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0580 Water Resource Review Committee



**Report to the  
Colorado General Assembly**

**Water Resources  
Review Committee**

*Prepared by*

*The Colorado Legislative Council  
Research Publication No. 580  
December 2008*

## **Water Resources Review Committee**

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Senator Jim Isgar, Vice-Chair

Senator Greg Brophy  
Senator Gail Schwartz  
Senator Jack Taylor  
Senator Lois Tochtrop

Representative Cory Gardner  
Representative Mary Hodge  
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December 2008

To Members of the Sixty-sixth General Assembly:

Submitted herewith is the final report of the Water Resources Review Committee. This committee was created pursuant to Section 37-98-102, C.R.S. The purpose of the committee is to review water issues and propose legislation related to the conservation, use, development, and financing of Colorado's water resources.

At its meeting on October 15, 2008, the Legislative Council reviewed the report of this committee. A motion to forward this report and the bills therein for consideration in the 2009 session was approved.

Respectfully Submitted,

/s/ Representative Andrew Romanoff  
Chairman

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*This report is also available on line at:*

[http://www.state.co.us/gov\\_dir/leg\\_dir/lcsstaff/2008/08interim.htm](http://www.state.co.us/gov_dir/leg_dir/lcsstaff/2008/08interim.htm)

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## Executive Summary

### Committee Charge

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The Water Resources Review Committee was created to contribute to and monitor the conservation, use, development, and financing of Colorado's water resources for the general welfare of the state (Section 37-98-102, C.R.S.). The committee is authorized to review and propose legislation in furtherance of its purposes. In conducting its review, the committee is required to consult with experts in the field of water conservation, quality, use, finance, and development. The committee was authorized to meet six times in 2008, including two times outside of the interim period, and to take two field trips in connection with its mandate.

### Committee Activities

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The committee met four times and took one tour during the 2008 interim. It met with a broad range of water users and government officials including local water providers, state water rights administrators, water quality regulators, state water planners, water project developers, and concerned citizens. The committee received briefings on major water issues affecting the state, including regulation of groundwater pumping in the South Platte River Basin, regulation of precipitation collection systems, hydroelectricity and Colorado renewable energy standard, proposed water supply projects, interstate water compact litigation, state financing for water projects, and other issues.

**Committee tours.** In June, the committee toured for two days in the South Platte River and Republican River basins in northeastern Colorado and visited water storage and distribution facilities, irrigation projects, an electric generation facility, and a water treatment facility. This tour was organized by the Colorado Foundation for Water Education. The committee also attended the Colorado Water Congress summer convention to hear briefings about water infrastructure needs and financing options, water demand for oil-shale and gas development, on-going water supply studies, and other water management issues.

**Water Court Committee of the Colorado Supreme Court.** The committee received a briefing from Colorado Supreme Court Justice Gregory J. Hobbs concerning the Water Court Committee of the Colorado Supreme Court, which he chairs. This committee was formed by the Chief Justice of the Supreme Court to review the water court process and identify possible changes to achieve greater efficiencies in water court cases. The committee provided its recommendations to the Chief Justice on August 1, 2008, including a recommendation to amend state law to move the White River drainage basin from the jurisdiction of the water court of Water Division 5 to the jurisdiction of the water court of Water Division 6.

Water Division 5 consists of the drainage basins of the Colorado River and all of its tributaries, except the Gunnison River. Water Division 6 consists of the Yampa, the Green, the North Platte rivers, and their tributaries in northwest Colorado. Currently, the White River drainage basin is within the jurisdiction of the water court for Water Division 5 and its water commissioners are under the jurisdiction of the Water Division 6 engineer. Water commissioners are responsible for administering water rights in the division according to their priority. According to the Water Court Committee's final report, the split between the administrative and judicial jurisdictions causes confusion and has led to the misfiling of water rights applications. Moving the White River drainage



basin to the jurisdiction of the water court of Water Division 6 will also help balance the case load between Water Division 5 and Water Division 6. The committee recommends Bill A to move the White River Basin to the jurisdiction of the water court for Water Division 6.

