

**SOUTH METRO WATER SUPPLY AUTHORITY
Legislative Report – March 16, 2020**

As you will all know from my email on Friday, the General Assembly has suspended the session for the next two weeks. This is for a variety of reasons, as I covered in the previous email.

Remarkably enough, the legislature managed to reschedule and adopt calendars to commence on March 30, so your attached report is as current as circumstances permit.

It is important to understand that the legislature has a constitutional obligation to conclude its activities after 120 days, in a normal session. There is a lot of discussion over the emergency declarations and rules enacted by the Governor and the two Houses, and whether that permits the legislature to meet for a non-consecutive 120 days under the current emergency. If there is no opinion from the Judiciary then it is likely that the Legislature will have to conclude its obligations of passing the Long Budget Bill, the School Finance Act, and any other mandatory acts and still meet the current deadline of May 6.

In all the lists of legislation I've seen discussed, none of the water related bills have made a top ten or top twenty list of importance. So, it's anybody's guess what will actually happen.

Since that's everything I know at this point I will simply promise to email you news as I hear it over the next two weeks.

The only way I know to finish taking positions on legislation is to briefly describe each bill, ask for your position, and then take a vote.

We will be starting with HB20-1265. By just going down the list we can act as we normally do on taking positions on bills.

Pat

Calendar Notification of Your Bill Dossier

Bill HB20-1069 - L. Saine | B. Titone / J. Sonnenberg | D. Coram Add Water Well Inspectors
Identify High-risk Wells

Monday, March 30 2020

GENERAL ORDERS - SECOND READING OF BILLS

(33) in house calendar.

Bill HB20-1164 - J. Rich | K. Becker / R. Zenzinger Housing Authority Exemptions From Water
Fees

Monday, March 30 2020

GENERAL ORDERS - SECOND READING OF BILLS

(47) in house calendar.

Bill HB20-1308 - J. Arndt / J. Ginal Nonsubstantive Emails And Open Meetings Law
Monday, March 30 2020
GENERAL ORDERS - SECOND READING OF BILLS
(19) in house calendar.

Bill SB20-155 - J. Sonnenberg / R. Pelton Keep Presumption Noninjury Well On Divided Land
Monday, March 30 2020
GENERAL ORDERS - SECOND READING OF BILLS
(17) in house calendar.

Bill SB20-159 - C. Hansen Global Warming Potential For Public Project Materials
Thursday, April 9 2020
GENERAL ORDERS - SECOND READING OF BILLS (CONTINUED)
(2) in senate calendar.

BILL [HB20-1037](#)

Short Title: Augmentation Of Instream Flows
Sponsors: J. Arndt (D) / D. Coram (R)

The bill authorizes the Colorado water conservation board 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.

(Note: This summary applies to the reengrossed version of this bill as introduced in the second house.)

Status
2/28/2020 House Considered Senate Amendments - Result was to Concur - Repass

Bill Version: Rerevised

BILL [HB20-1042](#)

Short Title: PFAS Polyfluoroalkyl Substances Manufacturer Notice Requirements
Sponsors: D. Valdez (D) | H. McKean (R) / D. Moreno (D) | J. Tate (R)

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.

(Note: This summary applies to the reengrossed version of this bill as introduced in the second house.)

Status

3/14/2020 Senate Third Reading Passed - No Amendments

Bill Version: Rerevised

BILL [HB20-1069](#)

Short Title: Add Water Well Inspectors Identify High-risk Wells

Sponsors: L. Saine (R) | B. Titone (D) / J. Sonnenberg (R) | D. Coram (R)

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.

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

Status

3/13/2020 House Committee on Appropriations Refer Amended to House Committee of the Whole

Bill Version: Introduced

BILL [HB20-1072](#)**Short Title:** Study Emerging Technologies For Water Management**Sponsors:** J. Arndt (D) | L. Saine (R) / J. Sonnenberg (R) | J. Bridges (D)

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 *and Colorado state university* , 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~~ *\$20,000 to each university* from the general fund, contingent on the ~~university of Colorado's~~ *universities'* receipt of a matching \$40,000 in gifts, grants, and donations, for the purpose of funding the studies and pilot programs.

(Note: Italicized words indicate new material added to the original summary; dashes through words indicate deletions from the original summary.)

(Note: This summary applies to the reengrossed version of this bill as introduced in the second house.)

Status

3/12/2020 Introduced In Senate - Assigned to Agriculture & Natural Resources

Bill Version: Reengrossed**BILL [HB20-1074](#)****Short Title:** Trash Collection By Special Districts**Sponsors:** K. Ransom (R) | B. Titone (D) / J. Smallwood (R)

The "Special District Act" (act) allows a sanitation district, a water and sanitation district, or a metropolitan district with a population of 2,500 or less that is located in a county with a population of 25,000 or less to provide for the collection and transportation of solid waste. The bill amends the act to remove the population restriction, allowing a sanitation district, water and sanitation district, or metropolitan district to provide for the collection and transportation of solid waste regardless of the population in the district or the county. *The bill specifies that the district may provide the waste services itself or by contracting with a third-party service provider*

through a public bidding process. The district is prohibited from providing waste services within a municipality or county without the consent of the municipality or county.

