

CHAPTER 364

WATER AND IRRIGATION

SENATE BILL 03-236

BY SENATOR(S) Dyer, Andrews, Hagedorn, Hillman, Entz, Evans, Johnson S., Jones, Lamborn, May R., and Owen;
 also REPRESENTATIVE(S) Hoppe, Briggs, Brophy, Cadman, Clapp, Decker, Fritz, Hall, Harvey, Hefley, Johnson R., King,
 McCluskey, Sinclair, Stengel, Weddig, Crane, Fairbank, Lee, Lundberg, May M., Mitchell, Paccione, Rhodes, Spence, Stafford,
 and Williams T.

AN ACT

CONCERNING AN AUTHORIZATION OF THE ISSUANCE OF VOTER-APPROVED REVENUE BONDS FOR THE PURPOSE OF FINANCING WATER INFRASTRUCTURE PROJECTS BY THE STATE, AND, IN CONNECTION THEREWITH, EXCLUDING REVENUES DERIVED FROM BOND PROCEEDS AND PROJECTS FINANCED BY BONDS FROM STATE FISCAL YEAR SPENDING.

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

SECTION 1. Article 60 of title 37, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW PART to read:

**PART 2
 WATER INFRASTRUCTURE REVENUE BONDS**

37-60-201. Legislative declaration. (1) THE GENERAL ASSEMBLY HEREBY DECLARES THAT 2003 MARKS COLORADO'S FOURTH CONSECUTIVE YEAR OF DROUGHT CONDITIONS AND THAT COLORADO IS LIKELY TO CONTINUE TO EXPERIENCE CYCLES OF DROUGHT IN THE FUTURE THAT WILL REDUCE THE AMOUNT OF WATER RESOURCES AVAILABLE TO MEET THE STATE'S GROWING NEEDS FOR GOOD-QUALITY, AFFORDABLE WATER SUPPLIES.

(2) IN ORDER TO PROVIDE FOR DROUGHT RELIEF, THE GENERAL ASSEMBLY FINDS THAT:

(a) COLORADO'S EXISTING WATER INFRASTRUCTURE IS INSUFFICIENT TO ENABLE THE STATE TO FULLY EXERCISE ALL OF ITS COMPACT ENTITLEMENTS TO WATER, INCLUDING BUT NOT LIMITED TO PEAK FLOWS, AND IT IS IN THE BEST INTEREST OF THE PEOPLE OF THIS STATE FOR THE STATE TO FURTHER DEVELOP AND IMPROVE THE

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

STATE'S WATER INFRASTRUCTURE SO THAT THE STATE CAN RESERVE AS MUCH AS POSSIBLE OF THE WATER TO WHICH IT IS ENTITLED UNDER COMPACTS AND INCREASE ITS AVAILABLE WATER RESOURCES;

(b) IT IS NECESSARY AND APPROPRIATE TO EXPEDITE THE DEVELOPMENT AND IMPROVEMENT OF COLORADO'S WATER INFRASTRUCTURE BY AUTHORIZING THE BOARD TO ISSUE VOTER-APPROVED WATER INFRASTRUCTURE REVENUE BONDS FOR THE PURPOSE OF FUNDING WATER INFRASTRUCTURE PROJECTS APPROVED BY THE GOVERNOR;

(c) IT IS NECESSARY AND APPROPRIATE THAT THESE BOND PROCEEDS BE UTILIZED BY 2005 TO BEGIN CONSTRUCTION OF WATER PROJECTS TO EASE COLORADO'S VULNERABILITY TO DROUGHT;

(d) IT IS ALSO NECESSARY AND APPROPRIATE TO REQUIRE A PORTION OF ANY BOND PROCEEDS, AS DETERMINED BY THE COLORADO WATER CONSERVATION BOARD, TO BE EXPENDED FOR APPROVED WATER INFRASTRUCTURE PROJECTS OR PORTIONS THEREOF THAT:

(I) AUGMENT OR IMPROVE EXISTING WATER INFRASTRUCTURE FACILITIES;

(II) CONSERVE EXISTING WATER SUPPLIES;

(III) PROTECT AND ENHANCE AGRICULTURAL USES;

(IV) PROVIDE MITIGATION FOR FISH AND WILDLIFE IN ACCORDANCE WITH THE STANDARDS SET FORTH IN SECTION 37-60-122.2;

(V) PROVIDE OTHER ENVIRONMENTAL AND RECREATIONAL BENEFITS; OR

(VI) PROVIDE FAIR MITIGATION TO THE AFFECTED BASIN OF ORIGIN.

