

CHAPTER 218

**WATER AND IRRIGATION**

**SENATE BILL 99-173**

BY SENATORS Dennis, Chlouber, Dyer, Evans, Musgrave, Powers, and Tebedo;  
also REPRESENTATIVES Young, Alexander, Berry, Clapp, Gagliardi, Gotlieb, Hoppe, Johnson, Larson, McKay, Miller, Nuñez,  
Scott, Smith, Spence, Taylor, and Webster.

**AN ACT**

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

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

**SECTION 1. Water project loan authorizations from the Colorado water conservation board construction fund.** (1) Pursuant to section 37-60-122 (1) (b), Colorado Revised Statutes, the Colorado water conservation board is hereby authorized to loan moneys from the Colorado water conservation board construction fund to enable the construction of the following water resources projects or the purchase of water rights with the following priority:

<b>Priority</b>	<b>Borrower-Project</b>	<b>Loan Amount</b>
(a)	Sterling Irrigation Company - Sterling Ditch No. 1 Diversion and Headgate Rehabilitation	\$ 318,583
(b)	Columbine Ranches Property Owners Association - Purchase of Augmentation Water <sup>a</sup>	\$ 305,250
(c)	City of Ouray - Skyrocket Creek Deflection Structure Rehabilitation	\$ 25,000
(d)	Ryan Gulch Reservoir Company - \$ 317,500 Ryan Gulch Reservoir Dam Rehabilitation	

*Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.*

(e)	Leroux Creek Water Users Association - Carl Smith Reservoir Dam Rehabilitation	\$ 1,250,000
(f)	Consolidated Mutual Water Company - Fortune Reservoir	\$ 10,000,000
(g)	Pine River Canal Company - Tunnel Hill Project	\$ 243,700
	<b>Total</b>	\$ 12,460,033

<sup>a</sup> This loan is to refinance a water project wholly or partially completed.

(2) The Colorado water conservation board may make loans for the construction of the projects specified in subsection (1) of this section from such moneys as are or may hereafter become available to the Colorado water conservation board construction fund. Said loans shall be in the amounts 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 each project or as may be justified by reason of changes in the plans for a 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), Colorado Revised Statutes, the board shall require such terms and conditions in such contracts as will ensure repayment of funds made available by it. The board shall not disburse any moneys for any loan authorized by subsection (1) of this section unless and until it is satisfied, at its sole discretion, that the recipient of any such 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 2. Water project loan authorizations from the severance tax trust fund perpetual base account.** (1) Pursuant to section 39-29-109 (1) (a) (I), Colorado Revised Statutes, the Colorado water conservation board is hereby authorized to loan moneys from the severance tax trust fund perpetual base account to enable the construction of the following water resources projects with the following priority:

Priority	Borrower-Project	Loan Amount
(a)	Ute Water Conservancy District - \$ Plateau Creek Pipeline Replacement Project	7,000,000
	<b>Total</b>	\$ 7,000,000

(2) The Colorado water conservation board may make loans for the construction

of the projects specified in subsection (1) of this section from such moneys as are or may hereafter become available to the severance tax trust fund perpetual base account. Said loans shall be in the amounts 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 each project or as may be justified by reason of changes in the plans for a 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), Colorado Revised Statutes, the board shall require such terms and conditions in such contracts as will ensure repayment of funds made available by it. The board shall not disburse any moneys for any loan authorized by subsection (1) of this section unless and until it is satisfied, at its sole discretion, that the recipient of any such 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 3. Increases to prior authorized water project loans.** Pursuant to section 37-60-122 (1) (b), Colorado Revised Statutes, the Colorado water conservation board is hereby authorized to loan moneys to enable or continue the construction of the following previously authorized water resources projects:

<b>Borrower-Project</b>	<b>Prior Authority</b>	<b>Prior Amount</b>	<b>Increase</b>	<b>Revised Amount</b>
City of Loveland - Green Ridge Glade Reservoir Enlargement	HB 98-1189	\$2,000,000	\$3,000,000	\$ 5,000,000
City of Sterling - Pawnee Creek Flood Control Project	HB 98-1189	\$ 550,000	\$ 610,000	\$ 1,160,000
Ute Water Conservancy District - Plateau Creek Pipeline Replacement Project	SB 88-30	\$8,000,000	\$2,600,000	\$10,600,000
North Poudre Irrigation Company - System Rehabilitation	HB 98-1189	\$ 500,000	\$1,107,000	\$ 1,607,000
<b>Totals</b>		\$11,050,000	\$7,317,000	\$18,367,000

**SECTION 4. Decreases to prior authorized water project loans.**

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<b>Borrower-Project</b>	<b>Prior Authority</b>	<b>Prior Amount</b>	<b>Decrease</b>	<b>Amount Remaining</b>
City of Broomfield - Great Western Dam Rehab.	HB 95-1155	\$3,000,000	\$3,000,000	\$0
San Miguel Water Conservancy District Project - Phase 2	HB 85-1042	\$7,500,000	\$7,500,000	\$0
Lone Cone Reservoir	HB 85-1042	\$1,012,500	\$1,012,500	\$0
Melvin L. Thiebaud - Eureka Dam No. 1 Rehab. and Enlargement	HB 95-1155	\$ 18,750	\$ 18,750	\$0
Pine River Irrigation Co.	SB 92-87	\$ 190,000	\$ 190,000	\$0
Town of New Castle - Raw Water Pipeline Rehab.	SB 96-153	\$ 266,500	\$ 266,500	\$0
City of Greeley - Twin Lakes Dam Rehabilitation	HB 98-1189	\$ 787,500	\$ 787,500	\$0
Purgatoire River Water Conservancy District - Trinidad Project Refinance	HB 98-1189	\$1,000,000	\$1,000,000	\$0
Leroux Creek Water Users Assoc. - Rehabilitate and/or enlarge four reservoirs	HB 95-1155	\$ 150,000	\$ 150,000	\$0
Highline Buzzard Ditch Co. - Convert Ditch to Pipeline	SB 94-029	\$ 50,000	\$ 50,000	\$0
Ortiz Ditch Company Rehab. Ortiz Diversion Structure	HB 95-1155	\$ 20,000	\$ 20,000	\$0
City of Fort Lupton - Drill new	HB95-1155	\$ 354,000	\$ 354,000	\$0

municipal wells

**Totals** \$14,349,250 \$14,349,250 \$0

**SECTION 5. Rio Grande decision support system - appropriation.** (1) The Colorado water conservation board is hereby authorized to continue design and implementation of a decision support system for the Rio Grande basin, including development of the necessary data and databases, models, and user tools, and to acquire, operate, and maintain the associated computer hardware and software.

(2) In addition to any other appropriation, there is hereby appropriated, out of any moneys in the Colorado water conservation board construction fund not otherwise appropriated, to the Colorado water conservation board, the sum of two million nine hundred eighty-three thousand three hundred eighty dollars (\$2,983,380), or so much thereof as may be necessary, for contract years two and three to retain one or more contractors to continue to develop and design the Rio Grande decision support system and for the continued implementation of this section.

(3) In addition to any other appropriation, there is hereby appropriated, out of any moneys in the Colorado water conservation board construction fund not otherwise appropriated, to the Colorado water conservation board, for the fiscal year beginning July 1, 1999, the sum of one hundred thousand dollars (\$100,000) and 1.0 FTE, or so much thereof as may be necessary, to retain a contractor to manage the design of the Rio Grande decision support system.

(4) In addition to any other appropriation, there is hereby appropriated, out of any moneys in the Colorado water conservation board construction fund not otherwise appropriated, to the Colorado water conservation board for allocation to the division of water resources, for the fiscal year beginning July 1, 1999, the sum of seventy-five thousand dollars (\$75,000) and 1.5 FTE, or so much thereof as may be necessary, for water commissioner staff support to cross reference and check the quality of well data for the continued implementation of this section.

