



HB18-1199

SHORT TITLE: Aquifer Storage and Recovery Plans

LONG TITLE: Concerning a process for the ground water commission to use for approving aquifer storage-and-recovery plans, and, in connection therewith, requiring that the ground water commission promulgate rules governing its implementation of the process.

SPONSORS: Rep. Catlin/Sen. Coram

PURPOSE OF THE BILL: To authorize the Groundwater Commission to approve Aquifer Storage and Recovery (ASR) plans and to make rules concerning the criteria for granting ASR in the designated basins. Aurora is considering an ASR project in the Lost Creek Basin (the southern portions of which are within the boundaries of the City of Aurora) and will use fully reusable tributary water in the ASR project. This bill will allow Aurora to propose changes to the 5.6/5.8 rulemaking that makes ASR feasible in the designated basins.

PROPOSERS OF THE BILL: Aurora Water

POTENTIAL STAKEHOLDERS: Other water users in the designated basin

BACKGROUND: Thanks to Steve Sims for providing the following background on this bill. The Groundwater Commission is currently doing a rule-making concerning replacement plans and Aquifer Storage and Recovery (ASR) plans. This is the so-called 5.6/5.8 rulemaking. The GWC has an existing stand-alone rule on ASR, but has agreed to reexamine the rule on 5.6 due to previous controversies. In the stakeholder meeting in advance of the formal rulemaking, some stake holders argued that the Groundwater Commission did not have authority to adopt ASR rules in the designated basin. As a result, staff has proposed to delete 5.8 and treat ASR as a sub-set of replacement plans. Aurora will argue in the 5.6/5.8 rulemaking that the Groundwater Commission should not delete rule 5.8 (the existing ASR rule) and make all ASR plans a sub-set of replacement plans. Aurora has no problem with replacement plans seeking to use ASR in a rule 5.6 plan as a part of a replacement plan to allow increased diversions by permitted designated basin wells, but not all ASR plans need de-watering wells that are also permitted to withdraw designated basin water. One important motivation for Aurora is that any water that is used in a replacement plan becomes designated basin water and designated basin water is subject to export approval. Aurora contends that ASR projects storing imported water should not need approval to export the recoverable volume of water they have stored in an ASR project.

Is this bill necessary this year? Yes, if the authority is to be used in the current rulemaking.

How does the bill change current law? The Groundwater Commission would have expanded rulemaking authority to deal with ASR in other designated basins outside the Denver Basin. New rules set by the Commission will make additional changes which cannot be fully anticipated until rulemaking is completed. The bill calls for the Groundwater Commission to set rules and a form by which a person

may seek approval of a storage and recovery plan within a designated basin. The bill requires the Commission to approve a plan which meets the requirements of Article 90 and Commission rules; however, the ASR plan may not be a vehicle to avoid compliance with existing well limits.

Does the bill affect the prior appropriations system? Will exporting the water affect prior appropriations?

How is the bill implemented? The Commission will devise new rules using its new authority.

Practical considerations: Extending the time and cost of rulemaking for other parties?

Fiscal Impact: No fiscal impact; the rules will be set within existing appropriations.