

**Second Regular Session
Seventy-second General Assembly
STATE OF COLORADO**

ENGROSSED

*This Version Includes All Amendments Adopted
on Second Reading in the House of Introduction*

LLS NO. 20-1069.01 Jennifer Berman x3286

HOUSE BILL 20-1403

HOUSE SPONSORSHIP

Roberts and Catlin,

SENATE SPONSORSHIP

Donovan and Sonnenberg,

House Committees

Rural Affairs & Agriculture
Appropriations

Senate Committees

A BILL FOR AN ACT

101 **CONCERNING THE FUNDING OF COLORADO WATER CONSERVATION**
102 **BOARD PROJECTS, AND, IN CONNECTION THEREWITH, MAKING**
103 **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://leg.colorado.gov>.)

The bill appropriates the following amounts from the Colorado water conservation board (CWCB) construction fund to the CWCB or the division of water resources in the department of natural resources for the following projects:

! Continuation of the satellite monitoring system operation

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

HOUSE
Amended 2nd Reading
June 4, 2020

- and maintenance, \$380,000 (**section 1** of the bill);
- ! Continuation of the Colorado floodplain map modernization program, \$500,000 (**section 2**);
- ! Continuation of the weather modification permitting program, \$350,000 (**section 3**);
- ! Continuation of the Colorado Mesonet project, \$150,000 (**section 4**);
- ! Acquisition of LIDAR data, \$200,000 (**section 5**);
- ! Continuation of the Arkansas river decision support system, \$500,000 (**section 6**);
- ! Continuation of the Colorado decision support system operation and maintenance, \$500,000 (**section 7**);
- ! Continuation of the water forecasting partnership project, \$350,000 (**section 8**);
- ! Continuation of the Colorado water loss control initiative, \$1,000,000 (**section 9**);
- ! Continuation of the watershed restoration program, \$4,000,000 (**section 10**); and
- ! Continuation of the alternative agricultural transfer methods grant program, \$750,000 (**section 11**).

The state treasurer will make the following transfers from the CWCB construction fund:

- ! Up to \$2,000,000 on July 1, 2020, to the litigation fund (**section 12**); and
- ! \$1,000,000 on July 1, 2020, to the fish and wildlife resources fund (**section 13**).

Section 14 appropriates \$7,500,000 to the CWCB to continue implementation of the state water plan from the CWCB construction fund to be used as follows:

- ! Up to \$3,000,000 to facilitate the development of additional storage, artificial recharge into aquifers, and dredging existing reservoirs;
- ! Up to \$1,000,000 for grant funding to implement long-term strategies for conservation, land use, and drought planning;
- ! Up to \$500,000 for grants for water education, outreach, and innovation efforts;
- ! Up to \$1,500,000 for agricultural projects; and
- ! Up to \$1,500,000 for environmental and recreational projects.

The CWCB is authorized to make loans from the severance tax perpetual base fund or the CWCB construction fund:

- ! In an amount up to \$23,230,000 to the Pueblo conservancy district to bring levees up to federal emergency management agency standards (**section 15**);
- ! In an amount up to \$17,250,800 to the Tunnel Water

Company to rehabilitate the Laramie-Poudre tunnel (**section 16**); and

- ! In an amount up to \$90,000,000 to the southeastern Colorado water conservancy district to provide nonfederal cost-sharing funding for the Frying Pan-Arkansas project. \$10,000,000 is also transferred from the severance tax perpetual base fund to the CWCB construction fund and then appropriated from the CWCB construction fund for the 2020-21 state fiscal year to the CWCB to grant money to the southeastern Colorado water conservancy district for the Frying Pan-Arkansas project (**section 17**).

Current law prohibits the CWCB from recommending treated water distribution systems to the general assembly, and **section 18** removes the prohibition.

Section 19 extends the CWCB's water efficiency grant program to June 30, 2030.

Section 20 reduces the \$1,700,000 appropriation made to the CWCB in the 2019-20 state fiscal year for stakeholder outreach and technical analysis regarding the development of a water resources demand management program to \$833,258, which amount is available to the CWCB through the 2020-21 state fiscal year.

Current law authorizes an annual, continuous appropriation of \$150,000 from the CWCB construction fund to the Colorado water conservation board for the ongoing operations of a water education foundation, which is currently known as Water Education Colorado. **Section 21** repeals the continuous appropriation.