(5) The amounts appropriated in this section are in addition to amounts appropriated previously for the Rio Grande decision support system. The moneys appropriated in subsection (2) of this section for the Rio Grande decision support system shall remain available for the designated purposes until the project is completed.

**SECTION 6. Satellite monitoring system maintenance - appropriation.** In addition to any other appropriation, there is hereby appropriated, out of any moneys in the Colorado water conservation board construction fund not otherwise appropriated, to the Colorado water conservation board for allocation to the division of water resources, for the fiscal year beginning July 1, 1999, the sum of one hundred twenty thousand dollars (\$120,000), or so much thereof as may be necessary, for the maintenance of the satellite monitoring system established and operated pursuant to section 37-80-102 (10), Colorado Revised Statutes.

**SECTION 7. Arkansas river multi-objective management plan continuation - appropriation.** (1) The Colorado water conservation board is hereby authorized to expand the scope of work of the previously authorized Arkansas river channel

restoration study and continue to cooperate and contract for services with the U.S. army corps of engineers, Albuquerque District, or other contractors, and continue development of a multi-objective management plan for the Arkansas river for the stream reach from Pueblo to the Colorado-Kansas state line.

(2) In addition to any other appropriation, there is hereby appropriated, out of any moneys in the Colorado water conservation board construction fund not otherwise appropriated, to the Colorado water conservation board, the sum of forty thousand dollars (\$40,000), or so much thereof as may be necessary, to continue the Arkansas river multi-objective management plan.

(3) The amount appropriated in this section is in addition to the amount appropriated previously for the Arkansas river channel restoration study. The moneys appropriated in subsection (2) of this section shall remain available for the designated purposes until the project is completed.

**SECTION 8. Imaging system for construction fund project records - appropriation.** (1) In addition to any other appropriation, there is hereby appropriated, out of any moneys in the Colorado water conservation board construction fund not otherwise appropriated, to the Colorado water conservation board, the sum of two hundred seventy thousand dollars (\$270,000), or so much thereof as may be necessary, to participate in the department of natural resources electronic document imaging system in order to improve maintenance of construction fund loan records and to develop a reliable, centralized records management system.

(2) The moneys appropriated in subsection (1) of this section shall remain available for the designated purposes until the project is completed.

**SECTION 9. South Platte river decision support system feasibility study - appropriation.** (1) The Colorado water conservation board is hereby authorized to initiate a study of the scope of the design, implementation, and long-term maintenance of a decision support system for the South Platte river basin. The plan for the scoping study shall be developed by the board in consultation with a technical advisory committee consisting of water users interested in the South Platte river basin in Colorado.

(2) In addition to any other appropriation, there is hereby appropriated, out of any moneys in the Colorado water conservation board construction fund not otherwise appropriated, to the Colorado water conservation board, the sum of one hundred thousand dollars (\$100,000), or so much thereof as may be necessary, to consult with the technical advisory committee, to retain one or more contractors to conduct the scoping study for the development of a South Platte river basin decision support system and prepare a report summarizing this study, and for the continued implementation of this section.

(3) The moneys appropriated in subsection (2) of this section shall remain available for the designated purposes until the project is completed.

**SECTION 10. Rio Grande headwaters restoration project - appropriation.** (1) The Colorado water conservation board is hereby authorized to initiate a detailed cooperative planning investigation of the Rio Grande river from the vicinity of the

southern boundary of Alamosa county to near South Fork, Rio Grande county, Colorado. The purposes of the investigation will be to evaluate the feasibility of various restoration projects to improve channel conveyance capacity, reduce vulnerability to flood damages, improve water diversion, restore riparian habitat, and facilitate delivery of interstate compact commitments. The scope of work for the planning investigation shall be developed by the board in consultation with a technical advisory committee consisting of water users interested in the Rio Grande basin in Colorado.

(2) In addition to any other appropriation, there is hereby appropriated, out of any moneys in the Colorado water conservation board construction fund not otherwise appropriated, to the Colorado water conservation board for allocation to the San Luis Valley Water Conservancy District, the sum of two hundred thousand dollars (\$200,000), or so much thereof as may be necessary, to consult with the technical advisory committee, to retain one or more contractors to conduct the feasibility investigation for the project and prepare a report summarizing this investigation, and for the continued implementation of this section.

