

CHAPTER 265

WATER AND IRRIGATION**SENATE BILL 94-029**

BY SENATORS Bishop, Cassidy, Gallagher, Johnson, Norton, Pastore, L. Powers, and Tebedo;
also REPRESENTATIVES Reeser, Acquafresca, Eisenach, Entz, George, Jerke, Moellenberg, Shoemaker, and Taylor.

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:

Priority	Name	Loan	(years)
1.	Beaver Park Water Co. - Brush Hollow Dam Rehab.	\$ 750,000	30
2.	Beaver Reservoir Company - Beaver Creek Dam Rehab.	373,000	40
3.	Military Park Res. Co. - Military Park Res. Dam Rehab.	30,000	30
4.	Cedar Mesa Ditch Co. - Cedar Mesa Res. Outlet Rehab.	10,500	15
5.	City of Walsenburg - Martin Lake Enlargement and Rehab.	86,000	30
6.	Michigan River Water Cons.		

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

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	Dist. - Meadow Creek Dam Outlet	97,500	20
7.	Jackson Lake Res. & Irrig. Co. - Jackson Res. Dam Rehab.	1,000,000	30
8.	Bull Basin Owners - Bull Basin Res. No. 2 Rehab.	25,000	30
9.	Elmwood Lateral Ditch Co. - Convert Ditch to Pipeline	80,000	20
10.	Highline Buzzard Ditch Co. - Convert Ditch to Pipeline	50,000	30
11.	Lateral 35 Association - Rehabilitate Lateral	35,000	30
12.	Rainbow Park Water Co. - Rainbow Park Ditch	130,000	30
13.*	Town of Johnstown - Johnstown Pipeline	2,542,500	30
14.	Town of Monument - Well System Improvements	94,000	30
15.	Vouga Reservoir Assoc. - Vouga Res. Outlet Rehab.	350,000	30
16.*	City of Salida - Raw Water Pipeline Replacement	553,000	30
17.**	City of Fort Morgan	5,500,000	40
18.	Kings Row Homeowners Assoc. Irrigation System Improvements	75,000	30
19.***	Conservation Conveyance Channel Rio Grande River Project	<u>410,000</u>	15
	TOTAL	\$12,191,500	

* This total amount may be loaned to the town of Johnstown, Colorado, and the city of Salida, 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 this town and city is technically and financially feasible and that financing through the Colorado water resources and power development authority is

not available and establishes appropriate repayment terms for each town or city.

** This total amount may be loaned to the city of Fort Morgan, Colorado, to enable its participation in the northern Colorado water conservancy district southern pipeline project, phase 2, eastern extension, if the Colorado water conservation board determines, in its sole discretion, that the project and participation of the city is technically and financially feasible and that financing through the Colorado water resources and power development authority is not available or has been exhausted and establishes appropriate repayment terms.

*** Notwithstanding the provisions of section 37-60-121 (1) (b) (VII), Colorado Revised Statutes, the Colorado water conservation board is authorized to loan to the city of Alamosa, out of any moneys in the Colorado water conservation board construction fund not otherwise appropriated, up to four hundred ten thousand dollars (\$410,000), for the purpose of cooperating with the United States army corps of engineers in constructing a federally authorized flood control and water conservation conveyance channel improvement project. Such funds shall assist the state of Colorado and the city of Alamosa with the nonfederal cost-share requirements for the project pursuant to section 37-60-106 (1) (e), Colorado Revised Statutes. Such loan shall be repayable in annual installments at four and one-half percent interest over a term of up to fifteen years.

(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 cost 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 deauthorizations.

