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NEW LAWS OF INTEREST - 2023

COLORADO WATER WELL CONTRACTORS' ASSOCIATION

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Introduction

This compendium of new laws enacted during the 2023 legislative session includes a select subset of the new laws that have particular relevance to the members of the Colorado Water Well Contractor's Association. The Colorado Revised Statutes and the Session Laws are organized by subject matter. A particular subject may have several new laws but only the ones with interest to the CWWCA are included in this compendium.

The structure of Colorado state and local governments has many governmental entities and agencies. Some are general purpose governmental entities while others are special governmental entities. It is common for a statute to list several types of these governmental entities but not necessarily all of them. Sometimes the list is provided as a type of "including but not limited to" so that the provisions of the law will apply to all governmental entities. At other times, this list is meant to exclude any governmental entity that is not on the list. This can become confusing for Title 32 special districts that are sometimes considered local governments but not always. Several of the new laws apply to local governments but Title 32 districts are not always identified as being a type of governmental entity that the law clearly applies to. To avoid inadvertently running into noncompliance issues, it is highly recommended that the legal counsel for any Title 32 district be consulted with respect to applicability of the law.

The compendium includes only new laws and does not include nor refer to legislation which was introduced but either failed to get enacted or was vetoed by the Governor.

The compendium is organized into topical areas in order to display the relevant new laws in that category rather than a sequential list of new laws by number. This organizational design does not follow that used by Legislative Legal Services which is based on the structure of the Colorado Revised Statutes. Rather it is organized by subject and collects new laws that address that subject.

The compendium does not include appropriations or supplemental appropriations measures. Some new laws, however, may include certain appropriations and spending authorities and those are identified where appropriate.

The compiler of this compendium is not an attorney, and these descriptive summaries should not be relied upon as a legal analysis or opinion. Questions of a legal nature should be referred to an attorney with knowledge of the subject matter of the new law. The descriptions of the new laws include the effective date. There is also a cross reference to the official 2023 Session Laws that includes the full text of the new law. Session Laws may be found online by accessing the website of

the Colorado General Assembly and following the menu prompts to select the Office of Legislative Legal Services.

The Session Laws provide important additional information concerning new laws. It has become increasingly common for bills to be drafted with a Legislative Declaration that does not become part of the permanent Colorado Revised Statutes. These non-numbered legislative declarations have also become increasingly lengthy and detailed. As an example, the Legislative Declaration to SB23-213 (Land Use and Zoning Powers of the State) was 23 pages long in the introduced version of the bill. These non-numbered legislative declarations are printed in the Session Laws and are a valuable resource for understanding the context and intent of the legislature in enacting the accompanying law.

It is also important to note that it is not uncommon for a new law to require a regulatory agency to promulgate rules and regulations to further the law and to provide more specific guidance concerning its requirements. However, an agency may not promulgate rules and regulations until the law goes into effect. Thus, if a new law has an effective date of say January 1, 2024, the affected agency cannot promulgate rules and initiate the formal rule making process until that date. Rule makings are very specific with respect to time frames, public notice, public hearings and other legal requirements. That is not to say that an agency could not engage in drafting or preparation of rules that will be considered or to organize stakeholder participation groups in anticipation of the formal rule making process. Agency rule makings are noticed through the Secretary of State's office and there is an email notification process for those who are interested in tracking a particular agency.

During the 120-calendar day session of 2023, a total of 311 bills were introduced into the House and 306 were introduced into the Senate for a total of 617 bills. Of that total, the House passed 224 (72%) while the Senate passed 260 bills (85%). The two chambers taken together passed 484 of the bills that were introduced for a 78.4% passage rate. The number of bills introduced and passed was not unusual for legislatures of recent years. The statistics are a bit misleading. They include all bills that were introduced. That total includes many bills that are supplemental appropriations to adjust the current fiscal year budget and the satellite bills that accompany the annual long appropriations bills. To have a better picture of the number of substantive bills introduced, the appropriations bills should be discounted.

The Governor signed 473 bills into law and vetoed 10. The Governor allowed one bill to become law without his signature.

There were 2 measures that were referred to the voters.

Civil Rights

HB23-1057: Amenities for All Genders in Public Buildings

HB23-1057 becomes effective on August 7, 2023, in the absence of a citizen filed referendum petition.
HB23-1057 may be found in the 2023 Session Laws at Chapter 254, Page 226

Effective January 1, 2024, the act requires each newly constructed building and each building with qualifying restroom renovations that is wholly or partly owned by a state department, state agency, state institution of higher education, county, city and county, or municipality to:

- Provide a non-gendered restroom facility or a multi-stall non-gendered facility on each floor where restrooms are available in a newly constructed building and wherever a restroom is accessible to the public in a building in which a restroom is being renovated;
- Ensure that all single-stall restrooms are not gender specific restrooms;
- Allow for the use of multi-stall restrooms by any gender if certain facility features are met under the International Plumbing Code and the Colorado Fuel Gas Code;
- Provide at least one safe, sanitary, and convenient baby diaper changing station that is accessible to the public on each floor where there is a public restroom in a newly constructed building and wherever a restroom is accessible to the public in a building in which a restroom is being renovated, in each gender-specific restroom if only gender-specific restrooms are available, and in each non-gendered single-stall or multi-stall restroom or provide such a changing station in an easily accessible location with equivalent privacy and amenities as a restroom;
- Ensure that each baby diaper changing station is cleaned with the same frequency as the restroom in which it is located, or restrooms on the same floor or in the space if it is not within a restroom, and maintained, repaired, and replaced as necessary to ensure safety and ease of use.

