

AUDUBON COLORADO

LEGISLATIVE REPORT

March 4, 2011

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The sixty-eighth general assemble convened on January 12. It was an exceptionally slow starting session. Slow starts notwithstanding, however, the bills have flooded in over the last few weeks. As deadlines approach, the days are getting long and intense.

PRIORITY BILLS

***HB1034 PROTECT OUR RIVERS LICENSE PLATE**

(Wilson, Schwartz)

Position: Support

Status: Dead

HB1034 created the Protect Our Rivers plate. Anyone in Colorado could purchase the plate with a \$25 contribution to Colorado Trout Unlimited, and payment of the \$50 in standard fees for special plates.

HB1034 passed House Transportation but was sent to House Agriculture where it faced the strong opposition of the committee chairman. Unfortunately we were unable to garner the necessary votes, and HB1034 died on a 5-6 vote. Reps Baumgardner and Vigil were excused

Voting for the bill: Reps. Fischer, Jones, McKinley, Ryden, and Wilson

Voting against the bill: Reps. Brown, Coram, Looper, Scott, Vaad, and Sonnenberg

***HB1150 GAME CASH FOR WATER STORAGE**

(Becker, Jahn)

Position: Oppose

Status: Dead

HB1150 directed the state treasurer to transfer \$5m from the Division of Wildlife to the construction fund of the Colorado Water Conservation Board. The diversion was for 10 years for a total of \$50m.

The primary purpose of the construction fund is to issue low interest loans to water providers for building water supply reservoirs. Water supply projects should be paid for by those who derive benefit from them. While the sponsor included language that the CWCB could only spend the money on projects which "benefitted wildlife", any new reservoir could have been argued to benefit wildlife – (migratory birds and waterfowl or stocked fish).

Additionally, removal of the funds from control of the DOW created a diversion under federal law. Such diversion would have disqualified the state from federal funding until all diverted funds were fully repaid, with interest. This meant that in addition to the direct loss of \$50M in license revenue, DOW would have lost about \$20M a year in federal money for the 10 years, plus however long it took to fully repay the \$50M, leading to a loss of at least \$250M for the division.

Fortunately, after a tremendous outcry by the sportsmen who pay for the operation of DOW through license fees, and some intense negotiations between DOW and the sponsor, Rep Becker agreed to table HB1150.

***HB1208 CONSERVATION EASEMENT IMMUNITY/ TAKINGS**

(McKinley)

Position: Oppose

Status: House Finance

HB1208 does two things. First, it grants immunity from the State for repayment of fraudulent conservation easements. Second, and more problematic, HB1208 declares that any activity be, or allowed by a governmental entity which might interfere with the conservation value of an easement is a takings. We all know that regulation IS NOT the same as confiscation. Therefore, regulation, or lack thereof, is not compensable.

HB1208 is not yet scheduled, but we may need calls to the members of the Finance committee.

***HB1223 COGCC ROLLBACK**

(Scott, King, S.)

Position: Oppose

Status: House Ag

HB1223 returns the COGCC to the industry dominated pre 2007 makeup. The current commission is made up of nine members. It includes a balanced representation of industry, local government, agriculture and conservation interests, as well as the directors of DNR and the Health Department. HB1223 proposes to reduce the size to 7 members, including five from industry, and two at large.

***BEARS**

Position: Oppose

Rep. Brown intends to introduce legislation to repeal the citizen initiated ban on spring bear hunting, including the language prohibiting use of dogs and bait.

Amendment 10 passed in 1992 with better than a 2-1 margin (around 70-71% if memory serves). Repealing a highly popular initiative, via the legislature is a slap in the face to the voters. While it is unlikely that the current wildlife commission would rush to reinstate spring bear hunting, their refusal to address the hunting of sows with cubs was one of the reasons for the initiative in the first place.

***HB1183 HYDRO**

(Swerdfeger, Giron)

Position: Support

Status: Senate Ag

HB1183 includes pumped storage hydro in section 123 of the renewable energy standard. Section 123 is the section directing the Public Utilities Commission to give full consideration to various technologies, but without providing an incentive for use of the technologies. Section 123 was originally intended for emerging technologies. While pumped hydro is hardly an emerging technology, section 123 is a far less problematic placement than the actual renewable standard.

We worked with the sponsor to craft an amendment addressing several concerns over the impacts of hydro on rivers, and on aquatic life. The amendments were accepted, and we can now support the bill as a step toward responsible hydro development.