(3) THE GENERAL ASSEMBLY FURTHER FINDS AND DECLARES THAT, BY ENACTMENT OF THIS PART 2:

(a) WATER INFRASTRUCTURE REVENUE BONDS ISSUED PURSUANT TO THIS PART 2 DO NOT CONSTITUTE "A DEBT BY LOAN IN ANY FORM" UNDER SECTION 3 OF ARTICLE XI OF THE STATE CONSTITUTION BECAUSE:

(I) PAYMENTS OF PRINCIPAL, INTEREST, AND OTHER COSTS ON SUCH BONDS SHALL BE MADE SOLELY FROM REVENUE AND RECEIPTS DERIVED FROM THE SALE OF WATER, POWER, OR OTHER ASSETS BY THE BOARD FROM A WATER INFRASTRUCTURE PROJECT WHOSE CONSTRUCTION, DEVELOPMENT, OR IMPROVEMENT WAS FINANCED IN WHOLE OR IN PART BY THE BONDS, BOND PROCEEDS, AND INTEREST OR INCOME EARNED ON THE DEPOSIT AND INVESTMENT OF SUCH REVENUES AND RECEIPTS AND BOND PROCEEDS; AND

(II) THE OWNERS OR HOLDERS OF BONDS MAY NOT LOOK TO ANY OTHER REVENUES OF THE STATE FOR THE PAYMENT OF THE BONDS;

(b) THE PROCEEDS OF BONDS, REVENUES, AND RECEIPTS DERIVED FROM THE SALE

OF WATER, POWER, OR OTHER ASSETS BY THE BOARD FROM A WATER INFRASTRUCTURE PROJECT WHOSE CONSTRUCTION, DEVELOPMENT, OR IMPROVEMENT WAS FINANCED IN WHOLE OR IN PART BY THE BONDS, AND INTEREST AND INCOME EARNED ON THE DEPOSIT AND INVESTMENT OF SUCH PROCEEDS AND REVENUES AND RECEIPTS, ARE NOT INCLUDED IN STATE FISCAL YEAR SPENDING FOR PURPOSES OF SECTION 20 OF ARTICLE X OF THE STATE CONSTITUTION AND ARTICLE 77 OF TITLE 24, C.R.S.

37-60-202. Definitions. AS USED IN THIS PART 2, UNLESS THE CONTEXT OTHERWISE REQUIRES:

(1) "APPROVED WATER INFRASTRUCTURE PROJECT" OR "APPROVED PROJECT" MEANS A WATER INFRASTRUCTURE PROJECT THAT HAS BEEN RECOMMENDED BY THE BOARD AND APPROVED BY THE GOVERNOR PURSUANT TO SECTION 37-60-203.

(2) "REVENUE BONDS" OR "BONDS" MEANS WATER INFRASTRUCTURE REVENUE BONDS AUTHORIZED BY AND ISSUED IN ACCORDANCE WITH THIS PART 2.

(3) "WATER INFRASTRUCTURE PROJECT" OR "PROJECT" MEANS A PROJECT SPONSORED BY A GOVERNMENTAL ENTITY, A PRIVATE ENTITY, OR JOINTLY BY GOVERNMENTAL AND PRIVATE ENTITIES, THAT INVOLVES THE ACQUISITION OF WATER RIGHTS, THE CONSTRUCTION, DEVELOPMENT, OR IMPROVEMENT, INCLUDING REHABILITATION OR ENLARGEMENT, OF A DAM, RESERVOIR, FLOOD CONTROL, OR OTHER WATER DIVERSION, CONVEYANCE, OR STORAGE FACILITY, EXCLUDING A DOMESTIC WATER TREATMENT AND DISTRIBUTION SYSTEM OR WASTEWATER TREATMENT AND COLLECTION SYSTEM, TOGETHER WITH RELATED HYDROELECTRICAL OR RECREATIONAL FACILITIES THAT WILL ENHANCE THE ABILITY OF THE STATE TO FULLY EXERCISE ALL OF ITS COMPACT ENTITLEMENTS TO WATER FOR ANY BENEFICIAL USE, INCLUDING BUT NOT LIMITED TO PEAK FLOWS, AND REDUCE THE STATE'S VULNERABILITY TO DROUGHT OR THE LIKELIHOOD OF WATER SHORTAGES. "WATER INFRASTRUCTURE PROJECT" SHALL NOT INCLUDE ANY WATER RESOURCES PROJECT WITH A TOTAL PROJECT COST OF LESS THAN FIVE MILLION DOLLARS OR ANY PROJECT ELIGIBLE FOR FINANCING PURSUANT TO SECTION 37-95-107.6 OR 37-95-107.8, BUT SHALL INCLUDE SUCH ADDITIONAL PROJECTS AS DESCRIBED IN SECTION 37-60-201 (2) (d) WHEN APPROVED BY THE BOARD.

37-60-203. Submission of ballot question regarding issuance of water infrastructure revenue bonds - approval of water infrastructure projects.