(Note: Italicized words indicate new material added to the original summary; dashes through words indicate deletions from the original summary.)

(Note: This summary applies to the reengrossed version of this bill as introduced in the second house.)

Status

3/10/2020 House Considered Senate Amendments - Result was to Concur - Repass

Bill Version: Final Act

BILL [HB20-1094](#)

Short Title: Repeal Fee Cap On-site Wastewater Treatment System

Sponsors: M. Catlin (R) | J. Arndt (D) / J. Ginal (D) | D. Coram (R)

Current law requires that a local board of health set the permit fee for on-site wastewater treatment system permits in an amount to recover the actual indirect and direct costs associated with the permit and sets a \$1,000 cap on the fee. The bill repeals the dollar limitation on the fee. *Upon request, the local board of health shall provide the permittee with a statement that specifies how the permit fee was calculated.*

(Note: Italicized words indicate new material added to the original summary; dashes through words indicate deletions from the original summary.)

(Note: This summary applies to the reengrossed version of this bill as introduced in the second house.)

Status

3/6/2020 Sent to the Governor

Bill Version: Signed Act

BILL [HB20-1095](#) Neutral

Short Title: Local Governments Water Elements In Master Plans

Sponsors: J. Arndt (D) / J. Bridges (D) | C. Hansen (D)

The bill authorizes a local government master plan to include goals specified in the state water plan and to include policies that condition development approvals on implementation of those goals. *The bill authorizes the department of local affairs to hire and employ a full-time employee to provide educational resources and assistance to local governments that include water conservation policies in their master plans.*

(Note: Italicized words indicate new material added to the original summary; dashes through words indicate deletions from the original summary.)

(Note: This summary applies to the reengrossed version of this bill as introduced in the second house.)

Status

3/13/2020 House Considered Senate Amendments - Result was to Concur - Repass

Bill Version: Rerevised

BILL [HB20-1097](#)

Short Title: Connected Municipal Use No Change If Already Quantified

Sponsors: M. Young (D) | J. Arndt (D)

Current law limits the place of use of water subject to a changed water right that has been decreed for use in a treated domestic or municipal water supply system to only that system. The bill authorizes the use of that water in an interconnected treated domestic or municipal water supply system if:

- The water is attributable to a water right for which the historical consumptive use has previously been quantified, diverted from a point of diversion that has already been decreed for that water right, and delivered from the decreed treated system to the interconnected treated system without the water being returned to the natural stream; and
- The owner of the water right has given written notice to the division engineer that identifies the proposed accounting for the use of the water right and the division engineer has approved the accounting.

The owner of the water right must give notice to all persons on the substitute water supply plan notification list for the applicable water division. The division engineer will review any comments received on the proposed accounting and make a determination whether the

accounting is adequate. This determination may be appealed to the water judge. Other than the place of use, all of the terms and conditions of the previous change of water right decree continue to apply to the water right. A claim to any return flows from the use of the water right in the interconnected treated domestic or municipal water supply system must be approved by the water judge.

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

Status

2/13/2020 House Committee on Rural Affairs & Agriculture Postpone Indefinitely

Bill Version: Introduced

BILL [HB20-1119](#) **Neutral**

Short Title: State Government Regulation Of Perfluoroalkyl And Polyfluoroalkyl Substances

Sponsors: T. Exum (D) | L. Landgraf (R) / D. Hisey (R) | P. Lee (D)

The bill addresses the authority of the state government to regulate perfluoroalkyl and polyfluoroalkyl substances (PFAS).

Section 1 of the bill addresses when PFAS may be used for firefighting foam system testing both in general and in certain aircraft hangars.

Section 2 grants the department of public health and environment the power to adopt and enforce standards and regulations that require public drinking water systems to sample drinking water supply sources and finished drinking water for PFAS.

Section 3 clarifies that the water quality control commission may set standards related to PFAS in surface water and groundwater and may require wastewater systems to collect PFAS data relevant to the commission setting PFAS standards.

Section 4 requires the solid and hazardous waste commission to promulgate rules for a certificate of registration for any facility or fire department that possesses PFAS in firefighting agents or firefighting equipment and for standards for the capture and disposal of PFAS in firefighting agents or firefighting equipment.

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

Status

3/9/2020 House Committee on Energy & Environment Refer Amended to Finance

Bill Version: Introduced

BILL [HB20-1143](#) Oppose

Short Title: Environmental Justice And Projects Increase Environmental Fines

Sponsors: D. Jackson (D) | S. Gonzales-Gutierrez (D) / F. Winter (D)

Current state law sets the maximum civil fine for most air quality violations at \$15,000 per day and most water quality violations at \$10,000 per day, but federal law allows the federal environmental protection agency to assess a maximum daily fine per violation of \$47,357 for these violations. **Sections 2 and 4** of the bill raise the maximum fine to \$47,357 per day and direct the air quality control commission and the water quality control commission in the department of public health and environment (department) to annually adjust the maximum fine based on changes in the consumer price index.

