

**First Regular Session
Seventy-fourth General Assembly
STATE OF COLORADO**

ENGROSSED

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

LLS NO. 23-0336.02 Sarah Lozano x3858

SENATE BILL 23-295

SENATE SPONSORSHIP

Roberts and Will, Bridges, Pelton B., Rich

HOUSE SPONSORSHIP

McCluskie and Catlin, Holtorf, Lukens, McCormick, McLachlan, Soper, Velasco

Senate Committees

Agriculture & Natural Resources
Appropriations

House Committees

A BILL FOR AN ACT

101 **CONCERNING THE CREATION OF THE COLORADO RIVER DROUGHT**
102 **TASK FORCE, AND, IN CONNECTION THEREWITH, MAKING AN**
103 **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 creates the Colorado river drought task force (task force). The members of the task force must, to the extent practicable, reflect the racial and ethnic diversity of the state and have experience with a wide range of water issues. The task force must begin meeting no later than July 31, 2023, and may hold up to 12 meetings in the 2023 legislative

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

SENATE
Amended 2nd Reading
April 28, 2023

interim.

The purpose of the task force is to develop recommendations for state legislation that provides additional tools for the Colorado water conservation board to collaborate with the Colorado river water conservation district, the southwestern water conservation district, and other relevant stakeholders in the development of programs that address drought in the Colorado river basin and interstate commitments related to the Colorado river and its tributaries through conservation of the waters of the Colorado river and its tributaries (recommendations).

No later than December 15, 2023, the task force must submit a written report that includes the recommendations and a summary of the task force's work to the water resources and agriculture review committee.

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

2 **SECTION 1. Legislative declaration.** (1) The general assembly
3 finds and declares that:

4 (a) Since 2000, the Colorado river basin, including the Colorado
5 river and its tributaries in Colorado, has experienced unprecedented
6 drought conditions that have contributed to decreased water supplies;

7 (b) Climate change, drier conditions, and depleted snowpack may
8 further reduce water available in Colorado's surface streams for beneficial
9 uses and threaten Colorado's significant interests in the Colorado river
10 and its tributaries; and

11 (c) Dry hydrology continues to reduce water supplies across the
12 western slope of Colorado and the Colorado river basin and threatens the
13 security of available water resources.

14 (2) The general assembly therefore determines that it is in the best
15 interest of Colorado to form a task force to provide recommendations for
16 programs to assist Colorado in addressing drought in the Colorado river
17 basin and the state's interstate commitments related to the Colorado river
18 and its tributaries.

1 **SECTION 2.** In Colorado Revised Statutes, **add** 37-98-105 as
2 follows:

3 **37-98-105. Colorado river drought task force - created -**
4 **appointments - report - definitions - repeal.** (1) AS USED IN THIS
5 SECTION, UNLESS THE CONTEXT OTHERWISE REQUIRES:

6 (a) "BOARD" MEANS THE COLORADO WATER CONSERVATION
7 BOARD CREATED IN SECTION 37-60-102.

8 (b) "COLORADO RIVER WATER CONSERVATION DISTRICT" MEANS
9 THE COLORADO RIVER WATER CONSERVATION DISTRICT CREATED IN
10 SECTION 37-46-103.

11 (c) "COMMITTEE" MEANS THE WATER RESOURCES AND
12 AGRICULTURE REVIEW COMMITTEE CREATED IN SECTION 37-98-102
13 (1)(a)(I).

14 (d) "DEPARTMENT" MEANS THE DEPARTMENT OF NATURAL
15 RESOURCES CREATED IN SECTION 24-1-124 (1).

16 (e) "LOCAL GOVERNMENT" MEANS A HOME RULE OR STATUTORY
17 COUNTY, MUNICIPALITY, CITY AND COUNTY, WATER CONSERVANCY
18 DISTRICT, OR WATER AND SANITATION DISTRICT.

19 (f) "PROGRAMS" MEANS THE PROGRAMS DESCRIBED IN SUBSECTION
20 (4)(a) OF THIS SECTION.

21 (g) "SOUTHWESTERN WATER CONSERVATION DISTRICT" MEANS
22 THE SOUTHWESTERN WATER CONSERVATION DISTRICT CREATED IN
23 SECTION 37-47-103.

24 (h) "SUB-TASK FORCE" MEANS THE SUB-TASK FORCE ESTABLISHED
25 PURSUANT TO SUBSECTION (5)(a) OF THIS SECTION.

26 (i) "TASK FORCE" MEANS THE COLORADO RIVER DROUGHT TASK
27 FORCE CREATED IN SUBSECTION (2) OF THIS SECTION.

