2020 NEW LAWS ENACTED

Colorado Water Well Contractors Association

Dick Brown
dickscuba@gmail.com; 303-695-6388
Table of Contents

Introduction .......................................................................................................................... 3

The 2020 Session – A Year Like No Other ........................................................................ 4

Consumer Protection .......................................................................................................... 5

H.B. 20-1414 Consumer protection - deceptive trade practices - price gouging during a declared disaster - exemption for prices attributable to costs imposed by seller’s suppliers .......................................................... 5

Banking and Financial Institutions ..................................................................................... 6

S.B. 20-96 Notaries public - remote notarization - data privacy - ratification of emergency rules. ........ 6

Employer-Employee Issues .................................................................................................. 7


H.B. 20-1048 Protections against race-based discrimination - public education, employment, housing, and public accommodations - race to include protective hairstyles ................................................................. 9

H.B. 20-1415 Worker protections - public health emergencies - prohibition on discrimination, retaliation, and adverse action against a worker - relief for aggrieved individuals - whistleblower enforcement ........................................................................................................... 9

General Court, Civil and Jurisdictional Issues .................................................................... 10

S.B. 20-211 Debt collection - temporary limitation on garnishment, execution, levy, and attachment in cases of financial hardship - notice requirements - temporary exemption from execution. ......................... 10

Insurance – Health ............................................................................................................ 10

S.B. 20-43 Health insurance - out-of-network reimbursement for health care services - reimbursement rate ......................................................................................................................... 11

S.B. 20-176 Health insurance - determinations regarding eligibility for health or disability benefits - prohibition on discretionary clauses - claimant’s right to de novo review of matters in dispute - application to existing policies ........................................................................................................ 11

S.B. 20-212 CARES Act - telehealth and telemedicine - health insurance carrier prohibitions - Medicaid reimbursement - expansion of services ......................................................................................... 12

S.B. 20-215 Health insurance affordability enterprise - insurer fees - hospital assessments - allocation of revenues - reinsurance program - reducing health insurance costs in individual market - consumer enrollment, outreach, and education - governing board - extend reinsurance program ......................................................... 13


H.B. 20-1158 Health insurance coverage - infertility diagnosis and treatment - fertility preservation services - exemption for religious employers - applicability contingent on determination by Insurance Division ................................................................................................................................. 15

Professional and Occupational Licensing ............................................................................ 16
H.B. 20-1215 Water and wastewater facility operators certification board - continuation under sunset law - definitions. .......................................................... 16
H.B. 20-1326 Occupational credential portability program - endorsement, reciprocity, or transfer of out-of-state profession or occupation credentials - exclusion for specified professions and occupations - modify military spouse exemption - rules. ........................................................................ 16
Public Health - Perfluoroalkyl and Polyfluoroalkyl Substances (PFAS) .......................................................... 17
S.B. 20-218 Fuel products fee - air quality control commission regulations - vapor collection system civil penalties - PFAS cash fund - PFAS grant program - PFAS takeback program. .......................................................... 17
H.B. 20-1042 Firefighting foam - manufacturer notice requirement .................................................................. 19
H.B. 20-1119 Firefighting foams - use and storage - certificate of registration - restrictions in aircraft hangars. ............................................................................................................. 19
Water .................................................................................................................................................. 19
S.B. 20-25 Conservancy districts - boards of directors - powers. .......................................................... 19
S.B. 20-48 Anti-speculation work group - report to water resources review committee. ........................ 20
S.B. 20-155 Well permits - domestic wells exempt from administration - presumption of noninjury remains after land divided. .......................................................... 20
S.B. 20-201 Conservation of native species - appropriations from Species Conservation Trust Fund for species conservation projects. .......................................................... 21
H.B. 20-1037 Colorado water conservation board - water decree for augmentation - use to augment stream flows. ............................................................................................................ 21
H.B. 20-1057 Forest Restoration and Wildfire Risk Mitigation Act - modifications to requirements affecting grants funding. .......................................................... 21
H.B. 20-1094 On-site wastewater treatment systems - local government permits - fee limit - repeal . 22
H.B. 20-1095 Local government master plans - water supply element to include water conservation policies - assistance from department of local affairs. .......................................................... 22
H.B. 20-1157 Colorado water conservation board - loaned water for instream flow use - use for preserving or improving natural environment - duration of loan - increased filing fee. ................. 23
H.B. 20-1159 Instream flows - subject to existing uses - confirmation of existing uses. ........................ 23
H.B. 20-1403 Colorado water conservation board construction fund - project and loan authorizations - appropriations - transfers - repeal of appropriation for water education. .......................................................... 24
Taxation.................................................................................................................................................. 25
H.B. 20-1420 Income tax - additions to federal taxable income - state calculation of federal net operating loss limitation - expansion of earned income tax credit - transfers to the state education fund. .......................................................................................................................... 25
S.C.R. 20-1 Residential assessment rate - statewide proportion of residential property as compared to all other taxable property valued for property tax purposes - repeal the nonresidential property tax assessment rate of twenty-nine percent. .......................... 26
Introduction
This compendium identifies and summarizes key pieces of legislation that were enacted in the 2020 session of the Colorado General Assembly. The new laws included in this compendium were selected because of their interest or application to the interests of the members of the Colorado Water Well Contractors Association.

The compendium does not include any bills that failed to pass or were vetoed. Appendix A displays the complete list of bills that were tracked during the 2020 session along with their final disposition.

When a bill is enacted, it has an effective date upon which it (or specific portions of it) become law and are effective. There are several reasons for this protocol among which is the Constitutional prohibition on laws being enacted with a retrospective application. Another is the Constitutional prohibition against laws impairing existing contracts. A bill may include a specific date upon which it will be effective (e.g., January 1). Some bills may become effective upon the signature of the Governor.

Some bills are enacted without what is known as the “Safety Clause” and become effective 90 days following adjournment sine die. The Colorado Constitution allows the voters to challenge a just enacted law through the use of a citizen referendum petition, but that process must be completed in 90 days. The Safety Clause is applied to some bills deemed to be in the immediate interest of public health and safety and it precludes the use of a challenge by citizen referendum.

This compendium of new laws enacted includes acts that were not necessarily tracked closely by the Colorado Water Well Contractor’s Association.

There are several bills introduced each year which have potential effects on entities such as the Colorado Water Well Contractor’s Association, but which are not deemed of enough significance to expend organizational resources to address or which might be a higher priority for another group which, in turn, commits resources and efforts to addressing its content. An example would be a bill that has some potential effect on employment practices but is a higher priority for statewide employer groups such as the Colorado Association of Commerce and Industry or the National Federation of Independent Businesses.

Many of the bills that would fall under such a category are monitored by the Colorado Water Well Contractor’s Association or the lead activities of another group are supported or assisted by the Colorado Water Well Contractor’s Association. An example might be a bill which would affect instream diversions and the Colorado Water Congress plays a prominent advocacy role in its consideration.

The compendium does not include new laws that are predominantly appropriations matters.

The newly enacted laws are organized by subject area. The compiler is not an attorney and this information should not be considered or relied upon as legal research. The information provided is a summary of each selected new law. Questions regarding a more technical legal matter should be referred to an attorney.
Copies of the new laws are not included but are readily available from several sources. One of the most useful sources for securing copies of new laws is the annual Session Laws published by the Office of Legislative Legal Services. The Session Laws are useful because they display statutory language that was deleted as well as new language that was amended into the statute that the act addresses. Additionally, the official revised statute books with all new laws and amendments to existing laws will not be available until the fall. The statute books must be reprinted, and that process takes time. The Session Laws, however, are immediately available for research and use.

Each of the new acts included in this compendium includes a citation to the 2020 Session Laws to facilitate locating the act. To access the Session Laws, simply go to the home page of the General Assembly at https://leg.colorado.gov/ and use the menu along the top margin to the “Agencies” tab. Once the tab has been located, scroll down to the Office of Legislative Legal Services and click it. On the menu bar is a tab for “Publications”. Click it and scroll down to “Session Laws.” The Session Laws are identified by year.

