

CHAPTER 356

WATER AND IRRIGATION

HOUSE BILL 14-1333

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also SENATOR(S) Schwartz and Harvey, Guzman, Jones, Tochtrop, Baumgardner, Cadman, Crowder, Grantham, Heath, Herpin, Hodge, Jahn, Kefalas, King, Lambert, Lundberg, Marble, Renfroe, Rivera, Roberts, Scheffel, Carroll.

AN ACT

CONCERNING THE FUNDING OF COLORADO WATER CONSERVATION BOARD PROJECTS, AND, IN CONNECTION THEREWITH, MAKING AN APPROPRIATION.

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

SECTION 1. Continuation of the 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, for the fiscal year beginning July 1, 2014, the sum of \$330,000, or so much thereof as may be necessary, for renovation of existing gauging stations, replacement of outdated collection platforms and upgrading of transmission components of the satellite monitoring system established and operated pursuant to section 37-80-102 (10), Colorado Revised Statutes, stream gauge flood hardening projects, and data collection efforts related to flood forecasting and warning.

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

SECTION 2. Continuation of the weather modification 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 department of natural resources, for allocation to the Colorado water conservation board, for the fiscal year beginning July 1, 2014, the sum of \$175,000, or so much thereof as may be necessary, for the board to continue to assist water conservation districts, water

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

conservancy districts, and other water providers and their fiscal agents with the development of cloud seeding programs that provide benefits to recreation, streams, and reservoirs through snowpack enhancement.

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

SECTION 3. Continuation of the Colorado floodplain map modernization 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 department of natural resources, for allocation to the Colorado water conservation board, for the fiscal year beginning July 1, 2014, the sum of \$500,000, or so much thereof as may be necessary, for the board to continue 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 remain available for the designated purposes until they are fully expended.

SECTION 4. Continuation of the watershed restoration 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 department of natural resources, for allocation to the Colorado water conservation board, for the fiscal year beginning July 1, 2014, the sum of \$500,000, or so much thereof as may be necessary, for the board to continue to provide planning and engineering studies, including implementation measures, to address technical needs for watershed restoration and flood mitigation projects throughout the state.

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

SECTION 5. Restoration of the balance of the flood and drought response fund - transfer. On July 1, 2014, the state treasurer shall transfer a total of \$500,000, or so much thereof as may be necessary, from the unreserved cash in the Colorado water conservation board construction fund to the flood and drought response fund created in section 37-60-123.2, Colorado Revised Statutes, in order to restore the unencumbered balance in the flood and drought response fund to \$500,000.

SECTION 6. Decision support system operation and 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 Colorado water conservation board, for the fiscal year beginning July 1, 2014, the sum of \$200,000, or so much thereof as may be necessary, for the board to continue financing the operations and maintenance of the Colorado decision support system.

(2) The moneys appropriated in subsection (1) of this section remain available for

the designated purposes until they are fully expended.

SECTION 7. Arkansas river 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 department of natural resources, for allocation to the Colorado water conservation board, for the fiscal year beginning July 1, 2014, the sum of \$500,000, or so much thereof as may be necessary, for the board to continue implementation of the Arkansas river decision support system (ArkDSS) as identified in the ArkDSS feasibility study completed in December 2011. Continued implementation at this stage will include primary data collection and data compilation.

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

SECTION 8. South Platte basin groundwater level data collection and analysis - 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 Colorado water conservation board, for the fiscal year beginning July 1, 2014, the sum of \$500,000, or so much thereof as may be necessary, for the board to continue the collection and analyzing of groundwater data along the South Platte river, to update the South Platte river decision support system model and make model enhancements, install instrumentation and monitoring devices, and construct test projects to evaluate cause and possible remediation of high groundwater levels in the South Platte basin.

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

SECTION 9. Gunnison basin irrigation system planning and optimization - 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 Colorado water conservation board, for the fiscal year beginning July 1, 2014, the sum of \$250,000, or so much thereof as may be necessary, for the board to provide grants for engineering services to evaluate and design enhancements to nonfederal irrigation systems in a portion of the Gunnison basin, to allow owners of such systems to more effectively participate in the Colorado river basin salinity control program.

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

SECTION 10. Implementation of drought mitigation strategies - 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 Colorado water conservation board, for the fiscal year beginning July 1, 2014, the sum of \$100,000, or so much thereof as may be

necessary, for the board to implement recommended drought strategies or actions identified in the 2013 Colorado drought response and mitigation plan.

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

SECTION 11. Continuation of the alternative agriculture water transfer sustainability grant 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 department of natural resources, for allocation to the Colorado water conservation board, for the fiscal year beginning July 1, 2014, the sum of \$750,000, or so much thereof as may be necessary, for the board to continue to develop and implement a statewide competitive grant program to advance various agricultural transfer methods as alternatives to permanent agricultural dry-up, including interruptible water supply agreements, long-term agricultural land fallowing, water banks, reduced consumptive use through efficiency or cropping while maintaining historic return flows, and purchase by end users with leasebacks under defined conditions. Projects and programs in all drainage basins are eligible for funding.

