

# Audubon Legislative Report

22, February, 2018

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The legislative session started on January 10. Like last year, we have a split chamber situation. The Republicans control the Senate 18-16, with one unaffiliated member, as Sen. Jahn recently changed her party affiliation. The Democrats control the House 37-28. There are two new members of the House. Rep. Judy Reyher was appointed to replace Rep. Dan Nordberg, and Rep. Dylan Roberts was appointed to replace Rep. Dianne Mitsch-Bush. The split control means that like last year, most bills will not survive both chambers. That doesn't mean, however, that we can relax. Bad bills always need significant help to die.

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## PRIORITY BILLS

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

**(Esgar, Donovan)**

Position: Support

Status: H-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 vessel.

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

**(Garcia, Wist)**

Position: Support

Status: Passed Senate

SB66 removes the sunset date for the Lottery Division so that it will exist in perpetuity, without having to repeatedly reauthorize it.

### **\*HB1113 SMALL BUSINESS REGULATORY REFORM**

**(Neville, Neville)**

Position: Oppose

Status: Dead

HB1113 is the first of the annual anti-regulatory bills. It requires agencies to forgo fines for the first offense of any rule not directly related to public health and safety by a business of less than 100 employees.

**\*HB1150 OIL/GAS TAKINGS**

**(Buck)**

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.

**\*SB143 FUTURE GENERATIONS**

**(Fenberg, Arndt)**

Position: Support

Status: S-Approp

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. Thank you to Senators Court, Jahn, Tate, Smallwood and Neville for their support.

**\*HB1122 CONSERVATION EASEMENT ACCOUNTING**

**(Lewis/Sonnenberg)**

Position: Oppose

Status: H-HIE

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 easement, the acreage involved, the amount of any credits claimed, the owner or owners of the easement, the conservation objectives of the easement and a determination of whether the conservation goals of the easement are being fulfilled (by the auditor?!?). While a compilation of easements could be useful, HB1122 is far more than a mere catalogue, and is a danger to the entire program.

**\*HB1123 CONSERVATION EASEMENT MORATORIUM**

**(Lewis/Sonnenberg)**

Position: Oppose

Status: H-HIE

HB1123 imposes a three year moratorium on tax credits for any conservation easement. Given that it takes several years to put a donated easement together, and tax credits are already limited by the existing annual cap, an additional moratorium jeopardizes all easements in progress, and the future of the program as a whole.

**\*HB1194 CONSERVATION EASEMENT TRANSPARENCY (Lewis, Sonnenberg)**

Position: Oppose

Status: H-HIE

HB1194 limits fees that can be charged in association with establishment of easements. The bill also requires the department to accept the average of appraisals if the value of the easement is disputed. Additionally, the bill allows landowners to quash the contract under certain circumstances, and requires a public hearing in the county where an easement is proposed. Finally the bill makes all future easements term easements rather than perpetual.

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**WATER**

**HB1215 TENORM**

**(Arndt)**

Position: Support

Status: H-HIE

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 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 to handle radioactive 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.

**HB1069 REUSE WATER FOR TOILET FLUSHING**

**(Arndt, Coram)**

Position: Support

Status: H-Approp

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

**HB1093 REUSE WATER FOR EDIBLE CROPS**

**(Arndt, Coram)**

Position: Support

Status: H-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.

**SB38 REUSE WATER FOR INDUSTRIAL HEMP**

**(Coram, Willet)**

Position: Support

Status: S-Approp

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

**HB1073 WATER DISTRICT CONTRACTS**

**(Gray, Gardner)**

Position: Neutral

Status: S-Ag

HB1073 allows conservation and conservancy districts to lease space in projects, not just actual water deliveries. The distinction is subtle, and is already common practice, but some districts are concerned with potential objections by bond underwriters.

**SB19 INCREASE TIME FOR WATER/POWER LOANS**

**(Coram, Arndt)**

Position: Monitor

Status: Passed

Current law requires loans issued by the Water and Power Development Authority to include a maximum repayment window of 20 years. Most of the funding for the Water and Power Authority comes from the Federal safe drinking water and wastewater programs. The Federal statutes permit a repayment window of up to 30 years. SB19 increases the loan horizon to 30 years to better align with Federal standards.

**SB33 CONTINUE CAFO FEES**

**(Sonnenberg, Becker J)**

Position: Support

Status: H-Ag

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.