(3) The moneys appropriated in subsection (2) of this section shall remain available for the designated purposes until the project is completed.

**SECTION 11. Arkansas river basin water and storage needs assessment phase II - appropriation.** (1) In addition to any other appropriation, there is hereby appropriated, out of any moneys in the Colorado water conservation board construction fund not otherwise appropriated, to the Colorado water conservation board for allocation to the southeastern Colorado water and storage needs assessment enterprise, the sum of twenty-five thousand dollars (\$25,000), or so much thereof as may be necessary, to assist in the development of a storage options plan as part of phase II of the Arkansas river basin water and storage needs assessment.

(2) The moneys appropriated in subsection (1) of this section shall remain available for the designated purposes until the project is completed.

**SECTION 12.** Section 5 of chapter 117, Session Laws of Colorado 1995, is amended to read:

**Section 5. Purgatoire River Transit Loss Investigation - appropriation.** The Colorado water conservation board is hereby authorized to expend up to sixty thousand dollars (\$60,000) from the Colorado water conservation board construction fund for an investigation and assessment of transit times and losses associated with releases of water from the Trinidad Reservoir in and along the Purgatoire River to its confluence with the Arkansas River, TO COOPERATE IN A STUDY OF DITCH SYSTEM LOSSES AND IRRIGATION EFFICIENCIES WITHIN THE PURGATOIRE RIVER WATER CONSERVANCY DISTRICT, and FOR related expenses.

**SECTION 13.** 37-60-122.7 (4), Colorado Revised Statutes, is amended, and the said 37-60-122.7 is further amended BY THE ADDITION OF A NEW SUBSECTION, to read:

**37-60-122.7. Small project loan account - feasibility study small grant account - creation.** (4) The moneys in the small project loan account are hereby

continuously appropriated to the board for loans in compliance with SUBSECTIONS (1) TO (3) OF this section. All interest derived from the investment of moneys in the small project loan account shall be credited to the Colorado Water conservation board construction fund. Any balance remaining in the small project loan account at the end of any fiscal year shall remain in the account and shall not revert to the Colorado water conservation board construction fund.

(5) (a) THERE IS HEREBY CREATED IN THE STATE TREASURY AS PART OF THE COLORADO WATER CONSERVATION BOARD CONSTRUCTION FUND THE FEASIBILITY STUDY SMALL GRANT ACCOUNT FOR THE PURPOSE OF MAKING SMALL GRANTS TO HELP PAY THE COSTS OF PREPARING WATER PROJECT FEASIBILITY STUDIES. THE COLORADO WATER CONSERVATION BOARD SHALL APPROVE SMALL FEASIBILITY STUDY GRANTS BASED SOLELY ON CRITERIA ADOPTED BY THE BOARD.

(b) THE STATE TREASURER IS HEREBY AUTHORIZED AND DIRECTED TO TRANSFER TWO HUNDRED THOUSAND DOLLARS FROM THE COLORADO WATER CONSERVATION BOARD CONSTRUCTION FUND TO THE FEASIBILITY STUDY SMALL GRANT ACCOUNT. THE MONEYS IN THE FEASIBILITY STUDY SMALL GRANT ACCOUNT ARE HEREBY CONTINUOUSLY APPROPRIATED TO THE BOARD FOR GRANTS IN COMPLIANCE WITH THIS SUBSECTION (5). ALL INTEREST DERIVED FROM THE INVESTMENT OF MONEYS IN THE FEASIBILITY STUDY SMALL GRANT ACCOUNT SHALL BE CREDITED TO THE COLORADO WATER CONSERVATION BOARD CONSTRUCTION FUND. ANY BALANCE REMAINING IN THE FEASIBILITY STUDY SMALL GRANT ACCOUNT AT THE END OF ANY FISCAL YEAR SHALL REMAIN IN THE ACCOUNT AND SHALL NOT REVERT TO THE COLORADO WATER CONSERVATION BOARD CONSTRUCTION FUND.

