

Second Regular Session
Seventieth General Assembly
STATE OF COLORADO

REREVISED

*This Version Includes All Amendments
Adopted in the Second House*

LLS NO. 16-0630.01 Jennifer Berman x3286

HOUSE BILL 16-1256

HOUSE SPONSORSHIP

Brown, Humphrey, Priola, Roupe, Nordberg, Windholz, Everett, Lundeen, Klingenschmitt, Thurlow, Wist, Sias, Dore, DelGrosso, Leonard, Willett, Van Winkle, Wilson, Rankin, Arndt, Becker J., Conti, Coram, Landgraf, Navarro, Saine, Singer, Vigil

SENATE SPONSORSHIP

Sonnenberg,

House Committees

Agriculture, Livestock, & Natural Resources
Appropriations

Senate Committees

Agriculture, Natural Resources, & Energy
Appropriations

A BILL FOR AN ACT

101 **CONCERNING A STUDY REGARDING THE CREATION OF ADDITIONAL**
102 **WATER STORAGE IN THE SOUTH PLATTE RIVER BASIN, AND, IN**
103 **CONNECTION THEREWITH, MAKING AN APPROPRIATION.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://www.leg.state.co.us/billsummaries>.)

Section 1 of the bill requires the Colorado water conservation board (board), in collaboration with the state engineer, to conduct or commission a hydrology study of the South Platte river basin to determine, for each of the previous 20 years, the amount of water that has been delivered to Nebraska from the river in excess of the amount

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.

SENATE
3rd Reading Unamended
April 29, 2016

SENATE
Amended 2nd Reading
April 28, 2016

HOUSE
3rd Reading Unamended
April 14, 2016

HOUSE
Amended 2nd Reading
April 12, 2016

required under the South Platte river compact. The study must also include a list of locations that have been identified as possible sites for the construction of a reservoir along the mainstem and tributaries of the South Platte river between Greeley, Colorado, and Julesburg, Colorado. For each listed location, the study must include information on the amount of water that could have been stored in a reservoir at the site, a list of any property that the federal bureau of reclamation or another government agency has purchased for construction of the site, an estimate of the cost to construct a reservoir at the site, and a cost-benefit analysis for constructing a reservoir at the site. The board, in collaboration with the state engineer, is required to provide a report summarizing the study to the committees of reference in the house of representatives and the senate that have jurisdiction over natural resources matters.

Section 2 transfers \$250,000 from the severance tax perpetual base fund to the Colorado water conservation board construction fund on July 1, 2016.

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

2 **SECTION 1.** In Colorado Revised Statutes, 37-60-115, **add** (11)
3 as follows:

4 **37-60-115. Water studies - rules - repeal. (11) South Platte**
5 **river storage study - report - repeal. (a) Legislative declaration.**

6 (I) THE GENERAL ASSEMBLY HEREBY FINDS THAT:

7 (A) COLORADO'S WATER PLAN IDENTIFIES INCREASED WATER
8 STORAGE AS AN IMPORTANT GOAL AND SETS FORTH AN OBJECTIVE TO
9 ATTAIN AN ADDITIONAL FOUR HUNDRED THOUSAND ACRE FEET OF WATER
10 STORAGE IN COLORADO BY 2050; AND

11 (B) IN 2015, MORE THAN TWO MILLION ACRE FEET OF WATER THAT
12 WERE DELIVERED TO NEBRASKA BY THE SOUTH PLATTE RIVER COULD
13 HAVE BEEN STORED AND USED IN COLORADO.

14 (II) THE GENERAL ASSEMBLY FURTHER DETERMINES THAT WATER
15 STORAGE PROVIDES NUMEROUS BENEFITS, INCLUDING:

16 (A) AN INCREASED ABILITY TO ADDRESS COLORADO'S PREDICTED

- 1 FUTURE WATER SUPPLY-DEMAND GAP;
- 2 (B) PROVIDING STORAGE WATER RIGHTS THAT ALLOW FOR
- 3 AQUIFER RECHARGE;
- 4 (C) REDUCING PRESENT AND FUTURE NEEDS TO IMPORT WATER
- 5 FROM ONE WATER BASIN TO ANOTHER WATER BASIN THROUGH A
- 6 TRANSBASIN DIVERSION;
- 7 (D) REDUCING RELIANCE ON THE PRACTICE OF BUYING
- 8 AGRICULTURAL WATER AND DRYING UP THE AGRICULTURAL LAND SERVED
- 9 BY THE WATER;
- 10 (E) RECREATIONAL BENEFITS;
- 11 (F) FLOOD CONTROL;
- 12 (G) IMPROVING INSTREAM FLOW;
- 13 (H) IMPROVING WATER COMPACT COMPLIANCE;
- 14 (I) ENHANCING COMPLIANCE WITH ENDANGERED SPECIES HABITAT
- 15 REGULATIONS;
- 16 (J) ENHANCING MIGRATORY BIRD HABITATS;
- 17 (K) IMPROVING WILDLIFE HABITATS;
- 18 (L) INCREASED MUNICIPAL, INDUSTRIAL, ENVIRONMENTAL, AND
- 19 AGRICULTURAL WATER SUPPLY; AND
- 20 (M) INCREASED AGRICULTURAL PRODUCTION.

21 (III) THEREFORE, THE GENERAL ASSEMBLY DECLARES THAT A

22 STUDY SHOULD BE CONDUCTED TO IDENTIFY ALL WATER STORAGE

23 POSSIBILITIES ALONG THE SOUTH PLATTE RIVER BASIN, INCLUDING THE

24 CONSTRUCTION OF A RESERVOIR AND AQUIFER RECHARGE.

25 (b) IF THE SOUTH PLATTE BASIN AND METRO ROUNDTABLES FIRST

26 APPROVE OF A WATER STORAGE STUDY PURSUANT TO GUIDELINES

27 ESTABLISHED FOR GRANT AWARD DETERMINATIONS MADE IN ACCORDANCE

1 WITH SECTION 39-29-109 (2) (c) (I), C.R.S., THE BOARD, IN
2 COLLABORATION WITH THE STATE ENGINEER, THE SOUTH PLATTE BASIN
3 ROUNDTABLE, AND THE METRO ROUNDTABLE, SHALL DEVELOP A SCOPE OF
4 WORK TO CONDUCT OR COMMISSION A STORAGE STUDY OF THE SOUTH
5 PLATTE RIVER BASIN THAT:

6 (I) EVALUATES THE AMOUNT OF WATER DELIVERED IN EACH OF
7 THE PREVIOUS TWENTY YEARS TO NEBRASKA IN EXCESS OF THE AMOUNT
8 REQUIRED TO BE DELIVERED BY THE SOUTH PLATTE RIVER COMPACT,
9 ARTICLE 65 OF THIS TITLE;

10 (II) EVALUATES THE AMOUNT OF WATER THAT COULD HAVE
11 OTHERWISE BEEN STORED THROUGH CONSTRUCTION OF A RESERVOIR OR
12 OTHER STORAGE MECHANISM IN THE LOWER SOUTH PLATTE RIVER BASIN;

13 (III) REVIEWS AND EVALUATES ALL PREVIOUSLY DEVELOPED AND
14 CURRENTLY AVAILABLE STORAGE STUDIES, INCLUDING THE COLORADO
15 DECISION SUPPORT SYSTEM'S DATA AND MODEL RUNS, AND ANY OTHER
16 APPLICABLE DATA AVAILABLE ON THE SOUTH PLATTE RIVER BASIN; AND

17 (IV) DEVELOPS A LIST OF POSSIBLE SITES ALONG THE MAIN STEM
18 AND TRIBUTARIES OF THE SOUTH PLATTE RIVER BASIN, FROM GREELEY,
19 COLORADO, TO JULESBURG, COLORADO:

20 (A) FOR CONSTRUCTING A NEW RESERVOIR;

21 (B) OF EXISTING RESERVOIR SITES THAT COULD BE ENLARGED;

22 AND

23 (C) FOR IMPLEMENTING AN ALTERNATIVE STORAGE MECHANISM.

