

**Second Regular Session
Seventy-third General Assembly
STATE OF COLORADO**

ENGROSSED

*This Version Includes All Amendments Adopted
on Second Reading in the House of Introduction*

LLS NO. 22-0178.01 Jennifer Berman x3286

SENATE BILL 22-028

SENATE SPONSORSHIP

Simpson and Sonnenberg, Bridges, Coram, Donovan, Jaquez Lewis

HOUSE SPONSORSHIP

Roberts and Catlin, McCormick, McKean, McLachlan

Senate Committees

Agriculture & Natural Resources

House Committees

A BILL FOR AN ACT

101 **CONCERNING THE CREATION OF THE GROUNDWATER COMPACT**
102 **COMPLIANCE AND SUSTAINABILITY FUND.**

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/>.)

Water Resources Review Committee. The bill creates the groundwater compact compliance and sustainability fund to help finance groundwater use reduction efforts in the Rio Grande river basin and the Republican river basin, such as efforts to buy and retire irrigation wells and irrigated acreage in the river basins. The Colorado water conservation board administers the fund and can make expenditures from the fund

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.*

SENATE
2nd Reading Unamended
February 15, 2022

based on recommendations from the board of directors of the Rio Grande water conservation district or the Republican river water conservation district. A conservation district's recommendations must first be approved by the state engineer.

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

2 **SECTION 1.** In Colorado Revised Statutes, **add** 37-60-134 as
3 follows:

4 **37-60-134. Groundwater compact compliance and**
5 **sustainability fund - creation - conservation district**
6 **recommendations for expenditures - state engineer approval -**
7 **legislative declaration - repeal.** (1) THE GENERAL ASSEMBLY HEREBY:

8 (a) FINDS AND DETERMINES THAT:

9 (I) GROUNDWATER WELL PUMPING IN CERTAIN AREAS OF THE
10 STATE PROVIDES THE PRINCIPAL SOURCE OF IRRIGATION WATER SUPPLY
11 BUT CONSEQUENTLY MAY REDUCE THE QUANTITY OF GROUNDWATER IN
12 THE AQUIFERS AND MAY IMPACT THE HYDROGEOLOGY OF CONNECTED
13 SURFACE STREAMS, RESULTING IN REDUCED STREAM FLOWS THAT
14 THREATEN SENIOR WATER RIGHTS AND THE STATE'S COMPLIANCE WITH
15 INTERSTATE COMPACTS;

16 (II) GROUNDWATER USE IS EXTENSIVE IN FOUR OF THE EIGHT
17 MAJOR RIVER BASINS IN COLORADO, NAMELY THE RIO GRANDE,
18 REPUBLICAN, ARKANSAS, AND SOUTH PLATTE RIVER BASINS, AND SUCH
19 GROUNDWATER USE IS CLOSELY TIED TO THE AGRICULTURAL ECONOMY IN
20 THOSE AREAS;

21 (III) PREVIOUS UNITED STATES SUPREME COURT LITIGATION
22 INITIATED IN NEIGHBORING STATES REGARDING COMPACT COMPLIANCE BY
23 THE RIO GRANDE, ARKANSAS, AND REPUBLICAN RIVER BASINS HAVE

1 INVOLVED COMPLAINTS REGARDING THE EXTENT OF GROUNDWATER USE
2 IN THOSE AREAS. SETTLEMENTS OF THE LAWSUITS IN THE RIO GRANDE
3 AND REPUBLICAN RIVER BASINS RESULTED IN THE CREATION OF WATER
4 CONSERVATION DISTRICTS TO ADDRESS GROUNDWATER MANAGEMENT
5 AND CONSERVATION.

6 (IV) DESPITE THE CONSERVATION DISTRICTS' AND THE STATE'S
7 DILIGENT EFFORTS TO IMPLEMENT STRATEGIES TO REDUCE GROUNDWATER
8 USE, INCLUDING THE CREATION OF SIX GROUNDWATER MANAGEMENT
9 SUBDISTRICTS IN THE RIO GRANDE RIVER BASIN AND THE USE OF VARIOUS
10 FEDERAL, STATE, AND LOCAL FUNDING SOURCES TO INCENTIVIZE THE
11 PURCHASE AND RETIREMENT OF IRRIGATED ACREAGE, EXTENSIVE
12 GROUNDWATER USE IN THE RIO GRANDE AND REPUBLICAN RIVER BASINS
13 CONTINUES TO THREATEN AQUIFER SUSTAINABILITY, SENIOR WATER
14 RIGHTS, AND COMPACT COMPLIANCE;

