

## CHAPTER 168

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**WATER AND IRRIGATION**

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**SENATE BILL 97-008**

BY SENATORS Bishop, Alexander, Arnold, Chlouber, Dennis, Johnson, Matsunaka, Norton, Phillips, Powers, Rizzuto, Schroeder, Thiebaut, and Wattenberg;  
also REPRESENTATIVES Entz, Bacon, G. Berry, Chavez, Reeser, Schwarz, Smith, Taylor, and Tucker.

**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 with the following priority:

<b>Priority</b>	<b>Name</b>	<b>Loan Amount</b>
(a)	Woods Lake Mutual Water & Irrig. Co. - Woods Lake Dam Rehabilitation	\$ 188,000
(b)	Summit Reservoir & Irrig. Co. - Summit Res. Dam & Canal Syst. Improvements <sup>a</sup>	\$ 600,000
(c)	Buffalo Mutual Irrigation Co. - Diversion Dam Rehabilitation	\$ 250,000
(d)	Excelsior Irrigating Company - Excelsior Ditch Rehabilitation	\$ 230,000
(e)	Durkee Ditch Company - New Headgate and Pipeline	\$ 120,000

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

(f)	Agricultural Ditch and Reservoir Co. - Welch Ditch Pump and Pipeline <sup>a</sup>	\$ 300,000
(g)	Hawkeye Lateral Ditch Company - Ditch Rehabilitation	\$ 143,000
(h)	Weldon Valley Ditch Company - Diversion Dam Rehabilitation	\$ 188,000
(I)	Pine River Irrigation District - Raw Water Supply System	\$ 341,000
(j)	River Oaks on the Roaring Fork Property Owners Assoc. - Raw Water Irrigation System <sup>a</sup>	\$ 25,500
(k)	Upper Yampa Water Conservancy District - Stagecoach Reservoir Refinance <sup>a</sup>	\$2,000,000
(l)	Powderhorn Metro District I Utility Enterprise - Robbins Reservoir Rehabilitation	\$ 525,000
(m)	Pinon Mesa Ranches <sup>a</sup> - Diversion Structure, Raw Water Pipeline and Storage	\$ 206,000
(n)	San Luis Valley Canal Co. - Diversion Structure Rehabilitation	\$ 188,000
(o)	Purgatoire River Water Conservancy District - Trinidad Project Refinance	\$ 500,000
	<b>TOTAL</b>	<b>\$5,804,500</b>

a Loan to refinance a water project wholly or partially completed.

(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 due to differing or unforeseen site conditions, errors or omissions in the plans and specifications, changes instituted by

regulatory agencies, or changes in material quantities beyond contract limits.

(3) 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, at 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.

<b>Name</b>	<b>Auth. Bill and Year</b>	<b>Prior Authorization</b>	<b>Revised Authorization</b>
City of Fort Collins and Larimer County - Dry Creek Flood Control Project	SB 96-153	\$500,000	\$920,000
Eagle Park Reservoir Company - Eagle Park Reservoir Rehabilitation	SB 96-153	\$3,125,000	\$4,000,000

#### **SECTION 2. Project deauthorizations.**

<b>Name - Authorization Bill and Year</b>	<b>Amount Authorized</b>	<b>Amount Deauthorized</b>	<b>Amount Remaining</b>
Meyering Livestock Co. - Hyannis Peak Reservoir HB 83-1102	\$ 425,000	\$ 425,000	\$0
Redlands Water & Power Co. - Redlands Rehabilitation SB 89-85	\$ 420,000	\$ 420,000	\$0
Bull Basin Res. & Irrig. Co. - Bull Basin Res. No. 2 Outlet Rehab. SB 94-029	\$ 25,000	\$ 25,000	\$0
Lower Clear Creek Ditch Co. - Diversion Dam Rehabilitation HB 95-1155	\$ 60,000	\$ 60,000	\$0
Colo. Agriculture Ditch Co. - Diversion Dam Rehabilitation HB 95-1155	\$ 60,000	\$ 60,000	\$0

Buckeye Lateral Ditch Association - Ditch Rehabilitation HB 95-1155	\$ 440,000	\$ 440,000	\$0
<b>TOTALS</b>	\$1,430,000	\$1,430,000	\$0

**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 basin, to continue development of the necessary databases, models, and user tools, and to acquire, operate, and maintain the associated computer hardware and software.

