



Water

During the 2020 legislative session, the General Assembly considered several measures related to water, including water demand and conservation, water studies, instream flows, funding for water projects, and other water bills.

Water Demand and Conservation

The General Assembly considered five bills concerning water demand. Current state law presumes that a domestic water well that is exempt from regulation by the state engineer does not cause injury to other water rights or wells. If the land on which the well is located is later divided into multiple parcels, the well loses that presumption. *Senate Bill 20-155* maintains the presumption of noninjury to other water rights for a well that is located on land that is divided into multiple parcels.

If a water right is not used, the holder can lose the right. However, the law allows the holder to reduce their use of the water right in certain cases, without losing the right. Under *House Bill 20-1172* a reduction in water usage due to an efficiency project would not have constituted abandonment of a water right. The bill was postponed indefinitely.

If a local government's master plan includes a water element, *House Bill 20-1095* requires that the element include water conservation policies, which may include goals specified in the state water plan. Current law also limits

water that is decreed for use in a treated domestic or municipal water supply system to only that system. *House Bill 20-1097* would have allowed water decreed for use in a domestic or municipal system to be used in an interconnected domestic or municipal system if certain conditions were met. The bill was postponed indefinitely.

House Bill 20-1327 would have prohibited state agencies from authorizing or assisting with projects that divert water from the Rio Grande river basin unless it is demonstrated that the project will not cause certain adverse effects in the basin. The bill was postponed indefinitely.

Senate Bill 20-024 would have required the Colorado Water Conservation Board (CWCB) and the Water Resources Review Committee to involve the public and provide opportunities for public comment before adopting a final water resources demand management program as part of the Colorado upper basins states' drought contingency plan. The bill was postponed indefinitely.

Water Studies

Three bills concerning water studies were considered during the 2020 legislative session. Colorado water law currently prohibits speculation in water rights. *Senate Bill 20-048* requires the Executive Director of the Department of Natural Resources (DNR) to convene a work group during the 2020 interim to explore ways to strengthen water

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anti-speculation law. *House Bill 20-1344* would have directed the CWCB to conduct a study on the artificial recharge of aquifers in Colorado. *House Bill 20-1072* would have directed the University of Colorado to study new and emerging technologies that have the potential to improve water management. Both bills were postponed indefinitely.

Instream Flows

The CWCB has an instream flow program. The program allows water right owners to loan water to the CWCB for use as instream flows in order to preserve the natural environment to a reasonable degree. *House Bill 20-1157* expands the allowable use of loaned water in the instream flow program. These changes include: increasing the number of years within a ten-year period that a renewable loan may be exercised from three to five years, but no more than three years consecutively are permitted; allowing a loan to be renewed by the State Engineer in the DNR for up to two additional ten-year periods; and expanding the CWCB's ability to use loaned water to not only preserve, but also improve the natural environment to a reasonable degree.

House Bill 20-1037 authorizes the CWCB to augment stream flows to preserve or improve the natural environment with a water right that has been previously quantified and changed to include any augmentation use, without a further change of the water right being required.

Under current law, any instream flow appropriation is subject to uses and exchanges of water by other water users that existed prior to the instream flow appropriation, whether or not the preexisting use has been confirmed by a court order or decree. *House Bill 20-1159* requires that when a claim of a preexisting use is asserted, the State Engineer in the DNR

confirm the extent of the claimed unadjudicated use. A water user may seek a water court confirmation or adjudication of the preexisting use.

Funding for Water Projects

The General Assembly passed two bills concerning funding for water projects. *House Bill 20-1403* appropriates funds from the CWCB Construction Fund for specified water-related projects. *Senate Bill 20-025* gives flood control conservancy districts the authority to participate in artistic and beautification projects on waterways.

Other Water-related Bills

The General Assembly considered several other bills concerning water.

Under current law, local boards of health may set fees for on-site wastewater treatment system permits to offset the actual indirect and direct costs associated with the permit, not to exceed \$1,000. *House Bill 20-1094* removes the \$1,000 fee cap. Upon request, the local board of health must provide permit holders with information on how the fees are calculated. *House Bill 20-1164* would have specified that housing authorities are exempt from tap fees and development impact fees imposed by a water conservancy district. The bill was postponed indefinitely.

House Bill 20-1069 would have established a minimum staffing level for the state's Well Inspection Program, increased well permit fees, and required the identification and prioritization of high-risk wells. The bill was postponed indefinitely.