

Second Regular Session
Seventieth General Assembly
STATE OF COLORADO

REVISED

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

LLS NO. 16-1165.02 Thomas Morris x4218

SENATE BILL 16-174

SENATE SPONSORSHIP

Sonnenberg,

HOUSE SPONSORSHIP

Vigil and Coram,

Senate Committees

Agriculture, Natural Resources, & Energy
Appropriations

House Committees

Agriculture, Livestock, & Natural Resources
Appropriations

A BILL FOR AN ACT

101 CONCERNING THE FUNDING OF COLORADO WATER CONSERVATION
102 BOARD PROJECTS, AND, IN CONNECTION THEREWITH, MAKING
103 APPROPRIATIONS.

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/billsummaries>.)

The bill appropriates the following amounts from the Colorado water conservation board (CWCB) construction fund to the CWCB or the division of water resources for the following projects:

! \$380,000 for continuation of the satellite monitoring system maintenance (**section 1** of the bill);

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.*

HOUSE
Amended 2nd Reading
May 9, 2016

SENATE
3rd Reading Unamended
April 25, 2016

SENATE
Amended 2nd Reading
April 20, 2016

- ! \$500,000 for continuation of the Colorado floodplain map modernization program (**section 2**);
- ! \$1,500,000 for continuation of the watershed restoration program (**section 3**);
- ! \$175,000 for continuation of the weather modification program (**section 4**);
- ! \$150,000 for the board to support the Colorado Mesonet, a spatially coherent network of weather stations reporting in near real-time via major data portals (**section 5**);
- ! \$300,000 for the water forecasting partnership project (**section 6**);
- ! \$2,500,000 for a Bear Creek reservoir reallocation study (**section 7**);
- ! \$200,000 for an underground storage study (**section 8**);
- ! \$1,000,000 for continuation of the statewide water supply initiative (**section 9**); and
- ! \$200,000 for continuation of the Windy Gap reservoir bypass channel project (**section 10**).

The bill directs the state treasurer to transfer the following amounts from the CWCB construction fund:

- ! Up to \$500,000 to the flood and drought response fund (**section 11**); and
- ! \$600,000 to the litigation fund (**section 12**).

Current law prevents the CWCB from participating in domestic water treatment and distribution systems projects; **section 13** changes this prohibition to water treatment facilities.

Section 14 gives the CWCB a variety of powers to fully utilize the state's water allocation in the Animas-La Plata project, directs the state treasurer to credit money received pursuant to the exercise of those powers to the CWCB construction fund, and continuously appropriates this money to the board for this purpose.

Section 15 transfers the following amounts from the severance tax perpetual base fund to the CWCB construction fund:

- ! \$200,000 for the Windy Gap reservoir bypass channel project;
- ! \$1,500,000 for the watershed restoration program, \$2,500,000 for the Bear Creek reservoir reallocation study, and \$1,000,000 for the statewide water supply initiative; and
- ! On each July 1, \$5,000,000 to fund studies, programs, or projects to implement the state water plan.

1 **SECTION 1. Continuation of the satellite monitoring system**

2 **maintenance - appropriation.** (1) For the 2016-17 state fiscal year,
3 \$380,000 is appropriated to the department of natural resources for use
4 by the division of water resources. This appropriation is from the
5 Colorado water conservation board construction fund created in section
6 37-60-121, C.R.S. To implement this section, the division of water
7 resources may use this appropriation for renovation of existing gauging
8 stations, replacement of outdated collection platforms, lysimeter support,
9 data collection, and maintenance, and upgrading of transmission
10 components of the satellite monitoring system established and operated
11 pursuant to section 37-80-102 (10), C.R.S., stream gauge flood hardening
12 projects, and data collection efforts related to flood forecasting and
13 warning.

14 (2) The money appropriated in subsection (1) of this section
15 remains available for the designated purposes until it is fully expended.

16 **SECTION 2. Continuation of the Colorado floodplain map**

17 **modernization program - appropriation.** (1) For the 2016-17 state
18 fiscal year, \$500,000 is appropriated to the department of natural
19 resources for use by the Colorado water conservation board. This
20 appropriation is from the Colorado water conservation board construction
21 fund created in section 37-60-121, C.R.S. To implement this section, the
22 Colorado water conservation board may use this appropriation to continue
23 to assist with the preparation of revised and improved floodplain studies
24 and maps for communities throughout Colorado and participate in
25 federally sponsored floodplain map modernization activities.

