

SENATE JOURNAL
 Sixty-fourth General Assembly
STATE OF COLORADO
 Second Regular Session

Twenty-third Legislative Day Thursday, January 29, 2004

- Prayer 10
 By the chaplain, Reverend Kelby Cotton, South Suburban Christian Church. 11
- Pledge 12
 By Senator Fitz-Gerald. 13
- Call to 14
 Order 15
 By the President at 9:00 a.m. 16
- Roll Call 17
 Present--32. 18
 Absent/Excused--3; Gordon, Hagedorn, Johnson. 19
 Present later--Gordon. 20
- Quorum 21
 The President announced a quorum present. 22
- Reading of 23
 Journal 24
 On motion of Senator Jones, reading of the Journal of January 28, 2004, was 25
 dispensed with and the Journal was approved as corrected by the Secretary. 26

COMMITTEE OF REFERENCE REPORTS

- Agriculture, 30
 Natural 31
 Resources, & 32
 Energy 33
 After consideration on the merits, the Committee recommends that **SB04-101** be amended 34
 as follows, and as so amended, be referred to the Committee on Business Affairs and 35
Labor with favorable recommendation. 36

Amend printed bill, page 2, strike lines 4 through 25 and substitute the following: 37

"38-35.7-102. Disclosure of nonrenewable water source. 38

(1) ON AND AFTER JULY 1, 2005, EVERY CONTRACT FOR THE PURCHASE 39
 AND SALE OF RESIDENTIAL REAL PROPERTY, THE SOURCE OF WATER FOR 40
 WHICH INCLUDES NONRENEWABLE GROUND WATER, SHALL CONTAIN A 41
 DISCLOSURE STATEMENT IN BOLD-FACED TYPE THAT IS CLEARLY LEGIBLE 42
 AND IN SUBSTANTIALLY THE FOLLOWING FORM: 43

"THE SOURCE OF WATER FOR THIS REAL 44
ESTATE INCLUDES NONRENEWABLE GROUND 45
WATER FROM: A WELL; OR A WATER 46
PROVIDER, WHICH CAN BE CONTACTED AS 47
FOLLOWS: STREET AND MAILING ADDRESS: 48

TELEPHONE 49
IF YOU HAVE QUESTIONS ABOUT THE 50
ADEQUACY OF YOUR WATER SUPPLY, 51
INCLUDING WHETHER YOU OR YOUR 52
PROVIDER MAY NEED TO DEEPEN YOUR WELL, 53
DRILL A NEW WELL, OR FIND A NEW SOURCE OF 54
WATER, YOU MAY WANT TO CONTACT YOUR 55
WATER PROVIDER OR A WELL TESTING OR 56
DRILLING CONTRACTOR."57

(2) THE OBLIGATION TO PROVIDE THE DISCLOSURE SET FORTH IN 58
 SUBSECTION (1) OF THIS SECTION SHALL BE UPON THE SELLER. THE 59
 PURCHASER SHALL NOT HAVE ANY CLAIM FOR RELIEF AGAINST THE SELLER 60
 FOR ANY DAMAGES TO THE PURCHASER RESULTING FROM AN ALLEGED 61
 INADEQUACY OF THE PROPERTY'S SOURCE OF WATER IF: 62

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(a) THE SELLER MADE THE DISCLOSURE PURSUANT TO THIS SECTION; OR

(b) IN DETERMINING NOT TO MAKE THE DISCLOSURE REQUIRED PURSUANT TO THIS SECTION, THE SELLER REASONABLY RELIED ON:

(I) INFORMATION GIVEN TO THE SELLER BY THE PROPERTY'S WATER PROVIDER IF THE SOURCE OF WATER IS A WATER PROVIDER; OR

(II) INFORMATION IN THE WELL PERMIT IF THE SOURCE OF WATER IS A WELL.