Current law allocates all water quality fines to the water quality improvement fund; **section 4** authorizes the use of money in that fund to pay for projects addressing impacts to environmental justice communities. Section 4 also extends the repeal date for the water quality improvement fund to September 1, 2025.

Current law allocates all air quality fines to the general fund; **section 3** allocates them to the newly created community impact cash fund. Section 3 also:

- Specifies that the department is to use money in the community impact cash fund for environmental mitigation projects (EMPs);
- Defines an EMP as a project that avoids, minimizes, or mitigates the adverse effects of a violation or alleged violation of the air quality or water quality laws;
- Creates the environmental justice advisory board to recommend EMPs in response to violations or alleged violations that affect environmental justice communities; and
- Creates an environmental justice ombudsperson position within the department, who serves as chief staff to the advisory board and advocates for environmental justice communities.

Section 3 also requires the department to post proposed EMPs on the department's website in a format that allows the public to submit comments on the proposed EMP, not approve an EMP until at least 45 days after the EMP has been posted on its website, and include a description of all approved EMPs in its departmental SMART Act presentations.

Section 1 sunsets the advisory board on September 1, 2025.

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

Status

2/27/2020 House Committee on Finance Refer Amended to Appropriations

Bill Version: Introduced

BILL [HB20-1157](#) **Oppose**

Short Title: Loaned Water For Instream Flows To Improve Environment

Sponsors: D. Roberts (D) | P. Will (R) / K. Donovan (D)

Under current law, the Colorado water conservation board (board), subject to procedural requirements established to prevent injury to water rights and 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 renewable loan may be exercised from 3 years to 5 years, but for no more than 3 consecutive years, and allows a loan to be renewed for up to 2 additional 10-year periods. The bill limits the duration that an expedited loan may be exercised for up to one year, and prohibits an applicant from seeking additional expedited loans regarding a water right following an approved expedited loan of that water right.

The bill also expands the board's ability to use loaned water for instream flows to improve the natural environment to a reasonable degree pursuant to a decreed instream flow water right held by the board.

In considering whether to accept a proposed loan, the board must evaluate the proposed loan based on biological and scientific evidence presented, including a biological analysis performed by the division of parks and wildlife.

The state engineer will review a proposed loan and must consider any comments filed by parties notified of the application in determining whether the loaned water will not cause injury to other vested or conditionally decreed water rights, *decreed exchanges of water, or undeclared existing exchanges of water that were administratively approved before the date that the loan application was filed*. The filing fee is increased from \$100 to \$300.

The board is required to promulgate rules regarding the necessary steps for reviewing and accepting a loan for instream flow use to improve the natural environment to a reasonable degree.

The state engineer's decision to approve or deny a proposed loan may be appealed to a water judge, who is required to hear and determine the matter on an expedited basis using the procedures and standards established for matters rereferred to the water judge by a water referee.

(Note: Italicized words indicate new material added to the original summary; dashes through words indicate deletions from the original summary.)

(Note: This summary applies to the reengrossed version of this bill as introduced in the second house.)

Status

3/4/2020 Senate Third Reading Passed - No Amendments

Bill Version: Final Act

BILL [HB20-1159](#) **Neutral**

Short Title: State Engineer Confirm Existing Use Instream Flow

Sponsors: D. Roberts (D) | M. Catlin (R) / K. Donovan (D) | D. Coram (R)

Current law specifies that the Colorado water conservation board's appropriation of water for instream flow purposes is subject to existing uses and exchanges of water. The bill directs the state engineer, in administering current law, to confirm a claim of an existing use or exchange if the use or exchange has not previously been confirmed by court order or decree. The person making the claim may also seek confirmation by the water judge.

(Note: This summary applies to the reengrossed version of this bill as introduced in the second house.)

Status

3/4/2020 Senate Third Reading Passed - No Amendments

Bill Version: Rerevised

BILL [HB20-1164](#) **Oppose**

Short Title: Housing Authority Exemptions From Water Fees

Sponsors: J. Rich (R) | K. Becker (D) / R. Zenzinger (D)

The bill specifies that housing authorities are exempt from tap fees and development impact fees imposed by a water conservancy district.

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

Status

2/18/2020 House Second Reading Laid Over Daily - No Amendments

Bill Version: Introduced

BILL [HB20-1172](#)

Short Title: No Abandonment Of Water Rights For Efficiencies

Sponsors: J. Arndt (D)

Current law provides that a period of nonuse of a portion of a water right is tolled, and no intent to discontinue permanent use is found for purposes of determining an abandonment of a water right, for the duration that the nonuse of the water right by its owner is a result of any of certain conditions. The bill adds a condition that applies when the nonuse of a portion of a water right is a result of the implementation of efficiency improvement projects or methods that result in a reduction of the amount of water diverted for the decreed beneficial use. In such case:

- For the period of nonuse to be tolled, the owner of the water right must submit written notice of the efficiency improvement project or method to the division engineer, on a form prescribed by the division engineer, within one year of the date that the efficiency improvement project or method is first implemented; and
- The nonuse of the portion of the water right is tolled for a maximum of 20 years.
(Note: This summary applies to this bill as introduced.)

