

CHAPTER 336

WATER AND IRRIGATION

SENATE BILL 18-218

BY SENATOR(S) Coram, Baumgardner, Cooke, Crowder, Donovan, Fenberg, Garcia, Gardner, Jahn, Kefalas, Kerr, Lambert, Lundberg, Marble, Martinez Humenik, Merrifield, Moreno, Neville T., Priola, Scott, Sonnenberg, Tate, Todd, Williams A.; also REPRESENTATIVE(S) Arndt, Esgar, Exum, Hansen, Jackson, Lontine, McKean, McLachlan, Michaelson Jenet, Roberts, Rosenthal, Valdez, Winter.

AN ACT

CONCERNING THE FUNDING OF COLORADO WATER CONSERVATION BOARD PROJECTS, AND, IN CONNECTION THEREWITH, MAKING APPROPRIATIONS.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. Continuation of the satellite monitoring system maintenance - appropriation. (1) For the 2018-19 state fiscal year, \$380,000 is appropriated to the department of natural resources for use by the division of water resources. This appropriation is from the Colorado water conservation board construction fund created in section 37-60-121, C.R.S. To implement this section, the division of water resources may use this appropriation for renovation of existing gauging stations; replacement of outdated collection platforms; lysimeter support, data collection, and maintenance; upgrading of transmission components of the satellite monitoring system established and operated pursuant to section 37-80-102 (10), C.R.S.; stream gauge flood hardening projects; and data collection efforts related to flood forecasting and warning.

(2) The money appropriated in subsection (1) of this section remains available for the designated purposes until it is fully expended.

SECTION 2. Continuation of the Colorado floodplain map modernization program - appropriation. (1) For the 2018-19 state fiscal year, \$100,000 is appropriated to the department of natural resources for use by the Colorado water conservation board. This appropriation is from the Colorado water conservation board construction fund created in section 37-60-121, C.R.S. To implement this section, the Colorado water conservation board may use this appropriation to continue to assist with the preparation of revised and improved floodplain studies

Capital letters or bold & italic numbers indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.

and maps for communities throughout Colorado and participate in federally sponsored floodplain map modernization activities.

(2) The money appropriated in subsection (1) of this section remains available for the designated purposes until it is fully expended.

SECTION 3. Continuation of the Arkansas river decision support system - appropriation. (1) For the 2018-19 state fiscal year, \$500,000 is appropriated to the department of natural resources for use by the Colorado water conservation board. This appropriation is from the Colorado water conservation board construction fund created in section 37-60-121, C.R.S. To implement this section, the Colorado water conservation board may use this appropriation to continue implementation of the Arkansas river decision support system (ArkDSS), as identified in the ArkDSS feasibility study completed in December 2011.

(2) The money appropriated in subsection (1) of this section remains available for the designated purposes until the ArkDSS is completed.

SECTION 4. Continuation of the weather modification program - appropriation. (1) For the 2018-19 state fiscal year, \$175,000 is appropriated to the department of natural resources for use by the Colorado water conservation board. This appropriation is from the Colorado water conservation board construction fund created in section 37-60-121, C.R.S. To implement this section, the Colorado water conservation board may use this appropriation to continue to assist water conservation districts, water conservancy districts, and other water providers and their fiscal agents with the development of cloud seeding programs that provide benefits to recreation, streams, and reservoirs through snowpack enhancement.

(2) The money appropriated in subsection (1) of this section remains available for the designated purposes until it is fully expended.

SECTION 5. Continuation of the Colorado Mesonet - appropriation. (1) For the 2018-19 state fiscal year, \$150,000 is appropriated to the department of natural resources for use by the Colorado water conservation board. This appropriation is from the Colorado water conservation board construction fund created in section 37-60-121, C.R.S. To implement this section, the Colorado water conservation board may use this appropriation to support the Colorado Mesonet, including for the following activities: Operation, maintenance, travel, communications, and database and website management for temperature and precipitation stations.

(2) The money appropriated in subsection (1) of this section remains available for the designated purposes until it is fully expended.

