

First Regular Session
Seventy-third General Assembly
STATE OF COLORADO

INTRODUCED

LLS NO. 21-0391.01 Thomas Morris x4218

SENATE BILL 21-034

SENATE SPONSORSHIP

Coram,

HOUSE SPONSORSHIP

(None),

Senate Committees

Agriculture & Natural Resources

House Committees

A BILL FOR AN ACT

101 **CONCERNING THE CREATION OF AN ENTERPRISE THAT IS EXEMPT FROM**
102 **THE REQUIREMENTS OF SECTION 20 OF ARTICLE X OF THE STATE**
103 **CONSTITUTION TO ADMINISTER A FEE-BASED WATER RESOURCES**
104 **FINANCING PROGRAM.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://leg.colorado.gov>.)

The bill creates the water resources financing enterprise (enterprise). The board of the enterprise (board) consists of the board of directors of the Colorado water resources and power development

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters or bold & italic numbers indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.

authority and the board members of the Colorado water conservation board. The enterprise will provide financing to "water providers", defined to include drinking water suppliers, wastewater treatment suppliers, and raw water suppliers. Raw water suppliers are limited to those that provide raw water for treatment and use as drinking water.

Customers of a drinking water supplier will pay a fee to the supplier, who will transmit it to the enterprise to be used for the financing. The fee for each individual metered connection in a drinking water supplier's public water system is 25 cents per 1,000 gallons of drinking water delivered per month in excess of the first 4,000 gallons of drinking water delivered in that month to the individual metered connection. The board may adjust the fee based on inflation and equity concerns for large nonresidential customers and customers who pay tiered rates that start higher than 4,000 gallons per month.

The enterprise can provide financing for grants, loans, and in-kind technical assistance in arranging third-party financing. In determining whether to provide financing, the board shall consider the following factors:

- A water provider's ability to pay, including whether the water provider has sought or received other financial assistance;
- Whether a water provider has been found to be noncompliant with requirements, or is subject to increased requirements, related to the provision of raw water, drinking water, or wastewater treatment;
- Whether the proposed use of financing relates to a project identified in and in furtherance of the state water plan; and
- The geographic location and demographic characteristics of the water provider and its customers.

The enterprise shall provide, and a water provider may use, the financing only:

- In connection with the provision of raw water, drinking water, or wastewater treatment; and
- For feasibility studies, consulting, planning, permitting, and construction of infrastructure and water conservation projects and related recreational, hydroelectric, and flood control facilities, including necessary enlargement and rehabilitation of facilities but excluding maintenance and operation of facilities.

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

2 **SECTION 1.** In Colorado Revised Statutes, **add** article 94 to title

1 37 as follows:

2

ARTICLE 94

3

Water Resources Financing Enterprise

4

37-94-101. Short title. THE SHORT TITLE OF THIS ARTICLE 94 IS
5 THE "WATER RESOURCES FINANCING ENTERPRISE ACT".

6

37-94-102. Legislative declaration. (1) THE GENERAL ASSEMBLY
7 HEREBY:

8

(a) FINDS THAT:

9

(I) THERE IS A SUBSTANTIAL GAP BETWEEN THE FINANCING
10 NEEDED TO FULLY ADDRESS THE STATE'S WATER RESOURCES NEEDS AND
11 THE FINANCING THAT IS AVAILABLE; AND

12

(II) SUPPLIERS OF RAW WATER, DRINKING WATER, AND
13 WASTEWATER TREATMENT SERVICES ALL HAVE SUBSTANTIAL, UNMET
14 FINANCING NEEDS;

15

(b) DETERMINES THAT:

16

(I) PROVIDING AFFORDABLE FINANCING TO WATER PROVIDERS
17 THROUGH THE COLLECTION BY THE WATER RESOURCES FINANCING
18 ENTERPRISE OF THE WATER RESOURCES FINANCING FEE PAID BY
19 CUSTOMERS OF DRINKING WATER SUPPLIERS CONSTITUTES A VALUABLE
20 SERVICE AND BENEFIT; AND

21

(II) THE ENTERPRISE PROVIDES BUSINESS SERVICES TO WATER
22 PROVIDERS WHEN, IN EXCHANGE FOR PAYMENT, IT PROVIDES TECHNICAL
23 ASSISTANCE TO AND ISSUES LOANS AND GRANTS TO WATER PROVIDERS
24 FINANCED BY THE FEES; AND