Since not every one of the new laws is included in this compendium, it is possible that one or more new laws of interest may have been excluded. If there is such an omission, please contact me and I will update the compendium.

The 2020 Session – A Year Like No Other

The 2020 session was unique by any standard of measure. In a very real sense, it was really three separate, but linked, sessions. The first session began normally in January and was expected to adjourn sine die in May. That session went according to plan until mid-March. In mid-March, COVID-19 hit the state and turned everything upside down.

The legislature took the unprecedented step of temporarily adjourning and closing the Capitol on March 17. The leadership expected to return to the Capitol before the end of March and to pick up where it had left off. However, COVID-19 had another horrible impact beyond the public health effect. It exacerbated the state’s fiscal situation because it sent the recession into overdrive. It was as if the economic downturn was injected with steroids with the result that we suffered a cascading set of economic disruptions. The economic disruptions appear to have plateaued but there is little confidence that we will not suffer another significant erosion of the productive capacity of the state.

The second session began just before the legislature returned – weeks after the return had been planned. The budget which had been ready for introduction at the time of the temporary adjournment was suddenly obsolete. The Joint Budget Committee had to scramble to cobble together an alternative budget – one that carved some $3 billion in spending out of the budget. The second session was dedicated to adoption of the new budget and disposing of several hundred bills that were technically still alive when the temporary adjournment occurred.

Then a black prisoner died while in the custody of the Minneapolis police department. The outpouring of public outrage at the death unleashed weeks of protests and demonstrations throughout the nation. Denver was not immune. Weeks of daily demonstrations centered on the State Capitol building occurred. Unfortunately, some of the demonstrations turned violent and destructive resulting in significant damage to public buildings and to public property. Collateral property destruction to private property adjacent to the Capitol building was extensive. The damage remains unrepaired and the
Capitol has been the target of repeated vandalism which exacerbated the damage and has contributed to a repair cost to the taxpayers in the millions of dollars.

The demonstrations ushered in the third session. Activists demanded and got the legislature to consider and enact several pieces of legislation aimed at curtailing the authority of police forces and to foster various changes in policies and programs under the generic umbrella of “social justice reform.” These bills took precedence over other bills that were still pending when the legislature reconvened. Most of those bills were killed under the direction of the leadership. Many of them were immediately refiled to return in January when the next session commences. This third session can be thought of as characterized by unfinished business that will be continued in January.

This session witnessed a total of 651 bills introduced of which 329 passed. All the bills that passed became law with the exception of 3 bills vetoed by the Governor. Notably, 88 bills were introduced during the final two weeks of the session.

Citing public health concerns, leadership shut down the Capitol to the public. Restrictions were eased somewhat, but the normal and customary opportunities for citizens to present testimony to committees was nearly impossible. Coupled with the leadership’s drive to complete work and adjourn sine die, the lack of citizen input for bills of great societal magnitude has resulted in flawed new laws. The crush of workload overwhelmed the staffs at Legislative Legal Services where bills are drafted, edited, and proofed. There are errors that slipped by the staff. Many of these errors will be caught by the Revisor of Statutes and will be corrected in 2021. Others may not become evident until the erroneous provision is caught by citizens and attorneys who must apply the new laws. Out of an abundance of caution, these new laws should be reviewed carefully to ensure that they are not flawed.

**Consumer Protection**

The following new Act was selected because it has potential impacts on the members of CWWCA. The Act exposes contractors to potential investigations and prosecutions based on a presumption of price gouging following a disaster. On the other hand, it provides a potential relief from excessive pricing levied by suppliers. While a business is not often thought of as a consumer, there does not appear to be anything in this new Act that would preclude a contractor from using it if it was thought that a supplier was marking up prices or withholding supplies and materials in order to take advantage of on the disaster.

*H.B. 20-1414 Consumer protection - deceptive trade practices - price gouging during a declared disaster - exemption for prices attributable to costs imposed by seller's suppliers.*

This Act establishes that a person engages in a deceptive trade practice if the person, within 180 days following the declaration of a disaster or disaster emergency by the President of the United States or the Governor of the state and in the geographic area for which the disaster was declared, sells, offers for sale, provides, or offers to provide any of the following at a price so excessive as to amount to price gouging:

* Building materials;

* Consumer food items;
* Emergency supplies;
* Fuel;
* Medical supplies;
* Other necessities;
* Repair or reconstruction services;
* Transportation, freight, or storage services; or
* Services used in an emergency cleanup.

A price is not unreasonably excessive if the seller can prove that, due to events that gave rise to the disaster declaration, the price is attributable to additional costs imposed on the seller by the seller's supplier or suppliers or other direct costs of providing the good or service sold or offered for sale.

APPROVED by Governor July 14, 2020  EFFECTIVE July 14, 2020

This Act may be found in the 2020 Session Laws Chapter 305, Page 1552

Banking and Financial Institutions


Current law requires an individual who wishes to have a document notarized to appear personally before a notary public. This Act changes that requirement as of December 31, 2020:

* The Act authorizes a notary public to perform a notarial act on behalf of an individual who is not in the notary's physical presence, but only with respect to an electronic document;
* To perform a "remote notarization", a notary must use an electronic system that conforms to standards established by rules of the Secretary of State, including using real-time audio-video communication;
* The Act establishes the standards that a notary must comply with to have satisfactory evidence of the identity of the individual seeking the remote notarization; and
* The use or sale of personal information of a remotely located individual by a remote notary and the provider of a remote notarization system is prohibited except in specific, limited circumstances.

The Governor issued an emergency executive order in response to the COVID-19 pandemic that directed the Secretary of State to issue an emergency rule to authorize remote notarizations, which the Secretary of State did. The Act ratifies remote notarizations conducted pursuant to the emergency rule between March 30, 2020, and December 31, 2020.

APPROVED by Governor June 26, 2020  EFFECTIVE June 26, 2020

This Act may be found in the 2020 Session Laws Chapter 130, Page 558
Employer-Employee Issues

These new Acts have a direct bearing on how the members must act in their capacity as employers or prospective employers. SB20-205 should be reviewed carefully by employers since it creates a significant new benefit for paid sick leave.

S.B. 20-205 Paid sick leave - leave for COVID-19 pandemic - accrued leave - leave for public health emergencies - purpose of leave - prohibition on retaliation - enforcement -

This Act was pushed hard by the Democrat leadership. It was, first, an alternative to a failed bill that attempted to create a paid leave program for employees. Secondly, the COVID-19 pandemic introduced new issues and concerns and several elements of the Act were designed and inserted to address those concerns.

It should be noted that there is a separate, but similar, measure headed for the November ballot. That initiative was in the signature gathering phase when COVID-19 interrupted person-to-person signature collection. If that measure is successful in securing a spot on the November ballot, and if the voters were to approve it, it is possible that SB20-205 and the ballot measure might have inconsistent and perhaps conflicting provisions. The Colorado Constitution provides a mechanism for resolving such conflicts should they arise. Moreover, the General Assembly could bring the issues back in January and resolve them through the normal law making.

The point to be made here is that employers should make certain which mandates they must meet in order to comply with the final version of the law. This is very important because employers must also comply with federal laws governing responses to COVID-19. In addition, employers are required to retain records documenting hours worked, paid sick leave accrued, and paid sick leave used for each employee for a three-year period. Employers must provide reasonable access to records for monitoring by the Colorado Department of Labor & Employment (CDLE). The CDLE is provided with rulemaking authority and is given jurisdiction over enforcement of the Act’s requirements. Any findings, awards, or orders issued by the CDLE are subject to judicial review.

The federal Families First Coronavirus Response Act expands the U.S. Family and Medical Leave Act of 1993 to allow certain employees to take leave to care for their child while school or childcare is closed due to COVID-19. Leave taken in excess of ten days must be paid. The law also requires employers to provide up to two weeks of paid sick leave for any employees unable to work due to circumstances related to COVID-19. The law applies to employers with 500 or fewer employees, though those with 50 or fewer employees may qualify for an exemption. Employers are eligible for certain tax credits based on leave wages paid. These provisions are in effect through December 31, 2020.