Status

3/2/2020 House Committee on Rural Affairs & Agriculture Postpone Indefinitely

Bill Version: Introduced

BILL [HB20-1173](#)

Short Title: 811 Locate Exemption For County Road Maintenance

Sponsors: L. Saine (R) | M. Baisley (R) / J. Smallwood (R) | F. Winter (D)

Current law requires an individual or entity to notify the statewide notification association of all owners and operators of underground facilities of its intent to engage in excavation so that any underground facilities, such as water and sewer pipes, gas lines, and electric or cable lines, that the excavation might affect can be located and marked before excavation begins. Underground facilities are often located beneath county gravel and dirt roads, normally at a depth of at least 18 inches below the road surface. Counties maintain the profile and surface condition of such

county roads and county road rights-of-way by engaging in routine and emergency maintenance activities that do not disturb more than 6 inches in depth. These maintenance activities currently trigger the excavation notification requirement, and the related requirement that the location of underground facilities be marked, even though they occur above the levels where underground facilities are located. To prevent such activities from triggering the excavation notification requirement, the bill specifies that "excavation" does not include routine or emergency maintenance of right-of-way on county-owned gravel or dirt roads performed by county employees that:

- Does not lower the existing grade or elevation of the road, shoulder, and ditches; and
 - Does not disturb more than 6 inches in depth during maintenance operations.
- (Note: This summary applies to the reengrossed version of this bill as introduced in the second house.)*

Status

3/3/2020 Introduced In Senate - Assigned to Transportation & Energy

Bill Version: Reengrossed

BILL [HB20-1180](#)

Short Title: Protect Pollinators Through Pesticide Regulation

Sponsors: C. Kipp (D) | S. Jaquez Lewis (D) / R. Fields (D) | K. Priola (R)

To protect bee and other pollinator populations throughout the state, the bill requires the commissioner of agriculture (commissioner), on or before March 1, 2021, to adopt rules to regulate the use of neonicotinoid pesticides and sulfoximine pesticides by classifying specific neonicotinoid pesticides and sulfoximine pesticides as restricted-use pesticides. The commissioner's rules must exempt from the restricted use of the pesticides their use as indoor pest control, personal care, and pet care products; however, the commissioner, thereafter, may amend the rules to disallow their use as indoor pest control, personal care, or pet care products if the commissioner determines that another commercially available product that is not a neonicotinoid pesticide or a sulfoximine pesticide is as or more effective than a neonicotinoid pesticide or a sulfoximine pesticide when used in accordance with the product's label directions for the same indoor pest control, personal care, or pet care use or uses.

The commissioner's rules regarding the restricted use of neonicotinoid pesticides and sulfoximine pesticides must not apply to commercial applicators, limited commercial applicators, public applicators, qualified supervisors, certified operators, and private applicators.

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

Status

3/9/2020 House Committee on Energy & Environment Refer Amended to Finance

Bill Version: Introduced

BILL [HB20-1215](#)

Short Title: Sunset Water Wastewater Facility Operators Certification Board

Sponsors: A. Valdez (D) | M. Froelich (D) / M. Foote (D)

Sunset Process - House Energy and Environment Committee. The bill implements the recommendations of the department of regulatory agencies' sunset review of the water and wastewater facility operators certification board by:

- Extending the repeal date of the board until September 1, 2031 (**sections 1 and 2** of the bill);
- Amending the definition of "domestic wastewater treatment facility" to exclude only those small on-site wastewater treatment systems with a design capacity of 2,000 gallons or less per day, unless the system discharges directly to surface water (**section 3**);
- Repealing the exclusion of facilities designed to operate for less than one year and facilities with in-situ discharges from the definition of "industrial wastewater treatment facilities" (**section 3**);
- Creating a water and wastewater facility operators fund for fees that the board receives directly and uses for the exclusive use of the regulatory program (**section 4**); and
- Repealing an obsolete provision of law relating to a reorganization of the board on July 1, 2004 (**section 2**).

The bill appropriates \$24,815 from the water and wastewater facility operators fund to the department of public health and environment for use by the drinking water program.

(Note: Italicized words indicate new material added to the original summary; dashes through words indicate deletions from the original summary.)

(Note: This summary applies to the reengrossed version of this bill as introduced in the second house.)

