

Referendum A

Colorado Legislative Council Staff

FISCAL IMPACT STATEMENT

Date: June 27, 2003

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BALLOT TITLE: "SHALL THE STATE OF COLORADO DEBT BE INCREASED \$2 BILLION, WITH A REPAYMENT COST OF \$4 BILLION, MAXIMUM TOTAL STATE COST, BY AN AMENDMENT TO THE COLORADO REVISED STATUTES PROVIDING FOR DROUGHT RELIEF BY THE FINANCING OF IMPROVEMENTS TO WATER INFRASTRUCTURE IN COLORADO, AND, IN CONNECTION THEREWITH, AUTHORIZING THE COLORADO WATER CONSERVATION BOARD TO ISSUE REVENUE BONDS FOR THE CONSTRUCTION OF PRIVATE OR PUBLIC WATER INFRASTRUCTURE PROJECTS COSTING \$5 MILLION OR MORE THAT HAVE BEEN APPROVED BY THE GOVERNOR; AUTHORIZING THE WATER CONSERVATION BOARD TO RECOMMEND PROJECTS, INCLUDING AT LEAST TWO PROJECTS FROM DIFFERENT RIVER BASINS WITH A STARTDATE OF 2005, AND REQUIRING THE GOVERNOR TO APPROVE ATLEAST ONE SUCH PROJECT; SETTING ASIDE \$100 MILLION OF BOND PROCEEDS TO FINANCE PROJECTS, OR PORTIONS OF PROJECTS, THAT AUGMENT OR IMPROVE EXISTING FACILITIES OR CONSERVE EXISTING WATER SUPPLIES WITHOUT CREATING NEW STORAGE FACILITIES; EXEMPTING THE BOND PROCEEDS, THE PROCEEDS OF SALES BY THE BOARD OF WATER, POWER, OR OTHER ASSETS FROM FACILITIES FINANCED BY THE BONDS, AND ANY EARNINGS FROM ALL SUCH PROCEEDS, FROM THE REVENUE AND SPENDING LIMITS IMPOSED BY ARTICLE X, SECTION 20 OF THE STATE CONSTITUTION AND ARTICLE 77 OF TITLE 24, COLORADO REVISED STATUTES; AND REQUIRING THE GENERAL ASSEMBLY AND EXECUTIVE BRANCH AGENCIES TO ADOPT BY JULY 1, 2004, ANY NECESSARY STATUTES AND RULES, RESPECTIVELY, TO ENSURE THE MARKETABILITY OF THE BONDS AUTHORIZED BY THIS MEASURE?"

Fiscal Impact Summary	FY 2003/2004	FY 2004/2005
State Revenues		
General Fund		
Cash Fund Exempt		up to \$2,000,000,000
State Expenditures		
General Fund		
Cash Fund Exempt	\$20,000	\$114,990
Cash Fund Exempt		up to \$2,000,000,000
FTE Position Change	0.0 FTE	1.5 FTE
Other State Impact: None		
Effective Date: Upon proclamation of approval of the voters at the 2003 General Election		
Appropriation Summary for FY 2003/2004:		
<u>Department of Natural Resources</u>		
Water Infrastructure Development Fund - Continuous appropriation		
Local Government Impact: Authorizes any local government or special district to enter into an agreement with the Colorado Water Conservation Board for the issuance of revenue bonds to finance certain water infrastructure projects.		

Background

The Colorado General Assembly adopted Senate Bill 03-236 during the 2003 legislative session to amend the state statutes, subject to voter approval, to authorize the Colorado Water Conservation Board to issue revenue bonds to finance the construction of water infrastructure projects, and projects that augment or improve existing facilities, or conserve existing water supplies. The Governor signed the Act on June 5, 2003.

Summary of Referred Measure

This Act submits a ballot question to the voters at the 2003 General Election to:

- allow State of Colorado debt to be increased by \$2 billion, with a repayment of no more than \$4 billion;
- authorize the Colorado Water Conservation Board (Board) to issue revenue bonds for the construction of private or public water infrastructure projects costing \$5 million or more that have been approved by the Governor;
- authorize the Board to recommend projects, including at least two projects from different river basins with a start date of 2005;
- require the Governor to approve at least one project, setting aside \$100 million of bond proceeds to finance projects that augment or improve existing facilities or conserve existing water supplies;
- exempt the bond proceeds; the proceeds from the sale of water, power, or other assets from facilities financed by the bonds; and any earnings from the proceeds from state constitutional and statutory spending limits; and
- require the General Assembly and Executive Branch, by July 1, 2004, to adopt any necessary statutes and rules to ensure the marketability of the bonds.

