

## Summary of Water Bills 2010 Session (As of June 11, 2010)

Signed into Law	
<p>Bill Number:       <b>Senate Bill 10-019</b></p> <p>Sponsors:         <i>Sen. Schwartz</i>                           <i>Rep. Fischer</i></p> <p>The <i>act</i>, recommended by the Water Resources Review Committee, specifies that for purposes of property taxation, new small or low-impact hydroelectric energy facilities will be valued using the income approach. This means that the actual value will be based on the projected gross revenue of such facilities, measured in nominal dollars. This income approach contrasts with the traditional cost approach, where property taxes decline over time as assets depreciate. Eligible hydroelectric energy facilities include new facilities with less than a nameplate rating of 10 megawatts (MW); new facilities that have a nameplate rating greater than 10 MW installed as part of existing water infrastructure projects; and certain new water infrastructure projects that include specified environmental protections.</p>	<p>Short Title:       <b>Valuation of New Hydroelectric Facilities</b></p> <p>Status:            Signed into Law</p> <p><i>Appropriations:</i></p> <p style="padding-left: 40px;">This act does not affect state or local revenue or expenditures in FY 2010-11. However, to the extent that new qualifying hydroelectric energy facilities begin operating after January 1, 2010, state aid for local school districts would increase in the short term and decrease in the long term over what would have been required.</p>
<p>Bill Number:       <b>Senate Bill 10-025</b></p> <p>Sponsors:         <i>Sen. Whitehead</i>                           <i>Rep. Baumgardner</i></p> <p>The <i>act</i>, recommended by the Water Resources Review Committee, extends the Water Efficiency Grant Program until July 1, 2020, and authorizes up to \$550,000 of annual appropriations from the program cash fund. The program is currently scheduled to be repealed on July 1, 2012. The bill authorizes annual transfers of \$550,000 for FY 2012-13 through FY 2019-20 from the Operational Account of the Severance Tax Trust Fund to the program cash fund. Of this funding, \$50,000 may be used for administrative costs. Any funds that remain in the cash fund on June 30, 2020, must be returned to the Operational Account of the Severance Tax Trust Fund.</p>	<p>Short Title:       <b>Extend Funding Water Efficiency Grants</b></p> <p>Status:            Signed into Law</p> <p><i>Appropriations:</i></p> <p style="padding-left: 40px;">The act does not affect state or local revenue or expenditures in FY 2010-11. It increases expenditures of up to \$500,000 in FY 2011-12 and up to \$550,000 in FY 2012-13. Because of anticipated reductions of severance tax revenue available for Tier 2 programs, actual expenditures are expected to be below the authorized funding. For FY 2011-12 and FY 2012-13, up to \$500,000 may be expended by the program for water conservation-related grants. Because funding for grant administration is authorized under current law only until FY 2011-12, an additional \$50,000 in expenditures are authorized for FY 2012-13.</p>

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Signed into Law (Cont.)	
<p>Bill Number:     <b>Senate Bill 10-027</b></p> <p>Sponsors:        <i>Sen. Sandoval</i>                       <i>Rep. Roberts</i></p> <p>The <i>act</i> imposes a fine of up to \$500 per day on persons who illegally divert <i>surface water</i>. This is the same fine that currently applies to the illegal diversion of groundwater.</p>	<p>Short Title:     <b>Fine Illegal Surface Water Diversions</b></p> <p>Status:          Signed into Law</p> <p><i>Appropriations:</i></p> <p style="text-align: center;">This act is expected to increase General Fund revenue by approximately \$2,500 in FY 2010-11 and FY 2011-12.</p>
<p>Bill Number:     <b>Senate Bill 10-052</b></p> <p>Sponsors:        <i>Sen. Brophy</i>                       <i>Rep. Curry</i></p> <p>The <i>act</i> limits when the Colorado Groundwater Commission may alter the boundaries of a designated groundwater basin. Under this act, an area included in a groundwater basin may only be excluded if the change will not exclude any wells for which conditional or final permits have been issued. The act does not affect litigation concerning designated basins pending on January 1, 2010.</p>	<p>Short Title:     <b>Alter Designated Groundwater Basin Area</b></p> <p>Status:          Signed into Law</p> <p><i>Appropriations:</i></p> <p style="text-align: center;">The act is assessed as having no fiscal impact. Changes as a result of the act are not expected to substantially affect the volume of ground water litigation.</p>
<p>Bill Number:     <b>Senate Bill 10-165</b></p> <p>Sponsors:        <i>Sen. Hodge</i>                       <i>Rep. Hulinghorst</i></p> <p>The <i>act</i> specifies that, except for coal bed methane wells, no well permit is required from the Division of Water Resources for oil and gas wells that remove nontributary ground water provided the water is not beneficially used or is used only for purposes allowed under the "Oil and Gas Conservation Act." The act also extends the well permitting and substitute water supply plan compliance deadlines for oil and gas wells, including coal bed methane wells, from March 31, 2010, to August 1, 2010.</p>	<p>Short Title:     <b>Adjust Oil and Gas Well Regulation</b></p> <p>Status:          Signed into Law</p> <p><i>Appropriations:</i></p> <p style="text-align: center;">The act is assessed as having no fiscal impact. The number of wells and the timing of application fee revenue is expected to remain at the same level.</p>