1 *Be it enacted by the General Assembly of the State of Colorado:*
2 **SECTION 1. Continuation of the satellite monitoring system**
3 **operation and maintenance - appropriation.** (1) For the 2020-21 state
4 fiscal year, \$380,000 is appropriated to the department of natural
5 resources for use by the division of water resources. This appropriation
6 is from the Colorado water conservation board construction fund created
7 in section 37-60-121, C.R.S. To implement this section, the division of
8 water resources may use this appropriation for renovation of existing
9 gauging stations; replacement of outdated collection platforms; lysimeter
10 support, data collection, and maintenance; upgrading of transmission

1 components of the satellite monitoring system established and operated
2 pursuant to section 37-80-102 (10), C.R.S.; stream gauge flood hardening
3 projects; and data collection efforts related to flood forecasting and
4 warning.

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

7 **SECTION 2. Continuation of the Colorado floodplain map**
8 **modernization program - appropriation.** (1) For the 2020-21 state
9 fiscal year, \$500,000 is appropriated to the department of natural
10 resources for use by the Colorado water conservation board. This
11 appropriation is from the Colorado water conservation board construction
12 fund created in section 37-60-121, C.R.S. To implement this section, the
13 Colorado water conservation board may use this appropriation to continue
14 to assist with the preparation of revised and improved floodplain studies
15 and maps for communities throughout Colorado and participate in
16 federally sponsored floodplain map modernization activities.

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

19 **SECTION 3. Continuation of the weather modification**
20 **permitting program - appropriation.** (1) For the 2020-21 state fiscal
21 year, \$350,000 is appropriated to the department of natural resources for
22 use by the Colorado water conservation board. This appropriation is from
23 the Colorado water conservation board construction fund created in
24 section 37-60-121, C.R.S. To implement this section, the Colorado water
25 conservation board may use this appropriation to continue to assist water
26 conservation districts, water conservancy districts, and other water
27 providers and their fiscal agents with the development of cloud seeding

1 programs that provide benefits to recreation, streams, and reservoirs
2 through snowpack enhancement.

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

5 **SECTION 4. Continuation of the Colorado Mesonet project**

6 - **appropriation.** (1) For the 2020-21 state fiscal year, \$150,000 is
7 appropriated to the department of natural resources for use by the
8 Colorado water conservation board. This appropriation is from the
9 Colorado water conservation board construction fund created in section
10 37-60-121, C.R.S. To implement this section, the Colorado water
11 conservation board may use this appropriation to support the Colorado
12 Mesonet, including for the following activities: Operation, maintenance,
13 travel, communications, and database and website management for
14 temperature and precipitation stations.

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

17 **SECTION 5. Acquisition of LIDAR data - appropriation.**

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

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

27 **SECTION 6. Continuation of the Arkansas river decision**

1 **support system - appropriation.** (1) For the 2020-21 state fiscal year,
2 \$500,000 is appropriated to the department of natural resources for use
3 by the Colorado water conservation board. This appropriation is from the
4 Colorado water conservation board construction fund created in section
5 37-60-121, C.R.S. To implement this section, the Colorado water
6 conservation board may use this appropriation to continue implementation
7 of the Arkansas river decision support system (ArkDSS), as identified in
8 the ArkDSS feasibility study completed in December 2011.

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

12 **SECTION 7. Continuation of the Colorado decision support**
13 **system operation and maintenance - appropriation.** (1) For the
14 2020-21 state fiscal year, \$500,000 is appropriated to the department of
15 natural resources for use by the Colorado water conservation board. This
16 appropriation is from the Colorado water conservation board construction
17 fund created in section 37-60-121, C.R.S. To implement this section, the
18 Colorado water conservation board may use this appropriation to continue
19 to operate and maintain the Colorado decision support system, which
20 provides data and analytical tools to assist water resources planning and
21 management projects throughout the state.

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

24 **SECTION 8. Water forecasting partnership project -**
25 **appropriation.** (1) For the 2020-21 state fiscal year, \$350,000 is
26 appropriated to the department of natural resources for use by the
27 Colorado water conservation board. This appropriation is from the

1 Colorado water conservation board construction fund created in section
2 37-60-121, C.R.S. To implement this section, the Colorado water
3 conservation board may use this appropriation to support the development
4 of new ground and aerial remote sensing data and equipment and
5 hydrologic modeling, to provide reliable volumetric water supply
6 forecasting, and to provide better characterization of snowpack.

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

9 **SECTION 9. Colorado water loss control initiative -**
10 **appropriation.** (1) For the 2020-21 state fiscal year, \$1,000,000 is
11 appropriated to the department of natural resources for use by the
12 Colorado water conservation board. This appropriation is from the
13 Colorado water conservation board construction fund created in section
14 37-60-121, C.R.S. To implement this section, the Colorado water
15 conservation board may use this appropriation to create and conduct
16 statewide training workshops on a water loss control methodology, with
17 a focus on smaller rural providers, and to provide technical assistance to
18 interested water providers on water system management.