SECTION 6. Continuation of the water forecasting partnership project - appropriation. (1) For the 2018-19 state fiscal year, \$800,000 is appropriated to the department of natural resources for use by the Colorado water conservation board. This appropriation is from the Colorado water conservation board construction fund created in section 37-60-121, C.R.S. To implement this section, the Colorado water conservation board may use this appropriation to use modern technology to provide better characterization of snowpack, install new ground and

aerial remote sensing data, and develop employee-accepted hydrologic modeling practices to provide more reliable volumetric water supply forecasting.

(2) The money appropriated in subsection (1) of this section remains available for the designated purposes until it is fully expended.

SECTION 7. Acquisition of lidar data - appropriation. (1) For the 2018-19 state fiscal year, \$200,000 is appropriated to the department of natural resources for use by the Colorado water conservation board. This appropriation is from the Colorado water conservation board construction fund created in section 37-60-121, C.R.S. To implement this section, the Colorado water conservation board may use this appropriation to acquire light detection and ranging data to develop accurate flood hazard, debris flow, and fluvial hazard mapping.

(2) The money appropriated in subsection (1) of this section remains available for the designated purposes until it is fully expended.

SECTION 8. Continuation of technical assistance for federal irrigation improvement cost-sharing program - appropriation. (1) For the 2018-19 state fiscal year, \$200,000 is appropriated to the department of natural resources for use by the Colorado water conservation board. This appropriation is from the Colorado water conservation board construction fund created in section 37-60-121, C.R.S. To implement this section, the Colorado water conservation board may use this appropriation to provide technical assistance for applicants seeking competitive federal grants.

(2) The money appropriated in subsection (1) of this section remains available for the designated purposes until it is fully expended.

SECTION 9. Continuation of the Chatfield reservoir channel improvements program - appropriation. (1) For the 2018-19 state fiscal year, \$200,000 is appropriated to the department of natural resources for use by the Colorado water conservation board. This appropriation is from the Colorado water conservation board construction fund created in section 37-60-121, C.R.S. To implement this section, the Colorado water conservation board may use this appropriation to fulfill contractual obligations with the United States Army corps of engineers for the South Platte river downstream from Chatfield reservoir.

(2) The money appropriated in subsection (1) of this section remains available for the designated purposes until it is fully expended.

SECTION 10. South Platte river basin groundwater level data collection, analysis, and remediation - appropriation. (1) For the 2018-19 state fiscal year, \$500,000 is appropriated to the department of natural resources for use by the Colorado water conservation board. This appropriation is from the Colorado water conservation board construction fund created in section 37-60-121, C.R.S. To implement this section, the Colorado water conservation board may use this appropriation to implement the South Platte basin roundtable groundwater technical committee's recommendations.

(2) The money appropriated in subsection (1) of this section remains available

until June 30, 2021.

SECTION 11. Central Colorado water conservancy district - Chatfield reservoir reallocation project - appropriation. (1) For the 2018-19 state fiscal year, \$511,894.20 is appropriated to the department of natural resources for use by the Colorado water conservation board. This appropriation is from the Colorado water conservation board construction fund created in section 37-60-121, C.R.S. To implement this section, the Colorado water conservation board may use this appropriation to assist the central Colorado water conservancy district with addressing the Chatfield reservoir reallocation project cost increase.

(2) The money appropriated in subsection (1) of this section remains available for the designated purposes until it is fully expended.

SECTION 12. Continuation of the watershed restoration program - appropriation. (1) For the 2018-19 state fiscal year, \$2,000,000 is appropriated to the department of natural resources for use by the Colorado water conservation board. This appropriation is from the Colorado water conservation board construction fund created in section 37-60-121, C.R.S. To implement this section, the Colorado water conservation board may use this appropriation to provide planning and engineering studies, including implementation measures, to address technical needs for watershed restoration and flood mitigation projects throughout the state; aquatic habitat protection; flexible operations for multiple uses; restoration work; quantification of environmental flow needs; and monitoring efforts to support watershed health goals outlined in the Colorado water plan.

(2) The money appropriated in subsection (1) of this section remains available for the designated purposes until it is fully expended.

SECTION 13. Loan guarantee fund - transfer. On June 30, 2018, the state treasurer shall transfer the sum of \$30,000,000 from the unreserved cash in the loan guarantee fund created in section 37-60-121.5, C.R.S., to the severance tax perpetual base fund created in section 39-29-109 (2)(a), C.R.S.