(1) (a) THE SECRETARY OF STATE SHALL SUBMIT A BALLOT QUESTION TO A VOTE OF THE REGISTERED ELECTORS OF THE STATE OF COLORADO AT AN ELECTION TO BE HELD IN NOVEMBER 2003 FOR THEIR APPROVAL OR REJECTION. EACH ELECTOR VOTING AT THE ELECTION SHALL CAST A VOTE AS PROVIDED BY LAW EITHER "YES" OR "NO" ON THE PROPOSITION: "SHALL THE STATE OF COLORADO DEBT BE INCREASED \$2 BILLION, WITH A REPAYMENT COST OF \$4 BILLION, MAXIMUM TOTAL STATE COST, BY AN AMENDMENT TO THE COLORADO REVISED STATUTES PROVIDING FOR DROUGHT RELIEF BY THE FINANCING OF IMPROVEMENTS TO WATER INFRASTRUCTURE IN COLORADO, AND, IN CONNECTION THEREWITH, AUTHORIZING THE COLORADO WATER CONSERVATION BOARD TO ISSUE REVENUE BONDS FOR THE CONSTRUCTION OF PRIVATE OR PUBLIC WATER INFRASTRUCTURE PROJECTS COSTING \$5 MILLION OR MORE THAT HAVE BEEN APPROVED BY THE GOVERNOR; AUTHORIZING THE WATER CONSERVATION BOARD TO RECOMMEND PROJECTS, INCLUDING AT LEAST TWO PROJECTS FROM

DIFFERENT RIVER BASINS WITH A START DATE OF 2005, AND REQUIRING THE GOVERNOR TO APPROVE AT LEAST ONE SUCH PROJECT; SETTING ASIDE \$100 MILLION OF BOND PROCEEDS TO FINANCE PROJECTS, OR PORTIONS OF PROJECTS, THAT AUGMENT OR IMPROVE EXISTING FACILITIES OR CONSERVE EXISTING WATER SUPPLIES WITHOUT CREATING NEW STORAGE FACILITIES; EXEMPTING THE BOND PROCEEDS, THE PROCEEDS OF SALES BY THE BOARD OF WATER, POWER, OR OTHER ASSETS FROM FACILITIES FINANCED BY THE BONDS, AND ANY EARNINGS FROM ALL SUCH PROCEEDS, FROM THE REVENUE AND SPENDING LIMITS IMPOSED BY ARTICLE X, SECTION 20 OF THE STATE CONSTITUTION AND ARTICLE 77 OF TITLE 24, COLORADO REVISED STATUTES; AND REQUIRING THE GENERAL ASSEMBLY AND EXECUTIVE BRANCH AGENCIES TO ADOPT BY JULY 1, 2004, ANY NECESSARY STATUTES AND RULES, RESPECTIVELY, TO ENSURE THE MARKETABILITY OF THE BONDS AUTHORIZED BY THIS MEASURE?"

(b) THE VOTES CAST FOR THE ADOPTION OR REJECTION OF THE QUESTION SUBMITTED PURSUANT TO PARAGRAPH (a) OF THIS SUBSECTION (1) SHALL BE CANVASSED AND THE RESULT DETERMINED IN THE MANNER PROVIDED BY LAW FOR THE CANVASSING OF VOTES FOR REPRESENTATIVES IN CONGRESS.

(2) IF THE REGISTERED ELECTORS OF THE STATE VOTING ON THE QUESTION APPROVE THE BALLOT QUESTION SUBMITTED PURSUANT TO SUBSECTION (1) OF THIS SECTION, THE BOARD SHALL IDENTIFY OPPORTUNITIES FOR WATER INFRASTRUCTURE PROJECTS AND STORAGE STATEWIDE AND MAY RECOMMEND TO THE GOVERNOR WATER INFRASTRUCTURE PROJECTS TO BE FUNDED, IN WHOLE OR IN PART, THROUGH THE ISSUANCE OF NO MORE THAN TWO BILLION DOLLARS OF BONDS IN THE AGGREGATE. THE RECOMMENDATION SHALL INCLUDE, AT A MINIMUM:

(a) A DESCRIPTION OF THE RECOMMENDED PROJECTS WITH A MINIMUM OF TWO SUCH PROJECTS IN DIFFERENT RIVER BASINS, THAT HAVE A START DATE OF 2005;

(b) A FEASIBILITY REPORT THAT EVALUATES THE ECONOMIC AND ENGINEERING FEASIBILITY OF THE PROJECTS;

(c) RECOMMENDED COMPLETION SCHEDULES FOR THE PROJECTS;

(d) A STATEMENT THAT LISTS THE PROJECTED COST OF EACH PROJECT AND THE AMOUNT OF REVENUE BOND PROCEEDS TO BE EXPENDED ON EACH PROJECT AND IDENTIFIES THE SOURCE AND AMOUNT OF ANY MONEYS OTHER THAN BOND PROCEEDS TO BE EXPENDED ON EACH PROJECT.

(3) OF THE BONDS AUTHORIZED TO BE ISSUED PURSUANT TO THIS SECTION FOR THE PURPOSE OF FINANCING APPROVED WATER INFRASTRUCTURE PROJECTS, A MINIMUM OF ONE HUNDRED MILLION DOLLARS OF BOND PROCEEDS SHALL BE AVAILABLE TO FINANCE APPROVED WATER INFRASTRUCTURE PROJECTS OR PORTIONS THEREOF THAT AUGMENT OR IMPROVE EXISTING WATER INFRASTRUCTURE FACILITIES OR CONSERVE EXISTING WATER SUPPLIES WITHOUT CREATING NEW WATER STORAGE FACILITIES.