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

21 **SECTION 10. Continuation of the watershed restoration**
22 **program - appropriation.** (1) For the 2020-21 state fiscal year,
23 \$4,000,000 is appropriated to the department of natural resources for use
24 by the Colorado water conservation board. This appropriation is from the
25 Colorado water conservation board construction fund created in section
26 37-60-121, C.R.S. To implement this section, the Colorado water
27 conservation board may use this appropriation to provide planning and

1 engineering studies, including implementation measures, to address
2 technical needs for watershed restoration and flood mitigation projects
3 throughout the state; aquatic habitat protection; flexible operations for
4 multiple uses; restoration work; quantification of environmental flow
5 needs; and monitoring efforts to support watershed health goals outlined
6 in the state water plan.

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

9 **SECTION 11. Alternative agricultural transfer methods grant**
10 **program - appropriation.** (1) For the 2020-21 state fiscal year,
11 \$750,000 is appropriated to the department of natural resources for use
12 by the Colorado water conservation board. This appropriation is from the
13 Colorado water conservation board construction fund created in section
14 37-60-121, C.R.S. To implement this section, the Colorado water
15 conservation board may use this appropriation for grant-making for
16 projects that advance various agricultural transfer methods as alternatives
17 to permanent dry-up of agricultural lands.

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

20 **SECTION 12. Restoration of litigation fund cash balance -**
21 **transfer.** On July 1, 2020, the state treasurer shall transfer the sum of
22 \$2,000,000, or so much thereof as may be necessary to restore the balance
23 of the litigation fund to \$2,000,000, from the unreserved cash in the
24 Colorado water conservation board construction fund created in section
25 37-60-121, C.R.S., to the litigation fund created in section 37-60-121
26 (2.5), C.R.S., to assist in addressing legal issues associated with compact
27 compliance or any other litigation activities as specified under section

1 37-60-121, C.R.S.

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

10 **SECTION 14. Continuation of the state water plan -**
11 **appropriation.** (1) For the 2020-21 state fiscal year, \$7,500,000 is
12 appropriated to the department of natural resources for use by the
13 Colorado water conservation board. This appropriation is from the
14 Colorado water conservation board construction fund created in section
15 37-60-121, C.R.S. To implement this section, the Colorado water
16 conservation board may use the appropriation to finance grant-making,
17 studies, programs, or projects that assist in implementing the state water
18 plan adopted pursuant to section 37-60-106.3, C.R.S., including the
19 following:

20 (a) Up to \$3,000,000, pursuant to section 37-60-106.3 (6)(b)(I),
21 C.R.S., to facilitate the development of additional storage, artificial
22 recharge into aquifers, and dredging existing reservoirs to restore the
23 reservoirs' full decreed storage capacity for multi-beneficial projects and
24 those projects identified in basin implementation plans to address the
25 water supply and demand gap;

26 (b) Up to \$1,000,000, pursuant to section 37-60-106.3 (6)(b)(II),
27 C.R.S., for grant funding to implement long-term strategies for

1 conservation, land use, and drought planning;

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

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

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

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

11 **SECTION 15. Arkansas river and Wildhorse creek levees**

12 **project loan authorizations.** (1) Pursuant to section 39-29-109

13 (2)(a)(I.5), C.R.S., the Colorado water conservation board is hereby
14 authorized to loan, subject to subsection (2) of this section, up to
15 \$23,230,000 from the severance tax perpetual base fund created in section
16 39-29-109 (2)(a), C.R.S., to the Pueblo conservancy district to repair the
17 levees within the city of Pueblo to bring the levees up to federal
18 emergency management agency standards to provide flood protection to
19 the city of Pueblo.

20 (2) The Colorado water conservation board may make a loan for
21 the construction of the project specified in subsection (1) of this section
22 from such money as is or may become available to the severance tax
23 perpetual base fund. The loan must be in the amount listed in subsection
24 (1) of this section plus or minus such amounts, if any, as may be justified
25 by reason of ordinary fluctuations in construction costs or as may be
26 justified by reason of change in the plans for the project due to differing
27 or unforeseen site conditions, errors or omissions in the plans and

1 specifications, changes instituted by regulatory agencies, or changes in
2 material quantities beyond contract limits.

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

10 **SECTION 16. West half Laramie-Poudre tunnel project loan**
11 **authorization.** (1) Pursuant to section 39-29-109 (2)(a)(I.5), C.R.S., the
12 Colorado water conservation board is hereby authorized to loan, subject
13 to subsection (2) of this section, up to \$17,250,800 from the Colorado
14 water conservation board construction fund created in section 37-60-121,
15 C.R.S., to the Tunnel Water Company to rehabilitate the Laramie-Poudre
16 tunnel, which tunnel delivers Laramie river water to the front range.

