

SAVE COLORADO'S WATER

**Mr. Brian Vogt
President,
South Metro Denver
Chamber of Commerce
6840 S. University Blvd.
Centennial, CO 80122
303-795-0142**

**The Honorable Tom Stone
Eagle County Commissioner
909 Mayne Street
Gypsum, Colorado 81637
970-524-0104**

Be it enacted by the People of the State of Colorado:

SECTION 1. Article 60 of title 37, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW PART to read:

PART 2

WATER INFRASTRUCTURE REVENUE BONDS

37-60-201. Declaration. (1) THE PEOPLE OF THE STATE OF COLORADO HEREBY DECLARE THAT 2003 MARKS COLORADO'S FOURTH CONSECUTIVE YEAR OF DROUGHT CONDITIONS AND THAT COLORADO IS LIKELY TO CONTINUE TO EXPERIENCE CYCLES OF DROUGHT IN THE FUTURE THAT WILL REDUCE THE AMOUNT OF WATER RESOURCES AVAILABLE TO MEET THE STATE'S GROWING NEEDS FOR GOOD-QUALITY, AFFORDABLE WATER SUPPLIES. (2) IN ORDER TO PROVIDE FOR DROUGHT RELIEF, THE PEOPLE FIND THAT:

(a) COLORADO'S EXISTING WATER INFRASTRUCTURE IS INSUFFICIENT TO ENABLE THE STATE TO FULLY EXERCISE ALL OF ITS COMPACT ENTITLEMENTS TO WATER, INCLUDING BUT NOT LIMITED TO PEAK FLOWS, AND IT IS IN THE BEST INTEREST OF THE PEOPLE OF THE STATE FOR THE STATE TO FURTHER DEVELOP AND IMPROVE THE STATE'S WATER INFRASTRUCTURE SO THAT THE STATE CAN RESERVE AS MUCH AS POSSIBLE OF THE WATER TO WHICH IT IS ENTITLED UNDER COMPACTS AND INCREASE ITS AVAILABLE WATER RESOURCES;

(b) IT IS NECESSARY AND APPROPRIATE TO EXPEDITE THE DEVELOPMENT AND IMPROVEMENT OF COLORADO'S WATER INFRASTRUCTURE BY AUTHORIZING THE BOARD TO ISSUE VOTER-APPROVED WATER INFRASTRUCTURE

REVENUE BONDS FOR THE PURPOSE OF FUNDING WATER INFRASTRUCTURE PROJECTS APPROVED BY THE GOVERNOR;

(c) IT IS NECESSARY AND APPROPRIATE THAT THESE BOND PROCEEDS BE UTILIZED BY 2005 TO BEGIN CONSTRUCTION OF WATER PROJECTS TO EASE COLORADO'S VULNERABILITY TO DROUGHT;

(d) IT IS ALSO NECESSARY AND APPROPRIATE TO REQUIRE A PORTION OF ANY BOND PROCEEDS, AS DETERMINED BY THE COLORADO WATER CONSERVATION BOARD, TO BE EXPENDED FOR APPROVED WATER INFRASTRUCTURE PROJECTS OR PORTIONS THEREOF THAT:

(I) AUGMENT OR IMPROVE EXISTING WATER INFRASTRUCTURE FACILITIES;

(II) CONSERVE EXISTING WATER SUPPLIES;

(III) PROTECT AND ENHANCE AGRICULTURAL USES;

(IV) PROVIDE MITIGATION FOR FISH AND WILDLIFE IN ACCORDANCE WITH THE STANDARDS SET FORTH IN SECTION 37-60-122.2;

(V) PROVIDE OTHER ENVIRONMENTAL AND RECREATIONAL BENEFITS; OR

(VI) PROVIDE FAIR MITIGATION TO THE AFFECTED BASIN OF ORIGIN.