(4) THE GOVERNOR MAY APPROVE ANY OR ALL OF THE WATER INFRASTRUCTURE PROJECTS RECOMMENDED BY THE BOARD PURSUANT TO SUBSECTION (2) OF THIS SECTION. HOWEVER, THE GOVERNOR SHALL APPROVE AT A MINIMUM AT LEAST ONE PROJECT THAT HAS A START DATE OF 2005. THE BOARD SHALL ISSUE REVENUE BONDS

ONLY FOR THE PURPOSE OF FINANCING APPROVED PROJECTS.

37-60-204. Water infrastructure revenue bonds - rules. (1) SUBJECT TO THE APPROVAL BY THE GOVERNOR, AND ALL OTHER REQUIREMENTS OF THIS PART 2, THE BOARD, FROM TIME TO TIME, MAY ISSUE REVENUE BONDS FOR THE PURPOSE OF FINANCING APPROVED WATER INFRASTRUCTURE PROJECTS.

(2) THE BOARD SHALL PROMULGATE SUCH RULES AS NECESSARY TO ENSURE THE MARKETABILITY OF THE BONDS AUTHORIZED BY THIS PART 2 NO LATER THAN JULY 1, 2004.

37-60-205. Bonds as contracts - agreement of state not to limit or alter rights of obligees. (1) ANY REVENUE BONDS ISSUED SHALL CONSTITUTE A CONTRACT BETWEEN THE BOARD AND THE OWNER OR HOLDER THEREOF. THE STATE HEREBY PLEDGES AND AGREES WITH THE HOLDERS OF ANY BONDS ISSUED UNDER THIS PART 2 AND WITH THOSE PARTIES WHO ENTER INTO CONTRACTS WITH THE BOARD PURSUANT TO THIS PART 2 THAT THE STATE WILL NOT LIMIT, ALTER, RESTRICT, OR IMPAIR THE RIGHTS VESTED IN THE BOARD OR THE RIGHTS OR OBLIGATIONS OF ANY PERSON WITH WHICH IT CONTRACTS TO FULFILL THE TERMS OF ANY AGREEMENTS MADE PURSUANT TO THIS PART 2. THE STATE FURTHER AGREES THAT IT WILL NOT IN ANY WAY IMPAIR THE RIGHTS OR REMEDIES OF THE HOLDERS OF ANY BONDS OF THE BOARD UNTIL SUCH BONDS HAVE BEEN PAID OR UNTIL ADEQUATE PROVISION FOR PAYMENT HAS BEEN MADE. THE BOARD MAY INCLUDE THIS PROVISION AND UNDERTAKING FOR THE STATE IN BONDS.

(2) NEITHER THE MEMBERS OF THE BOARD, THE STATE TREASURER, THE DIRECTOR OF THE BOARD, NOR ANY PERSON EXECUTING BONDS SHALL BE LIABLE PERSONALLY ON THE BONDS OR BE SUBJECT TO ANY PERSONAL LIABILITY OR ACCOUNTABILITY BY REASON OF THE ISSUANCE THEREOF.

37-60-206. Bond proceeds and revenues and receipts from approved water infrastructure projects - water infrastructure development fund. (1) THE RESOLUTION OR OTHER INSTRUMENT AUTHORIZING THE ISSUANCE OF REVENUE BONDS MAY PLEDGE ALL OR ANY PORTION OF THE PROCEEDS FROM THE ISSUANCE OF THE BONDS TO THE PAYMENT OF THE BONDS AND ANY COSTS ASSOCIATED WITH THE ISSUANCE AND ADMINISTRATION OF THE BONDS.

(2) ALL PROCEEDS FROM THE ISSUANCE OF BONDS THAT ARE NOT PLEDGED FOR THE PAYMENT OF THE BONDS, ANY COSTS ASSOCIATED WITH THE ISSUANCE AND ADMINISTRATION OF THE BONDS, ANY REVENUES AND RECEIPTS THAT ARE DERIVED FROM THE SALE OF WATER, POWER, OR OTHER ASSETS BY THE BOARD FROM WATER INFRASTRUCTURE PROJECTS FINANCED BY THE BONDS, AND ANY PAYMENTS MADE OR REVENUES PLEDGED TO THE BOARD BY ANY POLITICAL SUBDIVISION SHALL BE CREDITED TO THE WATER INFRASTRUCTURE DEVELOPMENT FUND, WHICH FUND IS HEREBY CREATED IN THE STATE TREASURY. ALL INTEREST AND INCOME EARNED ON THE DEPOSIT AND INVESTMENT OF MONEYS IN THE FUND SHALL BE CREDITED TO THE FUND AND BECOME PART THEREOF, AND MONEYS REMAINING IN THE FUND AT THE END OF ANY FISCAL YEAR SHALL REMAIN IN THE FUND AND SHALL NOT REVERT TO THE GENERAL FUND OF THIS STATE OR TO ANY OTHER FUND. ALL MONEYS IN THE FUND SHALL BE CONTINUOUSLY APPROPRIATED TO THE BOARD AND SHALL BE USED TO FINANCE APPROVED WATER INFRASTRUCTURE PROJECTS, TO PAY ANY UNPLEDGED

