

CHAPTER 316

WATER AND IRRIGATION

HOUSE BILL 05-1254

BY REPRESENTATIVE(S) Plant, Frangas, Garcia, Madden, Paccione, Solano, Weissmann, Berens, Gallegos, Merrifield, Penry, and Todd;
also SENATOR(S) Grossman, Bacon, Fitz-Gerald, Gordon, Groff, Hanna, Shaffer, Tochtrop, Tupa, Veiga, Williams, and Windels.

AN ACT

CONCERNING THE CREATION OF A WATER EFFICIENCY GRANT PROGRAM TO PROVIDE MONEYS TO AID IN THE PROMOTION OF WATER EFFICIENCY GOALS, AND MAKING AN APPROPRIATION IN CONNECTION THEREWITH.

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

SECTION 1. 37-60-126 (1), (2) (b), and (7), Colorado Revised Statutes, are amended, and the said 37-60-126 is further amended BY THE ADDITION OF A NEW SUBSECTION, to read:

37-60-126. Water conservation and drought mitigation planning - programs - relationship to state assistance for water facilities - guidelines - water efficiency grant program - repeal. (1) As used in this section and in section 37-60-126.5, unless the context otherwise requires:

(a) "AGENCY" MEANS A PUBLIC OR PRIVATE AGENCY WHOSE PRIMARY PURPOSE IS THE PROMOTION OF WATER RESOURCE CONSERVATION.

~~(a)~~ (b) "Covered entity" means each municipality, agency, utility, including any privately owned utility, or other publicly owned entity with a legal obligation to supply, distribute, or otherwise provide water at retail to domestic, commercial, industrial, or public facility customers, and that has a total demand for such customers of two thousand acre-feet or more.

(c) "GRANT PROGRAM" MEANS THE WATER EFFICIENCY GRANT PROGRAM ESTABLISHED PURSUANT TO SUBSECTION (13) OF THIS SECTION.

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

~~(b)~~ (d) "Office" means the office of water conservation and drought planning created in section 37-60-124.

~~(c)~~ (e) "Plan elements" means those components of water conservation plans that address water-saving measures and programs, implementation review, water-saving goals, and the actions a covered entity shall take to develop, implement, monitor, review, and revise its water conservation plan.

~~(d)~~ (f) "Public facility" means any facility operated by an instrument of government for the benefit of the public, including, but not limited to, a government building; park or other recreational facility; school, college, university, or other educational institution; highway; hospital; or stadium.

~~(e)~~ (g) "Water conservation" means water use efficiency, wise water use, water transmission and distribution system efficiency, and supply substitution. The objective of water conservation is a long-term increase in the productive use of water supply in order to satisfy water supply needs without compromising desired water services.

(h) "WATER CONSERVATION PLAN", "WATER USE EFFICIENCY PLAN", OR "PLAN" MEANS A PLAN ADOPTED IN ACCORDANCE WITH THIS SECTION.

~~(f)~~ (i) "Water-saving measures and programs" includes a device, practice, hardware, or equipment that reduces water demands and a program that uses a combination of measures and incentives that allow for an increase in the productive use of a local water supply.

(2) (b) The office shall review previously submitted conservation plans to evaluate their consistency with the provisions of this section and the guidelines established pursuant to PARAGRAPH (a) OF subsection (7) of this section.

(7) (a) By July 1, 2005, the board shall adopt guidelines for the office to review water conservation plans submitted by covered entities. The guidelines shall define the method for submitting plans to the office, how the office will prioritize the distribution of moneys, INCLUDING ANY ADDITIONAL MONEYS MADE AVAILABLE THROUGH THE GRANT PROGRAM, and the interest rate surcharge provided for in ~~paragraph (d)~~ PARAGRAPH (a) of subsection (9) of this section.