(3) BY ENACTMENT OF THIS PART 2, THERE IS A DECLARATION THAT:

(a) WATER INFRASTRUCTURE REVENUE BONDS ISSUED PURSUANT TO THIS PART 2 DO NOT CONSTITUTE "A DEBT BY LOAN IN ANY FORM" UNDER SECTION 3 OF ARTICLE XI OF THE STATE CONSTITUTION BECAUSE:

(I) PAYMENTS OF PRINCIPAL, INTEREST, AND OTHER COSTS ON SUCH BONDS SHALL BE MADE SOLELY FROM REVENUE AND RECEIPTS DERIVED FROM THE SALE OF WATER, POWER, OR OTHER ASSETS BY THE BOARD FROM A WATER INFRASTRUCTURE PROJECT WHOSE CONSTRUCTION, DEVELOPMENT, OR IMPROVEMENT WAS FINANCED IN WHOLE OR IN PART BY THE BONDS, BOND PROCEEDS, AND INTEREST OR INCOME EARNED ON THE DEPOSIT AND INVESTMENT OF SUCH REVENUES AND RECEIPTS AND BOND PROCEEDS, AND

(II) THE OWNERS OR HOLDERS OF BONDS MAY NOT LOOK TO ANY OTHER

REVENUES OF THE STATE FOR THE PAYMENT OF THE BONDS;

(b) THE PROCEEDS OF BONDS, REVENUES, AND RECEIPTS DERIVED FROM THE SALE OF WATER, POWER, OR OTHER ASSETS BY THE BOARD FROM A WATER INFRASTRUCTURE PROJECT WHOSE CONSTRUCTION, DEVELOPMENT, OR IMPROVEMENT WAS FINANCED IN WHOLE OR IN PART BY THE BONDS, AND INTEREST AND INCOME EARNED ON THE DEPOSIT AND INVESTMENT OF SUCH PROCEEDS AND REVENUES AND RECEIPTS, ARE NOT INCLUDED IN STATE FISCAL YEAR SPENDING FOR PURPOSES OF SECTION 20 OF ARTICLE X OF THE STATE CONSTITUTION AND ARTICLE 77 OF TITLE 24, C.R.S.

37-60-202. Definitions. AS USED IN THIS PART 2, UNLESS THE CONTEXT OTHERWISE REQUIRES:

(1) “APPROVED WATER INFRASTRUCTURE PROJECT “ OR “APPROVED PROJECT” MEANS A WATER INFRASTRUCTURE PROJECT THAT HAS BEEN RECOMMENDED BY THE BOARD AND APPROVED BY THE GOVERNOR PURSUANT TO SECTION 37-60-203.

(2) “REVENUE BONDS” OR “BONDS” MEANS WATER INFRASTRUCTURE REVENUE BONDS AUTHORIZED BY AND ISSUED IN ACCORDANCE WITH THIS PART 2.

(3) “WATER INFRASTRUCTURE PROJECT” OR “PROJECT” MEANS A PROJECT SPONSORED BY A GOVERNMENTAL ENTITY, A PRIVATE ENTITY, OR JOINTLY BY GOVERNMENTAL AND PRIVATE ENTITIES, THAT INVOLVES THE ACQUISITION OF WATER RIGHTS, THE CONSTRUCTION, DEVELOPMENT, OR IMPROVEMENT, INCLUDING REHABILITATION OR ENLARGEMENT, OF A DAM, RESERVOIR, FLOOD CONTROL, OR OTHER WATER DIVERSION, CONVEYANCE, OR STORAGE FACILITY, EXCLUDING A DOMESTIC WATER TREATMENT OR WASTEWATER TREATMENT AND DISTRIBUTION SYSTEM, TOGETHER WITH RELATED HYDROELECTRICAL OR RECREATIONAL FACILITIES THAT WILL ENHANCE THE ABILITY OF THE STATE TO FULLY EXERCISE ALL OF ITS COMPACT ENTITLEMENTS TO WATER FOR ANY BENEFICIAL USE, INCLUDING BUT NOT LIMITED TO PEAK FLOWS, AND REDUCE THE STATE’S VULNERABILITY TO DROUGHT OR THE LIKELIHOOD OF WATER SHORTAGES. “WATER INFRASTRUCTURE PROJECT” SHALL NOT INCLUDE ANY WATER RESOURCES PROJECT WITH A TOTAL PROJECT COST OF LESS THAN FIVE MILLION DOLLARS OR ANY PROJECT ELIGIBLE FOR FINANCING PURSUANT TO SECTION 37-95-103(12.5), 37-95-107.6 OR 37-95-107.8, BUT SHALL INCLUDE SUCH ADDITIONAL PROJECTS AS DESCRIBED IN SECTION 37-60-201(2)(c) WHEN APPROVED BY THE BOARD.

