

Second Regular Session
Seventy-fourth General Assembly
STATE OF COLORADO

DRAFT
10/10/23

Bill 2

LLS NO. 24-0358.01 Richard Sweetman x4333

INTERIM COMMITTEE BILL

Water Resources and Agriculture Review Committee

BILL TOPIC: Authorize Conservancy District Water Management

A BILL FOR AN ACT

101 **CONCERNING CONSERVANCY DISTRICTS, AND, IN CONNECTION**
102 **THEREWITH, AUTHORIZING A CONSERVANCY DISTRICT TO**
103 **PARTICIPATE IN A PLAN FOR AUGMENTATION; CONTRACT WITH**
104 **WATER USERS OUTSIDE THE CONSERVANCY DISTRICT FOR THE**
105 **PROVISION OF SERVICES; EXERCISE CERTAIN POWERS**
106 **REGARDING THE CONTROL, DELIVERY, USE, AND DISTRIBUTION**
107 **OF WATER; ESTABLISH A WATER ACTIVITY ENTERPRISE; AND**
108 **SELL, LEASE, OR OTHERWISE DISPOSE OF THE USE OF WATER OR**
109 **CAPACITY IN WORKS BY CONTRACT.**

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

*Capital letters or bold & italic numbers indicate new material to be added to existing law.
Dashes through the words indicate deletions from existing law.*

applies to the reengrossed version of this bill will be available at <http://leg.colorado.gov/>.)

Water Resources and Agriculture Review Committee. Under current law, when certain conditions exist, a district court may establish conservancy districts for the conservation, development, utilization, and disposal of water for agricultural, municipal, and industrial uses. **Section 1** of the bill allows conservancy districts to conserve, develop, utilize, or dispose of water for commercial uses as well.

Section 2 authorizes the board of directors of a conservancy district to:

- Submit and participate in a plan for augmentation for the benefit of water rights and wells within and outside of the boundaries of the conservancy district;
- Contract with water users within and outside of the conservancy district for the provision of services;
- Exercise certain powers concerning the management, control, delivery, use, and distribution of water in conjunction with a plan for augmentation;
- In conjunction with **sections 4 and 5**, establish a water activity enterprise, which is a government-run business, for the purpose of pursuing or continuing water activities; and
- Sell, lease, or otherwise dispose of the use of water or capacity in works by term contracts or by contracts for the perpetual use of the water or works to certain entities.

Section 3 authorizes a conservancy district to:

- Enter into long-term contracts with public and private entities for the accomplishment of functions of the conservancy district; and
- Avail itself of aid, assistance, and cooperation from the federal government, the state government, and local governments.

Sections 4 and 5 allow a conservancy district to establish a water activity enterprise, which is a business that receives less than 10% of its annual revenues in grants from all Colorado state and local governments combined, is authorized to issue its own revenue bonds, and is excluded from the provisions of the "Taxpayer's Bill of Rights" in the state constitution.

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

2 **SECTION 1.** In Colorado Revised Statutes, 37-2-101, **amend** (1)

3 introductory portion and (1)(f) as follows:

1 **37-2-101. Jurisdiction of district court to establish**
2 **conservancy district - purposes of districts.** (1) ~~The district court~~
3 ~~sitting in and for any county in this state has jurisdiction,~~ When the
4 conditions stated in section 37-2-102 are found to exist, ~~to~~ A DISTRICT
5 COURT MAY establish A conservancy ~~districts~~ DISTRICT, which may be
6 entirely ~~within~~ or partly within ~~and partly without~~ the judicial district in
7 which ~~said~~ THE court is located, for any of the following purposes:

8 (f) ~~The conservation, development, utilization, and disposal of~~
9 ~~water~~ CONSERVING, DEVELOPING, UTILIZING, OR DISPOSING OF WATER for
10 agricultural, municipal, ~~and~~ COMMERCIAL, OR industrial uses; ~~thereof,~~
11 ~~when desirable as a part of a project or undertaking the principal purpose~~
12 ~~of which is one or more of the purposes set out in this section;~~ OR

13 **SECTION 2.** In Colorado Revised Statutes, 37-3-103, **amend** (1)
14 introductory portion and (1)(k); and **add** (1)(m), (1)(n), (1)(o), (1)(p), and
15 (1)(q) as follows:

16 **37-3-103. General powers - definition.** (1) To protect life and
17 property within the CONSERVANCY district and to protect or relieve land
18 THAT IS subject to overflowing or washing or that is menaced or
19 threatened by the normal flow, flood, surplus, or overflow of waters of
20 any natural watercourse, stream, canyon, or wash, whether perennial,
21 intermittent, or flood; ~~and to effect the protection of~~ PROTECT the land and
22 other property in the CONSERVANCY district; and to accomplish all other
23 purposes of the CONSERVANCY district, the board of directors is
24 authorized:

25 (k) To participate in the development of parks and recreational
26 facilities within the boundaries of the CONSERVANCY district, including
27 the development of trails, greenways, and riverfronts, and to consider

1 such participation a current expense of the CONSERVANCY district; and

2 (m) TO SUBMIT AND PARTICIPATE IN A PLAN FOR AUGMENTATION,
3 AS DEFINED IN SECTION 37-92-103 (9), FOR THE BENEFIT OF WATER
4 RIGHTS, AS DEFINED IN SECTION 37-92-103 (12), AND WELLS, AS DEFINED
5 IN SECTION 37-92-103 (14), INCLUDING AGRICULTURAL, MUNICIPAL,
6 COMMERCIAL, AND INDUSTRIAL WELLS WITHIN AND OUTSIDE THE
7 BOUNDARIES OF THE CONSERVANCY DISTRICT;

8 (n) (I) TO CONTRACT WITH WATER USERS WITHIN AND OUTSIDE OF
9 THE CONSERVANCY DISTRICT FOR THE PROVISION OF SERVICES TO SUCH
10 WATER USERS.

11 (II) AS USED IN THIS SUBSECTION (1)(n), "SERVICES" MEANS:

12 (A) TRANSFERRING, CONSERVING, RECHARGING, AUGMENTING,
13 EXCHANGING, CHANGING, USING, OR REUSING WATER SUPPLIES;

14 (B) THE RETIREMENT OF WELLS; AND

15 (C) SUCH OTHER SERVICES AS THE BOARD MAY CONTRACT TO
16 PROVIDE.

17 (o) TO EXERCISE, IN CONJUNCTION WITH A PLAN FOR
18 AUGMENTATION, THE FOLLOWING POWERS CONCERNING THE
19 MANAGEMENT, CONTROL, DELIVERY, USE, AND DISTRIBUTION OF WATER
20 BY THE CONSERVANCY DISTRICT:

21 (I) TO MAKE AND ENFORCE ALL REASONABLE RULES FOR THE
22 MANAGEMENT, CONTROL, DELIVERY, USE, AND DISTRIBUTION OF WATER;

23 (II) TO WITHHOLD, PURSUANT TO ANY CONTRACTS, THE DELIVERY
24 OF WATER IF THERE ARE ANY DEFAULTS OR DELINQUENCIES OF PAYMENT;

25 (III) TO DECLARE FORFEITURES OF RIGHTS TO THE USE OF WATER
26 UPON DEFAULT OR UPON FAILURE TO COMPLY WITH ANY COURT ORDER,
27 CONTRACT, OR AGREEMENT FOR THE PURCHASE, LEASE, OR USE OF WATER

1 AND TO RESELL, LEASE, OR OTHERWISE DISPOSE OF WATER UPON WHICH
2 FORFEITURE HAS BEEN DECLARED;

3 (IV) TO ALLOCATE AND REALLOCATE THE USE OF WATER TO LANDS
4 WITHIN AND OUTSIDE OF THE CONSERVANCY DISTRICT;

5 (V) TO GRANT THE RIGHT, UPON TERMS, TO TRANSFER WATER
6 FROM LANDS TO WHICH WATER HAS BEEN ALLOCATED TO OTHER LANDS
7 WITHIN OR OUTSIDE OF THE CONSERVANCY DISTRICT;

8 (VI) TO RETIRE WELLS;

9 (VII) TO ACQUIRE, CONSTRUCT, OPERATE, CONTROL, AND USE ANY
10 WORKS, FACILITIES, AND MEANS NECESSARY OR REASONABLE TO THE
11 EXERCISE OF ITS POWER, BOTH WITHIN AND OUTSIDE OF THE
12 CONSERVANCY DISTRICT FOR THE PURPOSE OF PROVIDING FOR THE USE OF
13 WATER WITHIN THE DISTRICT; AND

14 (VIII) TO PERFORM ANY AND ALL TASKS NECESSARY OR
15 REASONABLE FOR THE FULL EXERCISE OF THE POWERS GRANTED IN THIS
16 SUBSECTION (1)(o);

17 (p) TO ESTABLISH A WATER ACTIVITY ENTERPRISE FOR THE
18 PURPOSE OF PURSUING OR CONTINUING WATER ACTIVITIES, AS DESCRIBED
19 IN ARTICLE 45.1 OF THIS TITLE 37; AND