## Summary of Water Bills 2010 Session (As of June 11, 2010) (Cont.)

Signed into Law (Cont.)	
<p>Bill Number:       <b>Senate Bill 10-174</b></p> <p>Sponsors:         <i>Sen. Schwartz</i>                           <i>Rep. Massey and Scanlon</i></p> <p>The <i>act</i> authorizes federal mineral lease revenues derived from geothermal resource development on federal lands to be used for grants to state agencies, school districts, and political subdivisions affected by geothermal development and production. These grants are to be awarded by the Department of Local Affairs primarily for planning and services necessitated by geothermal development and production, and secondarily to promote geothermal energy resource development. The bill specifies that the property rights to geothermal resources are part of surface ownership unless these rights are "severed" or separated from the land and sold or leased. In cases where geothermal resources are severed, the bill provides the geothermal resource owner the right to reasonably access these resources. It clarifies when drilling and well permits must be obtained from the State Engineer in the Division of Water Resources for geothermal resources development. The bill specifies that geothermal energy facilities must be valued for property taxes using the income approach, where the value is based on the projected gross revenue of these facilities. It also allows municipalities and counties to designate geothermal development as an activity of state interest under House Bill 74-1041, commonly known as <i>1041 powers</i>. The bill allows the Public Utilities Commission, at a utility's request, to give the fullest possible consideration to the cost-effective implementation of new energy technologies for geothermal energy generation.</p>	<p>Short Title:       <b>Promote Geothermal Energy Development</b></p> <p>Status:           Signed into Law</p> <p><i>Appropriations:</i></p> <p>There is not expected to be sufficient revenue generated to establish the lease fund and grant program in FY 2010-11 or FY 2011-12. To the extent that severing geothermal resources from surface rights results in an increase in property tax, it will reduce the need for General Funds for school finance. Similarly, modifying the method for valuing geothermal facilities could affect property taxes, which would change the need for state aid.</p>
<p>Bill Number:       <b>Senate Bill 10-181</b></p> <p>Sponsors:         <i>Sen. Kester</i>                           <i>Rep. McKinley</i></p> <p>The <i>act</i> allows municipalities to lease lands that were purchased to acquire water rights associated with the land. Under current law, municipal water providers may only hold or sell such lands.</p>	<p>Short Title:       <b>Municipal Authority to Lease Land</b></p> <p>Status:           Signed into Law</p> <p><i>Appropriations:</i></p> <p>The act is assessed as having a local fiscal impact as municipalities will be able to generate rental income from leased lands.</p>

