

CHAPTER 251

HEALTH AND ENVIRONMENT

SENATE BILL 01-066

BY SENATOR(S) Gordon, Anderson, Dyer (Arapahoe), Fitz-Gerald, Hagedorn, Hanna, Hernandez, McElhany, Pascoe, Reeves, Takis, Tupa, and Windels;
also REPRESENTATIVE(S) Clapp, Boyd, Coleman, Decker, Groff, Mace, Plant, Romanoff, Sanchez, Snook, and Young.

AN ACT

CONCERNING INCREASED PROTECTIONS FOR WATER QUALITY IN CHERRY CREEK RESERVOIR, AND, IN CONNECTION THEREWITH, ADJUSTING THE CHERRY CREEK BASIN WATER QUALITY AUTHORITY'S DUTIES AND MEMBERSHIP.

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

SECTION 1. 25-8.5-105 (1), Colorado Revised Statutes, is amended to read:

25-8.5-105. Authority members. (1) The following ~~governmental~~ entities shall be members of the authority:

(a) ~~Every~~ EACH county ~~which~~ THAT has property within the authority's boundaries SHALL HAVE ONE MEMBER;

(b) ~~Every~~ EACH municipality ~~which~~ THAT has property within the authority's boundaries SHALL HAVE ONE MEMBER; ~~and~~

(c) ~~Every~~ THE special ~~district which includes~~ DISTRICTS THAT INCLUDE in ~~its~~ THEIR service ~~area~~ AREAS property within the Cherry Creek basin and ~~which owns~~ THAT OWN and ~~operates a~~ OPERATE wastewater treatment services ~~facility~~ FACILITIES in the Cherry Creek basin SHALL COLLECTIVELY BE REPRESENTED BY A SINGLE MEMBER OF THE AUTHORITY. For the purposes of this paragraph (c), wastewater treatment services shall mean a wastewater treatment facility with a designed capacity to receive more than two thousand gallons of sewage per day;

(d) A TOTAL OF SEVEN MEMBERS SHALL BE APPOINTED BY THE GOVERNOR TO REPRESENT SPORTSPERSONS, RECREATIONAL USERS, AND CONCERNED CITIZENS. A MINIMUM OF TWO OF THESE APPOINTEES SHALL BE RESIDENTS OF COLORADO AND

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

SHALL BE FROM BONA FIDE SPORTSPERSONS' OR RECREATIONAL ORGANIZATIONS THAT HAVE MEMBERS WHO USE THE RESERVOIR. A MINIMUM OF TWO OF THESE APPOINTEES SHALL BE FROM BONA FIDE CITIZEN OR ENVIRONMENTAL ORGANIZATIONS INTERESTED IN PRESERVING WATER QUALITY WITH MEMBERS WHO USE THE RESERVOIR OR LIVE WITHIN CHERRY CREEK BASIN. AT LEAST THREE OF THE APPOINTED MEMBERS SHALL HAVE BACKGROUNDS IN OR PROFESSIONAL TRAINING REGARDING WATER QUALITY ISSUES. A SIMPLE MAJORITY OF THE APPOINTED MEMBERS SHALL BE APPOINTED TO FOUR-YEAR TERMS, THE REMAINDER SHALL BE APPOINTED TO INITIAL TWO-YEAR TERMS, AND THE MEMBERS APPOINTED TO FILL THE VACANCIES UPON EXPIRATION OF SUCH TWO-YEAR TERMS SHALL SERVE FOUR-YEAR TERMS. THE GOVERNOR MAY REPLACE ANY APPOINTED MEMBER WITH A NEW MEMBER BY APPOINTMENT EVERY FOUR YEARS.

SECTION 2. 25-8.5-106 (2), Colorado Revised Statutes, is amended to read:

25-8.5-106. Board of directors. (2) Each authority member shall appoint one representative and two alternates to serve on the board. THE REPRESENTATIVE AND ALTERNATES FOR THE SPECIAL DISTRICT AUTHORITY MEMBER SHALL BE CHOSEN BY UNANIMOUS CONSENT OF THE SPECIAL DISTRICTS REFERENCED IN SECTION 25-8.5-105 (1) (c), OR INCLUDED UNDER SECTION 25-8.5-119. Any county, municipality, or special district that provides wastewater treatment services by contract with another entity ~~which~~ THAT is a member of the authority shall not be entitled to a separate member on the board, AND SUCH A SPECIAL DISTRICT SHALL NOT BE ENTITLED TO REPRESENTATION BY THE SPECIAL DISTRICT MEMBER.

SECTION 3. 25-8.5-107 (2) and (3), Colorado Revised Statutes, are amended, and the said 25-8.5-107 is further amended BY THE ADDITION OF A NEW SUBSECTION, to read:

25-8.5-107. Voting. (2) Board action upon PROPOSED waste load allocations, site location or site plans selected pursuant to section 25-8-702, discharge permits secured pursuant to section 25-8-501, amendments to the authority's wastewater management plan, and all budget and funding decisions shall require ~~a AN AFFIRMATIVE vote of the following combinations of member votes:~~

~~(a) An affirmative vote of fifty percent of the counties which are members of the authority; and~~

~~(b) An affirmative vote of a majority of the municipalities which are members of the authority; and~~

~~(c) An affirmative vote of a majority of the special districts which are members of the authority~~ A MAJORITY OF ALL AUTHORITY MEMBERS. ANY VOTE BY THE SPECIAL DISTRICT MEMBER ON SUCH BOARD ACTION SHALL REFLECT THE MAJORITY OF THE REPRESENTED SPECIAL DISTRICTS.

