

CHAPTER 347

HEALTH AND ENVIRONMENT

HOUSE BILL 08-1396

BY REPRESENTATIVE(S) Scanlan, Carroll M., Curry, Fischer, Frangas, Green, Jahn, Kefalas, Kerr A., Kerr J., King, Loooper, Madden, Massey, McFadyen, McGihon, Merrifield, Stafford, Todd, Hodge, and Summers; also SENATOR(S) Wiens and Gibbs, Harvey, Kester, Penry, Schwartz, and Taylor.

AN ACT

CONCERNING STUDIES TO DETERMINE THE POTENTIAL IMPACT OF THE CANTERBURY TUNNEL ON THE LEADVILLE MINE DRAINAGE TUNNEL, AND, IN CONNECTION THEREWITH, MAKING AN APPROPRIATION.

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

SECTION 1. Legislative declaration. (1) The general assembly hereby finds that:

(a) A recent collapse in the Leadville mine drainage tunnel ("LMDT") has caused a backup of the water in the mine workings, increasing the level of the mine pool and the pressure within the LMDT, which could result in a blow-out of the tunnel resulting in the release of a billion gallons of contaminated water into the Arkansas river, endangering downstream property and the aquatic ecosystem of the Arkansas river;

(b) The board of commissioners of Lake county has declared a state of emergency because of this collapse in the LMDT;

(c) To alleviate the pressure within the LMDT and to reduce the mine pool, the federal environmental protection agency has begun pumping water from the Gaw shaft and is moving forward to drill a well into the LMDT, to pump water from the tunnel, and to deliver the water through a pipeline for treatment at the federal bureau of reclamation treatment plant;

(d) The federal bureau of reclamation has agreed to treat this contaminated water prior to discharge into the Arkansas river; and

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) Water flowing from the collapsed Canterbury tunnel has been identified as a source of water that may be contributing to the mine pool that drains into the LMDT and to the build up of pressure within the LMDT.

(2) The general assembly hereby determines that further study is needed to determine whether there is a significant hydrological connection between the Canterbury tunnel and the LMDT, whether pumping water from the Canterbury tunnel would significantly reduce the flow of water into the mine pool or the LMDT, whether such pumping could have an adverse impact on the area, and whether there are other legal, technical, or physical impediments that must be addressed before water can be pumped from the Canterbury tunnel.

(3) The general assembly hereby declares that this act is necessary to resolve the legal, technical, and physical uncertainties that must be addressed before water can be pumped from the Canterbury tunnel.

SECTION 2. 25-16-104.6 (2), Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW PARAGRAPH to read:

25-16-104.6. Fund established - administration - revenue sources - use - repeal. (2) The general assembly may appropriate up to two and one-half percent of the moneys in the hazardous substance response fund for the department's costs of administration and its costs of collection of fees or civil penalties pursuant to section 25-16-104.5. In addition, the department is authorized, subject to appropriation by the general assembly, to use the moneys in the fund for the following purposes:

(g) (I) TO CONDUCT OR CONTRACT TO CONDUCT A STUDY OR STUDIES TO DETERMINE WHETHER WATER FROM THE CANTERBURY TUNNEL IN LEADVILLE, COLORADO, IS CONTRIBUTING TO AN INCREASE IN THE MINE POOL THAT FEEDS INTO THE LEADVILLE MINE DRAINAGE TUNNEL THAT MAY LEAD TO POTENTIAL CONTAMINATION OF A PUBLIC WATER SOURCE. SUCH STUDIES SHALL INCLUDE A COMPARISON OF THE SHORT- AND LONG-TERM COSTS AND BENEFITS OR IMPACTS OF DRILLING A VERTICAL WELL INTO THE CANTERBURY TUNNEL AS OPPOSED TO REOPENING THE CANTERBURY TUNNEL BY DRILLING A HORIZONTAL WELL, INCLUDING BUT NOT LIMITED TO THE FOLLOWING FACTORS:

(A) THE BENEFITS OF REDUCING FLOW INTO THE LEADVILLE MINE DRAINAGE TUNNEL AND THE MINE POOL;