1 (j) "WATER RIGHT" HAS THE MEANING SET FORTH IN SECTION
2 37-92-103 (12).

3 (2) (a) NOTWITHSTANDING SECTION 2-3-303.3, THE COLORADO
4 RIVER DROUGHT TASK FORCE IS CREATED. THE TASK FORCE CONSISTS OF
5 THE FOLLOWING MEMBERS:

6 (I) THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OR THE
7 EXECUTIVE DIRECTOR'S DESIGNEE;

8 (II) THE COMMISSIONER OF AGRICULTURE OR THE COMMISSIONER
9 OF AGRICULTURE'S DESIGNEE;

10 (III) A REPRESENTATIVE OF THE UTE MOUNTAIN UTE TRIBE,
11 APPOINTED BY THE UTE MOUNTAIN UTE TRIBE;

12 (IV) A REPRESENTATIVE OF THE SOUTHERN UTE INDIAN TRIBE,
13 APPOINTED BY THE SOUTHERN UTE INDIAN TRIBE;

14 (V) A REPRESENTATIVE OF THE COLORADO RIVER WATER
15 CONSERVATION DISTRICT, APPOINTED BY THE BOARD OF DIRECTORS OF THE
16 COLORADO RIVER WATER CONSERVATION DISTRICT;

17 (VI) A REPRESENTATIVE OF THE SOUTHWESTERN WATER
18 CONSERVATION DISTRICT, APPOINTED BY THE BOARD OF DIRECTORS OF THE
19 SOUTHWESTERN WATER CONSERVATION DISTRICT;

20 (VII) A REPRESENTATIVE OF THE SOUTHEASTERN COLORADO
21 WATER CONSERVANCY DISTRICT, APPOINTED BY THE BOARD OF DIRECTORS
22 OF THE SOUTHEASTERN COLORADO WATER CONSERVANCY DISTRICT;

23 (VIII) A REPRESENTATIVE OF THE NORTHERN COLORADO WATER
24 CONSERVANCY DISTRICT, APPOINTED BY THE BOARD OF DIRECTORS OF THE
25 NORTHERN COLORADO WATER CONSERVANCY DISTRICT;

26 (IX) THE FOLLOWING MEMBERS APPOINTED BY THE PRESIDENT OF
27 THE SENATE:

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(A) A REPRESENTATIVE OF A LOCAL GOVERNMENT LOCATED WITHIN THE BOUNDARIES OF THE SOUTHWESTERN WATER CONSERVATION DISTRICT THAT PROVIDES WATER FOR MUNICIPAL PURPOSES; AND

(B) A REPRESENTATIVE OF A STATEWIDE ENVIRONMENTAL NONPROFIT ORGANIZATION WITH EXPERTISE IN WATER RIGHTS AND COLORADO RIVER INTERSTATE GOVERNANCE;

(X) THE FOLLOWING MEMBERS APPOINTED BY THE SPEAKER OF THE HOUSE OF REPRESENTATIVES:

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(A) A REPRESENTATIVE OF A STATEWIDE AGRICULTURAL ORGANIZATION THAT IS THE OWNER OF WATER RIGHTS;

(B) A REPRESENTATIVE OF A FRONT RANGE MUNICIPAL WATER PROVIDER THAT DIVERTS WATER FROM THE COLORADO RIVER;

(C) A REPRESENTATIVE OF A STATEWIDE ENVIRONMENTAL NONPROFIT ORGANIZATION WITH EXPERTISE IN WATER RIGHTS AND COLORADO RIVER INTERSTATE GOVERNANCE;

(D) AN AGRICULTURAL PRODUCER THAT OWNS WATER RIGHTS WITHIN THE BOUNDARIES OF THE COLORADO RIVER WATER CONSERVATION DISTRICT; AND

(E) A REPRESENTATIVE OF A LOCAL GOVERNMENT LOCATED WITHIN THE BOUNDARIES OF THE COLORADO RIVER WATER CONSERVATION DISTRICT THAT PROVIDES WATER FOR MUNICIPAL PURPOSES;

(XI) AN AGRICULTURAL PRODUCER THAT OWNS WATER RIGHTS WITHIN THE BOUNDARIES OF THE SOUTHWESTERN WATER CONSERVATION DISTRICT, APPOINTED BY THE MINORITY LEADER OF THE SENATE; AND

(XII) A REPRESENTATIVE OF AN INDUSTRIAL WATER USER THAT IS

1 LOCATED ON THE WESTERN SLOPE, APPOINTED BY THE MINORITY LEADER
2 OF THE HOUSE OF REPRESENTATIVES.

3 (b) THE STATE ENGINEER OR THE STATE ENGINEER'S DESIGNEE
4 SHALL ALSO SERVE ON THE TASK FORCE IN AN ADVISORY, NONVOTING
5 CAPACITY.