## Summary of Water Bills 2010 Session (As of June 11, 2010) (Cont.)

Signed into Law (Cont.)	
<p>Bill Number:     <b>House Bill 10-1051</b></p> <p>Sponsors:        <i>Rep. Pommer</i>                       <i>Sen. Whitehead</i></p> <p>Starting June 30, 2014, the act requires retail water providers — with an annual customer demand of at least 2,000 acre-feet — to annually report water use and conservation data for water supply planning to the Colorado Water Conservation Board (CWCB), the Senate Agriculture and Natural Resources Committee, and the House Agriculture, Livestock, and Natural Resources Committee. The CWCB is required to adopt the reporting guidelines for the water providers to report water use and conservation data for water supply planning by February 1, 2012.</p>	<p>Short Title:     <b>Water Efficiency Plans Annual Report</b></p> <p>Status:         Signed into Law</p> <p><i>Appropriations:</i></p> <p style="padding-left: 20px;">The CWCB may receive additional requests for assistance with preparing the annual report, but such assistance is not expected to increase overall appropriations.</p>
<p>Bill Number:     <b>House Bill 10-1204</b></p> <p>Sponsors:        <i>Rep. Soper</i>                       <i>Sen. Tochtrop</i></p> <p>The <i>act</i> requires the Examining Board of Plumbers in the Department of Regulatory Agencies to adopt a plumbing code that includes conservation standards that meet national guidelines and standards, and that are tested and approved by a nationally recognized testing laboratory. Such conservation standards must address water-efficient devices and fixtures and the use of locally produced materials when practicable.</p>	<p>Short Title:     <b>Plumbing Code Water Conservation Standard</b></p> <p>Status:         Signed into Law</p> <p><i>Appropriations:</i></p> <p style="padding-left: 20px;">The act is assessed as having no fiscal impact. Adding conservation to the state plumbing code can be accomplished within the existing board process for adopting rules and does not require additional resources.</p>

## Summary of Water Bills 2010 Session (As of June 11, 2010) (Cont.)

Signed into Law (Cont.)	
<p>Bill Number:     <b>House Bill 10-1250</b></p> <p>Sponsors:        <i>Rep. Fischer</i>                       <i>Sen. Hodge</i></p> <p>The <i>act</i> appropriates \$1.5 million from the Colorado Water Conservation Board (CWCB) Construction Fund including \$250,000 for satellite monitoring system maintenance; \$50,000 for instream flow engineering and technical support services; \$175,000 for weather modification; \$500,000 for floodplain map modernization; \$250,000 for watershed restoration; and up to \$300,000 to replenish the Flood Response Fund. Starting June 30, 2011, the <i>act</i> also transfers \$12 million for three consecutive years to the CWCB from the Perpetual Base Account of the Severance Tax Trust Fund for the purchase 10,460 acre feet of water from the Animas-La Plata Project in southwest Colorado. There are no new reimbursable loans from the fund.</p>	<p>Short Title:     <b>Water Conservation Board Construction Fund</b></p> <p>Status:         Signed into Law</p> <p><i>Appropriations:</i></p> <p>This <i>act</i> appropriates from the CWCB Construction Fund \$1.3 million to the CWCB and \$250,000 to the Division of Water Resources for FY 2010-11. It also transfers \$12 million from the Perpetual Base Account of the Severance Tax Trust Fund to the CWCB.</p>
<p>Bill Number:     <b>House Bill 10-1358</b></p> <p>Sponsors:        <i>Rep. Fischer</i>                       <i>Sen. Johnston</i></p> <p>The <i>act</i> requires the builder of a new single-family detached residence, for which a buyer is under contract, to offer the buyer a selection of water-saving options, including:</p> <ul style="list-style-type: none"> <li>• water-efficient toilets, lavatory faucets, and showerheads;</li> <li>• dishwashers and clothes washers that meet federal Environmental Protection Agency energy star program standards if they are to be financed, installed, or sold as upgrades through the home builder;</li> <li>• if the landscaping is financed, installed, or sold as upgrades through the home builder and maintained by the homeowner, landscape design that follows the Green Industry's best management practices; and</li> <li>• installation of a pressure-reducing valve that limits water pressure in the residence to 60 pounds per square inch.</li> </ul>	<p>Short Title:     <b>Water Saving Options for New Home Buyers</b></p> <p>Status:         Signed into Law</p> <p><i>Appropriations:</i></p> <p>This <i>act</i> is assessed as having no fiscal impact. Upgrades described in the <i>act</i> are not intended to contravene state or local codes, covenants, and requirements.</p>