25

(c) DECLARES THAT:

26

(I) (A) WHILE ACKNOWLEDGING THAT SOME HOME RULE
27 GOVERNMENTS ARE SUPPLIERS OF RAW WATER, DRINKING WATER, OR

1 WASTEWATER TREATMENT SERVICES, THE STATE CONSTITUTION DECLARES
2 THAT THE WATER OF EVERY NATURAL STREAM WITHIN THE STATE IS THE
3 PROPERTY OF THE PUBLIC, AND THERE ARE SUBSTANTIAL STATEWIDE
4 INTERESTS IN ENSURING THAT THESE SERVICES ARE PROVIDED IN FULL
5 COMPLIANCE WITH APPLICABLE LAW AND THAT SUFFICIENT FINANCING IS
6 AVAILABLE THROUGHOUT THE STATE TO ENABLE ALL WATER PROVIDERS
7 TO PROVIDE CLEAN, SAFE, AND RELIABLE RAW AND DRINKING WATER AND
8 TO DISCHARGE TREATED DOMESTIC WASTEWATER INTO WATERS OF THE
9 STATE WITHOUT HARMING THE ENVIRONMENT; AND

10 (B) THE MATTERS ADDRESSED BY THIS ARTICLE 94 ARE MATTERS
11 OF STATEWIDE CONCERN;

12 (II) IT IS NECESSARY, APPROPRIATE, AND IN THE BEST INTEREST OF
13 THE STATE TO ACKNOWLEDGE THAT BY PROVIDING THE BUSINESS
14 SERVICES SPECIFIED IN SUBSECTION (1)(b) OF THIS SECTION, THE
15 ENTERPRISE ENGAGES IN AN ACTIVITY CONDUCTED IN THE PURSUIT OF A
16 BENEFIT, GAIN, OR LIVELIHOOD AND THEREFORE OPERATES AS A BUSINESS;

17 (III) CONSISTENT WITH THE DETERMINATION OF THE COLORADO
18 SUPREME COURT IN *NICHOLL V. E-470 PUBLIC HIGHWAY AUTHORITY*, 896
19 P.2d 859 (COLO. 1995), THAT THE POWER TO IMPOSE TAXES IS
20 INCONSISTENT WITH ENTERPRISE STATUS UNDER SECTION 20 OF ARTICLE
21 X OF THE STATE CONSTITUTION, IT IS THE CONCLUSION OF THE GENERAL
22 ASSEMBLY THAT THE FEE CHARGED AND COLLECTED BY THE ENTERPRISE
23 IS A FEE, NOT A TAX, BECAUSE THE FEE IS IMPOSED FOR THE SPECIFIC
24 PURPOSE OF ALLOWING THE ENTERPRISE TO DEFRAY THE COSTS OF
25 PROVIDING THE BUSINESS SERVICES SPECIFIED IN SUBSECTION (1)(b) OF
26 THIS SECTION TO WATER PROVIDERS THAT PAY THE FEE AND IS COLLECTED
27 AT RATES THAT ARE REASONABLY CALCULATED BASED ON THE BENEFITS

1 RECEIVED BY THOSE WATER PROVIDERS; AND

2 (IV) SO LONG AS THE ENTERPRISE QUALIFIES AS AN ENTERPRISE
3 FOR PURPOSES OF SECTION 20 (2)(d) OF ARTICLE X OF THE STATE
4 CONSTITUTION, THE REVENUES FROM THE FEE CHARGED AND COLLECTED
5 BY THE ENTERPRISE ARE NOT STATE FISCAL YEAR SPENDING, AS DEFINED
6 IN SECTION 24-77-102 (17), OR STATE REVENUES, AS DEFINED IN SECTION
7 24-77-103.6 (6)(c), AND DO NOT COUNT AGAINST EITHER THE STATE
8 FISCAL YEAR SPENDING LIMIT IMPOSED BY SECTION 20 OF ARTICLE X OF
9 THE STATE CONSTITUTION OR THE EXCESS STATE REVENUES CAP, AS
10 DEFINED IN SECTION 24-77-103.6 (6)(b)(I)(D).

11 **37-94-103. Definitions.** AS USED IN THIS ARTICLE 94, UNLESS THE
12 CONTEXT OTHERWISE REQUIRES:

13 (1) "AUTHORITY" MEANS THE COLORADO WATER RESOURCES AND
14 POWER DEVELOPMENT AUTHORITY CREATED IN SECTION 37-95-104.