Beginning July 1, 2024, but no later than July 1, 2026, a building that is wholly or partially owned or leased by a public entity must ensure that signage for the building or the portion of the building leased or owned by the public entity complies with the following signage requirements, subject to available appropriations:

- Include signage indicating the presence of a baby diaper changing station with a pictogram that is void of gender in all restrooms with baby diaper changing stations, include signage with a pictogram void of gender in all non-gendered restrooms, and include signage with a pictogram void of gender in all single-stalled restrooms; and
- Indicate in the central building directory, if such a directory exists, the location of any baby diaper changing station and of any non-gendered restroom with a pictogram void of gender.

The act requires the Department of Personnel to complete a survey that determines the number and locations of signs needed to comply with the act signage requirements and requires the survey be provided to the General Assembly and the Capital Development Committee. The requirements of the act pertaining to baby diaper changing stations and providing a non-gendered single-stall restroom or a non-gendered multi-stall restroom in specified locations do not apply:

- To the extent that compliance with a requirement would result in failure to comply with applicable building standards governing the right of access for individuals with disabilities;
- To a project that has already progressed through the design review process, budgeting, and final approval by the governing body that has final approval over capital construction project

expenditures as of the effective date of the act, or to a building designated as a certified historic structure.

Beginning on July 1, 2025, the act requires a building that is wholly or partially owned by a public entity that is a newly constructed building that is accessible to employees or enrolled students, or a building undergoing a qualifying restroom renovation to:

- Provide a non-gendered single-stall restroom or a non-gendered multi-stall restroom;
- Ensure that any single-stall restroom is not a gender-specific restroom; and
- Allow the use of a multi-stall restroom by any gender if certain facility features are met pursuant to the International Plumbing Code or the Colorado Fuel Gas Code as adopted by the state plumbing board.

The act clarifies that an employee with a designated workplace in a public building may undertake the complaint process for alleged discriminatory or unfair practices including the failure to comply with providing the required amenities to all genders, as required, with the Colorado civil rights division charged with the enforcement of the Colorado anti-discrimination act.

Common Ownership Communities – Homeowner Associations

This category of newly enacted laws has been added this year. It bridges several different areas of policy including water supply and conservation, property rights, consumer protections and other emerging issues. Some common ownership communities have organized into metropolitan districts for the provision of services and financing. With more than 10,000 common ownership communities throughout the state, legislative interest in tempering HOA prerogatives with owner and tenant rights is expected to increase significantly in coming sessions.

HB23-1105: Create a Task Force to study owner rights.

HB23-1105 became effective on May 24, 2023
HB23-1105 may be found in the 2023 Session Laws at Chapter 255, Page 266

HB23-1105 creates the HOA homeowners' rights task force and the metropolitan district homeowners' rights task force in the Division of Real Estate.

The director of the Division (or the director's designee) serves as the chair of both task forces.

Members of the HOA task force must be designated or appointed on or before August 1, 2023. The HOA task force is required to:

- Study issues confronting HOA homeowners' rights, including homeowners' associations' fining authority and practices, foreclosure practices, communications with homeowners, and the availability and method of making certain documents available to HOA homeowners in the association;
- Review HOA homeowners' complaints and relevant state and federal laws related to common interest communities;

- Review a representative sample of governing documents, governance policies, financial information, and collections and legal activities; and
- Develop initial findings and conclusions, including legislative recommendations, and, on or before April 15, 2024, prepare a final report. The Department of Regulatory Agencies must publish the initial findings and conclusions and final report on its website. The HOA task force must submit copies of the final report to the metro district task force, certain legislative committees, and the Governor.

Members of the metro district task force must be designated or appointed on or before November 1, 2023. The metro district task force is required to:

- Study issues confronting metropolitan district homeowners' rights, including metropolitan district boards' tax levying authority and practices, foreclosure practices, communications with homeowners, governance policies, and the process by which a metropolitan district could transition into a common interest community; and
- On or before March 1, 2024, prepare an interim report and, on or before June 15, 2024, a final report regarding its findings and conclusions, publish the reports on the Department of Regulatory Agencies website, and submit copies of the reports to certain legislative committees and the Governor.

SB23-178: Water Conservation – Homeowner Associations

SB23-178 becomes effective on August 7, 2023, in the absence of a citizen filed referendum petition.
SB23-178 may be found in the 2023 Session Laws at Chapter 207, Page 262

Under current law, a unit owners' association of a common interest community may not prohibit the use of xeriscape, nonvegetative turf grass, or drought-tolerant vegetative landscapes to provide ground covering to property for which a unit owner is responsible. There is, however, an exception authorizing an association to adopt and enforce design or aesthetic guidelines or rules that apply to nonvegetative turf grass and drought-tolerant vegetative landscapes or to regulate the type, number, and placement of drought-tolerant plantings and hardscapes that may be installed on a unit owner's property, on a limited common element, or on other property for which the unit owner is responsible.