**Proposed water projects.** The committee received testimony from the proponents of three municipal water supply projects. The proponents described the potential benefits of their projects, project costs, the effect on other water users, and the effect on Colorado's ability to meet its water delivery obligations to downstream states. They also discussed potential regulatory hurdles for their projects.

House Bill 05-1177 created nine basin roundtables covering the state's eight major river basins and the Denver metropolitan area. These roundtables are working to identify water needs within each basin and are preparing to conduct discussions with other basin roundtables concerning interbasin water issues. Senate Bill 06-179 created the Water Supply Reserve Account and appropriated \$10 million for water activities approved by basin roundtables including water diversion projects and nonstructural activities. The committee considered, but did not recommend, legislation that would have extended indefinitely the funding of the Water Supply Reserve Account, which is continuously funded with moneys transferred from the Operational Account of the Severance Tax Trust Fund.

**Regulation of groundwater pumping in the South Platte River Basin.** The committee received a briefing on the impact of state regulation on groundwater users in the South Platte River Basin who rely on wells that pump water that is hydraulically connected to the river, called tributary wells. Colorado Supreme Court decisions and statutes prohibit junior users from pumping unless they have a water court-approved plan that protects senior water rights. Such plans replace the water depleted from a stream by an out-of-priority diversion. Depletion is the amount of water that does not return to a stream after it has been used due to evaporation, plant uptake, and other mechanisms.

Some junior wells in the basin are located miles from the river. Due to this distance, the effect of ground water pumping may not reach the South Platte River until years after the pumping occurred. Two draft bills would have changed the requirements for ground water users in the South Platte River to offset their pumping impacts on senior water rights. One proposal, not approved by the committee, would have authorized substitute water supply plans for the replacement of out-of-priority depletions caused by pre-January 1, 2003, diversions from wells included in court decreed augmentation plans. A similar bill, Senate Bill 08-247, was postponed indefinitely in the Senate Committee on Agriculture, Natural Resources, and Energy. Another draft proposal would have exempted from augmentation requirements depletions to the South Platte River that were caused by pumping that occurred prior to March 15, 1974, when the current regulations took effect. A similar bill, House Bill 08-1030, was recommended by the committee in 2007 and lost on third reading in the Senate. The committee did not recommend legislation to change the groundwater regulation.

**Funding for public drinking water and wastewater projects.** The committee heard testimony about the long-term drinking water and wastewater project funding needs for municipalities and other local public entities. According to the Colorado Department of Public Health and Environment, communities with populations less than 5,000 need \$365 million to pay for 236 wastewater projects. The department also estimates that \$472 million is needed to pay for 303 drinking water projects for these communities. The committee heard testimony that many of these communities are unable to afford the debt to pay for these projects and are struggling to obtain alternate funding sources. The committee considered, but did not recommend, legislation





to create a grant program to fund public drinking water and wastewater projects that serve up to 5,000 customers from unanticipated state severance tax revenue and other potential funding sources.

### **Committee Recommendations**

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As a result of committee discussion and deliberation, the committee recommends one bill for consideration in the 2009 legislative session.

***Bill A — White River Water Division Change.*** Bill A moves the White River drainage basin from Water Division 5 to Water Division 6 in order to align judicial and administrative oversight of the basin.



## Committee Charge

The Water Resources Review Committee was created pursuant to Section 37-98-102, C.R.S. The committee is composed of five members from the House of Representatives and five members from the Senate. At least four members must reside west of the Continental Divide or their district must have a majority of its population residing west of the Continental Divide. Members should also represent each of the seven water divisions. The committee is authorized to meet six times during even-numbered years, two of which may be held during the legislative session. Two field trips are also authorized to meet the purposes of the statute.

