

CHAPTER 175

WATER AND IRRIGATION

HOUSE BILL 98-1189

BY REPRESENTATIVES Entz, Reeser, Dyer, Musgrave, Sullivant, Taylor, and Young;
also SENATORS Bishop, Dennis, and Tebedo.

AN ACT

CONCERNING THE FUNDING OF COLORADO WATER CONSERVATION BOARD PROJECTS, AND MAKING
APPROPRIATIONS IN CONNECTION THEREWITH.

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

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

Priority	Borrower-Project	Loan Amount
(a)	City of Loveland - Green Ridge Glade Reservoir Enlargement	\$ 2,000,000
(b)	DeWeese-Dye Ditch & Reservoir Company - DeWeese Dam Rehabilitation ^a	\$ 734,000
(c)	North Poudre Irrigation Company - System Rehabilitation ^a	\$ 500,000
(d)	City of Idaho Springs - Idaho Springs Reservoir Rehabilitation ^a	\$ 955,000

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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(e)	Greeley and Loveland Irrigation Company - Equalizer Dam Rehabilitation ^a	\$ 308,000
(f)	Blue Lake Owners Association - Raw Water Irrigation System ^a	\$ 900,000
(g)	City of Fort Morgan - Raw Water Pipeline ^a	\$ 4,000,000
(h)	City of Sterling - Pawnee Creek Flood Control Project ^a	\$ 550,000
(i)	Chatfield South Water District - Water Rights Purchase ^a	\$ 500,000
(j)	Riverside Reservoir and Land Co. - Riverside Res. Spillway Rehab. and Land Purchase	\$ 450,000
(k)	Windsor Canal and Reservoir Co. - Big Windsor Reservoir Pump Station	\$ 925,000
(l)	Groundwater Appropriators of the South Platte - Sedgewick Augmentation Reservoir	\$ 1,700,000
	Totals	\$13,522,000

^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.

SECTION 2. Project loan authorizations from the severance tax trust fund perpetual base account. (1) Pursuant to section 39-29-109 (1) (a) (I), Colorado Revised Statutes, the Colorado water conservation board is hereby authorized to loan moneys from the severance tax trust fund perpetual base account to enable the construction of the following water resources projects with the following priority:

Priority	Borrower-Project	Loan Amount
(a)	Highland Ditch Company - Foothills Reservoir Dam Rehabilitation	\$ 1,040,000
(b)	City of Fort Morgan - Raw Water Pipeline ^b	\$ 4,000,000
(c)	Northern Colorado Water Association <u>- Purchase of Wells and Water Rights</u>	\$ 900,000
	Total	\$ 5,940,000

^b 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 severance tax trust fund perpetual base account. 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.

SECTION 3. Increases to prior authorized project loans. (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 or continue the construction of the following previously authorized water resources projects:

Borrower-Project	Prior Authority	Prior Amount	Increase	Total Amount
City of Greeley - Twin Lakes Dam Rehabilitation	SB 87-15	\$ 412,500	\$ 375,000	\$ 787,500
Town of Palisade - Replace Cottonwood Pipeline ^c	HB 95-1155	\$ 750,000	\$ 172,000	\$ 922,000
Purgatoire River Water Conservancy District - Trinidad Project Refinance	SB 97-008	\$ 500,000	\$ 500,000	\$1,000,000
Totals		\$1,662,500	\$1,047,000	\$2,709,500

^c Footnote "a" in the original authorization in HB95-1155, as enacted by the First Regular Session of the Sixtieth General Assembly, regarding the borrower being unable to obtain financing through the Colorado water resources and power development authority as it applies to this borrower shall be removed.

SECTION 4. Decreases to prior authorized project loans.

Borrower-Project	Prior Authority	Prior Amount	Decrease	Amount Remaining
Dolores Water Conservancy District - Dolores Project Residual Account	HB 83-1102	\$5,617,392	\$5,617,392	\$0
Rio Grande Water Cons. District - Ditches & Drains	SB 87-15	\$ 250,000	\$ 250,000	\$0
Town of Oak Creek - Sheriff Reservoir Spillway Enlargement	SB 87-15	\$ 300,000	\$ 300,000	\$0
Wadley Farms Homeowners Association - Wadley Dams No. 1, 2, & 3 Rehab.	SB 96-153	\$ 500,000	\$ 500,000	\$0

Cedar Mesa Ditch SB 94-029 Co. - Cedar Mesa Res. Outlet Rehab.	\$ 10,500	\$ 10,500	\$0
Lateral 35 Association - Rehabilitate Lateral	SB 94-029	\$ 35,000	\$ 35,000
City of Walsenburg - Martin Lake Enlargement and Rehab.	SB 94-029	\$ 86,000	\$ 86,000
Goodhue Ditch and Reservoir Co. - Goodhue Ditch Rehabilitation	HB 95-1155	\$ 19,000	\$ 19,000
Totals		\$6,817,892	\$6,817,892
			\$0

SECTION 5. Rio Grande compact decision support system - appropriation.

(1) The Colorado water conservation board is hereby authorized to initiate design of a decision support system for the Rio Grande basin including data collection and development of the necessary data and 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, the sum of two million dollars (\$2,000,000), or so much thereof as may be necessary, to retain a contractor to manage the design of the Rio Grande compact decision support system and for the continued implementation of this section.

(3) The moneys appropriated in subsection (2) of this section for the Rio Grande compact decision support system shall remain available for the designated purposes until the project is completed.