SB23-178 states that an association's guidelines or rules must:

- Not prohibit the use of nonvegetative turf grass in the backyard of a unit owner's property;
- Not unreasonably require the use of hardscape on more than 20% of the landscaping area of a unit owner's property;
- Allow a unit owner an option that consists of at least 80% drought-tolerant plantings; and
- Not prohibit vegetable gardens in the front, back, or side yard of a unit owner's property.

SB23-178 requires an association to develop at least 3 garden designs that are preapproved by the association for installation in front yards within the common interest community. To receive preapproval, a garden design must adhere to the principles of water-wise landscaping or be part of a water conservation program operated by a local water provider.

A unit owner who is affected by an association's violation of the act's requirements may, after providing the association notice of and a 45-day period to cure the violation, bring a civil action to restrain further violation and to recover up to $500 or actual damages, whichever is greater.

The provisions of SB23-178 apply only to a unit that is a single-family detached home and do not apply to:

- A unit that is a single-family attached home that shares one or more walls with another unit; or
- A condominium.

Employer – Employee Relations

As this compendium was being prepared, the US Supreme Court handed down a significant decision concerning affirmative action in the case of *Students for Fair Admissions v. Harvard*. At almost the same time, the US Supreme Court handed down a decision regarding employer accommodation of the religious beliefs of employees in the case of *Goff v. DeJoy*.

The new laws included in this section of the compendium were each enacted without the influence and debate of either the *DeJoy* or *Harvard* decisions. It is almost a certainty that the two decisions will spawn litigation that involves employers and the policies that they have adopted over the years to address patterns of racial prejudice in hiring as well as employment practices. While *Harvard* focused on admissions in the higher education sector, it seems unlikely that the underlying principles will not be used in other areas of contemporary American life. *DeJoy*, however, did not address racial discrimination and affirmative action. It focused on employment requirements that impose a burden on employees.

Employers should consult with their legal counsel concerning these two decisions and review their employment practices and policies to determine if revisions are warranted. We can expect the 2024 session of the Colorado General Assembly to see several bills precipitated by *Harvard* and *DeJoy*.

HB23-1045: Leave from employment for military service- public employee or officer- private employee- length of leave- use of paid leave.

HB23-1045 became effective March 10, 2023
HB23-1045 may be found in the 2023 Session Laws at Chapter 17, Page 232

HB23-1045 clarifies that a member of the Colorado National Guard or any other component of the military forces of the state who is an officer or employee of a public employer is entitled to a leave

of absence from employment for training or active state military service for the equivalent of 3 weeks of work on the officer's or employee's regular work schedule each year.

The officer or employee is entitled to use any paid leave available to the officer or employee or to use unpaid leave.

The act clarifies that a member of the Colorado National Guard or the reserve forces of the United States who is an employee of a private employer is entitled to a leave of absence from employment in order to receive military training with the United States armed forces for the equivalent of 3 weeks of work on the employee's regular work schedule each year. The employee is entitled to use any paid leave available to the employee or to use unpaid leave for the employee's period of absence for military training.

The act clarifies that a private employee is entitled to use any paid leave available to the employee or to use unpaid leave in order to engage in active service in the Colorado National Guard.

The act repeals the requirement that a public employee or officer not be physically or mentally disabled in order to be reinstated to the employee or officer's public position following a leave of absence for active military service.

HB23-1271: Recognition of Lunar New Year

SB23-1271 becomes effective August 7, 2023, in the absence of a citizen filed referendum petition.
HB23-1271 may be found in the 2023 Session Laws at Chapter 335, Page 149

The act designates Lunar New Year Day as an observed, but not a legal, state holiday that may be observed on the first Friday in February in each year.

SB23-017: Paid sick leave- additional uses.

SB23-017 becomes effective on August 7, 2023, in the absence of a citizen filed referendum petition.
SB23-017 can be found in the 2023 Session Laws at Chapter 313, page 219.

SB23-017 allows an employee to use accrued paid sick leave when the employee needs to:

- Care for a family member whose school or place of care has been closed due to inclement weather, loss of power, loss of heating, loss of water, or any other unexpected occurrence or event that results in the closure of the family member's school or place of care;
- Grieve, attend funeral services or a memorial, or deal with financial and legal matters that arise after the death of a family member; or
- Evacuate the employee's place of residence due to inclement weather, loss of power, loss of heating, loss of water, or any other unexpected occurrence or event that results in the need to evacuate the employee's residence.

SB23-053: Restrict Nondisclosure Agreements – Local Governments

SB23-053 becomes effective on August 7, 2023, in the absence of a citizen filed referendum petition.
SB23-053 may be found in the 2023 Session Laws at Chapter 320, Page 121

SB23-053 prohibits the state, counties, cities and counties, municipalities, school districts, and any of their departments, institutions, or agencies from making it a condition of employment that an applicant for employment or current or past employee executes a contract or other form of agreement that prohibits, prevents, or otherwise restricts the employee from disclosing factual circumstances concerning the employee's employment with the public employer unless the nondisclosure agreement is necessary to prevent disclosure of:

- The employee's identity, facts that might lead to the discovery of the employee's identity, or factual circumstances relating to the employment that reasonably implicate legitimate privacy interests held by the employee who is a party to the agreement if the employee elects to restrict such disclosure;
- Data, information, including personal identifying information, or matters that are required to be kept confidential by federal law or regulations, the state constitution, state law, state regulations, state rules, or a court of law or as attorney-client privileged communications, privileged work product, communications related to a threatened or pending legal or administrative action, or materials related to personnel or regulatory investigations by the employer;
- Information bearing on the specialized details of security arrangements or investigations, including security arrangements for or investigations into elected officials or other individuals, physical infrastructure, or cybersecurity;
- Information derived from communications of the employer related to threatened or pending legal or administrative action;
- Discussions that occur in an executive session authorized by the "Colorado Open Meetings Law";
- Trade secrets or other confidential or sensitive information provided to or made accessible to the employee by a current or prospective contractor, vendor, or grantee or as part of a public-private partnership or entity working with the state as part of an economic development activity;
- Trade secrets or information derived from trade secrets or proprietary information of the employer;
- Information and records not subject to disclosure under the "Colorado Open Records Act" (CORA); or
- Trade secrets owned by the employer.

For a public employer that is the state or a department, institution, or agency of the state, a nondisclosure agreement is also allowed if it is necessary to prevent disclosure of:

- Nonpublic and confidential labor relations positions and strategies;
- Attorney work product;
- Vendor lists and vendor preferences;

- State business-related information received from a third party that the third party has designated confidential; or
- Information and matters related to state active-duty orders of national guard soldiers and airmen and personnel disputes subject to the jurisdiction of the United States Department of Defense;

For a public employer that is a county, a city and county, a municipality, or a department, institution, or agency of a county, a city and county, or a municipality, a nondisclosure agreement is also allowed if it is necessary to prevent disclosure of:

- Trade secrets or other confidential or sensitive information provided to or made accessible to the employee by an employer's current or prospective customer, contractor, lessee, lessor, business partner, or affiliate; or
- Trade secrets or other confidential or sensitive information provided to or made accessible to the employee by a purchaser or seller of property that is engaged in negotiations or under contract with the employer.

The act further specifies that any provision in any contract or agreement that amounts to a nondisclosure agreement is deemed to be against public policy and unenforceable against an employee of a public employer who is a party to the contract or agreement unless the provision is intended to prevent disclosure of any information or matters for which an exception to the general prohibition against nondisclosure agreements for the public employer applies.

The act prohibits a public employer from taking any materially adverse employment-related action, including withdrawal of an offer of employment, discharge, suspension, demotion, or discrimination in the terms, conditions, or privileges of employment, against an employee on the grounds that the employee does not enter into a contract or agreement deemed to be against public policy and unenforceable under the act.

The act also states that the taking of a materially adverse employment-related action after an employee has refused to enter into such a contract or agreement is prima facie evidence of retaliation and that any public employer that enforces or attempts to enforce a contract or agreement provision deemed by a court to be against public policy and unenforceable under the act is liable for the employee's reasonable attorney fees and costs in defending against the action.

The act requires an action to enforce a provision of the act to be brought in the district court for the district in which the employee is primarily employed. A settlement agreement between an employer that is subject to the act and an employee of the employer must be signed by both the employer and the employee.

A nondisclosure agreement must not prohibit the release of information required to be released under CORA. In addition, a nondisclosure agreement executed by a public employer that is the state or a department, institution, or agency of the state and an employee must state that state employees are protected from retaliation for disclosure of information about state agencies that are working outside the public interest. A public employer may require an employee to enter into a nondisclosure agreement with a third party in the employee's official capacity and on behalf of the employer.

SB23-058: Employment Applications – Prohibited Questions

SB23-058 becomes effective on August 7, 2023, in the absence of a citizen filed referendum petition.
SB23-058 may be found in the 2023 Session Laws at Chapter 323, page 220.

Effective July 1, 2024, SB23-058 prohibits employers from inquiring about a prospective employee's age, date of birth, and dates of attendance at or date of graduation from an educational institution on an initial employment application.

An employer may request an individual to verify compliance with age requirements imposed pursuant to or required by:

- A bona fide occupational qualification pertaining to public or occupational safety;
- A federal law or regulation; or
- A state or local law or regulation based on a bona fide occupational qualification.

SB23-058 allows an employer to request or require an individual to provide additional application materials, including copies of certifications, transcripts, and other materials created by third parties, at the time of an initial employment application if the employer notifies the individual that the individual may redact information that identifies the individual's age, date of birth, or dates of attendance at or graduation from an educational institution.

The Department of Labor and Employment is charged with enforcing the requirements of the act and may issue warnings and orders of compliance for violations and, for second or subsequent violations, impose civil penalties. A violation of the restrictions does not create a private cause of action. The Department is directed to adopt rules regarding procedures for handling complaints against employers.

Housing, Land Use, Building Regulations, Zoning

HB23-1255: Regulate Local Housing Growth Restrictions- Preemption

HB23-1255 becomes effective on August 7, 2023, in the absence of a citizen filed referendum petition.
HB23-1255 may be found in the 2023 Session Laws at Chapter 448, Page 113

HB23-1255 preempts any existing local governmental entity housing growth restriction that explicitly limits either the growth of the population in the local governmental entity's jurisdiction or the number of development permits or building permit applications for residential development or the residential component of any mixed use development submitted to, reviewed by, approved by, or issued by a governmental entity for any calendar or fiscal year and forbids the enactment or enforcement of any such future local housing growth restriction unless the governmental entity has experienced a disaster emergency, has developed or amended land use plans or land use laws covering residential development or the residential component of a mixed-use development, or is extending or acquiring public infrastructure, public services, or water resources. A governmental

entity that experiences one of these events may implement a growth cap for up to 24 months in a 5-year period.