Project Name	Authorization Bill and Year	Amount Authorized	Amount Deauthorized
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1. Blaine Lateral Ditch Co.	SB 90-41	\$ 155,000	\$ 155,000
2. Town of Lochbuie	HB 93-1273	100,000	100,000
3. Spring Cr. Ext. Ditch Co.	HB 93-1273	46,000	46,000
4. Kern Res. & Ditch Co.	SB 81-439	123,000	40,033
5. White River Geo. Study	HB 83-1102	430,000	30,000
6. Bauer Lakes Water Co.	HB 85-1042	50,000	7,149
7. Clinton Ditch & Res. Co.	SB 92-87	8,400,000	550,000
8. Florida Farm Irrig. Proj.	HB 85-1042	<u>260,000</u>	<u>260,000</u>
TOTAL		\$9,564,000	\$1,188,182

SECTION 3. Colorado river compact decision support system - appropriation. (1) The Colorado water conservation board is hereby authorized to continue designing a decision support system for the Colorado river, to continue development of the necessary databases, and to acquire, operate, and maintain the associated computer hardware and software. The Colorado water conservation board is hereby authorized to retain a contractor to design the system and to expend not more than one million seven hundred forty-four thousand dollars (\$1,744,000) for contract year two of this decision support system 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 Colorado water conservation board and the division of water resources, for contract year two, the sum of two hundred fifty thousand dollars (\$250,000) and 3.0 FTE, or so much thereof as may be necessary, to retain a contractor to manage the design of the system and for the continued implementation of this section.

SECTION 4. South Platte river water rights management and data collection support system. The Colorado water conservation board and the division of water resources are hereby authorized to continue their participation in the development of a South Platte river water rights management support system and related South Platte river data collection and investigations. The Colorado water conservation board is hereby authorized to expend not more than one hundred fifty seven thousand dollars

(\$157,000) from the Colorado water conservation board construction fund for this purpose.

SECTION 5. Satellite monitoring system maintenance - 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, 1994, the sum of one hundred thirteen thousand dollars (\$113,000), or so much thereof as may be necessary, for the maintenance of the satellite monitoring system established and operated pursuant to section 37-80-102 (10), Colorado Revised Statutes.

SECTION 6. Small dam site reconnaissance program. The Colorado water conservation board is hereby authorized to continue its field reconnaissance study of potential small dam sites in Colorado and to increase the level of technical assistance available to small organizations interested in constructing small new storage facilities and for rehabilitating or enlarging existing facilities. The Colorado water conservation board is hereby authorized to contract for services and expend not more than fifty thousand dollars (\$50,000) from the Colorado water conservation board construction fund for these purposes.

SECTION 7. Extreme precipitation investigation - appropriation. (1) The state engineer is hereby authorized to investigate available evidence of extreme precipitation in the mountains of Colorado in relation to the requirements which govern the size of spillways to enable reservoirs to safely pass large floods. The state engineer shall evaluate the available data and recommend to the governor and the general assembly any appropriate actions which may lead to a reduction in the cost of dam spillway improvements, an increase in the conservation pool of reservoirs, an increase in power generation capabilities, or other benefits, while assuring adequate protection from flood risks.

(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 state engineer, for the fiscal year beginning July 1, 1994, the sum of one hundred thousand dollars (\$100,000), or so much thereof as may be necessary, for the purposes as specified in subsection (1) of this section.

SECTION 8. Santa Maria reservoir company - repair Continental reservoir - feasibility study. The Colorado water conservation board is hereby authorized to make a grant to the Santa Maria reservoir company a sum not to exceed thirty thousand dollars (\$30,000) and not to exceed fifty percent of the actual total cost to conduct a feasibility study to determine the best method of repair for seepage problems at the Continental reservoir.

SECTION 9. Aquatic habitat study - implementation - matching federal funds. The Colorado water conservation board is hereby authorized to spend out of the Colorado water conservation board construction fund a sum not to exceed one hundred thousand dollars (\$100,000) to match federal funds in the amount of up to one hundred thousand dollars (\$100,000) if such federal funds are made available to the Colorado water conservation board to study or implement cooperative measures

for the operation of existing water supply facilities to provide benefits to aquatic habitat without reducing the yield or increasing the cost of such yield to such water supply facilities. This authorization shall terminate if a federal agency imposes requirements for by-pass flows or mandatory releases of water on any existing water supply facility.