## Summary of Water Bills 2010 Session (As of June 11, 2010) (Cont.)

Signed Resolution	
<p>Bill Number:     <b>Senate Joint Resolution 10-004</b></p> <p>Sponsors:        <i>Sen. Whitehead</i>                       <i>Rep. Fischer</i></p>	<p>Short Title:     <b>Water Projects Eligibility Lists</b></p> <p>Status:          Signed by the Governor</p>
<p>This <i>final</i> resolution lists the projects that qualify for financial assistance from the Drinking Water Revolving Fund and the Water Pollution Control Revolving Fund. In order to qualify for financial assistance from the revolving loan funds, proposed projects must be included on the project eligibility lists, which are created by the Division of Local Government, Water Quality Control Commission, and Colorado Water Resources and Power Development Authority. This annual joint resolution also makes deletions and modifications to the Drinking Water Project Eligibility List and the Water Pollution Control Project Eligibility List previously approved by the General Assembly.</p>	<p><i>Appropriations:</i></p> <p>This resolution identifies projects to be funded from existing revenue sources. No new appropriations are required.</p>

## Summary of Water Bills 2010 Session (As of June 11, 2010) (Cont.)

Postponed Indefinitely	
<p>Bill Number:     <b>Senate Bill 10-067</b></p> <p>Sponsors:        <i>Sen. Hodge</i></p> <p>The <i>introduced</i> bill would have exempted certain irrigation wells from the doctrine of prior appropriation if they were owned by a public school that pumped up to 15 gallons per minute, and were located in a school district that served a population of up to 25,000.</p>	<p>Short Title:     <b>Exempt School Irrigation Wells from Prior Appropriations Doctrine</b></p> <p>Status:          Postponed Indefinitely in Senate Agriculture and Natural Resources</p> <p><i>Appropriations:</i></p> <p style="padding-left: 40px;">A fiscal note was not prepared for the bill.</p>
<p>Bill Number:     <b>Senate Bill 10-078</b></p> <p>Sponsors:        <i>Sen. Hodge</i></p> <p>The <i>introduced</i> bill would have authorized a water appropriator to use, reuse, and make a succession of uses of the return flows of reusable effluent in any place or for any beneficial use and to dispose of such water by exchange or other method. The State Engineer would have been required to review proposed uses of return flows of reusable effluent to ensure that the appropriator established an adequate measuring and accounting system to measure the volume of the return flows of reusable effluent, and satisfied other conditions.</p>	<p>Short Title:     <b>Facilitate Use of Reusable Effluent</b></p> <p>Status:          Postponed Indefinitely in Senate Agriculture and Natural Resources</p> <p><i>Appropriations:</i></p> <p style="padding-left: 40px;">A fiscal note was not prepared for the bill.</p>
<p>Bill Number:     <b>House Bill 10-1006</b></p> <p>Sponsors:        <i>Rep. Curry</i> <i>Sen. Brophy</i></p> <p>The <i>introduced</i> bill, as amended by the House Agriculture, Livestock, and Natural Resources Committee, would have authorized the Division of Water Resources to receive up to 5 percent of the monies in the Operational Account of the Severance Tax Trust Fund and reduced the share of the account that may be used to fund programs within the Division of Reclamation, Mining, and Safety from 25 to 20 percent. This bill was recommended by the Water Resources Review Committee.</p>	<p>Short Title:     <b>Fund Division of Water Resources with Tier 1 Operational Account Moneys</b></p> <p>Status:          Postponed Indefinitely in House Appropriations</p> <p><i>Appropriations:</i></p> <p style="padding-left: 40px;">For FY 2010-11, the bill would have included an appropriation of \$413,179 and 5.3 FTE from the Operational Account of the Severance Tax Trust Fund to the Division of Water Resources. It also would have offset this transfer by reducing the Division of Wildlife appropriation by \$413,179 from the Operational Account of the Severance Tax Trust Fund.</p>

