



Colorado Water Stewardship Project
ADVANCING A SUSTAINABLE FUTURE

Update on Proposed Ballot Measures Affecting Colorado's Water Law

**Colorado State Legislature
for the
Water Resources Review Committee**

Floyd Ciruli

August 2015



Political Environment is Conducive to Ballot Initiatives on Natural Resources and Water

1. Engaged attentive interests with social media, highly polarized, powerful outside interests
2. Relatively easy ballot access, considerable freedom on topics and language
3. Water initiatives
 - Idiosyncratic
 - Enwrapped in other causes
 - Sponsored by significant interests
 - Part of major planning process



Initiative Scan

145 initiatives filed in 2014, 4 survive, only 1 passes

103 – Public Trust Resources	Philip Doe; Barbara Mills-Bria	Court removed
88 – Oil and Gas Operations	Caitlin Leahy; Gregory Diamond	Withdrawn
89 – Local Government Regulation of Environment	Caitlin Leahy; Gregory Diamond	Withdrawn
137 – Fiscal Impact of Ballot Measures	Pat Hamill, Bob Diebel	Withdrawn
121 – Distribution of Oil and Gas Revenue	Jerry Sonnenberg, Frank McNulty	Withdrawn
5 – Definition of Person and Child	Heather Surovik, Gualberto Garcia Jones	On ballot (lost)
135 – Horse Racetrack Limited Gaming Proceeds for K-12 Education	Vickie Armstrong, Bob Hagedorn	On ballot (lost)
48 – Genetically Modified Foods	Larry Cooper; Cheryl Gray	On ballot (lost)
124 – School Board Open Meetings	Jon Caldera; Mike Kraus	On ballot (won)

Nuclear Bomb Masquerading as Protecting the Public's Control of Water



Justice Hobbs

The Public Trust Initiative proposes to: *"drop what amounts to a nuclear bomb on Colorado water rights. Masquerading as a measure to protect the public's control of water, it would prevent farmers, cities, families and businesses from making beneficial use of water rights that have vested in them over the past 150 years under Colorado's statutes and Constitution. It would deprive Colorado of its interstate allocation of waters of the Platte, Arkansas, Rio Grande and Colorado rivers by imposing a predominantly non-consumptive water regimen upon the State and its water users, resulting in the free flow of waters across our boundaries for the use of others, devastating Colorado's economy and way of life."*

— Justice Hobb's Opinion
In Supreme Court Opinion in Matter of Ballot Title
April 16, 2013

Impact of Initiative 89

Public Trust and Local Control (2014)

Excerpts from Dissenting Opinion of Justice Hobbs

Initiative #89, under the guise of protecting the “environment” proposes to fundamentally change Colorado property law by creating a new constitutional right in Colorado’s Bill of Rights. This “common property” right in the “environment” would override existing private and publicly held property rights.

In the context of Initiative #89, this means that state and local governments would regularly be sued from all angles – by the public to enforce their “common property” rights in the environment and by private property owners when their rights are abridged thereby.

Initiative #89 proposes to establish governmental trustee duties over any and all aspects of Colorado’s environment, including air, water and “natural and scenic values,” which would include minerals, forests, prairie lands and wildlife.





Senate President
Bill Cadman

House Bill 15-1057

Fiscal Impact Statement



House Speaker
Dickey Lee Hullinghorst

A BILL FOR AN ACT

CONCERNING THE PROCESS FOR A STATEWIDE INITIATIVE TO BE PLACED ON A BALLOT.