(b) IF NO OTHER APPLICABLE GUIDELINES EXIST AS OF THE EFFECTIVE DATE OF THIS PARAGRAPH (b), THE BOARD SHALL ADOPT GUIDELINES BY AUGUST 14, 2005, FOR THE OFFICE TO USE IN REVIEWING APPLICATIONS SUBMITTED BY COVERED ENTITIES AND AGENCIES FOR GRANTS FROM THE GRANT PROGRAM. THE GUIDELINES SHALL ESTABLISH DEADLINES AND PROCEDURES FOR COVERED ENTITIES AND AGENCIES TO FOLLOW IN APPLYING FOR GRANTS AND THE CRITERIA TO BE USED BY THE OFFICE AND THE BOARD IN PRIORITIZING AND AWARDING GRANTS.

(13) (a) THERE IS HEREBY CREATED THE WATER EFFICIENCY GRANT PROGRAM FOR PURPOSES OF PROVIDING STATE FUNDING OVER A THREE-YEAR PERIOD TO AID IN ACHIEVING THE WATER EFFICIENCY GOALS OUTLINED IN LOCALLY ADOPTED WATER CONSERVATION PLANS AND TO PROMOTE THE BENEFITS OF WATER EFFICIENCY. THE BOARD IS AUTHORIZED TO DISTRIBUTE GRANTS IN ACCORDANCE WITH THIS

SUBSECTION (13) TO COVERED ENTITIES AND AGENCIES FROM THE MONEYS TRANSFERRED TO AND APPROPRIATED FROM THE WATER EFFICIENCY GRANT PROGRAM CASH FUND, WHICH IS HEREBY CREATED IN THE STATE TREASURY. FOR THE 2005-06, 2006-07, AND 2007-08 FISCAL YEARS, THE GENERAL ASSEMBLY SHALL APPROPRIATE FROM THE FUND TO THE BOARD UP TO FIVE HUNDRED THOUSAND DOLLARS ANNUALLY FOR THE PURPOSE OF PROVIDING GRANTS TO COVERED ENTITIES AND AGENCIES IN ACCORDANCE WITH THIS SUBSECTION (13). THE GENERAL ASSEMBLY SHALL ALSO APPROPRIATE TO THE BOARD AN AMOUNT NECESSARY TO COVER THE COSTS ASSOCIATED WITH THE ADMINISTRATION OF THE GRANT PROGRAM, BUT SUCH APPROPRIATIONS SHALL NOT EXCEED AN AGGREGATE AMOUNT OF EIGHTY THOUSAND DOLLARS FOR THE THREE FISCAL YEARS OF THE GRANT PROGRAM. HOWEVER, IF LESS THAN FIVE HUNDRED THOUSAND DOLLARS IS APPROPRIATED OR EXPENDED IN THE 2005-06 OR 2006-07 FISCAL YEAR, AN AMOUNT EQUAL TO THE DIFFERENCE BETWEEN FIVE HUNDRED THOUSAND DOLLARS AND THE AMOUNT ACTUALLY APPROPRIATED OR EXPENDED IN THAT FISCAL YEAR SHALL BE AVAILABLE FOR APPROPRIATION AND EXPENDITURE IN THE NEXT FISCAL YEAR IN ADDITION TO THE FIVE HUNDRED THOUSAND DOLLARS AVAILABLE FOR APPROPRIATION IN THAT FISCAL YEAR. ANY MONEYS REMAINING IN THE FUND ON JUNE 30, 2008, SHALL BE TRANSFERRED TO THE RESERVE IN THE OPERATIONAL ACCOUNT OF THE SEVERANCE TAX TRUST FUND DESCRIBED IN SECTION 39-29-109 (1) (c) (III) (A), C.R.S.

(b) ANY COVERED ENTITY THAT HAS ADOPTED A WATER CONSERVATION PLAN AND THAT SUPPLIES, DISTRIBUTES, OR OTHERWISE PROVIDES WATER AT RETAIL TO CUSTOMERS MAY APPLY FOR A GRANT TO AID IN THE IMPLEMENTATION OF THE WATER EFFICIENCY GOALS OF THE PLAN. ANY AGENCY MAY APPLY FOR A GRANT TO FUND OUTREACH OR EDUCATION PROGRAMS AIMED AT DEMONSTRATING THE BENEFITS OF WATER EFFICIENCY. THE OFFICE SHALL REVIEW THE APPLICATIONS AND MAKE RECOMMENDATIONS TO THE BOARD REGARDING THE AWARDED AND DISTRIBUTION OF GRANTS TO APPLICANTS WHO SATISFY THE CRITERIA OUTLINED IN THIS SUBSECTION (13) AND THE GUIDELINES DEVELOPED PURSUANT TO SUBSECTION (7) OF THIS SECTION.

