

Second Regular Session
Seventy-second General Assembly
STATE OF COLORADO

INTRODUCED

LLS NO. 20-0280.01 Thomas Morris x4218

SENATE BILL 20-153

SENATE SPONSORSHIP

Coram,

HOUSE SPONSORSHIP

(None),

Senate Committees

Agriculture & Natural Resources

House Committees

A BILL FOR AN ACT

101 **CONCERNING THE CREATION OF AN ENTERPRISE THAT IS EXEMPT FROM**
102 **THE REQUIREMENTS OF SECTION 20 OF ARTICLE X OF THE STATE**
103 **CONSTITUTION TO ADMINISTER A FEE-BASED WATER RESOURCES**
104 **FINANCING PROGRAM.**

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 creates the water resources financing enterprise (enterprise). The board of the enterprise (board) consists of the board of directors of the Colorado water resources and power development

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.

authority and the Colorado water conservation board. The enterprise will provide financing to "water providers", defined to include drinking water suppliers, wastewater treatment suppliers, and raw water suppliers. Raw water suppliers are limited to those that provide raw water for treatment and use as drinking water.

Customers of drinking water suppliers will pay a fee to the supplier, who will transmit it to the enterprise to be used for the financing. The fee is 25 cents per 1,000 gallons of drinking water delivered per month to each metered connection in a drinking water supplier's public water system, collected after the first 4,000 gallons of drinking water delivered per month to an individual metered connection. The board may adjust the fee based on inflation and equity concerns for large nonresidential customers and customers who pay tiered rates that start higher than 4,000 gallons per month.

The enterprise can provide financing for grants, loans, and in-kind technical assistance in arranging third-party financing. In determining whether to provide financing, the board shall consider the following factors:

- ! A water provider's ability to pay, including whether the water provider has sought or received other financial assistance;
- ! Whether a water provider is subject to noncompliance or increased requirements related to the provision of raw water, drinking water, water treatment, or wastewater treatment;
- ! Whether the proposed use of financing relates to a project identified in and in furtherance of the state water plan; and
- ! The geographic location and demographic characteristics of the water provider and its customers.

The enterprise shall provide, and a water provider may use, the financing only:

- ! In connection with the provision of raw water, drinking water, water treatment, or wastewater treatment; and
- ! For feasibility studies, consulting, planning, permitting, and construction of infrastructure and water conservation projects and related recreational, hydroelectric, and flood control facilities, including necessary enlargement and rehabilitation of facilities but excluding maintenance and operation.

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

2 **SECTION 1.** In Colorado Revised Statutes, **add** article 94 to title

1 37 as follows:

2

ARTICLE 94

3

Water Resources Financing Enterprise

4

37-94-101. Short title. THE SHORT TITLE OF THIS ARTICLE 94 IS

5

THE "WATER RESOURCES FINANCING ENTERPRISE ACT".

6

37-94-102. Legislative declaration. (1) THE GENERAL ASSEMBLY

7

HEREBY:

8

(a) FINDS THAT:

9

(I) THERE IS A SUBSTANTIAL GAP BETWEEN THE FINANCING

10

NEEDED TO FULLY ADDRESS THE STATE'S WATER RESOURCES NEEDS AND

11

THE FINANCING THAT IS AVAILABLE; AND

12

(II) SUPPLIERS OF RAW WATER, DRINKING WATER, AND

13

WASTEWATER TREATMENT SERVICES ALL HAVE SUBSTANTIAL, UNMET

14

FINANCING NEEDS;

15

(b) DETERMINES THAT:

16

(I) PROVIDING AFFORDABLE FINANCING TO WATER PROVIDERS

17

THROUGH THE COLLECTION BY THE WATER RESOURCES FINANCING

18

ENTERPRISE OF THE WATER RESOURCES FINANCING FEE PAID BY DRINKING

19

WATER SUPPLIERS CONSTITUTES A VALUABLE SERVICE AND BENEFIT; AND

20

(II) THE ENTERPRISE PROVIDES BUSINESS SERVICES TO WATER

21

PROVIDERS WHEN, IN EXCHANGE FOR PAYMENT, IT ISSUES LOANS AND

22

GRANTS TO WATER PROVIDERS FINANCED BY THE FEES; AND

23

(c) DECLARES THAT:

24

(I) (A) WHILE ACKNOWLEDGING THAT SOME HOME RULE

25

GOVERNMENTS ARE SUPPLIERS OF RAW WATER, DRINKING WATER, OR

26

WASTEWATER TREATMENT SERVICES, THE STATE CONSTITUTION DECLARES

27

THAT THE WATER OF EVERY NATURAL STREAM WITHIN THE STATE IS THE

1 PROPERTY OF THE PUBLIC, AND THERE ARE SUBSTANTIAL STATEWIDE
2 INTERESTS IN ENSURING THAT THESE SERVICES ARE PROVIDED IN FULL
3 COMPLIANCE WITH APPLICABLE LAW AND THAT SUFFICIENT FINANCING IS
4 AVAILABLE THROUGHOUT THE STATE TO ENABLE ALL WATER PROVIDERS
5 TO PROVIDE CLEAN, SAFE, AND RELIABLE DRINKING WATER AND TO
6 DISCHARGE TREATED DOMESTIC WASTEWATER INTO WATERS OF THE STATE
7 WITHOUT HARMING THE ENVIRONMENT; AND

8 (B) THE MATTERS ADDRESSED BY THIS ARTICLE 94 ARE MATTERS
9 OF STATEWIDE CONCERN;

10 (II) IT IS NECESSARY, APPROPRIATE, AND IN THE BEST INTEREST OF
11 THE STATE TO ACKNOWLEDGE THAT BY PROVIDING THE BUSINESS
12 SERVICES SPECIFIED IN SUBSECTION (1)(b) OF THIS SECTION, THE
13 ENTERPRISE ENGAGES IN AN ACTIVITY CONDUCTED IN THE PURSUIT OF A
14 BENEFIT, GAIN, OR LIVELIHOOD AND THEREFORE OPERATES AS A BUSINESS;

15 (III) CONSISTENT WITH THE DETERMINATION OF THE COLORADO
16 SUPREME COURT IN *NICHOLL V. E-470 PUBLIC HIGHWAY AUTHORITY*, 896
17 P.2d 859 (COLO. 1995), THAT THE POWER TO IMPOSE TAXES IS
18 INCONSISTENT WITH ENTERPRISE STATUS UNDER SECTION 20 OF ARTICLE
19 X OF THE STATE CONSTITUTION, IT IS THE CONCLUSION OF THE GENERAL
20 ASSEMBLY THAT THE FEE CHARGED AND COLLECTED BY THE ENTERPRISE
21 IS A FEE, NOT A TAX, BECAUSE THE FEE IS IMPOSED FOR THE SPECIFIC
22 PURPOSE OF ALLOWING THE ENTERPRISE TO DEFRAY THE COSTS OF
23 PROVIDING THE BUSINESS SERVICES SPECIFIED IN SUBSECTION (1)(b) OF
24 THIS SECTION TO WATER PROVIDERS THAT PAY THE FEE AND IS COLLECTED
25 AT RATES THAT ARE REASONABLY CALCULATED BASED ON THE BENEFITS
26 RECEIVED BY THOSE WATER PROVIDERS; AND

27 (IV) SO LONG AS THE ENTERPRISE QUALIFIES AS AN ENTERPRISE

1 FOR PURPOSES OF SECTION 20 (2)(d) OF ARTICLE X OF THE STATE
2 CONSTITUTION, THE REVENUES FROM THE FEE CHARGED AND COLLECTED
3 BY THE ENTERPRISE ARE NOT STATE FISCAL YEAR SPENDING, AS DEFINED
4 IN SECTION 24-77-102 (17), OR STATE REVENUES, AS DEFINED IN SECTION
5 24-77-103.6 (6)(c), AND DO NOT COUNT AGAINST EITHER THE STATE
6 FISCAL YEAR SPENDING LIMIT IMPOSED BY SECTION 20 OF ARTICLE X OF
7 THE STATE CONSTITUTION OR THE EXCESS STATE REVENUES CAP, AS
8 DEFINED IN SECTION 24-77-103.6 (6)(b)(I)(D).

9 **37-94-103. Definitions.** AS USED IN THIS ARTICLE 94, UNLESS THE
10 CONTEXT OTHERWISE REQUIRES:

11 (1) "AUTHORITY" MEANS THE COLORADO WATER RESOURCES AND
12 POWER DEVELOPMENT AUTHORITY CREATED IN SECTION 37-95-104.