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

SECTION 12. Restoration of litigation fund cash balance - transfer. On July 1, 2014, the state treasurer shall transfer a total of \$1,200,000 from the unreserved cash in the Colorado water conservation board construction fund to the litigation fund created in section 37-60-121 (2.5), Colorado Revised Statutes, to continue litigation support for the board.

SECTION 13. Long Hollow reservoir project - 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 Colorado water conservation board, for the fiscal year beginning July 1, 2014, the sum of \$1,575,000, or so much thereof as may be necessary, for the board to make a grant to the Colorado water resource and power development authority for the construction of Long Hollow reservoir.

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

SECTION 14. Chatfield reallocation project loan authorization. (1) Pursuant to sections 39-29-109 (2) (a) (1.5) and 37-60-122 (1) (b), Colorado Revised Statutes, the Colorado water conservation board is hereby authorized to loan moneys from the severance tax perpetual base fund or the Colorado water conservation board construction fund to the following entities to enable them to purchase storage space in the Chatfield reallocation project:

Priority Borrower - Project	Loan Amount
Centennial Water and Sanitation District	\$45,450,000.00
Central Colorado Water Conservancy District	28,280,000.00

Castle Pines Metropolitan District	5,050,000.00
Castle Pine North Metropolitan District	5,858,000.00
Center of Colorado Water Conservancy District	606,000.00
Mount Carbon Water and Sewer District	2,525,000.00
Total	\$87,769,000.00

(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 become available to the severance tax perpetual base fund or the Colorado water conservation board construction fund. The loans must 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 change 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, in 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 15. Water infrastructure supply efficiency project loan authorization. (1) Pursuant to sections 39-29-109 (2) (a) (I.5) and 37-60-122 (1) (b), Colorado Revised Statutes, the Colorado water conservation board is hereby authorized to loan moneys from the severance tax perpetual base fund or the Colorado water conservation board construction fund to the following entities to allow them to participate in and construct the water infrastructure supply efficiency (WISE) project:

Priority Borrower - Project	Loan Amount
Cottonwood Water and Sanitation District	\$ 4,040,000.00
Inverness Water and Sanitation District	5,050,000.00
Parker Water and Sanitation District	12,120,000.00
Pinery Water and Wastewater District	10,100,000.00
Rangeview Metropolitan District	6,060,000.00
Stonegate Village Metropolitan District	6,060,000.00
Total	\$43,430,000.00

(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 become available to the severance tax perpetual base fund or the Colorado water conservation board construction fund. The loans must 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 change 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, in 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 16. In Colorado Revised Statutes, 39-29-109, **amend** (2) (a) (VIII) (B) and (2) (a) (XII) (B); and **add** (2) (a) (XIII) as follows:

39-29-109. Severance tax trust fund - created - administration - distribution of moneys - repeal. (2) State severance tax receipts shall be credited to the severance tax trust fund as provided in section 39-29-108. Except as otherwise set forth in section 39-29-109.5, all income derived from the deposit and investment of the moneys in the fund shall be credited to the fund. At the end of any fiscal year, all unexpended and unencumbered moneys in the fund remain therein and shall not be credited or transferred to the general fund or any other fund. All moneys in the fund are subject to appropriation by the general assembly for the following purposes:

(a) **The severance tax perpetual base fund.** (VIII) (B) Notwithstanding any other law, including section 24-30-1303, C.R.S., once sufficient funds have been appropriated to the board for such purposes, the department of natural resources, acting through the board, is authorized to enter into a contract or other agreement with the United States bureau of reclamation to acquire all or a portion of Colorado's allocation of water in the Animas-La Plata project. The authority to acquire such water includes the ability to contract with and allocate water to local entities and water providers; to receive and expend ~~moneys~~ PROCEEDS from ~~entities in repayment~~ THE SALE OR LEASE OF WATER AND LAND AND ANY OTHER ACTIVITIES THAT EFFECTUATE THE PURPOSE OF ACQUIRED PROJECT WATER; to undertake operations, maintenance, and replacement costs; to pay the costs of storage or other necessary expenses; and to otherwise implement the purposes of this sub-subparagraph (B) and utilize the water acquired. The board is also authorized to undertake such action as is necessary to lease, sublease, exchange, sell, assign, or otherwise effectuate the use of project water acquired under this subparagraph (VIII). THE STATE TREASURER SHALL CREDIT ALL PROCEEDS RECEIVED UNDER THIS SUB-SUBPARAGRAPH (B) AND THE INTEREST EARNED FROM INVESTMENTS OF THOSE PROCEEDS TO THE COLORADO WATER CONSERVATION BOARD CONSTRUCTION FUND CREATED IN SECTION 37-60-121 (1) (a), C.R.S., AND ALL SUCH MONEYS ARE CONTINUOUSLY APPROPRIATED AND REMAIN AVAILABLE FOR THE DESIGNATED PURPOSES UNTIL THEY ARE FULLY EXPENDED. In the event of a conflict between the application of state or federal law or rules, including chapter 3 of the state fiscal rules in existence as of June 7, 2010, federal laws and rules shall apply.