The Act defines "water infrastructure project" and specifies that such a project shall not include any water resources project with a total project cost of less than \$5 million, or any project eligible for financing pursuant to statutes governing the Water Pollution Control Revolving Fund or the Drinking Water Revolving Fund administered by the Colorado Water Resources and Power Development Authority (Authority).

Upon approval of the voters, the Act requires the Board to identify opportunities for such projects statewide, and authorizes the Board to recommend to the Governor projects to be funded, in whole or in part, through the issuance of no more than \$2 billion of bonds in the aggregate. The recommendation shall include, at a minimum:

- a description of the projects with a minimum of two such projects in different river basins, that have a start date in calendar year 2005;
- a report that evaluates each project's economic and engineering feasibility;
- completion schedules; and
- estimated costs and the amount of revenue bonds to be expended, and the source and amount of any monies other than bond proceeds to be expended.

Of the bonds issued, the Act requires a minimum of \$100 million of bond proceeds be available to finance projects that augment or improve existing water facilities or conserve existing water supplies. The Act authorizes the Governor to approve any or all of the recommended projects, but requires the Governor to approve at least one project that has a start date in calendar year 2005.

The Act authorizes the Board, subject to the Governor's approval, to issue revenue bonds and requires the Board to promulgate rules by July 1, 2004, to ensure the marketability of the bonds. All proceeds from the sale of the bonds that are not pledged for the payment of the bonds, any issuance or administrative costs, any revenues from the sale of water, power, or other assets, and any payments made or revenues pledged to the Board by any political subdivision shall be credited to the Water Infrastructure Development Fund. All moneys in the Fund shall be continuously appropriated to the Board to finance approved projects, to pay any issuance or administrative costs, and to pay other expenses in connection with the operation or maintenance of approved projects. All such moneys are exempt from state spending limitations under TABOR.

The Act exempts the income from the revenue bonds from all state taxation and assessments, and authorizes the Board to waive the exemption from federal or state income taxation for interest on the bonds.

State Revenue

This Act will not affect state revenues. The Act states that all monies such as bond proceeds, water infrastructure revenues, and political subdivision (sponsor) payments credited to the Water Infrastructure Development Fund are to be exempt from state revenue considerations under the provisions of TABOR. The aggregate amount of the bond proceeds is limited to \$2 billion and the amount of the repayment cost is limited to \$4 billion.

State Expenditures

Revenue bonds. The Act states that the revenue bonds do not constitute a State debt by loan in any form because payments of principal, interest, and other costs on the bonds shall be made solely from revenue and other receipts derived from the sale of water, power, or other assets by the Board from a project financed in whole or in part by the bonds. The owners or holders of the revenue bonds may not look to any other State revenues for the payment of the bonds.

Department of Natural Resources. The Act requires the Colorado Water Conservation Board to promulgate rules by July 1, 2004; requires the Board to identify opportunities for water infrastructure projects statewide; authorizes the Board to recommend to the Governor projects to be funded; and authorizes the Board to issue revenue bonds to partially or wholly fund the cost of the projects. The Board's recommendation shall include, at a minimum:

- a description of the projects with a minimum of two such projects in different river basins, that have a start date of 2005;

- a report that evaluates each project's economic and engineering feasibility;
- completion schedules; and
- estimated costs and the amount of revenue bonds to be expended, and the source and amount of any monies other than bond proceeds to be expended.

Upon approval of the voters at the 2003 General Election, the Board will incur costs as shown in Table 1 starting December 1, 2003, to promulgate rules and to administer the basic provisions of the bond program. These costs will be paid from existing appropriations from the Colorado Water Conservation Board Construction Fund. However, the Board may require additional resources above those shown, subject to the number and complexity of projects to be evaluated by the Board.

Table 1. Colorado Water Conservation Board Water Infrastructure Bond Program Expenditures		
	FY 2003/2004	FY 2004/2005
<u>Personal Services</u>		
Prof. Engineer II		1.0 FTE - \$62,904
Admin Asst III		<u>0.5 FTE - 28,332</u>
Subtotal		91,236
PERA/Medicare		<u>10,584</u>
Total		\$101,820
Operating/Travel Expenses		5,800
Legal Expenses/Rule Promulgation - Dept of Law, 329 hours @ \$60.79 per hour	\$20,000	0
Non-Recurring Expenses		\$7,370
Total Expenses	\$20,000	1.5 FTE - \$114,990

Reconnaissance studies, feasibility studies, technical evaluations, legal reviews, preliminary design concepts, cost estimates, and economic evaluations must be completed for each candidate project in order for the Board to develop final recommendations to the Governor. These significant costs must be incurred by the project sponsor(s) prior to the Board's review and bond issuance. For any project in which the Board is a sponsor, it is assumed the Board will be required to support the State's share of those costs. To accomplish these tasks, the Board may incur additional costs for personal services, contracted services, legal services, and related operating expenses. The amount of these costs is dependent upon the number, scope, and complexity of the projects. Funding to support the Board's costs is anticipated to be supported by existing budgetary resources, by separate legislative measures, or by moneys deposited by co-sponsors to the Water Infrastructure Development Fund. The Board may elect to recover these costs through "user fee" revenues generated upon completion and activation of the project.

