



Water

During the 2019 legislative session, the General Assembly considered several measures related to addressing Colorado's growing demand for water, funding water projects, and making other changes to certain water-related laws.

Addressing Growing Demand for Water

The Colorado Water Conservation Board (CWCB) in the Department of Natural Resources (DNR) is the state's primary water policy and planning agency. According to the CWCB, an additional 630,000 acre-feet of water will be needed each year by 2030 in Colorado, primarily for municipal and industrial use.

Xeriscape. Under current law, a restrictive covenant of a common interest community (i.e., a home owner association or condominium owner association) may not prohibit a property owner from using xeriscape or drought-tolerant plants. *House Bill 19-1050* expands this provision to limited common element properties for which unit owners are responsible. The bill also clarifies how xeriscape provisions apply to special districts. Xeriscape includes landscape planning and design, soil analysis and improvement, appropriate plant selection, limitation of turf area, use of mulches, irrigation efficiency, and appropriate maintenance that results in water use efficiency and water-saving practices.

Water reuse. In 2018, the General Assembly adopted three bills related to the allowable uses of reclaimed domestic wastewater: *House Bill 18-1093*, *House Bill 18-1069*, and *Senate Bill 18-038*. These bills expanded allowable uses of reclaimed wastewater to include industrial hemp cultivation, toilet flushing, and the irrigation of edible food crops. Reclaimed domestic wastewater is wastewater that has received treatment for subsequent reuses other than drinking. Regulation 84, promulgated by the Colorado Department of Public Health and Environment (CDPHE), describes the requirements, prohibitions, standards, and concentration limitations related to the reuse of domestic wastewater. *House Bill 19-1200* authorizes the Water Quality Control Commission in the CDPHE to adopt rules related to the point of compliance for the disinfection of reclaimed wastewater that is used for indoor nonpotable uses.

Water efficiency. *House Bill 19-1231* adopts updated water and energy efficiency standards for certain consumer and commercial products, including low-efficiency plumbing fixtures. The standards apply to new products sold in Colorado and are phased in over three years.

Funding for Water Projects and Programs

The CWCB Construction Fund provides low-interest loans for water projects. Revenue

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for this revolving loan fund comes from interest earned on outstanding loans and the fund's cash balance and distribution of royalties from federal mineral leases. *Senate Bill 19-221*, also known as the annual water projects bill, appropriates funds for specific water-related projects in FY 2019-20 and makes several other cash fund transfers. For example, the bill appropriates \$17.5 million from the CWCB Construction Fund for studies, grant-making, programs, or projects related to the Colorado Water Plan. In addition, *Senate Bill 19-212* appropriates \$10.0 million General Fund for the Colorado Water Plan. *House Bill 19-1259* appropriates \$3.9 million from the Species Conservation Trust Fund for DNR programs that benefit native species listed as threatened or endangered under state or federal law. *Senate Bill 19-016* changes the timing and budgeting of severance tax revenue used to fund several grant programs within DNR.

House Joint Resolution 19-1005 designates projects eligible for funding under the state's Drinking Water Revolving Fund and Water Pollution Control Revolving Fund programs. *Senate Joint Memorial 19-001* requests the U.S. Congress to provide funding for the construction of the Arkansas Valley Conduit project. *Senate Joint Memorial 19-002* requests Congress to enact legislation directing the U.S. Army Corps of Engineers to dredge a portion of the Lower Arkansas River basin.

Other Water-Related Bills

The General Assembly also considered several bills concerning other water-related laws. *House Bill 19-1218* and *House Bill 19-1271*, which were both postponed indefinitely, would have made changes to the state's instream flow program. Under current law, the CWCB may use water for instream flows if the loaned water is used to preserve the natural environment of a stream reach that is subject to a decreed

instream flow water right held by the CWCB. HB 19-1218 would have expanded the number of years within a ten-year period that a loan may be exercised from three to five and would have allowed a loan to be renewed for up to two additional ten-year periods. HB 19-1271 would have clarified the authority of the CWCB to augment stream flows with water that has been previously decreed for augmentation, without requiring a further change of the water right.

House Bill 19-1082 clarifies that rights-of-way for water rights include the right to: construct, operate, clean, maintain, repair, and replace a ditch and appurtenant structures; improve ditch efficiency, including lining or piping; and enter onto property for such purposes.

The Colorado Water Institute at Colorado State University studies water concerns and issues in the state. *House Bill 19-1015* recreates the institute in state law until July 2029. The institute was automatically repealed in statute in July 2017. *Senate Bill 19-184*, which was postponed indefinitely, would have authorized the institute to study potential water-related uses of blockchain technology.

The Republican River Water Conservation District is a statutory public entity created by the General Assembly in 2004 to conserve, use, and develop the water resources of the Republican River and portions of the Ogallala aquifer. *House Bill 19-1029* expands the boundaries of the district to include areas in Cheyenne County where groundwater pumping depletes the flow of the Republican River, as defined by the Republican River Compact Administration groundwater model. It also adjusts the boundaries of the district in Kit Carson, Lincoln, Logan, Sedgwick, and Washington Counties to align with the groundwater model. The district board of directors is adjusted to include representatives from Cheyenne County and the East Cheyenne Groundwater Management District.