(XII) (B) This subparagraph (XII) is repealed, effective July 1, ~~2014~~ 2016.

(XIII) (A) NOTWITHSTANDING ANY PROVISION OF THIS PARAGRAPH (a) TO THE CONTRARY, ON JULY 1, 2014, THE STATE TREASURER SHALL TRANSFER ONE MILLION FIVE HUNDRED SEVENTY-FIVE THOUSAND DOLLARS FROM THE SEVERANCE TAX PERPETUAL BASE FUND TO THE COLORADO WATER CONSERVATION BOARD CONSTRUCTION FUND CREATED IN SECTION 37-60-121 (1) (a), C.R.S., FOR USE BY THE COLORADO WATER CONSERVATION BOARD TO MAKE A GRANT TO THE COLORADO WATER RESOURCES AND POWER DEVELOPMENT AUTHORITY CREATED IN SECTION 37-95-104, C.R.S., FOR THE CONSTRUCTION OF LONG HOLLOW RESERVOIR.

(B) THIS SUBPARAGRAPH (XIII) IS REPEALED, EFFECTIVE SEPTEMBER 1, 2016.

SECTION 17. In Colorado Revised Statutes, 37-60-120.1, **amend** (2) as follows:

37-60-120.1. Chatfield reservoir reallocation project - authority - repeal.

(2) The board is hereby authorized to act as an agent of the project parties to implement this section. Through an agency fund the board may collect and disburse money from any entity to implement the project and to meet the obligations contained in an intergovernmental agreement, project partnership agreement, or other contract, referred to in this section as an "agreement", with the corps or other entity that is required to implement the project. Notwithstanding any other law, including section 24-30-1303, C.R.S., the board and the department of natural resources acting through its agencies shall have the authority to enter into any agreement with the corps or other entities, including consultants and contractors, that in the board's discretion is necessary to implement the project; however, sufficient funds shall have been made available to the board for such purposes. The authority granted by this subsection (2) includes: The ability to hold storage space in the reservoir; to contract with, and allocate storage to, local entities who will utilize the reservoir storage space; to undertake mitigation and long-term operation and maintenance of the project; TO RECEIVE AND EXPEND PROCEEDS RECEIVED FROM THE SALE OR LEASE OF RESERVOIR STORAGE SPACE AND FROM ANY OTHER ACTIVITIES THAT EFFECTUATE THE PURPOSE OF THE ACQUIRED PROJECT STORAGE SPACE; to pay the costs of storage or other necessary expenses; and to otherwise implement the project. The board has the express authority, in equitable partnership with the participants, to undertake such action as is necessary, including the award of contracts to public and private entities, to undertake mitigation construction and long-term operation and maintenance and related activities; to lease, sublease, or assign storage space rights; and to otherwise effectuate the storage of water in the reservoir. THE STATE TREASURER SHALL CREDIT ALL PROCEEDS RECEIVED UNDER THIS SECTION AND THE INTEREST EARNED FROM INVESTMENTS OF THOSE PROCEEDS TO THE COLORADO WATER CONSERVATION BOARD CONSTRUCTION FUND CREATED IN SECTION 37-60-121 (1) (a), AND ALL SUCH MONEYS ARE CONTINUOUSLY APPROPRIATED AND REMAIN AVAILABLE FOR THE DESIGNATED PURPOSES UNTIL THEY ARE FULLY EXPENDED. In the event of a conflict between the application of state or federal law or rules, including chapter 3 of the state fiscal rules in existence as of May 29, 2008, federal laws and rules shall apply.

SECTION 18. In Colorado Revised Statutes, **amend** 37-60-123.2 as follows:

37-60-123.2. Flood and drought response fund - created. There is hereby created in the state treasury the flood and drought response fund, referred to in this section as the "response fund". ~~The state treasurer is hereby authorized and directed~~

~~to transfer three hundred thousand dollars from the Colorado water conservation board construction fund to the response fund.~~ The board is authorized to provide funding for flood and drought preparedness and for response and recovery activities following flood or drought events and disasters. The moneys in the response fund are hereby continuously appropriated to the board for flood and drought response purposes, including the immediate availability of funds for aerial photography of flooded areas, flood and drought documentation and identification of specific hazards, evaluations and revisions of floodplain designations and drought-prone areas, flood and drought forecasting and preparation, and development of disaster and recovery mitigation plans. The state treasurer shall credit all interest derived from the investment of moneys in the response fund to the Colorado water conservation board construction fund. Any balance remaining in the response fund at the end of any fiscal year remains in the fund.

SECTION 19. 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 6, 2014