(3) FOR PURPOSES OF THIS SECTION, "NONRENEWABLE GROUND WATER" MEANS WATER IN THE DAWSON, DENVER, ARAPAHOE, OR LARAMIE-FOX HILLS AQUIFER IN THE DENVER BASIN, AS DEFINED IN RULES PROMULGATED BY THE STATE ENGINEER PURSUANT TO SECTION 37-90-137, C.R.S."

Page 3, strike line 1.

Agriculture, Natural Resources, & Energy

After consideration on the merits, the Committee recommends that **SB04-059** be referred to the Committee on Appropriations with favorable recommendation.

Agriculture, Natural Resources, & Energy

After consideration on the merits, the Committee recommends that **SB04-104** be postponed indefinitely.

Business Affairs & Labor

After consideration on the merits, the Committee recommends that **HB04-1112** be amended as follows, and as so amended, be referred to the Committee of the Whole with favorable recommendation.

Amend reengrossed bill, page 4, line 10, strike "A" and substitute "EXCEPT FOR A MONEY EXCHANGE OR TRANSMISSION CONDUCTED AT A BRANCH OF A FEDERALLY INSURED DEPOSITORY INSTITUTION, A";

line 18, strike "CUSTOMERS WHO ARE PURCHASING A" and substitute "CUSTOMERS.";

strike line 19.

Page 9, after line 18, insert the following:

"SECTION 13. 12-52-106 (1), Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW PARAGRAPH to read:

12-52-106. Application for license. (1) Application for a license shall be made in writing, under oath, to the banking board on such form as it may prescribe. The application shall:

(d.5) CONTAIN A SET OF FINGERPRINTS FOR EACH OF THE OWNERS, PRINCIPAL SHAREHOLDERS, PRINCIPAL MEMBERS, DIRECTORS, TRUSTEES, OFFICERS, OR OTHER MANAGING OFFICIALS. THE COMMISSIONER SHALL FORWARD THE FINGERPRINTS TO THE COLORADO BUREAU OF INVESTIGATION FOR THE PURPOSE OF OBTAINING A FINGERPRINT-BASED CRIMINAL HISTORY RECORD CHECK. UPON RECEIPT OF FINGERPRINTS AND PAYMENT FOR THE COSTS, THE COLORADO BUREAU OF INVESTIGATION SHALL CONDUCT A STATE AND NATIONAL FINGERPRINT-BASED CRIMINAL HISTORY RECORD CHECK UTILIZING RECORDS OF THE COLORADO BUREAU OF INVESTIGATION AND THE FEDERAL BUREAU OF INVESTIGATION. THE BOARD SHALL BE THE AUTHORIZED AGENCY TO RECEIVE INFORMATION REGARDING THE RESULT OF ANY NATIONAL CRIMINAL HISTORY RECORD CHECK. ONLY THE ACTUAL COSTS OF SUCH RECORD CHECK SHALL BE BORNE BY THE APPLICANT."

Renumber succeeding sections accordingly.