15 (2) "CONSERVATION BOARD" MEANS THE COLORADO WATER
16 CONSERVATION BOARD CREATED IN SECTION 37-60-102.

17 (3) "DEPARTMENT" MEANS THE DEPARTMENT OF NATURAL
18 RESOURCES.

19 (4) "DRINKING WATER" MEANS PIPED AND METERED WATER THAT
20 HAS BEEN SUBJECT TO WATER TREATMENT.

21 (5) "DRINKING WATER SUPPLIER" MEANS A PERSON THAT OWNS OR
22 OPERATES A PUBLIC WATER SYSTEM.

23 (6) "ENTERPRISE" MEANS THE WATER RESOURCES FINANCING
24 ENTERPRISE CREATED IN SECTION 37-94-104.

25 (7) "ENTERPRISE BOARD" MEANS THE BOARD OF DIRECTORS OF THE
26 ENTERPRISE.

27 (8) "FEE" MEANS THE WATER RESOURCES FINANCING FEE

1 AUTHORIZED BY SECTION 37-94-105.

2 (9) "PUBLIC WATER SYSTEM" MEANS A SYSTEM FOR THE PROVISION
3 TO THE PUBLIC OF DRINKING WATER THAT HAS AT LEAST FIFTEEN SERVICE
4 CONNECTIONS OR REGULARLY SERVES AT LEAST TWENTY-FIVE
5 INDIVIDUALS. THE TERM INCLUDES SYSTEMS THAT ARE OWNED OR
6 OPERATED BY PRIVATE, NONPROFIT ENTITIES, AS WELL AS:

7 (a) COLLECTION, TREATMENT, STORAGE, AND DISTRIBUTION
8 FACILITIES UNDER THE CONTROL OF THE OPERATOR OF THE SYSTEM AND
9 USED PRIMARILY IN CONNECTION WITH THE SYSTEM; AND

10 (b) COLLECTION OR PRETREATMENT STORAGE FACILITIES NOT
11 UNDER THE OPERATOR'S CONTROL THAT ARE USED PRIMARILY IN
12 CONNECTION WITH THE SYSTEM.

13 (10) "RAW WATER" MEANS WATER THAT HAS NOT YET BEEN
14 SUBJECT TO WATER TREATMENT BUT THAT WILL BE SO TREATED BEFORE
15 THE WATER IS PUT TO BENEFICIAL USE.

16 (11) "RAW WATER SUPPLIER" MEANS AN ENTITY THAT SUPPLIES
17 RAW WATER FOR TREATMENT AND USE AS DRINKING WATER.

18 (12) "WASTEWATER TREATMENT" MEANS THE TREATMENT OF
19 DOMESTIC WASTEWATER TO COMPLY WITH EFFLUENT LIMITATIONS, AS
20 THAT TERM IS DEFINED IN SECTION 25-8-103 (6).

21 (13) "WASTEWATER TREATMENT SUPPLIER" MEANS THE OWNER OR
22 OPERATOR OF A DOMESTIC WASTEWATER TREATMENT WORKS, AS THAT
23 TERM IS DEFINED IN SECTION 25-8-103 (5).

24 (14) "WATER PROVIDER" MEANS:

25 (a) A RAW WATER SUPPLIER;

26 (b) A DRINKING WATER SUPPLIER; OR

27 (c) A WASTEWATER TREATMENT SUPPLIER.

1 (15) "WATER TREATMENT" MEANS THE ALTERATION OF RAW
2 WATER TO COMPLY WITH THE MINIMUM GENERAL SANITARY STANDARDS
3 ESTABLISHED PURSUANT TO SECTION 25-1.5-202.

4 **37-94-104. Enterprise - powers and duties - board.** (1) THE
5 WATER RESOURCES FINANCING ENTERPRISE IS HEREBY CREATED IN THE
6 DEPARTMENT AS A **TYPE 1** ENTITY AS THAT TERM IS DEFINED IN SECTION
7 24-1-105. THE ENTERPRISE IS AND OPERATES AS A GOVERNMENT-OWNED
8 BUSINESS WITHIN THE DEPARTMENT FOR THE PURPOSE OF CHARGING AND
9 COLLECTING THE FEE, LEVERAGING FEE REVENUE TO OBTAIN FEDERAL
10 MATCHING MONEY, AND UTILIZING AND DEPLOYING THE FEE REVENUE AND
11 OTHER AVAILABLE MONEY, INCLUDING MATCHING MONEY, TO PROVIDE
12 THE BUSINESS SERVICES SPECIFIED IN SECTIONS 37-94-102 (1)(b) AND
13 37-94-106 (2) TO WATER PROVIDERS.