Status

3/12/2020 Senate Committee on Agriculture & Natural Resources Refer Unamended to Appropriations

Bill Version: Reengrossed

BILL [HB20-1233](#)

Short Title: Basic Life Functions In Public Spaces

Sponsors: J. Melton (D) | A. Benavidez (D)

The bill prohibits the state and any city, county, city and county, municipality, or other political subdivision (government entity) from restricting any person from:

- Conducting basic life functions in a public space unless the government entity can offer alternative adequate shelter to the person and the person denies the alternative adequate shelter; and
- Occupying a motor vehicle, provided that the motor vehicle is legally parked on public property or parked on private property with the permission of the property owner.
(Note: This summary applies to this bill as introduced.)

Status

2/26/2020 House Committee on Transportation & Local Government Postpone Indefinitely

Bill Version: Introduced

BILL [HB20-1263](#)

Short Title: Eliminate Sub-minimum Wage Employment

Sponsors: Y. Caraveo (D) | R. Pelton (R) / J. Gonzales (D)

The bill phases out sub-minimum wage employment for employers that hold a special certificate from the United States department of labor that authorizes employers to pay employees whose earning capacity is impaired by age, physical or mental deficiency, or injury less than the minimum wage. The bill requires each employer that holds a special certificate to submit a transition plan to the Colorado department of labor and employment detailing how the employer plans to phase out sub-minimum wage employment.

The bill requires the employment first advisory partnership in the department of labor and employment to develop actionable recommendations to address structural and fiscal barriers to phase out sub-minimum wage employment and successfully implement competitive integrated employment and report the recommendations to the general assembly.

The bill requires the department of health care policy and financing to grant money to private employers, not to exceed \$25,000 per employer, to provide assistance in developing and implementing a transition plan to phase out sub-minimum wage employment. The bill requires

the department of health care policy and financing to add employment-related services for individuals with intellectual and developmental disabilities.

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

Status

2/26/2020 House Committee on Business Affairs & Labor Refer Amended to Appropriations

Bill Version: Introduced

BILL [HB20-1265](#)

Short Title: Increase Public Protection Air Toxics Emissions

Sponsors: A. Benavidez (D) | A. Valdez (D) / J. Gonzales (D) | D. Moreno (D)

The bill creates a new program to regulate emissions of a subset of hazardous air pollutants, referred to as "covered air toxics", which are defined as hydrogen cyanide, hydrogen fluoride, hydrogen sulfide, benzene, and other hazardous air pollutants specified by the air quality control commission by rule. A stationary source of air pollutants that reported in its federal toxics release inventory filing at least one of the following amounts of a covered air toxic in one year is defined as a "covered facility":

- For hydrogen cyanide, 10,000 pounds;
- For hydrogen fluoride, 10,000 pounds;
- For hydrogen sulfide, 5,000 pounds; and
- For benzene, 1,000 pounds.

At least every 5 years beginning in 2026, the commission will review the best available science and adjust, as necessary to protect public health, the list of covered air toxics and their associated emission levels. The commission will:

- Regulate covered air toxics more strictly than is required by the federal clean air act;
- Require covered facilities to monitor their emissions of covered air toxics;
- Set health-based emission limits for covered air toxics if no such limit exists under state or federal law; and
- Establish a real-time community alert system for "incidents", which are unauthorized emissions of an air pollutant from a covered facility.

The division of administration in the department of public health and environment will:

- Consider and prevent adverse cumulative impacts from covered facilities' emissions of hazardous air pollutants when processing air pollution permits for covered facilities that

are located in or near disproportionately impacted communities, as determined by the commission by rule;

- Approve a new or amended permit for a covered facility only if there is no net increase in the adverse cumulative impacts of hazardous air pollutant emissions above existing levels in each disproportionately impacted community affected by the emissions; and
- If existing emissions of hazardous air pollutants exceed the health-based emission limits or have unacceptable adverse cumulative impacts on any disproportionately impacted community, require a decrease or cessation in the applicable emissions over the shortest practicable time until the emissions comply with the health-based emission limits and no longer have unacceptable adverse cumulative impacts on any disproportionately impacted community.

Covered facilities will:

- Monitor their covered air toxics emissions and make the monitoring data widely available, including to the public; and
- Promptly disseminate information regarding an incident pursuant to the commission's real-time community alert system to the public, affected local governments and other community entities, and local emergency planning and response organizations.

The bill specifies violations for a covered facility that is covered by specified federal regulations based on the unauthorized emission of an air pollutant from a flare or pressure relief device and any uncontrolled atmospheric release of an air pollutant from an organic hazardous air pollutant pressure relief device. The commission will review its rules for these facilities and specifically consider adopting more stringent provisions, including:

- A requirement that leak detection and repair inspections occur at these facilities on, at a minimum, a semiannual basis or that an alternative approved instrument monitoring method is in place pursuant to existing rules; and
- Reductions in fugitive emissions from equipment leaks and wastewater at these facilities.
(*Note: This summary applies to this bill as introduced.*)

Status

3/9/2020 House Committee on Energy & Environment Refer Amended to Finance

Bill Version: Introduced

BILL [HB20-1287](#)

Short Title: Colorado Rights Act

Sponsors: M. Soper (R) / V. Marble (R) | P. Lee (D)

The bill allows a person who has a right, privilege, or immunity secured by the Colorado constitution that is infringed upon to bring a civil action for the violation. The attorney general can also bring an action under the same circumstances. A plaintiff who prevails in the lawsuit is entitled to reasonable attorney fees, and a defendant in an individual suit is entitled to reasonable attorney fees for defending any frivolous claims. Qualified immunity and a defendant's good faith but erroneous belief in the lawfulness of his or her conduct are not defenses to the civil action. The civil action has a two-year statute of limitations. The bill requires a public entity to indemnify its public employees in a claim unless the employee is convicted of a crime related to the claim.

