THE 1965 SESSION of the Legislature dealt with one of the most desperate problems in the field of Colorado's natural resources by passing major water law changes designed to place underground water under administrative control. At the beginning of the session Governor John Love called this problem one of the legislative "musts."

This legislation was successfully piloted through the House and Senate by Sen. Frank L. (Ted) Gill (R-Hillrose), chairman of the Senate Water Committee, and Rep. T. Everett Cook (D-Canon City), chairman of the House Natural Resources Committee. Technical advice was provided by the staff of the Colorado Water Conservation Board, Attorney General, State Engineer, the Colorado Water Congress, representatives of various water conservancy districts throughout the state, water attorneys and engineers.

The measures passed include:

HOUSE BILL NO. 1066 BY REPRESENTATIVE WOOLF

- The state engineer or his duly authorized representative shall execute and administer the laws of the state relative to the
distribution of the surface waters of the state including the underground waters tributary thereto in accordance with the right of priority of appropriation, and he shall adopt such rules and regulations and issue such orders as are necessary for the performance of the foregoing duties.

- In the event an order with respect to the distribution of water is not complied with, the state engineer, through the attorney general, may apply for an injunction in any court of competent jurisdiction to enjoin any person from diverting the waters when such injunction is necessary to prevent such diversion from materially injuring the vested right of other appropriators. In determining whether or not the vested rights of other appropriators are materially injured by any well, there shall be a rebuttable presumption that there is no injury if a well was in existence prior to the date of this act, and is not located in the sub-surface channel of a continuously flowing surface stream. In case of a violation of any injunction issued, the court, or any judge thereof, may try to punish the offender for contempt of court.

- It shall be unlawful for any person to divert waters from a stream or water tributary thereto when there is insufficient water available from such sources to supply the rights of senior appropriators at their point or points of diversion and to the extent of their decrees. Any violation shall be deemed a misdemeanor and punishable by a fine of not less than 100 dollars nor more than 500 dollars, or by imprisonment in the county jail for not less than 10 days nor more than 90 days or both.

**SENATE BILL NO. 367 BY GILL AND BLEDSOE**

This bill provides for the appropriation and administration of designated ground water and provides for the establishment of ground water management districts.

- It is declared that the traditional policy of the State of Colorado, requiring the water resources of this state to be devoted to beneficial use in reasonable amounts through appropriation, is affirmed with respect to the designated ground waters of this state. All designated ground waters in this state are therefore declared subject to appropriation as defined in this bill.

- The term "underground water" refers to any water not visible on the surface of the ground under natural conditions.
The term "designated ground water" is that ground water which in its natural course would not be available to and required for the fulfillment of decreed surface rights, or ground water in areas not adjacent to a continuously flowing natural stream wherein ground water withdrawals have constituted the principal water usage for at least 15 years preceding January 1, 1965; and which in both cases is within the boundaries, either geographic or geologic, of a designated ground water basin.

The bill creates a ground water commission to consist of twelve members, nine of whom shall be appointed by the governor. The other three members are the governor, the state engineer and the director of the Colorado Water Conservation Board who shall be voting members of the commission. The present appointed members of the commission heretofore created by the Colorado Ground Water Law of 1957, which this bill repeals and re-enacts, shall constitute the appointed members of the newly created commission and they shall serve for the terms of their original appointment.

Wells used solely for stock watering purposes or used for domestic purposes having discharge pipes of two inches or less in diameter, and all artesian wells with discharge pipes not exceeding three inches in diameter, shall be exempt from the provisions of the bill, unless otherwise specifically stated.

The ground water commission is authorized to determine designated ground water basins and subdivisions thereof. Before determining a designated ground water basin, the state engineer must prepare and file in his office a map clearly describing the boundaries of the proposed basin. The commission shall publish the description of the basin and hold a hearing thereon.

Any person desiring to appropriate ground water for a beneficial use in a designated ground water basin shall make application to the commission. Upon the filing of such application the commission shall, within thirty days, cause notice of the application to be published. If the commission finds that the proposed appropriation will not unreasonably impair existing water rights from the same source, and will not create unreasonable waste, the commission shall grant said application and the state engineer will issue a conditional permit. If objections have been filed within the period of the notice, the commission shall set a date for a hearing and if the hearing discloses that there are no unappropriated waters in the designated source, or that the proposed appropriation would unreasonably impair existing water rights, the application shall be denied.
- After having received a conditional permit to appropriate designated ground water, the applicant shall proceed with due diligence to construct the well and apply the water to beneficial use. If the commission shall find that the water has been put to beneficial use, the commission shall order the state engineer to issue a final permit to use designated ground water. A conditional permit shall expire and be of no effect at the expiration of one year unless specified requirements have been complied with, or unless an extension is granted by the commission for good cause.