In some cases, the Board may be requested to provide technical, engineering, or economic assistance to a project sponsor(s) for the sponsor(s) to be able to accomplish any or all of the studies and evaluations prior to the Board's review. In that event, it is assumed the Board may agree to provide the sponsor(s) such services at a specified cost, and the sponsor(s) will deposit sufficient moneys in the Water Infrastructure Development Fund to cover those costs.

The Board will incur additional administrative and operating costs prior to bond issuance to evaluate projects and develop recommendations to the Governor. The amount of these costs is dependent upon the number, size, and complexity of the projects identified by the Board for evaluation. These costs may be supported by existing budgetary resources, separate legislative measures, or by monies deposited by project sponsor(s) to the Water Infrastructure Development Fund.

The Board will also incur additional legal, administrative, and operating costs to issue the revenue bonds. The amount of these costs, including proposal preparation and services provided by underwriters, legal counsel, financial advisors, and ratings agencies is dependent upon the amount of the bond issuance. These costs must be recovered through "user fee" revenues generated upon completion and activation of the project.

Upon bond issuance, the Board will provide oversight to the project's final design and construction. For any project in which the Board is not a sponsor, the Board's oversight costs are anticipated to be supported by the project sponsor(s). For any project in which the Board is a sponsor, the Board is anticipated to support its share of associated costs.

Upon project completion and activation of any project in which the Board is a sponsor, the Board may elect to manage, operate, and maintain the facility. Any associated operating costs are anticipated to be recovered through "user fee" revenues generated by the facility.

The Board and/or project sponsor(s) may elect to recover costs from "user fee" revenues that will be generated upon completion and activation of the project. However, for any project in which the Board is not a sponsor, if the project fails to be completed and activated, the sponsor(s) will bear the burden of any unrecovered costs. For any such project in which the Board is a sponsor, the State will bear the burden of its proportionate share of any unrecovered costs.

State Treasury. This Act will not affect expenditures of the Office of the State Treasurer based upon the assumption the Office will not be required to administer the issuance or repayment of the revenue bonds. The Office will be able to maintain the Water Infrastructure Development Fund within existing budgetary resources.

Local Government Impact

Any local government, special district, or other public or private entity, that elects to sponsor a water infrastructure project as a candidate for bond funding will incur significant costs to conduct and prepare reconnaissance studies, feasibility studies, technical evaluations, legal reviews, preliminary design concepts, cost estimates, and economic evaluations in order for the Board to develop final recommendations to the Governor. These costs must be incurred by the sponsor(s) prior to the Board's review and bond issuance. The sponsor(s) may elect to recover these costs through "user fee" revenues generated upon completion and activation of the project.

The sponsor(s) may be required to pay a fee to cover the Board's costs to review and evaluate candidate projects. The sponsor(s) may elect to recover these costs through "user fee" revenues generated by the project upon completion and activation.

The sponsor(s) may also be required to support the costs of the bond issuance, including any costs for brokerage fees, legal counsel, bond underwriters, financial advisors, and bond ratings agencies. The sponsor(s) must recover these costs through "user fee" revenues generated by the project upon completion and activation.

Upon bond issuance, it is assumed the Board will distribute bond proceeds to the sponsor(s) to finance the project's design and construction. After project completion and activation, and upon bond maturity, the sponsor(s) will be required to repay the amount of the bond issuance plus accrued interest costs. These repayment costs must be recovered by "user fee" revenues generated by the facility.

Upon project completion and activation, the sponsor(s) may incur additional administrative and operating costs to manage, operate, and maintain the facility. The sponsor(s) may elect to recover any or all of these costs through "user fee" revenues generated by the facility.

The ballot measure stipulates that the bond proceeds; the proceeds from the sales by the Board of water, power, or other assets from facilities financed by the bonds; and any earnings from all proceeds are exempt from statutory and constitutional revenue and spending limits.

State Appropriations

The Act continuously appropriates moneys in the Water Infrastructure Development Fund to the Colorado Water Conservation Board in the Department of Natural Resources.