

## Differences resolved to pass South Platte River water bill

Written by K.C. Mason

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A new law allowing South Platte River well users to use leased water for payment of past depletions in decreed augmentation plans is being hailed as proof that groundwater and surface users can resolve their difference.

The heavy hitters attending a recent bill-signing news conference emphasized the importance of Senate Bill 147 to the agriculture economy of northeastern Colorado.

“We worked for a long time to find solutions to the challenges that actually pit neighbor to neighbor, friend against friend and sometimes towns and municipalities against farmers,” Gov. Bill Ritter said. “It’s one of the first issues I dealt with after taking office.”

Also speaking were State Agriculture Commissioner John Stulp and Department of Natural Resources Director Harris Sherman, who co-chaired the 2007 task force that Ritter appointed after hundreds of South Platte River wells were shut down.

“The unanimous vote (by the legislature) is indicative that we can have differences when it comes to water, but if we...respect each others’ interests and protect senior rights, we can help those people where a little bit of water will make a whole lot of difference in their livelihood,” Stulp said.

The measure, sponsored by Sen. Mary Hodge, D-Brighton, and Rep. Kevin Priola, R-Henderson, will allow groundwater irrigators to buy or lease water from wherever they can, including the Colorado-Big Thompson project, for use in substitute water plans that are recognized in water court.

Before the new law, well users could not get decreed water rights without paying back depletions from pumping between 1974, when wells were brought into the prioritization system, and 2003, when the Colorado Supreme Court ruled in the Empire Lodge case that the state engineer no longer could approve annual substitute plans.

“The key is that they won’t have to keep going back to water court to amend their augmentation plans, which is both costly and time consuming,” Sherman said.

A similar bill introduced late in last year’s legislative session was speedily killed because there was not enough time to address concerns that surface users with senior water rights would not be injured.

No such kumbaya moment has been reached, however, in the contentious debate over how to close a \$300 million hole in the state budget for next year.

The Senate on Monday passed and sent to the House a budget package that relies on a state takeover over of Pinnacol Assurance, which holds about 70 percent of the workmen’s compensation policies in the state.

By doing so, the state would get access to \$500 million of Pinnacol’s \$700 million surplus and not have to cut another \$300 million in state aid to higher education, which could lead to double-digit tuition increases and/or the closure of some community colleges.

“Pinnacol is a division of State of Colorado,” said Senate Majority Leader Brandon Shaffer, D-Longmont. “It does not pay taxes. Its board is appointed by the governor and confirmed by the Senate.”

Shaffer refuted Republican arguments that Pinnacol is a private company whose funds are derived from insurance policies purchased by private companies.

“This is not a pot of money that belongs to the state,” said Sen. Shawn Mitchell, R-Broomfield. “Since 2002, it’s been an independently run, privately-operated insurance company for the benefit of workers. Pinnacol can and will sue the state if we insist on following through with this unconstitutional power grab.”

The Republicans argued the legislature’s majority Democrats were offering a “false choice”

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between a raid on Pinnacol and funding higher education. They said smaller government should also have been on the table.

“While employers are laying off workers by the thousands, the Joint Budget Committee has submitted a budget that doesn’t ask a single state worker in our entire state government to make a single sacrifice,” said Senate Minority Leader Josh Penry, R-Grand Junction. “Not a single furlough day, not a single pay cut; not even a reduction in the number of paid state employees.”

After two hours of debate Monday, the Senate passed SB 281 on an 18-15 vote, with two senators not voting because of a declared conflict of interest. Hodge voted with the majority Democrats in approving the bill. Sen. Greg Brophy, R-Yuma was one of 13 Republicans to oppose it.

While Ritter remained silent on the Pinnacol debate, he issued a statement Monday saying higher education could not undergo any more cuts because it would endanger the drawdown of about \$760 million in federal stimulus money for both K-12 and college education.

“Clearly, it would be counter-productive to cut higher education by \$300 million only to lose the entire \$760 million in Stabilization Funds,” Ritter said. “I will continue working with the JBC and the legislature to close the budget gap. This includes ongoing discussions with Pinnacol Assurance and exploring other ways to close the remaining \$300 million budget gap.”