26 (2) The money appropriated in subsection (1) of this section
27 remains available for the designated purposes until it is fully expended.

1 **SECTION 3. Continuation of the watershed restoration**

2 **program - appropriation.** (1) For the 2016-17 state fiscal year,
3 \$1,500,000 is appropriated to the department of natural resources for use
4 by the Colorado water conservation board. This appropriation is from the
5 Colorado water conservation board construction fund created in section
6 37-60-121, C.R.S. To implement this section, the Colorado water
7 conservation board may use this appropriation to provide planning and
8 engineering studies, including implementation measures, to address
9 technical needs for watershed restoration and flood mitigation projects
10 throughout the state, aquatic habitat protection, flexible operations for
11 multiple uses, restoration work, quantification of environmental flow
12 needs, and monitoring efforts to support watershed health goals outlined
13 in the Colorado water plan.

14 (2) The money appropriated in subsection (1) of this section
15 remains available for the designated purposes until it is fully expended.

16 **SECTION 4. Continuation of the weather modification**

17 **program - appropriation.** (1) For the 2016-17 state fiscal year,
18 \$175,000 is appropriated to the department of natural resources for use
19 by the Colorado water conservation board. This appropriation is from the
20 Colorado water conservation board construction fund created in section
21 37-60-121, C.R.S. To implement this section, the Colorado water
22 conservation board may use this appropriation to continue to assist water
23 conservation districts, water conservancy districts, and other water
24 providers and their fiscal agents with the development of cloud seeding
25 programs that provide benefits to recreation, streams, and reservoirs
26 through snowpack enhancement.

27 (2) The money appropriated in subsection (1) of this section

1 remains available for the designated purposes until it is fully expended.

2 **SECTION 5. Colorado Mesonet - appropriation.** (1) For the
3 2016-17 state fiscal year, \$150,000 is appropriated to the department of
4 natural resources for use by the Colorado water conservation board. This
5 appropriation is from the Colorado water conservation board construction
6 fund created in section 37-60-121, C.R.S. To implement this section, the
7 Colorado water conservation board may use this appropriation to support
8 the Colorado Mesonet, including operation and maintenance, travel,
9 communications, database and website management, as well as hazardous
10 waste disposal.

11 (2) The money appropriated in subsection (1) of this section
12 remains available for the designated purposes until the project is
13 completed.

14 **SECTION 6. Water forecasting partnership project -**
15 **appropriation.** (1) For the 2016-17 state fiscal year, \$300,000 is
16 appropriated to the department of natural resources for use by the
17 Colorado water conservation board. This appropriation is from the
18 Colorado water conservation board construction fund created in section
19 37-60-121, C.R.S. To implement this section, the Colorado water
20 conservation board may use this appropriation to support the development
21 of new ground and aerial remote sensing data and equipment and
22 hydrologic modeling, to provide reliable volumetric water supply
23 forecasting.

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

27 **SECTION 7. Bear Creek reservoir reallocation study -**

1 **appropriation.** (1) For the 2016-17 state fiscal year, \$2,500,000 is
2 appropriated to the department of natural resources for use by the
3 Colorado water conservation board. This appropriation is from the
4 Colorado water conservation board construction fund created in section
5 37-60-121, C.R.S. To implement this section, the Colorado water
6 conservation board may use this appropriation to work in partnership with
7 the U.S. Army Corps of Engineers, under the authority of the Energy and
8 Water Development Appropriation Act of 1998, to study the potential
9 reallocation of flood storage capacity of Bear Creek reservoir for other
10 beneficial uses.

11 (2) The money appropriated in subsection (1) of this section
12 remains available for the designated purposes until the project is
13 completed.

14 **SECTION 8. Underground storage pilot project -**
15 **appropriation.** (1) For the 2016-17 state fiscal year, \$200,000 is
16 appropriated to the department of natural resources for use by the
17 Colorado water conservation board. This appropriation is from the
18 Colorado water conservation board construction fund created in section
19 37-60-121, C.R.S. To implement this section, the Colorado water
20 conservation board may use this appropriation to conduct an underground
21 storage pilot project to further evaluate the suitability of various aquifers
22 to store water, availability of water to be stored, and a conceptual
23 framework to initiate an underground storage project.