17 (2) The Colorado water conservation board may make a loan for
18 the construction of the project specified in subsection (1) of this section
19 from such money as is or may become available to the severance tax
20 perpetual base fund. The loan must be in the amount listed in subsection
21 (1) of this section plus or minus such amounts, if any, as may be justified
22 by reason of ordinary fluctuations in construction costs or as may be
23 justified by reason of change in the plans for the project due to differing
24 or unforeseen site conditions, errors or omissions in the plans and
25 specifications, changes instituted by regulatory agencies, or changes in
26 material quantities beyond contract limits.

27 (3) Pursuant to section 37-60-120 (1), C.R.S., the board shall

1 require such terms and conditions in the contract as will ensure repayment
2 of money made available by it. The board shall not disburse any money
3 for a loan authorized by subsection (1) of this section unless and until it
4 is satisfied, in its sole discretion, that the recipient of the loan will be able
5 to make repayment pursuant to the terms and conditions established by
6 the board and by subsection (1) of this section.

7 **SECTION 17. Frying Pan-Arkansas project loan**
8 **authorization - transfer - appropriation.** (1) (a) Pursuant to section
9 39-29-109 (2)(a)(I.5), C.R.S., the Colorado water conservation board is
10 hereby authorized to loan, subject to subsection (2) of this section, up to
11 \$90,000,000 from the severance tax perpetual base fund created in section
12 39-29-109 (2)(a), C.R.S., to the southeastern Colorado water conservancy
13 district to provide nonfederal cost-share funding for the Frying
14 Pan-Arkansas project, which project helps provide quality drinking water
15 to six counties in the lower Arkansas valley.

16 (b) The Colorado water conservation board may make a loan for
17 the construction of the project specified in subsection (1)(a) of this
18 section from such money as is or may become available to the severance
19 tax perpetual base fund. Loans issued pursuant to this subsection (1) must
20 total the amount listed in subsection (1)(a) of this section plus or minus
21 such amounts, if any, as may be justified by reason of ordinary
22 fluctuations in construction costs or as may be justified by reason of
23 change in the plans for the project due to differing or unforeseen site
24 conditions, errors or omissions in the plans and specifications, changes
25 instituted by regulatory agencies, or changes in material quantities beyond
26 contract limits.

27 (c) Pursuant to section 37-60-120 (1), C.R.S., the board shall

1 require such terms and conditions in the contract as will ensure repayment
2 of money made available by it. The board shall not disburse any money
3 for a loan authorized by subsection (1)(a) of this section unless and until
4 it is satisfied, in its sole discretion, that the recipient of the loan will be
5 able to make repayment pursuant to the terms and conditions established
6 by the board and by subsection (1)(a) of this section.

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

15 (b) (I) For the 2020-21 state fiscal year, \$10,000,000 is
16 appropriated to the department of natural resources for use by the
17 Colorado water conservation board. This appropriation is from the
18 Colorado water conservation board construction fund created in section
19 37-60-121, C.R.S. To implement this subsection (2), the Colorado water
20 conservation board may use this appropriation to grant money to the
21 southeastern Colorado water conservancy district to provide nonfederal
22 cost-share funding for the Frying Pan-Arkansas project, which project
23 helps provide quality drinking water to six counties in the lower Arkansas
24 valley.

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

27 **SECTION 18.** In Colorado Revised Statutes, 37-60-121, **amend**

1 (1)(b)(VI) as follows:

2 **37-60-121. Colorado water conservation board construction**
3 **fund - creation - nature of fund - funds for investigations -**
4 **contributions - use for augmenting the general fund - funds created**
5 **- repeal.** (1) (b) In the consideration of making expenditures from the
6 fund, the board shall be guided by the following criteria:

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

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

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

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

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

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

1 demand management program.

2 (b) THE MONEY APPROPRIATED IN SUBSECTION (2)(a) OF THIS
3 SECTION REMAINS AVAILABLE FOR EXPENDITURE UNTIL THE CLOSE OF THE
4 2020-21 STATE FISCAL YEAR.

5 **SECTION 21.** In Session Laws of Colorado 2002, section 25 of
6 chapter 150, (HB 02-1152), **add (2.5)** as follows:

7 Section 25. **Water education foundation - authorization and**
8 **appropriation.** (2.5) Notwithstanding subsection (2) of this section, for
9 the 2020-21 state fiscal year, the Colorado water conservation board shall
10 not expend money from the Colorado water conservation board
11 construction fund to the water education foundation described in
12 subsection (1) of this section.

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