

CHAPTER 110

WATER AND IRRIGATION

HOUSE BILL 04-1402

BY REPRESENTATIVE(S) Young, Berry, Brophy, Coleman, Decker, Fairbank, Hall, Hodge, Hoppe, Johnson R., Larson, Madden, McCluskey, McFadyen, Miller, Paccione, Rhodes, Rippey, Rose, Salazar, Smith, Welker, and Williams T.; also SENATOR(S) Reeves, Anderson, Arnold, Cairns, Chlouber, Entz, Evans, Fitz-Gerald, Gordon, Groff, Grossman, Hagedorn, Hanna, Hillman, Isgar, Jones, Kester, Lamborn, May R., Tapia, Teck, Tupa, and Veiga.

AN ACT

CONCERNING THE REPEAL OF THE WATER ADMINISTRATION FEE ADOPTED IN SENATE BILL 03-278, AND, IN CONNECTION THEREWITH, PROVIDING FOR A REFUND OF AMOUNTS ALREADY COLLECTED AND MAKING AN APPROPRIATION.

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

SECTION 1. Repeal. 37-80-121 (4), Colorado Revised Statutes, is repealed as follows:

37-80-121. Water administration fee - cash fund - rules - report - definitions - repeal. (4) ~~The state engineer shall transmit all moneys generated by the fee to the state treasurer, who shall deposit them in the water administration cash fund, which fund is hereby created in the state treasury. All moneys credited to the fund and unexpended at the end of any given fiscal year shall remain in the fund and shall not revert to the general fund. All interest earned on the investment of moneys in the fund shall be credited to the fund. Moneys in the fund shall be appropriated solely to the division of water resources and the department of natural resources for costs associated with the state engineer's administration of appropriative water rights, including costs associated with the implementation of this section; except that moneys in the fund shall not be used for litigation.~~

SECTION 2. Repeal. 37-80-121 (1), (2), (3), (5), and (6), Colorado Revised Statutes, are repealed.

SECTION 3. 37-92-502 (5) (c), Colorado Revised Statutes, is amended to read:

37-92-502. Orders as to waste, diversions, distribution of water. (5) (c) BY

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

JUNE 30, 2004, the state engineer and the division engineers ~~have authority to collect~~ SHALL REFUND ALL AMOUNTS COLLECTED THROUGH ASSESSMENT OF the water administration fee established in section 37-80-121. THE AMOUNT REFUNDED SHALL NOT INCLUDE INTEREST, LEGAL FEES, OR COSTS INCURRED BY WATER USERS IN PROTESTS OR APPEALS OF SUCH ASSESSMENT OR ANY OTHER COSTS ASSOCIATED WITH SECTION 37-80-121.

SECTION 4. Repeal. 37-92-503 (8), Colorado Revised Statutes, is repealed as follows:

~~**37-92-503. Enforcement - injunction.** (8) The state engineer and the particular division engineer in the name of the people of the state of Colorado, through the attorney general, shall collect the water administration fee established in section 37-80-121. Failure by any person to pay the fee within thirty days after the date the fee assessment is received shall subject the person to payment of the outstanding debt, accrued interest at one and one-half percent per month of outstanding debt, fees associated with collection, and recovery of reasonable attorney fees, unless such fee is appealed and determined to have been improperly assessed.~~

SECTION 5. 39-29-109 (1), Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW PARAGRAPH to read:

39-29-109. Severance tax trust fund - created - administration - use of moneys. (1) (i) NOTWITHSTANDING ANY OTHER PROVISION OF THIS SECTION, FOR THE STATE FISCAL YEAR BEGINNING JULY 1, 2003, ONE MILLION FIVE HUNDRED TWENTY-SEVEN THOUSAND FOUR HUNDRED FORTY-NINE DOLLARS FROM THE OPERATIONAL ACCOUNT OF THE SEVERANCE TAX TRUST FUND CREATED IN SUBPARAGRAPH (II) OF PARAGRAPH (a) OF THIS SUBSECTION (1) IS AUTHORIZED TO BE EXPENDED FOR ALLOCATION TO THE DIVISION OF WATER RESOURCES IN THE DEPARTMENT OF NATURAL RESOURCES.

SECTION 6. Section 4 (1) (b) of chapter 218, Session Laws of Colorado 2003, is amended to read:

Section 4. **Appropriation - adjustments in 2003 long bill.** (1) For the implementation of this act, appropriations made in the annual general appropriation act for the department of natural resources for the fiscal year beginning July 1, 2003, shall be adjusted as follows:

(b) The cash funds appropriation is increased by ~~one million six hundred eighty-nine thousand five hundred thirty-nine dollars (\$1,689,539)~~ ONE MILLION FIVE HUNDRED TWENTY-SEVEN THOUSAND FOUR HUNDRED FORTY-NINE DOLLARS (\$1,527,449). Said sum shall be from the ~~water administration cash fund created in section 37-80-121 (4)~~ OPERATIONAL ACCOUNT OF THE SEVERANCE TAX TRUST FUND CREATED IN SECTION 39-29-109 (1) (a) (II), Colorado Revised Statutes, PURSUANT TO SECTION 39-29-109 (1) (i), COLORADO REVISED STATUTES.

SECTION 7. Appropriation - adjustments to the 2004 long bill. (1) For the implementation of this act, appropriations made in the annual general appropriation act for the fiscal year beginning July 1, 2004, shall be adjusted as follows:

(a) The general fund appropriation to the department of natural resources is increased by one million four hundred fourteen thousand five hundred thirty-nine dollars (\$1,414,539).

(b) The cash funds appropriation to the department of natural resources is decreased by one million six hundred eighty-nine thousand five hundred thirty-nine dollars (\$1,689,539). Said sum shall be from the water administration cash fund established pursuant to section 37-80-121 (4), Colorado Revised Statutes.

SECTION 8. Effective date. This act shall take effect upon passage; except that section 1 of this act shall take effect July 1, 2004.

SECTION 9. 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 7, 2004