

Tail docking bill killed in House

Written by Marianne Goodland, State Capitol reporter

Facing certain defeat on the floor of the Colorado House, the sponsors of a bill to ban tail docking of dairy cattle have thrown in the towel. House Bill 13-1231 would have banned the rare practice of tail docking of dairy cattle, unless performed under anesthetic and by a licensed veterinarian.

Rep. Steve Lebsock (D-Thornton) sponsored HB 1231. The Humane Society of the United States also supported HB 1231; the group has pushed for other states to pass similar legislation in the last several years.

Less than a handful of dairy operations in cattle still conduct the practice, with only one, Empire Farm in Morgan County, publicly identified. However, Empire's owner, Norm Dinis, noted that his farm produces the highest quality milk in the state and is the largest supplier to LePrino Foods in Greeley. Dinis did not return calls for comment on the bill's defeat.

Last week, bill sponsors admitted defeat, acknowledging there were enough Democrats to vote against the bill on the House floor. House Majority Leader Rep. Dickey Lee Hullinghorst (D-Boulder) asked the House to postpone the bill until May 10, the day after the legislative session ends, in effect killing the bill.

Rep. Jerry Sonnenberg (R-Sterling), who led the fight to defeat the bill, said one of the bill's big problems is in enforcement. The bill sets up a \$500 fine for violations, but they are not criminal violations, and the bill does not say whether it's per cow or per operation. "I don't know how you get sheriffs to go to each individual dairy and say, 'Are you tail docking today?'" Sonnenberg said.

"If you truly cared about animals, you'd eliminate tail docking in all animals," including clipping dogs' ears, he explained. "This wasn't about animal safety and cruelty; this was about HSUS shooting at one segment of agriculture."

Lebsock said he hopes to bring the bill back next year. "I'm looking forward to working with the ag industry in finding ways for us to come together to do away with a practice that most folks agree needs to stop happening. It's unneeded, unnecessary and painful for the animal."

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In other action at the capitol:

The Senate moved quickly last week to approve the 2013-14 state budget. Senate Bill 13-230 and seven accompanying bills were introduced on March 25, debated the legislation on March 27 and received final votes on March 28, with all Democrats in support and all Republicans opposed.

The state's budget for 2013-14 is \$21.9 billion, including \$6.6 billion in general funds (revenue from sales and income taxes), \$5.6 billion in federal funds and \$6.6 billion in cash funds (revenue from user fees).

The budget reflects an increase of \$1.6 billion over the 2012-13 budget as approved by the 2012 General Assembly. The budget provides for a 2 percent increase in pay for state employees, the first raise in four years; and funding boosts for higher education and K-12 education, areas where dollars have been cut in the past several years.

A water projects bill that is routinely passed by the General Assembly every year has turned into a battle between state water officials and agricultural interests.

SB 181 is the annual list of projects to be funded by the General Assembly under the direction of the Colorado Water Conservation Board. The CWCB this year requested \$32 million for a dozen projects, money that comes mostly from oil and gas royalties and severance taxes. The bill is a "formality," according to its sponsor, Rep. Randy Fischer (D-Fort Collins), chair of the House Agriculture, Livestock and Natural Resources Committee that heard the bill on March 18.

Not so fast, said representatives of rural water districts and agricultural groups.

The CWCB can acquire water and water rights in order to "preserve and improve" instream flows, the natural environment of the state's lakes and streams. The CWCB's authority to improve those lakes and streams was granted under a law passed in 2002. In 2008, the CWCB

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got an annual appropriation of \$1 million to acquire water rights to minimally “preserve” the lakes and streams, but it did not allow for “improving” those habitats.

That would change under SB 181. The bill would allow the CWCB to use that annual appropriation to improve the lakes and streams, which opponents claimed could expand instream flow rights and possibly require acquisition of senior water rights. Most of those senior water rights are held by agricultural interests, and that’s what makes some water districts and ag groups nervous.

CWCB Director Jennifer Gimbel told the ag committee that when they look at improving an instream flow, they seek expert opinion from the state Parks and Wildlife Department and ask if more water will help improve the lake or stream. The process is identical to the one CWCB uses for preserving an instream flow, she explained.

The bill, in its entirety, got strong support from several water districts and Colorado Trout Unlimited. Jen Boulton of Trout Unlimited explained the difference between “preserve” and “improve,” the sticking point in the bill’s language. “Preserve” only allows for keeping the water that’s already there, she explained. Streams are already over-appropriated and the only way to get the environment back to “what it should be” is if water can be used to “improve” the natural habitat.

That raised question from ag committee members on just how far back in time the CWCB should go to determine when a habitat is considered “improved.” Boulton replied that there was no specific period in time.

Many witnesses found it difficult to oppose the bill; all cited the section on “improving” the instream flows as the problem and noted their groups had always supported the construction project bill in the past. That included Don Shawcroft of Colorado Farm Bureau, who said the bill’s language on improving instream flow “is a step in a direction we cannot support,” because of where the water comes from. If it is purchased with tax dollars, agriculture is the place where that water comes from, Shawcroft said.

Former State Sen. Bruce Whitehead, now director of the Southwestern River Conservation District, said the term “improve” is too ambiguous. There are other fund sources that could be

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used for those purposes, he said, and he also pointed out that the state “has a policy to limit dry-up of agriculture lands.” That provides an incentive for the CWCB to take some of those lands out of production, he said. Buying up agricultural land should be “the last thing we should do.”

CWCB Chair John McClow disputed the claims made by some witnesses. “We don’t go shopping for water,” McClow told the ag committee.

The issue of acquiring water rights for habitat improvement has come up only once, in his district, the Upper Gunnison. In that case, a municipal water district wanted to acquire an irrigation water right that was for sale and divert it to a municipal purpose.

However, the district wanted to leave the water in the ditch and make the diversion at a lower point in the stream, which would improve the habitat. The CWCB did not have the authority to provide funds for that purpose, because the funds were limited to preservation of the minimum instream flow, not for improving it. The Colorado Water Trust stepped in to make the deal happen, McClow explained. “We’re not putting ads in the paper that say ‘sell us your water rights,’” McClow said.

Sonnenberg asked the ag committee to support an amendment that would remove the disputed section, stating it should be contained in a separate bill. The ag committee approved that request and sent SB 181 on to the House Appropriations Committee.

According to Sonnenberg, negotiations are ongoing about whether that section will go back into the bill when it gets to the House floor.

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