

## CHAPTER 229

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**WATER AND IRRIGATION**


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**HOUSE BILL 17-1248**

BY REPRESENTATIVE(S) Arndt, Becker K., Buck, Esgar, Hansen, Lebsock, Liston, Lontine, McKean, Michaelson Jenet, Mitsch Bush, Rankin, Valdez, Young, Duran, McLachlan;  
also SENATOR(S) Cooke, Crowder, Gardner, Jones, Kagan, Martinez Humenik, Moreno, Tate, Zenzinger.

**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 2017-18 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the division of water resources may use this appropriation for renovation of existing gauging stations; replacement of outdated collection platforms; lysimeter support, data collection, and maintenance; upgrading of transmission components of the satellite monitoring system established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 2017-18 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 and maps for communities throughout Colorado and participate in federally

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

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 decision support system operation and maintenance - appropriation.** (1) For the 2017-18 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 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 4. Continuation of the weather modification program - appropriation.** (1) For the 2017-18 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 2017-18 state fiscal year, \$154,000 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 and maintenance, travel, communications, database and website management, and hazardous waste disposal.

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

**SECTION 6. Water forecasting partnership project - appropriation.** (1) For the 2017-18 state fiscal year, \$800,000 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 it is fully expended.

**SECTION 7. Alternative agricultural transfer methods grant program - appropriation.** (1) For the 2017-18 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 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 8. Technical assistance for federal irrigation improvement cost-sharing program - appropriation.** (1) For the 2017-18 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 provide technical assistance for applicants seeking competitive federal grant funds.

(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 2017-18 state fiscal year, \$1,100,000 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 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. South Platte river basin groundwater level data collection, analysis, and remediation - appropriation.** (1) For the 2017-18 state fiscal year, \$325,000 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 as follows: To award grants for projects in response to damaging high groundwater levels in areas of the South Platte river basin for the construction, maintenance, and monitoring of dewatering infrastructure; to cover dewatering well pumping costs; to continue the evaluation of both the cause of the high groundwater

levels and exigent remediation efforts implemented in response to the high groundwater levels; to collect and analyze groundwater data; to install instrumentation and monitoring devices; and to perform groundwater modeling.

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

**SECTION 11. Updating regulation related to nonpotable water reuse - appropriation.** (1) For the 2017-18 state fiscal year, \$260,000 is appropriated to the department of public health and environment for use by the water quality control division. This appropriation is from the public and private utilities sector fund created in section 25-8-502 (1.5)(a)(V), C.R.S. To implement this section, the water quality control division may use this appropriation to update regulations concerning nonpotable reuse of water and graywater usage.

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

**SECTION 12. Windy Gap firming project - authorization.** (1) Pursuant to section 37-60-122 (1)(b), C.R.S., the Colorado water conservation board is authorized to make loans in the amount of up to \$90,000,000 from the Colorado water conservation board construction fund for the Windy Gap firming project, a regional water supply project, for activities including the construction of a new reservoir.

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

(3) The Colorado water conservation board may make loans for the project specified in subsection (1) of this section from money that is or may become available to the Colorado water conservation board construction fund. The total amount of the loans will be in the amount listed in subsection (1) of this section plus or minus the amount, 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 the project or as may be justified by reason of changes 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.

**SECTION 13. Continuation of the Rio Grande cooperative project - appropriation.** (1) For the 2017-18 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 section, the Colorado water conservation board may use this appropriation for rehabilitation of the Rio Grande reservoir, owned and operated by the San Luis valley irrigation district.

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

**SECTION 14. Continuation of the watershed restoration program - appropriation.** (1) For the 2017-18 state fiscal year, \$5,000,000 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 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 15. Implementation of the Colorado water plan - appropriation.** (1) For the 2017-18 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 section, the Colorado water conservation board may use this appropriation to fund grant-making, studies, programs, or projects that assist in implementing the state water plan adopted pursuant to section 37-60-106 (1)(u), C.R.S., including the following:

(a) Up to \$2,000,000 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 to implement long-term strategies for conservation, land use, and drought planning;

(c) Up to \$3,000,000 to facilitate the development of additional storage, artificial recharge into aquifers, and dredging existing reservoirs to restore the reservoirs' full decreed storage capacity;

(d) Up to \$1,000,000 for water education, outreach, and innovation efforts;

(e) Up to \$1,000,000 to provide technical assistance for agricultural projects;

(f) Up to \$1,000,000 for watershed health, environment, and recreation; and

(g) Up to \$1,000,000 to complete an update to the statewide water supply initiative.