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

Status

3/5/2020 House Committee on Judiciary Postpone Indefinitely

Bill Version: Introduced

BILL [HB20-1291](#)

Short Title: Uniform Collaborative Law Act

Sponsors: K. Tipper (D) / B. Gardner (R)

The bill enacts the "Uniform Collaborative Law Act" (act). The bill authorizes a collaborative law process whereby disputes are resolved without intervention by a court or other tribunal. It specifies:

- Requirements for a collaborative law participation agreement including that both sides be represented and advised by collaborative law lawyers; and
- That communications made during the collaborative law process are confidential and may not be used in later proceedings except in specified situations.

(Note: This summary applies to the reengrossed version of this bill as introduced in the second house.)

Status

3/10/2020 Introduced In Senate - Assigned to Judiciary

Bill Version: Reengrossed

BILL [HB20-1308](#)

Short Title: Nonsubstantive Emails And Open Meetings Law

Sponsors: J. Arndt (D) / J. Ginal (D)

Under current provisions of the Open Meetings Law (OML), if elected officials use electronic mail to discuss pending legislation or other public business among themselves, the electronic mail constitutes a meeting that is subject to the OML's requirements. The bill substitutes the word "exchange" for the word "use" in describing the type of electronic mail communication that triggers the application of the OML.

The bill clarifies existing statutory provisions to specify that electronic mail communication between elected officials that does not relate to the merits or substance of pending legislation or other public business is not a meeting for OML purposes. Under the bill, the type of electronic communication that also does not constitute a meeting for OML purposes includes electronic communication regarding scheduling and availability as well as electronic communication that is sent by an elected official for the purpose of forwarding information, responding to an inquiry from an individual who is not a member of the state or local public body, or posing a question for later discussion by the public body.

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

Status

3/14/2020 House Second Reading Laid Over to 03/30/2020 - No Amendments

Bill Version: Introduced

BILL [HB20-1327](#)

Short Title: Water Diversions From Rio Grande Basin

Sponsors: D. Valdez (D) | P. Will (R) / D. Coram (R)

The bill prohibits each state agency or instrumentality from approving or assisting any project that diverts water from water division 3, which consists of the Rio Grande river basin, for export to another basin in Colorado or export to any portion of another state unless the state engineer determines, after due consideration of all findings provided by the Colorado water conservation board, that the project will not:

- Increase the costs or negatively affect operation of the federal closed basin project;
- Adversely affect the purposes of any national wildlife refuge or federal wildlife habitat area withdrawal located in water division 3;
- Adversely affect the purposes of the Great Sand Dunes national park and Great Sand Dunes national preserve; or

- Increase the costs or negatively affect operation of any state parks, state wildlife areas, or lands administered by the state board of land commissioners located in water division 3.
(Note: This summary applies to this bill as introduced.)

Status

3/9/2020 House Committee on Rural Affairs & Agriculture Postpone Indefinitely

Bill Version: Introduced

BILL [HB20-1338](#)

Short Title: Operational Severance Tax Transfer To Agriculture Value-added

Sponsors: J. Arndt (D) / K. Donovan (D)

If there is money in the severance tax operational fund (operational fund) after funding core departmental programs and a reserve requirement, then the state treasurer makes transfers to the natural resources and energy grant programs (grant programs). The agriculture value-added cash fund (cash fund), which was used to promote agricultural energy-related projects, was one of these grant programs in prior fiscal years.

The bill recreates the agriculture value-added cash fund as a grant program by requiring the state treasurer to transfer \$500,000, or so much as may be available, for the next 9 state fiscal years, from the operational fund to the cash fund to be used to promote agricultural energy-related projects. The transferred money in the cash fund is continuously appropriated to the department of agriculture for allocation to the Colorado agricultural value-added development board for this purpose only.