SECTION 10. Section 1 (2) of chapter 230, Session Laws of Colorado 1986, is amended to read:

Section 1. **Project authorizations.** (2) The Colorado water conservation board may make loans, grants, or loans and grants for the construction of each project 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, such loans, grants, or loans and grants to 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 involved for such projects or as may be justified by reason of changes made in the plans for a project if those changes are required by final engineering drawings and specifications or by federal or state requirements. The loan for any project specified in subsection (1) of this section shall not exceed fifty percent of the total cost of constructing a project; EXCEPT THAT THE LOAN FOR THE JUMBO RESERVOIR PROJECT MAY BE UP TO ONE HUNDRED PERCENT OF THE TOTAL COST OF THAT PROJECT.

SECTION 11. 37-60-121 (1) (b) (VII), Colorado Revised Statutes, 1990 Repl. Vol., is amended to read:

37-60-121. Colorado water conservation board construction fund - creation of - nature of fund - funds for investigations -contributions - use for augmenting the general fund. (1) (b) In the consideration of making expenditures from the fund, the board shall be guided by the following criteria:

(VII) ~~After July 1, 1981, projects specifically for flood control shall not be recommended by the board to the general assembly;~~ THE BOARD MAY RECOMMEND TO LOAN FUNDS ON FLOODPLAIN PROJECTS NOT TO EXCEED FIVE PERCENT OF THE ANNUAL PROJECTED REVENUE EARNED BY THE FUND;

SECTION 12. 37-60-122.6, Colorado Revised Statutes, 1990 Repl. Vol., as amended, is amended to read:

37-60-122.6. Emergency infrastructure account. (1) 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.

(2) NOTWITHSTANDING THE PROVISIONS OF SECTION 24-6-402, C.R.S., IN EMERGENCY SITUATIONS IN WHICH A MAJORITY OF THE BOARD CERTIFIES THAT EXIGENCIES OF TIME REQUIRE THAT THE BOARD MEETS WITHOUT DELAY FOR THE PURPOSE OF CONSIDERING THE NEED FOR A LOAN PURSUANT TO SUBSECTION (1) OF THIS SECTION, THE REQUIREMENTS OF PUBLIC NOTICE MAY BE DISPENSED WITH BUT THE PUBLIC SHALL RECEIVE NOTICE AS SOON AS IS PRACTICABLE UNDER SUCH EXIGENT CIRCUMSTANCES; EXCEPT THAT NOTHING IN THIS SUBSECTION (2) SHALL BE CONSTRUED TO RELIEVE THE BOARD OF THE DUTY TO MAKE PUBLIC NOTICE.

SECTION 13. Article 60 of title 37, Colorado Revised Statutes, 1990 Repl. Vol., as amended, is amended BY THE ADDITION A NEW SECTION to read:

37-60-122.8. Publications account. (1) THERE IS HEREBY CREATED IN THE STATE TREASURY AS PART OF THE COLORADO WATER CONSERVATION BOARD CONSTRUCTION FUND THE PUBLICATIONS ACCOUNT. THE ACCOUNT SHALL CONSIST OF MONEYS PAID TO THE BOARD FROM PERSONS OUTSIDE THE BOARD FOR COPIES OF PUBLIC RECORDS OR PUBLICATIONS PROVIDED BY THE BOARD. THE MONEYS IN THE ACCOUNT MAY BE EXPENDED BY THE BOARD TO PAY FOR THE COST OF PROVIDING COPIES OF PUBLIC RECORDS OR PUBLICATIONS TO PERSONS OUTSIDE THE BOARD.

(2) THE PUBLICATIONS ACCOUNT SHALL HAVE NO MORE THAN TEN THOUSAND DOLLARS IN IT AND ANY AMOUNT IN EXCESS SHALL BE CREDITED TO THE COLORADO WATER CONSERVATION BOARD CONSTRUCTION FUND. ALL INTEREST DERIVED FROM THE INVESTMENT OF MONEYS IN THE PUBLICATIONS ACCOUNT SHALL BE CREDITED TO THE PUBLICATIONS ACCOUNT.

(3) THE STATE TREASURER IS HEREBY AUTHORIZED AND DIRECTED TO TRANSFER FIVE THOUSAND DOLLARS FROM THE WATER CONSERVATION BOARD CONSTRUCTION FUND TO THE PUBLICATIONS ACCOUNT.

SECTION 14. 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 31, 1994