13 (2) "CONSERVATION BOARD" MEANS THE COLORADO WATER
14 CONSERVATION BOARD CREATED IN SECTION 37-60-102.

15 (3) "DEPARTMENT" MEANS THE DEPARTMENT OF NATURAL
16 RESOURCES.

17 (4) "DRINKING WATER" MEANS PIPED AND METERED WATER THAT
18 HAS BEEN SUBJECT TO WATER TREATMENT.

19 (5) "DRINKING WATER SUPPLIER" MEANS A PERSON THAT OWNS OR
20 OPERATES A PUBLIC WATER SYSTEM.

21 (6) "ENTERPRISE" MEANS THE WATER RESOURCES FINANCING
22 ENTERPRISE CREATED IN SECTION 37-94-104.

23 (7) "ENTERPRISE BOARD" MEANS THE BOARD OF DIRECTORS OF THE
24 ENTERPRISE.

25 (8) "FEE" MEANS THE WATER RESOURCES FINANCING FEE
26 AUTHORIZED BY SECTION 37-94-105.

27 (9) "PUBLIC WATER SYSTEM" MEANS A SYSTEM FOR THE PROVISION

1 TO THE PUBLIC OF DRINKING WATER THAT HAS AT LEAST FIFTEEN SERVICE
2 CONNECTIONS OR REGULARLY SERVES AT LEAST TWENTY-FIVE
3 INDIVIDUALS. THE TERM INCLUDES SYSTEMS THAT ARE OWNED OR
4 OPERATED BY PRIVATE, NONPROFIT ENTITIES, AS WELL AS:

5 (a) COLLECTION, TREATMENT, STORAGE, AND DISTRIBUTION
6 FACILITIES UNDER THE CONTROL OF THE OPERATOR OF THE SYSTEM AND
7 USED PRIMARILY IN CONNECTION WITH THE SYSTEM; AND

8 (b) COLLECTION OR PRETREATMENT STORAGE FACILITIES NOT
9 UNDER THE OPERATOR'S CONTROL THAT ARE USED PRIMARILY IN
10 CONNECTION WITH THE SYSTEM.

11 (10) "RAW WATER" MEANS WATER THAT HAS NOT YET BEEN
12 SUBJECT TO WATER TREATMENT BUT THAT WILL BE SO TREATED BEFORE
13 THE WATER IS PUT TO BENEFICIAL USE.

14 (11) "RAW WATER SUPPLIER" MEANS AN ENTITY THAT SUPPLIES
15 RAW WATER FOR TREATMENT AND USE AS DRINKING WATER.

16 (12) "WASTEWATER TREATMENT" MEANS THE TREATMENT OF
17 DOMESTIC WASTEWATER TO COMPLY WITH EFFLUENT LIMITATIONS, AS
18 THAT TERM IS DEFINED IN SECTION 25-8-103 (6).

19 (13) "WASTEWATER TREATMENT SUPPLIER" MEANS THE OWNER OR
20 OPERATOR OF A DOMESTIC WASTEWATER TREATMENT WORKS, AS THAT
21 TERM IS DEFINED IN SECTION 25-8-103 (5).

22 (14) "WATER PROVIDER" MEANS:

23 (a) A RAW WATER SUPPLIER;

24 (b) A DRINKING WATER SUPPLIER; OR

25 (c) A WASTEWATER TREATMENT SUPPLIER.

26 (15) "WATER TREATMENT" MEANS THE ALTERATION OF RAW
27 WATER TO COMPLY WITH THE MINIMUM GENERAL SANITARY STANDARDS

1 ESTABLISHED PURSUANT TO SECTION 25-1.5-202.

2 **37-94-104. Enterprise - powers and duties - board.** (1) THE
3 WATER RESOURCES FINANCING ENTERPRISE IS HEREBY CREATED IN THE
4 DEPARTMENT AS A **TYPE 1** ENTITY AS THAT TERM IS DEFINED IN SECTION
5 24-1-105. THE ENTERPRISE IS AND OPERATES AS A GOVERNMENT-OWNED
6 BUSINESS WITHIN THE DEPARTMENT FOR THE PURPOSE OF CHARGING AND
7 COLLECTING THE FEE, LEVERAGING FEE REVENUE TO OBTAIN FEDERAL
8 MATCHING MONEY, AND UTILIZING AND DEPLOYING THE FEE REVENUE AND
9 OTHER AVAILABLE MONEY, INCLUDING MATCHING MONEY, TO PROVIDE
10 THE BUSINESS SERVICES SPECIFIED IN SECTIONS 37-94-102 (1)(b) AND
11 37-94-106 TO WATER PROVIDERS.