- Priority of claims for the appropriation of designated ground water shall be determined by the doctrine of prior appropriation and all claims based on the taking of designated ground water for beneficial use prior to the effective date of the act shall relate back to the date of placing designated ground water to beneficial use. A numbered priority shall be awarded to each well based on the time the water was first applied to a beneficial use.

- Administration and enforcement of the provisions of the bill are vested with the state engineer. The engineer's jurisdiction is to include the regulation of wells, the enforcement of commission rules and regulations, the supervision and control of all rights established, the regulation of ground water levels, and other designated authorities.

- Any person dissatisfied with any decision, act, or refusal to act by the state engineer or the commission may take an appeal to the district court of the county wherein the water rights or wells involved are situated.

- The Colorado Water Conservation Board shall have the power and it shall be its duty to investigate and determine the nature and extent of the ground water resources of the State of Colorado; and the information obtained thereby shall be made available to the state engineer and the ground water commission and any designated ground water management district.

- Within areas determined as designated ground water basins by action of the commission, ground water management districts may be formed, provided that no district shall be organized unless all ground water aquifers within the geographic boundaries of the district have been designated as a part of the district by the commission.

- A proposal for the formation of a management district must first be submitted to the ground water commission and the commission shall have ninety days to give either its consent or disapproval of the proposed boundaries.

- Following receipt of consent, a petition calling for the formation of the proposed district is to be filed with the commission. The
petition shall be signed by not less than fifteen percent of the taxing electors owning real property within the proposed district. The commission shall examine the petition and if it finds it meets the requirements, the commission shall set a date for a hearing thereon.

- If after completion of the hearing it is determined that such district shall be organized, the commission shall call an election of the taxing electors in the district for the purpose of determining whether such district shall be organized. The commission shall appoint three taxing electors of the district as judges for each designated polling place.

- At the election, voters shall vote for or against the organization of the district. If a majority of the votes cast at said election are for the organization of the district, the commission shall declare the district organized and shall designate the members of the first board of directors as named in the petition. Thereupon the district shall be a governmental subdivision of the State of Colorado with all the powers of a public or quasi-municipal corporation. The members of the board of directors shall be resident land owners within the district.

- As the terms of the members of the board of directors expire their successors shall be nominated by petition and elected to a four year term by a plurality vote.

- The district board shall have the duty and responsibility of consulting with the commission on all ground water matters affecting the district; shall have the authority to regulate the use, control, and conservation of the ground water of the district; to provide for the spacing of wells and to regulate the production therefrom; to acquire lands for ground water management use; to develop comprehensive plans for ground water use; to promulgate reasonable rules and regulations; and to prohibit, after affording an opportunity for a hearing before the board of the local district and presentation of evidence, the use of ground water outside the boundaries of the district where such use materially affects the rights acquired by permit by any owner or operator of land within the district.

- The board of directors is authorized to levy and collect annual taxes necessary to finance the activities of the district to an amount of not more than one-half mill on the dollar of the assessed value of all taxable property within the district. In addition the board may annually assess and certify a special assessment on all water wells in the district not to exceed five cents per gallon of the rated pump capacity of each such well.
- The board is authorized to enter into contracts for payment or to issue negotiable bonds of the district.

- The bill provides that it shall be unlawful for any person to divert any of the ground waters of Colorado into any other state for use therein.

- From and after the date this bill becomes effective, no new wells shall be constructed outside the boundaries of a designated ground water basin unless the user shall make an application in writing to the state engineer for a "permit to construct a well." The state engineer shall make a determination as to whether or not the exercise of the requested permit will materially injure the vested water rights of others. If the state engineer shall find that the vested water rights of others will not be materially injured, he shall issue a permit to construct a well, but not otherwise.

- The state engineer in cooperation with the commission shall have power to regulate the drilling and construction of all wells in the State of Colorado to the extent necessary to prevent the waste of water and the injury to or destruction of other water resources.

- The bill provides for a license to be required by all well drillers operating in Colorado and it provides for revocation of such licenses held by drillers who have intentionally violated the provisions of the law, and it specifies that a violation shall be deemed a misdemeanor and shall be punishable, upon conviction, by a fine not to exceed three hundred dollars or imprisonment in the county jail for a term not to exceed ninety days, or both.

SENATE BILL NO. 22 BY SENATOR GILL

This bill provides for allowances to be made for evaporation from reservoirs.

- Upon order of the state engineer there shall be released from the water in storage in each stream bed reservoir such quantities of water as, in the determination of the state engineer, are necessary to prevent evaporation from the surface of such reservoir from depleting the natural flow of the stream running through such reservoir which would otherwise be available for use by other appropriators.

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Governor Love has signed House Bill No. 1066 and he has indicated that he will sign Senate Bills No. 22 and 367.