

**Second Regular Session
Sixty-ninth General Assembly
STATE OF COLORADO**

REVISED

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

LLS NO. 14-0967.01 Thomas Morris x4218

HOUSE BILL 14-1333

HOUSE SPONSORSHIP

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Appropriations

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Agriculture, Natural Resources, & Energy
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A BILL FOR AN ACT

101 **CONCERNING THE FUNDING OF COLORADO WATER CONSERVATION**
102 **BOARD PROJECTS, AND, IN CONNECTION THEREWITH, MAKING**
103 **AN 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://www.leg.state.co.us/billsurmaries>.)

The bill appropriates the following amounts from the Colorado water conservation board (CWCB) construction fund for the following projects:

! \$330,000 for continuation of the satellite monitoring

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.

Capital letters indicate new material to be added to existing statute.

Dashes through the words indicate deletions from existing statute.

SENATE
2nd Reading Unamended
April 29, 2014

HOUSE
3rd Reading Unamended
April 14, 2014

HOUSE
2nd Reading Unamended
April 10, 2014

- ! system maintenance (**section 1** of the bill);
- ! \$175,000 for continuation of the weather modification program (**section 2**);
- ! \$500,000 for continuation of the Colorado floodplain map modernization program (**section 3**);
- ! \$500,000 for continuation of the watershed restoration program (**section 4**);
- ! \$200,000 for the operation and maintenance of the statewide decision support system (**section 6**);
- ! \$500,000 for the operation and maintenance of the Arkansas river decision support system (**section 7**);
- ! \$500,000 for South Platte basin groundwater level data collection and analysis (**section 8**);
- ! \$250,000 for Gunnison basin irrigation system planning and optimization (**section 9**);
- ! \$100,000 for the implementation of drought mitigation strategies (**section 10**);
- ! \$750,000 for continuation of the alternative agriculture water transfer sustainability grant program (**section 11**);
- ! \$1,575,000 for the board to participate in the construction of Long Hollow reservoir (**section 13**);
- ! \$87,769,000 for loans to special water districts to enable them to purchase storage space in the Chatfield reallocation project (**section 14**); and
- ! \$43,430,000 to allow certain special water districts to participate in and construct the water infrastructure supply efficiency (WISE) project (**section 15**).

The bill also directs the state treasurer to transfer moneys on July 1, 2014, from the CWCB construction fund to restore the unencumbered balance in the following funds to the following amounts:

- ! \$500,000 for the flood and drought response fund (**section 5**); and
- ! \$1,200,000 for the litigation fund (**section 12**).

Section 16:

- ! Authorizes CWCB to receive and expend proceeds from its water allocation in the Animas-La Plata project, and **section 17** authorizes CWCB to receive and expend proceeds from its partial storage ownership in the Chatfield reallocation project;
- ! Extends the CWCB's spending authority for the Windy Gap from July 1, 2014, to July 1, 2016; and
- ! Transfers \$1,575,000 from the severance tax perpetual base fund to the CWCB construction fund for the board to participate in the construction of Long Hollow reservoir as specified in section 13.

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

2 **SECTION 1. Continuation of the satellite monitoring system**
3 **maintenance - appropriation.** (1) In addition to any other appropriation,
4 there is hereby appropriated, out of any moneys in the Colorado water
5 conservation board construction fund not otherwise appropriated, to the
6 department of natural resources, for allocation to the division of water
7 resources, for the fiscal year beginning July 1, 2014, the sum of \$330,000,
8 or so much thereof as may be necessary, for renovation of existing
9 gauging stations, replacement of outdated collection platforms and
10 upgrading of transmission components of the satellite monitoring system
11 established and operated pursuant to section 37-80-102 (10), Colorado
12 Revised Statutes, stream gauge flood hardening projects, and data
13 collection efforts related to flood forecasting and warning.

14 (2) The moneys appropriated in subsection (1) of this section
15 remain available for the designated purposes until they are fully
16 expended.

