

Bill would require consent of historic water structure users

Written by Marianne Goodland, Legislative reporter

Rep. Jerry Sonnenberg, R-Sterling, is quickly marshaling through a bill that would require consent of users of historic water structures when the state historical society wants to place the structure on a historic register.

House Bill 11-1289 passed the House Agriculture, Livestock and Natural Resources Committee on March 28, received approval from the House on second reading two days later and got a 51-12 vote from the full House on March 31. It now heads to the Senate.

During the March 28 hearing, the committee heard from Mike Shimmin, a water rights attorney representing Colorado Water Congress as well as the Bijou Irrigation System in Weld and Morgan counties. The system irrigates 25,000 acres of farmland and operates two diversions from the South Platte River and a reservoir.

Shimmin explained that in December, History Colorado put out a 70-page document, prepared several years ago by an architecture professor at the University of Colorado Denver, which presented a historical summary of the role ditches and reservoirs play in Colorado history. There are more than 22,000 ditches and reservoirs in the state, Shimmin said, and the document suggests all of them might qualify for historical designation on the National Register of Historic Places.

“It raised the level of concern in the water user community” because it seemed to designate every ditch and reservoir as a historic structure, he explained.

The potential for listing includes regulatory implications, Shimmin said. Any project with federal action, money or property and that requires a federal permit has to go through historical preservation review. If a third-party requests the listing and the owner objects, it can't be listed, he said, but it can be designated as eligible for listing at the national level, and that triggers the same federal regulations, including control over maintenance or repair.

That would include anything in the structure along the system—from headgates right down to the cottonwood trees along the ditch—and implies every feature is somehow historically significant.

Bill would require consent of historic water structure users

Written by Marianne Goodland, Legislative reporter

“It scared the holy heck out of the owners of the ditch and reservoir systems” that a new wave of federal or state regulations was coming that would impact any act of maintenance, repair or other operating changes, he said.

Under HB 1289 the society must get consent from anyone who has a property interest, including water rights, in a water supply structure, prior to the structure’s nomination on the state or national register. In addition, the state engineer would also have to give his consent.

Water users were excluded from the public process, and no public hearings were held by the history society, Shimmin said. Democrats, however, objected to the bill, stating that requiring permission from the users would permanently end any efforts to put a structure on the National Register.

The four structures already designated as historical are two segments of the Grand River ditch diversion structure in the Palisade Canyon along I-70, the San Luis Peoples Ditch and Smith’s Irrigation Ditch in Denver (now known as Denver Ditch).

Steve Turner from History Colorado said 800 water structures have been reviewed in the past five years and 200 are considered historic and could be considered for inclusion on the state or federal registers.

Sonnenberg said currently there are no plans to put any historic water structures on the state or federal register. “This bill is proactive,” he said and added HB 1289 has the support of Gov. John Hickenlooper.

The curious session of Sen. Greg Brophy, R-Wray, added another chapter in the last week. The governor recently signed into law a Brophy-sponsored bill granting Northeastern Junior College authority to exempt employees of Northeastern 18 from the state personnel system.

HB 1187 sailed through the Senate Business Affairs and Labor Committee despite its sponsor

Bill would require consent of historic water structure users

Written by Marianne Goodland, Legislative reporter

missing the hearing, a first, according to several legislators. Brophy missed the hearing due to a bad back and not hearing an alarm that would have brought him back to the Capitol. Brophy also got a bill that would put Colorado on daylight-saving time year-round passed out of committee last month, which he didn't expect would happen.

The latest twist is his success is getting the Senate to pass a bill allowing longer truck trailers on more state highways, a bill killed in committee two weeks ago. Under current law, longer truck trailers are limited to certain sections of Colorado interstates, including I-76, and two state highways in western Colorado. Under HB 1192 the Department of Transportation would evaluate more state highways for inclusion in that list, should Congress lift a current freeze on adding more highways.

HB 1192 was heard by the Senate Transportation Committee on March 15 and died on a party-line vote, four Democrats opposed and three Republicans in favor. Democrats raised concerns about travel over mountain passes, impacts on bridges from the added weight and whether the bill was even necessary.

When a bill is killed in a committee as a matter of procedure it must also be postponed indefinitely, which is the final death blow. But that didn't happen.

Brophy brought HB 1192 back to the transportation committee on March 26 and the bill inexplicably got support from one of the committee's Democrats and passed 5-2. The full Senate passed the bill on March 29 on a 32-2 vote; it now goes to the governor for signing.

Hickenlooper has signed into law Brophy's Senate Bill 11-012. Under the bill, students in K-12 schools who have asthma, allergies or life-threatening conditions may carry their prescription medications with them instead of having the medications locked up in a nurse's or principal's office. Permission is predicated on a treatment plan and policies created by the individual school board.

In explaining the bill to the Senate Education Committee in January, Brophy said the issue was brought to his attention by a constituent. When he suggested she write him an e-mail on her concerns that he could submit to the proper authorities, she replied, "It's your son, why don't you write it yourself?" (Brophy's son, David, has asthma.)

Bill would require consent of historic water structure users

Written by Marianne Goodland, Legislative reporter

SB 12 passed 62-1 in the House on March 14. It went into effect immediately upon the governor's signature on March 25.

Hickenlooper also has signed the first solo bill to pass the General Assembly sponsored by Rep. Jon Becker, R-Fort Morgan. HB 1262 would increase transparency in utility bidding and directs the Public Utilities Commission to adopt rules that would require Xcel Energy and Black Hills Power to provide independent power producers with access to "modeling inputs and assumptions" when they bid for power generation.

Becker said such transparency will help keep utility rates down. HB 1262 was co-sponsored by Rep. Claire Levy, D-Boulder, in the House and Sens. Michael Johnston, D-Denver, and Brophy in the Senate and got unanimous support from both ag committees and from the full House and Senate. Hickenlooper signed it on March 29, and it goes into effect immediately.

While it was Becker's first solo bill, he also was one of six primary sponsors, as a member of the Joint Budget Committee, on 29 bills already signed into law by Hickenlooper that balance the 2010-11 state budget.

The 2011-12 budget, to be contained in the annual Long Appropriations Bill, was due to be introduced this week, but an impasse between House and Senate leadership over K-12 funding, state pension contributions and vendor fees is likely to delay it further.

Senate President Brandon Shaffer, D-Longmont, told reporters last week he would not discuss the specifics of negotiations between House and Senate leadership, but that K-12 funding and vendor fees are part of those discussions.

However, Sonnenberg said another issue that has become a bargaining chip in the negotiations is his bill on repealing the tax exemptions for agricultural compounds, pesticides and bull semen, which would reduce state revenue by \$3.7 million in 2011-12.