

CHAPTER 150

WATER AND IRRIGATION

HOUSE BILL 20-1403

BY REPRESENTATIVE(S) Roberts and Catlin, Bird, Bockenfeld, Buckner, Caraveo, Cutter, Duran, Esgar, Froelich, Garnett, Gonzales-Gutierrez, Herod, Jackson, Kipp, McCluskie, McKean, McLachlan, Michaelson Jenet, Pelton, Sandridge, Singer, Sirota, Snyder, Soper, Tipper, Titone, Valdez A., Valdez D., Will, Wilson, Woodrow, Young, Buentello, Coleman, Exum, Lontine, Mullica, Becker;
 also SENATOR(S) Donovan and Sonnenberg, Bridges, Coram, Crowder, Fields, Gardner, Hansen, Lee, Moreno, Priola, Rankin, Scott, Story, Tate, Todd, Woodward, Garcia.

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 operation and maintenance - appropriation. (1) For the 2020-21 state fiscal year, \$380,000 is appropriated to the department of natural resources for use by the division of water resources. This appropriation is from the Colorado water conservation board construction fund created in section 37-60-121, C.R.S. To implement this section, the division of water resources may use this appropriation for renovation of existing gauging stations; replacement of outdated collection platforms; lysimeter support, data collection, and maintenance; upgrading of transmission components of the satellite monitoring system established and operated pursuant to section 37-80-102 (10), C.R.S.; stream gauge flood hardening projects; and data collection efforts related to flood forecasting and warning.

(2) The money appropriated in subsection (1) of this section remains available for the designated purposes until it is fully expended.

SECTION 2. Continuation of the Colorado floodplain map modernization program - appropriation. (1) For the 2020-21 state fiscal year, \$500,000 is appropriated to the department of natural resources for use by the Colorado water conservation board. This appropriation is from the Colorado water conservation board construction fund created in section 37-60-121, C.R.S. To implement this

Capital letters or bold & italic numbers indicate new material added to existing law; dashes through words or numbers indicate deletions from existing law and such material is not part of the act.

section, the Colorado water conservation board may use this appropriation 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 money appropriated in subsection (1) of this section remains available for the designated purposes until it is fully expended.

SECTION 3. Continuation of the weather modification permitting program - appropriation. (1) For the 2020-21 state fiscal year, \$350,000 is appropriated to the department of natural resources for use by the Colorado water conservation board. This appropriation is from the Colorado water conservation board construction fund created in section 37-60-121, C.R.S. To implement this section, the Colorado water conservation board may use this appropriation to continue to assist water conservation districts, water 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 money appropriated in subsection (1) of this section remains available for the designated purposes until it is fully expended.

SECTION 4. Continuation of the Colorado Mesonet project - appropriation. (1) For the 2020-21 state fiscal year, \$150,000 is appropriated to the department of natural resources for use by the Colorado water conservation board. This appropriation is from the Colorado water conservation board construction fund created in section 37-60-121, C.R.S. To implement this section, the Colorado water conservation board may use this appropriation to support the Colorado Mesonet, including for the following activities: Operation, maintenance, travel, communications, and database and website management for temperature and precipitation stations.

(2) The money appropriated in subsection (1) of this section remains available for the designated purposes until it is fully expended.

SECTION 5. Acquisition of LIDAR data - appropriation. (1) For the 2020-21 state fiscal year, \$200,000 is appropriated to the department of natural resources for use by the Colorado water conservation board. This appropriation is from the Colorado water conservation board construction fund created in section 37-60-121, C.R.S. To implement this section, the Colorado water conservation board may use this appropriation to acquire high-quality elevation data to develop accurate flood hazard, debris flow, and fluvial hazard mapping.

(2) The money appropriated in subsection (1) of this section remains available for the designated purposes until it is fully expended.

SECTION 6. Continuation of the Arkansas river decision support system - appropriation. (1) For the 2020-21 state fiscal year, \$500,000 is appropriated to the department of natural resources for use by the Colorado water conservation board. This appropriation is from the Colorado water conservation board construction fund created in section 37-60-121, C.R.S. To implement this section,

the Colorado water conservation board may use this appropriation to continue implementation of the Arkansas river decision support system (ArkDSS), as identified in the ArkDSS feasibility study completed in December 2011.

