

# Audubon

## Legislative Report

22, March, 2018

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We have passed the halfway point, and are entering the most dangerous part of the session. The budget is expected to drop on Monday, so there will be a slight lull in action on other bills. While many of the early bills are either dead, or passed through the process, late bills will continue to be introduced. In an election year, "Statement" bills are common, and that makes the later days of the session particularly hazardous, as legislators focus on negotiating compromises to more complicated bills.

### PRIORITY BILLS

#### **\*HB1008 AQUATIC NUISANCE SPECIES**

**(Esgar, Donovan)**

Position: Support

Status: S-Approp

HB1008 creates a boat stamp on sailboats and motorboats to fund the aquatic nuisance species program. The stamp is \$25 for registered vessels, and in-state vessels exempt from registration. The fee for exempt vessels from out of state is \$50. The bill also combines the two existing funds (one in Parks, and one in Wildlife) into a single fund. It also increases penalties for failure to comply. New penalties are \$500 for a first offense and \$1000 for a second offense. Third and subsequent offenses are penalized as a class 2 misdemeanor under existing statute. Finally, the bill allows CPW to recover costs associated with impoundment and decontamination of vessels.

#### **\*SB66 EXTEND LOTTERY**

**(Garcia, Wist)**

Position: Support

Status: H-Approp

SB66 removes the sunset date for the Lottery Division so that it will exist in perpetuity, without having to repeatedly reauthorize it. The bill has been amended to include a sunset in 2049. We hope that those who come after us will value it as we do!

**\*SB192 OIL/GAS TAKINGS**

**(Marble, Buck)**

Position: Oppose

Status: S-Floor

To paraphrase Will Rogers, “Nothing is safe while the legislature is in session.” SB192 is a carbon copy of HB1150. After killing the bill in the House, it has now been reintroduced in the Senate. It passed the Senate Ag committee 6-5. Thank you to Sens. Donovan, Fenberg, Fields, Garcia, and Kerr (replacing Sen. Jones for the day) for voting against this awful bill.

**\*SB143 FUTURE GENERATIONS**

**(Fenberg, Arndt)**

Position: Support

Status: H-Ag

SB143 is the CPW Financial Sustainability bill. This year, the bill will increase nearly all in-state hunting and angling fees by \$8. It will also reinstate the senior fishing license at \$8. Out-state fishing licenses will increase to \$95 for parity with surrounding states. At the present time, there is no intention to include any language relating to fee-title acquisitions – no one really wants to have that fight. The most important piece of the bill is the inclusion of the CPI indexing authority for future fees to keep pace with inflation. In Senate Finance, the bill was amended to clarify a few issues, and to prohibit use of funds from the waterfowl stamp for political purposes. The amendment also directs CPW to promulgate rules for enforcing entrance fees to State Parks for non-motorized entrants. The bill passed the finance committee 5-0; the approps committee 6-1; and the floor 35-0 in the Senate.

**\*HB1274 REDUCE GREENHOUSE GAS EMISSIONS**

**(Becker K., Kerr)**

Position: Support

Status: H-Floor

HB1274 requires the State to reduce greenhouse gas emissions by at least 80% from baseline 2005 levels by the year 2050. It leaves open the methods by which reductions are to be achieved.

**\*HB1122 CONSERVATION EASEMENT ACCOUNTING**

**(Lewis/Sonnenberg)**

Position: Oppose

Status: Dead

HB1122 requires the state auditor to hire a third party to perform an accounting of every conservation easement in the state. The accounting must include the donors of the



**\*SB128 STATE AGENCY FEES**

**(Gardner, Liston)**

Position: Oppose

Status: Dead

SB128 requires every fee increased by any agency to be approved by the legislature in the session prior to the increase. The proposed fee would have to be submitted for approval by November before the session in which approval is required. The bill is unclear whether inflationary adjustments would also need annual approval. The bill is also unclear as to whether a second approval – using the processes in the bill - would be required for agencies which already require statutory approval for fee increases. Finally the bill doesn't recognize existing internal timelines and notifications required for various agencies prior to adjustment of fees

**\*HB1150 OIL/GAS TAKINGS**

**(Buck, Marble)**

Position: Oppose

Status: Dead

HB1150 is another multiple year bill. It is becoming a rite of spring. The bill requires any local government that enacts a moratorium on oil/gas facilities to compensate oil/gas operators for any and all claimed loss of revenue as a result of the moratorium.