On the effective date of this Act through December 31, 2020, all employers in the state, regardless of size, are required to provide each of their employees paid sick leave for reasons related to the COVID-19 pandemic in the amounts and for the purposes specified in the federal "Emergency Paid Sick Leave Act" in the "Families First Coronavirus Response Act".

Commencing January 1, 2021, for employers with 16 or more employees, and commencing January 1, 2022, for all employers, the act requires employers to provide paid sick leave to their employees, accrued at one hour of paid sick leave for every 30 hours worked, up to a maximum of 48 hours per year.
An employee begins accruing paid sick leave when the employee's employment begins, may use paid sick leave as it is accrued, and may carry forward and use in subsequent calendar years up to 48 hours of paid sick leave that is not used in the year in which it is accrued. An employer is not required to allow the employee to use more than 48 hours of paid sick leave in a year.

Employees may use accrued paid sick leave to be absent from work for the following purposes:

* The employee has a mental or physical illness, injury, or health condition; needs a medical diagnosis, care, or treatment related to such illness, injury, or condition; or needs to obtain preventive medical care;

* The employee needs to care for a family member who has a mental or physical illness, injury, or health condition; needs a medical diagnosis, care, or treatment related to such illness, injury, or condition; or needs to obtain preventive medical care;

* The employee or family member has been the victim of domestic abuse, sexual assault, or harassment and needs to be absent from work for purposes related to such crime; or

* A public official has ordered the closure of the school or place of care of the employee's child or of the employee's place of business due to a public health emergency, necessitating the employee's absence from work.

In addition to the paid sick leave accrued by an employee, the Act requires an employer, regardless of size, to provide its employees an additional amount of paid sick leave during a public health emergency in an amount based on the number of hours the employee works.

The Act prohibits an employer from retaliating against an employee who uses the employee's paid sick leave or otherwise exercises the employee's rights under the Act.

Employers are required to notify employees of their rights under the Act by providing employees with a written notice of their rights and displaying a poster, developed by the Division of Labor Standards and Statistics in the Department of Labor and Employment, detailing employees' rights under the Act.

The Director of the Division is to implement and enforce the Act and adopt rules necessary for such purposes.

An employer found in violation of the Act is liable to the employee for back pay and other equitable damages.

The Act treats an employee's information about the employee's or a family member's health condition or domestic abuse, sexual assault, or harassment case as confidential and prohibits an employer from disclosing such information or requiring the employee to disclose such information as a condition of using paid sick leave.

The Act specifies the conditions in which collective bargaining agreements result in compliance with, or exemption from, the Act.

APPROVED by Governor July 14, 2020  EFFECTIVE July 14, 2020

This Act may be found in the 2020 Session Laws Chapter 294, Page 1443
H.B. 20-1048 Protections against race-based discrimination - public education, employment, housing, and public accommodations - race to include protective hairstyles.

This Act establishes the "Creating a Respectful and Open World for Natural Hair Act of 2020" (also known as the "CROWN Act of 2020") which specifies that, for purposes of anti-discrimination laws in the context of public education, employment practices, housing, public accommodations, and advertising, protections against discrimination on the basis of one's race include hair texture, hair type, or a protective hairstyle commonly or historically associated with race, such as braids, locs, twists, tight coils or curls, cornrows, Bantu knots, Afros, and headwraps.

APPROVED by Governor March 6, 2020 EFFECTIVE September 14, 2020

This Act may be found in the 2020 Session Laws Chapter 8, Page 14

H.B. 20-1415 Worker protections - public health emergencies - prohibition on discrimination, retaliation, and adverse action against a worker - relief for aggrieved individuals - whistleblower enforcement.

The Act prohibits a principal, which includes an employer, certain labor contractors, public employers, and entities that contract with 5 or more independent contractors, from discriminating, retaliating, or taking adverse action against any worker who:

* In good faith, raises any concern about workplace health and safety practices or hazards related to a public health emergency to the principal, the principal's agent, other workers, a government agency, or the public if the workplace health and safety practices fail to meet guidelines established by a federal, state, or local public health agency with jurisdiction over the workplace;

* Voluntarily wears at the worker's workplace the worker's own personal protective equipment, such as a mask, faceguard, or gloves, under specified circumstances; or

* Opposes a practice the worker reasonably believes is unlawful or makes a charge, testifies, assists, or participates in an investigation, proceeding, or hearing of alleged unlawful acts. Additionally, a principal is prohibited from requiring or attempting to require a worker to sign a contract or other agreement that limits or prevents the worker from disclosing information about workplace health and safety practices or hazards related to a public health emergency.

A worker who knowingly discloses false information or discloses information with reckless disregard for the truth or falsity of the information is not protected under the act. A person may seek relief by:

* Filing a complaint with the Division of Labor Standards and Statistics in the Department of Labor and Employment;

* Bringing an action in district court, after exhausting administrative remedies; or

* Bringing a whistleblower action in the name of the state in district court, after exhausting administrative remedies.

The Division is authorized to adopt rules necessary to implement the act.
General Court, Civil and Jurisdictional Issues

S.B. 20-211 Debt collection - temporary limitation on garnishment, execution, levy, and attachment in cases of financial hardship - notice requirements - temporary exemption from execution.

This Act prohibits a judgment creditor from initiating a new extraordinary collection action from the effective date of the act through November 1, 2020, except in accordance with the requirements of the Act.

An extraordinary collection action is defined as an action such as a garnishment, attachment, levy, or execution to collect or enforce a judgment on a debt as defined under the "Colorado Fair Debt Collection Practices Act" (FDCPA). Extraordinary collections actions do not include child support obligations.

Before initiating an extraordinary collection action, the judgment creditor must send a notice to the judgment debtor explaining that the judgment debtor can temporarily suspend the extraordinary collection action if the debtor is facing financial hardship as a result of the COVID-19 emergency. To exercise this right, the debtor is required to notify the judgment creditor that the debtor is experiencing hardship as a result of the crisis. The judgment debtor is not required to provide additional documentation to the judgment creditor. The use of an extraordinary collection action during the period of the prohibition constitutes an unfair and unconscionable means of collecting a debt under the FDCPA.

The administrator of the "Uniform Consumer Credit Code" is authorized to issue an order extending the prohibition through February 1, 2021, if the administrator finds that the extension is necessary to preserve the resources of state and local agencies or to protect the residents of Colorado from economic hardship as a result of the disaster emergency caused by COVID-19.

From June 29, 2020, through February 1, 2021, up to $4,000 cumulative in a depository account or accounts in the debtor's name is exempt from levy and sale under a writ of attachment or execution. An attempt to collect amounts in excess of what is permitted under statutes limiting garnishment, attachment, and execution is an unfair or unconscionable debt collection practice for purposes of the FDCPA.
**S.B. 20-43 Health insurance - out-of-network reimbursement for health care services - reimbursement rate.**

This Act corrects the reimbursement rate specified in law that a health insurance carrier is required to reimburse an out-of-network health care provider who provides either emergency services to a covered person or covered nonemergency services to a covered person at an in-network facility so that the law accurately states the reimbursement rate as the greater of:

* 110% of the carrier's median in-network rate of reimbursement; or

* The sixtieth percentile of the in-network rate of reimbursement for the same service in the same geographic area for the prior year based on claims from the all-payer health claims database.

House Bill 19-1174, which took effect January 1, 2020, requires health insurance carriers to reimburse out-of-network health care providers for services provided at an in-network facility at a rate specified in statute. The reimbursement rate is correctly stated in two sections of that Act but is incorrectly stated in another section. This bill conforms the inaccurate section to existing law with the correct rate that carriers are required to reimburse providers.