24 (c) FOR EACH POSSIBLE SITE IDENTIFIED PURSUANT TO
25 SUBPARAGRAPH (IV) OF PARAGRAPH (b) OF THIS SUBSECTION (11), THE
26 STUDY MUST INCLUDE:

27 (I) AN ESTIMATE OF THE VOLUME OF WATER THAT COULD HAVE

1 BEEN STORED ANNUALLY; HOWEVER, THE ESTIMATE MUST INCLUDE ONLY
2 MEASURED FLOW IN THE SOUTH PLATTE RIVER EXISTING AT THE TIME OF
3 THE STUDY AND NOT ANY FUTURE, NEWLY CREATED TRANSMOUNTAIN
4 DIVERSIONS FROM THE SOUTHWEST, GUNNISON, COLORADO, OR YAMPA
5 BASINS;

6 (II) A PRELIMINARY ESTIMATE OF THE COST, INCLUDING THE
7 ESTIMATED COSTS OF OBTAINING NECESSARY PERMITS AND ACQUIRING
8 PROPERTY, FOR THE:

9 (A) CONSTRUCTION OF A NEW RESERVOIR AT THE SITE; OR

10 (B) REHABILITATION OF AN EXISTING RESERVOIR; AND

11 (III) A COST-BENEFIT ANALYSIS FOR CONSTRUCTING A RESERVOIR
12 OR IMPLEMENTING AN ALTERNATIVE STORAGE MECHANISM, INCLUDING
13 CONSIDERATION OF POTENTIAL ENVIRONMENTAL, FINANCIAL, AND LEGAL
14 CONSTRAINTS AND POTENTIAL BENEFITS, INCLUDING:

15 (A) ADDRESSING COLORADO'S PREDICTED FUTURE WATER SUPPLY
16 GAPS;

17 (B) PROVIDING STORAGE WATER RIGHTS THAT ALLOW FOR
18 AQUIFER RECHARGE;

19 (C) REDUCING PRESENT AND FUTURE NEEDS TO IMPORT WATER
20 FROM ONE WATER BASIN TO ANOTHER WATER BASIN THROUGH A
21 TRANSBASIN DIVERSION;

22 (D) REDUCING RELIANCE ON THE PRACTICE OF BUYING
23 AGRICULTURAL WATER AND DRYING UP THE AGRICULTURAL LAND SERVED
24 BY THE WATER;

25 (E) RECREATIONAL BENEFITS;

26 (F) FLOOD CONTROL;

27 (G) IMPROVING INSTREAM FLOW;

- 1 (H) IMPROVING WATER COMPACT COMPLIANCE;
- 2 (I) ENHANCING COMPLIANCE WITH ENDANGERED SPECIES HABITAT
- 3 REGULATIONS;
- 4 (J) ENHANCING MIGRATORY BIRD HABITATS;
- 5 (K) IMPROVING WILDLIFE HABITATS;
- 6 (L) INCREASED MUNICIPAL, INDUSTRIAL, ENVIRONMENTAL, AND
- 7 AGRICULTURAL WATER SUPPLY;
- 8 (M) INCREASED AGRICULTURAL PRODUCTION; AND
- 9 (N) ANY OTHER BENEFIT.

10 (d) ON OR BEFORE SEPTEMBER 30, 2016, THE BOARD, PURSUANT

11 TO THE PROCEDURES SET FORTH IN SECTION 39-29-109 (2) (c), C.R.S.,

12 SHALL DETERMINE WHETHER TO APPROVE OR DENY THE COMMISSION OF

13 A WATER STORAGE STUDY PURSUANT TO THIS SUBSECTION (11).

14 (e) IF A STUDY IS AUTHORIZED PURSUANT TO PARAGRAPH (d) OF

15 THIS SUBSECTION (11), THE BOARD, IN COLLABORATION WITH THE STATE

16 ENGINEER, SHALL:

17 (I) COMPLETE A SCOPE OF WORK FOR THE STUDY AS

18 EXPEDITIOUSLY AS PRACTICABLE, BUT NOT LATER THAN NOVEMBER 30,

19 2016;

20 (II) COMPLETE THE STUDY NO LATER THAN OCTOBER 31, 2017;