**NEW BILLS**

**HB1290 CONTINUE CONS EASEMENT CERT PROGRAM**

**(Roberts, Sonnenberg)**

Position: Support

Status: H-Fin

HB1290 continues the current program for certification of conservation easement holders until 2025. The bill also authorizes creation of a publicly available registry listing the easements for which tax credits have been claimed. Finally the bill authorizes the Real Estate Commission to promulgate rules capping the number of applications for tax credit certificates in any given month.

**HB1291 CONTINUE CONS EASEMENT OVERSIGHT**

**(Winter, Sonnenberg)**

Position: Support

Status: H-Fin

HB1291 continues the current Conservation Easement oversight Commission until 2025. The bill also transfers authority for the commission from the Division of Real Estate

to the Department of Regulatory Agencies. Finally the bill makes the Commission a type 1 agency rather than a type 2 agency.

**HB1297 CLIMATE CHANGE RESILIENCY**

**(Winter)**

Position: Support

Status: H-Approps

HB1297 requires Greenhouse Gas emissions to be reduced 26% from 2005 levels by 2025. The bill further specifies that CO2 levels must be cut 25% from 2012 levels by 2025, and 30% by 2030. The bill also requires DOLA to take a number of actions to improve climate change response including collecting and analyzing current data on the economic and environmental impacts of failing to address climate change. DOLA is also required to develop modeling to estimate future impacts of climate change, and to analyze current modeling on state and regional climactic conditions.

**HB1301 MINING**

**(Roberts)**

Position: Support

Status: H-Ag

HB1301 prohibits mining operators from relying on perpetual water treatment as an option for reclamation in applications for new permits. The prohibition doesn't apply to applications for re-mining of contaminated sites, or to updates/amendments to existing permits. The bill also eliminates the option for self bonding in reclamation permits; requiring that the operator actually post bonds sufficient for reclamation work.

**WATER**

**HB1215 TENORM**

**(Arndt)**

Position: Support

Status: H-Fin

HB1215 is a largely temporary measure. Current law forbids the State from regulating Technologically Enhanced Naturally Occurring Radioactive Material (TENORM) until the Federal government has established a regulatory framework. The Federal government has not enacted such a framework, and as a result radioactive material is being disposed of in landfills and leeching into waterways. HB1215 requires the CDPHE to promulgate rules for the safe disposal of TENORM, including that from oil and gas

exploration. The agency is directed to consult with the Water Quality Control Commission and the COGCC in promulgating the rules. Until the rules are enacted, the bill requires that TENORM can only be disposed of in facilities designed and permitted to handle the waste. After enactment of the rules, the bill is largely repealed in favor of the new regulatory framework.

**HB1053 REUSE WATER FOR MARIJUANA**

**(Arndt, Donovan)**

Position: Support

Status: H-Approp

HB1053 codifies existing Water Quality Control Commission (WQCC) rules for water quality categories involving the use of recycled water. The bill also allows the WQCC to create new categories, and to re-categorize permissible uses into less stringent categories. The bill adds cultivation of marijuana to the list of permissible uses for recycled water, and authorizes the WQCC to grant variances from water quality standards for specific recycled water projects.

**HB1093 REUSE WATER FOR EDIBLE CROPS**

**(Arndt, Coram)**

Position: Support

Status: S-Approp

HB1093 adds irrigation of edible crops to the list of approved uses for recycled or reclaimed water. This bill is the only one of the increased applicability of recycled water that may need sidebars. Since some crops can store certain compounds, including some that may have health consequences, there is additional work needed to identify the list of approved crops, or the compounds in the water. In committee, the bill was amended to require that reuse water used on commercial crops must meet existing standards for category 1 water. Water used for noncommercial crops must meet category 2 quality standards. Additionally, CDPHE has authority to strengthen the standards if there is any threat of waterborne pathogens in the reuse water.