APPROVED by Governor March 11, 2020 EFFECTIVE March 11, 2020

This Act may be found in the 2020 Session Laws Chapter 21, Page 78

**S.B. 20-176 Health insurance - determinations regarding eligibility for health or disability benefits - prohibition on discretionary clauses - claimant's right to de novo review of matters in dispute - application to existing policies.**

House Bill 08-1407 prohibited discretionary clauses that allow an insurer, plan administrator, or claim administrator to interpret terms of the policy, contract, or plan to determine eligibility for benefits in an insurance policy, contract, or plan issued in this state that offers health or disability benefits. This Act clarifies that any such provision is void and authorizes the Commissioner of Insurance to adopt rules regarding the prohibition. The Act clarifies the 2008 legislation by:

* Declaring that the legislation should be construed broadly to effectuate its remedial purpose, notwithstanding any contractual or statutory choice-of-law provision to the contrary;

* Nullifying any contract provision that purports to give an insurer or its agent discretionary authority to determine the insured person's entitlement to benefits in any specific circumstance; and

* Separating the provision requiring de novo review of policy disputes from the provision allowing a claimant to demand a jury trial, to clarify that these are separate issues.

The Act also clarifies that for this prohibition, "issued in this state" refers to every health and disability insurance policy, insurance contract, insurance certificate, and insurance agreement existing, offered, issued, delivered, or renewed in the State of Colorado or providing health or disability benefits to a resident or domiciliary of the State of Colorado and every employee benefit plan covering a resident or domiciliary of the state of Colorado, whether or not on behalf of an employer located or domiciled in
Colorado, on or after August 5, 2008, notwithstanding any contractual or statutory choice-of-law provision to the contrary.

APPROVED by Governor July 14, 2020 EFFECTIVE September 14, 2020

This Act may be found in the 2020 Session Laws Chapter 301, Page 1499

S.B. 20-212 CARES Act - telehealth and telemedicine - health insurance carrier prohibitions - Medicaid reimbursement - expansion of services.

The Act prohibits a health insurance carrier from:

* Imposing specific requirements or limitations on the HIPAA-compliant technologies used to deliver telehealth services;

* Requiring a covered person to have a previously established patient-provider relationship with a specific provider in order to receive medically necessary telehealth services from the provider; or

* Imposing additional certification, location, or training requirements as a condition of reimbursement for telehealth services.

The Act specifies that, to the extent the State Board of Health adopts rules addressing supervision requirements for home care agencies, the rules must allow for supervision in person or by telemedicine or telehealth.

For purposes of the Medicaid program, the Act:

* Requires the Department of Health Care Policy and Financing to allow home care agencies to supervise services through telemedicine or telehealth;

* Clarifies the methods of communication that may be used for telemedicine;

* Requires HCPF to reimburse rural health clinics, the federal Indian Health Service, and federally qualified health centers for telemedicine services provided to Medicaid recipients and to do so at the same rate as the department reimburses those services when provided in person;

* Requires HCPF to post telemedicine utilization data to the HCPF website no later than 30 days after the effective date of the Act and update the data every other month through state fiscal year 2020-21; and

* Specifies that health care and mental health care services include speech therapy, physical therapy, occupational therapy, hospice care, home health care, and pediatric behavioral health care.

APPROVED by Governor July 6, 2020 EFFECTIVE July 6, 2020

This Act may be found in the 2020 Session Laws Chapter 46, Page 165
This Act establishes the health insurance affordability enterprise, for purposes of section 20 of article X of the state Constitution, that is authorized to assess a health insurance affordability fee (also known as an insurer fee) on certain health insurers and a special assessment (hospital assessment) on hospitals in order to:

* Provide business services to carriers that pay the insurer fee, including services to increase enrollment in health benefit plans offered by carriers across the state; increase the number of individuals who are able to purchase health benefit plans in the individual market by providing financial support for certain qualifying individuals; fund the reinsurance program that offsets the costs carriers would otherwise pay for covering consumers with high medical costs; improve the stability of the market throughout the state by providing consistent private health care coverage and reducing the movement of individuals from insured to uninsured status; reduce provider cost shifting from the individual market and the uninsured to the group market; and create a healthier risk pool for all carriers by establishing a path for consistent coverage for individuals; and

* Provide business services to hospitals, including by reducing the amount of uncompensated care provided by hospitals; reducing the need of providers to shift costs of providing uncompensated care to other payers; and expanding access to high-quality, affordable health care for low-income and uninsured residents.

The enterprise is to start assessing and collecting the insurer fee in 2021. The fee is based on a percentage of premiums collected by health insurers in the previous calendar year on health benefit plans issued in the state.

The hospital assessment is a specified amount assessed and collected in the 2022 and 2023 calendar years.

Money collected from the insurer fee and hospital assessment is to be deposited in the health insurance affordability cash fund, which the Act creates.

The Act also transfers an amount of premium taxes collected by the state in 2020 or later years that exceeds the amount collected in 2019, but not more than 10% of the enterprise’s revenues, to the fund.

The enterprise is required to use the insurer fee, the hospital assessment, and any premium tax revenues or other money available in the fund, in accordance with the allocation specified in the act, for the following purposes:

* To provide funding for the Colorado reinsurance program;

* To provide payments to carriers to increase the affordability of health insurance on the individual market for Coloradans who receive the premium tax credit available under federal law;
* To provide subsidies for state-subsidized individual health coverage plans purchased by qualified low-income individuals who are not eligible for the premium tax credit or public assistance health care programs;

* To pay the actual administrative costs of the enterprise and the division of insurance for implementing and administering the act, limited to 3% of the enterprise's revenues; and

* To pay the costs for consumer enrollment, outreach, and education activities regarding health care coverage.

The enterprise is governed by an 11-member board composed of the Executive Director of the Colorado Health Benefit Exchange and the Commissioner of Insurance or their designees and 9 members appointed by the Governor and representing various aspect of the health care industry and health care consumers.

With regard to the Colorado reinsurance program and enterprise, the Act:

* Incorporates the reinsurance program enterprise within the health insurance affordability enterprise;

* Eliminates funding for the reinsurance program from special assessments on hospitals and health insurers, excess premium tax revenues, and specified transfers from the state general fund and instead allocates a portion of the health insurance affordability enterprise revenues to the reinsurance program annually; and

* Extends the reinsurance program, subject to federal approval of a new or extended state innovation waiver to enable the state to operate the reinsurance program and access federal funding for the program.

APPROVED by Governor June 30, 2020

This Act may be found in the 2020 Session Laws Chapter 201, Page 986


With regard to coverage under a health benefit plan for HIV infection prevention medications, the Act:

* Prevents a health insurance carrier from requiring a covered person undergo step therapy or to receive prior authorization before receiving HIV infection prevention drugs prescribed and dispensed by a pharmacist; and

* Requires carriers to reimburse a pharmacist employed at an in-network pharmacy for prescribing HIV infection prevention drugs to a covered person and to provide an adequate consultative fee to those pharmacists.

Additionally, the Act:

* Allows a pharmacist to prescribe and dispense HIV infection prevention drugs pursuant to a standing order or a statewide protocol if the pharmacist fulfills specific requirements;
* Directs the Department of Public Health and Environment to develop and implement a standing order for pharmacists to prescribe post-exposure HIV infection prevention drugs;

* Directs the State Board of Pharmacy, the Colorado Medical Board, and the State Board of Nursing, in collaboration with CDPHE, to develop statewide drug therapy protocols for pharmacists to prescribe and dispense HIV infection prevention drugs and the State Board of Pharmacy to promulgate rules to implement the protocols; and

* Expands the definition of "practice of pharmacy" to include the prescribing and dispensing of HIV infection prevention drugs and the ordering of laboratory tests in conjunction with prescribing or dispensing the drugs.

APPROVED by Governor July 13, 2020

This Act may be found in the 2020 Session Laws Chapter 281, Page 1374

H.B. 20-1158 Health insurance coverage - infertility diagnosis and treatment - fertility preservation services - exemption for religious employers - applicability contingent on determination by Insurance Division.

The Act establishes the "Colorado Building Families Act", which requires health benefit plans issued or renewed in Colorado on or after January 1, 2022, to cover diagnosis of infertility, treatment for infertility, and fertility preservation services. The coverage for fertility medications must not impose any limits that are not applicable to coverage under the plan for other prescription medications, and the plan cannot impose deductibles, copayments, coinsurance, benefit maximums, waiting periods, or other limitations that are not applicable to other medical services covered under the plan.

A religious employer may request an exclusion from the infertility coverage in a health benefit plan offered by the religious employer if the coverage conflicts with the religious organization's bona fide religious beliefs and practices.

