

CHAPTER 163

WATER AND IRRIGATION

SENATE BILL 16-174

BY SENATOR(S) Sonnenberg, Baumgardner, Cooke, Crowder, Garcia, Grantham, Guzman, Lambert, Lundberg, Marble, Martinez Humenik, Neville T., Roberts, Scheffel, Scott, Tate, Cadman, Hill;
also REPRESENTATIVE(S) Vigil and Coram, Arndt, Becker K., Brown, Fields, Mitsch Bush, Pettersen, Rosenthal, Ryden, Williams, Young, Hullinghorst.

AN ACT

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

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

SECTION 1. Continuation of the satellite monitoring system maintenance - appropriation. (1) For the 2016-17 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the division of water resources may use this appropriation for renovation of existing gauging stations, replacement of outdated collection platforms, lysimeter support, data collection, and maintenance, and upgrading of transmission components of the satellite monitoring system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 2016-17 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 assist with the preparation of revised and improved floodplain studies

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

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 watershed restoration program - appropriation. (1) For the 2016-17 state fiscal year, \$1,500,000 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 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 Colorado water plan.

(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 weather modification program - appropriation. (1) For the 2016-17 state fiscal year, \$175,000 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 5. Colorado Mesonet - appropriation. (1) For the 2016-17 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 operation and maintenance, travel, communications, database and website management, as well as hazardous waste disposal.

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

SECTION 6. Water forecasting partnership project - appropriation. (1) For the 2016-17 state fiscal year, \$300,000 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.

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

SECTION 7. Bear Creek reservoir reallocation study - appropriation.

(1) For the 2016-17 state fiscal year, \$2,500,000 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 work in partnership with the U.S. Army Corps of Engineers, under the authority of the Energy and Water Development Appropriation Act of 1998, to study the potential reallocation of flood storage capacity of Bear Creek reservoir for other beneficial uses.

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

SECTION 8. Underground storage pilot project - appropriation. (1) For the 2016-17 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 conduct an underground storage pilot project to further evaluate the suitability of various aquifers to store water, availability of water to be stored, and a conceptual framework to initiate an underground storage project.

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

SECTION 9. Continuation of the statewide water supply initiative - appropriation. (1) For the 2016-17 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 continue work on the statewide water supply initiative update that will include reexamination of municipal, industrial, agricultural, and environmental demands, hydrologic analyses, climate and drought planning, scenario planning, climate change, hydrologic variability, agricultural gap, nonconsumptive gap, basin implementation plan project review, and economics.

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

SECTION 10. Continuation of the Windy Gap reservoir bypass channel project - appropriation. (1) For the 2016-17 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 participate in the planning, design, and construction of the Windy Gap bypass channel project.

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

SECTION 11. Reservoir dredging project - appropriation. (1) For the 2016-2017 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 conduct a reservoir dredging project in partnership with a water provider such as a municipality, district, or irrigation company, subject to the approval by the board with a cost share amount not to exceed fifty percent.

(2) The money appropriated in subsection (1) of this section remains available for the designated purposes until July 1, 2018, at which time the unencumbered balance of the money reverts to the unappropriated balance of the Colorado water conservation board construction fund.

SECTION 12. Restoration of the balance of the flood and drought response fund - transfer. On July 1, 2016, the state treasurer shall transfer the sum 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, C.R.S., in order to restore the unencumbered balance in the flood and drought response fund to \$500,000 for the board to provide documentation, forecasting, mapping, aerial photography, mitigation, and other efforts deemed necessary to quickly respond to flood and drought events.

SECTION 13. Restoration of litigation fund cash balance - transfer. On July 1, 2016, the state treasurer shall transfer the sum of \$600,000 from the unreserved cash in the Colorado water conservation board construction fund to the litigation fund created in section 37-60-121 (2.5), C.R.S., to continue litigation support for the board.