6 (c) THE MEMBERS OF THE TASK FORCE MUST, TO THE EXTENT
7 PRACTICABLE, REFLECT THE RACIAL AND ETHNIC DIVERSITY OF THE STATE
8 AND HAVE EXPERIENCE IN A WIDE RANGE OF WATER ISSUES, INCLUDING
9 CONSUMPTIVE USES OF WATER FOR MUNICIPAL, INDUSTRIAL, AND
10 IRRIGATION PURPOSES AND NONCONSUMPTIVE USES OF WATER FOR
11 OUTDOOR RECREATION, FISH AND WILDLIFE, AND HYDROPOWER PURPOSES.

12 (3) (a) NO LATER THAN JUNE 30, 2023:

13 (I) THE APPOINTING AUTHORITIES SHALL MAKE ALL APPOINTMENTS
14 TO THE TASK FORCE; AND

15 (II) THE SPEAKER OF THE HOUSE OF REPRESENTATIVES SHALL
16 APPOINT A CHAIR OF THE TASK FORCE.

17 (b) NO LATER THAN JULY 15, 2023, THE EXECUTIVE COMMITTEE OF
18 THE LEGISLATIVE COUNCIL CREATED IN SECTION 2-3-301 (1) SHALL HIRE
19 A FACILITATOR TO SUPPORT THE WORK OF THE TASK FORCE.

20 (c) (I) NO LATER THAN JULY 31, 2023, THE CHAIR OF THE TASK
21 FORCE APPOINTED PURSUANT TO SUBSECTION (3)(a)(II) OF THIS SECTION
22 SHALL CONVENE THE FIRST MEETING OF THE TASK FORCE. THE TASK FORCE
23 MAY HOLD UP TO TWELVE MEETINGS IN THE 2023 LEGISLATIVE INTERIM,
24 WHICH MAY BE IN-PERSON OR VIRTUAL MEETINGS. THE TASK FORCE SHALL
25 TAKE ANY ACTION REQUIRED PURSUANT TO THIS SECTION BY A MAJORITY
26 VOTE.

27 (II) ANY MEETING OF THE TASK FORCE OR SUB-TASK FORCE MUST

1 BE OPEN TO THE PUBLIC. THE TASK FORCE AND SUB-TASK FORCE SHALL
2 ALLOW PUBLIC TESTIMONY DURING AT LEAST ONE MEETING OF THE TASK
3 FORCE AND SUB-TASK FORCE. A TASK FORCE MEMBER, SUB-TASK FORCE
4 MEMBER, OR GOVERNMENTAL ENTITY THAT IS PARTICIPATING IN THE TASK
5 FORCE OR SUB-TASK FORCE IS NOT REQUIRED TO PROVIDE ANY
6 INFORMATION THAT IS PROTECTED FROM DISCLOSURE BY APPLICABLE LAW.

7 (d) (I) THE MEMBERS OF THE TASK FORCE SERVE WITHOUT
8 COMPENSATION BUT MAY BE REIMBURSED FOR ANY REASONABLE
9 EXPENSES THEY INCUR IN THE PERFORMANCE OF THEIR DUTIES PURSUANT
10 TO THIS SECTION.

11 (II) AN APPOINTING AUTHORITY MAY REMOVE A MEMBER OF THE
12 TASK FORCE FROM THE TASK FORCE FOR MALFEASANCE IN OFFICE, FAILURE
13 TO REGULARLY ATTEND MEETINGS, OR ANY CAUSE THAT MAKES THE
14 MEMBER UNABLE OR UNFIT TO FULFILL THE MEMBER'S DUTIES PURSUANT
15 TO THIS SECTION.

16 (III) A MEMBER OF THE TASK FORCE MAY DESIGNATE ANOTHER
17 PERSON THAT MEETS THE MEMBER'S QUALIFICATIONS FOR MEMBERSHIP ON
18 THE TASK FORCE TO ATTEND A MEETING OR MEETINGS OF THE TASK FORCE
19 ON THE MEMBER'S BEHALF IF THE MEMBER IS UNABLE TO ATTEND A
20 MEETING OR MEETINGS.