SECTION 14. Arkansas river and Wildhorse creek levees project loan authorizations. (1) Pursuant to section 39-29-109 (2)(a)(I.5), C.R.S., the Colorado water conservation board is hereby authorized to loan, subject to subsection (2) of this section, up to \$17,170,000 from the severance tax perpetual base fund created in section 39-29-109 (2)(a), C.R.S., to the Pueblo conservancy district to repair the levees within the City of Pueblo to bring the levees up to federal emergency management agency standards to provide flood protection to the City of Pueblo.

(2) The Colorado water conservation board may make a loan for the construction of the project specified in subsection (1) of this section from such money as is or may become available to the severance tax perpetual base fund. The loan must be in the amount listed in subsection (1) of this section plus or minus such amounts, if any, as may be justified by reason of ordinary fluctuations in construction costs as indicated by the engineering cost indices applicable to the types of construction required for the project or as may be justified by reason of change in the plans for the project due to differing or unforeseen site conditions, errors or omissions in the plans and specifications, changes instituted by regulatory agencies, or changes in

material quantities beyond contract limits.

(3) Pursuant to section 37-60-120 (1), C.R.S., the board shall require such terms and conditions in the contract as will ensure repayment of money made available by it. The board shall not disburse any money for any loan authorized by subsection (1) of this section unless and until it is satisfied, in its sole discretion, that the recipient of the loan will be able to make repayment pursuant to the terms and conditions established by the board and by subsection (1) of this section.

SECTION 15. In Colorado Revised Statutes, 39-29-109, **add** (2)(a)(XXI) as follows:

39-29-109. Severance tax trust fund - created - administration - distribution of money - repeal. (2) State severance tax receipts shall be credited to the severance tax trust fund as provided in section 39-29-108. Except as otherwise set forth in section 39-29-109.5, all income derived from the deposit and investment of the money in the fund shall be credited to the fund. At the end of any fiscal year, all unexpended and unencumbered money in the fund remains in the fund and shall not be credited or transferred to the general fund or any other fund. All money in the fund is subject to appropriation by the general assembly for the following purposes:

(a) **The severance tax perpetual base fund.** (XXI) (A) NOTWITHSTANDING ANY PROVISION OF THIS SUBSECTION (2)(a) TO THE CONTRARY, ON JUNE 30, 2018, THE STATE TREASURER SHALL TRANSFER FOUR MILLION DOLLARS FROM THE FUND TO THE COLORADO WATER CONSERVATION BOARD CONSTRUCTION FUND CREATED IN SECTION 37-60-121 FOR USE BY THE BOARD TO PAY FOR ITS PROPORTIONATE COST INCREASE AND ITS ASSESSMENTS IN THE CHATFIELD RESERVOIR REALLOCATION PROJECT AS AUTHORIZED BY SECTION 37-60-120.1.

(B) THIS SUBSECTION (2)(a)(XXI) IS REPEALED, EFFECTIVE SEPTEMBER 1, 2020.

SECTION 16. Chatfield reservoir reallocation project - appropriation. (1) For the 2018-19 state fiscal year, \$4,000,000 is appropriated to the department of natural resources for use by the Colorado water conservation board. This appropriation is from the Colorado water conservation board construction fund created in section 37-60-121, C.R.S. To implement this section, the Colorado water conservation board may use this appropriation to participate in the implementation of the Chatfield reservoir reallocation project pursuant to section 37-60-120.1, C.R.S., and to provide funding for other project participants to purchase their allocated storage space in the Chatfield reservoir reallocation project.

(2) The money appropriated in subsection (1) of this section remains available for the designated purposes until fully expended.