(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 five, for the fiscal year beginning July 1, 1997, the sum of three hundred twenty thousand dollars (\$320,000) and 4.0 FTE, or so much thereof as may be necessary, to retain a contractor to manage the design of the Colorado river compact decision support system and for the continued implementation of this section.

(3) The amounts authorized in this section are in addition to amounts authorized previously for the Colorado river compact decision support system for contract years one, two, three, and four. The moneys appropriated in subsection (2) of this section for the Colorado river compact decision support system shall remain available for the designated purposes until the project is completed.

**SECTION 4. 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, 1997, the sum of one hundred twenty thousand dollars (\$120,000), 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 5. Continuation of the extreme precipitation study and revisions to the NOAA atlas.** (1) The Colorado water conservation board, in cooperation with the state engineer, is hereby authorized to continue the extreme precipitation study authorized in SB 94-029 enacted at the second regular session of the fifty-ninth general assembly, that directed the state engineer and the Colorado water conservation board to investigate available evidence of extreme precipitation in the mountains of Colorado to establish reasonable standards and criteria for the design and evaluation of reservoir spillways to safely pass a design flood event. The Colorado water conservation board is hereby authorized to contract with a consultant or consultants to develop a state model based on the characteristics of twenty selected storms identified in the first phase of the project to predict extreme rainfall for any selected drainage basin above five thousand feet elevation and to expend up to three hundred thousand dollars (\$300,000) from the Colorado water conservation construction fund for such purposes.

(2) The Colorado water conservation board is hereby authorized to expend up to one hundred thousand dollars (\$100,000) in matching funds to cooperate with the National Oceanic and Atmospheric Administration (NOAA) to revise the NOAA atlas precipitation maps for Colorado to include additional base data from 1960 through at least 1990 to improve the design of class III dams and the design of highway structures and to improve in the identification of hazardous floodplains.

(3) The amounts authorized in this section are in addition to amounts authorized previously for extreme precipitation. The moneys appropriated in subsections (1) and (2) of this section shall remain available for the designated purposes until the project is completed.

**SECTION 6. Continuation of Roaring Fork river multi-objective management plan.** (1) The Colorado water conservation board is hereby authorized to expend up to fifty thousand dollars (\$50,000) from the Colorado water conservation board construction fund to continue the Roaring Fork river multi-objective management plan as follows:

(a) To develop an overall master plan to manage streambank erosion, channel migration, sediment, debris, and minimum stream flows for the Aspen reach;

(b) To fully implement an existing master plan to manage channel stability, erosion, debris, and protection of irrigation facilities for the Carbondale reach;

(c) To develop a plan to manage public access for recreation and stream beautification for the Glenwood Springs reach;

(d) To develop a plan to manage fishing, Ruedi reservoir release rates, flooding, and stream stability for the Fryingpan river;

(e) To develop a plan to manage erosion, sedimentation, flooding, and transbasin diversions for the upper tributaries; and

(f) To contract for services up to ten thousand dollars (\$10,000) for advanced flood mitigation measures in the Roaring Fork river basin in cooperation with local governments and the United States army corps of engineers in order to mitigate future flood losses.

(2) The amounts authorized in this section are in addition to amounts authorized previously for the Roaring Fork river multi-objective management plan. The moneys appropriated in subsection (1) of this section shall remain available for the designated purposes until the project is completed.