The committee is charged with contributing to and monitoring the conservation, use, development, and financing of Colorado's water resources for the general welfare of its inhabitants and reviewing and proposing water resources legislation. The committee is to meet with experts in the field of water conservation, quality, use, finance, and development in furthering its charge.

## Committee Activities

The committee met four times and took one tour during the 2008 interim. It met with a broad range of water users and government officials including local water providers, state water rights administrators, water quality regulators, state water planners, water project developers, and concerned citizens. The committee received briefings on major water issues affecting the state, including regulation of groundwater pumping in the South Platte River Basin, regulation of precipitation collection systems, hydroelectricity and Colorado renewable energy standard, proposed water supply projects, interstate water compact litigation, state financing for water projects, and other issues.

**Committee tours.** In June, the committee toured for two days in the South Platte River and Republican River basins in northeastern Colorado and visited water storage and distribution facilities, irrigation projects, an electric generation facility, and a water treatment facility. This tour was organized by the Colorado Foundation for Water Education. The committee also attended the Colorado Water Congress summer convention to hear briefings about water infrastructure needs and financing options, water demand for oil-shale and gas development, on-going water supply studies, and other water management issues.

## Water Court Procedures

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Water courts have exclusive jurisdiction over the determination of new water rights, changes of water rights, approval of augmentation plans, findings of reasonable progress on water construction projects, water exchanges, and the use of water outside the state. A water judge may also order a water user to obey a division engineer's order to cease injury to senior water rights or to cease diversions that are not being used beneficially. There are no juries in water court cases



and judgments entered by water courts are reviewed by the Colorado Supreme Court. Seven water divisions are established in statute, corresponding to the state's seven major river basins including the:

- ✓ South Platte (Water Division 1),
- ✓ Arkansas (Water Division 2),
- ✓ Rio Grande (Water Division 3),
- ✓ Gunnison (Water Division 4),
- ✓ Colorado (Water Division 5),
- ✓ Yampa-White river basins (Water Division 6), and
- ✓ San Juan-Dolores (Water Division 7).

Each water division has a water court. The Colorado Supreme Court appoints district judges from each water division to act as water judges. In 2007, the committee heard testimony from a former Colorado Supreme Court justice that water courts are overburdened and understaffed, often leading to extended periods of time for a proceeding to take place.

**Water Court Committee of the Colorado Supreme Court.** On December 4, 2007, the Chief Justice of the Colorado Supreme Court created the Water Court Committee of the Colorado Supreme Court to review the water court process and identify possible changes to achieve greater efficiencies in water court cases. The committee provided its recommendations to the Chief Justice on August 1, 2008, including a recommendation to amend state law to move the White River drainage basin from the jurisdiction of the water court of Water Division 5 to the jurisdiction of the water court of Water Division 6. Water Division 5 consists of the drainage basins of the Colorado River and all of its tributaries, except the Gunnison River. Water Division 6 consists of the Yampa, the Green, the North Platte rivers, and their tributaries in northwest Colorado.

Currently, the White River drainage basin is within the jurisdiction of the water court for Water Division 5 and its water commissioners are under the jurisdiction of the Water Division 6 engineer. Water commissioners are responsible for administering water rights in the division according to their priority. According to the Water Court Committee's final report, the split between the administrative and judicial jurisdictions causes confusion and has led to the misfiling of water rights applications. Moving the White River drainage basin to the jurisdiction of the water court of Water Division 6 will also help balance the case load between Water Division 5 and Water Division 6.

**Committee recommendation.** The committee recommends Bill A to move the White River Basin to the jurisdiction of the water court for Water Division 6.

