



1155 CANYON BOULEVARD, SUITE 110, BOULDER, CO 80302
OFFICE: 303-449-2834 FAX: 720-535-4921
SOMACHLAW.COM

MEMORANDUM

TO: Chatfield Watershed Authority (“CWA”) Board of Directors (“Board”)
FROM: Michael Daugherty
SUBJECT: Legal Report for April Board Meeting
DATE: April 8, 2024

Regulatory Update

Regulation 73 (*Chatfield Reservoir Control Regulation*; 5 CCR 1002-73). The Colorado Water Quality Control Commission (“WQCC”) held a triennial review informational hearing for Regulation 73 on March 11, 2024. I attended on behalf of CWA. Neither the Water Quality Control Division (“WQCD”) nor CWA requested a formal rulemaking or any revisions to the existing regulations. CWA indicated in its written correspondence that it continues to dedicate its resources toward developing a site-specific TN standard for Chatfield Reservoir. Information regarding current WQCC rulemaking proceedings can be found [here](#).

Chatfield State Park Water Quality Fee

The bi-partisan Chatfield State Park Water Quality Fee bill (SB23-267) was passed into law on June 6, 2023. The bill directs the Colorado Parks and Wildlife (“CPW”) Commission (“CPWC”) to promulgate rules on or before July 1, 2024, establishing a process by which CWA may request that CPWC create by rule a water quality fee to be collected from visitors at Chatfield State Park.

At CPWC’s March 13, 2024, meeting, CPW staff presented their proposed revisions to CCR 406-16 to accommodate a future request from CWA to establish a water quality fee at Chatfield State Park in accordance with SB23-267. CPWC voted to approve the regulation revision. I attended on behalf of CWA. Notably, one Commissioner questioned CPW staff regarding why park visitors should bear the burden of a water quality fee and seemed concerned that the state legislature was targeting park visitors.

Next, CWA will need to submit a completed rulemaking petition by May 31, 2024, that requests CPWC to establish the water quality fee. Following that submittal, CPWC is expected to schedule the rulemaking for the water quality fee for its August 21-22, 2024, meeting. The rulemaking petition process is as follows: (1) CWA initiates the process by

contacting CPW's regulation manager; (2) CWA submits a written rulemaking petition form that includes a contact name, phone number, address, and email address to the CPW regulations manager; (3) CPW staff reviews the petition and makes it publicly available online; (4) CWA presents its petition to CPWC (assuming CPW staff supports the petition); and (5) CPWC votes whether to grant or deny the petition.

Attached as Exhibit A is a draft rulemaking petition to submit to CPWC. At the direction of CWA's Technical Advisory Committee ("TAC"), the petition seeks a \$2 fee and language was added in response to CWPC's questions regarding park visitors' responsibility for water quality. The petition now includes language that explains how park visitors benefit from good water quality and how their activities can also negatively impact water quality, which could affect Chatfield Reservoir's designated uses.

Legislative Update

The 2024 state legislative session, which convened on January 10, 2024, continues, and new bills are still being introduced. There are numerous water-related bills that may be of interest to the Board. Attached as Exhibit B to this legal report is a spreadsheet of select water-related bills up for consideration during this year's session. The legislative session will adjourn on May 8, 2024.

EXHIBIT A

RULEMAKING PETITION FORM

Date:

Issue:	Chatfield State Park Water Quality Fee (SB23-267)
Which rule are you seeking to create or revise? Please include a copy of the rule you are proposing to create or change, preferably with the change made in redline format.	
Redline changes to P-7 to reflect Commission granting Chatfield Watershed Authority petition to impose water quality fee	
P-7 <u>#700 - VEHICLE PASS</u>	
4. Daily vehicle passes are as follows:	
a. A fee of \$10.00 per vehicle <u>except for:</u>	
<u>1. for any vehicle except for passenger vans and buses operated by a commercial business-;</u>	
<u>2. A \$2.00 per vehicle Chatfield Water Basin Fee will be added to the cost of daily vehicle passes at Chatfield State Park.</u>	
b. School buses on official school outings, passenger vans and buses operated by a nonprofit corporation or organization as defined in 13-21-115.5 (3), C.R.S., and passenger vans and buses operated by any government agency are eligible to purchase a daily vehicle pass.	
c. For passenger vans and buses operated by a commercial business, the daily vehicle pass fee will be based upon the number of passengers on-board. The fee shall be \$10.00 for up to fifteen passengers on-board, \$40.00 for sixteen to thirty passengers on-board, and \$50.00 for more than thirty passengers on-board.	
<u>#708 - PASS AND PERMIT FEE SCHEDULE</u>	
1. The fees for the types of vehicle passes issued by the Division are as follows.	
a. Aspen leaf annual pass.....\$70.00	
b. Annual affixed vehicle pass.....\$80.00	
c. State parks annual transferable pass\$120.00	
d. Each additional annual affixed vehicle pass for noncommercial vehicles.....\$40.00	
(1) Each additional Aspen Leaf vehicle pass for noncommercial vehicles.....\$35.00	
e. Each replacement annual affixed vehicle pass, without proof of necessary replacement\$40.00	
(1) Each replacement additional annual affixed vehicle pass, without proof of necessary replacement\$20.00	
(2) Each replacement Aspen Leaf vehicle pass, without proof of necessary replacement\$35.00	
(3) Each replacement additional Aspen Leaf vehicle pass, without proof of necessary replacement\$17.50	
(4) Customers with proof of necessary replacement shall be issued a replacement annual affixed vehicle pass, additional annual affixed vehicle pass, or Aspen Leaf vehicle pass at no cost. Circumstances for necessary replacement include vehicle stolen, destroyed, traded, or sold; windshield replaced; pass damaged or 16 faded; new legal name or address; or Division error. Other circumstances will be considered by the Division on a case-by-case basis.	
f. Each replacement state parks annual transferable vehicle pass\$60.00	
g. Each daily vehicle pass\$10.00	
<u>(1) At Chatfield State Park\$12.00</u>	
h. Each daily vehicle pass for a passenger van or bus operated by a commercial business:	
(1) carrying up to fifteen passengers.....\$10.00	
(2) carrying sixteen to thirty passengers.....\$40.00	

