

## CHAPTER 269

---

**WATER AND IRRIGATION**


---

**SENATE BILL 03-110**

BY SENATOR(S) Entz, Chlouber, Hillman, Isgar, Tapia, Taylor, Owen, Evans, Johnson S., Kester, and Teck;  
also REPRESENTATIVE(S) Hoppe, Miller, Salazar, Berry, Brophy, Crane, Hefley, Mitchell, Schultheis, Stafford, Stengel,  
Weddig, Williams S., and Young.

**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. Water 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 or the purchase of water rights with the following priority:

<b>Priority</b>	<b>Borrower-Project</b>	<b>Loan Amount</b>
(a)	Central Colorado Water Conservancy District Water Rights Purchase, Reservoir Construction, and Recharge Construction* -	\$15,000,000
(b)	Kern Reservoir and Ditch Company Kern Reservoir Rehabilitation* -	\$ 3,620,000
(c)	Poudre Tech Metropolitan District Dual Water System and Reservoir Construction* -	<u>\$ 2,180,000</u>
	<b>Total</b>	<b>\$20,800,000</b>

\*These loans are to refinance water projects 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

---

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

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. Water 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:

<b>Priority</b>	<b>Borrower-Project</b>	<b>Loan Amount</b>
(a)	Mancos Water Conservancy District Water System Rehabilitation* -	\$ 5,486,531
(b)	Little Thompson Water District Dry Creek Reservoir Construction -	\$ 3,937,500
(c)	Central Weld County Water District Dry Creek Reservoir Construction -	<u>\$ 3,937,500</u>
	<b>Total</b>	<b>\$13,361,531</b>

\* This loan is to refinance water projects 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. Decreases to prior water project loan authorizations from the Colorado water conservation board construction fund.**

<b>Borrower-Project</b>	<b>Prior Authority</b>	<b>Prior Amount</b>	<b>Decrease</b>	<b>Amount Remaining</b>
Pine River Irrigation District Rural Domestic Water System	HB 00-1419	\$ 300,000	\$ 300,000	\$0
<b>Totals</b>		<b>\$ 300,000</b>	<b>\$ 300,000</b>	<b>\$0</b>

**SECTION 4. Decreases to prior water project loan authorizations from the severance tax trust fund perpetual base account.**

<b>Borrower-Project</b>	<b>Prior Authority</b>	<b>Prior Amount</b>	<b>Decrease</b>	<b>Amount Remaining</b>
Town of Ridgway - Raw Water Pipeline	HB 00-1419	\$ 77,000	\$ 77,000	\$0
<b>Totals</b>		<b>\$ 77,000</b>	<b>\$ 77,000</b>	<b>\$0</b>

**SECTION 5. Colorado water conservation board data collection - 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 two hundred thirty-one thousand dollars (\$231,000), or so much thereof as may be necessary, for satellite monitoring and data collection efforts related to instream flow monitoring, compact protection, and decision support systems.

(2) The moneys appropriated in subsection (1) of this section shall remain available for the designated purposes until they are fully expended.

**SECTION 6. Satellite monitoring system maintenance - 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 department of natural resources for allocation to the division of water resources, the sum of four hundred three thousand dollars (\$403,000), 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, and data collection efforts related to flood forecasting and warning.

(2) The moneys appropriated in subsection (1) of this section shall remain available for the designated purposes until they are fully expended.

**SECTION 7. Instream flow decision support system - 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 four hundred forty thousand dollars (\$440,000) to implement the instream flow decision support system by retaining a contractor to develop the necessary databases and collect the required water resources information for the planning, management, and modeling decision support system-based tools to complement the Colorado decision support system.

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

**SECTION 8. Database pilot program - 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 seventy-five thousand dollars (\$75,000) to develop the database pilot program by retaining a contractor to review the Colorado water conservation board databases and recommend a comprehensive plan to consolidate and upgrade the databases to meet future water planning needs involving project loans, water rights management, litigation, and floodplain designations.

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

**SECTION 9. Continuation of the Colorado water conservation board document imaging system - 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 one hundred fifty thousand dollars (\$150,000), or so much thereof as may be necessary, for the board to continue development of the Colorado water conservation board document imaging system.

(2) The amounts appropriated in this section are in addition to amounts appropriated previously for the Colorado water conservation board document imaging system. The moneys appropriated in subsection (1) of this section shall remain available for the designated purposes until the project is completed.

**SECTION 10. Colorado floodplain map modernization - 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 five hundred thousand dollars (\$500,000), or so much thereof as may be necessary, to assist with the preparation of revised and improved floodplain studies and maps for communities throughout Colorado and participate in federally sponsored floodplain map modernization activities.

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

**SECTION 11. Cache La Poudre river floodway project - appropriation.** (1) The Colorado water conservation board is hereby authorized to participate in a floodplain improvement feasibility study along the Cache La Poudre river in the City of Greeley. The purposes of the study are to define specific improvement projects to reduce flood damage, restore the riparian environment, create recreation opportunities, improve water quality, and other associated environmental watershed and floodplain enhancements. The scope of work for the project will be developed by the board in consultation with the City of Greeley and the United States army corps of engineers.