14 (2) THE ENTERPRISE CONSTITUTES AN ENTERPRISE FOR PURPOSES
15 OF SECTION 20 (2)(d) OF ARTICLE X OF THE STATE CONSTITUTION SO LONG
16 AS IT RETAINS THE AUTHORITY TO ISSUE REVENUE BONDS AND RECEIVES
17 LESS THAN TEN PERCENT OF ITS TOTAL REVENUES IN GRANTS FROM ALL
18 COLORADO STATE AND LOCAL GOVERNMENTS COMBINED. SO LONG AS IT
19 CONSTITUTES AN ENTERPRISE PURSUANT TO THIS SUBSECTION (2), THE
20 ENTERPRISE IS NOT SUBJECT TO ANY PROVISIONS OF SECTION 20 OF
21 ARTICLE X OF THE STATE CONSTITUTION.

22 (3) THE ENTERPRISE'S PRIMARY POWERS AND DUTIES ARE:

23 (a) TO COLLECT THE FEE FROM DRINKING WATER SUPPLIERS AS
24 SPECIFIED IN SECTION 37-94-105;

25 (b) TO PROVIDE WATER RESOURCES FINANCING TO WATER
26 PROVIDERS, INCLUDING BY ISSUING LOANS AND GRANTS AS SPECIFIED IN
27 SECTION 37-94-106;

1 (c) TO ISSUE REVENUE BONDS PURSUANT TO SECTION 37-94-107
2 PAYABLE FROM THE REVENUES OF THE ENTERPRISE IN CONNECTION WITH
3 THE PROVISION OF WATER RESOURCES FINANCING;

4 (d) TO ENGAGE THE SERVICES OF CONTRACTORS, CONSULTANTS,
5 AND LEGAL COUNSEL FOR PROFESSIONAL AND TECHNICAL ASSISTANCE AND
6 ADVICE AND TO SUPPLY OTHER SERVICES RELATED TO THE CONDUCT OF
7 THE AFFAIRS OF THE ENTERPRISE, INCLUDING THE PROVISION OF WATER
8 RESOURCES FINANCING AS SPECIFIED IN SECTION 37-94-106, WITHOUT
9 REGARD TO THE PROVISIONS OF THE "PROCUREMENT CODE", ARTICLES 101
10 TO 112 OF TITLE 24; AND

11 (e) TO ADOPT, AMEND, OR REPEAL POLICIES FOR THE REGULATION
12 OF ITS AFFAIRS AND THE CONDUCT OF ITS BUSINESS CONSISTENT WITH THIS
13 ARTICLE 94, INCLUDING ESTABLISHING APPLICATION, REVIEW, APPROVAL,
14 REPAYMENT, REPORTING, AND OTHER REQUIREMENTS FOR WATER
15 RESOURCES FINANCING.

16 (4) (a) THE ENTERPRISE IS GOVERNED BY A BOARD OF DIRECTORS.
17 THE ENTERPRISE BOARD CONSISTS OF THE MEMBERS OF THE BOARD OF
18 DIRECTORS OF THE AUTHORITY AND THE MEMBERS OF THE CONSERVATION
19 BOARD. MEMBERS OF THE CONSERVATION BOARD WHO DO NOT HAVE THE
20 RIGHT TO VOTE WITH REGARD TO MATTERS CONSIDERED BY THE
21 CONSERVATION BOARD DO NOT HAVE THE RIGHT TO VOTE WITH REGARD
22 TO MATTERS CONSIDERED BY THE ENTERPRISE. THE CHAIR OF THE BOARD
23 OF DIRECTORS OF THE AUTHORITY SHALL CALL THE FIRST MEETING OF THE
24 ENTERPRISE BOARD. CONSENT BY AT LEAST TWO-THIRDS OF THE VOTING
25 MEMBERS OF THE ENTERPRISE BOARD IS REQUIRED FOR THE ENTERPRISE
26 BOARD TO ACT. THE ENTERPRISE BOARD SHALL ELECT A CHAIR FROM
27 AMONG ITS MEMBERS TO SERVE FOR A TERM NOT TO EXCEED TWO YEARS,

1 AS DETERMINED BY THE ENTERPRISE BOARD. THE ENTERPRISE BOARD
2 SHALL MEET AT LEAST QUARTERLY AND THE CHAIR MAY CALL ADDITIONAL
3 MEETINGS AS NECESSARY FOR THE ENTERPRISE BOARD TO COMPLETE ITS
4 DUTIES.