**SB41 WATER USE FOR SAND/GRAVEL OPERATION**

**(Baumgardner, Arndt)**

Position: Monitor

Status: Passed

SB41 allows sand and gravel operators to use water produced from their operation to mitigate the impacts of the operation. Uses are primarily dust suppression, and alleviating injury to neighboring landowners as a result of dewatering. The bill is specifically limited to sand and gravel operations, so water quality concerns are not an issue.

**SB25 FLOOD CONTROL ELECTIONS**

**(Priola, Coleman)**

Position: FYI

Status: Passed

SB25 updates the requirements for elections by Urban Drainage and Flood Control Districts to align with current election laws.

**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.

**HB1139 CPW PARKS FEE REPORTING**

**(Hooton, Zenzinger)**

Position: Support

Status: S-Ag

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.

**HB1027 RELOCATE LOTTERY**

**(Wist, Kagan)**

Position: Monitor

Status: S-Floor

HB1027 relocates the existing statutes regulating the Lottery Division to a new statutory title.

**HJR1002 OUTDOOR RECREATION INDUSTRY**

**(McLachlan, Donovan)**

Position: Support

Status: H-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.

**MISCELLANEOUS**

**SB45 PAINT RECYCLING**

**(Lundberg, Ransom)**

Position: Oppose

Status: Dead

The existing paint recycling program has been very successful in keeping old paint from being illegally dumped in open spaces or waterways and out of landfills. Every county in the State now has at least one drop-off location to properly dispose of and recycle both latex and oil based paint. SB45 would repeal the entire program.

**SB128 State Agency Fees**

**(Gardner, Liston)**

Position: Oppose

Status: Passed Senate

SB128 requires all State agencies to receive legislative approval for fee increases. The sponsor has stated that he doesn't necessarily intend for each fee to require a separate bill, but rather that all proposed fee increases would be submitted to the JBC which would incorporate them all in a single bill. It is unclear whether the new requirement would also apply to increased

fees that were approved in Statute the previous year, or to adjustment of fees according to inflationary indices. While the bill is directed at a particular fee in the Department of Public Safety, there are numerous unintended consequences to the proposal.

**HB1054 PLASTIC BAG FEE**

**(Rosenthal, Court)**

Position: FYI

Status: Dead

HB1054 creates a fee for each plastic bag. The funds raised are dedicated to increasing the availability of affordable housing. The bill is included here solely because a plastic bag fee was one of the methods discussed early in the interim as a possible funding mechanism for water conservation projects.

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**ENERGY**

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

**(Salazar, Moreno)**

Position: Support

Status: S-Ag

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”.

**HB1085 HEALTH EFFECTS OF WIND TURBINES**

**(Lundeen)**

Position: Oppose

Status: Dead

HB1085 requires CDPHE to compile all existing research on the mental and physiological impacts to humans and the physiological impacts to animals from noise or stray voltage from industrial wind turbines. The bill specifically does not include effects to species of physical strikes due to navigational confusion, impacts of location on habitat and reproduction, or anything else. Only direct impacts from noise and from stray voltage are included.

**HB1098 COGCC ENVIRO RESPONSE FUND**

**(Saine, Marble)**

Position: Support

Status: H-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.

**HB1107 PREWIRE OPTION FOR ELECTRIC VEHICLES**

**(Weissman, Priola)**

Position: Support

Status: S-Trans

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

**SB3 COLORADO ENERGY OFFICE**

**(Scott)**

Position: Monitor

Status: Passed Senate

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.

**SB48 PROTECT LOCAL GOVT AUTHORITY OVER OIL/GAS**

**(Jones, Foote)**

Position: Monitor

Status: Dead

SB48 extends existing County 1041 powers to include oil and gas siting. The bill further extends those same powers to municipalities.

**SB63 OIL/GAS BONDING**

**(Jones, Benavidez)**

Position: Support

Status: Dead

SB63 requires increased bonding for oil and gas operations. The new bonds must be sufficient to cover all reasonably foreseeable expenses related to compliance with existing regulations. The bill also increases mitigation requirements to align with the requirements applicable to hard-rock mining.

**HB1080 CLIMATE LEADER AWARDS**

**(Hooton)**

Position: Tepid Support

Status: Dead

HB1080 requires the Governor's climate change administrator to develop an awards program for organizational and individual leadership in responding to climate change.

**SB64 INCREASE RES**

**(Jones, Foote)**

Position: Monitor

Status: Dead

SB64 requires all utilities in Colorado to reach a threshold of 100 percent renewable power by 2035.

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