15 (V) AS PART OF THE EFFORTS TO REDUCE GROUNDWATER USE, THE
16 STATE ENTERED INTO A STIPULATION WITH KANSAS AND NEBRASKA IN
17 2016 IN WHICH THE STATE AGREED TO RETIRE TWENTY-FIVE THOUSAND
18 ACRES OF IRRIGATED ACREAGE IN THE REPUBLICAN RIVER BASIN BY 2029,
19 AND, PURSUANT TO STANDARDS FOR GROUNDWATER MANAGEMENT SET
20 FORTH IN SECTION 37-92-501 (4), THE GROUNDWATER MANAGEMENT
21 SUBDISTRICT NUMBER 1 CREATED IN THE RIO GRANDE WATER
22 CONSERVATION DISTRICT IS REQUIRED TO RETIRE FORTY THOUSAND ACRES
23 OF IRRIGATED ACREAGE BY 2029;

24 (VI) TO DATE, ONLY ABOUT THREE THOUSAND ACRES HAVE BEEN
25 RETIRED IN THE REPUBLICAN RIVER BASIN AND ONLY ABOUT THIRTEEN
26 THOUSAND ACRES HAVE BEEN RETIRED IN THE RIO GRANDE RIVER BASIN;
27 AND

1 (VII) IF THE ACREAGE RETIREMENT REQUIREMENTS IN THE RIO
2 GRANDE AND REPUBLICAN RIVER BASINS ARE NOT MET, THE STATE MIGHT
3 BE REQUIRED TO MANDATE GROUNDWATER USE REDUCTIONS FOR
4 PRODUCTIVE FARMLAND IN THE BASINS TO ACHIEVE COMPACT
5 COMPLIANCE, THUS THREATENING THE AGRICULTURAL ECONOMIES IN THE
6 RIVER BASINS; AND

7 (b) DECLARES THAT:

8 (I) GREATER FUNDING IS NEEDED TO INCENTIVIZE THE RETIREMENT
9 OF IRRIGATION WELLS AND IRRIGATED ACREAGE TO COMPLY WITH THE
10 GROUNDWATER USE REDUCTION REQUIREMENTS;

11 (II) TO ACCELERATE THE STATE'S PROGRESS IN RETIRING
12 IRRIGATED ACREAGE IN THE REPUBLICAN AND RIO GRANDE RIVER BASINS
13 IN ORDER TO MEET STATE-MANDATED DEADLINES, A STATE FUND SHOULD
14 BE CREATED TO PROVIDE FINANCIAL INCENTIVES AND ASSISTANCE FOR THE
15 BUYING AND RETIRING OF IRRIGATION WELLS AND IRRIGATED ACREAGE IN
16 THE BASINS;

17 (III) SUCH USE OF STATE MONEY WOULD ALSO HELP PROMOTE
18 CONSERVATION AND SUSTAINABILITY OF GROUNDWATER RESOURCES IN
19 FURTHERANCE OF THE STATE WATER PLAN DEVELOPED PURSUANT TO
20 SECTION 37-60-106.3; AND

21 (IV) THE BOARD SHOULD ADMINISTER THE FUND AND DISTRIBUTE
22 MONEY FROM THE FUND BASED ON RECOMMENDATIONS OF THE BOARD OF
23 DIRECTORS OF THE RIO GRANDE WATER CONSERVATION DISTRICT
24 APPOINTED PURSUANT TO SECTION 37-48-103 OR THE BOARD OF
25 DIRECTORS OF THE REPUBLICAN RIVER WATER CONSERVATION DISTRICT
26 APPOINTED PURSUANT TO SECTION 37-50-104, WHICH RECOMMENDATIONS
27 THE STATE ENGINEER SHOULD FIRST REVIEW.

1 (2) (a) THE GROUNDWATER COMPACT COMPLIANCE AND
2 SUSTAINABILITY FUND, REFERRED TO IN THIS SECTION AS THE "FUND", IS
3 HEREBY CREATED IN THE STATE TREASURY AND CONSISTS OF MONEY THAT
4 THE GENERAL ASSEMBLY MAY APPROPRIATE OR TRANSFER TO THE FUND;
5 MONEY THAT THE STATE MAY RECEIVE FROM FEDERAL SOURCES,
6 INCLUDING FEDERAL SOURCES OF STIMULUS FUNDING OR RECOVERY
7 FUNDING; AND ANY GIFTS, GRANTS, OR DONATIONS THAT THE BOARD
8 SEEKS, ACCEPTS, AND EXPENDS FOR THE PURPOSES SET FORTH IN THIS
9 SECTION. THE MONEY IN THE FUND IS SUBJECT TO ANNUAL APPROPRIATION
10 BY THE GENERAL ASSEMBLY.