(3) carrying more than thirty passengers.....\$50.00 i. Keep Colorado Wild annual pass, as provided for in section § 33-12-108, C.R.S., available for purchase through the Colorado Department of Revenue vehicle registration process starting with January 2023 vehicle registrations\$29.00 j. Keep Colorado Wild Collector’s Plate pass, for applicable vehicles only and valid for the length of the vehicle registration. Available for purchase only through the Colorado Department of Revenue vehicle registration process starting with January 2023 vehicle registrations.....\$145.00	
Why are you seeking to create or revise this rule? Please include a general statement of the reasons for the requested rule or revision and any relevant information related to the request.	
<p>The Chatfield Watershed Authority (“CWA”) seeks to establish a water quality fee for certain visitors to Chatfield State Park (the “Park”) in order to support water quality projects throughout the entire Chatfield watershed. A list of proposed water quality projects throughout the watershed that this funding would support is attached to this rulemaking petition form as Exhibit A. Pursuant to SB23-267, the list includes both projects within the Park and in the broader watershed, and 25 percent of the funds raised from the proposed fee would go toward projects within the Park.</p> <p>Recreators and other visitors to the Park benefit from high-quality water, which allows them to swim, boat, and fish in Chatfield Reservoir. Park visitors can also negatively impact water quality, such as additional erosion from wave activity as well as direct impacts from boats and vehicles, including runoff, leaks, and spills. For a variety of reasons, poor water quality in Colorado reservoirs can impact recreation and lead to toxic algal blooms, which necessitates closing the reservoir to citizens. Although Chatfield Reservoir has never experienced a toxic algal bloom, it has been closed due to concerning water quality and non-toxic algal blooms in the past. Maintaining water quality in Chatfield Reservoir will protect its designated uses, which include aquatic life, recreation, and water supply.</p> <p>Furthermore, as the region’s population continues to grow and development expands further into the Chatfield watershed, protecting the water quality of Chatfield Reservoir has become increasingly difficult and costly, at the same time that record amounts of citizens are visiting the Park to enjoy its water and other amenities. CWA’s member entities already expend millions of dollars on work aimed at maintaining and improving water quality throughout the Chatfield watershed; at the same time, state and federal regulations continue to tighten and have and will continue to necessitate expensive water treatment processes and facility upgrades. To ensure that Chatfield Reservoir maintains its high-quality water and remains open to the public throughout the summer months, stakeholders (including park visitors) need to work together to tackle water quality issues on all fronts.</p> <p>CWA has been dedicated to protecting water quality throughout the Chatfield watershed for over forty years, and this additional funding is necessary to support the development and construction of water quality projects that will help continue CWA’s mission. For a variety of reasons, including increased costs associated with state regulatory compliance, CWA lacks the funds to support the scale of projects necessary to protect the water quality of the Chatfield watershed, and this small fee will help enormously in CWA’s efforts to implement many of the important projects included on the list attached as Exhibit A.</p>	
Petitioner’s name: Chatfield Watershed Authority	By: Michael Daugherty, Alan Leak, and Diane Kielty

***The following information will not be posted publicly.**

*Petitioner's email address:	mdaugherty@somachlaw.com; alan.leak@respec.com; diane@coloradowater.org
*Petitioner's address:	Chatfield Watershed Authority, P.O. Box 460736, Glendale, CO 80246
*Petitioner's telephone number:	(303) 916-4645