12 (2) THE ENTERPRISE CONSTITUTES AN ENTERPRISE FOR PURPOSES
13 OF SECTION 20 (2)(d) OF ARTICLE X OF THE STATE CONSTITUTION SO LONG
14 AS IT RETAINS THE AUTHORITY TO ISSUE REVENUE BONDS AND RECEIVES
15 LESS THAN TEN PERCENT OF ITS TOTAL REVENUES IN GRANTS FROM ALL
16 COLORADO STATE AND LOCAL GOVERNMENTS COMBINED. SO LONG AS IT
17 CONSTITUTES AN ENTERPRISE PURSUANT TO THIS SUBSECTION (2), THE
18 ENTERPRISE IS NOT SUBJECT TO ANY PROVISIONS OF SECTION 20 OF
19 ARTICLE X OF THE STATE CONSTITUTION.

20 (3) THE ENTERPRISE'S PRIMARY POWERS AND DUTIES ARE:

21 (a) TO COLLECT THE FEE FROM DRINKING WATER SUPPLIERS AS
22 SPECIFIED IN SECTION 37-94-105;

23 (b) TO PROVIDE WATER RESOURCES FINANCING TO WATER
24 PROVIDERS, INCLUDING BY ISSUING LOANS AND GRANTS AS SPECIFIED IN
25 SECTION 37-94-106;

26 (c) TO ISSUE REVENUE BONDS PURSUANT TO SECTION 37-94-107
27 PAYABLE FROM THE REVENUES OF THE ENTERPRISE IN CONNECTION WITH

1 THE PROVISION OF WATER RESOURCES FINANCING;

2 (d) TO ENGAGE THE SERVICES OF CONTRACTORS, CONSULTANTS,
3 AND LEGAL COUNSEL FOR PROFESSIONAL AND TECHNICAL ASSISTANCE AND
4 ADVICE AND TO SUPPLY OTHER SERVICES RELATED TO THE CONDUCT OF
5 THE AFFAIRS OF THE ENTERPRISE, INCLUDING THE PROVISION OF WATER
6 RESOURCES FINANCING AS SPECIFIED IN SECTION 37-94-106, WITHOUT
7 REGARD TO THE PROVISIONS OF THE "PROCUREMENT CODE", ARTICLES 101
8 TO 112 OF TITLE 24; AND

9 (e) TO ADOPT, AMEND, OR REPEAL POLICIES FOR THE REGULATION
10 OF ITS AFFAIRS AND THE CONDUCT OF ITS BUSINESS CONSISTENT WITH THIS
11 ARTICLE 94, INCLUDING ESTABLISHING APPLICATION, REVIEW, APPROVAL,
12 REPAYMENT, REPORTING, AND OTHER REQUIREMENTS FOR WATER
13 RESOURCES FINANCING.

14 (4) (a) THE ENTERPRISE IS GOVERNED BY A BOARD OF DIRECTORS.
15 THE ENTERPRISE BOARD CONSISTS OF THE MEMBERS OF THE BOARD OF
16 DIRECTORS OF THE AUTHORITY AND THE MEMBERS OF THE CONSERVATION
17 BOARD. MEMBERS OF THE CONSERVATION BOARD WHO DO NOT HAVE THE
18 RIGHT TO VOTE WITH REGARD TO MATTERS CONSIDERED BY THE
19 CONSERVATION BOARD DO NOT HAVE THE RIGHT TO VOTE WITH REGARD
20 TO MATTERS CONSIDERED BY THE ENTERPRISE. THE CHAIR OF THE BOARD
21 OF DIRECTORS OF THE AUTHORITY SHALL CALL THE FIRST MEETING OF THE
22 ENTERPRISE BOARD. CONSENT BY AT LEAST TWO-THIRDS OF THE VOTING
23 MEMBERS OF THE ENTERPRISE BOARD IS REQUIRED FOR THE ENTERPRISE
24 BOARD TO ACT. THE ENTERPRISE BOARD SHALL ELECT A CHAIR FROM
25 AMONG ITS MEMBERS TO SERVE FOR A TERM NOT TO EXCEED TWO YEARS,
26 AS DETERMINED BY THE ENTERPRISE BOARD. THE ENTERPRISE BOARD
27 SHALL MEET AT LEAST QUARTERLY AND THE CHAIR MAY CALL ADDITIONAL

