineer's Office by 2019.

MISCELLANEOUS

SB1 COMMUNITY WILDFIRE PROTECTION PLANS

(Gibbs, Scanlan)

Position: Support

Status: Signed

SB55 requires the state forester to establish criteria for CWPPs by November 15. The bill requires collaboration with DNR, local fire protection, law enforcement, and local governments in developing criteria for fuels reduction projects in the red zone.

SB16 ENCOURAGE REFORESTATION OF BEETLE KILLED AREAS

(Kopp, S. King)

Position: Support

Status: House Approp

SB16 provides a five year exemption from business personal property

taxes for businesses that remove beetle kill if they assist in reforestation efforts after the beetle kill is removed.

HB1002 LOTTERY

(McFadyen, Tapia)

Position: FYI

Status: Signed

HB1002 changes the lottery commission to a type 2 agency. The bill also allows the commission to sell memorabilia for marketing purposes, and modifies the rules about who can conduct drawings. Finally, the bill allows the sale of tickets for less than \$1.00.

HB1056 PENALTIES FOR SOLID WASTE VIOLATIONS

(McCann, Kopp)

Position: Neutral

Status: Senate HHS

HB1056 allows CDPHE to increase administrative penalties for violations of solid waste disposal laws. The bill also removes the requirement that a public hearing be held, unless such a hearing is requested by the violator. The bill was modified to clarify that administrative penalties do not require public hearings. More significant violations will still require hearings.

HB1060 ROCKY FLATS SIGNAGE

(McKinley)

Position: Tepid Support

Status:

Dead

HB1060 required signs to be posted at each entrance to Rocky Flats warning the public of the dangers of plutonium and other toxic substances used during the facility's history as a nuclear weapons plant.

HB1070 LANDS PROHIBITED FROM URBAN RENEWAL AREAS

(Fischer)

Position: Support

Status: Dead

HB1070 requires municipalities to get the approval of other taxing entities in the district before using tax increment financing to encourage development. The bill also prohibits cities from including agricultural lands in urban renewal areas. By eliminating the ability to declare Ag land blighted, the bill reduces the threat of "green fields" development and resulting sprawl.

HB1106 PENDING ORDINANCES

(Hullingerst, Gibbs)

Position: Support

Status: Dead

HB1106 specifies that development applications for land use approvals to local governments are subject to regulations that are pending at the time of application.

HB1107 RESTRICTIVE COVENANTS

(A. Kerr/Gibbs)

Position: Support

Status: Dead

HB1107 prohibits covenants or other regulations which raise the cost of renewable energy generation devices by more than 10%. The bill also prohibits regulations that reduce efficiency of such devices by more than 10%.