(2) The money appropriated in subsection (1) of this section remains available for the designated purposes until the ArkDSS is completed.

SECTION 7. Continuation of the Colorado decision support system operation and maintenance - appropriation. (1) For the 2020-21 state fiscal year, \$500,000 is appropriated to the department of natural resources for use by the Colorado water conservation board. This appropriation is from the Colorado water conservation board construction fund created in section 37-60-121, C.R.S. To implement this section, the Colorado water conservation board may use this appropriation to continue to operate and maintain the Colorado decision support system, which provides data and analytical tools to assist water resources planning and management projects throughout the state.

(2) The money appropriated in subsection (1) of this section remains available for the designated purposes until it is fully expended.

SECTION 8. Water forecasting partnership project - appropriation. (1) For the 2020-21 state fiscal year, \$350,000 is appropriated to the department of natural resources for use by the Colorado water conservation board. This appropriation is from the Colorado water conservation board construction fund created in section 37-60-121, C.R.S. To implement this section, the Colorado water conservation board may use this appropriation to support the development of new ground and aerial remote sensing data and equipment and hydrologic modeling, to provide reliable volumetric water supply forecasting, and to provide better characterization of snowpack.

(2) The money appropriated in subsection (1) of this section remains available for the designated purposes until it is fully expended.

SECTION 9. Colorado water loss control initiative - appropriation. (1) For the 2020-21 state fiscal year, \$1,000,000 is appropriated to the department of natural resources for use by the Colorado water conservation board. This appropriation is from the Colorado water conservation board construction fund created in section 37-60-121, C.R.S. To implement this section, the Colorado water conservation board may use this appropriation to create and conduct statewide training workshops on a water loss control methodology, with a focus on smaller rural providers, and to provide technical assistance to interested water providers on water system management.

(2) The money appropriated in subsection (1) of this section remains available for the designated purposes until it is fully expended.

SECTION 10. Continuation of the watershed restoration program - appropriation. (1) For the 2020-21 state fiscal year, \$4,000,000 is appropriated to the department of natural resources for use by the Colorado water conservation board. This appropriation is from the Colorado water conservation board construction fund created in section 37-60-121, C.R.S. To implement this section,

the Colorado water conservation board may use this appropriation to provide planning and engineering studies, including implementation measures, to address technical needs for watershed restoration and flood mitigation projects throughout the state; aquatic habitat protection; flexible operations for multiple uses; restoration work; quantification of environmental flow needs; and monitoring efforts to support watershed health goals outlined in the state water plan.

(2) The money appropriated in subsection (1) of this section remains available for the designated purposes until it is fully expended.

SECTION 11. Alternative agricultural transfer methods grant program - appropriation. (1) For the 2020-21 state fiscal year, \$750,000 is appropriated to the department of natural resources for use by the Colorado water conservation board. This appropriation is from the Colorado water conservation board construction fund created in section 37-60-121, C.R.S. To implement this section, the Colorado water conservation board may use this appropriation for grant-making for projects that advance various agricultural transfer methods as alternatives to permanent dry-up of agricultural lands.

(2) The money appropriated in subsection (1) of this section remains available for the designated purposes until it is fully expended.

SECTION 12. Restoration of litigation fund cash balance - transfer. On July 1, 2020, the state treasurer shall transfer the sum of \$2,000,000, or so much thereof as may be necessary to restore the balance of the litigation fund to \$2,000,000, from the unreserved cash in the Colorado water conservation board construction fund created in section 37-60-121, C.R.S., to the litigation fund created in section 37-60-121 (2.5), C.R.S., to assist in addressing legal issues associated with compact compliance or any other litigation activities as specified under section 37-60-121, C.R.S.

SECTION 13. Restoration of fish and wildlife resources fund balance - transfer. On July 1, 2020, the state treasurer shall transfer the sum of \$1,000,000 from the unreserved cash in the Colorado water conservation board construction fund to the fish and wildlife resources fund created in section 37-60-121 (6), C.R.S., to continue grant-making to assist with the mitigation of fish and wildlife resources affected by the construction, operation, or maintenance of water diversion, delivery, or storage facilities.