21 (4) (a) THE PURPOSE OF THE TASK FORCE IS TO PROVIDE
22 RECOMMENDATIONS FOR POTENTIAL STATE LEGISLATION THAT WOULD
23 PROVIDE ADDITIONAL TOOLS TO THE BOARD TO COLLABORATE WITH THE
24 COLORADO RIVER WATER CONSERVATION DISTRICT, THE SOUTHWESTERN
25 WATER CONSERVATION DISTRICT, AND OTHER RELEVANT STAKEHOLDERS,
26 INCLUDING HOLDERS OF WATER RIGHTS, AGRICULTURAL PRODUCERS,
27 INDUSTRIAL WATER USERS, ENVIRONMENTAL ORGANIZATIONS, THE UTE

1 MOUNTAIN UTE TRIBE, THE SOUTHERN UTE INDIAN TRIBE, AND LOCAL
2 GOVERNMENTS, TO DEVELOP PROGRAMS THAT ADDRESS DROUGHT IN THE
3 COLORADO RIVER BASIN AND INTERSTATE COMMITMENTS RELATED TO THE
4 COLORADO RIVER AND ITS TRIBUTARIES THROUGH THE IMPLEMENTATION
5 OF DEMAND REDUCTION PROJECTS AND THE VOLUNTARY AND
6 COMPENSATED CONSERVATION OF THE WATERS OF THE COLORADO RIVER
7 AND ITS TRIBUTARIES.

8 (b) THE RECOMMENDATIONS MADE PURSUANT TO SUBSECTION
9 (4)(a) OF THIS SECTION MUST:

10 (I) PROVIDE THAT THE PROGRAMS BE DESIGNED TO BE
11 REASONABLY IMPLEMENTED IN A MANNER THAT AVOIDS
12 DISPROPORTIONATE NEGATIVE ECONOMIC OR ENVIRONMENTAL IMPACTS
13 TO ANY SINGLE SUBBASIN OR REGION IN THE STATE;

14 (II) PROVIDE THAT ANY PROGRAM THAT SEEKS TO ADMINISTER
15 WATER THROUGH STREAM REACHES WITHIN THE STATE OR TO THE STATE
16 LINE FOR INTERSTATE PURPOSES MUST BE OPERATED CONSISTENT WITH:

17 (A) THE AGREEMENT REGARDING STORAGE AT COLORADO RIVER
18 STORAGE PROJECT ACT RESERVOIRS UNDER AN UPPER BASIN DEMAND
19 MANAGEMENT PROGRAM, ENTERED INTO BY THE STATES OF COLORADO,
20 NEW MEXICO, UTAH, AND WYOMING AND THE FEDERAL SECRETARY OF
21 THE INTERIOR ON MAY 20, 2019, AND ANY EXTENSION OF, AMENDMENT
22 TO, OR REPLACEMENT OF THAT PROGRAM THAT IS INTENDED TO ACHIEVE
23 SIMILAR OBJECTIVES; AND

24 (B) PRINCIPLE FOUR OF COLORADO'S CONCEPTUAL FRAMEWORK,
25 REFERENCED ON PAGE SEVENTY-FIVE OF THE COLORADO WATER PLAN,
26 WHICH WAS FINALIZED AND APPROVED BY THE BOARD ON JANUARY 24,
27 2023.

1 (III) REQUIRE THAT ANY ACQUISITION BY THE PROGRAMS OF A
2 WATER RIGHT USED FOR AGRICULTURAL IRRIGATION PURPOSES IS
3 VOLUNTARY, TEMPORARY, AND COMPENSATED;

4 (IV) SPECIFY THE RESPECTIVE ROLES AND OBLIGATIONS OF THE
5 BOARD, THE COLORADO RIVER WATER CONSERVATION DISTRICT, AND THE
6 SOUTHWESTERN WATER CONSERVATION DISTRICT IN THE DEVELOPMENT,
7 IMPLEMENTATION, AND OPERATION OF THE PROGRAMS WHILE
8 MAINTAINING THE AUTHORITY OF THE STATE ENGINEER TO ADMINISTER
9 WATER RIGHTS FOR INTERSTATE COMPLIANCE;

10 (V) EVALUATE SOURCES OF REVENUE TO APPROPRIATELY
11 COMPENSATE PARTICIPANTS IN THE PROGRAMS AND TO SUPPORT
12 REASONABLE ADMINISTRATIVE COSTS OF THE PROGRAMS; AND

13 (VI) PROVIDE THE STATE ENGINEER WITH THE APPROPRIATE LEGAL
14 AUTHORITY AND DIRECTION NECESSARY TO FULFILL THE PURPOSES OF THE
15 PROGRAMS IN A MANNER THAT, WITHOUT MINIMIZING THE PRIMARY
16 PURPOSE OF THE PROGRAMS TO REDUCE OR MITIGATE INTERSTATE
17 COMMITMENTS RELATED TO THE COLORADO RIVER AND ITS TRIBUTARIES,
18 PROVIDES BENEFITS TO RECREATION AND THE ENVIRONMENT.