## Summary of Water Bills 2010 Session (As of June 11, 2010) (Cont.)

Postponed Indefinitely (Cont.)	
<p>Bill Number:     <b>House Bill 10-1086</b></p> <p>Sponsors:        <i>Rep. Curry</i>                       <i>Sen. Hodge</i></p> <p>The <i>introduced</i> bill would have limited a landowner's liability for injury to a trespasser by stating that a facility constructed for the diversion, storage, conveyance, or use of water is not an attractive nuisance. This bill clarified the definition of "attractive nuisance" as it relates to a landowner's liability for injury of a trespasser. It also would have specified that a landowner is not liable for injuries to members of the public who use land for recreational purposes unless the landowner willfully or deliberately caused the injuries.</p>	<p>Short Title:     <b>Limited Liability for Water Rights Facilities and for Land Used for Recreation Purposes</b></p> <p>Status:         Postponed Indefinitely in House Judiciary</p> <p><i>Appropriations:</i></p> <p style="padding-left: 20px;">The bill was assessed as having no fiscal impact as it was not expected to significantly increase the workload of the courts.</p>
<p>Bill Number:     <b>House Bill 10-1159</b></p> <p>Sponsors:        <i>Rep. Pace</i>                       <i>Sen. Gibbs</i></p> <p>The <i>introduced</i> bill would have required a water judge when considering certain applications to transfer water between water divisions (water divisions correspond to major river basins), to include terms and conditions in the water decree that protect the users in the water division from which the water would be transferred. The decree would have been required to ensure that present and prospective beneficial uses of water would not be impaired or increased in cost in the originating water division. This bill would have pertained to leases of water of at least 10 years, or where the amount of water to be transferred between water divisions was at least 1,000 acre-feet. These terms and conditions would only have applied to applications for conditional water rights, conditional appropriative rights of exchange, or a change of water rights.</p> <p>To meet the terms and conditions of the water decree, a water rights applicant would have been allowed to enter into a mitigation agreement with affected water conservation and water conservancy districts. The districts would have been required to hold a public meeting prior to entering into a mitigation agreement with notice of the meeting posted by the Division of Water Resources and the clerk of the applicable water court.</p>	<p>Short Title:     <b>Mitigation for Water Exports</b></p> <p>Status:         Lost in the House</p> <p><i>Appropriations:</i></p> <p style="padding-left: 20px;">The bill was assessed as having no fiscal impact as the number of additional water court cases was expected to be minimal.</p>

## Summary of Water Bills 2010 Session (As of June 11, 2010) (Cont.)

Postponed Indefinitely (Cont.)	
<p>Bill Number:     <b>House Bill 10-1188</b></p> <p>Sponsors:        <i>Rep. Curry</i>                       <i>Sen. Hodge</i></p> <p>The <i>rerevised</i> bill would have declared that there is a need to study and potentially clarify the existing law concerning civil and criminal trespass by boaters on the rivers and streams flowing through private property in Colorado. It referred this issue to the Colorado Water Congress (CWC) to study the legal, economic, environmental, and law enforcement issues related to boating through private property. The study participants were to be determined by the Board of Directors of the CWC. The CWC was to submit its findings in a report to the General Assembly — including any legislative recommendations — by November 30, 2010.</p> <p>The <i>reengrossed</i> version of the bill declared that the state's adoption of the common law of England established the right of navigation for waterways in Colorado. It would have allowed guides employed by a licensed river outfitter and their passengers to float on certain waterways without committing civil or criminal trespass, provided the waterways were used during 2008 or 2009 for commercial float trips. They would also have been required to gain access to the waterway from public land or from private land with consent, and could only make incidental contact with the beds and banks of the waterway while floating and portaging. The bill limited a landowner's liability to damages willfully or deliberately caused by the landowner to a guide or passenger, unless the person is an invitee or licensee of the landowner. The bill specified that such a person who damages private property is liable for the damage. It also stated that nothing in the legislation affected water rights, created a public trust in the state's waters, or affected ownership of the beds or banks of the state's waters. River outfitters' vessels would have been required to be clearly marked with the river outfitter's name and license number.</p>	<p>Short Title:     <b>Clarify River Outfitter Navigation Right</b></p> <p>Status:         Lost in Conference Committee</p> <p><i>Appropriations:</i></p> <p style="padding-left: 40px;">The cost of the study was to be funded solely by private grants and donations.</p>