HOUSE SPONSORSHIP

Court and DelGrosso, Arndt, Kraft-Tharp, Lawrence, Lee, McCann, Rankin, Szabo

SENATE SPONSORSHIP

Sonnenberg and Hodge, Balmer, Cadman, Cooke

(b) THE INITIAL FISCAL IMPACT STATEMENT MUST:

- (1) BE SUBSTANTIALLY SIMILAR IN FORM AND CONTENT TO THE FISCAL NOTES PROVIDED BY THE LEGISLATIVE COUNCIL OF THE GENERAL ASSEMBLY FOR LEGISLATIVE MEASURES PURSUANT TO SECTION 2-2-322, C.R.S.;
- (4) THE DIRECTOR SHALL FURTHER REDUCE THE ABSTRACT TO A TWO-SENTENCE FISCAL IMPACT SUMMARY THAT CONSISTS OF TWO SENTENCES. THE FIRST SENTENCE IS A DESCRIPTION OF THE EFFECT THAT THE MEASURE WILL HAVE ON STATE AND LOCAL REVENUES, AND THE SECOND IS A DESCRIPTION OF THE EFFECT ON STATE AND LOCAL EXPENDITURES.
- (5) THE ABSTRACT AND FISCAL IMPACT SUMMARY FOR A MEASURE MUST BE INCLUDED IN A PETITION SECTION AS PROVIDED IN SECTION 1-40-110(3).

CWSP Partnerships

Denver Chamber of Commerce and Coloradans for Responsible Reform

"University of Colorado predicts job loss of 93,000 and \$12 billion in lost gross domestic product (GDP)."

– Denver Business Journal, March 26, 2014

- Colorado Association of Commerce and Industry
- Colorado Cattlemen's Association
- Colorado Counties, Inc.
- Colorado Farm Bureau
- Colorado Mining Association
- Colorado Municipal League
- Colorado Petroleum Association
- Colorado Rural Electric Association
- Special District Association of Colorado



Coloradans for Responsible Reform

Letter from CFRR, March 27, 2015

It is important to note that a measure paralleling last year's filed Initiative 89 – the anti-growth measure establishing criminal penalties for seemingly any public, private or commercial effort that disturbs any of Colorado's water, air or land – has been resubmitted for the November 2016 ballot. The ensuing six months will reveal whether the measure's sponsors are capable of mobilizing the necessary resources to convert their proposal into a successful petition-gathering effort.

Coloradans for Responsible Reform (CFRR) remains committed to organizing the fight to defeat any ballot measures in 2016 that negatively target individual industries or the broader economic vitality and recover of Colorado.

Kelly Brough, Denver Chamber

Tom Norton, Greeley Mayor

Tamra Ward, Colorado Concern

Ken Salazar, Former U.S. Senator and Interior Secretary

Wellington Webb, former Denver Mayor



The Public Trust Amendment is Extreme

Voters Convinced

Hurt Agriculture

The main users of Colorado water are agriculture, farms and ranches. This amendment could take away their rights to use their water and will hurt agriculture. 80%

Legal Chaos and Loss of Local Control

It would be a mistake to wipe out historical ownership of water and turn it over to the uncertainty of courts, lawyers and lawsuits. 75%

Damage Streambeds, Dangerous

Allowing uncontrolled access to private streams and rivers will damage sensitive streambeds and banks, could lead to dangerous and unsafe conditions, and cause conflict with private owners 75%

Lose Environmental Protection

This amendment will endanger Colorado's environmental protections, which require an amount of water flow in streams and maintaining certain lake levels 66%

Take Water and Property Rights

There are already many limits on private property, but this amendment attacks people's private property rights in their water and land and goes too far. 71%

Challenges of Initiative Process to Water Ownership, Management and Development

- Water is of growing public interest and an agenda item for numerous issue advocacy groups in Colorado and the nation.
- The initiative process has become more politically active than the legislature in terms of broad reaching environmental, local government and water propositions.
- Expect a new round of initiatives in 2016 related to gas, oil and the environment, many of which will attract significant financial and media attention.
- CWC is looked upon by the water community and informed public to be an advocate for a common sense approach to water policy.
- The initiative process requires expertise and significant activity over substantial periods of time within the two-year cycle between elections.
- Managing the initiative process requires allies and partners who provide additional constituencies and financial resources. Agriculture and business communities, along with local government, were especially seen as important allies.