37-60-203. Approval of water infrastructure projects.

(1) THE BOARD SHALL IDENTIFY OPPORTUNITIES FOR WATER INFRASTRUCTURE PROJECTS AND STORAGE STATEWIDE AND MAY RECOMMEND TO THE GOVERNOR WATER INFRASTRUCTURE PROJECTS TO BE FUNDED, IN WHOLE OR IN PART, THROUGH THE ISSUANCE OF NO MORE THAN 2 BILLION DOLLARS OF BONDS IN THE AGGREGATE. THE RECOMMENDATION SHALL INCLUDE, AT A MINIMUM:

(a) A DESCRIPTION OF THE RECOMMENDED PROJECTS WITH A MINIMUM OF TWO SUCH PROJECTS, IN DIFFERENT RIVER BASINS, WHICH HAVE A START DATE OF 2005;

(b) A FEASIBILITY REPORT THAT EVALUATES THE ECONOMIC AND ENGINEERING FEASIBILITY OF THE PROJECTS;

(c) RECOMMENDED COMPLETION SCHEDULES FOR THE PROJECTS;

(d) A STATEMENT THAT LISTS THE PROJECTED COST OF EACH PROJECT AND THE AMOUNT OF REVENUE BOND PROCEEDS TO BE EXPENDED ON EACH PROJECT AND IDENTIFIES THE SOURCE AND AMOUNT OF ANY MONEYS OTHER THAN BOND PROCEEDS TO BE EXPENDED ON EACH PROJECT; AND

(e) OF THE BONDS AUTHORIZED TO BE ISSUED PURSUANT TO THIS SECTION FOR THE PURPOSE OF FINANCING APPROVED WATER INFRASTRUCTURE PROJECTS, A MINIMUM OF 100 MILLION DOLLARS OF BOND PROCEEDS SHALL BE AVAILABLE TO FINANCE APPROVED WATER INFRASTRUCTURE PROJECTS OR PORTIONS THEREOF THAT USE COMPACT ENTITLEMENT WATER AND THAT AUGMENT OR IMPROVE EXISTING WATER INFRASTRUCTURE FACILITIES OR CONSERVE EXISTING WATER SUPPLIES WITHOUT CREATING NEW WATER STORAGE FACILITIES.

(2) THE GOVERNOR MAY APPROVE ANY OR ALL OF THE WATER INFRASTRUCTURE PROJECTS RECOMMENDED BY THE BOARD PURSUANT TO SUBSECTION (2) OF THIS SECTION. HOWEVER, THE GOVERNOR MUST APPROVE AT A MINIMUM, AT LEAST ONE PROJECT WHICH HAS A START DATE OF 2005. THE BOARD SHALL ISSUE REVENUE BONDS ONLY FOR THE PURPOSE OF FINANCING APPROVED PROJECTS.

37-60-204. Water infrastructure revenue bonds. (1) SUBJECT TO THE APPROVAL BY THE GOVERNOR, AND ALL OTHER REQUIREMENTS OF THIS PART 2, THE BOARD,

FROM TIME TO TIME, MAY ISSUE VOTER-APPROVED REVENUE BONDS FOR THE PURPOSE OF FINANCING APPROVED WATER INFRASTRUCTURE PROJECTS.