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Business	After consideration on the merits, the Committee recommends that SB04-116 be amended	3
Affairs &	as follows, and as so amended, be referred to the Committee of the Whole with favorable	4
Labor	recommendation.	5
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	Amend printed bill, page 2, line 24, strike "DECEMBER 1." and substitute	8
	"JANUARY 1 UNLESS THE COMMISSIONER, UPON APPLICATION, MAKES A	9
	FINDING UPON GOOD CAUSE SHOWN THAT A LATER DATE IS NECESSARY OR	10
	APPROPRIATE FOR THE IMPLEMENTATION OF SUCH FILING.".	11
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	Page 3, line 3, strike "DECEMBER 1." and substitute "JANUARY 1 UNLESS	13
	THE COMMISSIONER, UPON APPLICATION, MAKES A FINDING UPON GOOD	14
	CAUSE SHOWN THAT A LATER DATE IS NECESSARY OR APPROPRIATE FOR	15
	THE IMPLEMENTATION OF SUCH FILING.".	16
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	Page 4, line 8, strike "DECEMBER" and substitute "JANUARY".	18
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Business	After consideration on the merits, the Committee recommends that HB04-1042 be referred	21
Affairs &	to the Committee of the Whole with favorable recommendation.	22
Labor		23
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Business	After consideration on the merits, the Committee recommends that HB04-1103 be referred	26
Affairs &	to the Committee of the Whole with favorable recommendation.	27
Labor		28
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Business	After consideration on the merits, the Committee recommends that SB04-038 be	30
Affairs &	postponed indefinitely.	31
Labor		32
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Education	After consideration on the merits, the Committee recommends that HB04-1010 be referred	34
	to the Committee of the Whole with favorable recommendation.	35
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Education	After consideration on the merits, the Committee recommends that HB04-1007 be referred	38
	to the Committee of the Whole with favorable recommendation.	39
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State,	After consideration on the merits, the Committee recommends that SB04-006 be	42
Veterans, &	postponed indefinitely.	43
Military		44
Affairs		45
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State,	After consideration on the merits, the Committee recommends that SB04-091 be amended	47
Veterans, &	as follows, and as so amended, be referred to the Committee of the Whole with favorable	48
Military	recommendation.	49
Affairs		50
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	Amend printed bill, page 4, line 14, strike " declaration. " and substitute	52
	" declaration - definitions. ".	53
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	Page 5, line 14, strike "OR";	55
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	line 15, strike "PRODUCTS" and substitute "PRODUCTS,".	57
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	Page 6, line 4, strike "RESIDENT, INCLUDING, BUT";	59
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	strike line 5 and substitute the following:	61
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	"OWNER OR TENANT OF A SINGLE FAMILY OR MULTIFAMILY RESIDENCE OR	63
	INDUSTRIAL OR COMMERCIAL ESTABLISHMENT";	64
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	line 6, strike "ESTABLISHMENTS OR MULTIFAMILY RESIDENCES,";	66
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	line 9, strike "APPLY TO" and substitute "PROHIBIT";	68
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line 11, after "FOR", insert "RESIDENTIAL";

line 12, strike "(4);" and substitute "(4) FROM CONTINUING TO PROVIDE RESIDENTIAL MUNICIPAL WASTE SERVICES ON SUCH TERMS;";
after line 14, insert the following:

"(d) AS USED IN THIS SUBSECTION (4), "RESIDENTIAL MUNICIPAL WASTE SERVICES" MEANS THE COLLECTION AND TRANSPORTATION OF ASHES, TRASH, WASTE, RUBBISH, GARBAGE, INDUSTRIAL WASTE PRODUCTS, OR ANY OTHER DISCARDED MATERIALS FROM SOURCES OTHER THAN INDUSTRIAL OR COMMERCIAL ESTABLISHMENTS OR MULTIFAMILY RESIDENCES OF EIGHT OR MORE UNITS.";

after line 18, insert the following:

"(6) PARAGRAPH (d) OF SUBSECTION (1) AND SUBSECTIONS (2), (3), (4), AND (5) OF THIS SECTION SHALL NOT APPLY TO THE TRANSPORTATION OF SLUDGE AND FLY ASH OR TO THE TRANSPORTATION OF HAZARDOUS MATERIALS, AS DEFINED IN THE RULES ADOPTED BY THE CHIEF OF THE COLORADO STATE PATROL PURSUANT TO SECTION 42-20-104 (1), C.R.S.".

Page 8, line 21, after "30-15-401", insert "(5),".

Agriculture,
Natural
Resources, &
Energy

The Committee on Agriculture, Natural Resources, and Energy has had under consideration and has had a hearing on the following appointments and recommends that the appointments be confirmed:

**MEMBERS OF THE
COLORADO WATER RESOURCES
AND POWER DEVELOPMENT AUTHORITY**

for terms expiring October 1, 2007:

James W. Hokit of Montrose, Colorado, to serve as a member from the Gunnison-Uncompahgre drainage basins with experience in planning and development and as a Republican, reappointed;

Robert Carlstrom of Walden, Colorado, to serve as a member from the North Platte drainage basin and as a Republican, reappointed.