COSTS OF ISSUING AND ADMINISTERING BONDS, INCLUDING REIMBURSEMENT OF COSTS INCURRED BY THE TREASURER IN ASSISTING THE BOARD IN ACCORDANCE WITH THIS PART 2, AND TO PAY ANY OTHER EXPENSE OR CHARGE INCURRED IN CONNECTION WITH THE ONGOING OPERATION OR MAINTENANCE OF APPROVED WATER INFRASTRUCTURE PROJECTS OR OTHER ACTIONS OF THE BOARD AUTHORIZED BY THIS PART 2.

(3) PROCEEDS FROM THE ISSUANCE OF BONDS, EARNINGS ON SUCH PROCEEDS, AND REVENUES AND RECEIPTS DERIVED FROM THE SALE BY THE BOARD OF WATER, POWER, OR OTHER ASSETS FROM WATER INFRASTRUCTURE PROJECTS FINANCED BY THE BONDS AND EARNINGS ON SUCH REVENUES AND RECEIPTS SHALL NOT BE INCLUDED IN STATE FISCAL YEAR SPENDING, AS DEFINED BY SECTION 24-77-102 (17) (a), C.R.S., FOR ANY GIVEN FISCAL YEAR FOR PURPOSES OF SECTION 20 OF ARTICLE X OF THE STATE CONSTITUTION AND ARTICLE 77 OF TITLE 24, C.R.S.

37-60-207. Exemption from taxation. EXCEPT AS OTHERWISE PROVIDED IN THIS SECTION, THE INCOME FROM REVENUE BONDS IS EXEMPT FROM ALL TAXATION AND ASSESSMENTS IN THIS STATE. IN THE RESOLUTION, CERTIFICATE, INDENTURE OF TRUST, OR OTHER INSTRUMENT AUTHORIZING THE ISSUANCE OF SUCH BONDS, THE BOARD MAY WAIVE THE EXEMPTION FROM FEDERAL OR STATE INCOME TAXATION FOR INTEREST ON THE BONDS.

37-60-208. Annual reports. (1) IF THE BOARD ISSUES REVENUE BONDS, THEN NO LATER THAN FEBRUARY 15 OF THE FIRST CALENDAR YEAR FOLLOWING THE CALENDAR YEAR IN WHICH THE BOARD FIRST ISSUES BONDS, AND NO LATER THAN FEBRUARY 15 OF EACH YEAR THEREAFTER, THE BOARD SHALL SUBMIT A REPORT TO THE MEMBERS OF THE JOINT BUDGET COMMITTEE OF THE GENERAL ASSEMBLY, THE MEMBERS OF THE LEGISLATIVE AUDIT COMMITTEE OF THE GENERAL ASSEMBLY, THE CHAIR OF THE AGRICULTURE, LIVESTOCK, AND NATURAL RESOURCES COMMITTEE OF THE HOUSE OF REPRESENTATIVES, AND THE CHAIR OF THE AGRICULTURE, NATURAL RESOURCES, AND ENERGY COMMITTEE OF THE SENATE. SUCH REPORT SHALL INCLUDE, AT A MINIMUM, THE FOLLOWING INFORMATION:

(a) THE TOTAL AMOUNT OF BONDS ISSUED BY THE BOARD IN ACCORDANCE WITH THIS PART 2;

(b) THE APPROVED WATER INFRASTRUCTURE PROJECTS FOR WHICH THE PROCEEDS FROM THE BONDS HAVE BEEN EXPENDED, THE AMOUNT OF NOTE PROCEEDS EXPENDED ON EACH PROJECT, THE STATUS OF EACH PROJECT, AND THE ESTIMATED DATE OF COMPLETION FOR EACH PROJECT NOT YET COMPLETED; AND

(c) THE TOTAL AMOUNT OF PROCEEDS FROM THE ISSUANCE OF BONDS AND REVENUES AND RECEIPTS DERIVED FROM THE SALE OF WATER, POWER, OR OTHER ASSETS BY THE BOARD FROM A WATER INFRASTRUCTURE FACILITY WHOSE DEVELOPMENT OR IMPROVEMENT WAS FINANCED IN WHOLE OR IN PART BY BONDS IN EACH STATE FISCAL YEAR AND THE COSTS ASSOCIATED WITH THE ISSUANCE AND ADMINISTRATION OF THE BONDS.

