

CHAPTER 397

NATURAL RESOURCES

SENATE BILL 23-267

BY SENATOR(S) Van Winkle and Cutter, Kolker, Sullivan;
also REPRESENTATIVE(S) Titone and Bradley, Brown, Duran, Frizell, Garcia, Hamrick, Hartsook, Jodeh, Lieder, Lindsay,
Marshall, McCormick, Snyder, Story, Taggart.

AN ACT

CONCERNING A WATER QUALITY FEE TO BE PAID FOR ADMISSION TO CHATFIELD STATE PARK, AND, IN CONNECTION THEREWITH, REQUIRING THE DIVISION OF PARKS AND WILDLIFE TO COLLECT THE FEE AND TRANSFER THE AMOUNT OF THE FEE TO THE CHATFIELD WATERSHED AUTHORITY.

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

SECTION 1. Legislative declaration. (1) The general assembly finds that:

(a) Chatfield state park is situated in the lower foothills of the front range on the southwestern edge of Denver, and Chatfield reservoir, located in Chatfield state park, is a 1,400 surface acre water body at the confluence of Plum creek and the South Platte river;

(b) Chatfield reservoir was constructed in 1970 for the purpose of providing regional flood control for the Denver metropolitan area and is a regional water supply source for multiple local and regional water producers;

(c) Chatfield state park is one of the most popular recreation areas in the Denver metropolitan region and in all of Colorado and offers numerous recreational activities, including swimming, boating, paddleboarding, fishing, wildlife viewing, biking, camping, and horseback riding;

(d) The Chatfield watershed authority (authority) was established in 1984 when the governor designated the authority as a 208 management agency, in accordance with section 208 of the "Federal Water Pollution Control Act", also known as the federal "Clean Water Act", 33 U.S.C. sec. 1251 et seq.;

(e) The authority includes Jefferson county, Douglas county, the town of Castle

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.

Rock, the city of Littleton, the town of Larkspur, and water and wastewater providers in the Chatfield watershed;

(f) The authority's mission is to promote protection of water quality in the Chatfield watershed for drinking water supplies, recreation, fisheries, and other beneficial uses;

(g) The authority preserves these beneficial uses in Chatfield reservoir and in the watershed through the promotion of point source, nonpoint source, and storm water controls;

(h) Under regulation 73 of the water quality control commission, the authority is required to limit the total maximum annual load of total phosphorus entering the Chatfield reservoir;

(i) The authority continues to implement regulation 73 and coordinate with state and federal agencies regarding water quality control measures;

(j) The authority is also required to maintain compliance with chlorophyll-a and phosphorous standards imposed by regulation 38 of the water quality control commission;

(k) Since 1984, the authority and its members have monitored water quality in the Chatfield reservoir and upstream in the Chatfield watershed and have undertaken measures to protect water quality in the watershed through voluntary funding contributions and grants;

(l) The Chatfield watershed plan identifies opportunities within the watershed to address the chemical, physical, and biological pollutants that impact the watershed, including controlling runoff from wildfire burn areas, reducing phosphorus quantities by stabilizing degraded streambanks, mitigating runoff from agricultural lands, minimizing leachate from septic systems, and providing public education for reducing contamination from the actions of people;

(m) The effects of increased floods and wildfires threaten to increase pollutant loadings to Chatfield reservoir; and

(n) The authority is unable to qualify for grant programs, which typically require a certain level of matching funds.

(2) The general assembly declares that it is in the best interests of the state to:

(a) Create a water quality fee to be imposed with the entrance fee that visitors pay to visit Chatfield state park;

(b) Require the division of parks and wildlife to collect the water quality fee and pay the amounts collected as water quality fees to the authority; and

(c) Require the authority to expend the money to support water quality projects that benefit Chatfield state park, including projects that provide for the construction,

operation, and maintenance of nonpoint source projects, water quality monitoring, and urban runoff and erosion management and control.

SECTION 2. In Colorado Revised Statutes, **add** 33-9-114 as follows:

33-9-114. Chatfield state park - water quality fee - Chatfield watershed authority - process for requesting a water quality fee - definitions - rules.