(3) All decisions of the board not enumerated in subsection (2) of this section shall be made and decided by a majority of the quorum. A QUORUM REQUIRES THAT AT LEAST FIFTY PERCENT OF ALL AUTHORITY MEMBERS BE PRESENT.

(5) NOTWITHSTANDING SUBSECTION (2) OF THIS SECTION, ANY VOTE REGARDING

A CHANGE IN THE LEVY AND COLLECTION OF AD VALOREM TAXES PURSUANT TO SECTION 25-8.5-111 (1) (p) (I) SHALL BE LIMITED TO AUTHORITY MEMBERS REPRESENTING MUNICIPALITIES OR COUNTIES WITHIN THE AUTHORITY'S BOUNDARIES.

SECTION 4. 25-8.5-111 (1) (a), (1) (d), (1) (e), and (1) (n), Colorado Revised Statutes, are amended, and the said 25-8.5-111 is further amended BY THE ADDITION OF THE FOLLOWING NEW SUBSECTIONS, to read:

25-8.5-111. Powers of authority - general and financial. (1) In order to accomplish its purposes, the authority has the power to:

(a) Develop and implement, with such revisions as become necessary in light of changing conditions, plans for water quality controls for the reservoir, applicable drainage basin, waters, and watershed, TO ACHIEVE AND MAINTAIN THE WATER QUALITY STANDARDS. IN PARTICULAR, THE AUTHORITY SHALL SUBMIT, WITHIN TWO YEARS AFTER THE EFFECTIVE DATE OF THIS PARAGRAPH (a), AS AMENDED, A PLAN TO THE WATER QUALITY CONTROL COMMISSION THAT IS INTENDED TO MEET STATE WATER QUALITY STANDARDS, INCLUDING MEASURES TO MITIGATE THE IMPACTS OF NONPOINT SOURCE POLLUTANTS.

(d) Recommend the maximum loads of pollutants allowable to maintain the water quality standards; ~~and allocate, if delegated the power to pursuant to federal or state law, waste loads among both present and future sources of pollutants;~~

(e) Recommend erosion controls and urban runoff control standards AND CONDUCT EDUCATIONAL PROGRAMS REGARDING SUCH CONTROLS IN THE BASIN;

(n) Establish rates, tolls, fees, charges, and penalties except on agricultural land for the functions, services, facilities, and programs of the authority; except that the total annual ~~budgeted~~ REVENUE COLLECTED FROM SAID rates, tolls, fees, and charges, ~~for property owners~~ LESS THE COST OF SAID FUNCTIONS, SERVICES, FACILITIES, AND PROGRAMS, shall not exceed thirty percent of the annual authority budget. ~~and shall not exceed the total annual budgeted fees to be paid by users of the Cherry Creek reservoir;~~

(2) NOTHING IN SUBSECTION (1) OF THIS SECTION SHALL BE CONSTRUED AS AUTHORIZING THE AUTHORITY TO TAKE ANY ACTION OR SPEND ANY MONEYS IN A MANNER THAT IS INCONSISTENT WITH ITS STATUTORY PURPOSE TO PROTECT AND PRESERVE THE WATER QUALITY OF CHERRY CREEK RESERVOIR. CONSISTENT THEREWITH, THE AUTHORITY SHALL EXPEND FUNDS ONLY PERTAINING TO THE WATER QUALITY STANDARDS, CONTROL REGULATIONS, OR SIMILAR REGULATIONS REGARDING THE WATER QUALITY OF CHERRY CREEK AND CHERRY CREEK RESERVOIR IF SUCH EXPENDITURES ARE CLEARLY CONSISTENT WITH IMPROVING, PROTECTING, AND PRESERVING SUCH WATER QUALITY. THE AUTHORITY SHALL FOCUS ITS EFFORTS ON IMPROVING, PROTECTING, AND PRESERVING THE WATER QUALITY OF CHERRY CREEK AND CHERRY CREEK RESERVOIR, AND ON ACHIEVING AND MAINTAINING THE EXISTING WATER QUALITY STANDARDS.

(3) OF THE REVENUES COLLECTED BY THE AUTHORITY UNDER PARAGRAPHS (n), (o), AND (p) OF SUBSECTION (1) OF THIS SECTION, A MINIMUM OF SIXTY PERCENT ON AN ANNUAL BASIS SHALL BE SPENT ON CONSTRUCTION AND MAINTENANCE OF

POLLUTION ABATEMENT PROJECTS IN THE CHERRY CREEK BASIN OR ON PAYMENTS DUE UNDER LOANS OR OTHER DEBT INCURRED AND SPENT BY THE AUTHORITY ENTIRELY UPON SUCH PROJECTS.

SECTION 5. Effective date. This act shall take effect at 12:01 a.m. on the day following the expiration of the ninety-day period after final adjournment of the general assembly that is allowed for submitting a referendum petition pursuant to article V, section 1 (3) of the state constitution; except that, if a referendum petition is filed against this act or an item, section, or part of this act within such period, then the act, item, section, or part, if approved by the people, shall take effect on the date of the official declaration of the vote thereon by proclamation of the governor.

Approved: June 1, 2001