17 **SECTION 2. Continuation of the weather modification**
18 **program - appropriation.** (1) In addition to any other appropriation,
19 there is hereby appropriated, out of any moneys in the Colorado water
20 conservation board construction fund not otherwise appropriated, to the
21 department of natural resources, for allocation to the Colorado water
22 conservation board, for the fiscal year beginning July 1, 2014, the sum of
23 \$175,000, or so much thereof as may be necessary, for the board to
24 continue to assist water conservation districts, water conservancy
25 districts, and other water providers and their fiscal agents with the
26 development of cloud seeding programs that provide benefits to

1 recreation, streams, and reservoirs through snowpack enhancement.

2 (2) The moneys appropriated in subsection (1) of this section
3 remain available for the designated purposes until they are fully
4 expended.

5 **SECTION 3. Continuation of the Colorado floodplain map**
6 **modernization program - appropriation.** (1) In addition to any other
7 appropriation, there is hereby appropriated, out of any moneys in the
8 Colorado water conservation board construction fund not otherwise
9 appropriated, to the department of natural resources, for allocation to the
10 Colorado water conservation board, for the fiscal year beginning July 1,
11 2014, the sum of \$500,000, or so much thereof as may be necessary, for
12 the board to continue to assist with the preparation of revised and
13 improved floodplain studies and maps for communities throughout
14 Colorado and participate in federally sponsored floodplain map
15 modernization activities.

16 (2) The moneys appropriated in subsection (1) of this section
17 remain available for the designated purposes until they are fully
18 expended.

19 **SECTION 4. Continuation of the watershed restoration**
20 **program - appropriation.** (1) In addition to any other appropriation,
21 there is hereby appropriated, out of any moneys in the Colorado water
22 conservation board construction fund not otherwise appropriated, to the
23 department of natural resources, for allocation to the Colorado water
24 conservation board, for the fiscal year beginning July 1, 2014, the sum of
25 \$500,000, or so much thereof as may be necessary, for the board to
26 continue to provide planning and engineering studies, including
27 implementation measures, to address technical needs for watershed

1 restoration and flood mitigation projects throughout the state.

2 (2) The moneys appropriated in subsection (1) of this section
3 remain available for the designated purposes until they are fully
4 expended.

5 **SECTION 5. Restoration of the balance of the flood and**
6 **drought response fund - transfer.** On July 1, 2014, the state treasurer
7 shall transfer a total of \$500,000, or so much thereof as may be necessary,
8 from the unreserved cash in the Colorado water conservation board
9 construction fund to the flood and drought response fund created in
10 section 37-60-123.2, Colorado Revised Statutes, in order to restore the
11 unencumbered balance in the flood and drought response fund to
12 \$500,000.

13 **SECTION 6. Decision support system operation and**
14 **maintenance - appropriation.** (1) In addition to any other appropriation,
15 there is hereby appropriated, out of any moneys in the Colorado water
16 conservation board construction fund not otherwise appropriated, to the
17 department of natural resources, for allocation to the Colorado water
18 conservation board, for the fiscal year beginning July 1, 2014, the sum of
19 \$200,000, or so much thereof as may be necessary, for the board to
20 continue financing the operations and maintenance of the Colorado
21 decision support system.

22 (2) The moneys appropriated in subsection (1) of this section
23 remain available for the designated purposes until they are fully
24 expended.

25 **SECTION 7. Arkansas river decision support system -**
26 **appropriation.** (1) In addition to any other appropriation, there is hereby
27 appropriated, out of any moneys in the Colorado water conservation

1 board construction fund not otherwise appropriated, to the department of
2 natural resources, for allocation to the Colorado water conservation
3 board, for the fiscal year beginning July 1, 2014, the sum of \$500,000, or
4 so much thereof as may be necessary, for the board to continue
5 implementation of the Arkansas river decision support system (ArkDSS)
6 as identified in the ArkDSS feasibility study completed in December
7 2011. Continued implementation at this stage will include primary data
8 collection and data compilation.

9 (2) The moneys appropriated in subsection (1) of this section
10 remain available for the designated purposes until the project is
11 completed.

