

## CHAPTER 230

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**WATER AND IRRIGATION**

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**SENATE BILL 23-295**

BY SENATOR(S) Roberts and Will, Bridges, Pelton B., Rich, Coleman, Cutter, Exum, Gardner, Ginal, Hansen, Kirkmeyer, Liston, Lundeen, Marchman, Moreno, Mullica, Pelton R., Priola, Rodriguez, Simpson, Smallwood, Winter F., Zenzinger; also REPRESENTATIVE(S) McCluskie and Catlin, Holtorf, Lukens, McCormick, McLachlan, Soper, Velasco, Amabile, Armagost, Bacon, Bird, Boesenecker, Bradley, Brown, deGruy Kennedy, Dickson, Duran, English, Frizell, Froelich, Gonzales-Gutierrez, Hamrick, Jodeh, Joseph, Lieder, Lindsay, Lindstedt, Lynch, Mabrey, Michaelson Jenet, Pugliese, Ricks, Sirota, Snyder, Story, Taggart, Titone, Vigil, Weissman, Willford, Winter T., Young.

**AN ACT**

**CONCERNING THE CREATION OF THE COLORADO RIVER DROUGHT TASK FORCE, AND, IN CONNECTION THEREWITH, MAKING AN APPROPRIATION.**

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

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

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

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

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

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

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*Capital letters or bold & italic numbers indicate new material added to existing law; dashes through words or numbers indicate deletions from existing law and such material is not part of the act.*

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(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:

(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 LOCATED ON

THE WESTERN SLOPE, APPOINTED BY THE MINORITY LEADER OF THE HOUSE OF REPRESENTATIVES.

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

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

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

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

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

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

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

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

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

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

(III) A MEMBER OF THE TASK FORCE MAY DESIGNATE ANOTHER PERSON THAT MEETS THE MEMBER'S QUALIFICATIONS FOR MEMBERSHIP ON THE TASK FORCE TO

ATTEND A MEETING OR MEETINGS OF THE TASK FORCE ON THE MEMBER'S BEHALF IF THE MEMBER IS UNABLE TO ATTEND A MEETING OR MEETINGS.

(4)(a) THE PURPOSE OF THE TASK FORCE IS TO PROVIDE RECOMMENDATIONS FOR POTENTIAL STATE LEGISLATION THAT WOULD PROVIDE ADDITIONAL TOOLS TO THE BOARD TO COLLABORATE WITH THE COLORADO RIVER WATER CONSERVATION DISTRICT, THE SOUTHWESTERN WATER CONSERVATION DISTRICT, AND OTHER RELEVANT STAKEHOLDERS, INCLUDING HOLDERS OF WATER RIGHTS, AGRICULTURAL PRODUCERS, INDUSTRIAL WATER USERS, ENVIRONMENTAL ORGANIZATIONS, THE UTE MOUNTAIN UTE TRIBE, THE SOUTHERN UTE INDIAN TRIBE, AND LOCAL GOVERNMENTS, TO DEVELOP PROGRAMS THAT ADDRESS DROUGHT IN THE COLORADO RIVER BASIN AND INTERSTATE COMMITMENTS RELATED TO THE COLORADO RIVER AND ITS TRIBUTARIES THROUGH THE IMPLEMENTATION OF DEMAND REDUCTION PROJECTS AND THE VOLUNTARY AND COMPENSATED CONSERVATION OF THE WATERS OF THE COLORADO RIVER AND ITS TRIBUTARIES.

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

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

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

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

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

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

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

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

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

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

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

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

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

(IV) TWO OTHER MEMBERS JOINTLY APPOINTED BY THE SOUTHERN UTE INDIAN TRIBE, THE UTE MOUNTAIN UTE TRIBE, AND THE DEPARTMENT.

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

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

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

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

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

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

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

(I) THE RECOMMENDATIONS OF THE TASK FORCE AND SUB-TASK FORCE PURSUANT TO SUBSECTIONS (4)(a) AND (5)(b) OF THIS SECTION;

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

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

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

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

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

Approved: May 20, 2023