

## CHAPTER 254

**WATER AND IRRIGATION****HOUSE BILL 93-1273**

BY REPRESENTATIVES Reeser, Chlouber, Entz, Foster, Moellenberg, Jerke, Acquafresca, Armstrong, Dyer, Eisenach, Salaz, Shoemaker, Lawrence, Mattingly, and Taylor;  
also SENATORS Bishop, Ament, Wattenberg, Gallagher, Johnson, Trujillo, Cassidy, Norton, L. Powers, Rizzuto, Tebedo, and Wham.

**AN ACT****CONCERNING THE COLORADO WATER CONSERVATION BOARD CONSTRUCTION FUND, AND MAKING APPROPRIATIONS IN CONNECTION THEREWITH.**

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

**SECTION 1. Project authorization.** (1) Pursuant to section 37-60-122 (1) (b), Colorado Revised Statutes, the Colorado water conservation board is hereby authorized to loan moneys to enable the construction of the following water resources projects:

<b>Priority</b>	<b>Name</b>	<b>Loan</b>	<b>(years)</b>
1.	Town of Norwood	\$ 320,000	20
2.	Town of Lochbuie	100,000	25
3.	Loloff Lateral Ditch Co.	71,500	40
4.	Pagosa Area Water and Sanitation District Steven's Lake	1,912,000	10
5.	Wamsley Cattle Co. Pole Mountain Dam	45,000	40
6.	DD&E Wise Dam	50,000	20
7.	Mesa Linda Property Owners		

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

	Assoc., Inc.		
	Subdivision Irrigation		
	System	32,000	10
8.*	Spring Creek		
	Extension Ditch		
	Company	46,000	20
9.**	Northern Colorado		
	Water Conservancy		
	District		
	Southern Pipeline		
	from Carter		
	Lake		
	to Broomfield	7,050,000	
10.	New Cache La		
	Poudre Irrigation		
	Co.	700,000	25
11.	Divide Canal &		
	Reservoir Co.		
	Worster Dam	525,000	20
12.***	Pagosa Area		
	Water and		
	Sanitation		
	District		
	Hidden Valley		
	Reservoir	<u>500,000</u>	
	TOTAL	\$ 11,351,500	

\* This project has already been constructed. The applicant believed it had sufficient funds for the project before beginning construction, but encountered unexpected subsurface conditions which dramatically increased construction costs. This project is within the statutory purposes established for loans from the water conservation board construction fund and otherwise meets all such requirements.

\*\* This total amount may be loaned to the cities of Berthoud, Erie, Fort Lupton, Fort Morgan, Hudson, Old Town Superior, and Wiggins, Colorado, to enable their participation in said project if the Colorado water conservation board determines, in its sole discretion, that said project and the participation of these cities is technically and financially feasible and that financing through the Colorado water and power development authority is not available and establishes appropriate repayment terms for each city.

\*\*\* This amount is to be reserved within the Colorado water conservation board construction fund in recognition of the significant value of the proposed Hidden Valley Reservoir Project and the need to complete project planning.

(2) The Colorado water conservation board may make loans for the construction of the projects specified in subsection (1) of this section from such moneys as are or may hereafter become available to the Colorado water conservation board construction fund. Said loans shall be in the amounts listed in subsection (1) of this section plus or minus such amounts, if any, as may be justified by reason of ordinary fluctuations in construction costs as indicated by the engineering cost indices

applicable to the types of construction required for each project or as may be justified by reason of changes in the plans for a project if those changes are required by final engineering drawings and specifications or by federal, state, or local governmental requirements.

(3) Contracts entered into by the Colorado water conservation board pursuant to section 37-60-119 (2), Colorado Revised Statutes, for loans to enable the construction of the projects specified in subsection (1) of this section shall be subject to the repayment periods and total repayments set forth therein; except that the total repayment for a project shall be adjusted to reflect any changes in the amount loaned by reason of subsection (2) of this section. Pursuant to section 37-60-120 (1), Colorado Revised Statutes, the board shall require such terms and conditions in such contracts as will ensure repayment of funds made available by it. The board shall not disburse any moneys for any loan authorized by subsection (1) of this section unless and until it is satisfied, in its sole discretion, that the recipient of any such loan will be able to make repayment pursuant to the terms and conditions established by the board and by subsection (1) of this section.