Exhibit A to Rulemaking Petition

CHATFIELD WATERSHED AUTHORITY WATER QUALITY PROJECTS ROADMAP : 2025 - 2029											
4/2/2024 DRAFT - Based on Estimated \$200,000 Funding / Year from SB-267											
PROJECT CATEGORY	DESCRIPTION	ACTIVITY	2025	2026	2027	2028	2029	Beyond 2029	TOTAL COST	PRIORITY	IMPLIMENTATION COMMENTS/ STATEGY
WATER QUALITY PROTECTION											"In Progress"
1	Watershed Modeling	Use and upgrade the existing watershed model to: 1.Keep model current; 2. Predict the effectiveness and potential changes in stream and reservoir inflow pollutant loads and concentrations from proposed water quality improvments; and 3. Support regulatory compliance.	\$1,000	\$4,000	\$10,000	\$30,000	\$30,000	\$75,000	\$150,000	1	Initiate planning for watershed model update.
2	Stream Management Planning	Partner with CPW and others in stream management plans to identify opportunites for water quality improvement projects.	\$5,000	\$5,000	\$5,000	\$5,000	\$5,000	\$75,000	\$100,000	1	Continued Support for West Plum Creek Stream Management Plan.
3	Wildfire Mitigation	Participate in wildfire mitigation projects to minimize and mitigate the risk and effect on water quality of future wildfires in the watershed.			\$15,000	\$15,000	\$15,000	\$30,000	\$75,000	3	Identify partner agencies and grant opportunities.
4	Watershed Plan Update	Continue to document the progress made in improving watershed and reservoir water quality and develop and prioritize future watershed programs and projects.				\$45,000	\$50,000	\$0	\$95,000	3	Last update to the Watershed Plan was in May 2015. Plan and budget for watershed plan update.
5	Reservoir Beneficial Use Monitoring	Partnering with CPW in collecting, monitoring, and documenting, as applicable, the quantity and quality of reservoir beneficial uses (i.e. fishery biodiversity, swimmer satisfaction, etc.) over time.					\$5,000	\$20,000	\$25,000	4	Discuss with CPW possible beneficial use metrics that can be measured and tracked.
6	Landowner Engagement	Continue engament efforts with landowners abuting and/or crossing watershed streams to educate on best management practices for stream interaction and protection.		\$1,000	\$1,000	\$1,000	\$1,000	\$6,000	\$10,000	3	Monitor WPCSMPLandowner outreach efforts and responses to inform viability of landowner outreach in other parts of the Chatfield watershed.
SUB-TOTAL			\$6,000	\$10,000	\$31,000	\$96,000	\$106,000	\$206,000	\$455,000		
WATER QUALITY MONITORING											
1	Chatfield Reservoir Monitoring	Collect additional water quality data in the reservoir to support water quality protection measures.			\$15,000	\$15,000	\$15,000	\$130,000	\$175,000	2	Use "Site Specific" analysis work to inform additional parameters /data /locations for future water quality monitoring.
2	Watershed Streams Monitoring	Collect additional water quality data in the tributary watershed streams (both base flows and storm flows) to understand existing sources and magnitudes of pollutant loads and concentrations.			\$15,000	\$15,000	\$15,000	\$180,000	\$225,000	2	Analyze existing data /trends to inform need for additional parameters /data /locations for future water quality monitoring.
3	Water Quality Improvement Project Monitoring	Collect pre-project and post-project water quality data upstream and downstream of water quality projects to document their effectiveness over time in improving water quality.			\$4,000	\$6,000	\$6,000	\$24,000	\$40,000	2	Establish water quality monitoring guidelines for water quality projects.
4	Sediment Sampling and Testing	Perform watershed wide sediment testing to map and pinpoint hotspots of phosphorus rich soils for future project identification and prioritization.					\$20,000	\$0	\$20,000	3	Use previous /future CSM data/analysis and CWA monitoring data to help inform sampling locations to test for phosphorus rich soils.
SUB-TOTAL			\$0	\$0	\$34,000	\$36,000	\$56,000	\$334,000	\$460,000		
WATER QUALITY IMPROVEMENTS											
1	Stream Improvements	Contribute to and participate in the implementation of stream improvements identified in stream management plans that improve water quality in the streams tributary to the reservoir.	\$50,000	\$50,000	\$50,000	\$50,000	\$50,000	\$0	\$250,000	1	Monitor and document stream improvement plans and opportunities.
2	Erosion Mitigation	Contribute to and participate in the constructionof stream reclamation along critical degraded watershed stream reaches to enhance water quality and reduce streambank erosion.	\$85,000	\$85,000	\$85,000	\$85,000	\$85,000	\$325,000	\$750,000	1	Identify projected future stream reclamation projects (local governments and MHFD).
3	Grant Funding Opportunities	Partner with CPW and other government and non-profit agencies to identify and apply for grant funding for implimentation of water quality improvement projects and programs in the state park and throughout the watershed.	\$10,000	\$10,000	\$10,000	\$10,000	\$10,000	\$0	\$50,000	1	Update and maintain a CWA qualifying list of grant opportunities. Explore actions needed to overcome restrictions to grant qualification.
4	Non-point Source Mitigation Projects	Contribute to and participate in the construction of retrofits to existing detention ponds and other stormwater facilities to improve nutrient and pollutant reduction efficiencies.			\$5,000	\$5,000	\$5,000	\$185,000	\$200,000	2	Work with member governments to identify retrofit opportunities.
6	Mitigate Agricultural Impacts to Water Quality	1. Participate in the implementation of agricultural best management practices (BMPs) and demonstrations at Colorado Agricultural Leadership Foundation (CALF) at Lowell Ranch to educate members of the public that visit the working ranch on the water quality and cost efficiencies associated with implementing various agricultural management practices; and 2. Participate with the Douglas County Conservation District to educate agricutural users on state-of-the -art practices to reduce pollutant impacts from agricultural activities.			\$5,000	\$5,000	\$5,000	\$85,000	\$100,000	3	Reach out to CALF, JDC, and DCD to identify opportunities for educational outreach.
7	Mitigate On-site Wastewater Treatment Systems (OWTS) Impacts to Water Quality	Contribute to and participate in the Implimentation of a rebate program for septic system upgrades that use new technology to reduce pollutant loads in critical stream reaches.				\$1,000	\$1,000	\$48,000	\$50,000	4	Document location of OWTS. Coordinate with DCHD and JCHD on possible opportunities for promotion of improvements to aging OWTS.
8	Wastewater Treatment Improvements	Engage with wastewater treatment providers to assist in promoting improved treatment for continued nutrient reduction.				\$2,500	\$2,500	\$5,000	\$10,000	4	Monitor WQCD's activities and processes for nutrient regulations related to WWTF improvements.
9	Reservoir Improvements	Funding of Water Quality Related Improvements in Chatfield State Park	\$50,000	\$50,000	\$50,000	\$50,000	\$50,000	\$0	\$250,000	1	Partner with CPW to Develop Proposed Water Quality Improvement Projects in Chatfield State Park
SUB-TOTAL			\$195,000	\$195,000	\$205,000	\$208,500	\$208,500	\$648,000	\$1,660,000		
GRAND TOTAL			\$201,000	\$205,000	\$270,000	\$340,500	\$370,500	\$1,188,000	\$2,575,000		
							PRIORITY 1		\$1,550,000		
							PRIORITY 2		\$640,000		
							PRIORITY 3		\$300,000		
							PRIORITY 4		\$85,000		