12 **SECTION 8. South Platte basin groundwater level data**
13 **collection and analysis - appropriation.** (1) In addition to any other
14 appropriation, there is hereby appropriated, out of any moneys in the
15 Colorado water conservation board construction fund not otherwise
16 appropriated, to the department of natural resources, for allocation to the
17 Colorado water conservation board, for the fiscal year beginning July 1,
18 2014, the sum of \$500,000, or so much thereof as may be necessary, for
19 the board to continue the collection and analyzing of groundwater data
20 along the South Platte river, to update the South Platte river decision
21 support system model and make model enhancements, install
22 instrumentation and monitoring devices, and construct test projects to
23 evaluate cause and possible remediation of high groundwater levels in the
24 South Platte basin.

25 (2) The moneys appropriated in subsection (1) of this section
26 remain available for the designated purposes until the project is
27 completed.

1 **SECTION 9. Gunnison basin irrigation system planning and**
2 **optimization - appropriation.** (1) In addition to any other appropriation,
3 there is hereby appropriated, out of any moneys in the Colorado water
4 conservation board construction fund not otherwise appropriated, to the
5 department of natural resources, for allocation to the Colorado water
6 conservation board, for the fiscal year beginning July 1, 2014, the sum of
7 \$250,000, or so much thereof as may be necessary, for the board to
8 provide grants for engineering services to evaluate and design
9 enhancements to nonfederal irrigation systems in a portion of the
10 Gunnison basin, to allow owners of such systems to more effectively
11 participate in the Colorado river basin salinity control program.

12 (2) The moneys appropriated in subsection (1) of this section
13 remain available for the designated purposes until the project is
14 completed.

15 **SECTION 10. Implementation of drought mitigation**
16 **strategies - appropriation.** (1) In addition to any other appropriation,
17 there is hereby appropriated, out of any moneys in the Colorado water
18 conservation board construction fund not otherwise appropriated, to the
19 department of natural resources, for allocation to the Colorado water
20 conservation board, for the fiscal year beginning July 1, 2014, the sum of
21 \$100,000, or so much thereof as may be necessary, for the board to
22 implement recommended drought strategies or actions identified in the
23 2013 Colorado drought response and mitigation plan.

24 (2) The moneys appropriated in subsection (1) of this section
25 remain available for the designated purposes until the project is
26 completed.

27 **SECTION 11. Continuation of the alternative agriculture**

1 **water transfer sustainability grant program - appropriation.** (1) In
2 addition to any other appropriation, there is hereby appropriated, out of
3 any moneys in the Colorado water conservation board construction fund
4 not otherwise appropriated, to the department of natural resources, for
5 allocation to the Colorado water conservation board, for the fiscal year
6 beginning July 1, 2014, the sum of \$750,000, or so much thereof as may
7 be necessary, for the board to continue to develop and implement a
8 statewide competitive grant program to advance various agricultural
9 transfer methods as alternatives to permanent agricultural dry-up,
10 including interruptible water supply agreements, long-term agricultural
11 land fallowing, water banks, reduced consumptive use through efficiency
12 or cropping while maintaining historic return flows, and purchase by end
13 users with leasebacks under defined conditions. Projects and programs in
14 all drainage basins are eligible for funding.

15 (2) The moneys appropriated in subsection (1) of this section
16 remain available for the designated purposes until they are fully
17 expended.

18 **SECTION 12. Restoration of litigation fund cash balance -**
19 **transfer.** On July 1, 2014, the state treasurer shall transfer a total of
20 \$1,200,000 from the unreserved cash in the Colorado water conservation
21 board construction fund to the litigation fund created in section 37-60-121
22 (2.5), Colorado Revised Statutes, to continue litigation support for the
23 board.

24 **SECTION 13. Long Hollow reservoir project - appropriation.**
25 (1) In addition to any other appropriation, there is hereby appropriated,
26 out of any moneys in the Colorado water conservation board construction
27 fund not otherwise appropriated, to the department of natural resources,

1 for allocation to the Colorado water conservation board, for the fiscal year
2 beginning July 1, 2014, the sum of \$1,575,000, or so much thereof as may
3 be necessary, for the board to make a grant to the Colorado water
4 resource and power development authority for the construction of Long
5 Hollow reservoir.

6 (2) The moneys appropriated in subsection (1) of this section
7 remain available for the designated purposes until the project is
8 completed.