### SECTION 2. Project deauthorization.

<b>Project Name</b>	<b>Authorization Bill and Year</b>	<b>Amount Authorized</b>	<b>Amount Deauthorized</b>
1. Jackson Reservoir	SB 439-81	\$ 125,000	\$ 43,638
2. Ridges Metro District	SB 439-81	2,866,000	922,109
3. Town of Oak Creek	EO 7/23/84	144,000	144,000
4. Clark Lake	HB 1042-85	500,000	72,058
5. Lemon Dam	SB 15-87	162,900	162,900
6. Moonlight Lateral	SB 30-88	100,000	100,000
7. Wisconsin Ditch Company	SB 30-88	16,050	16,050
8. Town of Erie	SB 90-41	1,050,000	1,050,000
9. Clinton Ditch & Reservoir Co.	SB 92-87	8,400,000	3,115,000
10. Louisville Reservoir	HB 1042-85	<u>1,690,000</u>	<u>1,690,000</u>
<b>TOTAL</b>		<b>15,053,950</b>	<b>7,315,755</b>

**SECTION 3. Colorado river compact decision support system - computer model design - appropriation.** (1) The Colorado water conservation board is hereby authorized to begin designing a decision support system for the Colorado river and to continue development of the necessary database. The Colorado water conservation board is hereby authorized to expend not more than one million four hundred twenty thousand four hundred dollars (\$1,420,400) from the Colorado water conservation board construction fund for these purposes.

(2) In addition to any other appropriation, there is hereby appropriated, out of any

moneys in the Colorado water conservation board construction fund not otherwise appropriated, to the department of natural resources, for allocation to the water conservation board, and the division of water resources for the fiscal year beginning July 1, 1993, the sum of two hundred fifty thousand dollars (\$250,000) and 3.5 FTE, or so much thereof as may be necessary, for the continued implementation of this section.

**SECTION 4. South Platte water rights management system - modelling program.** The Colorado water conservation board is hereby authorized to participate in the development of a South Platte river water rights management support system. The Colorado water conservation board is hereby authorized to expend not more than three hundred fifty thousand dollars (\$350,000) from the Colorado water conservation board construction fund for this purpose.

**SECTION 5. Regional study of Denver metro area water supply.** The Colorado water conservation board is hereby authorized to undertake a regional study in cooperation with affected agencies of local government and other interest groups concerning options to increase the water supply of the Denver metropolitan area. The Colorado water conservation board is hereby authorized to expend not more than four hundred fifty thousand dollars (\$450,000) from the Colorado water conservation board construction fund for this purpose.

**SECTION 6. Consolidated water resources information center.** The Colorado water conservation board is hereby authorized to assemble and make available to water users in Colorado a consolidated water resources information center. The Colorado water conservation board is hereby authorized to expend not more than sixty thousand dollars (\$60,000) from the Colorado water conservation board construction fund for this purpose.

**SECTION 7. Reconnaissance study of potential small dam sites.** The Colorado water conservation board is hereby authorized to undertake a field reconnaissance study of potential small dam sites in Colorado. The Colorado water conservation board is hereby authorized to expend not more than thirty-five thousand dollars (\$35,000) from the Colorado water conservation board construction fund for this purpose.

**SECTION 8. Funding for good faith payment for purchase of uncommitted water at Ruedi reservoir.** The Colorado water conservation board is hereby authorized to initiate negotiations for the purchase of the rights to uncommitted water stored in the Ruedi reservoir. The Colorado water conservation board is hereby authorized to expend not more than five hundred thousand dollars (\$500,000) from the Colorado water conservation board construction fund for this purpose.