EXHIBIT B

2024 COLORADO STATE LEGISLATION TRACKER

(as of 4/10/2024)

BILL NO. & NAME	TOPIC AREA	BILL DESCRIPTION	SPONSORS, ACTION TAKEN, & STATUS	BILL SYNOPSIS	NOTES/KEY ISSUES
SJR24-004 Water Projects Eligibility Lists	Water	Concerning approval of water project revolving fund eligibility lists administered by the Colorado water resources and power development authority.	House: McCormick, Catlin Senate: Roberts, Simpson Status: Became Law , signed by Governor on 3/8/24.	Full text (including list of projects) available here .	

BILL NO. & NAME	TOPIC AREA	BILL DESCRIPTION	SPONSORS, ACTION TAKEN, & STATUS	BILL SYNOPSIS	NOTES/KEY ISSUES
SB24-005 Prohibit Landscaping Practices for Water Conservation	Water	Concerning the conservation of water in the state through the prohibition of certain landscaping practices.	House: McCormick, McLachlan Senate: Roberts, Simpson Status: Became Law , signed by Governor on 3/15/24.	On and after January 1, 2025, the bill prohibits local governments from allowing the installation, planting, or placement of nonfunctional turf, artificial turf, or invasive plant species on commercial, institutional, or industrial property, common interest community property, or a street right-of-way, parking lot, median, or transportation corridor. The bill also prohibits the department of personnel from allowing the installation, planting, or placement of nonfunctional turf, artificial turf, or invasive plant species as part of a project for the construction or renovation of a state facility, which project commences on or after January 1, 2025.	FN1 FN2

BILL NO. & NAME	TOPIC AREA	BILL DESCRIPTION	SPONSORS, ACTION TAKEN, & STATUS	BILL SYNOPSIS	NOTES/KEY ISSUES
SB24-037 Study Green Infrastructure for Water Quality Management	Natural Resources & Environment Water	Concerning alternative mechanisms for achieving compliance with water quality standards.	House: Lynch, McCormick Senate: Simpson, Bridges Status: Under Consideration (Agriculture & Natural Resources Committee referred amended to Appropriations Committee on 2/29/24)	The bill requires the division of administration (division) in the department of public health and environment (department), in collaboration with the university of Colorado's Mortenson center in global engineering and resilience and the Colorado water institute located within Colorado state university, to: <ul style="list-style-type: none"> • Conduct a feasibility study of the use of green infrastructure, which refers to nature-based, watershed-scale water quality management solutions that are an alternative to traditional gray infrastructure, which refers to centralized water treatment facilities, and the use of green financing mechanisms for water quality management; • Establish one or more pilot projects in the state to demonstrate the use of green infrastructure, green financing mechanisms, or both; • Adopt rules establishing a prepermit baseline date to assist municipalities and other water providers to pursue prepermit solutions for compliance with state and federal water quality standards; and • Submit a report and present to the water resources and agriculture review committee on the progress of the feasibility study and any pilot projects and on any legislative and administrative recommendations to promote the use of green infrastructure and green financing mechanisms for water quality management in the state. 	FN1 FN2

BILL NO. & NAME	TOPIC AREA	BILL DESCRIPTION	SPONSORS, ACTION TAKEN, & STATUS	BILL SYNOPSIS	NOTES/KEY ISSUES
SB24-038 Authorize Conservancy District Water Management	Water	Concerning conservancy districts, and, in connection therewith, authorizing a conservancy district to participate in a plan for augmentation; contract with water users outside the conservancy district for the provision of services; exercise certain powers regarding the control, delivery, use, and distribution of water; establish a water activity enterprise; and sell, lease, or otherwise dispose of the use of water or capacity in works by contract.	House: Martinez, McCormick Senate: Bridges, Simpson Status: Lost (Senate Agriculture & Natural Resources Committee postponed indefinitely on 3/27/24)	<p>Under current law, when certain conditions exist, a district court may establish conservancy districts for the conservation, development, utilization, and disposal of water for agricultural, municipal, and industrial uses. Section 1 of the bill allows conservancy districts to conserve, develop, utilize, or dispose of water for commercial uses as well. Section 2 authorizes the board of directors of a conservancy district to:</p> <ul style="list-style-type: none"> • Submit and participate in a plan for augmentation for the benefit of water rights and wells within and outside of the boundaries of the conservancy district; • Contract with water users within and outside of the conservancy district for the provision of services; • Exercise certain powers concerning the management, control, delivery, use, and distribution of water in conjunction with a plan for augmentation; • In conjunction with sections 4 and 5, establish a water activity enterprise, which is a government-run business, for the purpose of pursuing or continuing water activities; and • Sell, lease, or otherwise dispose of the use of water or capacity in works by term contracts or by contracts for the perpetual use of the water or works to certain entities. <p>Section 3 authorizes a conservancy district to:</p> <ul style="list-style-type: none"> • Enter into long-term contracts with public and private entities for the accomplishment of functions of the conservancy district; and • Avail itself of aid, assistance, and cooperation from the federal government, the state government, and local governments. <p>Sections 4 and 5 allow a conservancy district to establish a water activity enterprise, which is a business that receives less than 10% of its annual revenues in grants from all Colorado state and local governments combined, is authorized to issue its own revenue bonds, and is excluded</p>	FN1