The Act directs the Division of Insurance to make a determination as to whether the coverage required by the Act is in addition to essential health benefits required by the federal "Patient Protection and Affordable Care Act" (e.g., Affordable Care Act) and would be subject to defrayal by the state pursuant to the Affordable Care Act.

The DOI is to seek confirmation of its determination from the federal Department of Health and Human Services, and the coverage applies and is to be implemented by the DOI in health benefit plans issued or renewed on or after January 1, 2022, if the DOI receives confirmation that the coverage is not an additional benefit or if the federal DHHS fails to respond in a timely manner.

APPROVED by Governor April 1, 2020

This Act may be found in the 2020 Session Laws Chapter 106, Page 416
Professional and Occupational Licensing

H.B. 20-1215 Water and wastewater facility operators certification board - continuation under sunset law - definitions.

This Act implements the recommendations of the DORA in its sunset review of the Water and Wastewater Facility Operators Certification Board by:

* Extending the repeal date of the board until September 1, 2031;

* Amending the definition of "domestic wastewater treatment facility" by excluding small on-site wastewater treatment systems with a design capacity of 2,000 gallons or less per day, unless the system discharges directly to surface water;

* Amending the definition of "industrial wastewater treatment facility" by:
  ** Repealing the exclusion of facilities designed to operate for less than one year and facilities with in-situ discharges; and
  ** Adding an exclusion of construction dewatering activities that use only passive treatment and occur for less than one year;

* Creating a water and wastewater facility operators fund for fees that the board receives directly and uses for the exclusive use of the regulatory program; and

* Repealing an obsolete provision of law relating to a reorganization of the board on July 1, 2004.

APPROVED by Governor July 11, 2020  EFFECTIVE July 11, 2020

This Act may be found in the 2020 Session Laws Chapter 273, Page 1335

H.B. 20-1326 Occupational credential portability program - endorsement, reciprocity, or transfer of out-of-state profession or occupation credentials - exclusion for specified professions and occupations - modify military spouse exemption - rules.

This Act creates the occupational credential portability program in the Division of Professions and Occupations within DORA. The new program permits a member of a regulated profession or occupation from another jurisdiction to obtain licensure, certification, registration, or enrollment in the profession or occupation in this state by endorsement, reciprocity, or transfer.

The program is available to members of business and health care professions and occupations regulated by the Division and the regulatory boards in the division for which licensure, certification, registration, or enrollment by endorsement is permitted under current law; except that the following professions and occupations are specifically excluded from the program:

* Combative sports;

* Electricians;
* Fantasy contests;
* Mortuaries and crematories;
* Nontransplant tissue banks;
* Outfitters and guides;
* Passenger tramway operators;
* Plumbers;
* Private investigators;
* Direct-entry midwives; and
* Surgical assistants and surgical technologists.

Under the new program, the Director of the Division and most regulatory boards and commissions within the Division are required to strive to reduce certification, registration, licensure, and enrollment barriers for applicants and to adopt rules to establish the program in the least burdensome way necessary to protect the public.

The Act also relocates the existing occupational credential exemption for military spouses to the new occupational credential portability program and modifies the exemption by specifying that the exemption is valid for 3 years and applying the exemption to all members of business and health care professions and occupations regulated by the Division and the regulatory boards in the division.

APPROVED by Governor June 25, 2020
PORTIONS EFFECTIVE June 25, 2020
PORTIONS EFFECTIVE January 1, 2021

This Act may be found in the 2020 Session Laws Chapter 126, Page 527

Public Health - Perfluoroalkyl and Polyfluoroalkyl Substances (PFAS)
These new Acts are extensions and modifications of legislation from 2019 that sought to impact the incidence and cleanup of water supplies that are contaminated by PFA’s. It is very likely that there will be further legislation in 2021 to tighten down regulatory control over the use and disposal of PFA’s with the intent of preventing the chemicals from concentrating in aquifers. It would be consistent if the presence of PFA’s in aquifers might translate into the criteria for determining what is a high risk well.

S.B. 20-218 Fuel products fee - air quality control commission regulations - vapor collection system civil penalties - PFAS cash fund - PFAS grant program - PFAS takeback program.
This Act requires the Executive Director of the Department of Revenue to collect a fee equal to $25 per truckload for every manufacturer of fuel products who manufactures such products for sale within Colorado or who ships such products from any point outside of Colorado to a distributor within Colorado and every distributor who ships such products from any point outside of Colorado to a point within Colorado.

The fee is used primarily to:

* Fund the perfluoroalkyl and polyfluoroalkyl substances (PFAS) cash fund;

* Support the Department of Transportation in functions related to the administration of hazardous materials and safe and efficient freight movement and infrastructure in the state as well as infrastructure projects that enhance the safety of movement of freight and hazardous materials; and

* Support the Colorado State Patrol in the regulation of hazardous materials on highways in the state.

The Executive Director of the Department of Revenue is to stop collecting the fee for a fiscal year once he or she has collected $8 million of these fees for that fiscal year.

The Act creates the PFAS cash fund, which is used to fund the PFAS grant program, fund the PFAS takeback program, and provide technical assistance in locating and studying PFAS to communities, stakeholders, and regulatory boards or commissions.

The Act creates the PFAS grant program. The grant program provides funding for the sampling, assessment, and investigation of PFAS in ground or surface water; water system infrastructure used for the treatment of identified perfluoroalkyl and PFAS; and emergency assistance to communities and water systems affected by PFAS.

The Act creates the PFAS takeback program. The takeback program is used to purchase and dispose of eligible materials that contain PFAS.

The Act also requires CDPHE to report to the General Assembly annually on the use of the PFAS cash fund and the administration of the PFAS grant program and takeback program.

The Act establishes new civil penalties for owners or operators of storage tanks at gasoline dispensing facilities who violate requirements to maintain a vapor collection system and for owners and operators of gasoline dispensing facilities who violate requirements to maintain records.

The Act requires stakeholders from gasoline dispensing facilities and gasoline transport truck companies to collaborate with the Division of Administration in CDPHE in creating maintenance guidelines to assist owners and operators of gasoline dispensing facilities and gasoline transport trucks in complying with the requirements of air quality control commission regulations.

APPROVED by Governor June 29, 2020  EFFECTIVE June 29, 2020

This Act may be found in the 2020 Session Laws Chapter 141, Page 612
**H.B. 20-1042 Firefighting foam - manufacturer notice requirement.**

This Act clarifies House Bill 19-1279, concerning the use of perfluoroalkyl and polyfluoroalkyl substances. That Act required manufacturers of class B firefighting foam that contains intentionally added polyfluoroalkyl substances to notify, in writing, sellers of their products about the state's new regulations of these products "no less than one year prior to the effective date of section 25-5-1303". That requirement proved to be impossible to implement because the notice requirements did not exist prior to the bill's effective date on August 2, 2019. The act addresses this error by modifying the effective date of the required notice to prior to August 2, 2020.

APPROVED by Governor March 24, 2020  EFFECTIVE March 24, 2020

This Act may be found in the 2020 Session Laws Chapter 75, Page 312

---

**H.B. 20-1119 Firefighting foams - use and storage - certificate of registration - restrictions in aircraft hangars.**

This Act addresses the authority of the state government to regulate perfluoroalkyl and polyfluoroalkyl substances (also known as PFAS).

Section 1 of the Act addresses when PFAS may be used for firefighting foam system testing both in general and in certain aircraft hangars.

Section 2 requires the Solid and Hazardous Waste Commission to promulgate rules for both a certificate of registration for any facility, fire department, or lessee subject to federal rules and regulations that uses or stores PFAS in its operations and for standards for the capture and disposal of PFAS.

Section 3 prohibits the use of class B firefighting foam that contains intentionally added PFAS in certain aircraft hangars beginning January 1, 2023.

APPROVED by Governor June 29, 2020  EFFECTIVE June 29, 2020

This Act may be found in the 2020 Session Laws Chapter 139, Page 604

---

**Water**

Several of these Acts are not on point with respect to aquifers or well construction. However, they were selected to provide the members with an overview of issues that affect water supplies and water resource development.