9 **SECTION 14. Chatfield reallocation project loan**
10 **authorization.** (1) Pursuant to sections 39-29-109 (2) (a) (I.5) and
11 37-60-122 (1) (b), Colorado Revised Statutes, the Colorado water
12 conservation board is hereby authorized to loan moneys from the
13 severance tax perpetual base fund or the Colorado water conservation
14 board construction fund to the following entities to enable them to
15 purchase storage space in the Chatfield reallocation project:

16 Priority Borrower - Project	16 Loan Amount
17 Centennial Water and Sanitation District	\$45,450,000.00
18 Central Colorado Water Conservancy District	28,280,000.00
19 Castle Pines Metropolitan District	5,050,000.00
20 Castle Pine North Metropolitan District	5,858,000.00
21 Center of Colorado Water Conservancy District	606,000.00
22 Mount Carbon Water and Sewer District	<u>2,525,000.00</u>
23 Total	\$87,769,000.00

24 (2) The Colorado water conservation board may make loans for
25 the construction of the projects specified in subsection (1) of this section
26 from such moneys as are or may become available to the severance tax
27 perpetual base fund or the Colorado water conservation board

1 construction fund. The loans must be in the amounts listed in subsection
2 (1) of this section plus or minus such amounts, if any, as may be justified
3 by reason of ordinary fluctuations in construction costs as indicated by the
4 engineering cost indices applicable to the types of construction required
5 for each project or as may be justified by reason of change in the plans for
6 a project due to differing or unforeseen site conditions, errors or
7 omissions in the plans and specifications, changes instituted by regulatory
8 agencies, or changes in material quantities beyond contract limits.

9 (3) Pursuant to section 37-60-120 (1), Colorado Revised Statutes,
10 the board shall require such terms and conditions in such contracts as will
11 ensure repayment of funds made available by it. The board shall not
12 disburse any moneys for any loan authorized by subsection (1) of this
13 section unless and until it is satisfied, in its sole discretion, that the
14 recipient of any such loan will be able to make repayment pursuant to the
15 terms and conditions established by the board and by subsection (1) of
16 this section.

17 **SECTION 15. Water infrastructure supply efficiency project**
18 **loan authorization.** (1) Pursuant to sections 39-29-109 (2) (a) (I.5) and
19 37-60-122 (1) (b), Colorado Revised Statutes, the Colorado water
20 conservation board is hereby authorized to loan moneys from the
21 severance tax perpetual base fund or the Colorado water conservation
22 board construction fund to the following entities to allow them to
23 participate in and construct the water infrastructure supply efficiency
24 (WISE) project:

25 Priority Borrower - Project	26 Loan Amount
27 Cottonwood Water and Sanitation District	\$ 4,040,000.00
Inverness Water and Sanitation District	5,050,000.00

1	Parker Water and Sanitation District	12,120,000.00
2	Pinery Water and Wastewater District	10,100,000.00
3	Rangeview Metropolitan District	6,060,000.00
4	Stonegate Village Metropolitan District	<u>6,060,000.00</u>
5	Total	\$43,430,000.00

6 (2) The Colorado water conservation board may make loans for
7 the construction of the projects specified in subsection (1) of this section
8 from such moneys as are or may become available to the severance tax
9 perpetual base fund or the Colorado water conservation board
10 construction fund. The loans must be in the amounts listed in subsection
11 (1) of this section plus or minus such amounts, if any, as may be justified
12 by reason of ordinary fluctuations in construction costs as indicated by the
13 engineering cost indices applicable to the types of construction required
14 for each project or as may be justified by reason of change in the plans for
15 a project due to differing or unforeseen site conditions, errors or
16 omissions in the plans and specifications, changes instituted by regulatory
17 agencies, or changes in material quantities beyond contract limits.

18 (3) Pursuant to section 37-60-120 (1), Colorado Revised Statutes,
19 the board shall require such terms and conditions in such contracts as will
20 ensure repayment of funds made available by it. The board shall not
21 disburse any moneys for any loan authorized by subsection (1) of this
22 section unless and until it is satisfied, in its sole discretion, that the
23 recipient of any such loan will be able to make repayment pursuant to the
24 terms and conditions established by the board and by subsection (1) of
25 this section.