(1) AS USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE REQUIRES:

(a) "CHATFIELD WATERSHED AUTHORITY" MEANS THE CHATFIELD WATERSHED AUTHORITY ESTABLISHED BY AN INTERGOVERNMENTAL AGREEMENT EXECUTED PURSUANT TO SECTIONS 29-1-203 AND 29-1-204.2 AND INCLUDING THE FOLLOWING MEMBERS:

(I) JEFFERSON COUNTY;

(II) DOUGLAS COUNTY;

(III) THE CITY OF LITTLETON;

(IV) THE TOWN OF CASTLE ROCK;

(V) THE TOWN OF LARKSPUR;

(VI) CASTLE PINES METROPOLITAN DISTRICT;

(VII) CENTENNIAL WATER AND SANITATION DISTRICT;

(VIII) DOMINION WATER AND SANITATION DISTRICT;

(IX) LOUVIERS WATER AND SANITATION DISTRICT;

(X) PERRY PARK WATER AND SANITATION DISTRICT;

(XI) ROXBOROUGH WATER AND SANITATION DISTRICT;

(XII) THE CITY AND COUNTY OF DENVER, ACTING BY AND THROUGH ITS BOARD OF WATER COMMISSIONERS; AND

(XIII) THE PLUM CREEK WATER RECLAMATION AUTHORITY.

(b) "FUND" MEANS THE PARKS AND OUTDOOR RECREATION CASH FUND CREATED IN SECTION 33-10-111 (1).

(c) "WATER QUALITY FEE" MEANS A WATER QUALITY FEE ESTABLISHED BY RULES PROMULGATED BY THE COMMISSION PURSUANT TO SUBSECTION (2) OF THIS SECTION.

(2)(a) ON OR BEFORE JULY 1, 2024, THE COMMISSION SHALL PROMULGATE RULES ESTABLISHING:

(I) A PROCESS BY WHICH THE CHATFIELD WATERSHED AUTHORITY MAY REQUEST

THAT THE COMMISSION CREATE BY RULE A WATER QUALITY FEE TO BE COLLECTED BY THE DIVISION FROM VISITORS TO CHATFIELD STATE PARK;

(II) CRITERIA FOR APPROVING A REQUEST FOR A WATER QUALITY FEE; AND

(III) CRITERIA FOR DETERMINING WHICH VISITORS TO CHATFIELD STATE PARK SHOULD BE REQUIRED TO PAY A WATER QUALITY FEE; EXCEPT THAT IN PROMULGATING SUCH RULES, THE COMMISSION SHALL ENSURE THAT THE DIVISION SHALL NOT COLLECT A WATER QUALITY FEE FROM A VISITOR WHO HOLDS AN ANNUAL OR LIFETIME PASS TO VISIT STATE PARKS.

(b) IN PROMULGATING RULES PURSUANT TO SUBSECTION (2)(a) OF THIS SECTION, THE COMMISSION SHALL ENSURE THAT THE AMOUNT OF A WATER QUALITY FEE:

(I) IS ROUNDED TO THE NEAREST DOLLAR; AND

(II) DOES NOT EXCEED TWO DOLLARS, EXCEPT AS DESCRIBED IN SUBSECTION (4)(c) OF THIS SECTION.

(c) ON AND AFTER JULY 1, 2024, THE COMMISSION MAY CREATE A WATER QUALITY FEE PURSUANT TO RULES PROMULGATED PURSUANT TO THIS SUBSECTION (2).

(3) THE COMMISSION SHALL NOT UNREASONABLY DENY A REQUEST BY THE CHATFIELD WATERSHED AUTHORITY TO CREATE A WATER QUALITY FEE AS DESCRIBED IN SUBSECTION (2) OF THIS SECTION.

(4) IF THE COMMISSION ESTABLISHES A WATER QUALITY FEE PURSUANT TO RULES PROMULGATED PURSUANT TO SUBSECTION (2) OF THIS SECTION, THE COMMISSION:

(a) SHALL REQUIRE THE CHATFIELD WATERSHED AUTHORITY TO EXPEND UP TO TWENTY-FIVE PERCENT, AS DETERMINED BY THE COMMISSION, OF THE MONEY RECEIVED FROM THE DIVISION PURSUANT TO SUBSECTION (5)(a) OF THIS SECTION ON WATER QUALITY PROJECTS WITHIN THE BOUNDARIES OF CHATFIELD STATE PARK;

(b) MAY INCLUDE ADDITIONAL REQUIREMENTS AND RESTRICTIONS CONCERNING THE EXPENDITURE BY THE CHATFIELD WATERSHED AUTHORITY OF MONEY RECEIVED FROM THE DIVISION PURSUANT TO SUBSECTION (5)(a) OF THIS SECTION ON WATER QUALITY PROJECTS INSIDE THE BOUNDARIES OF CHATFIELD STATE PARK; AND