## **Regulation of Groundwater Use in the South Platte River Basin**

**Regulation of groundwater pumping.** Many wells in the South Platte River Basin pump groundwater that is connected to a nearby river, called *tributary* groundwater. Use of tributary groundwater is regulated according to the *doctrine of prior appropriation* which also regulates the use of stream water. Under the doctrine of prior appropriation, the earlier the date of an initial appropriation from a stream, the more "senior" the water right, making it more valuable. Colorado's most senior water rights have been granted for surface water diversions, some of which started diverting in the 1860s. Court recognition of a water right enables the owner to make an enforceable "call" during water shortages. Once a valid call has been made, water use by junior water rights must be reduced or curtailed until senior water rights have been satisfied. Most well



users along the South Platte River are junior to surface water rights because the wells started pumping after 1950 when improvements in pumping technology and lack of surface water led to a significant increase in groundwater use.

In 1969, the General Assembly enacted a law that authorizes groundwater users to pump *out-of-priority* if they operate according to a water court adjudicated augmentation plan or a State Engineer approved substitute supply plan. Such plans replace depletions to the water supply that prevent injury to decreed water rights. Depletion is the amount of water that does not return to a stream after it has been used due to evaporation, plant uptake, and other mechanisms. Injury occurs when water that would otherwise be available for use by a water right operating in priority is intercepted by someone whose decreed appropriation is junior in priority or by someone who is diverting without a decree.

In 2001, the Colorado Supreme Court ruled that the State Engineer did not have the authority to approve substitute water supply plans for out-of-priority users and that all such plans must be approved by the water court before out-of-priority pumping may occur.<sup>1</sup> In 2003, the General Assembly enacted a law which provided affected wells additional time to acquire augmentation water and to obtain water court approval.<sup>2</sup> However, many wells could not obtain affordable augmentation water and were forced to shut down in May of 2006. Ultimately, 445 wells were required to cease pumping which led to the drying up of 30,000 irrigated acres in the South Platte River Basin.

On June 8, 2007, Governor Ritter created the South Platte River Basin Task Force to consider changes to current water law or policy that will provide relief to junior groundwater users in the basin without injuring senior water right holders. In 2007, the Water Resources Review Committee recommended one of the task force's ten recommendations to the Legislative Council. This recommendation was included in House Bill 08-1030 that was lost on third reading in the Senate. It would have specified that new or amended augmentation plans within the South Platte River Basin shall not require the replacement of out-of-priority depletions that occurred prior to March 15, 1974.

***Draft bills not recommended.*** The committee considered a draft bill with the same provisions as the revised House Bill 08-1030, but did not take final action on the bill. It also considered, but did not recommend, a draft bill with the same provisions as the introduced version of Senate Bill 08-247. This bill would have authorized the Division of Water Resources to approve substitute water supply plans for the replacement of out-of-priority depletions caused by pre-January 1, 2003, diversions from wells included in decreed augmentation plans if certain procedural conditions were met. This bill was postponed indefinitely in the Senate Committee on Agriculture, Natural Resources, and Energy.

## **Funding for Public Drinking Water and Wastewater Projects**

The committee heard testimony about the long-term drinking water and wastewater project funding needs for municipalities and other local public entities. According to the Colorado Department of Public Health and Environment, communities with populations less than 5,000 need \$365 million

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<sup>1</sup>*Empire Lodge Homeowner's Association v. Moyer*, 39 P.3d 1139 (Colo. 2001).

<sup>2</sup>Senate Bill 03-73



to pay for 236 wastewater projects. The department also estimates that \$472 million is needed to pay for 303 drinking water projects for these communities. The committee heard testimony that many of these communities are unable to afford the debt to pay for these projects and are struggling to obtain alternate funding sources.

**State Drinking Water and Domestic Wastewater Grant Programs.** The Water Quality Control Division of the Department of Public Health and Environment administers grant programs for drinking and domestic wastewater projects for communities with less than 5,000 people. According to state law, drinking water grant funds may be used to plan, design, construct, upgrade, or consolidate water systems.<sup>3</sup> Domestic wastewater treatment grant funds may be used to construct or upgrade wastewater treatment facilities.<sup>4</sup> Funding for these grants is prioritized annually by the Capital Development Committee and appropriated by the General Assembly. Both grant programs received an appropriation of \$1.5 million for FY 2006-07, but were not funded in FY 2007-08 or FY 2008-09.