BILL NO. & NAME	TOPIC AREA	BILL DESCRIPTION	SPONSORS, ACTION TAKEN, & STATUS	BILL SYNOPSIS	NOTES/KEY ISSUES
				from the provisions of the "Taxpayer's Bill of Rights" in the state constitution.	

BILL NO. & NAME	TOPIC AREA	BILL DESCRIPTION	SPONSORS, ACTION TAKEN, & STATUS	BILL SYNOPSIS	NOTES/KEY ISSUES
SB24-081 Perfluoroalkyl & Polyfluoroalkyl Chemicals	Natural Resources & Environment	Concerning measures to increase protections from perfluoroalkyl and polyfluoroalkyl chemicals.	House: Kipp, Rutinel Senate: Cutter Status: Under Consideration (4/10/24 at 9 am, House Floor Work; passed by Senate on 3/25/24)	Current law prohibits the sale or distribution of products in certain product categories on and after certain dates if the products contain intentionally added PFAS chemicals (product phaseout timeline). The bill changes current law by: <ul style="list-style-type: none"> • Making certain changes to definitions applicable to the produce phaseout timeline (section 3); • On and after January 1, 2025, prohibiting the sale or distribution of certain outdoor apparel intended for extreme or extended use in severe wet conditions (outdoor apparel for severe wet conditions) that contains intentionally added PFAS chemicals unless the product is accompanied by a disclosure that states that the product contains PFAS chemicals (disclosure requirement) (section 4); • On and after January 1, 2026, as part of the product phaseout timeline, banning the sale or distribution of cookware, dental floss, menstruation products, and ski wax that contain intentionally added PFAS chemicals (section 4); • On and after January 1, 2028, as part of the product phaseout timeline, repealing the disclosure requirement and banning the sale or distribution of textile articles, outdoor apparel for severe wet conditions, and food equipment intended primarily for use in commercial settings that contain intentionally added PFAS chemicals (section 4); and • On and after January 1, 2026, prohibiting a person from installing artificial turf that contains intentionally added PFAS chemicals on any portion of property in the state (section 5). 	FN1 FN2

BILL NO. & NAME	TOPIC AREA	BILL DESCRIPTION	SPONSORS, ACTION TAKEN, & STATUS	BILL SYNOPSIS	NOTES/KEY ISSUES
SB24-127 Regulate Dredged & Fill Material State Waters	Water	Concerning the establishment of a dredge-and-fill permit program to regulate the discharge of pollutants into certain state waters in response to recent changes in federal law, and, in connection therewith, establishing the stream and wetlands protection commission and the stream and wetlands protection division and authorizing the stream and wetlands protection division to administer and enforce the dredge-and-fill permit program in accordance with rules promulgated by the stream and wetlands protection commission.	House: Bird Senate: Kirkmeyer Status: Under Consideration (4/11/24 at 1:30 pm, Senate Agriculture & Natural Resources Committee)	<p>The bill creates the stream and wetlands protection commission (commission) in the department of natural resources (department) and requires the commission to develop, adopt, and maintain a dredge-and-fill permit program (permit program) for:</p> <ul style="list-style-type: none"> Regulating the discharge of dredged or fill material into certain state waters; and Providing protections for state waters, which protections are no more restrictive than the protections provided under the federal "Clean Water Act" as it existed on May 24, 2023. <p>The bill creates the stream and wetlands protection division (division) in the department to administer and enforce the permit program.</p> <p>The commission is required to promulgate rules as expeditiously as is prudent and feasible concerning the issuance of permits under the permit program. Until the division implements such rules, the bill prohibits the water quality control division in the department of public health and environment from taking any enforcement action against an activity that includes the discharge of dredged or fill material into state waters if the activity causing the discharge is conducted in a manner that provides for protection of state waters consistent with the protections that would have occurred through compliance with federal law prior to May 25, 2023.</p> <p>The bill establishes enforcement mechanisms for the permit program. A person who violates the terms of a permit, a rule, or a cease-and-desist order or clean-up order is subject to a civil penalty of not more than \$10,000 per day per violation.</p> <p>The bill directs the state treasurer to transfer \$600,000 from the severance tax operational fund to the capital construction fund on July 1, 2024, for the implementation of the bill.</p>	FN1

BILL NO. & NAME	TOPIC AREA	BILL DESCRIPTION	SPONSORS, ACTION TAKEN, & STATUS	BILL SYNOPSIS	NOTES/KEY ISSUES
SB24-148 Precipitation Harvesting Storm Water Detention	Water	Concerning allowing certain facilities to use water detained in a storm water detention and infiltration facility for precipitation harvesting.	House: McLachlan, Bradley Senate: Van Winkle Status: Passed (signed by Speaker and President on 4/4/24; passed by House on 3/25/24; passed by Senate on 3/4/24)	Under current law, an entity that owns, operates, or has oversight over a storm water detention and infiltration facility (facility) is not allowed to divert, store, or otherwise use water detained in the facility. For facilities that are also approved for use as a precipitation harvesting facility, either through a substitute water supply plan or an augmentation plan, the bill authorizes the use of water detained in the facility for precipitation harvesting.	FN1