37-60-209. Construction of part. THE POWERS CONFERRED BY THIS PART 2 SHALL BE IN ADDITION AND SUPPLEMENTAL TO, AND NOT IN SUBSTITUTION FOR, AND THE LIMITATIONS IMPOSED BY THIS PART 2 SHALL NOT DIRECTLY OR INDIRECTLY MODIFY, LIMIT, OR AFFECT, THE POWERS CONFERRED BY ANY OTHER LAW TO THE

BOARD, THE STATE TREASURER, THE DEPARTMENT OF NATURAL RESOURCES, OR THE COLORADO WATER RESOURCES AND POWER DEVELOPMENT AUTHORITY CREATED BY ARTICLE 95 OF THIS TITLE.

37-60-210. Repeal of part. THIS PART 2 IS REPEALED, EFFECTIVE UPON THE REJECTION BY THE REGISTERED ELECTORS OF THE STATE VOTING ON THE QUESTION OF THE BALLOT QUESTION SUBMITTED PURSUANT TO SECTION 37-60-203 (1) (a).

SECTION 2. 37-60-106 (1), Colorado Revised Statutes, is amended BY THE ADDITION OF THE FOLLOWING NEW PARAGRAPHS to read:

37-60-106. Duties of the board - repeal. (1) It is the duty of the board to promote the conservation of the waters of the state of Colorado in order to secure the greatest utilization of such waters and the utmost prevention of floods; and in particular, and without limiting the general character of this section, the board has the power and it is its duty:

(s) (I) TO RECOMMEND WATER INFRASTRUCTURE PROJECTS, AS DEFINED IN SECTION 37-60-202 (3), TO THE GOVERNOR IN ACCORDANCE WITH SECTION 37-60-203 AND TO ISSUE WATER INFRASTRUCTURE REVENUE BONDS IN ACCORDANCE WITH THE PROVISIONS OF PART 2 OF THIS ARTICLE.

(II) THIS PARAGRAPH (s) IS REPEALED, EFFECTIVE UPON THE REJECTION BY THE REGISTERED ELECTORS OF THE STATE VOTING ON THE QUESTION OF THE BALLOT QUESTION SUBMITTED PURSUANT TO SECTION 37-60-203 (1) (a).

(t) TO ENTER INTO ONE OR MORE AGREEMENTS WITH THE COLORADO WATER RESOURCES AND POWER DEVELOPMENT AUTHORITY AND ANY OTHER ENTITIES TO ASSIST IN THE DEVELOPMENT OF THE WATER RESOURCES OF THE STATE.

SECTION 3. 37-95-106 (1), Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW PARAGRAPH to read:

37-95-106. Authority - powers. (1) Except as otherwise limited by this article, the authority, acting through the board, has the power:

(hh) TO ENTER INTO ONE OR MORE AGREEMENTS WITH THE COLORADO WATER CONSERVATION BOARD AND ANY OTHER GOVERNMENTAL AGENCIES TO ASSIST IN THE DEVELOPMENT OF THE WATER RESOURCES OF THE STATE.

SECTION 4. 37-95-103 (4.7) and (12.5) (a) (I), Colorado Revised Statutes, are amended to read:

37-95-103. Definitions. As used in this article:

(4.7) ~~"Domestic water supply project" means any facility that provides water supply for domestic or municipal uses, including but not limited to all uses made of water in and through municipal water supply systems.~~

(12.5) (a) (I) "Small water resources project" means any water management facility or hydroelectric facility that is or will be financed in whole or in part by the

authority and in which the total amount of financing provided by the authority to any participating governmental agency does not exceed ~~one~~ FIVE hundred million dollars.

SECTION 5. 37-95-107, Colorado Revised Statutes, is REPEALED AND REENACTED, WITH AMENDMENTS, to read:

37-95-107. Feasibility studies - repayment of costs. (1) (a) (I) BEFORE ANY PROPOSED PROJECT CAN RECEIVE CONSIDERATION FOR CONSTRUCTION FUNDING BY THE AUTHORITY, THE COLORADO WATER CONSERVATION BOARD MUST FIRST REVIEW THE FEASIBILITY STUDY OF ANY SUCH PROPOSED PROJECT, AND THE GENERAL ASSEMBLY MUST AUTHORIZE THE AUTHORITY TO PROCEED TO CONSIDER THE CONSTRUCTION OF ANY PROPOSED PROJECT.

(II) (A) UPON RECEIPT OF A FEASIBILITY STUDY BY THE COLORADO WATER CONSERVATION BOARD, SAID BOARD SHALL REVIEW SUCH STUDY AND FORWARD THE STUDY TO THE GENERAL ASSEMBLY TOGETHER WITH ITS RECOMMENDATION AS TO WHETHER OR NOT THE PROPOSED PROJECT SHOULD BE AUTHORIZED BY THE GENERAL ASSEMBLY.