Open Meetings – Open Records

SB23-286: Access to Government Records

SB23-286 becomes effective on August 7, 2023, in the absence of a citizen filed referendum petition.
SB23-286 may be found in the 2023 Session Laws at Chapter 406, Page 189

SB23-286 makes the following changes to the "Colorado Open Records Act" (CORA):

- Prohibits a custodian of public records from requiring a requester to provide any form of identification to request or inspect records pursuant to CORA unless a requester is otherwise required to provide identification pursuant to law;
- Clarifies that if a public record is available in a digital format that is searchable, the custodian is required to provide a digital copy of the record in a searchable format unless otherwise requested by the requester;
- Specifies that if a public record is available in a digital format, the custodian is required to transmit copy of the record in a digital format by electronic mail or by another mutually agreed upon transmission method if the size of the record prevents transmission by electronic mail;
- Prohibits a custodian from converting a digital record into a non-searchable format prior to transmission;
- Allows a custodian to deny a requester's right to inspect the telephone number or home address that a person provides to an elected official, agency, institution, or political subdivision of the state for the purpose of future communication with the elected official, agency, institution, or political subdivision of the state;
- Notwithstanding specified provisions of law, makes certain records of sexual harassment complaints made against an elected official and the results or report of investigations regarding alleged sexual harassment by an elected official available for inspection if the investigation concludes that the elected official is culpable for any act of sexual harassment;
- Requires each member of the General Assembly, the Governor's office and each office of the governor, and each state agency and institution to submit, on or before January 1, 2024, a report to the staff of the Legislative Council of the General Assembly outlining its respective electronic mail retention policy;
- Prohibits a custodian from charging a per-page fee for providing copies of a public record if the record is provided in a digital or electronic format; and
- Requires a custodian to allow records requesters to pay any fee or deposit associated with the request via a credit card or electronic payment if the custodian allows members of the public to pay for any other service or product provided by the custodian with a credit card or electronic payment.

Special Districts

HB23-1005: Colorado new energy improvement district- resiliency and water efficiency improvements

HB23-1005 becomes effective on August 7, 2023, in the absence of a citizen filed referendum petition. HB23-1005 may be found in the 2023 Session Laws at Chapter 12, Page 117

The commercial property assessed clean energy program (C-PACE) is part of the new energy improvement program. C-PACE allows owners of eligible real property to apply to the Colorado new energy improvement district to finance certain energy efficiency improvements.

The act allows owners to also apply to the district to finance resiliency improvements and water efficiency improvements. Additionally, when the district approves a C-PACE application, an owner consents to the district levying a special assessment on an owner's eligible real property. Current law requires the district to notify district members and existing lienholders about the special assessment and the availability of a hearing to resolve any complaints or objections. After a hearing, current law further requires the district to pass a resolution resolving any complaints or objections. The act eliminates the requirements for the district to give notice about a hearing, conduct a hearing, and pass a resolution resolving complaints or objections. Instead of notifying district members and existing lienholders about the availability of a hearing, the act requires the district to send a notice of assessment, which specifies the amount of the special assessment to be levied on the eligible real property and explains that the special assessment constitutes a lien against the eligible real property.

HB23-1023: Special district construction contracts- notice threshold- inflation adjustment.

HB23-1023 becomes effective on August 7, 2023, in the absence of a citizen filed referendum petition. HB23-1023 may be found in the 2023 Session Laws Chapter 22, Page 118

Public notice for bids on special district construction contracts is currently required when the contract cost is $60,000 or more. The act increases the notice threshold to $120,000 or more and requires the amount to be adjusted for inflation every 5 years.

SB23-110: Transparency Metropolitan Districts

SB23-110 becomes effective on August 7, 2023, in the absence of a citizen filed referendum petition. SB23-110 may be found in the 2023 Session Laws at Chapter 52, Page 117

For a proposed metropolitan district that submits a service plan to one or more boards of county commissioners or one or more governing bodies of a municipality on or after January 1, 2024, the service plan is required to include:

- The maximum mill levy that may be imposed for the payment of general obligation indebtedness, as determined by the board of county commissioners of each county that is approving the service plan or the governing body of each municipality that is approving the service plan, as applicable; and
- The maximum debt that may be issued by the metropolitan district, as determined by the board of county commissioners of each county that is approving the service plan or the governing body of each municipality that is approving the service plan, as applicable.

In addition to any other meetings held by the board of directors of a metropolitan district, beginning in the 2023 calendar year, the board is required to hold an annual meeting if the metropolitan district was organized after January 1, 2000, has residential units within its boundaries, and is not in inactive status. The board is prohibited from taking any official action at the annual meeting and shall ensure that the annual meeting includes a presentation from the metropolitan district regarding the status of public infrastructure projects within the metropolitan district and outstanding bonds, if any, a review of unaudited financial statements showing the year-to-date revenue and expenditures of the metropolitan district in relation to its adopted budget for that calendar year, and an opportunity for members of the public to ask questions about the metropolitan district.

In addition, the board is required to provide a public comment period during the separate meeting at which the board adopts the annual budget for the metropolitan district.