**S.B. 20-25 Conservancy districts - boards of directors - powers.**

Current law authorizes the board of directors of a conservancy district to participate in the development of parks and recreational facilities within the district. This Act permits a board to consider such participation a current expense of the district. The Act also authorizes a board to participate in artistic and beautification projects that improve the aesthetic appearance of waterways within the district and to consider such participation a current expense of the district.
S.B. 20-48 Anti-speculation work group - report to water resources review committee.

Current law specifies that an appropriation of water cannot be based on speculation. Speculation may be evidenced by either of the following:

- The applicant for an appropriation of water does not have either a legally vested interest or a reasonable expectation of procuring such an interest in the lands or facilities to be served by the appropriation, unless the appropriator is a governmental agency or an agent in fact for the persons proposed to be benefitted by the appropriation; or

- The applicant does not have a specific plan and intent to divert, store, or otherwise capture, possess, and control a specific quantity of water for specific beneficial uses.

The Act requires the Executive Director of the Department of Natural Resources to convene a work group to explore ways to strengthen current anti-speculation law and to report to the Water Resources Review Committee by August 15, 2021, regarding any recommended changes. The work group is to consist of current or former employees of the DNR, the Attorney General's Office, and the Judicial Department as well as other stakeholders that the Executive Director of the DNR determines would be helpful to the work group process or work product.

It should be noted that due to the ongoing threat of COVID-19 that all interim committee activities were cancelled for this summer. The report required by this Act could still be prepared and submitted to the staff of the WRRC. It should also be noted that the Act calls for the report to be submitted by August 15, 2021 but because of the delayed adjournment sine die, the Act does not become effective until September 14, 2020.

S.B. 20-155 Well permits - domestic wells exempt from administration - presumption of noninjury remains after land divided.

Under current law, a well that is exempt from the State Engineer's administration and is used for domestic purposes is afforded a rebuttable presumption that the use of the well will not cause material injury to others' vested water rights or to any other existing well. If the land on which the exempt well is located is later divided into multiple parcels, the well loses that presumption. This Act maintains the presumption of noninjury to vested water rights or other wells when the land on which the well is located is later divided and use of the well continues to meet certain requirements.
**S.B. 20-201 Conservation of native species - appropriations from species conservation trust fund for species conservation projects.**

This Act is the annual appropriation and approval of program support for the preservation and conservation of native species. The Act appropriates $1.5 million from the Species Conservation Trust Fund for programs that are designed to conserve native species that state or federal law lists as threatened or endangered, that are candidate species, or that are likely to become candidate species as determined by the United States Fish and Wildlife Service, allocated as follows:

- Native terrestrial wildlife conservation, $454,505;
- Native aquatic wildlife conservation, $295,495;
- Platte river recovery implementation program, $670,000; and
- Selenium management, research, monitoring, evaluation, and control, $80,000.

APPROVED by Governor June 29, 2020  
EFFECTIVE June 29, 2020

This Act may be found in the 2020 Session Laws Chapter 151, Page 652

**H.B. 20-1037 Colorado water conservation board - water decreed for augmentation - use to augment stream flows.**

This Act authorizes the Colorado Water Conservation Board to augment stream flows to preserve or improve the natural environment to a reasonable degree by use of an acquired water right that has been previously quantified and changed to include any augmentation use, without a further change of the water right being required.

APPROVED by Governor March 24, 2020  
EFFECTIVE September 14, 2020

This Act may be found in the 2020 Session Laws Chapter 73, Page 306

**H.B. 20-1057 Forest Restoration and Wildfire Risk Mitigation Act - modifications to requirements affecting grants funding.**

This Act makes the several modifications to the existing "Forest Restoration and Wildfire Risk Mitigation Act" (known by the acronym “FRWRMA”) and, specifically, the grant program funded by FRWRMA:

Currently, grant applicants are required to self-finance 50% of the cost of a project funded by a grant. In the case of a project that is in an area with fewer economic resources, the Act lessens this requirement so that grant applicants are required to self-finance 25% of the total cost of the project. The Forest Service is required to establish a policy that specifies the criteria by which a project will satisfy such requirements.

In meeting the match requirements under FRWRMA, the Act specifies that a project may be funded in whole or in part from gifts, grants, or donations received from any organization, entity, or individual.

In measuring an in-kind contribution under FRWRMA, the Act specifies that such a contribution may include volunteer hours provided by the staff of an entity or organization applying for grant funding and the time for which staff receives monetary compensation in the form of salary or other financial benefits.
Permits a grant project eligible to receive funding to support ongoing maintenance efforts undertaken by eligible recipients to reduce the threat of large, high-intensity wildfires.

Eliminates an existing requirement that, to receive funding, a project must include a diverse and balanced group of stakeholders as well as appropriate governmental representatives. As part of the submission of grant applications, the Forest Service encourages applicants to include on their grant applications information that indicates whether the project satisfies these objectives.

Adds to the list of recipients eligible to receive grant funding a fire protection district and a nonprofit organization or entity engaged in firefighting or fire management activities.

Extends the date by which the grant program will be repealed to September 1, 2029.

In the Act, the General Assembly encourages the Forest Service to modify its administrative policies and procedures to enable funding to be provided to grant recipients in March to enable wildfire mitigation to commence before the prime wildfire season starts in June.

APPROVED by Governor March 24, 2020 EFFECTIVE September 14, 2020

This Act may be found in the 2020 Session Laws Chapter 78, Page 318

H.B. 20-1094 On-site wastewater treatment systems - local government permits - fee limit - repeal.
Current law requires that a local board of health set the permit fee for an on-site wastewater treatment system permit in an amount to recover the actual direct and indirect costs associated with the permit and sets a $1,000 cap on the fee.

This Act repeals the dollar limitation on the fee. Upon request, the local board of health must provide a permittee with a statement that specifies how the permit fee amount was calculated.

APPROVED by Governor March 11, 2020 EFFECTIVE September 14, 2020

This Act may be found in the 2020 Session Laws Chapter 20, Page 76

H.B. 20-1095 Local government master plans - water supply element to include water conservation policies - assistance from department of local affairs.
This Act specifies that a local government master plan that contains a water supply element must include water conservation policies, to be determined by the local government, which may include goals specified in the state water plan and policies that require implementation of water conservation and other state water plan goals as a condition of development approvals.

The Act authorizes the Department of Local Affairs to hire and employ a full-time employee to provide educational resources and assistance to local governments that include water conservation policies in their master plans.

APPROVED by Governor March 24, 2020 EFFECTIVE September 14, 2020

This Act may be found in the 2020 Session Laws Chapter 82, Page 331
**H.B. 20-1157 Colorado water conservation board - loaned water for instream flow use - use for preserving or improving natural environment - duration of loan - increased filing fee.**

Under current law, the Colorado Water Conservation Board, subject to procedural requirements established to prevent injury to water rights and decreed conditional water rights, may use loaned water for instream flows if the loaned water is used for preserving the natural environment of a stream reach that is subject to a decreed instream flow water right held by the board.

This Act expands the number of years within a 10-year period that a renewable loan may be exercised from 3 years to 5 years, but for no more than 3 consecutive years, and allows a loan to be renewed for up to 2 additional 10-year periods.

The Act limits the duration that an expedited loan may be exercised for up to one year, and prohibits an applicant from seeking additional expedited loans regarding a water right following an approved expedited loan of that water right.

The Act also expands the CWCB’s ability to use loaned water for instream flows to improve the natural environment to a reasonable degree pursuant to a decreed instream flow water right held by the board. In considering whether to accept a proposed loan, the board must evaluate the proposed loan based on biological and scientific evidence presented, including a biological analysis performed by the Division of Parks and Wildlife. The State Engineer is to review a proposed loan and must consider any comments filed by parties notified of the application in determining whether the loaned water will not cause injury to other vested or conditionally decreed water rights, decreed exchanges of water, or undecreed existing exchanges of water that were administratively approved before the date that the loan application was filed.

The filing fee is increased from $100 to $300. The CWCB is required to promulgate rules regarding the necessary steps for reviewing and accepting a loan for instream flow use to improve the natural environment to a reasonable degree.