(B) UPON RECEIPT OF A FEASIBILITY STUDY FROM THE COLORADO WATER CONSERVATION BOARD, THE GENERAL ASSEMBLY MAY AUTHORIZE THE AUTHORITY, BY MEANS OF A JOINT RESOLUTION SIGNED BY THE GOVERNOR, TO PROCEED WITH THE CONSIDERATION OF ANY PROJECT THAT THE GENERAL ASSEMBLY DEEMS TO BE IN THE INTERESTS OF AND TO THE ADVANTAGE OF THE PEOPLE OF THIS STATE. HOWEVER, SUCH JOINT RESOLUTION SHALL IN NO WAY REQUIRE OR COMPEL THE AUTHORITY TO FUND OR IN ANY WAY FINANCE AND PROCEED WITH THE DEVELOPMENT, ACQUISITION, CONSTRUCTION, RECONSTRUCTION, ENLARGEMENT, EXTENSION, IMPROVEMENT, FURNISHING, EQUIPPING, MAINTENANCE, REPAIR, MANAGEMENT, OPERATION, OR DISPOSITION OF, OR PARTICIPATION IN ANY PROPOSED PROJECT. A DECISION TO PROCEED, WHEN MADE SUBSEQUENT TO SUCH JOINT RESOLUTION, SHALL BE ENTIRELY WITHIN THE DISCRETION OF THE AUTHORITY.

(C) SHOULD THE AUTHORITY CHOOSE TO PROCEED WITH A PROJECT, THEN THE AUTHORITY SHALL MAKE, OR CAUSE TO BE MADE, THE NECESSARY FINAL DESIGNS AND SPECIFICATIONS FOR SUCH PROJECT; EXCEPT THAT THE FINAL PROJECT LOCATION, OPERATION, AND PURPOSES MUST BE IN SUBSTANTIAL COMPLIANCE WITH THE FEASIBILITY STUDY FOR A PROJECT THAT WAS REVIEWED BY THE COLORADO WATER CONSERVATION BOARD. THE AUTHORITY SHALL ALSO DEVELOP AND IMPLEMENT DETAILED PLANS FOR THE FINANCING OF PROJECTS WITH WHICH IT CHOOSES TO PROCEED. THE TERMS AND CONDITIONS OF SUCH FINANCING SHALL BE AT THE SOLE DISCRETION OF THE AUTHORITY.

(III) THE PROVISIONS OF THIS SUBSECTION (1) SHALL NOT APPLY TO ANY SMALL WATER RESOURCES PROJECT; EXCEPT THAT, IN THE CASE OF ANY SMALL WATER RESOURCES PROJECT THAT CONSISTS OF OR INCLUDES RAW WATER DIVERSION OR STORAGE FACILITIES, THE BOARD SHALL PROMPTLY FORWARD A COPY OF THE PROJECT LOAN APPLICATION TO THE COLORADO WATER CONSERVATION BOARD FOR INFORMATIONAL PURPOSES.

(b) THE STATE ENGINEER SHALL NOT ISSUE A PERMIT OR LICENSE OR APPROVE PLANS, PURSUANT TO ANY LAW OR RULE GOVERNING SUCH ACTIONS, FOR

CONSTRUCTION OF ANY WATER MANAGEMENT FACILITY OR HYDROELECTRIC POWER FACILITY FOR WHICH THE AUTHORITY HAS PAID IN WHOLE OR IN PART FOR A FEASIBILITY STUDY OR AN ENVIRONMENTAL ASSESSMENT OR ENVIRONMENTAL IMPACT STUDY WITHOUT A WRITTEN RESOLUTION OR WRITTEN STATEMENT BY THE AUTHORITY NOTIFYING THE STATE ENGINEER THAT THE APPLICANT HAS REIMBURSED THE AUTHORITY FOR ITS EXPENDITURES FOR THE CONDUCT OF SUCH STUDIES.

(2) IF THE COLORADO WATER CONSERVATION BOARD ENTERS INTO A CONTRACT FOR THE PERFORMANCE OF A FEASIBILITY STUDY FOR A PROPOSED RAW WATER PROJECT WITH A GOVERNMENTAL AGENCY AND INCURS EXPENSES IN PERFORMING SUCH FEASIBILITY STUDY, THEN THE AUTHORITY SHALL PROVIDE FOR THE REIMBURSEMENT OF SUCH EXPENSES OUT OF ITS FINANCING CONTRACT WITH THE GOVERNMENTAL AGENCY FOR SUCH PROJECT PRIOR TO THE START OF CONSTRUCTION ONLY WHEN:

(a) THE COLORADO WATER CONSERVATION BOARD'S CONTRACT WITH THE GOVERNMENTAL AGENCY SPONSORING THE PROJECT UNCONDITIONALLY REQUIRES THE REPAYMENT OF ALL OF THE EXPENSES ASSOCIATED WITH THE FEASIBILITY STUDY PRIOR TO THE START OF CONSTRUCTION, REGARDLESS OF THE FUNDING SOURCE FOR SUCH CONSTRUCTION; AND

(b) SUCH GOVERNMENTAL AGENCY OBTAINS FINANCING FROM THE AUTHORITY.