Prior to issuing debt to a director of a metropolitan district or to an entity with respect to which a director of a metropolitan district must make a disclosure pursuant to current law, the board is required to receive a statement of a registered municipal advisor certifying that specified limits on the maximum interest rate of the debt have been met.

On and after January 1, 2024, the seller of residential real property that is located within a metropolitan district is required to provide the purchaser of the property with the official website established by the metropolitan district. The seller is required to provide the information on the Colorado Real Estate Commission approved seller's property disclosure.

Taxation – Property

This newly enacted law is included because of the potential fiscal and financial effects on property owners and public entities that are recipients of property tax revenues. SB23-303 is a ballot issue that was referred to the voters by the General Assembly in waning hours of the 2023 session. As a referred measure, it cannot become effective unless a majority of the voters approve the measure at the 2023 general election. Odd year elections are generally restricted to TABOR and fiscal matters.

SB23-303: Referred Measure Concerning the Taxation of Property

SB23-303 became effective May 24, 2023, but contingent upon the outcome of the 2023 election. SB23-303 can be found in the 2023 Session Laws at Chapter 258, page 286.

NOTE: For a detailed analysis of this ballot measure, please refer to the official Blue Book summary that is prepared by Legislative Council staff and is mailed to each registered voter prior to the election.

SB23-303 requires the Secretary of State to refer a ballot issue to voters at the November 2023 election. Most of the act only becomes effective if the voters approve the ballot issue.

Beginning with the 2023 property tax year, SB23-303 (if enacted by the voters) establishes a limit on specified property tax revenue for local governments, excluding those that are home rule and school districts, that is equal to inflation above the property tax revenue from the prior property tax year. A local government may establish a temporary property tax credit up to the number of mills necessary to prevent the local government's property tax revenue from exceeding the limit. Alternatively, the governing board may approve a mill levy that will cause the local government to exceed the limit if the governing board approves the mill levy at a public meeting that meets certain criteria.

SB23-303 temporarily reduces the valuation for assessment for certain subclasses of nonresidential and residential property for the property tax years 2023 through 2032 and creates the new subclass of renewable energy agricultural land, which is a subclass of nonresidential property.

SB23-303 also establishes the residential real property subclasses of primary residence real property and qualified-senior primary residence real property and establishes administrative procedures related to the classification that are based on the procedures for the homestead exemption, with those procedures expanded to treat civil union partners like spouses.

Several property tax deadlines for the 2023 property tax year would be delayed because of the possible valuation reductions that are contingent on the 2023 ballot. County assessors are required to provide information to taxpayers about the new valuations for assessment and the application process for primary residence real property and qualified-senior primary residence real property.

SB23-303 modifies an existing mechanism designed to reimburse local governmental entities for property tax revenue reductions by extending the backfill through 2032, incorporating the lost revenue due to the act, clarifying how the reimbursement is determined, excluding local governmental entities that have a certain amount of growth in assessed value, capping the total amount of state backfill, and eliminating the cap on the amount of excess state revenues that may be used for the reimbursements for the 2023 property tax year.

In the event the voters approve the referred ballot issue, which the act requires to be called "proposition HH", then the state will be authorized to retain and spend revenues up to the proposition HH cap, the amount of which is determined under the act. The ability of the General Assembly to continue retaining and spending this money after the fiscal year 2031-32 is contingent on the General Assembly enacting future valuation reductions.

The amount retained under this authority is first used in the following fiscal year to backfill certain local governments for the reduced property tax revenue as a result of the property tax changes in the act and Senate Bill 22-238 and then up to $20 million for the

amount of property taxes that are paid as a portion of a tenant's rent. Any remaining amounts are to be transferred to the state education fund to offset the revenue that school districts lose as a result of the property tax changes.

Water, Water Rights and Administration

HJR23-1007: Annual Approval Water Projects Funding

NOTE: This measure is not a new law. Rather, it is a Joint Resolution. It is not included in the publication of the Session Laws. The Joint Resolution is the annual legislative review of the proposed financing of water projects approved and adopted by the Colorado Water Resources and Power Development Authority. It became effective on signature of the Governor.

HB23-1125: Conveyance of water rights- groundwater wells- modifications to registration requirements.

HB23-1125 becomes effective on August 7, 2023, in the absence of a citizen filed referendum petition.
HB23-1125 may be found in the 2023 Session Laws, Chapter 47, Page 309

Current law requires that the owner of a groundwater well permit file any change in name or contact information with the state engineer in person, by mail, or by fax. The act removes the requirement that the filing be in person, by mail, or by fax.

Current law requires the buyers of certain wells to complete a change in owner name form before the closing of the transaction. The act removes the requirement that the form be submitted before the closing of the transaction.

The act clarifies that if an existing well being sold has not been registered with the division of water resources, the buyer of the well must submit a registration of existing well form to the division within 63 days after closing the transaction.

Current law states that the division is responsible for obtaining the necessary well registration information from the buyer after the purchase of a well. The act removes this requirement and clarifies that a person who provides a closing service in connection with the purchase of a well must submit a change in owner name form for the well to the division, even if the well has not yet been registered with the division. If a change in owner name form does not include a well permit number, the act requires the division to instruct the buyer of a well to complete a new change in owner name form or registration of existing well form and requires the buyer to submit the applicable form to the division.