1 MEETINGS AS NECESSARY FOR THE ENTERPRISE BOARD TO COMPLETE ITS
2 DUTIES.

3 (b) THE ENTERPRISE BOARD IS SUBJECT TO:

4 (I) THE OPEN MEETINGS LAW, PART 4 OF ARTICLE 6 OF TITLE 24;

5 (II) THE "COLORADO OPEN RECORDS ACT", PART 2 OF ARTICLE 72
6 OF TITLE 24; AND

7 (III) AUDIT BY THE STATE AUDITOR PURSUANT TO SECTION 2-3-103
8 (1)(b).

9 **37-94-105. Water resources financing fee.** (1) FOR THE FISCAL
10 YEAR COMMENCING JULY 1, 2020, AND FOR EACH FISCAL YEAR
11 THEREAFTER, THE ENTERPRISE MAY CHARGE A FEE TO EACH CUSTOMER OF
12 A DRINKING WATER SUPPLIER. EACH DRINKING WATER SUPPLIER SHALL
13 COLLECT THE FEE AND REMIT IT TO THE ENTERPRISE ON A MONTHLY BASIS
14 AS SPECIFIED BY THE ENTERPRISE BOARD; EXCEPT THAT THE DRINKING
15 WATER SUPPLIER MAY RETAIN A VENDOR FEE OF THREE AND ONE-THIRD
16 PERCENT OF THE TOTAL AMOUNT OF FEES COLLECTED.

17 (2) (a) EXCEPT AS SPECIFIED IN SUBSECTIONS (2)(b) AND (2)(c) OF
18 THIS SECTION, THE AMOUNT OF THE FEE IS TWENTY-FIVE CENTS PER
19 THOUSAND GALLONS OF DRINKING WATER DELIVERED PER MONTH TO EACH
20 METERED CONNECTION IN A DRINKING WATER SUPPLIER'S PUBLIC WATER
21 SYSTEM, COLLECTED AFTER THE FIRST FOUR THOUSAND GALLONS OF
22 DRINKING WATER DELIVERED PER MONTH TO AN INDIVIDUAL METERED
23 CONNECTION.

24 (b) FOR FISCAL YEARS COMMENCING ON OR AFTER JULY 1, 2021,
25 THE ENTERPRISE BOARD MAY ANNUALLY ADJUST THE AMOUNT OF THE FEE
26 TO REFLECT CHANGES IN THE UNITED STATES DEPARTMENT OF LABOR,
27 BUREAU OF LABOR STATISTICS, CONSUMER PRICE INDEX FOR

1 DENVER-AURORA-LAKEWOOD FOR ALL ITEMS AND ALL URBAN
2 CONSUMERS, OR ITS APPLICABLE SUCCESSOR INDEX.

3 (c) TO ADDRESS EQUITY CONCERNS, THE ENTERPRISE BOARD MAY
4 REDUCE THE AMOUNT OF THE FEE OR INCREASE THE NUMBER OF GALLONS
5 PER MONTH THAT ARE NOT SUBJECT TO THE FEE FOR LARGE
6 NONRESIDENTIAL CUSTOMERS AND FOR CUSTOMERS OF A DRINKING WATER
7 SUPPLIER THAT HAS TIERED RATES THAT START AT A LEVEL HIGHER THAN
8 FOUR THOUSAND GALLONS OF WATER PER MONTH.

9 (3) A DRINKING WATER SUPPLIER IS NOT LIABLE FOR A CUSTOMER'S
10 FAILURE TO PAY THE FEE WHEN DUE.