(3) THE REIMBURSEMENT OBLIGATION OF THE AUTHORITY PURSUANT TO SUBSECTION (2) OF THIS SECTION SHALL NOT APPLY:

(a) TO THE EXPENSES OF ANY FEASIBILITY STUDY COMMENCED OR INITIATED BY THE COLORADO WATER CONSERVATION BOARD PRIOR TO THE EFFECTIVE DATE OF THIS SECTION;

(b) TO THE EXPENSES OF ANY FULL OR PARTIAL STREAM-WIDE, BASIN-WIDE, OR STATEWIDE FEASIBILITY STUDY THAT IS NOT FOCUSED ON A SINGLE DISCRETE RAW WATER SUPPLY PROJECT;

(c) TO THE EXPENSES OF ANY FEASIBILITY STUDY IDENTIFIED AND AUTHORIZED OR DIRECTED BY LAW TO BE PERFORMED BY THE COLORADO WATER CONSERVATION BOARD WITHOUT A CONTRACT WITH ANOTHER GOVERNMENTAL AGENCY FOR SUCH STUDY;

(d) TO THE STUDY OF ANY DOMESTIC WATER SUPPLY PROJECT;

(e) IF THE COLORADO WATER CONSERVATION BOARD WAIVES THE OBLIGATION OF THE GOVERNMENTAL AGENCY TO MAKE SUCH REPAYMENT OR IF THE COLORADO WATER CONSERVATION BOARD RELEASES, IN WHOLE OR IN PART, SUCH GOVERNMENTAL AGENCY FROM ITS OBLIGATION TO MAKE SUCH REPAYMENT; AND

(f) IF OTHERWISE AGREED TO BY THE AUTHORITY AND THE COLORADO WATER CONSERVATION BOARD IN AN AGREEMENT ENTERED INTO PURSUANT TO SECTION 37-60-106 (1) (t).

SECTION 6. 37-95-107.5 (2), (3), and (4), Colorado Revised Statutes, are

amended to read:

37-95-107.5. Legislative declaration - specific project authorizations. (2) It is the recognition and intent of the general assembly that investment in the state's water resources for future generations must be made from state funds, FROM PRIVATE CAPITAL, OR FROM OTHER MONEYS AVAILABLE TO THE AUTHORITY. Major Colorado water projects should be developed as soon as possible in anticipation of demand and revenues.

(3) Several compacts relating to interstate streams have been entered into by the state on behalf of the people of the state of Colorado to reserve for the people the right to the use of such waters under the appropriation doctrine. It is hereby declared to be the policy of the general assembly to fully utilize, for the maximum benefit of all the people, said natural stream resources. To achieve such utilization, ~~it is further declared to be the policy of the general assembly that certain major projects, using decreed water rights, should be developed. Therefore, in addition to any project authorization previously made by joint resolution,~~ the general assembly hereby authorizes DIRECTS the authority to proceed with ~~the simultaneous consideration of the following:~~ PROJECT DEVELOPMENT AND FINANCING IN ACCORDANCE WITH AGREEMENTS BETWEEN THE PROJECT SPONSOR AND THE AUTHORITY, AND CONSISTENT WITH THE PROVISIONS OF THIS ARTICLE, SUCH PROJECTS AS THE COLORADO WATER CONSERVATION BOARD IDENTIFIES IN STATEWIDE WATER SUPPLY INITIATIVES AND ASSOCIATED FEASIBILITY STUDIES AND OTHER PROJECTS IDENTIFIED BY THE AUTHORITY.

~~(a) A major multipurpose water project in western Colorado to store water for the development of western Colorado; to be constructed simultaneously with the facility described in paragraph (b) of this subsection (3);~~

~~(b) A major multipurpose water project for the benefit of the Denver metropolitan area on the South Platte river upstream from the Chatfield reservoir;~~

~~(c) A major multipurpose water project to regulate and store the waters of the South Platte river or its tributaries located on the South Platte river or its tributaries which enter downstream of the Henderson gauging station northerly of Denver.~~

(4) Any decision by the authority for construction funding by the authority of any one of the projects specified in paragraph (a), (b), or (c) of subsection (3) of this section shall include construction funding for the other two projects. ~~The authority shall hold construction funds in an escrow account until construction of a project commences.~~

SECTION 7. 37-95-116 (1), Colorado Revised Statutes, is amended to read:

37-95-116. Annual report - annual audit - annual budget. (1) On or before April 30 of each year, the authority shall make an annual report of its activities for the preceding fiscal year to the governor ~~the Colorado water conservation board,~~ and the joint agriculture and natural resource committee of the house of representatives and the senate. Each such report shall set forth a complete operating and financial statement covering its operations during the year. Included within such report shall be detailed financial data setting forth the manner in which any previously

appropriated state funds have been used. The authority, no later than November 30 of each year, shall report to the governor any requests for state funds for the upcoming state fiscal year, detailing the purposes for which said funds are to be utilized.

SECTION 8. 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: June 5, 2003