

CHAPTER 121

WATER AND IRRIGATION

SENATE BILL 19-212

BY SENATOR(S) Rankin, Moreno, Zenzinger, Priola, Tate;
also REPRESENTATIVE(S) Esgar, Hansen, Bird, Buentello, Cutter, Duran, Exum, Gonzales-Gutierrez, Gray, Jackson, Kipp,
McLachlan, Michaelson Jenet, Roberts, Singer, Sirota, Snyder, Tipper, Titone, Valdez D., Weissman, Becker.

AN ACT

CONCERNING GENERAL FUND SUPPORT TO IMPLEMENT THE STATE WATER PLAN, AND, IN CONNECTION THEREWITH, MAKING AN APPROPRIATION.

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

SECTION 1. In Colorado Revised Statutes, **add with amended and relocated provisions** 37-60-106.3 as follows:

37-60-106.3. [Formerly 37-60-106 (1)(u)] State water plan - legislative declaration - grant program. (1) ~~(u)~~**(f)** **State water plan.** ~~THE BOARD SHALL~~ adopt and update, as warranted, a state water plan. In exercising its authority pursuant to this ~~paragraph (u)~~ **SECTION**, executive order D2013-005, or any analogous successor order directing the board to adopt or amend a state or Colorado water plan, the board shall comply with all requirements of this ~~paragraph (u)~~ **SECTION**.

~~(H)~~ **(2) Legislative declaration.** Because the constitution vests all legislative power of the state in the general assembly, the general assembly:

~~(A)~~ **(a)** Finds that the primary purpose of a state water plan is to determine state policy regarding the optimal conservation and development of Colorado's water resources;

~~(B)~~ **(b)** Determines that the general assembly is primarily responsible for guiding the development of state water policy; and

~~(C)~~ **(c)** Declares that enactment of this ~~paragraph (u)~~ **SECTION** is necessary to protect the interests of the public in the state's water resources and that in enacting

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

this ~~paragraph (u)~~ SECTION, the general assembly intends to engage the people of the state in a public dialogue regarding optimum state water policy; affirm its delegation of policy-making authority to the ~~Colorado water conservation~~ board, subject to direction by the general assembly; and not interfere with, but instead to promote the policies, processes, basin roundtable plans, and interbasin compact negotiations conducted pursuant to the "Colorado Water for the 21st Century Act", article 75 of this ~~title~~ TITLE 37, and the interbasin compact charter as approved by the general assembly acting by bill as specified in section 37-75-105 (2).

~~(III)~~ (3) **Development of plan.** In exercising its authority pursuant to this ~~paragraph (u)~~ SECTION, the board shall:

~~(A)~~ (a) Develop the state water plan with the involvement of the public and the basin roundtables, as created in section 37-75-104 (3)(b), and provide opportunities for public comment before adopting any final or significantly amended plan; AND

~~(B)~~ Present the scope, fundamental approach, and basic elements of the plan to the water resources review committee created in section 37-98-102 by August 1, 2014;

~~(C)~~ In developing the draft plan, consider the feedback from the water resources review committee submitted to the board pursuant to section 37-98-103 (6)(a) by November 1, 2014;

~~(D)~~ Present the draft plan to the water resources review committee by July 1, 2015;

~~(E)~~ In developing the final plan, consider the feedback from the water resources review committee submitted pursuant to section 37-98-103 (6)(b) by November 1, 2015; and

~~(F)~~ (b) Notify the water resources review committee CREATED IN SECTION 37-98-102 of any proposed significant amendments to the plan, as determined by the board, by June 1 of any year in which the amendment is proposed to be adopted; present the proposed amendment to the committee by August 1 of that year; and consider the committee's feedback submitted pursuant to section 37-98-103 (6)(c) by November 1 of that year.