5 (b) THE ENTERPRISE BOARD IS SUBJECT TO:

6 (I) THE OPEN MEETINGS LAW, PART 4 OF ARTICLE 6 OF TITLE 24;

7 (II) THE "COLORADO OPEN RECORDS ACT", PART 2 OF ARTICLE 72
8 OF TITLE 24; AND

9 (III) AUDIT BY THE STATE AUDITOR PURSUANT TO SECTION 2-3-103
10 (1)(b).

11 **37-94-105. Water resources financing fee.** (1) FOR THE STATE
12 FISCAL YEAR COMMENCING JULY 1, 2023, AND FOR EACH STATE FISCAL
13 YEAR THEREAFTER, THE ENTERPRISE MAY CHARGE A FEE TO EACH
14 CUSTOMER OF A DRINKING WATER SUPPLIER. EACH DRINKING WATER
15 SUPPLIER SHALL COLLECT THE FEE AND REMIT IT TO THE ENTERPRISE ON
16 A MONTHLY BASIS AS SPECIFIED BY THE ENTERPRISE BOARD; EXCEPT THAT
17 THE DRINKING WATER SUPPLIER MAY RETAIN A VENDOR FEE OF THREE AND
18 ONE-THIRD PERCENT OF THE TOTAL AMOUNT OF FEES COLLECTED.

19 (2) (a) EXCEPT AS SPECIFIED IN SUBSECTIONS (2)(b) AND (2)(c) OF
20 THIS SECTION, THE AMOUNT OF THE FEE FOR EACH INDIVIDUAL METERED
21 CONNECTION IN A DRINKING WATER SUPPLIER'S PUBLIC WATER SYSTEM IS
22 TWENTY-FIVE CENTS PER THOUSAND GALLONS OF DRINKING WATER
23 DELIVERED PER MONTH IN EXCESS OF THE FIRST FOUR THOUSAND GALLONS
24 OF DRINKING WATER DELIVERED IN THAT MONTH TO THE INDIVIDUAL
25 METERED CONNECTION.

26 (b) FOR STATE FISCAL YEARS COMMENCING ON OR AFTER JULY 1,
27 2024, THE ENTERPRISE BOARD MAY ANNUALLY ADJUST THE AMOUNT OF

1 THE FEE TO REFLECT CHANGES IN THE UNITED STATES DEPARTMENT OF
2 LABOR, BUREAU OF LABOR STATISTICS, CONSUMER PRICE INDEX FOR
3 DENVER-AURORA-LAKEWOOD FOR ALL ITEMS AND ALL URBAN
4 CONSUMERS, OR ITS APPLICABLE SUCCESSOR INDEX.

5 (c) TO ADDRESS EQUITY CONCERNS, THE ENTERPRISE BOARD MAY
6 REDUCE THE AMOUNT OF THE FEE OR INCREASE THE NUMBER OF GALLONS
7 PER MONTH THAT ARE NOT SUBJECT TO THE FEE FOR LARGE
8 NONRESIDENTIAL CUSTOMERS AND FOR CUSTOMERS OF A DRINKING WATER
9 SUPPLIER THAT HAS TIERED RATES THAT START AT A LEVEL HIGHER THAN
10 FOUR THOUSAND GALLONS OF WATER PER MONTH.

11 (3) A DRINKING WATER SUPPLIER IS NOT LIABLE FOR A CUSTOMER'S
12 FAILURE TO PAY THE FEE WHEN DUE.

13 **37-94-106. Water resources financing - use of fees - fund.**

14 (1) THE ENTERPRISE SHALL TRANSMIT THE FEES COLLECTED PURSUANT TO
15 SECTION 37-94-105 TO THE STATE TREASURER, WHO SHALL CREDIT THE
16 FEES TO THE WATER RESOURCES FINANCING FUND, WHICH IS HEREBY
17 CREATED IN THE STATE TREASURY. THE FUND CONSISTS OF ALL REVENUES
18 OF THE ENTERPRISE, INCLUDING THE FEES, MONEY RECEIVED BY THE
19 ENTERPRISE FOR REPAYMENT OF LOANS, REVENUE BOND PROCEEDS,
20 MATCHING FEDERAL MONEY, AND INTEREST AND INCOME DERIVED FROM
21 THE DEPOSIT AND INVESTMENT OF MONEY IN THE FUND.