**HB1069 REUSE WATER FOR TOILET FLUSHING**

**(Arndt, Coram)**

Position: Support

Status: Passed House

HB1069 adds toilet flushing to the list of permissible uses for recycled water.

**SB38 REUSE WATER FOR INDUSTRIAL HEMP**

**(Coram, Willet)**

Position: Support

Status: H-Approp

SB38 adds cultivation of industrial hemp to the list of permissible uses for recycled water.

**SB170 RESERVOIR RELEASES**

**(Sonnenberg, Hansen)**

Position: Neutral

Status: H-Floor

SB170 creates an additional tool for retaining water in streams and rivers downstream of new or enlarged reservoirs. Specifically it permits the owner of a reservoir to maintain control of water released from a reservoir through an identified reach of stream. The CWCB retains the authority to determine the volume of water necessary to protect the reach. The reservoir owner retains ownership and control of the water right, so long as the released water is re-diverted below the reach and put to the beneficial use attached to the right. Of critical importance is the “savings” language which preserves all other methods of protecting water within a stream reach.

**SB33 CONTINUE CAFO FEES**

**(Sonnenberg, Becker J)**

Position: Support

Status: H-Fin

SB33 extends the Confined Animal Feeding Operation (CAFO) program until 2025. The bill also continues the existing fee structure for CAFOs by repealing the automatic fee reductions that were initially included.

**HB1151 DEFICIT IRRIGATION**

**(Arndt, Crowder)**

Position: Support

Status: Dead

Current law allows CWCB to study up to 15 pilot projects involving agricultural water conservation. HB1151 adds deficit irrigation to the types of projects which may be included. Deficit irrigation refers to the process of irrigating crops with less water than they generally require, in an attempt to produce a usable crop, with less available water. The bill restricts deficit irrigation projects in the program to water divisions 2 and 3, within the upper Gunnison water conservancy district boundaries.

## **OPEN SPACE/WILDLIFE**

### **HB1216 SNOW GEESE**

**(Rehyer)**

Position: Oppose

Status: H-SA

HB1216 requires CPW to promulgate rules for the take of “light geese” on private property by members of youth shooting sports organizations. The landowner would need to notify the shooting sports organizations when light geese were on the property. Encouraging youth to view wildlife as objects for target practice runs counter to hunting ethics. While recruiting new hunters is admirable, shooting wildlife just for the sake of shooting is not. The bill has been pulled from the calendar pending discussions with CPW about control options.

### **HB1139 CPW PARKS FEE REPORTING**

**(Hooton, Zenzinger)**

Position: Support

Status: Passed

HB1139 repeals reporting requirements for CPW related to the statutory raising of parks fees. Since the underlying statute was repealed last year as part of the switch to fee adjustment based on the CPI, the referenced reporting requirements are obsolete.

### **HJR1002 OUTDOOR RECREATION INDUSTRY**

**(McLachlan, Donovan)**

Position: Support

Status: S-Floor

HJR1002 is a resolution recognizing the value of public lands, and the economic benefit of outdoor recreation; and welcoming the outdoor retail show to Colorado.

### **SB137 GRAND SLAM RAFFLE**

**(Scott)**

Position: Oppose

Status: Dead

SB137 required CPW to provide one tag for each terrestrial big game species for a new statewide raffle. Tickets would have been sold statewide, and ten winners would have been selected each year, with each winner receiving one of the licenses. Funds raised by the raffle would have been allocated as grants to nonprofit organizations for hunter recruitment, preservation of the North American model of Wildlife management, and



terrestrial wildlife habitat preservation. The bill was withdrawn pending summer discussions.

**SB194 DNR GIFTS**

**(Coram, Roberts)**

Position: Support

Status: S-Dead

SB194 specifically authorizes DNR and each of its divisions to receive and expend gifts, grants, and donations of money or property.