(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 Colorado water conservation board for allocation to the United States army corps of engineers, the sum of one hundred fifty thousand dollars (\$150,000), or so much thereof as may be necessary, for costs associated with the completion of the Cache La Poudre river floodway feasibility study.

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

**SECTION 12. Technical assistance to covered entities - appropriation.**

(1) The Colorado water conservation board is hereby authorized to contract with a responsible contractor for the purpose of reviewing the technical standards used in preparing water conservation plans, identifying and prioritizing covered entities, and developing strategies to provide technical assistance to those prioritized entities. The study is to be conducted in fiscal years 2003-04 and 2004-05.

(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 Colorado water conservation board, the sum of two hundred ninety-five thousand dollars (\$295,000), or so much thereof as may be necessary, to conduct the technical assistance to covered entities.

(3) The moneys appropriated in subsection (2) of this section shall remain available for the designated purposes until June 30, 2005.

**SECTION 13. Gunnison river streamflow transit loss cooperative study.**

(1) The Colorado water conservation board is hereby authorized to participate in a stream gain/loss study along the Gunnison river upstream of the city of Grand Junction, Colorado. The purpose of the study is to describe the quantity, timing, and causes of streamflow gains and losses in order to more efficiently manage reservoirs, administer water rights, and implement endangered species programs. The board in consultation with the United States geological survey will develop the project scope of work.

(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 Colorado water conservation board for allocation to the United States geological survey, the sum of fifty-nine thousand four hundred sixty dollars (\$59,460), or so much thereof as may be necessary, for costs associated with the completion of the Gunnison river streamflow study.

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

**SECTION 14. Statewide water supply initiative - appropriation.**

(1) The Colorado water conservation board is hereby authorized to contract with a responsible contractor for the purpose of preparing a reconnaissance-level study of a statewide water supply initiative. The initiative will investigate all aspects of water supply and water demand in Colorado over the next thirty years by evaluating water supply and water management project alternatives in each river basin of the state,

formulating water development strategies for the implementation of the most promising alternatives in each basin, and building a consensus among the state's water users as to which alternatives and strategies should be pursued for implementation. The initiative is to be conducted in fiscal year 2003-04, with the final report completed by November 15, 2004. Any water development project in the final report shall include consideration of the social, economic, and environmental impacts caused by the project. The board shall provide the report to the senate agriculture, natural resources, and energy committee and the house agriculture, livestock, and natural resources committee of the general assembly on or before December 1, 2004.

(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 Colorado water conservation board, the sum of three million dollars (\$3,000,000), or so much thereof as may be necessary, to conduct the statewide water supply initiative.

(3) The moneys appropriated in subsection (2) of this section shall become available upon passage and approval of this act and shall remain available for the designated purposes until the project is completed.

**SECTION 15. Colorado river return reconnaissance study - appropriation.**

(1) The Colorado water conservation board is hereby authorized to contract with a responsible contractor for the purpose of preparing a reconnaissance-level study to address all physical, logistical, environmental, financial, legal, and institutional aspects, including public input, of the construction of a large-scale water delivery system from the Colorado river near the Utah border, recognizing future water needs in each of the subbasins of the Colorado river, such water to be utilized in the South Platte, Arkansas, and Colorado river basins. The study is to be conducted in 2003, with the final report completed by November 15, 2003. The board shall provide the report to the senate agriculture, natural resources, and energy committee and the house agriculture, livestock, and natural resources committee of the general assembly on or before November 15, 2003.

(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 Colorado water conservation board, the sum of five hundred thousand dollars (\$500,000), or so much thereof as may be necessary, to conduct a study of the Colorado river return project.

**SECTION 16. Restoration of small project feasibility study grant fund balance.** The state treasurer shall transfer a total of two hundred thousand dollars (\$200,000), or so much thereof as may be necessary, from the unreserved cash in the Colorado water conservation board construction fund to the small project feasibility study grant fund in order to restore the balance in the small project feasibility study grant fund to two hundred thousand dollars (\$200,000).

**SECTION 17. Restoration of emergency infrastructure repair loan fund balance.** The state treasurer shall transfer a total of two million dollars (\$2,000,000), or so much thereof as may be necessary, from the unreserved cash in the Colorado water conservation board construction fund to the emergency

infrastructure repair loan fund in order to restore the balance in the emergency infrastructure repair loan fund to two million dollars (\$2,000,000).

**SECTION 18. Restoration of flood response fund balance.** The state treasurer shall transfer a total of one hundred fifty thousand dollars (\$150,000), or so much thereof as may be necessary, from the unreserved cash in the Colorado water conservation board construction fund to the flood response fund in order to restore the balance in the flood response fund to one hundred fifty thousand dollars (\$150,000).