11 **37-94-106. Water resources financing - use of fees - fund.**

12 (1) THE ENTERPRISE SHALL TRANSMIT THE FEES COLLECTED PURSUANT TO
13 SECTION 37-94-105 TO THE WATER RESOURCES FINANCING FUND, WHICH
14 IS HEREBY CREATED IN THE STATE TREASURY. THE FUND CONSISTS OF ALL
15 REVENUES OF THE ENTERPRISE, INCLUDING THE FEES, MONEY RECEIVED BY
16 THE ENTERPRISE FOR REPAYMENT OF LOANS, REVENUE BOND PROCEEDS,
17 MATCHING FEDERAL FUNDS, AND INTEREST AND INCOME DERIVED FROM
18 THE DEPOSIT AND INVESTMENT OF MONEY IN THE FUND.

19 (2) THE ENTERPRISE SHALL USE ITS REVENUES TO PROVIDE WATER
20 RESOURCES FINANCING TO WATER PROVIDERS. FINANCING MAY CONSIST
21 OF:

22 (a) GRANTS;

23 (b) LOANS, INCLUDING LOANS WITH BELOW-MARKET-RATE
24 INTEREST; AND

25 (c) IN-KIND TECHNICAL ASSISTANCE IN ARRANGING THIRD-PARTY
26 FINANCING.

27 (3) IN DETERMINING WHETHER TO PROVIDE WATER RESOURCES

1 FINANCING, THE ENTERPRISE BOARD SHALL CONSIDER THE FOLLOWING
2 FACTORS:

3 (a) A WATER PROVIDER'S ABILITY TO PAY, INCLUDING WHETHER
4 THE WATER PROVIDER HAS SOUGHT OR RECEIVED FINANCIAL ASSISTANCE
5 FROM THE CONSERVATION BOARD, THE AUTHORITY, OR ANY OTHER
6 SOURCE;

7 (b) WHETHER A WATER PROVIDER IS SUBJECT TO NONCOMPLIANCE
8 OR INCREASED REQUIREMENTS RELATED TO THE PROVISION OF RAW
9 WATER, DRINKING WATER, WATER TREATMENT, OR WASTEWATER
10 TREATMENT;

11 (c) WHETHER THE PROPOSED USE OF WATER RESOURCES
12 FINANCING RELATES TO A PROJECT IDENTIFIED IN AND IN FURTHERANCE OF
13 THE STATE WATER PLAN ADOPTED PURSUANT TO SECTION 37-60-106.3;
14 AND

15 (d) THE GEOGRAPHIC LOCATION AND DEMOGRAPHIC
16 CHARACTERISTICS OF THE WATER PROVIDER AND ITS CUSTOMERS.

17 (4) THE ENTERPRISE SHALL PROVIDE, AND A WATER PROVIDER MAY
18 USE, WATER RESOURCES FINANCING ONLY:

19 (a) IN CONNECTION WITH THE PROVISION OF RAW WATER,
20 DRINKING WATER, WATER TREATMENT, OR WASTEWATER TREATMENT;
21 AND

22 (b) FOR FEASIBILITY STUDIES, CONSULTING, PLANNING,
23 PERMITTING, AND CONSTRUCTION OF INFRASTRUCTURE AND WATER
24 CONSERVATION PROJECTS AND RELATED RECREATIONAL, HYDROELECTRIC,
25 AND FLOOD CONTROL FACILITIES, INCLUDING NECESSARY ENLARGEMENT
26 AND REHABILITATION OF FACILITIES BUT EXCLUDING MAINTENANCE AND
27 OPERATION.

1 **37-94-107. Bonds - issuance - terms.** (1) THE ENTERPRISE MAY
2 ISSUE BONDS IN PRINCIPAL AMOUNTS THAT THE ENTERPRISE BOARD
3 DETERMINES ARE NECESSARY TO PROVIDE SUFFICIENT FUNDS FOR ANY OF
4 ITS PURPOSES, INCLUDING THE PAYMENT, FUNDING, OR REFUNDING OF THE
5 PRINCIPAL OF, OR INTEREST OR REDEMPTION PREMIUMS ON, ANY BONDS
6 ISSUED BY IT, WHETHER THE BONDS OR INTEREST TO BE FUNDED OR
7 REFUNDED HAVE OR HAVE NOT BECOME DUE, AND INCLUDING THE
8 ESTABLISHMENT OR INCREASE OF RESERVES TO SECURE OR TO PAY THE
9 BONDS OR INTEREST AND ALL OTHER COSTS OR EXPENSES OF THE
10 ENTERPRISE INCIDENT TO AND NECESSARY TO CARRY OUT ITS PURPOSES
11 AND POWERS. THE ENTERPRISE SHALL SUBSIDIZE SOME OR ALL OF THE
12 COST OF ISSUING BONDS AND NOTES PURSUANT TO THIS ARTICLE 94 FOR
13 PROJECTS AUTHORIZED BY SECTION 37-94-106 (4).