22 (2) THE ENTERPRISE SHALL USE ITS REVENUES TO PROVIDE WATER
23 RESOURCES FINANCING TO WATER PROVIDERS. FINANCING MAY CONSIST
24 OF:

25 (a) GRANTS;

26 (b) LOANS, INCLUDING LOANS WITH BELOW-MARKET-RATE
27 INTEREST; AND

1 (c) IN-KIND TECHNICAL ASSISTANCE IN ARRANGING THIRD-PARTY
2 FINANCING.

3 (3) IN DETERMINING WHETHER TO PROVIDE WATER RESOURCES
4 FINANCING, THE ENTERPRISE BOARD SHALL CONSIDER THE FOLLOWING
5 FACTORS:

6 (a) A WATER PROVIDER'S ABILITY TO PAY FOR CAPITAL
7 IMPROVEMENTS NECESSARY TO SUPPLY RAW OR DRINKING WATER OR
8 MAINTAIN COMPLIANCE WITH APPLICABLE WATER TREATMENT OR
9 WASTEWATER TREATMENT REQUIREMENTS, INCLUDING WHETHER THE
10 WATER PROVIDER HAS SOUGHT OR RECEIVED FINANCIAL ASSISTANCE FROM
11 THE CONSERVATION BOARD, THE AUTHORITY, OR ANY OTHER SOURCE;

12 (b) WHETHER A WATER PROVIDER HAS BEEN FOUND TO BE
13 NONCOMPLIANT WITH REQUIREMENTS, OR IS SUBJECT TO INCREASED
14 REQUIREMENTS, RELATED TO THE PROVISION OF RAW WATER, DRINKING
15 WATER, WATER TREATMENT, OR WASTEWATER TREATMENT;

16 (c) WHETHER THE PROPOSED USE OF WATER RESOURCES
17 FINANCING RELATES TO A PROJECT IDENTIFIED IN AND IN FURTHERANCE OF
18 THE STATE WATER PLAN ADOPTED PURSUANT TO SECTION 37-60-106.3;
19 AND

20 (d) THE GEOGRAPHIC LOCATION AND DEMOGRAPHIC
21 CHARACTERISTICS OF THE WATER PROVIDER AND ITS CUSTOMERS.

22 (4) THE ENTERPRISE SHALL PROVIDE, AND A WATER PROVIDER MAY
23 USE, WATER RESOURCES FINANCING ONLY:

24 (a) IN CONNECTION WITH THE PROVISION OF RAW WATER,
25 DRINKING WATER, WATER TREATMENT, OR WASTEWATER TREATMENT;
26 AND

27 (b) FOR FEASIBILITY STUDIES, CONSULTING, PLANNING,

1 PERMITTING, AND CONSTRUCTION OF INFRASTRUCTURE AND WATER
2 CONSERVATION PROJECTS AND RELATED RECREATIONAL, HYDROELECTRIC,
3 AND FLOOD CONTROL FACILITIES, INCLUDING NECESSARY ENLARGEMENT
4 AND REHABILITATION OF FACILITIES BUT EXCLUDING MAINTENANCE AND
5 OPERATION OF FACILITIES.

6 **37-94-107. Bonds - issuance - terms.** (1) THE ENTERPRISE MAY
7 ISSUE BONDS IN PRINCIPAL AMOUNTS THAT THE ENTERPRISE BOARD
8 DETERMINES ARE NECESSARY TO PROVIDE SUFFICIENT MONEY FOR ANY OF
9 ITS PURPOSES, INCLUDING THE PAYMENT, FUNDING, OR REFUNDING OF THE
10 PRINCIPAL OF, OR INTEREST OR REDEMPTION PREMIUMS ON, ANY BONDS
11 ISSUED BY IT, WHETHER THE BONDS OR INTEREST TO BE FUNDED OR
12 REFUNDED HAVE OR HAVE NOT BECOME DUE, AND INCLUDING THE
13 ESTABLISHMENT OR INCREASE OF RESERVES TO SECURE OR TO PAY THE
14 BONDS OR INTEREST AND ALL OTHER COSTS OR EXPENSES OF THE
15 ENTERPRISE INCIDENT TO AND NECESSARY TO CARRY OUT ITS PURPOSES
16 AND POWERS. THE ENTERPRISE SHALL SUBSIDIZE SOME OR ALL OF THE
17 COST OF ISSUING BONDS AND NOTES PURSUANT TO THIS ARTICLE 94 FOR
18 PROJECTS AUTHORIZED BY SECTION 37-94-106 (4).