(c) SHALL REVIEW THE WATER QUALITY FEE ON JANUARY 1, 2030, AND ON EACH JANUARY 1 EVERY FIVE YEARS THEREAFTER. AFTER EACH SUCH REVIEW, THE COMMISSION MAY EITHER:

(I) ELIMINATE THE WATER QUALITY FEE IF THE COMMISSION DETERMINES THAT THE WATER QUALITY FEE IS NO LONGER NECESSARY; OR

(II) ADJUST THE AMOUNT OF THE WATER QUALITY FEE TO ACCOUNT FOR INFLATION OR DEFLATION. IN CALCULATING INFLATION OR DEFLATION, THE COMMISSION SHALL USE THE UNITED STATES DEPARTMENT OF LABOR'S BUREAU OF LABOR STATISTICS CONSUMER PRICE INDEX FOR DENVER-AURORA-LAKEWOOD FOR

ALL ITEMS PAID BY ALL URBAN CONSUMERS, OR ITS APPLICABLE PREDECESSOR OR SUCCESSOR INDEX.

(5) IF THE COMMISSION ESTABLISHES A WATER QUALITY FEE PURSUANT TO RULES PROMULGATED PURSUANT TO SUBSECTION (2) OF THIS SECTION:

(a) THE DIVISION SHALL COLLECT THE WATER QUALITY FEE ON AND AFTER JANUARY 1, 2025, IN THE MANNER PRESCRIBED BY RULES OF THE COMMISSION. EXCEPT AS DESCRIBED IN SUBSECTION (5)(c) OF THIS SECTION, THE DIVISION SHALL TRANSFER THE TOTAL AMOUNT OF MONEY COLLECTED AS WATER QUALITY FEES TO THE STATE TREASURER, WHO SHALL CREDIT THE MONEY TO THE FUND. MONEY IN THE FUND THAT WAS COLLECTED AS WATER QUALITY FEES IS CONTINUOUSLY APPROPRIATED TO THE DEPARTMENT FOR ALLOCATION TO THE DIVISION FOR PURPOSES DESCRIBED IN THIS SECTION.

(b) BEGINNING JULY 1, 2025, AND EACH SIX MONTHS THEREAFTER, EXCEPT AS DESCRIBED IN SUBSECTION (5)(c) OF THIS SECTION, THE DIVISION SHALL PAY TO THE CHATFIELD WATERSHED AUTHORITY THE TOTAL AMOUNT OF MONEY COLLECTED AS WATER QUALITY FEES DURING THE PRECEDING SIX MONTHS. THE MONEY SHALL BE PAID FROM THE FUND.

(c) THE DIVISION SHALL ANNUALLY PERFORM AN ANALYSIS TO DETERMINE THE NET INCREMENTAL COSTS INCURRED BY THE DIVISION IN COLLECTING AND ADMINISTERING THE WATER QUALITY FEE. THE DIVISION MAY RETAIN A PORTION OF THE AMOUNT OF MONEY COLLECTED AS WATER QUALITY FEES TO PAY SUCH COSTS; EXCEPT THAT THE DIVISION SHALL NOT RETAIN MORE THAN THREE AND ONE-THIRD PERCENT OF SUCH MONEY.

(6) THE CHATFIELD WATERSHED AUTHORITY SHALL EXPEND THE MONEY RECEIVED FROM THE DIVISION PURSUANT TO SUBSECTION (5)(b) OF THIS SECTION TO SUPPORT WATER QUALITY PROJECTS, INCLUDING PROJECTS THAT PROVIDE FOR THE CONSTRUCTION, OPERATION, AND MAINTENANCE OF NONPOINT SOURCE PROJECTS, WATER QUALITY MONITORING, AND URBAN RUNOFF AND EROSION MANAGEMENT AND CONTROL.

SECTION 3. Act subject to petition - effective date. This act takes effect at 12:01 a.m. on the day following the expiration of the ninety-day period after final adjournment of the general assembly; except that, if a referendum petition is filed pursuant to section 1 (3) of article V of the state constitution against this act or an item, section, or part of this act within such period, then the act, item, section, or part will not take effect unless approved by the people at the general election to be held in November 2024 and, in such case, will take effect on the date of the official declaration of the vote thereon by the governor.

Approved: June 6, 2023