



Over the Finish Line. Water and the Big Picture

The legislature worked round the clock and on weekends to complete what may be the most ambitious calendar seen in years. There were 705 bills introduced (472 in the house and 233 in the Senate); The count rises to 778 if all resolutions and procedural measures are included.

Post Sackett Solution for Waters of the State. Of course, for the water community establishment of a Dredge and Fill permit program was at the top of that list. Two bills were introduced and moved forward starting with SB 24-127 and HB 24-1379. Following intense negotiations between environmental attorneys for both water users, industry, and environmental NGOs along with the health department and bill sponsors, a compromise was reached. As with all compromise legislation, no one left the table completely happy but almost all believed a reasonable accommodation had been reached to move forward with a program that would work. Once amendments were hammered out and drafted (28 in all), HB 1379 moved through Senate Finance where the amendments were added, Sen. Barbara Kirkmeyer (sponsor of SB 127) joined Sen. Dylan Roberts as prime sponsor of the measure and the unanimously passed bill went on to the Appropriations committee, and was adopted on the Senate floor on a consent calendar with no discussion or further amendments. The bill, as passed by the General Assembly, applies to all state waters subject to exclusions and exemptions. Some (but not all) of the key provisions addressed through negotiations include incorporation of nationwide general permits, isolated waters, ditches, areas for rulemakings, federal 404 guidelines, and trigger for additional funding, HB 1379 will soon arrive on the Governor's desk. Hats off to Gabe Racz and his Dredge and Fill Subcommittee for their patience and perseverance!

Additional Water Legislation. Other water-related bills crossing the finish line include:

- SB 197 – Recommendations of the Drought Task Force
- SB 199 – Funding for Species Conservation
- SB 148 – Precipitation Harvesting
- HB 1362 – Authorization for Greywater Use
- HB 1435 – CWCB Projects Funding
- HB 1436 – Referred Measure to de-Bruce Sports Betting revenues for Water Projects.

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A last minute entry into the legislative marathon was HB 1463, sponsored by Speaker Pro-Tem Chris deGruy Kennedy to address a dispute between a municipality and a special-district water provider. As introduced, the bill dictated requirements for all such districts in setting system development and tap fees. It was later stripped back to a provision directing providers to disclose their tap fees and, upon request of a local government, any professional analysis of those fees. The entire process from introduction to final passage took a mere 14 days.

Water as key to housing development. The Governor's agenda to increase supply and affordability of housing also held implications for water, particularly as it impacts capacity to serve. Water supply and infrastructure were discussed and debated as the legislature considered Accessory Dwelling Units (HB 1152) and Transit Oriented Communities (HB 1313). An amendment to HB 1152 previously recommended by the Colorado Water Congress allows a subject jurisdiction to require a statement by a water or wastewater service provider regarding its capacity to service the property as a condition of permitting an accessory dwelling unit. Similarly, following more than thirty amendments, HB 1313 acknowledges that the lack of water supply or infrastructure capacity for water, water and wastewater treatment may prevent communities from meeting their housing opportunity goals set forth in the bill. Parcels in a transit oriented communities may be exempt if they are not served by domestic water and sewage, or are served by wells not connected to a distribution system. Communities that cannot meet their housing opportunity (density) goals based on insufficient water supply must submit a notice and report to DOLA every three years with documentation including a water supply and water efficiency plan.

Other housing bills included:

- HB 24-1007 – bans local laws setting residential occupancy limits
- HB 24-1098 – eviction of renters for cause
- SB 24-094 - habitability of rental units
- HB 24-1304 –Restriction on requirements for residential parking space

Grand Compromises - a recurring theme. Echoing the “last of the oil and gas wars” deal that produced SB 19-181, this year's Governor-orchestrated compromise brought forward SB 229 and SB 230. These two measures borrowed from five bills focused on air pollution and emissions reduction and added funding from oil and gas production fees to support transit development in an effort to move the Northern Front Range out of the severe ozone non-attainment category. A portion of the fees was also directed to Parks and Wildlife to acquire land and water to support wildlife habitat. In place of the two late bills, HB 1330 and 1339 were allowed to die on the calendar while SB 165 and 166 were killed in Finance committee.

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Future measures in question. It had been understood by some that the enactment of SB 229 and 230 would also result in certain ballot initiatives being withdrawn and that there would be a hiatus in the introduction of anti-oil/gas bills for a period of time; however, at least one group stated publicly that it had not been party to the compromise and would not forego pushing future legislation.

Property Tax bill also a compromise? SB 233 introduced and passed in the final three days of the session was another legislative attempt to provide an alternative to ballot initiatives. The bill establishes reductions in valuations for residential and commercial property taxation beginning with the 2024 property tax year, and starting in the 2025 property tax year makes reductions that impact schools and local government entities separately. The bill introduces a local revenue growth limit and makes other changes to property tax law. However, Initiative 50, which provides a more restrictive 4% cap on property tax growth, has already qualified for the November ballot and petitions for Initiative 108 remain in circulation. Hence, it is possible that multiple competing measures may become law.

Income tax and tax credits. The Governor has long advocated for reducing state income tax rates. Democratic legislators have resisted that idea while at the same time thinking up creative ways for tapping the TABOR surplus to fund policy goals through mechanisms such as tax credits. SB 24-228 tweaks the methods used to pay TABOR refunds starting with the 2023-24 surplus by reinstating a temporary income tax rate cut. For the 2024-25 surplus there will be a temporary cut in state sales taxes.

Other bills that passed will have the effect of reducing the TABOR surplus. Among them are \$33.8 million in senior tax rebates (HB 24-1052); a \$136 million expansion of the earned income tax credit for lower income taxpayers (HB 24-1134), and up to \$684 million for other credits for lower income Coloradans with children (HB 24-1311).

Budget casts a long shadow. After the budget package emerged from the two houses in mid-April – and the JBC restored it to the form it wanted – the budget included \$42.88 billion in total spending, including \$16 billion GF, \$11.52 billion cash funds and \$12.52 billion federal funds. The JBC worked hard to fund both its priorities and some of the governor’s pet projects, and the committee dug into a lot of couch cushions to find the money to accomplish those things.

Key takeaways from the budget include:

- The Budget Stabilization Factor (debt to K-12 education) was eliminated
- Almost two-thirds of the total increase is taken by social services including the two departments of Health Care Policy and Finance and Human Services.
- Nearly \$70 million is appropriated for competency evaluation and restoration
- 3 percent raises for state employees, along with approval of a step pay system
- 2 percent increase in community provider rates, less than JBC originally approved

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- Higher education funded at \$132 million above governor's request, resident tuition increases capped at 3 percent and non-resident at 4 percent

Doing all that may come back to haunt the 2025 JBC. As staff Director Craig Harper noted in a May 1 memo to the JBC, the 2024-25 budget "is using approximately \$457.8 million in one-time funding to support General Fund expenditures. ... Assuming that the vast majority of the \$457.8 million in one-time money is going to ongoing uses, backfilling that amount of one-time money with ongoing revenues in FY 2025-26 and beyond will be challenging."