GOCO – We have worried for the whole session that someone might make an attempt on GoCo funding. Unfortunately it looks as if it might come to pass. Rep. Massey now intends to introduce a proposed constitutional change for the 2012 ballot. While we have not yet seen language, we understand that the measure would transfer ALL lottery proceeds (GoCo, State Parks, and Conservation Trust Fund) to K-12 education for 3 years. After three years, lottery would revert to its current distribution. Anyone in Rep. Massey’s district should feel free to contact him and explain that this is a horrible idea.

OTHER BILLS

HB1082 WELD COUNTY OZONE

(Vaad, Renfroe)

Position: Oppose

Status: Passed House

HB1082 is the third annual attempt to remove Weld County from the nonattainment area for ozone.

HB1146 AG TAX CLASSIFICATION

(Massey, Steadman)

Position: ?

Status: House Approps

HB1146 is an attempt to limit perceived abuses of agricultural tax classification. It requires that the two acres immediately surrounding a dwelling unit be classified as residential rather than agricultural. There is an exemption if the dwelling is an integral part of an agricultural operation.

SB116 BUSINESS FISCAL IMPACT STATEMENTS

(Mitchell, Kerr A.)

Position: Oppose

Status: Senate SA

SB116 allows the business community five days after the introduction of any bill to comment on the costs of compliance. If comments are made, there must be a fiscal analysis by the legislative fiscal analysts regarding the costs of compliance.

HB1243 KENO

(Pace, Tochtrop)

Position: Watch

Status: Dead

HB1243 created Keno as a new lottery game. Unlike last year, this bill was written to direct only the portion of the spillover attributable to the new game to tourism, and economic development.

HB1158 WOOD PRODUCTS

(Bradford, Schwartz)

Position: Neutral as amended

Status: House Approps

Current law allows an exemption from state sales tax for all products derived from timber killed by mountain pine beetle. As introduced, HB1158 was problematic as it would have extended that tax exemption to all legally harvested timber. Fortunately, the bill has been amended. In its current form, HB1158 extends the tax credit for pine beetle killed timber, to spruce beetle killed timber as well. It does not, however, incentivize open logging by including all legally harvested timber.

HB1026 STORMWATER ADMINISTRATORS

(Gerou)

Position: Watch

Status: House Floor

HB1026 is an attempt to streamline the inspection process for storm water discharge. The health department is extremely understaffed, and inspections are not getting completed.

According to proponents, in a few cases, when violations occur, notification of violations and enforcement actions haven't occurred until the project was completed. HB1026 proposes to create a list of administrators, who have training in storm water inspection. Permittees will be able to contract with these administrators for more timely inspections. The down side is that the results of the inspections will be treated as voluntary disclosures under the self audit law. Colorado's self audit law grants immunity from enforcement for any violation disclosed, and also makes the result of the audit proprietary. It's a bit like calling the police and saying "I just hit a pedestrian, while driving drunk, but I called an ambulance, so now you can't charge me."

After discussions with numerous stakeholders, the sponsor agreed to rewrite the bill. All reference to the proprietary information under the self audit law has been eliminated. Additionally, the Health department will maintain the list of approved administrators, and has the authority to revoke administrators from the program if the administrator is not maintaining an adequate standard. Finally, there are some specific standards that must be met.

HB1068 TEMPORARY TRANSFERS

(Fischer, Giron)

Position: Watch

Status: Dead

HB1068 proposed to allow longer term transfers (up to 80 years) of Agricultural water to other uses. It was written to be specific to the Arkansas basin. Rep Fischer asked to table the bill and allow the Arkansas roundtable to work on the issue.

HB1066 EMINENT DOMAIN DUE PROCESS

(McKinley)

Position: Watch

Status: Dead

HB1066 required notification and opportunities for comment prior to the condemnation of livestock, seepage water, or airspace less than 500 ft. It didn't seem to present much issue for us, as introduced. However, the title was horrific. It was extremely broad, and could have permitted all sorts of takings mischief.

HB1177 HEALTHY RIVERS CHECK-OFF

(Sonnenberg & Jones, Schwartz & White)

Position: Support

Status: Senate Floor

HB1177 extends the healthy rivers tax check-off until 2016.

HB1255 ALTERNATIVE ENERGY PARKS

(DelGrosso, Schwartz)

Position: ?

Status: House Finance

HB1255 allows the use of Tax increment Financing in order to locate alternative energy production facilities near each other.

Recently killed, non priority bills

HB1094	Recycling	Hullinghorst, Aguilar	Support
HB1103	Small Wind Dist. Generation	Kerr, A.	Neutral
HB1228	Feed In Tariffs	Solano, Schwartz	No Position
HB1172	Fracking Fluid Water Quality Study	Wilson	Support
HB1244	Electronic Waste	Fischer, Newell	Support