SECTION 14. In Colorado Revised Statutes, 37-60-119, **amend** (1) (a) as follows:

37-60-119. Construction of water and power facilities - contracts with and charges against users. (1) (a) In order to promote the general welfare and safety of the citizens of this state and to protect the allocation of interstate waters to the state, the board may, subject to the provisions in section 37-60-122, construct, rehabilitate, enlarge, or improve, or loan ~~moneys~~ MONEY to enable the construction, rehabilitation, enlargement, or improvement of, such flood control, water supply, and hydroelectric energy facilities, excluding ~~domestic~~ water treatment ~~and~~

distribution systems FACILITIES, together with related recreational facilities, in whole or in part, as will, in the opinion of the board, abate floods or conserve, effect more efficient use of, develop, or protect the water and hydroelectric energy resources and supplies of the state of Colorado.

SECTION 15. In Colorado Revised Statutes, **add** 37-60-120.2 as follows:

37-60-120.2. Animas-La Plata project - authority - repeal.

(1) NOTWITHSTANDING ANY OTHER LAW, INCLUDING SECTION 24-30-1303, C.R.S., AND GIVEN THAT THIRTY-SIX MILLION DOLLARS HAVE BEEN AUTHORIZED AND APPROPRIATED AND A PURCHASE AGREEMENT HAS BEEN EXECUTED WITH THE UNITED STATES BUREAU OF RECLAMATION TO ACQUIRE ALL OF THE STATE'S WATER ALLOCATION IN THE ANIMAS-LA PLATA PROJECT AND THAT THE STATE IS A PARTICIPATING MEMBER OF THE ANIMAS-LA PLATA OPERATION, MAINTENANCE, AND REPLACEMENT ASSOCIATION, AND IN ORDER TO SUPPORT AND PROVIDE LONG-TERM WATER SUPPLIES FOR THE LOCAL AREA AND TO FULLY UTILIZE THE STATE'S WATER ALLOCATION IN THE ANIMAS-LA PLATA PROJECT, IN COORDINATION WITH THE UNITED STATES BUREAU OF RECLAMATION AND THE OTHER PARTICIPATING PROJECT BENEFICIARIES, THE DEPARTMENT OF NATURAL RESOURCES, ACTING BY AND THROUGH THE BOARD, MAY:

(a) CONTRACT WITH AND ALLOCATE ANIMAS-LA PLATA PROJECT WATER TO LOCAL ENTITIES AND WATER PROVIDERS IN COLORADO;

(b) RECEIVE AND EXPEND PROCEEDS FROM THE SALE OR LEASE OF ANIMAS-LA PLATA PROJECT WATER AND LAND, AND ANY OTHER ACTIVITIES THAT EFFECTUATE THE PURPOSE OF THE ACQUIRED PROJECT WATER;

(c) UNDERTAKE ANIMAS-LA PLATA PROJECT OPERATIONS, MAINTENANCE, AND REPLACEMENT COSTS;

(d) PAY THE COSTS OF ANIMAS-LA PLATA PROJECT STORAGE OR OTHER NECESSARY EXPENSES, OTHERWISE IMPLEMENT THE PURPOSES OF THIS SUBSECTION (1), AND FULLY UTILIZE THE WATER AND STORAGE ACQUIRED; AND

(e) UNDERTAKE SUCH ACTION AS NECESSARY TO LEASE, SUBLEASE, EXCHANGE, SELL, ASSIGN, OR OTHERWISE EFFECTUATE THE USE OF THE ACQUIRED PROJECT WATER IN THE LOCAL AREA WITHIN COLORADO.

(2) 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 MONEY IS CONTINUOUSLY APPROPRIATED TO THE BOARD AND REMAINS AVAILABLE FOR THE DESIGNATED PURPOSES UNTIL IT IS FULLY EXPENDED.

(3) (a) 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, REGARDING THE MONEY SUBJECT TO THIS SECTION, FEDERAL LAW AND RULES APPLY.

(b) NOTHING IN THIS SECTION PRECLUDES THE USE OF WATER ACQUIRED PURSUANT TO THIS SECTION AS PART OF A JOINT OPERATIONAL POOL FOR THE MUTUAL BENEFIT OF ALL ANIMAS-LA PLATA PROJECT PARTICIPANTS.