**Draft bill not recommended.** The committee considered, but did not recommend, a draft bill to fund the grant program for public drinking water and wastewater projects that serve up to 5,000 customers from unanticipated state severance tax revenue and other potential funding sources.

## **Water Supply Project Funding**

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**Interbasin Compact Committee Process.** In 2005, the General Assembly enacted the Colorado Water for the 21st Century Act<sup>5</sup> that establishes a process to address the state's growing water demand. This law created nine basin roundtables covering the Denver metropolitan area and the following eight river basins:

South Platte;  
Arkansas;  
Rio Grande;  
Gunnison;  
Colorado;  
Yampa-White;  
Dolores-San Miguel-San Juan; and  
North Platte.

These roundtables are charged with identifying water needs within each basin and conducting discussions with other basins to address interbasin water issues. The act also created a 27-member Interbasin Compact Committee (IBCC) to facilitate negotiations between the roundtables. The General Assembly appropriated \$900,000 for FY 2006-07 from the Severance Tax Trust Fund for on-going implementation of the law including basin roundtables meetings, IBCC meetings, water needs assessments, and public education.

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<sup>3</sup>Section 25-1.5-208, C.R.S.

<sup>4</sup>Section 25-8-703, C.R.S.

<sup>5</sup>Section 37-75-101, C.R.S. et seq.



**Water Supply Reserve Account.** The Water Supply Reserve Account was created in Senate Bill 06-179 to help address Colorado's future water needs. This law appropriated \$10 million for FY 2006-07 from the Operational Account of the Severance Tax Trust Fund for water activities approved by basin roundtables including water diversion projects and nonstructural activities. The account is scheduled to receive \$42 million through FY 2010-11. Money in the account is divided between two subaccounts. The Basin Account will reserve \$1 million for each of the nine basin roundtables and the Statewide Account will reserve the remaining \$33 million for the basin roundtables in a statewide competitive process.

Each roundtable has its own process and criteria for approving funding from the Water Supply Reserve Account. Once a request for funding from the Water Supply Reserve Account is approved by a basin roundtable, the request is forwarded to the Colorado Water Conservation Board for funding evaluation and final authorization. Eligible activities include:

- competitive grants for environmental compliance and feasibility studies;
- technical assistance regarding permitting, feasibility studies, and environmental compliance;
- studies or analyses of structural and nonstructural water projects or activities; and
- structural and nonstructural water projects or activities.

During the 2008 legislative session, the General Assembly considered Senate Bill 08-036, which concerned the annual appropriation of moneys in the Water Supply Reserve Account, the types of entities eligible for grants or loans from the account, and unexpended balances and loan repayments to be credited back to the account. The reengrossed bill would have required covered entities to adopt a water conservation plan before grants or loans could be allocated from the account. The reengrossed bill also specified that moneys in the Water Supply Reserve Account are subject to annual appropriation by the General Assembly and repayments of principal and interest on loans from the Water Supply Reserve Account must be credited to the account. The bill would have also repealed current provisions that allow the unencumbered and unexpended balance from the account to revert to the Operational Account of the Severance Tax Trust Fund on June 30, 2010. The bill was deemed lost after the House and the Senate adhered to their positions.

**Draft bill not recommended.** The committee considered, but did not recommend, a draft bill with the same provisions as the re-engrossed version of Senate Bill 08-036.