**SECTION 19.** 37-60-121 (2.5), (3) (b), and (6) (d) (II) (B), Colorado Revised Statutes, are 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 - funds created.** (2.5) (a) The board is authorized to expend, pursuant to continuous appropriation and subject to the requirements of paragraph (b) of this subsection (2.5), a total sum not to exceed ~~four million dollars~~ THE BALANCE OF ~~from~~ the litigation fund, which is hereby created, for the purpose of ENGAGING IN litigation:

(I) In support of water users whose water supply yield is or may be diminished or the cost of said yield is or may be materially increased as a result of conditions imposed or ~~which~~ THAT may be imposed, including but not limited to by-pass flows, by any agency of the United States on permits for existing or reconstructed water facilities located on federally owned lands; ~~or~~

(II) To oppose an application of a federal agency for an instream flow right that is not in compliance with Colorado law for establishing instream flow rights;

(III) TO DEFEND AND PROTECT COLORADO'S ALLOCATIONS OF WATER IN INTERSTATE STREAMS AND RIVERS; AND

(IV) TO ENSURE THE MAXIMUM BENEFICIAL USE OF WATER FOR PRESENT AND FUTURE GENERATIONS BY ADDRESSING IMPORTANT QUESTIONS OF FEDERAL LAW.

(b) Pursuant to the spending authority set forth in paragraph (a) of this subsection (2.5), moneys may be expended from the litigation fund at the discretion of the board if:

(I) WITH RESPECT TO LITIGATION, the Colorado attorney general requests that the board authorize the expenditure of moneys in a specified amount not to exceed ~~four million dollars~~ THE BALANCE OF THE FUND for the costs of litigation associated with ~~an on-going lawsuit and:~~ ONE OR MORE SPECIFICALLY IDENTIFIED LAWSUITS MEETING THE CRITERIA SET FORTH IN PARAGRAPH (a) OF THIS SUBSECTION (2.5);

(A) ~~The characteristics of the lawsuit meet the criteria set forth in paragraph (a) of this subsection (2.5) and presents a question of law which is of a general statewide interest the resolution of which may prevent further litigation; and~~

(B) ~~The board, in its own discretion, determines that it would be in the best interest of the state and the water users in the state to intervene; and~~

~~(II) The appropriations to the department of law are inadequate for the attorney general to complete litigation of the lawsuit.~~

(c) Any interest earned on the moneys in the litigation fund shall be credited on an annual basis to the ~~Colorado water conservation board construction~~ LITIGATION fund created in ~~subsection (1) of this section~~ PARAGRAPH (a) OF THIS SUBSECTION (2.5).

(d) The board, in conjunction with the attorney general, shall report annually to the senate agriculture, ~~and~~ natural resources, AND ENERGY committee and the house of representatives agriculture, livestock, and natural resources committee on any litigation that involves the use of any moneys from the litigation fund created in paragraph (a) of this subsection (2.5).

(e) Any moneys remaining in the litigation fund at such time as the general assembly acts to close the fund shall be credited to the Colorado water conservation board construction fund created in subsection (1) of this section.

(f) (Deleted by amendment, L. 2001, p. 690, § 27, effective May 30, 2001.)

(3) (b) ~~To~~ THE BOARD MAY accept, allocate, expend, and otherwise use contributions and donations of money, property, or equipment from any source to carry out the purposes of this article and section 37-92-102 (3). Such contributions are hereby continuously appropriated to the board for the purposes established by this section.

(6) As of July 1, 1988, and July 1 of each year thereafter through July 1, 1996, fifty percent of the sum specified in this subsection (6) shall accrue to the fish and wildlife resources fund, which fund is hereby created, twenty-five percent of such sum shall accrue to the Colorado water conservation board construction fund, and twenty-five percent of such sum shall accrue to the Colorado water resources and power development authority. The state treasurer and the controller shall transfer such sum out of the general fund and into said fish and wildlife resources fund and to the authority as moneys become available in the general fund during the fiscal year beginning on said July 1. Transfers between funds pursuant to this subsection (6) and subsection (7) of this section shall not be deemed to be appropriations subject to the limitations of section 24-75-201.1, C.R.S. Subject to the provisions of subsection (7) of this section, the amount that shall accrue pursuant to this subsection (6) shall be as follows:

(d) On July 1, 1994, thirty million dollars. In distributing said sum, the formula in the introductory portion to this subsection (6) shall not apply, and said sum shall accrue as follows:

~~(II) (B) Two hundred seventy-eight thousand eight hundred twenty-eight dollars of the sum specified in sub-subparagraph (A) of this subparagraph (II) may be expended exclusively for purposes related to the Wolford Mountain Reservoir project, previously known as the "Muddy Creek project".~~

**SECTION 20.** 37-60-122 (1) (b), Colorado Revised Statutes, is amended to read:

**37-60-122. General assembly approval.** (1) Moneys in the Colorado water



conservation board construction fund shall be expended in the following manner and under the following circumstances:

(b) The general assembly may authorize such projects as it deems to be to the advantage of the people of the state of Colorado and shall direct the board to proceed with said projects in the priorities established by the general assembly under terms approved by the general assembly. The board is authorized to make loans without general assembly approval in amounts not to exceed ~~one~~ FIVE million dollars. The unappropriated balance of moneys in the Colorado water conservation board construction fund and the state severance tax trust fund perpetual base account shall be available and continuously appropriated for this purpose. The board shall submit a written determination of the basis for such project loans to the general assembly by January 15 of the year following the year in which the loan was made.

**SECTION 21. 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 19, 2003