The State Engineer's decision to approve or deny a proposed loan may be appealed to a water judge, who is required to hear and determine the matter on an expedited basis using the procedures and standards established for matters rereferred to the water judge by a water referee.

APPROVED by Governor March 20, 2020          EFFECTIVE September 14, 2020

This Act may be found in the 2020 Session Laws Chapter 52, Page 179

**H.B. 20-1159 Instream flows - subject to existing uses - confirmation of existing uses.**

Current law specifies that the Colorado Water Conservation Board's appropriation of water for instream flow purposes is subject to existing uses and exchanges of water. This Act directs the State Engineer, in administering current law, to confirm a claim of an existing use or exchange if the use or exchange has not previously been confirmed by court order or decree. The person making the claim may also seek confirmation by the water judge.

APPROVED by Governor April 1, 2020           EFFECTIVE September 14, 2020

This Act may be found in the 2020 Session Laws Chapter 101, Page 389
H.B. 20-1403 Colorado water conservation board construction fund - project and loan authorizations - appropriations - transfers - repeal of appropriation for water education.

This Act is the annual appropriation measure and approval of the construction projects selected by the Colorado Water Conservation Board. The Act appropriates the following amounts from the CWCB Construction Fund to the CWCB or the Division of Water Resources for the following projects:

* Continuation of the satellite monitoring system operation and maintenance, $380,000;
* Continuation of the Colorado floodplain map modernization program, $500,000;
* Continuation of the weather modification permitting program, $350,000;
* Continuation of the Colorado Mesonet project, $150,000;
* Acquisition of LIDAR data, $200,000;
* Continuation of the Arkansas river decision support system, $500,000;
* Continuation of the Colorado decision support system operation and maintenance, $500,000;
* Continuation of the water forecasting partnership project, $350,000;
* Creation of the Colorado water loss control initiative, $1,000,000;
* Continuation of the watershed restoration program, $4,000,000; and
* Continuation of the alternative agricultural transfer methods grant program, $750,000.

The State Treasurer is to make the following transfers from the CWCB construction fund:

* Up to $2,000,000 on July 1, 2020, to the litigation fund; and
* $1,000,000 on July 1, 2020, to the fish and wildlife resources fund.

The Act appropriates $7,500,000 to the CWCB to continue implementation of the state water plan from the CWCB construction fund to be used as follows:

* Up to $3,000,000 to facilitate the development of additional storage, artificial recharge into aquifers, and dredging existing reservoirs;
* Up to $1,000,000 for grant funding to implement long-term strategies for conservation, land use, and drought planning;
* Up to $500,000 for grants for water education, outreach, and innovation efforts;
* Up to $1,500,000 for agricultural projects; and for environmental and recreational projects.

The CWCB is authorized to make loans from the severance tax perpetual base fund or the CWCB construction fund:

* In an amount up to $23,230,000 to the Pueblo Conservancy District to bring levees up to FEMA standards;
* In an amount up to $17,250,800 to the Tunnel Water Company to rehabilitate the Laramie-Poudre tunnel; and

* In an amount up to $90,000,000 to the Southeastern Colorado Water Conservancy District to provide nonfederal cost-sharing funding for the Frying Pan-Arkansas project. $10,000,000 is also transferred from the Severance Tax Perpetual Base Fund to the CWCB construction fund and then appropriated from the CWCB Construction Fund for the 2020-21 state fiscal year to the CWCB to grant money to the Southeastern Colorado Water Conservancy District for the Frying Pan-Arkansas project.

Current law prohibits the CWCB from recommending treated water distribution systems to the General Assembly, and the Act removes the prohibition.

The Act extends the CWCB's water efficiency grant program to June 30, 2030.

The Act reduces the $1,700,000 appropriation made to the CWCB in the 2019-20 state fiscal year for stakeholder outreach and technical analysis regarding the development of a water resources demand management program to $833,258, which amount is available to the CWCB through the 2020-21 state fiscal year.

Current law authorizes an annual, continuous appropriation of $150,000 from the CWCB construction fund to the Colorado water conservation board for the ongoing operations of a water education foundation, which is currently known as Water Education Colorado. The Act repeals the continuous appropriation.

APPROVED by Governor June 29, 2020
EFFECTIVE June 29, 2020

This Act may be found in the 2020 Session Laws Chapter 150, Page 644

Taxation

H.B. 20-1420 Income tax - additions to federal taxable income - state calculation of federal net operating loss limitation - expansion of earned income tax credit - transfers to the state education fund.

This Act was a late bill that was pushed through the legislature by the exercise of leadership power. The bill was controversial as soon as it was made public and nearly every segment of taxpayers raised concerns and opposition to the bill. It was not until the Governor raised the possibility of a veto that the legislative leadership entertained amendments. The Act was introduced to generate revenue for selected state agencies and programs that were subject to budget reductions due to the adverse economic situation of the state.

The Act adopts a short title as the "Tax Fairness Act".

The Act requires taxpayers to add to federal taxable income:

* For income tax years ending on and after the enactment of the March 2020 "Coronavirus Aid, Relief, and Economic Security Act" (known as the CARES Act), but before January 1, 2021, and for income tax years beginning on and after the enactment of the CARES Act, but before January 1, 2021, an amount equal to the difference between a taxpayer's net operating loss deduction
as determined under federal law before the amendments made by section 2303 of the CARES Act and the taxpayer's net operating loss deduction as determined under federal law after the amendments made by section 2303 of the CARES Act;

* For income tax years ending on and after the enactment of the CARES Act, but before January 1, 2021, and for income tax years beginning on and after the enactment of the CARES Act, but before January 1, 2021, an amount equal to a taxpayer's excess business loss as determined under federal law without regard to the amendments made by section 2304 of the CARES Act, but with regard to the technical amendment made in that section of the CARES Act; and

* For income tax years commencing on or after January 1, 2021, but before January 1, 2023, an amount equal to the deduction for qualified business income for an individual taxpayer who files a single return and whose adjusted gross income is greater than $500,000, and for an individual taxpayer who files a joint return and whose adjusted gross income is greater than $1 million. This federal deduction may be claimed for income tax years commencing prior to January 1, 2026, except that the add-back is not required for a taxpayer who files a schedule F, profit or loss from farming, or successor form, as an attachment to a federal income tax return.

The Act specifies that for net operating losses incurred after December 31, 2017, the 80% limitation set forth in federal law applies without regard to the amendments made in section 2303 of the CARES Act.

The earned income tax credit is equal to a percentage of the federal earned income tax credit. The Act increases the percentage from 10% to 15% beginning in 2022.

The Act also specifies that for income tax years commencing on or after January 1, 2021, taxpayers filing with an individual taxpayer identification number are eligible for the earned income tax credit.

APPROVED by Governor July 11, 2020
EFFECTIVE July 11, 2020

This Act may be found in the 2020 Session Laws Chapter 277, Page 1358

_S.C.R. 20-1 Residential assessment rate - statewide proportion of residential property as compared to all other taxable property valued for property tax purposes - repeal the nonresidential property tax assessment rate of twenty-nine percent._

SCR20-001 is a proposed Constitutional amendment that will appear on the November ballot. It is a referred measure from the General Assembly, so it goes directly onto the ballot without any need to circulate petitions and qualify the measure.

The measure goes to the heart of what is commonly referred to as the “Gallagher Amendment.” The Gallagher Amendment establishes a statistical relationship between the assessed valuation for
residential and non-residential properties. The purpose of the amendment, and the way that it actually works in practice, is to shift property tax burdens from residential property to businesses.

Property tax in Colorado is generally equal to the actual value of property multiplied by an assessment rate, and the resulting assessed value is multiplied by each applicable local government’s mill levy. The assessment rate for residential real property is established by the General Assembly as limited by Section 20 of article X of the Colorado Constitution (commonly referred to as TABOR).