21 (III) ON OR BEFORE DECEMBER 31, 2017, PROVIDE A REPORT

22 SUMMARIZING THE STUDY TO THE COMMITTEES OF REFERENCE IN THE

23 HOUSE OF REPRESENTATIVES AND THE SENATE WITH JURISDICTION OVER

24 NATURAL RESOURCES.

25 (f) IF A STUDY IS AUTHORIZED PURSUANT TO PARAGRAPH (d) OF

26 THIS SUBSECTION (11), THE BOARD SHALL IMMEDIATELY NOTIFY THE

27 STATE TREASURER OF THE AUTHORIZATION.

1 (g) THE BOARD MAY ACCEPT AND EXPEND GIFTS, GRANTS, AND
2 DONATIONS FOR THE PURPOSES OF THIS SUBSECTION (11), BUT THE
3 IMPLEMENTATION OF THIS SUBSECTION (11) IS NOT DEPENDENT ON THE
4 RECEIPT OF GIFTS, GRANTS, AND DONATIONS. THE BOARD SHALL TRANSMIT
5 ALL MONEY RECEIVED THROUGH GIFTS, GRANTS, OR DONATIONS TO THE
6 STATE TREASURER, WHO SHALL CREDIT THEM TO THE COLORADO WATER
7 CONSERVATION BOARD CONSTRUCTION FUND CREATED IN SECTION
8 37-60-121.

9 (h) THIS SUBSECTION (11) IS REPEALED, EFFECTIVE JULY 1, 2018.

10 SECTION 2. In Colorado Revised Statutes, 39-29-109, **amend**
11 (2) introductory portion; and **add** (2) (c) (III) as follows:

12 **39-29-109. Severance tax trust fund - created - administration**
13 **- distribution of money - repeal.** (2) State severance tax receipts shall
14 be credited to the severance tax trust fund as provided in section
15 39-29-108. Except as otherwise set forth in section 39-29-109.5, all
16 income derived from the deposit and investment of the ~~moneys~~ MONEY
17 in the fund shall be credited to the fund. At the end of any fiscal year, all
18 unexpended and unencumbered ~~moneys~~ MONEY in the fund ~~remain~~
19 ~~therein~~ REMAINS IN THE FUND and shall not be credited or transferred to
20 the general fund or any other fund. All ~~moneys~~ MONEY in the fund ~~are~~ IS
21 subject to appropriation by the general assembly for the following
22 purposes:

23 (c) **The water supply reserve fund.** (III) IF THE BOARD NOTIFIES
24 THE STATE TREASURER THAT A WATER STORAGE STUDY HAS BEEN
25 AUTHORIZED PURSUANT TO SECTION 37-60-115 (11), C.R.S., ON OCTOBER
26 15, 2016, THE STATE TREASURER SHALL TRANSFER TWO HUNDRED ELEVEN
27 THOUSAND ONE HUNDRED SIXTY-EIGHT DOLLARS FROM THE FUND TO THE

1 COLORADO WATER CONSERVATION BOARD CONSTRUCTION FUND,
2 CREATED IN SECTION 37-60-121 (1) (a), C.R.S., FOR USE BY THE
3 COLORADO WATER CONSERVATION BOARD, CREATED IN SECTION
4 37-60-102, C.R.S., TO IMPLEMENT THE SOUTH PLATTE RIVER WATER
5 STORAGE STUDY PURSUANT TO SECTION 37-60-115 (11), C.R.S.

6 **SECTION 3. Appropriation.** For the 2016-17 state fiscal year,
7 \$211,168 is appropriated to the department of natural resources for use
8 by the Colorado water conservation board. This appropriation is from the
9 Colorado water conservation board construction fund created in section
10 37-60-121 (1) (a), C.R.S. The money appropriated by this section
11 becomes available upon the transfer of funds pursuant to section
12 39-29-109 (2) (c) (III), C.R.S. The board may use this appropriation to
13 implement this act. Any money appropriated in this section not expended
14 prior to July 1, 2017, is further appropriated to the board for the 2017-18
15 state fiscal year for the same purpose.

16 **SECTION 4. Safety clause.** The general assembly hereby finds,
17 determines, and declares that this act is necessary for the immediate
18 preservation of the public peace, health, and safety.