~~(IV)~~ (4) **Legislation.** By November 1 of each year following the submission to the water resources review committee of a state water plan or amendment pursuant to this ~~paragraph (u)~~ SECTION, any member of the general assembly may make a request in writing to the chairperson of the water resources review committee that the committee hold one or more hearings to review the plan or amendment as submitted to the water resources review committee. Upon receipt of the request, the chairperson of the committee shall promptly schedule a hearing to conduct the review and provide adequate notice to the public and the board. The committee, after holding a public hearing, may recommend the introduction of a bill or bills based on the results of the review. A bill recommended by the committee for consideration under this ~~subparagraph (IV)~~ SUBSECTION (4) does not count against the number of bills to which either the committee or the members of the general assembly are limited by law or joint rule of the senate and the house of

representatives, and a hearing held by the committee pursuant to this ~~subparagraph~~ ~~(IV)~~ SUBSECTION (4) does not count against the number of meetings allowed by section 37-98-102 (1)(a).

~~(V)~~ (5) **Policy.** A state water plan, whether or not the subject of a bill introduced pursuant to ~~subparagraph (IV) of this paragraph (u)~~ SUBSECTION (4) OF THIS SECTION, is only a policy, is not a rule, and does not have the force or effect of law.

(6) Water plan implementation grant program. THE BOARD MAY APPROVE GRANTS PURSUANT TO THE FOLLOWING REQUIREMENTS:

(a) ELIGIBLE APPLICANTS ARE LIMITED TO:

(I) GOVERNMENTAL ENTITIES, INCLUDING COVERED ENTITIES, AS DEFINED IN SECTION 37-60-126 (1)(b), IF THE COVERED ENTITY HAS ADOPTED AN APPROVED WATER CONSERVATION PLAN; MUNICIPALITIES; DISTRICTS; ENTERPRISES; COUNTIES; CITIES AND COUNTIES; AND STATE AGENCIES; AND

(II) PRIVATE ENTITIES, INCLUDING MUTUAL DITCH COMPANIES, NONPROFIT CORPORATIONS, AND PARTNERSHIPS.

(b) ELIGIBLE PROJECTS ARE LIMITED TO:

(I) WATER STORAGE AND SUPPLY PROJECTS, INCLUDING PROJECTS THAT FACILITATE THE DEVELOPMENT OF ADDITIONAL STORAGE, ARTIFICIAL RECHARGE INTO AQUIFERS, DREDGING EXISTING RESERVOIRS TO RESTORE THE RESERVOIRS' FULL DECREED STORAGE CAPACITY, MULTI-BENEFICIAL USE PROJECTS, AND THOSE PROJECTS IDENTIFIED IN BASIN IMPLEMENTATION PLANS TO ADDRESS THE WATER SUPPLY AND DEMAND GAP;

(II) CONSERVATION AND LAND USE PROJECTS, INCLUDING ACTIVITIES THAT IMPLEMENT LONG-TERM STRATEGIES FOR WATER CONSERVATION, LAND USE, AND DROUGHT PLANNING;

(III) ENGAGEMENT AND INNOVATION ACTIVITIES, INCLUDING ACTIVITIES THAT SUPPORT WATER EDUCATION, OUTREACH, AND INNOVATION EFFORTS;

(IV) AGRICULTURAL PROJECTS, INCLUDING PROJECTS THAT PROVIDE TECHNICAL ASSISTANCE OR IMPROVE AGRICULTURAL WATER EFFICIENCY; AND

(V) ENVIRONMENTAL AND RECREATION PROJECTS, INCLUDING PROJECTS THAT PROMOTE WATERSHED HEALTH, ENVIRONMENTAL HEALTH, AND RECREATION.

(c) GRANT MONEY MUST AMOUNT TO NO MORE THAN FIFTY PERCENT OF THE TOTAL COST OF AN INDIVIDUAL PROJECT, AND THE TOTAL MONEY FROM ALL BOARD FUNDING SOURCES MUST NOT EXCEED SEVENTY-FIVE PERCENT OF THE TOTAL COST OF AN INDIVIDUAL PROJECT.

(d) THE BOARD SHALL EVALUATE EACH ELIGIBLE PROJECT GRANT APPLICATION BASED ON THE FOLLOWING CRITERIA:

(I) CONFORMITY WITH THE CRITERIA FOR STATE SUPPORT SPECIFIED IN SECTION 9.4 OF THE STATE WATER PLAN, ENTITLED "FRAMEWORK FOR A MORE EFFICIENT PERMITTING PROCESS", AS AMENDED;

(II) ALIGNMENT WITH THE APPLICABLE BASIN IMPLEMENTATION PLAN;

(III) THE IMPACT OF THE PROPOSED PROJECT, WITH PREFERENCE GIVEN TO PROJECTS THAT HAVE MULTIPLE BENEFITS AND MULTIPLE PURPOSES AND INVOLVE MULTIPLE STAKEHOLDERS; AND

(IV) THE ANTICIPATED PROJECT START DATE.