20 (q) TO SELL, LEASE, OR OTHERWISE DISPOSE OF THE USE OF WATER
21 OR CAPACITY IN WORKS BY TERM CONTRACTS OR BY CONTRACTS FOR THE
22 PERPETUAL USE OF THE WATER OR WORKS TO PUBLIC CORPORATIONS;
23 DISTRICTS, AS DEFINED IN SECTION 37-45.1-102 (1); CONSERVANCY
24 DISTRICTS; UTILITIES; MUTUAL DITCH COMPANIES; WATER USERS'
25 ASSOCIATIONS; PRIVATE CORPORATIONS; AND OTHER PERSONS FOR
26 IRRIGATION, DOMESTIC, MUNICIPAL, INDUSTRIAL, COMMERCIAL, OR OTHER
27 AUTHORIZED USES, IN WRITING, AUTHORIZED AND ENTERED INTO BY THE

1 BOARD. THE BOARD SHALL REQUIRE THAT SECURITY BE GIVEN TO SECURE
2 THE PAYMENTS TO BE MADE UNDER THE CONTRACTS, WHICH SECURITY
3 MAY INCLUDE THE SECURITY DESCRIBED IN SECTION 37-45-132 OR SUCH
4 OTHER SECURITY AS THE BOARD DETERMINES TO BE APPROPRIATE. THE
5 CONTRACTS MAY INCLUDE THE CONTRACTUAL PROVISIONS SPECIFIED IN
6 SECTION 31-35-402 (1)(h) AS DETERMINED BY THE BOARD.

7 **SECTION 3.** In Colorado Revised Statutes, **add** 37-3-103.5 as
8 follows:

9 **37-3-103.5. Cooperative powers - aid, assistance, and**
10 **cooperation from governments.** (1) A CONSERVANCY DISTRICT MAY,
11 WITHOUT CONDUCTING AN ELECTION, ENTER INTO LONG-TERM CONTRACTS
12 WITH THE FEDERAL GOVERNMENT, THE STATE OR ANY POLITICAL
13 SUBDIVISION OF THE STATE, A PRIVATE COMPANY, ANY PERSON, OR ANY
14 COMBINATION THEREOF FOR A TERM NOT EXCEEDING SEVENTY-FIVE YEARS
15 FOR THE PERFORMANCE OF FUNCTIONS OF THE CONSERVANCY DISTRICT,
16 WHICH FUNCTIONS, IN THE DISCRETION OF THE CONSERVANCY DISTRICT,
17 CAN DESIRABLY AND CONVENIENTLY BE CARRIED OUT UNDER CONTRACT.
18 HOWEVER, ANY SUCH CONTRACT MUST INCLUDE TERMS AND CONDITIONS
19 THAT ENABLE THE CONSERVANCY DISTRICT TO RETAIN REASONABLE
20 SUPERVISION AND CONTROL OF SUCH FUNCTIONS.

21 (2) THE CONSERVANCY DISTRICT MAY ACT AS NECESSARY TO
22 AVAIL ITSELF OF AID, ASSISTANCE, AND COOPERATION FROM THE STATE
23 GOVERNMENT OR FEDERAL GOVERNMENT OR FROM ANY LOCAL
24 GOVERNMENT.

25 **SECTION 4.** In Colorado Revised Statutes, 37-45.1-101, **amend**
26 (1) introductory portion as follows:

27 **37-45.1-101. Legislative declaration.** (1) The general assembly

1 hereby finds, determines, and declares that in order to provide for the
2 continued beneficial use of all waters originating in Colorado, the
3 establishment of water activity enterprises within or by CONSERVANCY
4 DISTRICTS, water conservancy districts, water conservation districts, and
5 other entities of state and local government is critical to the health and
6 welfare of the people of the state of Colorado. The general assembly
7 further finds that water activities are necessary to:

8 **SECTION 5.** In Colorado Revised Statutes, 37-45.1-102, **amend**
9 the introductory portion and (1) as follows:

10 **37-45.1-102. Definitions.** As used in this ~~article~~ ARTICLE 45.1,
11 unless the context otherwise requires:

12 (1) "District" means any state or local governmental entity that has
13 authority to conduct water activities, including A CONSERVANCY DISTRICT
14 CREATED PURSUANT TO ARTICLE 2 OF THIS TITLE 37, a water conservancy
15 district created pursuant to article 45 of this ~~title~~ TITLE 37, a water
16 conservation district created by article 46, 47, 48, or 50 of this ~~title~~ TITLE
17 37, a water and sanitation district or other entity created pursuant to title
18 32, ~~C.R.S.~~, an entity created pursuant to title 29 ~~C.R.S.~~, or this ~~title~~ TITLE
19 37, a county, or a municipality.

20 **SECTION 6. Act subject to petition - effective date.** This act
21 takes effect at 12:01 a.m. on the day following the expiration of the
22 ninety-day period after final adjournment of the general assembly; except
23 that, if a referendum petition is filed pursuant to section 1 (3) of article V
24 of the state constitution against this act or an item, section, or part of this
25 act within such period, then the act, item, section, or part will not take
26 effect unless approved by the people at the general election to be held in

- 1 November 2024 and, in such case, will take effect on the date of the
- 2 official declaration of the vote thereon by the governor.