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

Status

3/2/2020 Introduced In House - Assigned to Rural Affairs & Agriculture + Appropriations

Bill Version: Introduced

BILL [HB20-1344](#)

Short Title: Study Artificial Recharge Max Beneficial Use Water

Sponsors: R. Holtorf (R)

The bill directs the Colorado water conservation board, in consultation with the state engineer and the Colorado water institute, to conduct a study to:

- Evaluate ways to maximize the beneficial use of water within Colorado by recharging aquifers when surplus or excess water is available;
- Evaluate ways to minimize the amount of water that flows out of Colorado to downstream states, without risking noncompliance with applicable interstate compacts, United States supreme court decrees, and other federal law;
- Identify:
 - Specific aquifers that are hydrologically and legally available to be used for artificial recharge and conveniently located for both artificial recharge and subsequent releases;
 - Sources of revenue that could be used to pay for the artificial recharge; and
 - Particular potential or existing artificial recharge projects that would meet the objectives identified in the study;
- Examine the role that various water entities might play in financing and implementing artificial recharge projects; and
- Recommend legislative or regulatory changes needed to implement the particularly identified artificial recharge projects.

The bill directs the Colorado water conservation board to submit a report summarizing the results of the study to the committees of the general assembly with jurisdiction over water resources by January 1, 2022.

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

Status

3/3/2020 Introduced In House - Assigned to Rural Affairs & Agriculture

Bill Version: Introduced

BILL [SB20-008](#)

Short Title: Enhance Penalties Water Quality Criminal Violations

Sponsors: F. Winter (D) | M. Foote (D) / D. Jackson (D) | E. Hooton (D)

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.

(Note: This summary applies to the reengrossed version of this bill as introduced in the second house.)

Status

2/13/2020 Introduced In House - Assigned to Energy & Environment

Bill Version: Reengrossed

BILL [SB20-024](#)

Short Title: Require Public Input On Water Demand Management Program

Sponsors: D. Coram (R) | K. Donovan (D) / J. Arndt (D) | M. Catlin (R)

Water Resources Review Committee. The bill requires the Colorado water conservation board 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.

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

Status

1/30/2020 Senate Committee on Agriculture & Natural Resources Postpone Indefinitely

Bill Version: Introduced

BILL [SB20-048](#)

Short Title: Study Strengthening Water Anti-speculation Law

Sponsors: K. Donovan (D) | D. Coram (R) / D. Roberts (D) | M. Catlin (R)

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.

(Note: This summary applies to the reengrossed version of this bill as introduced in the second house.)

Status

3/11/2020 Governor Signed

Bill Version: Final Act

BILL [SB20-153](#)

Short Title: Water Resource Financing Enterprise

Sponsors: D. Coram (R)

The bill creates the water resources financing enterprise (enterprise). The board of the enterprise (board) consists of the board of directors of the Colorado water resources and power development authority and the Colorado water conservation board. The enterprise will provide financing to "water providers", defined to include drinking water suppliers, wastewater treatment suppliers, and raw water suppliers. Raw water suppliers are limited to those that provide raw water for treatment and use as drinking water.

Customers of drinking water suppliers will pay a fee to the supplier, who will transmit it to the enterprise to be used for the financing. The fee is 25 cents per 1,000 gallons of drinking water delivered per month to each metered connection in a drinking water supplier's public water system, collected after the first 4,000 gallons of drinking water delivered per month to an

individual metered connection. The board may adjust the fee based on inflation and equity concerns for large nonresidential customers and customers who pay tiered rates that start higher than 4,000 gallons per month.

The enterprise can provide financing for grants, loans, and in-kind technical assistance in arranging third-party financing. In determining whether to provide financing, the board shall consider the following factors:

- A water provider's ability to pay, including whether the water provider has sought or received other financial assistance;
- Whether a water provider is subject to noncompliance or increased requirements related to the provision of raw water, drinking water, water treatment, or wastewater treatment;
- Whether the proposed use of financing relates to a project identified in and in furtherance of the state water plan; and
- The geographic location and demographic characteristics of the water provider and its customers.

The enterprise shall provide, and a water provider may use, the financing only:

- In connection with the provision of raw water, drinking water, water treatment, or wastewater treatment; and
- For feasibility studies, consulting, planning, permitting, and construction of infrastructure and water conservation projects and related recreational, hydroelectric, and flood control facilities, including necessary enlargement and rehabilitation of facilities but excluding maintenance and operation.

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

Status

2/13/2020 Senate Committee on Agriculture & Natural Resources Postpone Indefinitely

Bill Version: Introduced

BILL [SB20-155](#)

Short Title: Keep Presumption Noninjury Well On Divided Land

Sponsors: J. Sonnenberg (R) / R. Pelton (R)

Under current law, a well that is exempt from the state engineer's administration and is used for domestic purposes is afforded a rebuttable presumption that the use of the well will not cause material injury to others' vested water rights or to any other existing well. If the land on which the exempt well is located is later divided into multiple parcels, the well loses that presumption. The bill maintains the presumption of noninjury to vested water rights or other wells when the

land on which the well is located is later divided and use of the well continues to meet certain requirements.

(Note: This summary applies to the reengrossed version of this bill as introduced in the second house.)

Status

3/14/2020 House Second Reading Laid Over to 03/30/2020 - No Amendments

Bill Version: Reengrossed

BILL [SB20-159](#)

Short Title: Global Warming Potential For Public Project Materials

Sponsors: C. Hansen (D)

The department of personnel (department) is required to establish a maximum acceptable global warming potential for each category of eligible materials used in a public project. The bill specifies which building materials are eligible materials.