SECTION 6. 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, 1998, 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 7. Arkansas river well measurement program continuation -

appropriation. (1) 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 Colorado water conservation board for allocation to the state engineer, the sum of seventy-five thousand dollars (\$75,000), or so much thereof as may be necessary, to continue the Arkansas river well measurement program.

(2) The amounts appropriated in this section are in addition to amounts appropriated previously for the Arkansas river well measurement program. The moneys appropriated in subsection (1) of this section shall remain available for the designated purposes until the project is completed.

SECTION 8. Section 9 of Chapter 168, Session Laws of Colorado 1997, is amended to read:

Section 9. Chatfield reservoir reallocation study - appropriation. (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~~ 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 COLORADO WATER CONSERVATION BOARD, THE SUM OF FIVE HUNDRED THOUSAND DOLLARS (\$500,000), OR SO MUCH THEREOF AS MAY BE NECESSARY, 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 FEASIBILITY 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~~ EXECUTING A 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 FEASIBILITY STUDY is completed.

SECTION 9. South Platte river multi-objective management plan continuation - appropriation. (1) 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 Colorado water conservation board, the sum of fifty-six thousand dollars (\$56,000), or so much thereof as may be necessary, to continue development of the South Platte river multi-objective management plan.

(2) The amount appropriated in this section is in addition to amounts appropriated previously for the South Platte 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 10. Lower Elk river floodplain management planning - appropriation. (1) 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 Colorado water conservation board, the sum of thirty thousand dollars (\$30,000), or so much thereof as may be necessary, to assist Routt county and the lower Elk river flood association implement projects and develop a multi-objective floodplain management master plan for the lower reach of the Elk river and the Yampa river basin as follows:

(a) Up to ten thousand dollars (\$10,000) for assistance to implement demonstration flood projects; and

(b) Up to twenty thousand dollars (\$20,000) for master planning assistance to develop a multi-objective floodplain management master plan.

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

SECTION 11. Article 60 of title 37, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SECTION to read:

37-60-122.9. Colorado river recovery program loan account - creation.

(1) THERE IS HEREBY CREATED IN THE STATE TREASURY AS PART OF THE COLORADO WATER CONSERVATION BOARD CONSTRUCTION FUND THE COLORADO RIVER RECOVERY PROGRAM LOAN ACCOUNT FOR THE PURPOSE OF MAKING LOANS TO THE COLORADO RIVER AND SAN JUAN RIVER RECOVERY PROGRAMS FOR THE CONSTRUCTION OR IMPROVEMENT OF CERTAIN WATER RELATED PROJECTS IN COLORADO, UNDER AGREEMENTS WITH POWER USERS OF THE FEDERAL COLORADO RIVER STORAGE PROJECT, REQUIRED TO RECOVER THE FOUR ENDANGERED FISH SPECIES OF THE UPPER COLORADO RIVER, INCLUDING THE SAN JUAN RIVER.

(2) THE COLORADO WATER CONSERVATION BOARD SHALL RECOMMEND LOANS FROM THE COLORADO RIVER RECOVERY PROGRAM LOAN ACCOUNT TO THE GENERAL

ASSEMBLY PURSUANT TO SECTION 37-60-122 (1) (b). THE LOANS SHALL BE SUBJECT TO AN INTEREST RATE AND REPAYMENT PROVISIONS TO BE DETERMINED BY THE COLORADO WATER CONSERVATION BOARD.

(3) THE STATE TREASURER IS HEREBY AUTHORIZED AND DIRECTED TO TRANSFER TO THE COLORADO RIVER RECOVERY PROGRAM LOAN ACCOUNT, CREATED IN SUBSECTION (1) OF THIS SECTION, OUT OF ANY MONEYS IN THE COLORADO WATER CONSERVATION BOARD CONSTRUCTION FUND NOT OTHERWISE APPROPRIATED, THE SUM OF TWO MILLION DOLLARS. INTEREST EARNED ON THE FUNDS IN THE COLORADO RIVER RECOVERY PROGRAM LOAN ACCOUNT SHALL BE CREDITED TO THE COLORADO WATER CONSERVATION BOARD CONSTRUCTION FUND, CREATED IN SECTION 37-60-121 (1).

SECTION 12. Geo-hydrologic investigation of the Denver basin aquifers - appropriation. (1) 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 Colorado water conservation board, the sum of ninety thousand dollars (\$90,000), or so much thereof as may be necessary, for allocation to the Denver Museum of Natural History and the United States Geological Survey, in cooperation with the National Science Foundation, to drill and core a two thousand foot research well in the Denver basin aquifers near Kiowa in the central Denver basin and to conduct a geo-hydrologic analysis.

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

SECTION 13. Paragraph (a) of subsection (1) of Section 11 of Chapter 168, Session Laws of Colorado 1997, is amended to read:

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~~ PARTICIPANTS OF THE COLORADO RIVER RECOVERY IMPLEMENTATION PROGRAM 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

SECTION 14. 37-60-121 (3), Colorado Revised Statutes, 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. (3) Contributions of money, property, or equipment may be received AND EXPENDED from any county, municipality, federal agency, water conservation district, metropolitan water district, conservancy district, water users' association, person, or corporation for use in making investigations, contracting projects, or otherwise carrying out the purposes of sections 37-60-119 to 37-60-122.

SECTION 15. Section 16 of Chapter 168, Session Laws of Colorado 1997, is amended to read:

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 AND SHALL REMAIN AVAILABLE FOR THE DESIGNATED PURPOSES UNTIL THE PROJECT IS COMPLETED.

SECTION 16. 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: April 30, 1998