HB23-1220: Study Economic Impact Groundwater Pumping Curtailment – Republican River

HB23-1220 became effective June 3, 2023
HB23-1220 may be found in the 2023 Session Laws at Chapter 342, Page 310

Since 1942, Colorado has been a participant in an interstate compact with Nebraska and Kansas regarding the allocation of water, from the Republican River basin. Colorado ratified the compact in 1943.

In 2016, Colorado, Nebraska, and Kansas signed a resolution regarding a dispute about Colorado's compliance with the compact, through which resolution and its amendment Colorado agreed to retire 25,000 acres of irrigated acreage in the basin by 2029.

HB23-1220 requires the Colorado Water Center in the Colorado State University to study the anticipated economic effects of the forced elimination of groundwater withdrawals within and surrounding the Colorado portion of the Republican River basin that could occur if Colorado fails to comply with the resolution. The Water Center is required to prepare a progress report and, on or before January 1, 2026, a final report of the Water Center's findings and conclusions from the study and to post both reports on the Water Center's website. The Water Center must present the progress and final reports to the General Assembly

HB23-1274: Species Conservation Trust Fund Approved Projects

HB23-1274 became effective June 5, 2023
HB23-1274 may be found in the 2023 Session Laws at Chapter 385, Page 150

HB23-1274 appropriates $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 or that are candidate species or are likely to become candidate species for such listing as determined by the United States Fish and Wildlife Service.

Of the $5 million, HB23-1274 allocates:

- $750,000 for native terrestrial wildlife conservation,
- $1,500,000 for native aquatic wildlife conservation,
- $2,200,000 for the upper Colorado river endangered fish recovery program and the San Juan River basin recovery implementation program,
- $50,000 for selenium management, research, monitoring, evaluation, and control, and
- $500,000 for the federal endangered species act litigation program.

SB23-010: Water Resources & Agriculture Review Committee Procedures

SB23-010 becomes effective on August 7, 2023, in the absence of a citizen filed referendum petition.
SB23-010 may be found in the 2023 Session Laws at Chapter 14, Page 106

SB23-010 removes a reference to the Water Resources and Agriculture Review Committee being an interim committee and removes an outdated reference to past legislation in the legislative declaration. The SB23-010 also removes limitations on the number of meetings and the number

of field trips the committee may hold in a calendar year and requires the committee to meet at least 4 times during each calendar year.

SB23-057: County Treasurer – Mutual Irrigation Districts

SB23-057 becomes effective January 1, 2024
SB23-057 may be found in the 2023 Session Laws at Chapter 53, page 107.

County treasurers have been *ex-officio* district treasurers for drainage districts, irrigation districts, and internal improvement districts that provide services related to drainage and ditches. The act removes the duty of the county treasurer to be the *ex-officio* district treasurer and requires district treasurers to be appointed by the board of directors of the district. The act also clarifies that the former duties of the county treasurer as the *ex-officio* district treasurer are now solely duties of the district treasurer.

Additionally, the act clarifies that irrigation district assessments and internal improvement district assessments are distributed in alignment with current law for the distribution of assessments collected by county treasurers and updates the amount of fees a county treasurer can charge and receive for collecting drainage and irrigation district assessments to 0.25% upon all money collected by the county treasurer for assessments beginning on and after January 1, 2026.

SB23-092: Agrivoltaics

SB23-092 becomes effective on August 7, 2023, in the absence of a citizen filed referendum petition.
SB23-092 may be found in the 2023 Session Laws at Chapter 218, page 2.

In support of the use of agrivoltaics, which is the integration of solar energy generation facilities with agricultural activities, the act authorizes the Agricultural Drought and Climate Resilience Office to award grants for new or ongoing demonstration or research projects that demonstrate or study the use of agrivoltaics.

The Colorado Water Conservation Board, in consultation with the State Engineer, the Colorado Energy Office, and the Colorado Water Institute, is required to study the feasibility of using floato-voltaics, which are solar energy generation facilities placed over, near, or floating on irrigation canals or reservoirs.

On or before January 1, 2025, the Board must submit a written report of its findings and conclusions from the study to the legislative committees of reference with jurisdiction over agricultural matters. The director of the Division of Parks and Wildlife is required to consult on the impacts on wildlife of:

- Any research projects for which the office awards money to study the use of agrivoltaics; and
- A project that the board finances to study the feasibility of using floato-voltaics in the state.

The act exempts certain agrivoltaic equipment from property taxation if the equipment is used in the required manner. The act amends the statutory definition of "solar energy facility", used in

determining the valuation of public utilities for property tax purposes, to include agrivoltaics and floato-voltaics.

The act requires the Commissioner of Agriculture to study greenhouse gas reduction and carbon sequestration opportunities in the agricultural sector, including soil health management practices, the use of dry digesters, and the potential for creating and offering a certified greenhouse gas offset program and credit instruments in the agricultural sector. To perform the study, the Commissioner must consult with the Colorado Energy Office, the Air Quality Control Commission, the natural and working lands task force, the Colorado State Forest Service, and an institution of higher education with expertise in climate change mitigation, adaptation benefits, and other environmental benefits related to agricultural research.

On or before October 1, 2024, the Commissioner must submit to the General Assembly a progress report on the study and, on or before October 1, 2025, a final report, which must include any legislative and regulatory recommendations.