**SECTION 7. Arkansas river multi-objective management plan.** (1) The Colorado water conservation board is hereby authorized to expand the scope of work of the previously authorized Arkansas river channel restoration study and to expend up to fifty thousand dollars (\$50,000) in additional funds from the Colorado water conservation board construction fund to cooperate with and contract for services with the Colorado department of transportation or the U. S. Geological survey, or other contractors, and continue development of a multi-objective management plan for the Arkansas river for the stream reach extending from Pueblo to the Colorado-Kansas

state line. In addition to any previously authorized tasks, the funds are authorized to be used to perform the following additional tasks:

- (a) Groundwater analysis;
- (b) Collection of field data; and
- (c) Preparation of topographic and aerial mapping for a portion of the stream reach from Rocky Ford to John Martin reservoir.

(2) The amount authorized in this section is in addition to the amount authorized previously for the Arkansas river channel restoration study. The moneys appropriated in subsection (1) of this section shall remain available for the designated purposes until the project is completed.

**SECTION 8. Statewide river rehabilitation and floodplain management needs inventory.** The Colorado water conservation board is hereby authorized to expend up to one hundred thousand dollars (\$100,000) from the Colorado water conservation board construction fund to develop a scope of work and contract for services to conduct a statewide inventory of river channel rehabilitation and floodplain management needs. The findings of the needs assessment will be the basis for a proposal to determine the economic feasibility of establishing a statewide floodplain management and river channel rehabilitation program funded separately from the Colorado water conservation board construction fund. The proposed program would represent a comprehensive approach and source of funds for local governments to better manage and address multi-objective river issues including floodplain management, flood hazard mitigation measures, streambank and channel erosion, and maintenance of channel conveyance and wildlife habitat areas. The moneys appropriated pursuant to this section shall remain available for the designated purposes until the project is completed.

**SECTION 9. Chatfield reservoir reallocation study.** (1) The Colorado water conservation board is hereby authorized to expend up to three hundred thousand dollars (\$300,000) from the Colorado water conservation board construction fund to cooperate with the United States army corps of engineers, the urban drainage and flood control district, interested local governments, and other water users, in a reconnaissance study to be conducted in 1997 for the potential reallocation of flood control storage space to municipal water supply storage in Chatfield reservoir. The purpose of this reconnaissance study is to analyze existing and alternative operations of the Chatfield reservoir individually and, to the extent necessary, systematically with the Cherry Creek and Bear Creek reservoirs, to determine the advisability of undertaking a more detailed and more expensive investigation concerning the feasibility of reallocating storage in the flood control pool of Chatfield reservoir, either permanently or on a seasonal basis, to the conservation pool for water supply purposes. The reconnaissance study will estimate potential changes to downstream flows and to reservoir pool elevations as well as the potential consequences to water supplies, flood damages, recreation opportunities, water quality, fish and wildlife habitat, and other resources.

(2) Expenditure of the funds in subsection (1) of this section shall be contingent upon the board receiving a commitment from the United States army corps of

engineers that these expenditures, and significant in-kind services provided by the board staff, along with any similar contributions by other nonfederal participants, will be recognized and credited appropriately in the negotiated cost share agreement for funding and implementation of a formal feasibility study, should the board and the Colorado department of natural resources decide to proceed with that level of analysis.

(3) The moneys appropriated pursuant to this section shall remain available for the designated purposes until the project is completed.

**SECTION 10. Tamarack project and continuation of demonstration projects.** (1) The Colorado water conservation board is hereby authorized to expend a total of up to three hundred thousand dollars (\$300,000) from the Colorado water conservation board construction fund to cooperate with the South Platte lower river group for the following purposes:

(a) Up to two hundred forty thousand dollars (\$240,000) for construction of the Tamarack reregulation project; and

(b) Up to sixty thousand dollars (\$60,000) for continuation of making grants for demonstration projects.