SECTION 2. Repeal of relocated provisions in this act. In Colorado Revised Statutes, **repeal** 37-60-106 (1)(u).

SECTION 3. In Colorado Revised Statutes, 37-98-103, **amend** (6)(c), (6)(d)(II), and (7); and **repeal** (6)(a) and (6)(b) as follows:

37-98-103. Annual recommendations - bill limitation - deadlines for introduction - repeal. (6) (a) ~~When the Colorado water conservation board submits the scope, fundamental approach, and basic elements of a draft state water plan to the committee as specified in section 37-60-106 (1)(u)(III)(B), the committee shall hold at least one public hearing on the scope, fundamental approach, and basic elements of the draft plan in each geographic region associated with the basin roundtables, as created in section 37-75-104 (3)(b), for the purpose of receiving the public's feedback. The committee shall provide a summary of the public's feedback, as well as the committee's own feedback, to the board by November 1, 2014.~~

~~(b) When the Colorado water conservation board submits a draft state water plan to the committee as specified in section 37-60-106 (1)(u)(III)(D), the committee shall hold at least one public hearing on the draft plan in each geographic region associated with the basin roundtables for the purpose of receiving the public's feedback. The committee shall provide a summary of the public's feedback, as well as the committee's own feedback, to the board by November 1, 2015.~~

(c) When the Colorado water conservation board submits a significant amendment to the state water plan to the committee as specified in section ~~37-60-106 (1)(u)(III)(F)~~ 37-60-106.3 (3)(b), the committee may hold at least one public hearing on the amendment in each geographic region associated with the basin roundtables for the purpose of receiving the public's feedback. If the committee holds the hearings, the committee shall provide a summary of the public's feedback, as well as the committee's own feedback, to the board by November 1 of the year in which the hearings are held.

(d) Hearings held pursuant to this subsection (6):

(II) May be held before the Colorado water conservation board submits the documents specified in section ~~37-60-106 (1)(u)(III)(B) or (1)(u)(III)(D)~~ 37-60-106.3 (3)(b) if deemed appropriate by the chair of the committee.

(7) No later than November 1, 2017, and no later than every five years thereafter,

the committee shall prepare a list of specific topics that it deems necessary to be addressed in the state water plan, as updated or amended pursuant to section ~~37-60-106(1)(a)~~ 37-60-106.3. The Colorado water conservation board shall provide its recommendations, including suggestions for potential legislation, for the committee's consideration within eight months after receipt of the list of specific topics.

SECTION 4. In Colorado Revised Statutes, 39-29-109, **amend** (2)(a)(XVI) 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.** (XVI) Notwithstanding any provision of this subsection (2)(a) to the contrary, on July 1, 2017, and each year thereafter on July 1, the state treasurer shall transfer ten million dollars from the fund to the Colorado water conservation board construction fund, created in section 37-60-121 (1)(a), for use by the Colorado water conservation board, created in section 37-60-102, for the board to fund studies, programs, or projects that assist in implementing the state water plan adopted pursuant to section ~~37-60-106(1)(a)~~ 37-60-106.3.

SECTION 5. Appropriation. (1) (a) For the 2019-20 state fiscal year, \$8,300,000 is appropriated to the department of natural resources for use by the Colorado water conservation board. This appropriation is from the general fund. To implement this section, the Colorado water conservation board may use this appropriation to finance grant-making pursuant to section 37-60-106.3 (6), C.R.S.

(b) The money appropriated in subsection (1)(a) of this section remains available for expenditure until the completion of the projects financed by the grants or the close of the 2021-22 state fiscal year, whichever comes first.

(2) For the 2019-20 state fiscal year, \$1,700,000 is appropriated to the department of natural resources for use by the Colorado water conservation board. This appropriation is from the general fund. To implement this section, the Colorado water conservation board may use this appropriation for stakeholder outreach and technical analysis to develop a water resources demand management program.

SECTION 6. 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: April 17, 2019