26 **SECTION 16.** In Colorado Revised Statutes, 39-29-109, **amend**
27 (2) (a) (VIII) (B) and (2) (a) (XII) (B); and **add** (2) (a) (XIII) as follows:

1 **39-29-109. Severance tax trust fund - created - administration**
2 **- distribution of moneys - repeal.** (2) State severance tax receipts shall
3 be credited to the severance tax trust fund as provided in section
4 39-29-108. Except as otherwise set forth in section 39-29-109.5, all
5 income derived from the deposit and investment of the moneys in the
6 fund shall be credited to the fund. At the end of any fiscal year, all
7 unexpended and unencumbered moneys in the fund remain therein and
8 shall not be credited or transferred to the general fund or any other fund.
9 All moneys in the fund are subject to appropriation by the general
10 assembly for the following purposes:

11 (a) **The severance tax perpetual base fund.**
12 (VIII) (B) Notwithstanding any other law, including section 24-30-1303,
13 C.R.S., once sufficient funds have been appropriated to the board for such
14 purposes, the department of natural resources, acting through the board,
15 is authorized to enter into a contract or other agreement with the United
16 States bureau of reclamation to acquire all or a portion of Colorado's
17 allocation of water in the Animas-La Plata project. The authority to
18 acquire such water includes the ability to contract with and allocate water
19 to local entities and water providers; to receive and expend ~~moneys~~
20 ~~PROCEEDS from entities in repayment~~ THE SALE OR LEASE OF WATER AND
21 LAND AND ANY OTHER ACTIVITIES THAT EFFECTUATE THE PURPOSE OF
22 ACQUIRED PROJECT WATER; to undertake operations, maintenance, and
23 replacement costs; to pay the costs of storage or other necessary expenses;
24 and to otherwise implement the purposes of this sub-subparagraph (B)
25 and utilize the water acquired. The board is also authorized to undertake
26 such action as is necessary to lease, sublease, exchange, sell, assign, or
27 otherwise effectuate the use of project water acquired under this

1 subparagraph (VIII). THE STATE TREASURER SHALL CREDIT ALL PROCEEDS
2 RECEIVED UNDER THIS SUB-SUBPARAGRAPH (B) AND THE INTEREST
3 EARNED FROM INVESTMENTS OF THOSE PROCEEDS TO THE COLORADO
4 WATER CONSERVATION BOARD CONSTRUCTION FUND CREATED IN SECTION
5 37-60-121 (1) (a), C.R.S., AND ALL SUCH MONEYS ARE CONTINUOUSLY
6 APPROPRIATED AND REMAIN AVAILABLE FOR THE DESIGNATED PURPOSES
7 UNTIL THEY ARE FULLY EXPENDED. In the event of a conflict between the
8 application of state or federal law or rules, including chapter 3 of the state
9 fiscal rules in existence as of June 7, 2010, federal laws and rules shall
10 apply.

11 (XII) (B) This subparagraph (XII) is repealed, effective July 1,
12 ~~2014~~ 2016.

13 (XIII) (A) NOTWITHSTANDING ANY PROVISION OF THIS
14 PARAGRAPH (a) TO THE CONTRARY, ON JULY 1, 2014, THE STATE
15 TREASURER SHALL TRANSFER ONE MILLION FIVE HUNDRED SEVENTY-FIVE
16 THOUSAND DOLLARS FROM THE SEVERANCE TAX PERPETUAL BASE FUND
17 TO THE COLORADO WATER CONSERVATION BOARD CONSTRUCTION FUND
18 CREATED IN SECTION 37-60-121 (1) (a), C.R.S., FOR USE BY THE
19 COLORADO WATER CONSERVATION BOARD TO MAKE A GRANT TO THE
20 COLORADO WATER RESOURCES AND POWER DEVELOPMENT AUTHORITY
21 CREATED IN SECTION 37-95-104, C.R.S., FOR THE CONSTRUCTION OF LONG
22 HOLLOW RESERVOIR.

23 (B) THIS SUBPARAGRAPH (XIII) IS REPEALED, EFFECTIVE
24 SEPTEMBER 1, 2016.