## **House Bill 08-1222 and Eligible Renewable Energy Resources**

**Committee charge.** House Bill 08-1222 requires the Water Resources Review Committee to study the feasibility of expanding the types of hydroelectricity that qualify as an eligible energy resource under Colorado's renewable energy standard, also known as Amendment 37 (Section 40-2-124, C.R.S.). The committee is charged with considering:

- issues related to the appropriate definition of eligible hydroelectricity;
- environmental impacts of hydroelectricity;
- the potential for hydroelectricity to displace other eligible energy resources; and
- whether the inclusion of hydroelectricity as an eligible energy resource violates the intent of Amendment 37.



**Current requirement.** The renewable energy standard requires investor-owned utilities to generate or obtain at least 5 percent of their electricity from eligible renewable energy sources by 2008 and at least 20 percent by 2020 and thereafter. It also requires municipally-owned utilities serving over 40,000 customers and electric cooperatives to generate or obtain at least one percent of their electricity from renewable resources by 2008 and 10 percent by 2020. The law defines *eligible renewable energy resources* to include new hydroelectricity facilities up to 10 megawatts and hydroelectricity facilities in existence on January 1, 2005, up to 30 megawatts. It also includes solar-electric, wind, geothermal, biomass, fuel cells using hydrogen generated from an eligible energy source, and recycled energy.

**Environmental issues.** The committee heard testimony from representatives of environmental organizations concerning the impact from hydropower projects including inundation of habitat, barrier to fish passage, entrainment of fish by turbines, flow depletion, flow fluctuations, and decreased water quality, such as alteration of water temperatures and oxygen levels. The witnesses also described the Low Impact Hydropower Institute's Low Impact Hydropower Certification Program which is a voluntary certification program that identifies and rewards hydropower dams that are minimizing their environmental impacts, such as the Stagecoach Reservoir near Steamboat Springs, Colorado. The certification criteria seeks to ensure that certified dams protect or mitigate impacts in eight resource areas: river flows, water quality, fish passage and protection, watersheds, threatened and endangered species, cultural resources, and public access and recreation opportunities. The eighth criterion requires that the dam not have been recommended for removal. The witnesses explained that small dams do not necessarily have fewer impacts than larger facilities. Some small dams can have significant environmental impacts — such as blocking fish migration — while some large facilities can minimize their impacts through mitigation measures.

A former official with the U.S. Bureau of Reclamation and Western Area Power Administration explained that all generation technologies have environmental impacts including renewable resources. For example, hydroelectric facilities can reduce wildlife habitat, solar energy facilities rely on hazardous materials, and wind generation facilities depend on back-up generation facilities that burn fossil fuels. He spoke in support of evaluating all electric generation facilities based on a life-cycle environmental assessment. This standard considers all impacts over the life of a project and normalizes these impacts as a function of each unit of energy produced by the facility. Based on this standard, he explained that large hydropower facilities may have less environmental impact than other renewable energy generation facilities, including some small hydropower facilities. Hydropower facilities may also be used in conjunction with wind power to increase the reliability of wind energy.

The committee did not request draft legislation concerning eligible energy resources under Colorado renewable energy standard.

## **Senate Bill 08-119 and the Regulation of Precipitation Collection**

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**Overview.** Precipitation collection, also known as *rainwater harvesting*, occurs when runoff from an impervious surface is intercepted and applied to a beneficial use such as lawn watering. A 1,000 square foot roof will yield approximately 150 gallons of water from a quarter inch of rain. Basic harvesting systems consist of a roof catchment area, 55-gallon rain barrels, and garden hoses to distribute the water. Larger systems include paved surfaces that divert water to lined holding ponds. Systems typically apply the harvested water to lawns and gardens. The water captured by rain harvesting systems would have otherwise flowed into a stream, evaporated, or been consumed by vegetation.