SECTION 14. Continuation of the state water plan - appropriation. (1) For the 2020-21 state fiscal year, \$7,500,000 is appropriated to the department of natural resources for use by the Colorado water conservation board. This appropriation is from the Colorado water conservation board construction fund created in section 37-60-121, C.R.S. To implement this section, the Colorado water conservation board may use the appropriation to finance grant-making, studies, programs, or projects that assist in implementing the state water plan adopted pursuant to section 37-60-106.3, C.R.S., including the following:

(a) Up to \$3,000,000, pursuant to section 37-60-106.3 (6)(b)(I), C.R.S., to facilitate the development of additional storage, artificial recharge into aquifers, and dredging existing reservoirs to restore the reservoirs' full decreed storage capacity

for multi-beneficial projects and those projects identified in basin implementation plans to address the water supply and demand gap;

(b) Up to \$1,000,000, pursuant to section 37-60-106.3 (6)(b)(II), C.R.S., for grant funding to implement long-term strategies for conservation, land use, and drought planning;

(c) Up to \$500,000, pursuant to section 37-60-106.3 (6)(b)(III), C.R.S., for grants for water education, outreach, and innovation efforts;

(d) Up to \$1,500,000, pursuant to section 37-60-106.3 (6)(b)(IV), C.R.S., to provide technical assistance, project, or program funding for agricultural projects; and

(e) Up to \$1,500,000, pursuant to section 37-60-106.3 (6)(b)(V), C.R.S., for environmental and recreational projects.

(2) The money appropriated in subsection (1) of this section remains available for the designated purposes until it is fully expended.

SECTION 15. Arkansas river and Wildhorse creek levees project loan authorizations. (1) Pursuant to section 39-29-109 (2)(a)(I.5), C.R.S., the Colorado water conservation board is hereby authorized to loan, subject to subsection (2) of this section, up to \$23,230,000 from the severance tax perpetual base fund created in section 39-29-109 (2)(a), C.R.S., to the Pueblo conservancy district to repair the levees within the city of Pueblo to bring the levees up to federal emergency management agency standards to provide flood protection to the city of Pueblo.

(2) The Colorado water conservation board may make a loan for the construction of the project specified in subsection (1) of this section from such money as is or may become available to the severance tax perpetual base fund. The loan must be in the amount 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 or as may be justified by reason of change in the plans for the 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), C.R.S., the board shall require such terms and conditions in the contract as will ensure repayment of money made available by it. The board shall not disburse any money for a loan authorized by subsection (1) of this section unless and until it is satisfied, in its sole discretion, that the recipient of the 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. West half Laramie-Poudre tunnel project loan authorization. (1) Pursuant to section 39-29-109 (2)(a)(I.5), C.R.S., the Colorado water conservation board is hereby authorized to loan, subject to subsection (2) of this section, up to \$17,250,800 from the Colorado water conservation board construction fund created in section 37-60-121, C.R.S., to the Tunnel Water Company to rehabilitate the Laramie-Poudre tunnel, which tunnel delivers Laramie river water

to the front range.

(2) The Colorado water conservation board may make a loan for the construction of the project specified in subsection (1) of this section from such money as is or may become available to the severance tax perpetual base fund. The loan must be in the amount 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 or as may be justified by reason of change in the plans for the 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), C.R.S., the board shall require such terms and conditions in the contract as will ensure repayment of money made available by it. The board shall not disburse any money for a loan authorized by subsection (1) of this section unless and until it is satisfied, in its sole discretion, that the recipient of the 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 17. Frying Pan-Arkansas project loan authorization - transfer - appropriation. (1) (a) Pursuant to section 39-29-109 (2)(a)(I.5), C.R.S., the Colorado water conservation board is hereby authorized to loan, subject to subsection (2) of this section, up to \$90,000,000 from the severance tax perpetual base fund created in section 39-29-109 (2)(a), C.R.S., to the southeastern Colorado water conservancy district to provide nonfederal cost-share funding for the Frying Pan-Arkansas project, which project helps provide quality drinking water to six counties in the lower Arkansas valley.

(b) The Colorado water conservation board may make a loan for the construction of the project specified in subsection (1)(a) of this section from such money as is or may become available to the severance tax perpetual base fund. Loans issued pursuant to this subsection (1) must total the amount listed in subsection (1)(a) of this section plus or minus such amounts, if any, as may be justified by reason of ordinary fluctuations in construction costs or as may be justified by reason of change in the plans for the 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.