SECTION 17. Increased water project loan authorizations - Chatfield reservoir reallocation project. (1) Pursuant to section 39-29-109 (2)(a)(I.5), C.R.S., the Colorado water conservation board is hereby authorized to loan up to \$11,913,960 from the severance tax perpetual base fund created in section 39-29-109 (2)(a)(I.5), C.R.S., for authorization of loan increases for Chatfield reservoir reallocation project cost increases. The loans to be increased are the following, in each case plus or minus such amounts, if any, as may be justified by

reason of ordinary fluctuations in construction costs as indicated by the engineering cost indices applicable to the types of construction required for the project or as may be justified by reason of change in the plans for the project due to differing or unforeseen site conditions, errors or omissions in the plans and specifications, changes instituted by regulatory agencies, or changes in material quantities beyond contract limits:

(a) Centennial water and sanitation district, an increase of \$9,046,267 for a total of \$53,486,267;

(b) Central Colorado water conservancy district, an increase of \$1,548,229 for a total of \$29,999,929; and

(c) Castle Pines north metro district, an increase of \$1,319,464 for a total of \$7,773,364.

SECTION 18. Republican river matters - appropriation. (1) For the 2018-19 state fiscal year, \$8,000,000 is appropriated to the department of natural resources for use by the department of natural resources. This appropriation is from the Colorado water conservation board construction fund created in section 37-60-121, C.R.S. To implement this section, the department of natural resources may use this appropriation for Republican river matters.

(2) The money appropriated in subsection (1) of this section remains available for the designated purposes through June 30, 2019.

SECTION 19. Restoration of the balance of the flood and drought response fund - transfer. On July 1, 2018, the state treasurer shall transfer the sum of \$500,000, or so much thereof as may be necessary, from the unreserved cash in the Colorado water conservation board construction fund created in section 37-60-121, C.R.S., to the flood and drought response fund created in section 37-60-123.2, C.R.S., in order to restore the unencumbered balance in the flood and drought response fund to \$500,000 for the board to respond to flood and drought events through documentation, forecasting, post-flood mapping, hazard area identification, mitigation plans, and recovery activities.

SECTION 20. Restoration of litigation fund cash balance - transfer. On July 1, 2018, the state treasurer shall transfer the sum of \$2,000,000, or so much thereof as may be necessary to restore the balance of the litigation fund to \$2,000,000, from the unreserved cash in the Colorado water conservation board construction fund created in section 37-60-121, C.R.S., to the litigation fund created in section 37-60-121 (2.5), C.R.S., to assist in addressing legal issues associated with compact compliance or any other litigation activities as defined under section 37-60-121, C.R.S.

SECTION 21. Restoration of feasibility study small grant fund balance - transfer. On July 1, 2018, the state treasurer shall transfer the sum of \$500,000 from the unreserved cash in the Colorado water conservation board construction fund created in section 37-60-121, C.R.S., to the feasibility study small grant fund created in section 37-60-122.7, C.R.S., to encourage and support reconnaissance and feasibility planning of water projects by local water providers with an emphasis

on water storage projects.

SECTION 22. Water supply reserve fund - transfer. On June 30, 2018, the state treasurer shall transfer the sum of \$2,000,000 from the unreserved cash in the Colorado water conservation board construction fund created in section 37-60-121, C.R.S., to the water supply reserve fund created in section 39-29-109 (2)(c), C.R.S.

SECTION 23. Continuation of the Colorado water plan - appropriation.
(1) For the 2018-19 state fiscal year, \$7,000,000 is appropriated to the department of natural resources for use by the Colorado water conservation board. This appropriation is from the unreserved cash in the Colorado water conservation board construction fund created in section 37-60-121, C.R.S. To implement this section, the Colorado water conservation board may use this appropriation to finance grant-making, studies, programs, or projects that assist in implementing the state water plan adopted pursuant to section 37-60-106 (1)(u), C.R.S., including the following:

(a) Up to \$3,000,000 to facilitate the development of additional storage, artificial recharge into aquifers, and dredging existing reservoirs to restore the reservoirs' full decreed storage capacity and for multi-beneficial projects and those projects identified in basin implementation plans to address the water supply and demand gap;

(b) Up to \$1,000,000 to provide technical assistance, project, or program funding for agricultural projects;

(c) Up to \$1,000,000 for grant funding to implement long-term strategies for conservation, land use, and drought planning;

(d) Up to \$500,000 for grants for water education, outreach, and innovation efforts; and

(e) Up to \$1,500,000 for environmental and recreational projects.

(2) The money appropriated in subsection (1) of this section remains available for the designated purposes until it is fully expended.