(2) The amounts authorized in this section are in addition to amounts authorized previously for the South Platte lower river group. The moneys appropriated in subsection (1) of this section shall remain available for the designated purposes until the project is completed.

**SECTION 11. Exception to law concerning fish and wildlife resources account for the Grand Valley water management project and native aquatic species facility.** (1) To further the goals stated in section 37-60-122.2 (1) (a), Colorado Revised Statutes, and notwithstanding the provisions of section 37-60-122.2 (1) (b), (1) (c), (2) (b), and (2) (c), Colorado Revised Statutes, the Colorado water conservation board is authorized to:

(a) Make a nonreimbursable grant of not more than one million two hundred fifty thousand dollars from the fish and wildlife resources account in the Colorado water conservation board construction fund to the United States fish and wildlife service for the Grand Valley water management project proposed by the recovery implementation program for the endangered fish species of the upper Colorado river basin under provisions that assure that any unneeded or unused portion of these funds will be restored to the fish and wildlife resources account if the recovery program ceases to be in effect or to serve its intended purposes; and

(b) Make a nonreimbursable grant of not more than two million dollars from the fish and wildlife resources account in the Colorado water conservation board construction fund to the Colorado division of wildlife for development and initial operation of the native aquatic species facility. The board's contribution shall not exceed forty percent of the actual cost to develop and operate the native aquatic species facility for the first three years of operation.

(2) The moneys appropriated in subsection (1) of this section shall remain

available for the designated purposes until the project is completed.

**SECTION 12. Restoration of emergency infrastructure repair loan account balance.** A total of nine hundred sixty thousand dollars (\$960,000), or so much thereof as may be necessary, shall be transferred from unreserved cash in the Colorado water conservation board construction fund to the emergency infrastructure repair loan account in order to bring the balance in the emergency infrastructure repair loan account back to two million dollars (\$2,000,000).

**SECTION 13. Salinity control program loans.** The Colorado water conservation board is hereby authorized to expend a cumulative total of one million dollars (\$1,000,000) from unreserved cash in the Colorado water conservation board construction fund for loans to participants in the Colorado river basin salinity control program. Such loans shall be at the terms and conditions the board determines after review and approval of each potential participant's application. The loan amount shall not exceed fifty percent of the total cost of constructing any particular salinity control project.

**SECTION 14.** Article 60 of title 37, Colorado Revised Statutes, 1990 Repl. Vol., as amended, is amended BY THE ADDITION OF A NEW SECTION to read:

**37-60-122.4. Horse Creek basin account - creation.** (1) THERE IS HEREBY CREATED IN THE STATE TREASURY AS PART OF THE COLORADO WATER CONSERVATION BOARD CONSTRUCTION FUND THE HORSE CREEK BASIN ACCOUNT. THE STATE TREASURER IS HEREBY AUTHORIZED AND DIRECTED TO TRANSFER NINE HUNDRED FIFTEEN THOUSAND DOLLARS (\$915,000) FROM THE COLORADO WATER CONSERVATION BOARD CONSTRUCTION FUND TO THE HORSE CREEK BASIN ACCOUNT.

(2) THE COLORADO WATER CONSERVATION BOARD IS AUTHORIZED TO MAKE LOANS FROM THE HORSE CREEK BASIN ACCOUNT TO FINANCE THE COSTS OF ACQUIRING WATER RIGHTS FOR AUGMENTATION, THE ENGINEERING AND LEGAL COSTS OF ADJUDICATION OF AN AUGMENTATION PLAN, AND THE COSTS ASSOCIATED WITH OBTAINING AN OPERATING AGREEMENT TO FACILITATE SAID AUGMENTATION PLAN FOR WATER USERS IN THE HORSE CREEK BASIN AREA. THE COLORADO WATER CONSERVATION BOARD IS AUTHORIZED TO CONTRACT, PURSUANT TO SECTION 37-60-119 (2), FOR THE LOANS SPECIFIED IN THIS SUBSECTION (2). THE LOANS SHALL BE SUBJECT TO AN INTEREST RATE AND REPAYMENT PERIOD TO BE DETERMINED SOLELY BY THE COLORADO WATER CONSERVATION BOARD. THE COLORADO WATER CONSERVATION BOARD SHALL, PURSUANT TO SECTION 37-60-120 (1), REQUIRE SUCH TERMS AND CONDITIONS IN ANY CONTRACT ENTERED INTO PURSUANT TO THIS SUBSECTION (2) THAT WILL ENSURE REPAYMENT OF THE LOAN.