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

**SECTION 16. Restoration of the balance of the flood and drought response fund - transfer.** On July 1, 2017, 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 17. Restoration of litigation fund cash balance - transfer.** On July 1, 2017, the state treasurer shall transfer the sum of \$1,300,000 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 18. Restoration of feasibility study small grant fund balance - transfer.** On July 1, 2017, the state treasurer shall transfer the sum of \$300,000 from the unreserved cash in the Colorado water conservation board construction fund to the feasibility study small grant fund created in section 37-60-122.7, C.R.S., to continue grant-making to assist local water providers with the costs of preparing water project feasibility studies.

**SECTION 19. Restoration of fish and wildlife resources fund balance - transfer.** On July 1, 2017, the state treasurer shall transfer the sum of \$1,500,000 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, 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 20. Nonpotable water reuse regulation - transfer.** On July 1, 2017, the state treasurer shall transfer the sum of \$260,000 from the unreserved cash in the Colorado water conservation board construction fund to the public and private utilities sector fund created in section 25-8-502 (1.5)(a)(V), C.R.S., to allow the water quality control commission to update regulations concerning nonpotable reuse of water and graywater usage.

**SECTION 21.** In Colorado Revised Statutes, **add** 37-60-121.5 as follows:

**37-60-121.5. Loan guarantee fund - creation.** THE LOAN GUARANTEE FUND IS HEREBY CREATED IN THE STATE TREASURY AND IS REFERRED TO IN THIS SECTION AS THE "FUND". THE FUND CONSISTS OF MONEY THAT THE GENERAL ASSEMBLY MAY APPROPRIATE OR TRANSFER TO THE FUND. ALL INTEREST AND INCOME DERIVED FROM THE DEPOSIT AND INVESTMENT OF MONEY IN THE FUND SHALL BE TRANSFERRED TO THE SEVERANCE TAX PERPETUAL BASE FUND CREATED IN SECTION 39-29-109 (2)(a). MONEY IN THE FUND IS CONTINUOUSLY APPROPRIATED TO THE BOARD FOR THE PURPOSE OF GUARANTEEING THE REPAYMENT OF LOANS MADE FOR WATER PROJECTS WITH MULTIPLE PARTICIPANTS.

**SECTION 22.** In Colorado Revised Statutes, 39-29-109, **amend** (2)(a)(X)(A), (2)(a)(X)(B), (2)(a)(X)(C), (2)(a)(XV), and (2)(a)(XVI); and **add** (2)(a)(X)(E), (2)(a)(XIX), and (2)(a)(XX) 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 money in the fund shall be credited to the fund. At the end of any fiscal year, all unexpended and unencumbered money in the fund remains in the fund and shall not be credited or transferred to the general fund or any other fund. All money in the fund is subject to appropriation by the general assembly for the following purposes:

(a) **The severance tax perpetual base fund.** (X) (A) Notwithstanding any provision of this ~~paragraph (a)~~ SUBSECTION (2)(a) to the contrary, the state treasurer shall transfer to the Colorado water conservation board construction fund, for use by the Colorado water conservation board, also referred to in this ~~subparagraph (X)~~ SUBSECTION (2)(a)(X) as the "board", thirty million dollars for the planning, design, and construction of the Rio Grande cooperative project. Of this amount, the board shall allocate up to ten million dollars for improvements associated with the Beaver Park reservoir, owned and operated by the division of parks and wildlife, and up to twenty million dollars for improvements to the Rio Grande reservoir, owned and operated by the San Luis valley irrigation district. The state treasurer shall transfer the ~~moneys~~ MONEY in two consecutive annual installments of fifteen million dollars on July 1, 2012, and July 1, 2013. ON JULY 1, 2017, THE STATE TREASURER SHALL TRANSFER AN ADDITIONAL TEN MILLION DOLLARS FROM THE FUND TO THE COLORADO WATER CONSERVATION BOARD CONSTRUCTION FUND FOR USE BY THE BOARD FOR IMPROVEMENTS TO THE RIO GRANDE RESERVOIR, OWNED AND OPERATED BY THE SAN LUIS VALLEY IRRIGATION DISTRICT.