The department is required to set the maximum acceptable global warming potential at the industry average of facility-specific global warming potential emissions for that material and to express it as a number that states the maximum acceptable facility-specific global warming potential for each category of eligible materials.

The department is required to submit a report to the general assembly regarding the method it used to develop the maximum global warming potential for each category of eligible materials and may make periodic downward adjustments to the number to reflect industry improvements.

For invitations for bid for public projects issued after a certain date, the contractor that is awarded the contract is required to submit to the contracting agency of government a current facility-specific environmental product declaration for each eligible material proposed to be used in the public project.

A contracting agency of government is required to include in a specification for bids for a public project that the facility-specific global warming potential for any eligible material that will be used in the project shall not exceed the maximum acceptable global warming potential for that material determined by the department.

A contractor that is awarded a contract for a public project is prohibited from installing any eligible material on the project until the contractor submits a facility-specific environmental product declaration for that material.

The bill specifies that in administering the requirements of the bill, an agency of government is required to strive to achieve a continuous reduction of greenhouse gas emissions over time. The department is required to submit a report to the general assembly regarding the implementation of the bill.

The bill includes the facility-specific global warming potential for each eligible material that will be used in the project and the cost of avoided emissions for the project in the factors to be considered when making an award determination for a competitive sealed best value bid.

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

Status

3/13/2020 Senate Committee on Appropriations Refer Amended to Senate Committee of the Whole

Bill Version: Introduced

BILL [SB20-189](#)

Short Title: Local Government Pesticide No Preemption

Sponsors: S. Fenberg (D) / L. Cutter (D) | M. Duran (D)

Current state law prohibits local governments from substantively regulating the use and application of pesticides. The bill authorizes local governments to regulate pesticide use and application. In connection with this authorization, the bill:

- Declares pesticide regulation a matter of both statewide and local concern;
- Repeals provisions that prohibit local regulation of pesticide use and application and explicitly authorizes a county to enact this type of regulation;
- Permits local governments to regulate pesticide use and application except in connection with the cultivation of marijuana and the production of agricultural products;
- Clarifies that a local government must meet the requirements of state and federal law; and
- Gives state courts exclusive jurisdiction to review local pesticide laws.

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

Status

3/2/2020 Introduced In Senate - Assigned to Agriculture & Natural Resources

Bill Version: Introduced

BILL [SB20-201](#)

Short Title: Species Conservation Trust Fund Projects

Sponsors: K. Donovan (D) / D. Roberts (D)

The bill appropriates \$4 million from the species conservation trust fund for programs submitted by the executive director of the department of natural resources that are designed to conserve native species that state or federal law list as threatened or endangered or that are candidate species or are likely to become candidate species as determined by the United States fish and wildlife service, allocated as follows:

- Native terrestrial wildlife conservation, \$1,107,505;
- Native aquatic wildlife conservation, \$892,495;
- Platte river recovery implementation program, \$1,900,000; and
- Selenium management, research, monitoring, evaluation, and control, \$100,000.

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

Status

3/9/2020 Introduced In Senate - Assigned to Agriculture & Natural Resources

Bill Version: Introduced

BILL [SB20-204](#)

Short Title: Additional Resources To Protect Air Quality

Sponsors: S. Fenberg (D) / D. Jackson (D) | Y. Caraveo (D)

Section 3 of the bill creates the air quality enterprise and specifies that its revenues are exempt from the state constitution's TABOR provisions. The enterprise will conduct air quality modeling, monitoring, data assessment, and research; implement emission mitigation projects; and provide its data to the division of administration and the air quality control commission in the department of public health and environment to facilitate the administration of the state's air quality laws, including by facilitating the timely issuance and effective enforcement of appropriate emission permits.

The enterprise's board of directors shall establish by rule the following enterprise fees in an amount sufficient, in aggregate, to cover its indirect and direct costs in implementing its powers and duties:

- A fee per ton of air pollutant; and
- A fee for services performed for third parties for air quality modeling, monitoring, assessment, or research and to conduct mitigation and monitoring projects.

The fees are credited to the newly created air quality enterprise cash fund.

Section 4 removes the statutory maximum for fees assessed for air pollutant emission notices, establishes a fee for fiscal year 2020-21, and allows the commission to thereafter adjust the fees by rule. **Section 5** removes the statutory maximums for annual per-ton emission fees and processing fees, establishes a fee for fiscal year 2020-21, allows the commission to thereafter adjust these fees by rule, and specifies the purposes for which these increased revenues may be spent.

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

Status

3/12/2020 Introduced In Senate - Assigned to Transportation & Energy

Bill Version: Introduced

BILL [SJR20-003](#)

Short Title: Water Projects Eligibility Lists

Sponsors: K. Donovan (D) / D. Roberts (D)

This is the Water and Power Authority's annual projects list.

Status

3/4/2020 Governor Signed

Bill Version: Resolution/Memorial