**MISCELLANEOUS**

**HB1237 CONTINUE RULES COST BENEFIT ANALYSIS**

**(Kraft-Tharp, Neville)**

Position: Monitor -Amend

Status: S-Floor

HB1237 continues the existing requirement that agencies conduct a cost benefit analysis of proposed rules if requested. The bill requires that agencies post the results of any cost benefit analysis on its website. The bill was amended in the Senate with a bad amendment. The new language requires the Department of Regulatory affairs to determine if a proposed rule is “significant”. Significant is defined as costing industry \$10M over five years, or conflicting with the rules of another agency. If the proposed rule is declared significant, then the Office of State Budgeting and Planning is required to do the cost benefit analysis. The amendment also institutes some very restrictive timelines for notification and completion of analyses, and delays implementation of rules until the analyses are completed. We will work on improvement in the conference process.

**HB1250 RULES COMPLIANCE**

**(Kraft-Tharp, Priola)**

Position: Monitor

Status: H-Floor

HB1250 requires state agencies to conduct a review on compliance with agency rules. The analysis must identify the rules with the highest levels of noncompliance, and the rules with the highest levels of imposed fines. Additionally, the analysis must identify the numbers of first time offenders who were given an opportunity to cure minor violations. Each agency must report the results of the analysis to the Department of Regulatory

Agencies. In turn, DORA must include a compiled report on compliance rates as part of its annual SMART hearings at the State legislature.

## **ENERGY**

### **HB1289 FORCED POOLING**

**(Foote, Jones)**

Position: Support

Status: H-TE

HB1289 exempts school districts and designated open space from being force pooled for the purposes of oil/gas development.

### **HB1270 ENERGY STORAGE**

**(Hansen, Tate)**

Position: Support

Status: H-Fin

HB1270 requires the PUC to establish mechanisms and criteria for investor owned utilities to procure energy storage systems. The bill leaves all discussion of the types of appropriate storage capability to the PUC.

### **HB1281 PUC ETHICS**

**(Esgar)**

Position: Support

Status: H-TE

HB1281 prohibits those with recent ties to any sector of the regulated industry from serving on the PUC. The bill also permits DORA to request performance audits of PUC staff and operations. Finally the bill requires PUC to promulgate rules for dealing with conflicts of interest, ex-parte communications and prohibited activities.

### **HB1107 PREWIRE OPTION FOR ELECTRIC VEHICLES**

**(Weissman, Priola)**

Position: Support

Status: Dead

HB1107 requires builders of new homes to include an option to pre-wire the home for electric vehicle charging capability.

**HB1098 COGCC ENVIRO RESPONSE FUND**

**(Saine, Marble)**

Position: Support

Status: S-Floor

HB1098 allows the balance at the end of each year to remain in the environmental response fund rather than reverting to the general fund.

**SB3 COLORADO ENERGY OFFICE**

**(Scott, Hansen)**

Position: Monitor

Status: H-TE

SB3 reorganizes the Colorado Energy Office. The bill requires promotion of nuclear and energy storage systems along with the existing promotional requirements. It also repeals several existing programs that, admittedly, are not being used. Among the programs repealed are Wind for Schools, The Clean Energy financing program, the Green Building Incentive fund, and the Renewable Energy and Energy Efficiency for Schools program. Although we worked hard with others to create each of the preceding programs, the Energy Office has engaged with schools and businesses in other ways, rendering the specific programs essentially obsolete. On the brighter side, the bill does remove the energy office from consideration of forestry projects for biomass, leaving just the CDPHE in charge of regulating Air Quality from forest health projects. Lastly the bill directs the Energy Office to engage in development of energy curriculum for science based education programs.

**HB1071 REG OIL/GAS TO PROTECT PUBLIC SAFETY**

**(Salazar, Moreno)**

Position: Support

Status: Dead

HB1071 eliminates the requirement that COGCC promote development, and leaves them responsible solely for regulating that development. Additionally the bill requires COGCC to regulate development according to existing statutory language “to prevent and mitigate adverse impacts to air, water, soil, and biological resources in order to protect public health safety and welfare”.

That’s it for now. As always, bills will continue to be introduced throughout the session, and there are several that will be unexpected.