**SECTION 14. Repeal.** 37-60-121.1 (2) (b), Colorado Revised Statutes, is repealed as follows:

~~**37-60-121.1. Reserved rights litigation fund.** (2) (b) Notwithstanding any provision of paragraph (a) of this subsection (2) to the contrary, on July 1, 1998, the state treasurer shall deduct one million dollars from the reserved rights litigation fund and transfer such sum to the capital account of the species conservation trust fund created in section 24-33-111 (2), C.R.S.~~

**SECTION 15.** 37-60-121 (2.5), Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW PARAGRAPH to read:

**37-60-121. Colorado water conservation board construction fund - creation of - nature of fund - funds for investigations - contributions - use for augmenting the general fund.** (2.5) (f) NOTWITHSTANDING ANY PROVISION OF PARAGRAPH (a) OF THIS SUBSECTION (2.5) TO THE CONTRARY, ON JULY 1, 1999, THE STATE TREASURER SHALL DEDUCT ONE MILLION DOLLARS FROM THE LITIGATION ACCOUNT AND TRANSFER SUCH SUM TO THE CAPITAL ACCOUNT OF THE SPECIES CONSERVATION TRUST FUND CREATED IN SECTION 24-33-111 (2), C.R.S.

**SECTION 16. Cherry Creek reservoir flood safety investigation - appropriation.** (1) The Colorado water conservation board is hereby authorized to expend up to seventy-five thousand dollars (\$75,000) in cooperation with the national weather service, the U.S. army corps of engineers, other state agencies, and agencies of local governments to match nonstate funding for a technical evaluation and public



review of probable maximum precipitation and probable maximum flood values associated with the Cherry Creek reservoir.

(2) In addition to any other appropriation, there is hereby appropriated, out of any moneys in the Colorado water conservation board construction fund not otherwise appropriated, to the Colorado water conservation board, the sum of seventy-five thousand dollars (\$75,000), or so much thereof as may be necessary, to cause a technical evaluation and public review of probable maximum precipitation and probable maximum flood values associated with the Cherry Creek reservoir to be completed. The moneys appropriated in this section shall remain available for the designated purpose until the evaluation is completed.

**SECTION 17. Water planning studies - appropriation.** (1) Pursuant to section 39-29-109 (1) (c) (I), Colorado Revised Statutes, the Colorado water conservation board is hereby authorized to expend up to two hundred twenty-five thousand dollars (\$225,000) to continue the implementation of local, regional, and statewide water planning studies.

(2) In addition to any other appropriation, there is hereby appropriated, out of any moneys in the operational account of the severance tax trust fund not otherwise appropriated, to the Colorado water conservation board, the sum of two hundred twenty-five thousand dollars (\$225,000), or so much thereof as may be necessary, to continue the implementation of local, regional, and statewide water planning studies in accordance with section 39-29-109 (1) (c) (I), Colorado Revised Statutes. The moneys appropriated in this section shall remain available for the designated purpose until the studies are completed.

**SECTION 18. Allocation of money - appropriations.** (1) For the fiscal year beginning July 1, 1999, there is hereby allocated from the Colorado water conservation board construction fund, to the Arkansas river augmentation loan account created in section 37-60-130, Colorado Revised Statutes, the sum of two million dollars (\$2,000,000), to be used for the continued implementation of section 37-60-130, Colorado Revised Statutes. The amount allocated in this subsection (1) is in addition to any amounts transferred previously to the Arkansas river augmentation loan account.

(2) For the fiscal year beginning July 1, 1999, there is hereby allocated from the Colorado water conservation board construction fund, to the Colorado river recovery program loan account created in section 37-60-122.9, Colorado Revised Statutes, the sum of five million dollars (\$5,000,000), to be used for the continued implementation of section 37-60-122.9, Colorado Revised Statutes. The amount allocated in this subsection (2) is in addition to any amounts transferred previously to the Colorado river recovery program loan account.

**SECTION 19. 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 24, 1999