**SECTION 9. Statewide satellite monitoring system - appropriation.** In addition to any other appropriation, there is hereby appropriated, out of any moneys in the Colorado water conservation board construction fund not otherwise appropriated, to the department of natural resources, for allocation to the state engineer, for the fiscal year beginning July 1, 1993, the sum of one hundred thirteen thousand dollars (\$113,000), or so much thereof as may be necessary, for the controlled maintenance of the statewide satellite monitoring system operated by the state engineer pursuant to section 37-80-102 (10), Colorado Revised Statutes.

**SECTION 10.** Article 60 of title 37, Colorado Revised Statutes, 1990 Repl. Vol., as amended, is amended BY THE ADDITION OF A NEW SECTION to read:

**37-60-122.6. Emergency infrastructure account.** THERE IS HEREBY CREATED IN THE STATE TREASURY AS PART OF THE COLORADO WATER CONSERVATION BOARD CONSTRUCTION FUND THE EMERGENCY INFRASTRUCTURE REPAIR CASH ACCOUNT REFERRED TO IN THIS SECTION AS THE "EMERGENCY ACCOUNT". THE STATE TREASURER IS HEREBY AUTHORIZED AND DIRECTED TO TRANSFER TWO MILLION DOLLARS FROM THE WATER CONSERVATION BOARD CONSTRUCTION FUND TO THE EMERGENCY ACCOUNT. THE COLORADO WATER CONSERVATION BOARD IS AUTHORIZED TO MAKE LOANS FROM THE EMERGENCY ACCOUNT FOR PROJECTS WHICH IT DETERMINES ARE NECESSARY TO AVOID UNREASONABLE RISK OF INJURY OR DAMAGE TO HUMAN HEALTH OR WELL-BEING OR TO PROPERTY OR CROPS WHEN THE BOARD ALSO DETERMINES THAT THE EMERGENCY CONDITION IS NOT THE RESULT OF NEGLIGENCE IN THE OPERATION OR MAINTENANCE OF THE INFRASTRUCTURE. SUCH EMERGENCY PROJECTS MAY PROVIDE A PARTIAL, TEMPORARY, OR PERMANENT AND COMPLETE SOLUTION TO THE EMERGENCY CONDITION. HOWEVER, THE VIABILITY OR SUCCESS OF SUCH EMERGENCY PROJECTS MAY NOT BE DEPENDENT UPON FURTHER APPROPRIATIONS OR LOANS. ANY PARTIAL OR TEMPORARY SOLUTION TO AN EMERGENCY CONDITION MUST BE ONE WHICH IS SENSIBLE AND FUNCTIONAL ON ITS OWN MERITS WITHOUT REGARD TO THE PROSPECT OF FURTHER STATE FUNDING. THE BOARD SHALL SUBMIT TO THE GENERAL ASSEMBLY A WRITTEN DETERMINATION OF THE BASIS FOR EACH LOAN FROM THE EMERGENCY ACCOUNT NOT LATER THAN DECEMBER 1 OF THE YEAR IN WHICH SUCH LOAN WAS MADE. THE MONEYS IN THE EMERGENCY ACCOUNT ARE HEREBY CONTINUOUSLY APPROPRIATED TO THE BOARD FOR EMERGENCY INFRASTRUCTURE PURPOSES CONSISTENT WITH THE DEFINITION OF "EMERGENCY" IN SECTION 20 (2) (c) OF ARTICLE X OF THE STATE CONSTITUTION, INCLUDING BUT NOT LIMITED TO THE IMMEDIATE AVAILABILITY OF FUNDS FOR EMERGENCY REPAIRS TO RAW WATER STORAGE SYSTEMS, RAW WATER TRANSMISSION SYSTEMS, OR BOTH SUCH STORAGE AND TRANSMISSION SYSTEMS. ALL INTEREST DERIVED FROM THE INVESTMENT OF MONEYS IN THE EMERGENCY ACCOUNT SHALL BE CREDITED TO THE COLORADO WATER CONSERVATION BOARD CONSTRUCTION FUND. ANY BALANCE REMAINING IN THE EMERGENCY ACCOUNT AT THE END OF ANY FISCAL YEAR SHALL REMAIN IN THE ACCOUNT.

**SECTION 11. 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: June 6, 1993