(3) THE COLORADO WATER CONSERVATION BOARD IS HEREBY AUTHORIZED TO LOAN THE HORSE CREEK WATER USERS ASSOCIATION THE AMOUNT OF EIGHT HUNDRED TWENTY-FIVE THOUSAND DOLLARS (\$825,000) FROM THE HORSE CREEK BASIN ACCOUNT, CREATED IN SUBSECTION (1) OF THIS SECTION, PURSUANT TO THE TERMS AND CONDITIONS OF SUBSECTION (2) OF THIS SECTION.

**SECTION 15. Well metering project appropriation.** (1) The Colorado water conservation board, in cooperation with the state engineer, is hereby authorized to expend up to one hundred thousand dollars (\$100,000) to study well pumping

measurements in the Arkansas River basin. The Colorado water conservation board is authorized to reimburse the ground water management fund, created in section 37-80-111.5 (1) (d), Colorado Revised Statutes, an amount up to twenty-five thousand dollars (\$25,000), for the purchase of totalizing flow meters by the state engineer in the 1997 fiscal year for the purpose of commencing the study.

(2) The amounts appropriated in subsection (1) of this section shall remain available for the designated purposes until the project is completed.

**SECTION 16. Appropriation.** In addition to any other appropriation, there is hereby appropriated, out of any moneys in the severance tax trust fund perpetual base account pursuant to section 39-29-109 (1) (a) (I), Colorado Revised Statutes, to the department of natural resources, for allocation to the water conservation board, for the fiscal year beginning July 1, 1997, the sum of four million dollars (\$4,000,000), or so much thereof as may be necessary, for the implementation of this act. Said sum shall be for the Eagle Park Reservoir Company to support the Eagle Park Reservoir Rehabilitation project.

**SECTION 17.** 37-60-130 (1) and (2), Colorado Revised Statutes, 1990 Repl. Vol., as amended, are amended to read:

**37-60-130. Arkansas river augmentation loan account - creation.** (1) There is hereby created in the state treasury as part of the Colorado water conservation board construction fund the Arkansas river augmentation loan account. The state treasurer is hereby authorized and directed to transfer ~~one million five hundred thousand~~ A TOTAL OF THREE MILLION FIVE HUNDRED THOUSAND dollars from the UNRESERVED CASH FUNDS IN THE water conservation board construction fund to the Arkansas river augmentation loan account.

(2) The board is hereby authorized to expend up to ~~one million five hundred thousand~~ THREE MILLION FIVE HUNDRED THOUSAND dollars from the Arkansas river augmentation loan account for the purpose of making loans to organizations or entities for the purchase of augmentation water or the rights to such water to replace out-of-priority depletions to surface water rights and to prevent material depletions of usable stateline flows in violation of the Arkansas river compact.

**SECTION 18.** 24-36-114 (2), Colorado Revised Statutes, 1988 Repl. Vol., as amended, is amended BY THE ADDITION OF A NEW PARAGRAPH to read:

**24-36-114. How interest earnings credited - management fee.** (2) (i) THE PROVISIONS OF THIS SUBSECTION (2) SHALL NOT APPLY TO ANY ACCOUNT IN THE COLORADO WATER CONSERVATION BOARD CONSTRUCTION FUND.

**SECTION 19. 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 21, 1997