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

27 **SECTION 9. Continuation of the statewide water supply**

1 **initiative - appropriation.** (1) For the 2016-17 state fiscal year,
2 \$1,000,000 is appropriated to the department of natural resources for use
3 by the Colorado water conservation board. This appropriation is from the
4 Colorado water conservation board construction fund created in section
5 37-60-121, C.R.S. To implement this section, the Colorado water
6 conservation board may use this appropriation to continue work on the
7 statewide water supply initiative update that will include reexamination
8 of municipal, industrial, agricultural, and environmental demands,
9 hydrologic analyses, climate and drought planning, scenario planning,
10 climate change, hydrologic variability, agricultural gap, nonconsumptive
11 gap, basin implementation plan project review, and economics.

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

15 **SECTION 10. Continuation of the Windy Gap reservoir**
16 **bypass channel project - appropriation.** (1) For the 2016-17 state
17 fiscal year, \$200,000 is appropriated to the department of natural
18 resources for use by the Colorado water conservation board. This
19 appropriation is from the Colorado water conservation board construction
20 fund created in section 37-60-121, C.R.S. To implement this section, the
21 Colorado water conservation board may use this appropriation to
22 participate in the planning, design, and construction of the Windy Gap
23 bypass channel project.

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

27 **SECTION 11. Reservoir dredging project - appropriation.**

1 (1) For the 2016-2017 state fiscal year, \$1,000,000 is appropriated to the
2 department of natural resources for use by the Colorado water
3 conservation board. This appropriation is from the Colorado water
4 conservation board construction fund created in section 37-60-121,
5 C.R.S. To implement this section, the Colorado water conservation board
6 may use this appropriation to conduct a reservoir dredging project in
7 partnership with a water provider such as a municipality, district, or
8 irrigation company, subject to the approval by the board with a cost share
9 amount not to exceed fifty percent.

10 (2) The money appropriated in subsection (1) of this section
11 remains available for the designated purposes until July 1, 2018, at which
12 time the unencumbered balance of the money reverts to the
13 unappropriated balance of the Colorado water conservation board
14 construction fund.

15 **SECTION 12. Restoration of the balance of the flood and**
16 **drought response fund - transfer.** On July 1, 2016, the state treasurer
17 shall transfer the sum of \$500,000, or so much thereof as may be
18 necessary, from the unreserved cash in the Colorado water conservation
19 board construction fund to the flood and drought response fund created
20 in section 37-60-123.2, C.R.S., in order to restore the unencumbered
21 balance in the flood and drought response fund to \$500,000 for the board
22 to provide documentation, forecasting, mapping, aerial photography,
23 mitigation, and other efforts deemed necessary to quickly respond to
24 flood and drought events.

25 **SECTION 13. Restoration of litigation fund cash balance -**
26 **transfer.** On July 1, 2016, the state treasurer shall transfer the sum of
27 \$600,000 from the unreserved cash in the Colorado water conservation

1 board construction fund to the litigation fund created in section 37-60-121
2 (2.5), C.R.S., to continue litigation support for the board.

3 **SECTION 14.** In Colorado Revised Statutes, 37-60-119, **amend**
4 (1) (a) as follows:

5 **37-60-119. Construction of water and power facilities -**
6 **contracts with and charges against users.** (1) (a) In order to promote
7 the general welfare and safety of the citizens of this state and to protect
8 the allocation of interstate waters to the state, the board may, subject to
9 the provisions in section 37-60-122, construct, rehabilitate, enlarge, or
10 improve, or loan ~~moneys~~ MONEY to enable the construction,
11 rehabilitation, enlargement, or improvement of, such flood control, water
12 supply, and hydroelectric energy facilities, excluding ~~domestic~~ water
13 treatment ~~and distribution systems~~ FACILITIES, together with related
14 recreational facilities, in whole or in part, as will, in the opinion of the
15 board, abate floods or conserve, effect more efficient use of, develop, or
16 protect the water and hydroelectric energy resources and supplies of the
17 state of Colorado.