14 (2) EXCEPT AS MAY BE OTHERWISE EXPRESSLY PROVIDED IN THIS
15 ARTICLE 94 OR BY THE ENTERPRISE, EVERY ISSUE OF BONDS IS A SPECIAL
16 OBLIGATION PAYABLE OUT OF ANY REVENUES OR FUNDS OF THE
17 ENTERPRISE, SUBJECT ONLY TO ANY AGREEMENTS WITH THE HOLDERS OF
18 PARTICULAR BONDS PLEDGING ANY PARTICULAR REVENUES OR FUNDS.
19 THE ENTERPRISE MAY ISSUE SUCH TYPES OF BONDS AS IT MAY DETERMINE,
20 INCLUDING BONDS AS TO WHICH THE PRINCIPAL AND INTEREST ARE
21 PAYABLE:

22 (a) EXCLUSIVELY FROM THE REVENUES AND RECEIPTS OF THE PART
23 OF THE PROJECT FINANCED WITH THE PROCEEDS OF THE BONDS;

24 (b) EXCLUSIVELY FROM THE REVENUES AND RECEIPTS OF CERTAIN
25 DESIGNATED PARTS OF THE PROJECT, WHETHER OR NOT THE DESIGNATED
26 PARTS ARE FINANCED IN WHOLE OR IN PART FROM THE PROCEEDS OF THE
27 BONDS; OR

1 (c) FROM ITS REVENUES AND RECEIPTS GENERALLY.

2 (3) THE BONDS MAY BE ADDITIONALLY SECURED BY A PLEDGE OF
3 ANY GRANT, SUBSIDY, OR CONTRIBUTION FROM ANY PERSON OR BY A
4 PLEDGE OF ANY INCOME OR REVENUES, FUNDS, OR MONEY OF THE
5 ENTERPRISE FROM ANY SOURCE WHATSOEVER.

6 (4) WHETHER OR NOT THE BONDS ARE OF SUCH FORM AND
7 CHARACTER AS TO BE NEGOTIABLE INSTRUMENTS UNDER THE TERMS OF
8 THE "UNIFORM COMMERCIAL CODE", TITLE 4, THE BONDS ARE HEREBY
9 MADE NEGOTIABLE INSTRUMENTS WITHIN THE MEANING OF AND FOR ALL
10 THE PURPOSES OF TITLE 4, SUBJECT ONLY TO THE PROVISIONS OF THE
11 BONDS FOR REGISTRATION.

12 (5) BONDS OF THE ENTERPRISE MUST BE AUTHORIZED BY A
13 RESOLUTION OF THE ENTERPRISE BOARD AND MAY BE ISSUED IN ONE OR
14 MORE SERIES; BEAR SUCH DATE; MATURE AT SUCH TIME; BEAR INTEREST
15 AT SUCH RATE OF INTEREST PER ANNUM; BE IN SUCH DENOMINATION; BE
16 IN SUCH FORM, EITHER COUPON OR REGISTERED; CARRY SUCH CONVERSION
17 OR REGISTRATION PRIVILEGES; HAVE SUCH RANK OR PRIORITY; BE
18 EXECUTED IN SUCH MANNER; BE PAYABLE FROM SUCH SOURCES IN SUCH
19 MEDIUM OF PAYMENT AT SUCH PLACE WITHIN OR WITHOUT THE STATE;
20 AND BE SUBJECT TO SUCH TERMS OF REDEMPTION, WITH OR WITHOUT
21 PREMIUM, AS THE RESOLUTION MAY PROVIDE.

22 (6) BONDS OF THE ENTERPRISE MAY BE SOLD AT PUBLIC OR
23 PRIVATE SALE AT THE PRICE OR PRICES AND IN THE MANNER THE
24 ENTERPRISE BOARD DETERMINES.