25 **SECTION 17.** In Colorado Revised Statutes, 37-60-120.1,
26 **amend** (2) as follows:

27 **37-60-120.1. Chatfield reservoir reallocation project -**

1 **authority - repeal.** (2) The board is hereby authorized to act as an agent
2 of the project parties to implement this section. Through an agency fund
3 the board may collect and disburse money from any entity to implement
4 the project and to meet the obligations contained in an intergovernmental
5 agreement, project partnership agreement, or other contract, referred to
6 in this section as an "agreement", with the corps or other entity that is
7 required to implement the project. Notwithstanding any other law,
8 including section 24-30-1303, C.R.S., the board and the department of
9 natural resources acting through its agencies shall have the authority to
10 enter into any agreement with the corps or other entities, including
11 consultants and contractors, that in the board's discretion is necessary to
12 implement the project; however, sufficient funds shall have been made
13 available to the board for such purposes. The authority granted by this
14 subsection (2) includes: The ability to hold storage space in the reservoir;
15 to contract with, and allocate storage to, local entities who will utilize the
16 reservoir storage space; to undertake mitigation and long-term operation
17 and maintenance of the project; TO RECEIVE AND EXPEND PROCEEDS
18 RECEIVED FROM THE SALE OR LEASE OF RESERVOIR STORAGE SPACE AND
19 FROM ANY OTHER ACTIVITIES THAT EFFECTUATE THE PURPOSE OF THE
20 ACQUIRED PROJECT STORAGE SPACE; to pay the costs of storage or other
21 necessary expenses; and to otherwise implement the project. The board
22 has the express authority, in equitable partnership with the participants,
23 to undertake such action as is necessary, including the award of contracts
24 to public and private entities, to undertake mitigation construction and
25 long-term operation and maintenance and related activities; to lease,
26 sublease, or assign storage space rights; and to otherwise effectuate the
27 storage of water in the reservoir. THE STATE TREASURER SHALL CREDIT

1 ALL PROCEEDS RECEIVED UNDER THIS SECTION AND THE INTEREST EARNED
2 FROM INVESTMENTS OF THOSE PROCEEDS TO THE COLORADO WATER
3 CONSERVATION BOARD CONSTRUCTION FUND CREATED IN SECTION
4 37-60-121 (1) (a), AND ALL SUCH MONEYS ARE CONTINUOUSLY
5 APPROPRIATED AND REMAIN AVAILABLE FOR THE DESIGNATED PURPOSES
6 UNTIL THEY ARE FULLY EXPENDED. In the event of a conflict between the
7 application of state or federal law or rules, including chapter 3 of the state
8 fiscal rules in existence as of May 29, 2008, federal laws and rules shall
9 apply.

10 **SECTION 18.** In Colorado Revised Statutes, **amend** 37-60-123.2
11 as follows:

12 **37-60-123.2. Flood and drought response fund - created.** There
13 is hereby created in the state treasury the flood and drought response
14 fund, referred to in this section as the "response fund". ~~The state treasurer~~
15 ~~is hereby authorized and directed to transfer three hundred thousand~~
16 ~~dollars from the Colorado water conservation board construction fund to~~
17 ~~the response fund.~~ The board is authorized to provide funding for flood
18 and drought preparedness and for response and recovery activities
19 following flood or drought events and disasters. The moneys in the
20 response fund are hereby continuously appropriated to the board for flood
21 and drought response purposes, including the immediate availability of
22 funds for aerial photography of flooded areas, flood and drought
23 documentation and identification of specific hazards, evaluations and
24 revisions of floodplain designations and drought-prone areas, flood and
25 drought forecasting and preparation, and development of disaster and
26 recovery mitigation plans. The state treasurer shall credit all interest
27 derived from the investment of moneys in the response fund to the

1 Colorado water conservation board construction fund. Any balance
2 remaining in the response fund at the end of any fiscal year remains in the
3 fund.

4 **SECTION 19. Safety clause.** The general assembly hereby finds,
5 determines, and declares that this act is necessary for the immediate
6 preservation of the public peace, health, and safety.