19 (2) EXCEPT AS MAY BE OTHERWISE EXPRESSLY PROVIDED IN THIS
20 ARTICLE 94 OR BY THE ENTERPRISE, EVERY ISSUE OF BONDS IS A SPECIAL
21 OBLIGATION PAYABLE OUT OF ANY REVENUES OR MONEY OF THE
22 ENTERPRISE, SUBJECT ONLY TO ANY AGREEMENTS WITH THE HOLDERS OF
23 PARTICULAR BONDS PLEDGING ANY PARTICULAR REVENUES OR MONEY.
24 THE ENTERPRISE MAY ISSUE SUCH TYPES OF BONDS AS IT MAY DETERMINE,
25 INCLUDING BONDS AS TO WHICH THE PRINCIPAL AND INTEREST ARE
26 PAYABLE:

27 (a) EXCLUSIVELY FROM THE REVENUES AND RECEIPTS OF THE PART

1 OF THE PROJECT FINANCED WITH THE PROCEEDS OF THE BONDS;

2 (b) EXCLUSIVELY FROM THE REVENUES AND RECEIPTS OF CERTAIN
3 DESIGNATED PARTS OF THE PROJECT, WHETHER OR NOT THE DESIGNATED
4 PARTS ARE FINANCED IN WHOLE OR IN PART FROM THE PROCEEDS OF THE
5 BONDS; OR

6 (c) FROM ITS REVENUES AND RECEIPTS GENERALLY.

7 (3) THE BONDS MAY BE ADDITIONALLY SECURED BY A PLEDGE OF
8 ANY GRANT, SUBSIDY, OR CONTRIBUTION FROM ANY PERSON OR BY A
9 PLEDGE OF ANY INCOME, REVENUES, OR MONEY OF THE ENTERPRISE FROM
10 ANY SOURCE WHATSOEVER.

11 (4) WHETHER OR NOT THE BONDS ARE OF SUCH FORM AND
12 CHARACTER AS TO BE NEGOTIABLE INSTRUMENTS UNDER THE TERMS OF
13 THE "UNIFORM COMMERCIAL CODE", TITLE 4, THE BONDS ARE HEREBY
14 MADE NEGOTIABLE INSTRUMENTS WITHIN THE MEANING OF AND FOR ALL
15 THE PURPOSES OF TITLE 4, SUBJECT ONLY TO THE PROVISIONS OF THE
16 BONDS FOR REGISTRATION.

17 (5) BONDS OF THE ENTERPRISE MUST BE AUTHORIZED BY A
18 RESOLUTION OF THE ENTERPRISE BOARD AND MAY BE ISSUED IN ONE OR
19 MORE SERIES; BEAR SUCH DATE; MATURE AT SUCH TIME; BEAR INTEREST
20 AT SUCH RATE OF INTEREST PER ANNUM; BE IN SUCH DENOMINATION; BE
21 IN SUCH FORM, EITHER COUPON OR REGISTERED; CARRY SUCH CONVERSION
22 OR REGISTRATION PRIVILEGES; HAVE SUCH RANK OR PRIORITY; BE
23 EXECUTED IN SUCH MANNER; BE PAYABLE FROM SUCH SOURCES IN SUCH
24 MEDIUM OF PAYMENT AT SUCH PLACE WITHIN OR WITHOUT THE STATE;
25 AND BE SUBJECT TO SUCH TERMS OF REDEMPTION, WITH OR WITHOUT
26 PREMIUM, AS THE RESOLUTION MAY PROVIDE.

