

CHAPTER 149

WATER AND IRRIGATION

SENATE BILL 02-156

BY SENATOR(S) Gordon, Entz, Fitz-Gerald, Hagedorn, Hernandez, Linkhart, Nichol, Pascoe, Perlmutter, Phillips, Tate, Tupa, and Windels;
 also REPRESENTATIVE(S) Smith, Bacon, Berry, Borodkin, Boyd, Chavez, Coleman, Daniel, Grossman, Hodge, Mace, Madden, Plant, Ragsdale, Romanoff, Saliman, Sanchez, Stengel, Tochtrop, Veiga, Weddig, and Williams S.

AN ACT**CONCERNING THE AUTHORIZATION OF CHANGES OF ABSOLUTE WATER RIGHTS FOR PURPOSES OF INSTREAM USE.**

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

SECTION 1. The introductory portion to 37-92-102 (3), Colorado Revised Statutes, is amended to read:

37-92-102. Legislative declaration - basic tenets of Colorado water law.
 (3) Further recognizing the need to correlate the activities of mankind with some reasonable preservation of the natural environment, the Colorado water conservation board is hereby vested with the exclusive authority, on behalf of the people of the state of Colorado, to appropriate in a manner consistent with sections 5 and 6 of article XVI of the state constitution, such waters of natural streams and lakes as the board determines may be required for minimum stream flows or for natural surface water levels or volumes for natural lakes to preserve the natural environment to a reasonable degree. In the adjudication of water rights pursuant to this article and other applicable law, no other person or entity shall be granted a decree adjudicating a right to water or interests in water for instream flows in a stream channel between specific points, or for natural surface water levels or volumes for natural lakes, for any purpose whatsoever. The board also may acquire, by grant, purchase, DONATION, bequest, devise, lease, exchange, or other contractual agreement, from or with any person, including any governmental entity, such water, water rights, or interests in water IN SUCH AMOUNT as the board determines ~~may be required~~ IS APPROPRIATE for ~~minimum~~ stream flows or for natural surface water levels or volumes for natural lakes to preserve OR IMPROVE the natural environment to a reasonable degree. At the request of any person, including any governmental entity, the board shall determine

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

in a timely manner, not to exceed one hundred twenty days unless further time is granted by the requesting person or entity, what terms and conditions it will accept in a contract or agreement for the SUCH acquisition. ~~by it from such person or governmental entity of water, water rights, or interests in water to be held by the board for minimum stream flows to preserve the natural environment to a reasonable degree.~~ Any contract or agreement executed between the board and any person or governmental entity ~~which~~ THAT provides water, water rights, or interests in water to the board shall be enforceable by either party thereto as a water matter under this article, according to the terms of the contract or agreement. THE BOARD MAY NOT ACCEPT A DONATION OF WATER RIGHTS THAT EITHER WOULD REQUIRE THE REMOVAL OF EXISTING INFRASTRUCTURE WITHOUT APPROVAL OF THE CURRENT OWNER OF SUCH INFRASTRUCTURE OR THAT WERE ACQUIRED BY CONDEMNATION. THE BOARD MAY USE ANY FUNDS AVAILABLE TO IT, OTHER THAN THE CONSTRUCTION FUND CREATED IN SECTION 37-60-121, FOR ACQUISITION OF WATER RIGHTS AND THEIR CONVERSION TO INSTREAM FLOW RIGHTS. The board may initiate such applications as it determines are necessary or desirable for utilizing water, water rights, or interests in water appropriated, acquired, or held by the board, including applications for changes of water rights, exchanges, or augmentation plans. Prior to the initiation of any such appropriation or acquisition, the board shall request recommendations from the division of wildlife and the division of parks and outdoor recreation. The board also shall request recommendations from the United States Department of Agriculture and the United States Department of the Interior. Nothing in this article shall be construed as authorizing any state agency to acquire water by eminent domain or to deprive the people of the state of Colorado of the beneficial use of those waters available by law and interstate compact. NOTHING IN THIS SUBSECTION (3) SHALL IMPACT SECTION 37-60-121 (2.5). Any appropriation made pursuant to this subsection (3) shall be subject to the following principles and limitations:

SECTION 2. Effective date. This act shall take effect at 12:01 a.m. on the day following the expiration of the ninety-day period after final adjournment of the general assembly that is allowed for submitting a referendum petition pursuant to article V, section 1 (3) of the state constitution; except that, if a referendum petition is filed against this act or an item, section, or part of this act within such period, then the act, item, section, or part, if approved by the people, shall take effect on the date of the official declaration of the vote thereon by proclamation of the governor.

Approved: May 21, 2002