**Current law.** Water in natural streams, or that is tributary to a stream, may be appropriated and used in accordance with the doctrine of prior appropriation. Under this law, taking water out of priority from a stream that is obligated to a vested water right is prohibited. Persons using water from a rain harvesting system may cause injury if they consume water that would have otherwise flowed into a stream and been obligated for use by a vested water right. The law does not address the permissibility of using rainwater that would have been lost to evaporation and otherwise never have reached the stream. However, harvested water may be used in accordance with a water court adjudicated augmentation plan or a substitute supply plan approved by the State Engineer. Such plans replace depletions to the water supply to prevent injury to decreed water rights. Depletion is the amount of water that does not return to a stream after it has been beneficially used or due to evaporation, plant uptake, and other mechanisms.

**Reengrossed version of Senate Bill 08-119.** Senate Bill 08-119 requires the Water Resources Review Committee to study, during the 2008 interim, the issues raised by the reengrossed version of the bill. The reengrossed bill would have authorized cisterns of up to 5,000 gallons to collect rainwater from a roof of a single-family home used as a primary residence that is not connected to a domestic water system serving more than three single-family residences. It specified that the water collected by the cisterns could be used only for fire protection, watering of animals and livestock on farms and ranches, and irrigating gardens and lawns of up to one acre. The reengrossed bill also would have authorized the Colorado Water Conservation Board, in consultation with the State Engineer, to select 10 pilot projects that collect precipitation from rooftops and impermeable surfaces in new residential developments. Sponsors of the pilot project would have been required to operate according to a substitute supply plan approved by the State Engineer. This plan would have assumed that 30 percent of the precipitation that would have fallen on the roof or impermeable surface during the system's operation would have flowed into a stream and been available for use by other water rights. Consequently, sponsors would have been required to replace this amount of water to the stream to protect vested water rights.

The committee heard testimony from the State Engineer who estimated that on average, only 17 percent of the water that falls on undeveloped land would flow into a stream and approximately 80 percent of the water is lost through evaporation from the environment together with the loss of water vapor from plants (transpiration), called *evapotranspiration* and through the change of ice to vapor, called *sublimation*. This means that as much as 80 percent of the precipitation that falls on a piece of land may be intercepted by a precipitation collection system without injuring water rights. He also described criteria for selecting precipitation collection systems for a proposed pilot project and described how water augmentation plans or substitute supply plans can offset the impact of rainwater harvesting on stream systems and vested water rights.

The committee did not request draft legislation concerning precipitation collection systems.





## Summary of Recommendations

As a result of the committee's activities, the following bill is recommended to the Colorado General Assembly.

### **Bill A — White River Water Division Change**

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Bill A moves the White River drainage basin from Water Division 5 to Water Division 6 in order to align judicial and administrative oversight of the basin.



## Resource Materials

Meeting summaries are prepared for each meeting of the committee and contain all handouts provided to the committee. The summaries of meetings and attachments are available at the Division of Archives, 1313 Sherman Street, Denver, (303-866-4900). The listing below contains the dates of committee meetings and the topics discussed at those meetings. Meeting summaries are also available on our website at:

[http://www.state.co.us/gov\\_dir/leg\\_dir/lcsstaff/2008/08interim.htm](http://www.state.co.us/gov_dir/leg_dir/lcsstaff/2008/08interim.htm)

### Meeting Date and Topics Discussed

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April 8, 2008

- ◆ Update on the Water Court Committee of the Colorado Supreme Court
- ◆ Plan agenda and water tours for the 2008 interim

June 18, 2008

- ◆ Coal bed methane produced water litigation
- ◆ Review of precipitation collection systems pursuant to Senate Bill 08-119
- ◆ Proposed following leasing program "Super Ditch Company" in the Lower Arkansas River Basin
- ◆ Underground water storage
- ◆ Residential use of grey water

July 21, 2008

- ◆ Update on the Black Canyon of the Gunnison Settlement Agreement and other Gunnison River Basin issues
- ◆ Long-term funding options for public drinking water and waste water projects
- ◆ Water Partnership Projects and the Colorado Water Conservation Board Construction Fund
- ◆ Stormwater permit requirements for agricultural operations

