

MEMORANDUM



JOINT BUDGET COMMITTEE

TO Members of the Joint Budget Committee
FROM Justin Brakke, JBC Staff (303-866-4958)
DATE May 7, 2020
SUBJECT Addendum to the Department of Natural Resources Balancing Document

SUMMARY OF STAFF BUDGET BALANCING RECOMMENDATIONS FOR LONG BILL

→ REMOVE FUNDING R3 SOUTH PLATTE RIVER WATER ACCOUNTING COORDINATOR

JBC ACTION AS OF 3/16/20: The Committee approved staff's recommendation for an increase of \$74,101 General Fund to support the addition of 1.0 FTE in the Division of Water Resources.

RECOMMENDATION: **Staff recommends removing the funding for this decision item.**

ANALYSIS:

Key Considerations: New FTE for FY 2020-21

In light of the current budget situation, staff recommends removing the funding for this request. OSPB supports this decision.

SUMMARY OF RECOMMENDATIONS/OPTIONS REQUIRING STATUTORY CHANGE

→ INCREASE CASH FUND REVENUE IN THE DIVISION OF WATER RESOURCES

JBC ACTION AS OF 3/16/20: None

OPTION:

- 1 Increase fees in the Division's Groundwater Management Program, which could generate between \$3.0 and \$3.8 million cash fund revenue annually. The Groundwater Management Program costs between \$6.0-7.0 million annually. **Legislation is required to increase fees.**
- 2 If the Committee chooses to sponsor legislation, staff recommends:
 - a. Reducing General Fund appropriations by \$2.0 million for FY 2020-21. This reduction would occur in the Division's Water Administration line item.
 - b. Increasing cash fund appropriations to the same line item by \$2.0 million.
- 3 For the Water Resources Cash Fund (WRCF), staff also recommends a three-year exemption from the 16.5 percent statutory reserve requirement.

ANALYSIS:

PROPOSED BILL

The proposed bill increases fees in the Division of Water Resources. These fee increases are modeled on Senate Bill 09-216 (Increase Cash Funds Division of Water Resources), which was a JBC-sponsored balancing bill that ultimately failed. The bill passed through the Senate, but was laid over indefinitely on Second Reading in the House. Fee increases in the current proposal, modeled on S.B. 09-216, are shown in the following table.

PROPOSED FEE INCREASES			
FEE		FROM (\$)	TO (\$)
New well		\$100	\$665
Replacement well (exempt)		60	365
Replacement well (nonexempt)		100	665
Late registration of exempt well		100	365
Geothermal permits (new, change or expand existing)		480	665
Determine Denver basin ground water right		60	760
Well drilling extension		60	305
Substitute water supply plan		300	2,000
Replacement substitute plan		100	600
Review of dam plans		3 dollars for each \$1,000 of estimated cost of structure with a maximum of \$3,000	4% of first \$100,000; 3% of the next \$400,000; 2% of the next \$500,000; 0.5% of the cost in excess of \$1.0 million.

PURPOSE IS TO PAY FOR PROGRAM COSTS

Increased fees could defray about half of the cost of the Groundwater Management Program (GMP). This program costs about \$6.0-7.0 million annually and is supported by about 65.0 FTE. There are two reasons that increased fees may be appropriate: (1) The cost of the program exceeds fee revenue, and (2) Many of these fees have been static since FY 2006-07.

The GMP has two major components: well permitting and groundwater administration. Well permitting staff evaluate well permits to determine whether water is available for appropriation and whether diversion of water will cause injury to vested water rights. Groundwater administration FTE monitor the permit and use for the life of the well.

LARGEST IMPACT ON PRIVATE HOMEOWNERS

The vast majority of new fee revenue would be generated by applications for new well permits; private homeowners make up about 80.0 percent of those applications. The total cost of constructing and developing a domestic well can be anywhere between \$10,000 and \$75,000. Even with the proposed fee increases, user fees to DWR make up a relatively small portion of the overall cost of a well project.

CASH FUND REVENUE GENERATED BY PROPOSAL: \$3.0-3.8 MILLION

The table on the following page shows the revenue that would have been generated by the proposed fee increases in FY 2018-19. In other words, if the fee structure in the proposed bill was in place in FY 2018-19, the Division of Water Resources would have generated \$3.79 million in fee revenue. This revenue would be deposited into the Water Resources Cash Fund, which is the fund that would support refinancing. The \$3.79 million figure excludes the small portion of those fees that would go to the Well Inspection Cash Fund, which is more restrictive in how its funds are used.

HYPOTHETICAL CASH FUND REVENUE GENERATED BY PROPOSED FEE INCREASES, FY 2018-19				
FEE	PROPOSED INCREASE TO WATER RESOURCES CASH FUND	NUMBER OF APPS, PERMITS, ETC.	TYPICAL APPLICANTS	TOTAL
New well	\$565	\$5,109		\$2,886,585
Replacement well (exempt)	\$305	390	≈80% exempt or small capacity wells for private homeowners	\$118,950
Replacement well (nonexempt)	\$565	123		\$69,495
Late registration of exempt well	\$265	354	Private homeowners	\$93,810
Geothermal permits (new, change or expand existing)	\$185	25	Small domestic users	\$4,625
Determine Denver basin ground water right	\$700	260	≈ 80% private landowners with small domestic uses	\$182,000
Well drilling extension	\$245	161		\$39,445
Substitute water supply plan	\$1,700	148	Municipalities and agricultural users	\$251,600
Replacement substitute plan	\$500	27		\$13,500
Review of dam plans				\$128,500
Total				3,788,510

REFINANCING LONG BILL APPROPRIATIONS

REDUCE GENERAL FUND APPROPRIATIONS FOR DWR WATER ADMIN BY \$2.0 MILLION

This recommendation reflects uncertainty about the willingness of future applicants to pay increased fees, especially during a period of broader economic decline. If revenues exceed \$2.0 million, the Committee may consider additional reductions in future years. A reduction in General Fund revenue should be paired with an equal increase in cash fund appropriations, leading to a net zero refinancing in the Division of Water Resources

CASH FUND WAIVER: THREE-YEAR EXEMPTION FROM RESERVE REQUIREMENT

A three-year exemption from the 16.5 percent maximum reserve requirement will allow the Division to hold onto excess revenue without being penalized. Staff believes this is a cleaner option than an alternative maximum reserve. Three years gives both the Division and the Committee time to evaluate fee revenue and adjust appropriations accordingly.

OVERLAP WITH H.B. 20-1069 (ADD WATER WELL INSPECTORS IDENTIFY HIGH-RISK WELLS)

The House Appropriations Committee referred the bill, as amended, to the House Committee of the Whole on March 13, 2020. The bill is sponsored by Representatives Saine and Titone, and Senators Sonnenberg and Crowder.

The bill requires DWR to employ a minimum of four water well inspectors in DWR's water well inspection program. These inspectors would identify and prioritize high-risk wells. The bill also increases all well permit fees by \$35 and deposits that increase into the Well Inspection Cash Fund to support the 4.0 FTE required by the bill. The fiscal impact of the bill in FY 2020-21 is \$143,789.

The proposed balancing bill (LLS 20-1206.01) has a safety clause and would take effect on July 1, 2020. However, H.B. 20-1069 does not have a safety clause and would have a later effective date. Therefore, if both bills passed today, the fee increases in H.B. 20-1069 would supersede those in the proposed balancing bill. **The fee increases in the proposed balancing bill can support the policy in H.B. 20-1069, but the fee increases in H.B. 20-1069 cannot support the policy in the proposed balancing bill, which is to refinance General Fund appropriations with cash funds.**