THIRD READING--FINAL PASSAGE OF BILLS

On Third Reading, the title of the following bill was publicly read, the reading at length having been dispensed with by unanimous consent:

SB04-106

by Senator(s) Teck; also Representative(s) Stengel--Concerning a repeal of the second pool of premium tax credits available under the "Certified Capital Company Act", and, in connection therewith, creating tax credits for contributions to a venture capital program.

The question being "Shall the bill pass?", the roll call was taken with the following result:

YES	25	NO	8	EXCUSED	2	ABSENT	0
Anderson	Y	Groff	N	Kester	Y	Takis	N
Arnold	Y	Grossman	N	Lamborn	Y	Tapia	Y
Cairns	Y	Hagedorn	E	May	Y	Taylor	Y
Chlouber	Y	Hanna	Y	McElhany	Y	Teck	Y
Dyer	Y	Hillman	Y	Nichol	Y	Tupa	N
Entz	N	Isgar	Y	Owen	Y	Veiga	N
Evans	Y	Johnson	E	Phillips	Y	Windels	Y
Fitz-Gerald	N	Jones	Y	Reeves	Y	Mr. President	Y
Gordon	N	Keller	Y	Sandoval	Y		

A majority of all members elected to the Senate having voted in the affirmative, the bill was declared **passed**.

Co-sponsors added: Chlouber and May.

Committee of the Whole On motion of Senator Jones, the Senate resolved itself into the Committee of the Whole for consideration of General Orders--Second Reading of Bills and Senator Jones was called to the Chair to act as Chairman.

GENERAL ORDERS--SECOND READING OF BILLS

The Committee of the Whole having risen, the Chairman reported that the following bills, reading at length having been dispensed with by unanimous consent, had been considered and action taken thereon as follows:

SB04-115 by Senator(s) Dyer; also Representative(s) Mitchell--Concerning a limitation on the recovery of noneconomic damages in breach of contract claims.

Laid over until Monday, February 2, retaining its place on the calendar.

SB04-022 by Senator(s) Owen; also Representative(s) Williams T.--Concerning enactment of the "Interstate Insurance Product Regulation Compact".

Amendment No. 1(L.001), by Senator Owen.

Amend printed bill, page 7, strike lines 24 and 25.

Renumber succeeding subsections accordingly.

As amended, ordered engrossed and placed on the calendar for Third Reading and Final Passage.

(For further action, see Amendments to the Report of the Committee of the Whole.)

SB04-034 by Senator(s) Evans, Andrews; also Representative(s) Mitchell--Concerning the designation of play streets by local authorities.

Laid over until Monday, February 2, retaining its place on the calendar.

SB04-110 by Senator(s) Cairns; also Representative(s) Frangas--Concerning a prohibition against transporting uncovered trash upon the highway.

Ordered engrossed and placed on the calendar for Third Reading and Final Passage.

SB04-025 by Senator(s) Tapia; also Representative(s) Butcher--Concerning the ability of the Colorado mental health institute at Pueblo to contract.

Ordered engrossed and placed on the calendar for Third Reading and Final Passage.

SB04-117 by Senator(s) Sandoval, Andrews; also Representative(s) Cloer--Concerning removal of a newborn child from the custody of the child's parents.

Laid over until Monday, February 2, retaining its place on the calendar.

SB04-014 by Senator(s) Owen, Anderson, Teck; also Representative(s) Witwer, Plant, Romanoff, Young--Concerning county reserve account moneys under the Colorado works program.

Ordered engrossed and placed on the calendar for Third Reading and Final Passage.

SB04-057 by Senator(s) Johnson S.; also Representative(s) Johnson R.--Concerning the provision of information on meningococcal disease to students at postsecondary institutions.

Laid over until Monday, February 2, retaining its place on the calendar.

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SB04-023 by Senator(s) McElhany; also Representative(s) Harvey--Concerning the exclusion of certain payments made by an employer to an employee for the purpose of supplementing unemployment benefits from the definition of "wages" under the "Colorado Employment Security Act".