18 **SECTION 15.** In Colorado Revised Statutes, **add** 37-60-120.2 as
19 follows:

20 **37-60-120.2. Animas-La Plata project - authority - repeal.**

21 (1) NOTWITHSTANDING ANY OTHER LAW, INCLUDING SECTION
22 24-30-1303, C.R.S., AND GIVEN THAT THIRTY-SIX MILLION DOLLARS HAVE
23 BEEN AUTHORIZED AND APPROPRIATED AND A PURCHASE AGREEMENT HAS
24 BEEN EXECUTED WITH THE UNITED STATES BUREAU OF RECLAMATION TO
25 ACQUIRE ALL OF THE STATE'S WATER ALLOCATION IN THE ANIMAS-LA
26 PLATA PROJECT AND THAT THE STATE IS A PARTICIPATING MEMBER OF THE
27 ANIMAS-LA PLATA OPERATION, MAINTENANCE, AND REPLACEMENT

1 ASSOCIATION, AND IN ORDER TO SUPPORT AND PROVIDE LONG-TERM
2 WATER SUPPLIES FOR THE LOCAL AREA AND TO FULLY UTILIZE THE STATE'S
3 WATER ALLOCATION IN THE ANIMAS-LA PLATA PROJECT, IN
4 COORDINATION WITH THE UNITED STATES BUREAU OF RECLAMATION AND
5 THE OTHER PARTICIPATING PROJECT BENEFICIARIES, THE DEPARTMENT OF
6 NATURAL RESOURCES, ACTING BY AND THROUGH THE BOARD, MAY:

7 (a) CONTRACT WITH AND ALLOCATE ANIMAS-LA PLATA PROJECT
8 WATER TO LOCAL ENTITIES AND WATER PROVIDERS IN COLORADO;

9 (b) RECEIVE AND EXPEND PROCEEDS FROM THE SALE OR LEASE OF
10 ANIMAS-LA PLATA PROJECT WATER AND LAND, AND ANY OTHER
11 ACTIVITIES THAT EFFECTUATE THE PURPOSE OF THE ACQUIRED PROJECT
12 WATER;

13 (c) UNDERTAKE ANIMAS-LA PLATA PROJECT OPERATIONS,
14 MAINTENANCE, AND REPLACEMENT COSTS;

15 (d) PAY THE COSTS OF ANIMAS-LA PLATA PROJECT STORAGE OR
16 OTHER NECESSARY EXPENSES, OTHERWISE IMPLEMENT THE PURPOSES OF
17 THIS SUBSECTION (1), AND FULLY UTILIZE THE WATER AND STORAGE
18 ACQUIRED; AND

19 (e) UNDERTAKE SUCH ACTION AS NECESSARY TO LEASE, SUBLEASE,
20 EXCHANGE, SELL, ASSIGN, OR OTHERWISE EFFECTUATE THE USE OF THE
21 ACQUIRED PROJECT WATER IN THE LOCAL AREA WITHIN COLORADO.

22 (2) THE STATE TREASURER SHALL CREDIT ALL PROCEEDS RECEIVED
23 UNDER THIS SECTION AND THE INTEREST EARNED FROM INVESTMENTS OF
24 THOSE PROCEEDS TO THE COLORADO WATER CONSERVATION BOARD
25 CONSTRUCTION FUND CREATED IN SECTION 37-60-121 (1) (a), AND ALL
26 SUCH MONEY IS CONTINUOUSLY APPROPRIATED TO THE BOARD AND
27 REMAINS AVAILABLE FOR THE DESIGNATED PURPOSES UNTIL IT IS FULLY

1 EXPENDED.

2 (3) (a) IN THE EVENT OF A CONFLICT BETWEEN THE APPLICATION
3 OF STATE OR FEDERAL LAW OR RULES, INCLUDING CHAPTER 3 OF THE
4 STATE FISCAL RULES IN EXISTENCE AS OF JUNE 7, 2010, REGARDING THE
5 MONEY SUBJECT TO THIS SECTION, FEDERAL LAW AND RULES APPLY.

6 (b) NOTHING IN THIS SECTION PRECLUDES THE USE OF WATER
7 ACQUIRED PURSUANT TO THIS SECTION AS PART OF A JOINT OPERATIONAL
8 POOL FOR THE MUTUAL BENEFIT OF ALL ANIMAS-LA PLATA PROJECT
9 PARTICIPANTS.