Under the Gallagher Amendment, there are 2 relevant classes of property for the purposes of determining the residential assessment rate: residential property and nonresidential property. The assessment rate for most nonresidential property is fixed in the state constitution at 29%. The residential assessment rate was initially set at 21%, but the rate has been adjusted prior to each 2-year reassessment cycle to keep the percentage of aggregate statewide assessed value attributable to residential property the same as it was in the year immediately preceding the new reassessment cycle.

Currently, the residential assessment rate is 7.15%. The concurrent resolution repeals the Gallagher Amendment so that the General Assembly will no longer be required to establish the residential assessment rate based on the formula expressed in the Gallagher Amendment.

The resolution also repeals the reference to the residential rate of 21%, which last applied in 1986 prior to the first adjustment required by the Gallagher Amendment.

Finally, the resolution repeals the 29% assessment rate that applies for all nonresidential property, excluding producing mines and lands or leaseholds producing oil or gas.

Appendix

<table>
<thead>
<tr>
<th>Bill Number</th>
<th>Subject</th>
<th>CWWCA Position</th>
<th>Final Disposition</th>
<th>Included in Compendium?</th>
</tr>
</thead>
<tbody>
<tr>
<td>SB20-008</td>
<td>Penalties for Water Quality Violations</td>
<td>Monitor</td>
<td>Postponed Indefinitely</td>
<td></td>
</tr>
<tr>
<td>SB20-024</td>
<td>Water Demand Management – Public Input</td>
<td>Monitor</td>
<td>Postponed Indefinitely</td>
<td></td>
</tr>
<tr>
<td>SB20-043</td>
<td>Out of Network Providers</td>
<td>Monitor</td>
<td>Signed by Governor</td>
<td>Yes</td>
</tr>
<tr>
<td>SB20-048</td>
<td>Study Anti-speculation Doctrine</td>
<td>Monitor</td>
<td>Signed by Governor</td>
<td>Yes</td>
</tr>
<tr>
<td>SB20-080</td>
<td>Consumer Protection Act Damages</td>
<td>Oppose</td>
<td>Postponed Indefinitely</td>
<td></td>
</tr>
<tr>
<td>SB20-084</td>
<td>Prohibit Mandatory Employee Vaccination</td>
<td>Oppose</td>
<td>Postponed Indefinitely</td>
<td></td>
</tr>
<tr>
<td>Bill No.</td>
<td>Title</td>
<td>Status</td>
<td>Action Taken by Governor</td>
<td></td>
</tr>
<tr>
<td>---------</td>
<td>-------</td>
<td>--------</td>
<td>--------------------------</td>
<td></td>
</tr>
<tr>
<td>SB20-096</td>
<td>Remote Notary Monitor</td>
<td>Signed by Governor</td>
<td>Yes</td>
<td></td>
</tr>
<tr>
<td>SB20-128</td>
<td>Construction Defects – Liability Monitor</td>
<td>Deemed Lost Under the Rules</td>
<td></td>
<td></td>
</tr>
<tr>
<td>SB20-153</td>
<td>Water Supply Funding Monitor</td>
<td>Postponed Indefinitely</td>
<td></td>
<td></td>
</tr>
<tr>
<td>SB20-155</td>
<td>Presumption of Noninjury Well – Divided Land Support</td>
<td>Signed by Governor</td>
<td>Yes</td>
<td></td>
</tr>
<tr>
<td>SB20-176</td>
<td>Neutral Interpretation Health Insurance Monitor</td>
<td>Signed by Governor</td>
<td>Yes</td>
<td></td>
</tr>
<tr>
<td>SB20-201</td>
<td>Species Conservation Project Funding Support</td>
<td>Signed by Governor</td>
<td>Yes</td>
<td></td>
</tr>
<tr>
<td>SB20-205</td>
<td>Employee Sick Leave Monitor</td>
<td>Signed by Governor</td>
<td>Yes</td>
<td></td>
</tr>
<tr>
<td>SB20-211</td>
<td>Debt Collection Monitor</td>
<td>Signed by Governor</td>
<td>Yes</td>
<td></td>
</tr>
<tr>
<td>SB20-212</td>
<td>Telemedicine Fees Monitor</td>
<td>Signed by Governor</td>
<td>Yes</td>
<td></td>
</tr>
<tr>
<td>SB20-214</td>
<td>Suspend Interim Committees Monitor</td>
<td>Signed by Governor</td>
<td>No</td>
<td></td>
</tr>
<tr>
<td>SB20-216</td>
<td>Workers Comp – COVID19 Oppose</td>
<td>Postponed Indefinitely</td>
<td></td>
<td></td>
</tr>
<tr>
<td>HB20-1037</td>
<td>Augmentation of Stream Monitor</td>
<td>Signed by Governor</td>
<td>Yes</td>
<td></td>
</tr>
<tr>
<td>HB20-1042</td>
<td>PFA Regulation Monitor</td>
<td>Signed by Governor</td>
<td>Yes</td>
<td></td>
</tr>
<tr>
<td>HB20-1048</td>
<td>Employment Discrimination – Hair Style Monitor</td>
<td>Signed by Governor</td>
<td>Yes</td>
<td></td>
</tr>
<tr>
<td>HB20-1069</td>
<td>Increase Water Well Inspectors Support</td>
<td>Deemed Lost Under the Rules</td>
<td></td>
<td></td>
</tr>
<tr>
<td>HB20-1072</td>
<td>Blockchain Applications for Water Monitor</td>
<td>Postponed Indefinitely</td>
<td></td>
<td></td>
</tr>
<tr>
<td>HB20-1089</td>
<td>Protection for Off-Duty Activities Oppose</td>
<td>Postponed Indefinitely</td>
<td></td>
<td></td>
</tr>
<tr>
<td>HB20-1094</td>
<td>Fee On-site Wastewater Treatment Monitor</td>
<td>Signed by Governor</td>
<td>Yes</td>
<td></td>
</tr>
<tr>
<td>HB20-1095</td>
<td>Water Elements in Master Plans Monitor</td>
<td>Signed by Governor</td>
<td>Yes</td>
<td></td>
</tr>
<tr>
<td>HB20-1119</td>
<td>Regulation of PFA Monitor</td>
<td>Signed by Governor</td>
<td>Yes</td>
<td></td>
</tr>
<tr>
<td>Bill Number</td>
<td>Description</td>
<td>Status</td>
<td>Signed by Governor</td>
<td>Result</td>
</tr>
<tr>
<td>-------------</td>
<td>--------------------------------------------------</td>
<td>--------------</td>
<td>--------------------</td>
<td>--------</td>
</tr>
<tr>
<td>HB20-1157</td>
<td>Loaned Water for Instream Monitor</td>
<td>Signed by Governor</td>
<td>Yes</td>
<td></td>
</tr>
<tr>
<td>HB20-1158</td>
<td>Insurance Coverage Infertility Treatment Monitor</td>
<td>Signed by Governor</td>
<td>Yes</td>
<td></td>
</tr>
<tr>
<td>HB20-1159</td>
<td>State Engineer Confirm Instream Flow Monitor</td>
<td>Signed by Governor</td>
<td>Yes</td>
<td></td>
</tr>
<tr>
<td>HB20-1172</td>
<td>No Abandonment of Water Right Due to Efficiencies Monitor Postponed Indefinitely</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>HB20-1215</td>
<td>Sunset Continuation of Water &amp; Wastewater Operators Monitor Signed by Governor Yes</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>HB20-1287</td>
<td>Create New Actions under Civil Rights Oppose Postponed Indefinitely</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>HB20-1326</td>
<td>Occupational Credential Portability Monitor Signed by Governor Yes</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>HB20-1327</td>
<td>Divert Water from Rio Grande Monitor Postponed Indefinitely</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>HB20-1344</td>
<td>Study Aquifer Recharge Monitor Postponed Indefinitely</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>HB20-1348</td>
<td>New Civil Liability Under Respondeat Superior Oppose Postponed Indefinitely</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>HB20-1403</td>
<td>CWCB Projects Bill Support Signed by Governor Yes</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>HB20-1414</td>
<td>Prohibit Price Gouging Following Disaster Monitor Signed by Governor Yes</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>HB20-1415</td>
<td>Whistleblower Protections for Public Health Monitor Signed by Governor Yes</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>