(2) THE LEGISLATIVE AND EXECUTIVE BRANCHES SHALL ENACT SUCH LEGISLATION AS IS NECESSARY TO ENSURE THE MARKETABILITY OF THE BONDS AUTHORIZED BY THIS PART 2.

37-60-205. Bonds as contracts - agreement of state not to limit or alter rights of obligees. (1) ANY REVENUE BONDS ISSUED SHALL CONSTITUTE A CONTRACT BETWEEN THE BOARD AND THE OWNER OR HOLDER THEREOF. THE STATE HEREBY PLEDGES AND AGREES WITH THE HOLDERS OF ANY BONDS ISSUED UNDER THIS PART 2 AND WITH THOSE PARTIES WHO ENTER INTO CONTRACTS WITH THE BOARD PURSUANT TO THIS PART 2 THAT THE STATE WILL NOT LIMIT, ALTER, RESTRICT, OR, IMPAIR THE RIGHTS VESTED IN THE BOARD OR THE RIGHTS OR OBLIGATIONS OF ANY PERSON WITH WHICH IT CONTRACTS TO FULFILL THE TERMS OF ANY AGREEMENTS MADE PURSUANT TO THIS PART 2. THE STATE FURTHER AGREES THAT IT WILL NOT IN ANY WAY IMPAIR THE RIGHTS OR REMEDIES OF THE HOLDERS OF ANY BONDS OF THE BOARD UNTIL SUCH BONDS HAVE BEEN PAID OR UNTIL ADEQUATE PROVISION FOR PAYMENT HAS BEEN MADE. THE BOARD MAY INCLUDE THIS PROVISION AND UNDERTAKING FOR THE STATE IN BONDS.

(2) NEITHER THE MEMBERS OF THE BOARD, THE STATE TREASURER, THE DIRECTOR OF THE BOARD, NOR ANY PERSON EXECUTING BONDS SHALL BE LIABLE PERSONALLY ON THE BONDS OR BE SUBJECT TO ANY PERSONAL LIABILITY OR ACCOUNTABILITY BY REASON OF THE ISSUANCE THEREOF.

37-60-206. Bond proceeds and revenues and receipts from approved water infrastructure projects - water infrastructure development fund. (1) THE RESOLUTION OR OTHER INSTRUMENT AUTHORIZING THE ISSUANCE OF REVENUE BONDS MAY PLEDGE ALL OR ANY PORTION OF THE PROCEEDS FROM THE ISSUANCE OF THE BONDS TO THE PAYMENT OF THE BONDS AND ANY COSTS ASSOCIATED WITH THE ISSUANCE AND ADMINISTRATION OF THE BONDS.

(2) ALL PROCEEDS FROM THE ISSUANCE OF BONDS THAT ARE NOT PLEDGED FOR THE PAYMENT OF THE BONDS ANY COSTS ASSOCIATED WITH THE ISSUANCE AND ADMINISTRATION OF THE BONDS, ANY REVENUES AND RECEIPTS THAT ARE DERIVED FROM THE SALE OF WATER, POWER, OR OTHER ASSETS BY THE BOARD FROM WATER INFRASTRUCTURE PROJECTS FINANCED BY THE BONDS, AND ANY PAYMENTS MADE OR REVENUES PLEDGED TO THE BOARD BY ANY POLITICAL SUBDIVISION PURSUANT TO SECTION 37-60-207 SHALL BE CREDITED TO THE WATER INFRASTRUCTURE DEVELOPMENT FUND, WHICH FUND IS HEREBY CREATED