(B) Pursuant to section 37-60-122 (1)(b), ~~C.R.S.~~, the board may loan ~~moneys~~ MONEY in an amount up to ten million dollars to the division of parks and wildlife and up to ~~fifteen~~ TWENTY-FIVE million dollars to the San Luis valley irrigation district.

(C) Pursuant to section 37-60-121 (1)(b)(IV) ~~C.R.S.~~ AND FOR THE INSTALLMENTS AUTHORIZED FOR IMPROVEMENTS TO THE RIO GRANDE RESERVOIR PURSUANT TO SUBSECTION (2)(a)(X)(A) OF THIS SECTION, the board may determine the amount of loan, or loan-to-grant ratio, for the ~~second~~ fifteen-million-dollar installment ~~as set forth in sub-subparagraph (A) of this subparagraph (X)~~, commencing on July 1, 2013, AND THE TEN-MILLION-DOLLAR INSTALLMENT COMMENCING ON JULY 1, 2017.

(E) THIS SUBSECTION (2)(a)(X) IS REPEALED, EFFECTIVE SEPTEMBER 1, 2018.

(XV) (A) Notwithstanding any provision of this ~~paragraph (a)~~ SUBSECTION (2)(a) to the contrary, on July 1, ~~2016~~ 2017, 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.~~

(B) THIS SUBSECTION (2)(a)(XV) IS REPEALED, EFFECTIVE SEPTEMBER 1, 2018.

(XVI) Notwithstanding any provision of this ~~paragraph (a)~~ SUBSECTION (2)(a) to

the contrary, on July 1, ~~2016~~ 2017, and each year thereafter on July 1, the state treasurer shall transfer ~~five~~ TEN 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.~~

(XIX) (A) NOTWITHSTANDING ANY PROVISION OF THIS SUBSECTION (2)(a) TO THE CONTRARY, ON JULY 1, 2017, THE STATE TREASURER SHALL TRANSFER TEN MILLION DOLLARS FROM THE FUND TO THE WATER SUPPLY RESERVE FUND CREATED IN SUBSECTION (2)(c) OF THIS SECTION FOR USE BY THE COLORADO WATER CONSERVATION BOARD CREATED IN SECTION 37-60-102.

(B) THIS SUBSECTION (2)(a)(XIX) IS REPEALED, EFFECTIVE SEPTEMBER 1, 2018.

(XX) (A) NOTWITHSTANDING ANY PROVISION OF THIS SUBSECTION (2)(a) TO THE CONTRARY, EXCEPT AS PROVIDED IN SUBSECTION (2)(a)(XX)(B) OF THIS SECTION, ON JULY 1, 2017, THE STATE TREASURER SHALL TRANSFER THIRTY MILLION DOLLARS FROM THE FUND TO THE LOAN GUARANTEE FUND CREATED IN SECTION 37-60-121.5 FOR USE BY THE COLORADO WATER CONSERVATION BOARD FOR THE PURPOSE OF GUARANTEEING THE REPAYMENT OF LOANS MADE FOR WATER PROJECTS WITH MULTIPLE PARTICIPANTS.

(B) IF THE COLORADO WATER CONSERVATION BOARD, ON OR BEFORE JUNE 30, 2017, NOTIFIES THE STATE TREASURER THAT AN AMOUNT LESS THAN THIRTY MILLION DOLLARS SHOULD BE TRANSFERRED PURSUANT TO SUBSECTION (2)(a)(XX)(A) OF THIS SECTION, THE STATE TREASURER SHALL TRANSFER THAT LESSER AMOUNT FROM THE FUND TO THE LOAN GUARANTEE FUND ON JULY 1, 2017.

(C) THIS SUBSECTION (2)(a)(XX) IS REPEALED, EFFECTIVE SEPTEMBER 1, 2018.

**SECTION 23. 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 23, 2017