(c) Pursuant to section 37-60-120 (1), C.R.S., the board shall require such terms and conditions in the contract as will ensure repayment of money made available by it. The board shall not disburse any money for a loan authorized by subsection (1)(a) of this section unless and until it is satisfied, in its sole discretion, that the recipient of the loan will be able to make repayment pursuant to the terms and conditions established by the board and by subsection (1)(a) of this section.

(2) (a) On July 1, 2020, the state treasurer shall transfer the sum of \$10,000,000 from the severance tax perpetual base fund created in section 39-29-109 (2)(a), C.R.S., to the Colorado water conservation board construction fund created in section 37-60-121, C.R.S., to grant money to the southeastern Colorado water conservancy district to provide nonfederal cost-share funding for the Frying Pan-Arkansas project, which project helps provide quality drinking water to six

counties in the lower Arkansas valley.

(b) (I) For the 2020-21 state fiscal year, \$10,000,000 is appropriated to the department of natural resources for use by the Colorado water conservation board. This appropriation is from the Colorado water conservation board construction fund created in section 37-60-121, C.R.S. To implement this subsection (2), the Colorado water conservation board may use this appropriation to grant money to the southeastern Colorado water conservancy district to provide nonfederal cost-share funding for the Frying Pan-Arkansas project, which project helps provide quality drinking water to six counties in the lower Arkansas valley.

(II) The money appropriated in subsection (2)(b)(I) of this section remains available for the designated purposes until it is fully expended.

SECTION 18. In Colorado Revised Statutes, 37-60-121, **amend** (1)(b)(VI) as follows:

37-60-121. Colorado water conservation board construction fund - creation - nature of fund - funds for investigations - contributions - use for augmenting the general fund - funds created - repeal. (1) (b) In the consideration of making expenditures from the fund, the board shall be guided by the following criteria:

(VI) ~~After July 1, 1981, THE BOARD SHALL NOT RECOMMEND TO THE GENERAL ASSEMBLY domestic water treatment and distribution systems; shall not be recommended by the board to the general assembly;~~

SECTION 19. In Colorado Revised Statutes, 37-60-126, **amend** (12)(a)(IV) and (12)(c) as follows:

37-60-126. Water conservation and drought mitigation planning - programs - relationship to state assistance for water facilities - guidelines - water efficiency grant program - definitions - repeal. (12) (a) (IV) THE STATE TREASURER SHALL TRANSFER any moneys MONEY remaining in the fund on ~~June 30, 2020, shall be transferred~~ JUNE 30, 2030, to the severance tax operational fund described in section 39-29-109 (2)(b). ~~C.R.S.~~

(c) This subsection (12) is repealed, effective July 1, ~~2020~~ 2030.

SECTION 20. In Session Laws of Colorado 2019, section 5 of chapter 121, (SB 19-212), **amend** (2) as follows:

Section 5. **Appropriation.** (2) (a) For the 2019-20 state fiscal year, ~~\$1,700,000~~ \$833,258 is appropriated to the department of natural resources for use by the Colorado water conservation board. This appropriation is from the general fund. To implement this section, the Colorado water conservation board may use this appropriation for stakeholder outreach and technical analysis to develop a water resources demand management program.

(b) THE MONEY APPROPRIATED IN SUBSECTION (2)(a) OF THIS SECTION REMAINS AVAILABLE FOR EXPENDITURE UNTIL THE CLOSE OF THE 2020-21 STATE FISCAL YEAR.

SECTION 21. In Session Laws of Colorado 2002, section 25 of chapter 150, (HB 02-1152), **amend** (3); and **repeal** (2) as follows:

Section 25. **Water education foundation - authorization and appropriation.**

~~(2) Following the establishment of the water education foundation, in addition to any other appropriation, the Colorado water conservation board is hereby authorized, from the water conservation board construction fund, to annually provide one hundred fifty thousand dollars (\$150,000) to the foundation.~~

(3) The ~~moneys~~ MONEY referred to in ~~subsections (1) and (2)~~ SUBSECTION (1) of this section ~~are~~ is hereby continuously appropriated to the board for the purposes established in this section.

SECTION 22. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, or safety.

Approved: June 29, 2020