(4) THIS SECTION IS REPEALED, EFFECTIVE WHEN THE STATE HAS NO WATER ALLOCATION IN THE ANIMAS-LA PLATA PROJECT, IS NOT A MEMBER OF THE ANIMAS-LA PLATA OPERATION, MAINTENANCE, AND REPLACEMENT ASSOCIATION, AND ALL EXISTING PURCHASES, LEASES, SUBLEASES, OR ANY OTHER OF THE CONTRACTUAL ARRANGEMENTS THAT HAVE BEEN EXECUTED ON BEHALF OF THE STATE'S WATER ALLOCATION, HAVE BEEN FULLY REPAID OR FULFILLED. THE DIRECTOR OF THE BOARD SHALL FILE A WRITTEN NOTIFICATION TO THE REVISOR OF STATUTES WHEN THE FINAL CONDITION OF THIS SUBSECTION (4) HAS BEEN FULFILLED.

SECTION 16. In Colorado Revised Statutes, 39-29-109, **amend** (2) introductory portion and (2) (a) (XII); and **add** (2) (a) (XV) and (2) (a) (XVI) as follows:

39-29-109. Severance tax trust fund - created - administration - distribution of money - 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~~ MONEY in the fund shall be credited to the fund. At the end of any fiscal year, all unexpended and unencumbered ~~moneys~~ MONEY in the fund ~~remain~~ REMAINS therein and shall not be credited or transferred to the general fund or any other fund. All ~~moneys~~ MONEY in the fund ~~are~~ IS subject to appropriation by the general assembly for the following purposes:

(a) **The severance tax perpetual base fund.** (XII) (A) Notwithstanding any provision of this paragraph (a) to the contrary, on July 1, 2013, the state treasurer shall transfer two million dollars from the fund to the Colorado water conservation board construction fund, AND ON JULY 1, 2016, THE STATE TREASURER SHALL TRANSFER TWO HUNDRED THOUSAND DOLLARS FROM THE FUND TO THE COLORADO WATER CONSERVATION BOARD CONSTRUCTION FUND, for use by the board to make a grant to the municipal subdistrict of the northern Colorado water conservancy district for the planning, design, and construction of the Windy Gap reservoir bypass channel project, as part of the Windy Gap firming project on the Colorado river.

(B) This subparagraph (XII) is repealed, effective July 1, ~~2016~~ 2020.

(XV) NOTWITHSTANDING ANY PROVISION OF THIS PARAGRAPH (a) TO THE CONTRARY, ON JULY 1, 2016, THE STATE TREASURER SHALL TRANSFER FIVE MILLION DOLLARS FROM THE 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, CREATED IN SECTION 37-60-102, C.R.S., IN THE AMOUNT OF ONE MILLION FIVE HUNDRED THOUSAND DOLLARS TO CONTINUE THE WATERSHED RESTORATION PROGRAM, TWO MILLION FIVE HUNDRED THOUSAND DOLLARS FOR THE BEAR CREEK RESERVOIR STORAGE REALLOCATION STUDY, AND ONE MILLION DOLLARS FOR THE STATEWIDE WATER SUPPLY INITIATIVE UPDATE.

(XVI) NOTWITHSTANDING ANY PROVISION OF THIS PARAGRAPH (a) TO THE

CONTRARY, ON JULY 1, 2016, AND EACH YEAR THEREAFTER ON JULY 1, THE STATE TREASURER SHALL TRANSFER FIVE MILLION DOLLARS FROM THE 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, CREATED IN SECTION 37-60-102, C.R.S., FOR THE BOARD TO FUND STUDIES, PROGRAMS, OR PROJECTS THAT ASSIST IN IMPLEMENTING THE STATE WATER PLAN ADOPTED PURSUANT TO SECTION 37-60-106 (1) (u), C.R.S.

SECTION 17. 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: May 16, 2016