10 (4) THIS SECTION IS REPEALED, EFFECTIVE WHEN THE STATE HAS
11 NO WATER ALLOCATION IN THE ANIMAS-LA PLATA PROJECT, IS NOT A
12 MEMBER OF THE ANIMAS-LA PLATA OPERATION, MAINTENANCE, AND
13 REPLACEMENT ASSOCIATION, AND ALL EXISTING PURCHASES, LEASES,
14 SUBLEASES, OR ANY OTHER OF THE CONTRACTUAL ARRANGEMENTS THAT
15 HAVE BEEN EXECUTED ON BEHALF OF THE STATE'S WATER ALLOCATION,
16 HAVE BEEN FULLY REPAID OR FULFILLED. THE DIRECTOR OF THE BOARD
17 SHALL FILE A WRITTEN NOTIFICATION TO THE REVISOR OF STATUTES WHEN
18 THE FINAL CONDITION OF THIS SUBSECTION (4) HAS BEEN FULFILLED.

19 **SECTION 16.** In Colorado Revised Statutes, 39-29-109, **amend**
20 (2) introductory portion and (2) (a) (XII); and **add** (2) (a) (XV) and (2) (a)
21 (XVI) as follows:

22 **39-29-109. Severance tax trust fund - created - administration**
23 **- distribution of money - repeal.** (2) State severance tax receipts shall
24 be credited to the severance tax trust fund as provided in section
25 39-29-108. Except as otherwise set forth in section 39-29-109.5, all
26 income derived from the deposit and investment of the ~~moneys~~ MONEY
27 in the fund shall be credited to the fund. At the end of any fiscal year, all

1 unexpended and unencumbered ~~moneys~~ MONEY in the fund ~~remain~~
2 REMAINS therein and shall not be credited or transferred to the general
3 fund or any other fund. All ~~moneys~~ MONEY in the fund ~~are~~ IS subject to
4 appropriation by the general assembly for the following purposes:

5 (a) **The severance tax perpetual base fund.**

6 (XII) (A) Notwithstanding any provision of this paragraph (a) to the
7 contrary, on July 1, 2013, the state treasurer shall transfer two million
8 dollars from the fund to the Colorado water conservation board
9 construction fund, AND ON JULY 1, 2016, THE STATE TREASURER SHALL
10 TRANSFER TWO HUNDRED THOUSAND DOLLARS FROM THE FUND TO THE
11 COLORADO WATER CONSERVATION BOARD CONSTRUCTION FUND, for use
12 by the board to make a grant to the municipal subdistrict of the northern
13 Colorado water conservancy district for the planning, design, and
14 construction of the Windy Gap reservoir bypass channel project, as part
15 of the Windy Gap firming project on the Colorado river.

16 (B) This subparagraph (XII) is repealed, effective July 1, ~~2016~~
17 2020.

18 (XV) NOTWITHSTANDING ANY PROVISION OF THIS PARAGRAPH (a)
19 TO THE CONTRARY, ON JULY 1, 2016, THE STATE TREASURER SHALL
20 TRANSFER FIVE MILLION DOLLARS FROM THE FUND TO THE COLORADO
21 WATER CONSERVATION BOARD CONSTRUCTION FUND, CREATED IN SECTION
22 37-60-121 (1) (a), C.R.S., FOR USE BY THE COLORADO WATER
23 CONSERVATION BOARD, CREATED IN SECTION 37-60-102, C.R.S., IN THE
24 AMOUNT OF ONE MILLION FIVE HUNDRED THOUSAND DOLLARS TO
25 CONTINUE THE WATERSHED RESTORATION PROGRAM, TWO MILLION FIVE
26 HUNDRED THOUSAND DOLLARS FOR THE BEAR CREEK RESERVOIR
27 STORAGE REALLOCATION STUDY, AND ONE MILLION DOLLARS FOR THE

1 STATEWIDE WATER SUPPLY INITIATIVE UPDATE.

2 (XVI) NOTWITHSTANDING ANY PROVISION OF THIS PARAGRAPH (a)
3 TO THE CONTRARY, ON JULY 1, 2016, AND EACH YEAR THEREAFTER ON
4 JULY 1, THE STATE TREASURER SHALL TRANSFER FIVE MILLION DOLLARS
5 FROM THE FUND TO THE COLORADO WATER CONSERVATION BOARD
6 CONSTRUCTION FUND, CREATED IN SECTION 37-60-121 (1)(a), C.R.S., FOR
7 USE BY THE COLORADO WATER CONSERVATION BOARD, CREATED IN
8 SECTION 37-60-102, C.R.S., FOR THE BOARD TO FUND STUDIES,
9 PROGRAMS, OR PROJECTS THAT ASSIST IN IMPLEMENTING THE STATE
10 WATER PLAN ADOPTED PURSUANT TO SECTION 37-60-106 (1) (u), C.R.S.

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