BILL NO. & NAME	TOPIC AREA	BILL DESCRIPTION	SPONSORS, ACTION TAKEN, & STATUS	BILL SYNOPSIS	NOTES/KEY ISSUES
SB24-197 Water Conservation Measures	Water	Concerning measures for the conservation of water in the state, and, in connection therewith, implementing the proposals of the Colorado river drought task force.	House: McCluskie Senate: Roberts, Will Status: Under Consideration (4/10/24 upon adjournment, Senate Agriculture & Natural Resources Committee)	<p>Section 2 of the bill allows the owner of a decreed storage water right to loan water to the Colorado water conservation board (board) for a stream reach for which the board does not hold a decreed instream flow water right.</p> <p>Current law requires the board to establish an agricultural water protection program for water divisions 1 and 2. Section 3 changes current law by requiring the board to establish an agricultural water protection program in each water division.</p> <p>Current law allows periods of nonuse of a water right to be tolled in certain circumstances for the purposes of determining whether a water right is abandoned. Section 4 changes current law by allowing a water right to be tolled for the duration that an electric utility that owns a water right in water division 6 decreases use of, or does not use, the water right if the decrease in use or nonuse occurs during the period beginning January 1, 2020, and ending December 31, 2050, and if the water right is owned by the electric utility since January 1, 2019.</p> <p>Current law requires an owner of a conditional water right to obtain a finding of reasonable diligence or the conditional water right is considered abandoned. Section 5 allows the water judge, in considering a finding of reasonable diligence for a conditional water right that is owned by an electric utility in water division 6 since January 2019, to consider the following as supporting evidence:</p> <ul style="list-style-type: none"> • The conditional water right may be used to support a specific project or potential future generation technologies or concepts that have the potential to advance progress toward Colorado's clean energy and greenhouse gas emission reduction goals; and • The electric utility or another entity has made efforts to investigate or research the viability of future generation technologies that have 	FN1

BILL NO. & NAME	TOPIC AREA	BILL DESCRIPTION	SPONSORS, ACTION TAKEN, & STATUS	BILL SYNOPSIS	NOTES/KEY ISSUES
				<p>the potential to advance progress toward Colorado's clean energy and greenhouse gas emission reduction goals.</p> <p>In determining the amount of historical consumptive use for a water right, a water judge is prohibited from considering certain specified uses. Section 6 prohibits the water judge from considering the decrease in use or nonuse of a water right owned by an electric utility in division 6 since January 1, 2019, which decrease in use or nonuse occurs during the period beginning January 1, 2019, and ending December 31, 2050, in determining the amount of historical consumptive use. If the water right is leased by the electric utility to a third party, the water right is not entitled to historical consumptive use protection for the period the water right is subject to the lease.</p> <p>Current law allows the board to approve certain grants related to water conservation and requires the board to establish criteria to require the grant applicant to provide matching funds of at least 25%. Section 7 allows the board to reduce or waive fund matching requirements in the case of a grant to the Ute Mountain Ute Tribe or the Southern Ute Indian Tribe.</p>	

BILL NO. & NAME	TOPIC AREA	BILL DESCRIPTION	SPONSORS, ACTION TAKEN, & STATUS	BILL SYNOPSIS	NOTES/KEY ISSUES
SB24-199 Annual Species Conservation Trust Fund Projects	Natural Resources & Environment	Concerning an appropriation for species conservation trust fund projects.	House: McCormick, Catlin Senate: Roberts, Will Status: Under Consideration (4/11/24 at 1:30 pm, Senate Agriculture & Natural Resources Committee)	For state fiscal year 2024-25, the bill appropriates \$5,000,000 from the species conservation trust fund in the state treasury for various wildlife conservation programs directed at conserving candidate species or species that are likely to become candidate species, as determined by the United States fish and wildlife service. The executive director of the Colorado department of natural resources, after consulting with the Colorado water conservation board and its director, the parks and wildlife commission, and the director of the division of parks and wildlife, has submitted an eligibility list to the general assembly that describes programs and associated costs that are eligible to receive funding from the species conservation trust fund, as follows: <ul style="list-style-type: none"> • \$1,800,000 for the upper Colorado river endangered fish recovery program; • \$650,000 for selenium management, research, monitoring, evaluation, and control; • \$50,000 for 3 species recovery efforts; • \$1,700,000 for native terrestrial wildlife conservation; and • \$800,000 for native aquatic wildlife conservation. 	FN1

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HJR24-1018 Grand Lake Water Clarity	Natural Resources & Environment	Concerning the water clarify of Grand Lake, Colorado's largest and deepest natural lake.	House: McCluskie Senate: Roberts Status: Adopted , signed by Speaker and President on 3/4/24.	The Colorado General Assembly recognizes the importance of Grand Lake and its unique clarity as an aesthetic, recreational, wildlife, tourist, economic, and historic asset to the state and nation; recognizes the importance of the C-BT project for essential water deliveries to Colorado's northern Front Range and plains region and economy; and urges the collaborating entities of the 2016 MOU to continue their efforts to establish effective, measurable, demonstrable, and achievable short- and long-term solutions to increase the clarity depths in Grand Lake and meet state-issued clarity standards.	