Ordered engrossed and placed on the calendar for Third Reading and Final Passage.

AMENDMENTS TO THE REPORT OF THE COMMITTEE OF THE WHOLE

SB04-022 by Senator(s) Owen; also Representative(s) Williams T.--Concerning enactment of the "Interstate Insurance Product Regulation Compact".

Senator Phillips moved to amend the Report of the Committee of the Whole to show that the following Windels floor amendment, (L.002) to SB04-022, did pass.

Amend printed bill, page 17, line 3, after the period, add "IT IS THE DUTY OF THE ADVISORY COMMITTEES TO REPRESENT THE PUBLIC INTEREST OF LIFE INSURANCE, DISABILITY INCOME, AND LONG-TERM CARE INSURANCE USERS, BY PROVIDING GENERAL POLICY GUIDANCE AND OVERSIGHT FOR THE COMMISSION IN THE PERFORMANCE OF ITS STATUTORY DUTIES AND RESPONSIBILITIES.".

The motion was declared LOST by the following roll call vote:

YES	15	NO	18	EXCUSED	2	ABSENT	0
Anderson	N	Groff	Y	Kester	N	Takis	Y
Arnold	N	Grossman	Y	Lamborn	N	Tapia	Y
Cairns	N	Hagedorn	E	May	N	Taylor	N
Chlouber	N	Hanna	Y	McElhany	N	Teck	N
Dyer	N	Hillman	N	Nichol	N	Tupa	Y
Entz	N	Isgar	Y	Owen	N	Veiga	Y
Evans	N	Johnson	E	Phillips	Y	Windels	Y
Fitz-Gerald	Y	Jones	N	Reeves	Y	Mr. President	N
Gordon	Y	Keller	Y	Sandoval	Y		

ADOPTION OF THE REPORT OF THE COMMITTEE OF THE WHOLE

On motion of Senator Jones, the Report of the Committee of the Whole was adopted and, a majority of all members elected to the Senate having voted in the affirmative, the following action was taken:

Passed on Second Reading: SB04-022 as amended, SB04-110, SB04-025, SB04-014, SB04-023.

Laid over until Monday, February 2: SB04-115, SB04-034, SB04-117, SB04-057.

COMMITTEE OF REFERENCE REPORTS

Judiciary The Committee on Judiciary has had under consideration and has had a hearing on the following appointment and recommends that the appointment be confirmed:

EXECUTIVE DIRECTOR
OF THE
DEPARTMENT OF PUBLIC SAFETY

for a term effective January 1, 2004, and expiring at the pleasure of the Governor:

Joe M. Morales of Silverthorne, Colorado to fill the vacancy occasioned by the resignation of C. Suzanne Mencer of Littleton, Colorado, appointed.

Judiciary

The Committee on Judiciary has had under consideration and has had a hearing on the following appointments and recommends that the appointments be confirmed:

MEMBER OF THE
COLORADO CIVIL RIGHTS COMMISSION

for a term expiring March 13, 2007:

Joseph M. Samuel of Denver, Colorado, to serve as a representative of the community at large, appointed.

Judiciary

After consideration on the merits, the Committee recommends that **SB04-037** be referred to the Committee on Appropriations with favorable recommendation.

SENATE SERVICES REPORT

Correctly Printed: SB04-171, 172 and 173.

Correctly Engrossed: SB04-106.

Correctly Reengrossed: SB04-036.

On motion of Senator Hillman, and with a majority of those elected to the Senate having voted in the affirmative, the balance of the calendar of January 29, 2004, was laid over until Friday, January 30, 2004, retaining its place on the calendar.

Consideration of Resolutions: SJR04-008

Consideration of Governor's Appointments:

Executive Director of the Department of Local Affairs;

Members of the Board of Real Estate Appraisers;

Member of the State Personnel Board.

On motion of Senator Hillman, the Senate adjourned until 9:00 a.m., Friday, January 30, 2004.

Approved:

John Andrews
President of the Senate

Attest:

Mona Heustis
Secretary of the Senate

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