(B) REDUCING OR ELIMINATING THE CONTAMINATION OF PUBLIC WATER SOURCES FROM AN ELEVATED MINE POOL;

(C) ANY OTHER BENEFITS OR IMPACTS FROM THE DEWATERING OF THE CANTERBURY TUNNEL;

(D) THE COSTS OF LOCATING AND DRILLING A WELL IN OR NEAR THE CANTERBURY TUNNEL; AND

(E) WHETHER LEGAL, TECHNICAL, OR OTHER BARRIERS EXIST TO DRILLING A WELL INTO THE CANTERBURY TUNNEL AND PUMPING THE DISCHARGE OFFSITE. IF THE

STUDIES CONCLUDE THAT SUCH BARRIERS EXIST, THE STUDIES SHALL PROVIDE RECOMMENDATIONS AS TO HOW TO OVERCOME ANY SUCH BARRIERS. IF THE STUDIES REVEAL CONCLUSIVE EVIDENCE OF A HYDROGEOLOGIC CONNECTION BETWEEN THE LEADVILLE MINE DRAINAGE TUNNEL AND THE CANTERBURY TUNNEL, THE DEPARTMENT SHALL EXPEND ANY REMAINING REVENUES APPROPRIATED FOR THE STUDIES FOR WORK DIRECTLY RELATED TO IMPLEMENTING A SOLUTION AS RECOMMENDED BY THE STUDIES.

(II) THE DEPARTMENT SHALL IDENTIFY ANY AVAILABLE RESOURCES TO DEFRAY THE COSTS ASSOCIATED WITH THE STUDIES AUTHORIZED IN THIS PARAGRAPH (g) AND MAY COLLABORATE WITH THE DEPARTMENT OF NATURAL RESOURCES, THE FEDERAL ENVIRONMENTAL PROTECTION AGENCY, AND ANY OTHER FEDERAL OR STATE AGENCIES IN DESIGNING AND IMPLEMENTING THE STUDIES. THE DEPARTMENT SHALL REPORT TO THE GENERAL ASSEMBLY ITS FINDINGS AND RECOMMENDATIONS BASED UPON THE STUDIES NO LATER THAN NOVEMBER 1, 2008.

(III) NOTHING IN THIS PARAGRAPH (g) SHALL PROHIBIT LAKE COUNTY OR THE PARKVILLE WATER DISTRICT FROM PURSUING SOLUTIONS TO THE ISSUES RAISED BY THE CANTERBURY TUNNEL. THE DEPARTMENT SHALL PROVIDE ALL APPROPRIATE ASSISTANCE TO LAKE COUNTY AND THE PARKVILLE WATER DISTRICT AND SHALL NOT UNDULY INHIBIT SUCH ENTITIES' INDEPENDENT EFFORTS TO PROTECT PUBLIC HEALTH AND SAFETY AND THE ARKANSAS RIVER.

(IV) THIS PARAGRAPH (g) IS REPEALED, EFFECTIVE JULY 1, 2009.

SECTION 3. Appropriation. (1) In addition to any other appropriation, there is hereby appropriated, out of any moneys in the hazardous substance response fund created in section 25-16-104.6, Colorado Revised Statutes, not otherwise appropriated, to the department of public health and environment, for the fiscal year beginning July 1, 2007, the sum of three hundred twenty-five thousand dollars (\$325,000), or so much thereof as may be necessary, for the implementation of this act.

(2) In addition to any other appropriation, there is hereby appropriated to the department of law, for the fiscal year beginning July 1, 2007, the sum of twenty-five thousand dollars (\$25,000) and 0.2 FTE, or so much thereof as may be necessary, for the provision of legal services to the department of public health and environment related to the implementation of this act. Said sum shall be from reappropriated funds received from the department of public health and environment out of the appropriation made in subsection (1) of this section.

(3) The moneys appropriated in this section shall remain available until the purposes of this act have been accomplished.

SECTION 4. 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 29, 2008