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HB24-1062 Warrants for Metro Sewage Disposal Districts	Water	Concerning administrative inspection warrants for a metropolitan sewage disposal district.	House: Evans, Titone Senate: Priola, Gardner Status: Passed (passed by Senate on 3/25/24; passed by House on 2/6/24)	To protect public health and the environment, a metropolitan sewage disposal district (district) is required to ensure that wastewater generated by local businesses is properly treated pursuant to the industrial pretreatment program (program) approved by the environmental protection agency. This requires district inspectors to inspect certain properties to investigate actual, suspected, or potential violations of the program. Under current law, the boundaries of a district may exist within multiple municipal and county lines, which makes it challenging for the district to obtain administrative inspection warrants when property owners deny district inspectors entry to a property. The bill allows authorized inspectors of a district to enter and inspect, in a reasonable time and manner, any property for the purpose of investigating any violations of the program. If an inspection is denied, the bill authorizes a district to obtain a warrant from the district court or county court upon a proper showing of the need for entry and inspection.	FN1

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HB24-1178 Local Government Authority to Regulate Pesticides	Agriculture	Concerning local government authority to regulate pesticides.	House: Kipp, Froelich Senate: Cutter, Jaquez Lewis Status: Under Consideration (4/10/24 at 9 am, House Floor Work)	Current law prohibits a local government from creating laws that regulate the use of pesticides by pesticide applicators regulated by state or federal law. The bill allows a local government to create and enforce laws regulating the sale or use of pesticides to protect the health and safety of the community with certain exceptions.	FN1 FN2 FA1

BILL NO. & NAME	TOPIC AREA	BILL DESCRIPTION	SPONSORS, ACTION TAKEN, & STATUS	BILL SYNOPSIS	NOTES/KEY ISSUES
HB24-1362 Measures to Incentivize Graywater Use	Water	Concerning measures to promote the use of graywater.	House: Lukens, Catlin Senate: Roberts, Simpson Status: Under Consideration (4/18/24 at 1:30 pm, Senate Agriculture & Natural Resources Committee; passed by House on 4/5/24)	Under current law, a board of county commissioners or governing body of a municipality (local government) may authorize the use of graywater within its jurisdiction. Graywater refers to certain types of wastewater that is collected from fixtures before it is treated and put to certain beneficial uses. The bill authorizes the installation of graywater treatment works and the use of graywater statewide; except that a local government: <ul style="list-style-type: none"> • May adopt an ordinance or a resolution prohibiting the installation of graywater treatment works or the use of all graywater or categories of graywater use within its jurisdiction; and • Shall notify the division of administration in the department of public health and environment of any such local ordinance or resolution adopted. 	FN1 FN2

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HB24-1379 Regulate Dredge & Fill Activities in State Waters	Water	Concerning the regulation of state waters in response to recent federal court action.	House: McCluskie, McCormick Senate: Roberts Status: Under Consideration (House Agriculture, Water & Natural Resources Committee referred amended to Finance Committee on 4/8/24)	<p>The bill requires the water quality control commission (commission) in the department of public health and environment (department) to promulgate rules by May 31, 2025, as necessary to implement a state dredge and fill discharge authorization program (program) and requires the division of administration (division) in the department to administer and enforce authorizations for activities that will result in the discharge of dredged or fill material into state waters. The rules must focus on avoidance of, minimization of, and compensation for the impacts of dredge and fill activity (activity), include application requirements, and be at least as protective as the guidelines developed pursuant to section 404 (b)(1) of the federal "Clean Water Act".</p> <p>The bill establishes duties for the division in administering the program, as follows:</p> <ul style="list-style-type: none"> • The division shall issue individual authorizations consistent with the rules promulgated by the commission; • The division shall issue general authorizations for the discharge of dredged or fill material into state waters from certain categories of activities that have minimal effects on state waters and the environment; • The division shall utilize the existing structure of preconstruction notifications in the nationwide and regional permits established by the United States Army Corps of Engineers and issue general authorizations to be effective for categories of activities that do not require preconstruction notification; and • The division may include conditions in a notice of authorization, on a case-by-case basis, to clarify the terms and conditions of a general authorization or to ensure that an activity will have only minimal individual and cumulative adverse effects on state waters. <p>Compensatory mitigation is required in all individual authorizations and in general authorizations where unavoidable adverse impacts to wetlands will affect over one-tenth of an acre or, for streams, where unavoidable adverse impacts greater than the threshold established by the commission by rule</p>	FN1

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				<p>will occur. Compensatory mitigation may be accomplished through the purchase of mitigation bank credits, an in-lieu fee program, or project-proponent-responsible mitigation.</p> <p>Until the rules become effective:</p> <ul style="list-style-type: none"> • The division's Clean Water Policy 17, "Enforcement of Unpermitted Discharges of Dredged and Fill Material into State Waters", continues to be effective; • For projects that do not qualify for enforcement discretion under the division's Clean Water Policy 17, the division may issue temporary authorizations for the discharge of dredged or fill material into state waters only under certain conditions; and • Temporary authorizations must include conditions necessary to protect the public health and the environment and to meet the intent of the bill. <p>The division may issue a temporary authorization for a period not to exceed 2 years.</p> <p>The bill deems certain activities exempt and therefore does not require a discharge authorization for, or otherwise require regulation of, such activities. The bill also excludes certain types of waters from the bill's regulatory requirements.</p> <p>The bill clarifies that "state waters" includes wetlands.</p> <p>In current law, with certain exceptions, an applicant for any water diversion, delivery, or storage facility that requires an application for a permit, license, or other approval from the United States must inform the Colorado water conservation board, the parks and wildlife commission, and the division of parks and wildlife of its application and submit a mitigation proposal. The bill extends the same requirement to an applicant for any such facility that requires an individual authorization from the division.</p>	