19 (5) (a) THE TASK FORCE SHALL ESTABLISH A SUB-TASK FORCE TO
20 STUDY TRIBAL MATTERS. THE SUB-TASK FORCE CONSISTS OF:

21 (I) THE REPRESENTATIVE OF THE SOUTHERN UTE INDIAN TRIBE
22 APPOINTED PURSUANT TO SUBSECTION (2)(a)(IV) OF THIS SECTION;

23 (II) THE REPRESENTATIVE OF THE UTE MOUNTAIN UTE TRIBE
24 APPOINTED PURSUANT TO SUBSECTION (2)(a)(V) OF THIS SECTION;

25 (III) THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OR THE
26 DIRECTOR'S DESIGNEE; AND

27 (IV) TWO OTHER MEMBERS JOINTLY APPOINTED BY THE SOUTHERN

1 UTE INDIAN TRIBE, THE UTE MOUNTAIN UTE TRIBE, AND THE
2 DEPARTMENT.

3 (b) THE PURPOSE OF THE SUB-TASK FORCE IS TO PROVIDE
4 RECOMMENDATIONS FOR STATE LEGISLATION THAT WILL:

5 (I) PROVIDE FOR FULL TRIBAL PARTICIPATION IN THE PROGRAMS IN
6 A MANNER THAT RECOGNIZES THE UNIQUE NATURE OF TRIBAL WATER
7 RIGHTS AND TRIBAL WATER USE, SPECIFICALLY IN REGARD TO
8 FORBEARANCE AND DEMAND MANAGEMENT OPPORTUNITIES;

9 (II) PROVIDE FOR TRIBAL PARTICIPATION IN THE PROGRAMS IN A
10 MANNER THAT IS VOLUNTARY, TEMPORARY, AND COMPENSATED; AND

11 (III) EVALUATE SOURCES OF REVENUE TO APPROPRIATELY
12 COMPENSATE THE SOUTHERN UTE INDIAN TRIBE AND THE UTE MOUNTAIN
13 UTE TRIBE FOR PARTICIPATION IN THE PROGRAMS.

14 (6) ANY STATE AGENCY WITH ACCESS TO INFORMATION RELEVANT
15 TO THE TASK FORCE'S DUTIES SHALL PROMPTLY PROVIDE THE
16 INFORMATION TO THE TASK FORCE UPON THE REQUEST OF THE TASK
17 FORCE, EXCEPT FOR PROPRIETARY INFORMATION A STATE AGENCY HAS
18 RECEIVED FROM THE SOUTHERN UTE INDIAN TRIBE AND THE UTE
19 MOUNTAIN UTE TRIBE.

20 (7) (a) BEFORE THE SUBMISSION OF THE FINAL REPORT PURSUANT
21 TO SUBSECTION (7)(b) OF THIS SECTION, THE TASK FORCE SHALL PROVIDE
22 AT LEAST ONE UPDATE TO THE COMMITTEE ON THE PROGRESS OF THE TASK
23 FORCE'S DUTIES PURSUANT TO THIS SECTION.

24 (b) NO LATER THAN DECEMBER 15, 2023, THE TASK FORCE AND
25 SUB-TASK FORCE SHALL SUBMIT A FINAL REPORT TO THE COMMITTEE THAT
26 PROVIDES:

27 (I) THE RECOMMENDATIONS OF THE TASK FORCE AND SUB-TASK

1 FORCE PURSUANT TO SUBSECTIONS (4)(a) AND (5)(b) OF THIS SECTION;

2 (II) A SUMMARY OF THE TASK FORCE'S AND SUB-TASK FORCE'S
3 WORK PURSUANT TO THIS SECTION, INCLUDING ANY RECOMMENDATIONS
4 CONSIDERED BUT NOT APPROVED BY THE TASK FORCE AND SUB-TASK
5 FORCE AND A DESCRIPTION OF WHY THE RECOMMENDATIONS WERE NOT
6 APPROVED; AND

7 (III) ANY OTHER INFORMATION THAT THE TASK FORCE AND
8 SUB-TASK FORCE DETERMINES TO BE RELEVANT.

9 (8) THIS SECTION IS REPEALED, EFFECTIVE JULY 1, 2024.

10 **SECTION 3. Appropriation.** (1) For the 2023-24 state fiscal
11 year, \$200,000 is appropriated to the legislative department for use by the
12 legislative council. This appropriation is from the general fund. To
13 implement this act, the council may use this appropriation to implement
14 the bill.

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