11 (b) THE BOARD SHALL ADMINISTER THE FUND TO IMPLEMENT THE
12 GROUNDWATER COMPACT COMPLIANCE AND SUSTAINABILITY PURPOSES
13 ESTABLISHED IN ACCORDANCE WITH THIS SECTION. THE BOARD MAY USE
14 UP TO FIVE PERCENT OF THE MONEY ANNUALLY APPROPRIATED TO THE
15 FUND TO PAY THE BOARD'S DIRECT AND INDIRECT COSTS, AS WELL AS THE
16 DIRECT AND INDIRECT COSTS INCURRED BY THE RIO GRANDE WATER
17 CONSERVATION DISTRICT, THE REPUBLICAN RIVER WATER CONSERVATION
18 DISTRICT, AND THE STATE ENGINEER IN IMPLEMENTING THIS SECTION.

19 (3) THE BOARD MAY DISBURSE MONEY FROM THE FUND FOR
20 PURPOSES RELATED TO COMPACT COMPLIANCE AND GROUNDWATER
21 RESOURCE SUSTAINABILITY AND CONSERVATION, INCLUDING THE
22 FINANCING OF PROGRAMS DIRECTED AT BUYING AND RETIRING IRRIGATED
23 ACREAGE TO REDUCE GROUNDWATER USE. THE BOARD OF DIRECTORS OF
24 THE RIO GRANDE WATER CONSERVATION DISTRICT AND THE BOARD OF
25 DIRECTORS OF THE REPUBLICAN RIVER WATER CONSERVATION DISTRICT,
26 IN COLLABORATION WITH THE BOARD AND THE STATE ENGINEER, MAY
27 EACH ESTABLISH ELIGIBILITY AND APPLICATION CRITERIA FOR

1 DISBURSEMENT OF MONEY FROM THE FUND. EACH BOARD OF DIRECTORS
2 SHALL POST ON ITS WEBSITE ANY CRITERIA ESTABLISHED PURSUANT TO
3 THIS SUBSECTION (3).

4 (4) THE BOARD SHALL DISBURSE MONEY FROM THE FUND BASED
5 ON RECOMMENDATIONS FROM THE BOARD OF DIRECTORS OF EITHER THE
6 RIO GRANDE WATER CONSERVATION DISTRICT OR THE REPUBLICAN RIVER
7 WATER CONSERVATION DISTRICT, WHICH RECOMMENDATIONS MUST FIRST
8 BE APPROVED BY THE STATE ENGINEER.

9 (5) IF ALL GROUNDWATER REDUCTION REQUIREMENTS
10 ESTABLISHED BY FEDERAL OR STATE COURT ORDER OR STIPULATION HAVE
11 BEEN MET AND ALL STATUTORILY MANDATED GROUNDWATER REDUCTION
12 STANDARDS HAVE BEEN ACHIEVED, THIS SECTION WILL BE REPEALED. THE
13 BOARD SHALL NOTIFY THE REVISOR OF STATUTES IN WRITING OF THE DATE
14 WHEN THE CONDITIONS SPECIFIED IN THIS SUBSECTION (5) HAVE
15 OCCURRED BY EMAILING THE NOTICE TO
16 REVISOROFSTATUTES.GA@STATE.CO.US. THE BOARD SHALL ALSO SEND A
17 COPY OF THE NOTICE TO THE STATE TREASURER WHO, WITHIN THREE DAYS
18 AFTER RECEIVING THE NOTICE, SHALL TRANSFER ANY MONEY REMAINING
19 IN THE FUND TO THE GENERAL FUND. THIS SECTION IS REPEALED,
20 EFFECTIVE UPON THE DATE IDENTIFIED IN THE NOTICE OR, IF THE NOTICE
21 DOES NOT SPECIFY THAT DATE, UPON THE DATE OF THE NOTICE TO THE
22 REVISOR OF STATUTES.

23 **SECTION 2. Safety clause.** The general assembly hereby finds,
24 determines, and declares that this act is necessary for the immediate
25 preservation of the public peace, health, or safety.