(c) THIS SUBSECTION (13) IS REPEALED, EFFECTIVE JULY 1, 2008.

SECTION 2. 39-29-109 (1) (c) (III), Colorado Revised Statutes, is amended to read:

39-29-109. Severance tax trust fund - created - administration - use of moneys - repeal. (1) (c) (III) (A) It is the intent of the general assembly that the operational account of the severance tax trust fund maintain a state fiscal year end balance equal to twice the current state fiscal year's operating appropriations for the programs specified in this paragraph (c). Moneys may be appropriated or otherwise made available from such two-year reserve only to offset temporary revenue reductions in the programs specified in this paragraph (c); except that, if the general assembly determines that transfers of moneys from the reserve are needed during a state revenue crisis, such transfers shall be a loan from the reserve to be repaid as soon as moneys are available. This provision is intended to mitigate the impact of fluctuations in the amount of revenue credited to the fund from year to year so as to maintain current levels of service for such programs.

(B) NOTWITHSTANDING ANY PROVISION OF SUB-SUBPARAGRAPH (A) OF THIS

SUBPARAGRAPH (III) TO THE CONTRARY, ON JULY 1, 2005, THE STATE TREASURER SHALL TRANSFER ONE MILLION FIVE HUNDRED EIGHTY THOUSAND DOLLARS FROM THE RESERVE TO THE WATER EFFICIENCY GRANT PROGRAM CASH FUND CREATED IN SECTION 37-60-126 (13), C.R.S., FOR USE IN FUNDING GRANTS IN ACCORDANCE WITH SAID SECTION. THE MONEYS TRANSFERRED PURSUANT TO THIS SUB-SUBPARAGRAPH (B) SHALL BE IN ADDITION TO AND SHALL NOT REPLACE ANY MONEYS APPROPRIATED TO THE COLORADO WATER CONSERVATION BOARD PURSUANT TO SUB-SUBPARAGRAPH (D) OF SUBPARAGRAPH (I) OF THIS PARAGRAPH (c). THIS SUB-SUBPARAGRAPH (B) IS REPEALED, EFFECTIVE JULY 1, 2008.

SECTION 3. 37-60-127, Colorado Revised Statutes, is amended to read:

37-60-127. Applicability of provisions requiring funding by political subdivisions of the state. No provision of section 37-60-124, 37-60-125, 37-60-126, or 37-96-103 (4) to (7) which requires funding by any political subdivision of the state which is a covered entity as defined in ~~section 37-60-126 (1)~~ (a) SECTION 37-60-126 (1) (b) shall apply to any such political subdivision if such entity submits the applicable provision and its requirements, including all costs to the inhabitants of the respective jurisdiction, to the qualified electors of any such political subdivision, and a majority of such qualified electors do not approve such applicable provision and its requirements.

SECTION 4. Appropriation. In addition to any other appropriation, there is hereby appropriated, out of any moneys in the water efficiency grant program cash fund created in section 37-60-126 (13) (a), Colorado Revised Statutes, not otherwise appropriated, to the department of natural resources, Colorado water conservation board, for the fiscal year beginning July 1, 2005, the sum of five hundred forty-four thousand one hundred forty-seven dollars (\$544,147), or so much thereof as may be necessary, for the implementation of this act. Of said sum, five hundred thousand dollars (\$500,000) shall be for the provision of grants to covered entities and agencies and forty-four thousand one hundred forty-seven dollars (\$44,147) shall be for administrative costs associated with the provision of said grants.

SECTION 5. 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 7, 2005