IN THE STATE TREASURY. ALL INTEREST AND INCOME EARNED ON THE DEPOSIT AND INVESTMENT OF MONEYS IN THE FUND SHALL BE CREDITED TO THE FUND AND BECOME A PART THEREOF, AND MONEYS REMAINING IN THE FUND AT THE END OF ANY FISCAL YEAR SHALL REMAIN IN THE FUND AND SHALL NOT RIVERT TO THE GENERAL FUND OF THE STATE OR TO ANY OTHER FUND. ALL MONEYS IN THE FUND SHALL BE CONTINUOUSLY APPROPRIATED TO THE BOARD AND SHALL BE USED TO FINANCE APPROVED WATER INFRASTRUCTURE PROJECTS, TO PAY ANY UNPLEDGED COSTS OF ISSUING AND ADMINISTERING BONDS, INCLUDING REIMBURSEMENT OF COSTS INCURRED BY THE TREASURER IN ASSISTING THE BOARD IN ACCORDANCE WITH THIS PART 2, AND TO PAY ANY OTHER EXPENSE OR CHARGE INCURRED IN CONNECTION WITH THE ONGOING OPERATION OR MAINTENANCE OF APPROVED WATER INFRASTRUCTURE PROJECTS OR OTHER ACTIONS OF THE BOARD AUTHORIZED BY THIS PART 2.

(3) PROCEEDS FROM THE ISSUANCE OF BONDS, EARNING ON SUCH PROCEEDS, AND REVENUES AND RECEIPTS DERIVED FROM THE SALE BY THE BOARD OF WATER, POWER, OR OTHER ASSETS FROM WATER INFRASTRUCTURE PROJECTS FINANCED BY THE BONDS AND EARNINGS ON SUCH REVENUES AND RECEIPTS SHALL NOT BE INCLUDED IN STATE FISCAL YEAR SPENDING, AS DEFINED BY SECTION 24-77-102(17) (a), C.R.S., FOR ANY GIVEN FISCAL YEAR FOR PURPOSES OF SECTION 20 OF ARTICLE X OF THE STATE CONSTITUTION AND ARTICLE 77 OF TITLE 24, C.R.S.

37-60-207. Exemption from taxation. EXCEPT AS OTHERWISE PROVIDED IN THIS SECTION, THE INCOME FROM REVENUE BONDS IS EXEMPT FROM ALL TAXATION AND ASSESSMENTS IN THIS STATE. IN THE RESOLUTION, CERTIFICATE, INDENTURE OF TRUST, OR OTHER INSTRUMENT AUTHORIZING THE ISSUANCE OF SUCH BONDS, THE BOARD MAY WAIVE THE EXEMPTION FROM FEDERAL OR STATE INCOME TAXATION FOR INTEREST ON THE BONDS.

37-60-208. Construction of this part. THE POWERS CONFERRED BY THIS PART 2 SHALL BE IN ADDITION AND SUPPLEMENTAL TO, AND NOT IN SUBSTITUTION FOR, AND THE LIMITATIONS IMPOSED BY THIS PART 2 SHALL NOT DIRECTLY OR INDIRECTLY MODIFY, LIMIT, OR AFFECT, THE POWERS CONFERRED BY ANY OTHER LAW TO THE BOARD, THE STATE TREASURER, THE DEPARTMENT OF NATURAL RESOURCES, OR THE COLORADO WATER RESOURCES AND POWER DEVELOPMENT AUTHORITY CREATED BY SECTION 37-95-104.

SECTION 2. 37-60-106 (1), Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW PARAGRAPH to read:

37-60-106. Duties of the board - repeal. (1) It is the duty of the board to promote the conservation of the waters of the state of Colorado in order to secure the greatest utilization of such waters and the utmost prevention of floods; and in particular, and without limiting the general character of this section, the board has the power and it is its duty:

(s) (I) TO RECOMMEND WATER INFRASTRUCTURE PROJECTS, AS DEFINED IN SECTION 37-60-202 (3), TO THE GOVERNOR IN ACCORDANCE WITH THIS SECTION 37-60-203 AND TO ISSUE WATER INFRASTRUCTURE REVENUE BONDS IN ACCORDANCE WITH THE PROVISIONS OF PART 2 OF THIS ARTICLE.