The Commissioner, in consultation with the Colorado Energy Office and the Air Quality Control Commission, may adopt rules to implement recommendations from the study that do not require legislative changes. Any greenhouse gas offset program or other greenhouse gas reduction and carbon sequestration program or mechanism that the Commissioner establishes in rule must not mandate participation by agricultural producers.

SB23-150 Disposable wipes- labeling required- violations.

SB23-150 becomes effective on August 7, 2023, in the absence of a citizen filed referendum petition.
SB23-150 may be found in the 2023 Session Laws at Chapter 63, Page 161

Starting December 31, 2023, the act requires the following entities to label packages of premoistened, nonwoven disposable wipes with the phrase "Do Not Flush":

- A manufacturer of a covered product that is sold or offered for sale in this state; and
- A wholesaler, supplier, or retailer that is responsible for the labeling or packaging of a covered product.

The act outlines the parameters to which the labeling must adhere in order to comply with applicable state and federal requirements and specifies that a violation of the requirements of the act is a deceptive trade practice under the "Colorado Consumer Protection Act".

SB23-177: Annual Funding- CWCB Construction Projects

SB23-177 became effective June 5, 2023
SB23-177 may be found in the 2023 Session Laws at Chapter 383, Page 308

SB23-177 is the annual law that approves the list of recommended projects adopted by the CWCB. SB23-177 appropriates the following amounts for the 2023-24 state fiscal year from the Colorado

Water Conservation Board Construction Fund to the CWCB or the Division of Water Resources for the following projects:

- Continuation of the satellite monitoring system, $380,000;
- Continuation of the floodplain map modernization program, $500,000;
- Continuation of the weather modification permitting program, $500,000;
- Continuation of the watershed restoration program, $500,000;
- Continuation of the Colorado Mesonet project, $150,000;
- Continuation of the weather forecasting partnership project, $1,000,000;
- Support for the Division of Water Resources mobile field data collection application project, $800,000;
- Continuation of the reservoir enlargement assessment project, $1,000,000;
- Support for the central Colorado water conservancy district augmentation efficiency project, $3,000,000; and
- Support for the state water plan advancement project, $2,000,000.

SB23-177 directs the State Treasurer to transfer the following amounts on July 1, 2023, from the severance tax perpetual base fund to the CWCB construction fund, and appropriates those amounts from the CWCB construction fund to the CWCB for the following projects:

- Continuation of the Platte River recovery implementation program, $19,000,000;
- Support for the upper Colorado river endangered fish recovery program and the San Juan river basin recovery implementation program, $15,000,000; and
- Additional and continued support for the Frying Pan - Arkansas project, $20,000,000.

SB23-177 also directs the State Treasurer to transfer the following amounts from the CWCB construction fund on July 1, 2023:

- $2,000,000 to restore the fish and wildlife resources fund;
- Up to $2,000,000 to the CWCB litigation fund to assist in addressing legal issues associated with compact compliance and other litigation activities; and
- $2,000,000 to the water plan implementation cash fund for continuation of the water plan implementation grant program.

SB23-177 further appropriates $25,200,000 of sports betting revenues from the water plan implementation cash fund to the CWCB to fund grants that will help implement the state water plan.

The act appropriates $8,000,000 from the Wildlife Cash Fund to the Division of Parks and Wildlife to purchase up to 924 acre-feet of orphan shares from the CWCB as part of the Chatfield Reservoir reallocation project.

SB23-270: Restoration of Natural Stream Systems

SB23-270 becomes effective on August 7, 2023, in the absence of a citizen filed referendum petition.
SB23-270 may be found in the 2023 Session Laws at Chapter 384, Page 247

SB23-270 states that the following projects within a natural stream system for certain restoration purposes do not cause material injury to a vested water right and are not an unnecessary dam or other obstruction:

- A stream restoration project that is limited to certain minor restoration activities; and
- A stream restoration project that has obtained any applicable permits or is under construction or completed by August 1, 2023.

SB23-270 prohibits the owner or proponent of a stream restoration project from installing the stream restoration project in a manner that adversely affects water diversion or measurement structures without the permission of the owners of the structures.

SB23-295: Create Colorado River Task Force

SB23-295 became effective May 20, 2023
SB23-295 may be found in the 2023 Session Laws at Chapter 230, Page 309

The act creates the Colorado river drought task force. The members of the task force must, to the extent practicable, reflect the racial and ethnic diversity of the state and have experience with a wide range of water issues.

The act directs the Executive Committee of the Legislative Council to hire a facilitator to support the work of the task force. The task force must begin meeting no later than July 31, 2023, and may hold up to 12 meetings in the 2023 legislative interim. The purpose of the task force is to develop recommendations for state legislation that provides additional tools for the Colorado Water Conservation Board to collaborate with the Colorado River Water Conservation District, the Southwestern Water Conservation District, and other relevant stakeholders in the development of programs that address drought in the Colorado river basin and interstate commitments related to the Colorado river and its tributaries through water conservation.

The act also requires the task force to establish a sub-task force to study tribal matters and provide additional recommendations for state legislation.

No later than December 15, 2023, the task force and sub-task force must submit a report that includes the recommendations and a summary of the task force's and sub-task force's work to the Water Resources and Agriculture Review Committee.

The act is repealed July 1, 2024.