25 (7) THE ISSUANCE OF BONDS IS NOT SUBJECT TO SECTION
26 24-36-121, AND BONDS MAY BE ISSUED UNDER THIS ARTICLE 94 WITHOUT
27 OBTAINING THE CONSENT OF ANY DEPARTMENT, DIVISION, COMMISSION,

1 BOARD, BUREAU, OR AGENCY OF THE STATE OTHER THAN THE ENTERPRISE
2 BOARD AND WITHOUT ANY OTHER PROCEEDING OR THE HAPPENING OF ANY
3 OTHER CONDITIONS OR OTHER THINGS THAN THOSE PROCEEDINGS,
4 CONDITIONS, OR THINGS THAT ARE SPECIFICALLY REQUIRED BY THIS
5 ARTICLE 94.

6 (8) (a) BONDS OF THE ENTERPRISE ISSUED UNDER THIS ARTICLE 94
7 ARE NOT IN ANY WAY A DEBT OR LIABILITY OF THE STATE OR OF ANY
8 POLITICAL SUBDIVISION OF THE STATE OTHER THAN THE ENTERPRISE AND
9 DO NOT CREATE OR CONSTITUTE ANY INDEBTEDNESS, LIABILITY, OR
10 OBLIGATION OF THE STATE OR OF ANY POLITICAL SUBDIVISION OR
11 CONSTITUTE A PLEDGE OF THE FAITH AND CREDIT OF THE STATE OR OF ANY
12 POLITICAL SUBDIVISION. ALL BONDS, UNLESS FUNDED OR REFUNDED BY
13 BONDS OF THE ENTERPRISE, ARE PAYABLE SOLELY FROM REVENUES
14 PLEDGED OR AVAILABLE FOR THEIR PAYMENT AS AUTHORIZED IN THIS
15 ARTICLE 94.

16 (b) EACH BOND MUST CONTAIN ON ITS FACE A STATEMENT TO THE
17 EFFECT THAT:

18 (I) THE ENTERPRISE IS OBLIGATED TO PAY THE PRINCIPAL OF THE
19 BOND AND THE INTEREST ONLY FROM REVENUES OF THE ENTERPRISE;

20 (II) NEITHER THE STATE NOR ANY POLITICAL SUBDIVISION OF THE
21 STATE IS OBLIGATED TO PAY THE PRINCIPAL OR INTEREST; AND

22 (III) NEITHER THE FAITH AND CREDIT NOR THE TAXING POWER OF
23 THE STATE OR ANY POLITICAL SUBDIVISION OF THE STATE IS PLEDGED TO
24 THE PAYMENT OF THE PRINCIPAL OF OR THE INTEREST ON THE BONDS.

25 (9) ALL EXPENSES INCURRED IN CARRYING OUT THIS ARTICLE 94
26 ARE PAYABLE SOLELY FROM REVENUES PROVIDED OR TO BE PROVIDED
27 UNDER THIS ARTICLE 94, AND NOTHING IN THIS ARTICLE 94 AUTHORIZES

1 THE ENTERPRISE TO INCUR ANY INDEBTEDNESS OR LIABILITY ON BEHALF
2 OF OR PAYABLE BY THE STATE OR ANY POLITICAL SUBDIVISION OF THE
3 STATE.

4 **37-94-108. Report.** NOTWITHSTANDING SECTION 24-1-136 (11),
5 BY JULY 1 OF EACH YEAR, THE ENTERPRISE BOARD SHALL SUBMIT A
6 SUMMARY REPORT OF ITS ACTIVITIES DURING THE PREVIOUS CALENDAR
7 YEAR TO THE WATER RESOURCES REVIEW COMMITTEE CREATED IN
8 SECTION 37-98-102.

9 **SECTION 2. Act subject to petition - effective date.** This act
10 takes effect at 12:01 a.m. on the day following the expiration of the
11 ninety-day period after final adjournment of the general assembly (August
12 5, 2020, if adjournment sine die is on May 6, 2020); except that, if a
13 referendum petition is filed pursuant to section 1 (3) of article V of the
14 state constitution against this act or an item, section, or part of this act
15 within such period, then the act, item, section, or part will not take effect
16 unless approved by the people at the general election to be held in
17 November 2020 and, in such case, will take effect on the date of the
18 official declaration of the vote thereon by the governor.