SECTION 24. In Colorado Revised Statutes, 37-60-119, **amend** (2) as follows:

37-60-119. Construction of water and power facilities - contracts with and charges against users. (2) The board may, subject to ~~the provisions in~~ section 37-60-122, enter into contracts for the use of, or to loan ~~moneys~~ MONEY to enable the construction, rehabilitation, enlargement, or improvement of, ~~said~~ flood control, water, power, and any related recreational facilities, excluding ~~domestic~~ water treatment ~~and distribution systems~~ FACILITIES, with any agency or political subdivision of this state or the federal government, individuals, corporations, or organizations composed of citizens of this state. ~~Any such~~ THE contracts may provide for such charges to the using entity as, in the opinion of the board, are necessary and reasonable to recover the board's capital investment, together with operational, maintenance, and interest charges over the term of years agreed upon by contract. Interest charges shall be recommended by the board at between zero

and seven percent on the basis of the project sponsor's ability to pay and the significance of the project to the development and protection of the water supplies of the state. Interest charges shall be credited to and made a part of the Colorado water conservation board construction fund. Any other charges, as determined appropriate by the board, ~~shall be~~ ARE continuously appropriated to the Colorado water conservation board for supplemental operational expenditures.

SECTION 25. In Colorado Revised Statutes, **amend** 37-60-122.5 as follows:

37-60-122.5. Emergency dam repair cash fund. There is hereby created in the state treasury the emergency dam repair cash fund. The state treasurer is hereby authorized and directed to transfer ~~moneys~~ MONEY from the Colorado water conservation board construction fund to the emergency dam repair cash fund in such amounts and at such times as determined by the Colorado water conservation board. Such transfers ~~shall~~ MUST not exceed ~~fifty~~ FIVE HUNDRED thousand dollars. The ~~moneys~~ MONEY in the emergency dam repair cash fund ~~are hereby~~ IS continuously appropriated to the Colorado water conservation board AND THE DIVISION OF WATER RESOURCES for the emergency repair of dams pursuant to section 37-87-108.5. All ~~moneys~~ MONEY collected by the state engineer pursuant to section 37-87-108.5 shall be transmitted to the state treasurer, who shall credit ~~such moneys~~ THE MONEY to the Colorado water conservation board construction fund. All interest derived from the investment of ~~moneys~~ MONEY in the emergency dam repair cash fund shall be credited to the Colorado water conservation board construction fund. Any balance remaining in the emergency dam repair cash fund at the end of any fiscal year ~~shall~~ ~~remain~~ REMAINS in the fund.

SECTION 26. In Colorado Revised Statutes, 37-60-131, **amend** (3) as follows:

37-60-131. Natural hazard mapping - fund - repeal. (3) This section is repealed, effective July 1, ~~2018~~ 2019. The state treasurer shall transfer all unencumbered revenues in the mapping fund on July 1, ~~2018~~ 2019, to the general fund.

SECTION 27. In Colorado Revised Statutes, 39-22-2403, **amend** (2) as follows:

39-22-2403. Contributions credited to Colorado healthy rivers fund - creation - appropriation. (2) (a) The general assembly shall appropriate annually from the Colorado healthy rivers fund to the department of revenue its costs of administering ~~moneys~~ MONEY designated as contributions to the fund.

(b) All ~~moneys~~ MONEY remaining in the fund at the end of a fiscal year, after subtracting the appropriation to the department, shall be transferred to the Colorado water conservation board in the department of natural resources. Two designees of the board, in cooperation with two designees of the water quality control commission in the department of public health and environment and upon consultation with the Colorado watershed assembly, shall administer the ~~moneys~~ MONEY in accordance with the provisions of subsection (3) of this section. ~~Moneys~~ MONEY in the fund may be used to cover all reasonable costs incurred in administering ~~the moneys~~ in the fund. THE MONEY TRANSFERRED TO THE COLORADO WATER CONSERVATION BOARD PURSUANT TO THIS SUBSECTION (2)(b) IS CONTINUOUSLY APPROPRIATED TO THE BOARD FOR THE PURPOSES SPECIFIED IN

SUBSECTION (3) OF THIS SECTION.

SECTION 28. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Approved: May 30, 2018