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HB24-1435 Colorado Water Conservation Board Projects	Water	Concerning the funding of Colorado water conservation board projects, and, in connection therewith, making an appropriation.	House: McCormick, Catlin Senate: Roberts, Simpson Status: Under Consideration (House Agriculture, Water & Natural Resources Committee referred to Appropriations Committee on 4/8/24) CWC position: Support	<p>The bill appropriates the following amounts for the 2024-25 state fiscal year from the Colorado water conservation board (CWCB) construction fund to the CWCB or the division of water resources in the department of natural resources for the following projects:</p> <ul style="list-style-type: none"> Continuation of the satellite monitoring system, \$380,000 (section 1 of the bill); Continuation of the floodplain map modernization program, \$1,000,000 (section 2); Continuation of the weather modification permitting program, \$500,000 (section 3); Continuation of the Colorado Mesonet project, \$200,000 (section 5); Continuation of the water forecasting partnership project, \$2,000,000 (section 6); Support of modeling and data analyses for the upper Colorado river commission's development of operational guidelines for Lake Powell and Lake Mead, \$500,000 (section 7); Support for the division of water resources' statewide diversion telemetry project, \$1,827,500 (section 8); Support of a study update and scenario analyses for groundwater resource goals for the southern high plains designated groundwater basin, \$250,000 (section 9); and Support for projects that support drought planning and mitigation, \$4,000,000 (section 11). <p>Section 4 directs the state treasurer to transfer up to \$2,000,000 from the CWCB construction fund to the CWCB litigation fund on July 1, 2024.</p> <p>The CWCB is authorized to make loans from the severance tax perpetual base fund or the CWCB construction fund:</p> <ul style="list-style-type: none"> In an amount up to \$155,650,000 to the Windy Gap firming project (section 12); and In an amount up to \$101,000,000 to the northern integrated supply project water activity enterprise owned by the northern 	FN1

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				<p>Colorado water conservancy district to develop a new regional water supply project (section 13).</p> <p>Section 10 directs the state treasurer to transfer \$2,000,000 on July 1, 2024, from the CWCB construction fund to the turf replacement fund to finance the state turf replacement program. Section 14 directs the state treasurer to transfer \$20,000,000 on July 1, 2024, from the severance tax perpetual base fund to the CWCB construction fund for the purchase and sale agreement between the Colorado river water conservation district and the public service company of Colorado for the purchase of the water rights associated with the Shoshone power plant. Section 15 appropriates \$23,300,000 from the water plan implementation cash fund to the CWCB to fund grants that will help implement the state water plan. Sections 16 and 17 amend current law, under which the state treasurer is directed to make 2 transfers of \$2.5 million each from the economic recovery and relief cash fund to the CWCB construction fund. The CWCB is required to use the \$2.5 million from one of the transfers for the direct and indirect costs of providing assistance to political subdivisions and other entities applying for federal "Infrastructure Investment and Jobs Act" money and other federally available money related to water funding opportunities (water funding purposes). The CWCB is required to use the \$2.5 million from the other transfer for issuing grants to political subdivisions of the state or other entities for the hiring of temporary employees, contractors, or both that will assist those political subdivisions and other entities in applying for federal "Infrastructure Investment and Jobs Act" money and other federally available money related to natural resource management (natural resource management purposes). Sections 16 and 17 allow the CWCB, on or after July 1, 2024, to expend money from either of the 2 transfers for either the water funding purposes or the natural resource management purposes.</p>	

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SB24-1436 Sports Betting Tax Revenue Voter Approval	Fiscal Policy & Taxes Gaming, Lottery, & Racing State Revenue & Budget Water	Concerning the referral of a ballot issue related to the revenue from the sports betting tax, and, in connection therewith, referring a ballot issue to the voters to allow the state to keep and spend all sports betting tax revenue in excess of the twenty-nine million dollar estimated increase in state tax revenue approved by voters in 2019 for the purpose of funding water conservation and protection projects rather than refunding such excess revenue to casinos.	House: McCluskie, Catlin Senate: Roberts, Simpson Status: Under Consideration (4/11/24 at 1:30 pm, Senate Finance Committee)	<p>The bill refers a ballot issue to the voters at the November 2024 statewide election to allow the state to keep and spend all revenue from the existing tax on the net proceeds of licensed sports betting (sports betting tax), including revenue in excess of the \$29 million fiscal year estimate included in the 2019 ballot question as follows:</p> <ul style="list-style-type: none"> All revenue from the sports betting tax up to \$29 million annually, together with all revenue derived by the division of gaming in the department of revenue, will continue to be used to pay for the regulation of sports betting, to offset losses to other wagering revenue recipients, and to support responsible gaming, with any remaining money being transferred to the water plan implementation cash fund; and All sports betting tax revenue in excess of \$29 million annually will be transferred to the water plan implementation cash fund to be used for water conservation and protection projects. <p>If the majority of electors voting at the November 2024 statewide election vote against allowing the state to keep and spend all sports betting tax revenue as outlined above, then any tax revenue collected in excess of \$29 million annually will be refunded to the licensed sports betting operations that paid the sports betting tax according to a reasonable method to be determined by the department of revenue.</p>	FN1