27 (6) BONDS OF THE ENTERPRISE MAY BE SOLD AT PUBLIC OR

1 PRIVATE SALE AT THE PRICE OR PRICES AND IN THE MANNER THE
2 ENTERPRISE BOARD DETERMINES.

3 (7) THE ISSUANCE OF BONDS IS NOT SUBJECT TO SECTION
4 24-36-121, AND BONDS MAY BE ISSUED UNDER THIS ARTICLE 94 WITHOUT
5 OBTAINING THE CONSENT OF ANY DEPARTMENT, DIVISION, COMMISSION,
6 BOARD, BUREAU, OR AGENCY OF THE STATE OTHER THAN THE ENTERPRISE
7 BOARD AND WITHOUT ANY OTHER PROCEEDING OR THE HAPPENING OF ANY
8 OTHER CONDITIONS OR OTHER THINGS THAN THOSE PROCEEDINGS,
9 CONDITIONS, OR THINGS THAT ARE SPECIFICALLY REQUIRED BY THIS
10 ARTICLE 94.

11 (8) (a) BONDS OF THE ENTERPRISE ISSUED UNDER THIS ARTICLE 94
12 ARE NOT IN ANY WAY A DEBT OR LIABILITY OF THE STATE OR OF ANY
13 POLITICAL SUBDIVISION OF THE STATE OTHER THAN THE ENTERPRISE AND
14 DO NOT CREATE OR CONSTITUTE ANY INDEBTEDNESS, LIABILITY, OR
15 OBLIGATION OF THE STATE OR OF ANY POLITICAL SUBDIVISION OR
16 CONSTITUTE A PLEDGE OF THE FAITH AND CREDIT OF THE STATE OR OF ANY
17 POLITICAL SUBDIVISION. ALL BONDS, UNLESS FUNDED OR REFUNDED BY
18 BONDS OF THE ENTERPRISE, ARE PAYABLE SOLELY FROM REVENUES
19 PLEDGED OR AVAILABLE FOR THEIR PAYMENT AS AUTHORIZED IN THIS
20 ARTICLE 94.

21 (b) EACH BOND MUST CONTAIN ON ITS FACE A STATEMENT TO THE
22 EFFECT THAT:

23 (I) THE ENTERPRISE IS OBLIGATED TO PAY THE PRINCIPAL OF THE
24 BOND AND THE INTEREST ONLY FROM REVENUES OF THE ENTERPRISE;

25 (II) NEITHER THE STATE NOR ANY POLITICAL SUBDIVISION OF THE
26 STATE IS OBLIGATED TO PAY THE PRINCIPAL OR INTEREST; AND

27 (III) NEITHER THE FAITH AND CREDIT NOR THE TAXING POWER OF

1 THE STATE OR ANY POLITICAL SUBDIVISION OF THE STATE IS PLEDGED TO
2 THE PAYMENT OF THE PRINCIPAL OF OR THE INTEREST ON THE BONDS.

3 (9) ALL EXPENSES INCURRED IN CARRYING OUT THIS ARTICLE 94
4 ARE PAYABLE SOLELY FROM REVENUES PROVIDED OR TO BE PROVIDED
5 UNDER THIS ARTICLE 94, AND NOTHING IN THIS ARTICLE 94 AUTHORIZES
6 THE ENTERPRISE TO INCUR ANY INDEBTEDNESS OR LIABILITY ON BEHALF
7 OF OR PAYABLE BY THE STATE OR ANY POLITICAL SUBDIVISION OF THE
8 STATE.

9 **37-94-108. Report.** NOTWITHSTANDING SECTION 24-1-136 (11),
10 BY JULY 1 OF EACH YEAR, THE ENTERPRISE BOARD SHALL SUBMIT A
11 SUMMARY REPORT OF ITS ACTIVITIES DURING THE PREVIOUS CALENDAR
12 YEAR TO THE WATER RESOURCES REVIEW COMMITTEE CREATED IN
13 SECTION 37-98-102.

14 **SECTION 2. Refer to people under referendum.** At the
15 election held on November 8, 2022, the secretary of state shall submit this
16 act by its ballot title to the registered electors of the state for their
17 approval or rejection. Each elector voting at the election may cast a vote
18 either "Yes/For" or "No/Against" on the following ballot title: "SHALL
19 AN ENTERPRISE BE CREATED TO COLLECT REVENUE
20 TOTALING ONE HUNDRED EIGHTY-FOUR MILLION FIVE
21 HUNDRED THOUSAND DOLLARS IN ITS FIRST FIVE YEARS to
22 administer a fee-based water resources financing program?" Except as
23 otherwise provided in section 1-40-123, Colorado Revised Statutes, if a
24 majority of the electors voting on the ballot title vote "Yes/For", then the
25 act will become part of the Colorado Revised Statutes.