August 20, 2008

- ◆ Review of House Bill 08-1222 and the types of hydroelectricity that qualify as an eligible energy resource under Colorado's renewable energy standard
- ◆ Hydroelectricity and environmental issues
- ◆ Senate Bill 08-247, water supply plans, and pre-2003 depletions
- ◆ Update on the formation of the subdistrict of the Rio Grande Water Conservation District and other water management issues in the Rio Grande Basin
- ◆ Legislative recommendation of the Water Court Committee of the Colorado Supreme Court



September 24, 2008

- ◆ Municipal water conservation activities
- ◆ Substitute water supply plans, pre-2003 depletions, and replacement of out-of-priority diversions that occurred prior to March 15, 1974
- ◆ Update on water supply projects (Southern Delivery System; Moffat Expansion Project, Northern Integrated Supply Project, and the Windy Gap FIRMING Project)
- ◆ Final action on draft legislation

### **Tours and Areas Visited**

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June 19 and 20, 2008

- ◆ Tour of the South Platte River Basin water collection and distribution facilities with the Colorado Foundation for Water Education and tour of water resources and facilities in the Republican River Basin

August 21 and 22, 2008

- ◆ Colorado Water Congress Summer Convention in Vail



First Regular Session  
Sixty-seventh General Assembly  
STATE OF COLORADO

BILL A

LLS NO. 09-0110.01 Kate Meyer

SENATE BILL

---

SENATE SPONSORSHIP

Tochtrop, Brophy, Isgar, Schwartz

HOUSE SPONSORSHIP

Gardner C., Curry, Hodge, McKinley, White

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Senate Committees

House Committees

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A BILL FOR AN ACT

101 CONCERNING REMOVAL OF THE WHITE RIVER DRAINAGE BASIN FROM  
102 THE JURISDICTION OF WATER DIVISION 5 TO WATER DIVISION 6.

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Bill Summary

*(Note: This summary applies to this bill as introduced and does not necessarily reflect any amendments that may be subsequently adopted.)*

**Water Resources Review Committee.** Moves the White river drainage basin from water division 5 to water division 6 in order to align judicial and administrative oversight.

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1 *Be it enacted by the General Assembly of the State of Colorado:*

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.  
Capital letters indicate new material to be added to existing statute.  
Dashes through the words indicate deletions from existing statute.

1           **SECTION 1.** 37-92-201 (1) (e) and (1) (f), Colorado Revised  
2 Statutes, are amended to read:

3           **37-92-201. Water divisions.** (1) For the purposes of this article,  
4 the following water divisions are hereby established:

5           (e) Division 5: Division 5 consists of all lands in the state of  
6 Colorado in the drainage basins of the Colorado river and all of its  
7 tributaries arising within Colorado, with the exception of the Gunnison  
8 river. ~~but for the purposes of sections 37-92-203 and 37-92-204, the~~  
9 ~~White river drainage basin shall be deemed a part of division 5.~~

10           (f) Division 6: ~~Except as limited by paragraph (e) of this~~  
11 ~~subsection(1)~~, Division 6 consists of all lands in the state of Colorado in  
12 the drainage basins of the White river, the Yampa or Bear river, the Green  
13 river, the North Platte river, and all of their tributaries.

14           **SECTION 2. Applicability.** This act shall apply to matters filed  
15 in water divisions 5 and 6 on or after the effective date of this act.

16           **SECTION 3. Effective date.** This act shall take effect at 12:01  
17 a.m. on the day following the expiration of the ninety-day period after  
18 final adjournment of the general assembly that is allowed for submitting  
19 a referendum petition pursuant to article V, section 1 (3) of the state  
20 constitution, (August 4, 2009, if adjournment sine die is on May 6, 2009);  
21 except that, if a referendum petition is filed against this act or an item,  
22 section, or part of this act within such period, then the act, item, section,  
23 or part, if approved by the people, shall take effect on the date of the  
24 official declaration of the vote thereon by proclamation of the governor.