

1
2 **INITIATED PROPOSAL FOR LEGISLATIVE MODIFICATION**
3 **OF 37-95-101 ET. SEQ., THE "COLORADO WATER**
4 **RESOURCES AND POWER DEVELOPMENT AUTHORITY ACT"**

5
6 The proposal would modify the Colorado Revised Statutes enabling the Colorado Water
7 Resources and Power Development Authority, C. R. S. 37-95-101 et. seq.,
8

9 The motivation for the proposed legislative modification of the statutes regarding the Colorado
10 Water Resources and Power Development Authority includes, but may not be limited to, the
11 following:
12

- 13 ● The Colorado Water Resources and Power Development Authority is
14 a quasi-state governmental authority whose services are basically
15 duplicative of state agency responsibilities. The purported justification for
16 the existence of the Colorado Water Resources and Power Development
17 Authority is that state of Colorado government agencies are not permitted
18 to issue debt - therefore the necessity for a non-governmental, special
19 authority specializing in debt financing.
20
- 21 ● The Colorado Water Resources and Power Development Authority's
22 efforts toward federal assistance for grants and awards regarding the Safe
23 Drinking Water Act and the Clean Water Act are not structural, but rather
24 are fiscal.
25
- 26 ● Debt instruments issued for state and local projects undertaken by
27 the Colorado Water Resources and Power Development Authority are
28 generally tax-exempt revenue bonds. The revenue bond debt instruments
29 authorized by the Authority, not General Obligation bonds, do not require
30 voter approval for the issuance of debt obligations.
31
- 32 ● The legislation enabling the Colorado Water Resources and Power
33 Development Authority provides that the Authority can own and encumber
34 water rights as a non-governmental, governmentally-sponsored entity.
35 Under the existing statute, the Authority can assign water rights. Water
36 rights, a property right, can be assigned to a proprietary entity securing
37 public debt without the consent of the people of Colorado.
38
- 39 ● Large financial reserves are retained by the Colorado Water
40 Resources and Power Development Authority as retained "earnings" and
41 held by the Authority. Those "earnings" have been generated from interest

1 payments on issued debt. The existence of large retained financial
2 resources, generated from tax-exempt bonds and secured as a public
3 encumbrance by a non-profit, non-governmental entity, apparently conflicts
4 with the philosophy of a zero-based, annualized, budget funding process
5 where public participation in government financing is invited by virtue of
6 annual Legislative review and approval of state government acknowledged
7 water proposals.

8
9 • Not only does the Colorado Water Resources and Power
10 Development Authority water resources development program appear to
11 usurp Colorado legislative prerogatives, it also appears to be a redundancy,
12 mirroring a list of water development projects compiled by the Colorado
13 Water Conservation Board. Unlike the Authority's water project list, the
14 Water Conservation Board's list undergoes review, and approval, through
15 the legislative process. Only after that legislative process has been
16 completed does the Water Conservation Board have the authority that
17 outlines and directs that state agency - the Colorado Water Conservation
18 Board - to assist Colorado communities with water projects on the
19 legislatively approved list.

20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39
40
41
42
43
44
45

1 **Be it ENACTED BY THE PEOPLE OF THE STATE OF COLORADO that the**
2 **statutes of the state of Colorado are amended to read:**

3
4 37-95-101. Short Title. This article shall be known and maybe cited as the "Colorado Water
5 Resources and Power Development Authority Act".

6
7 37-95-102. Legislative declaration. (1) It is hereby declared to be the public-policy of the
8 state to preserve, protect, upgrade, conserve, develop, utilize, and manage the water resources
9 of the state, AND to promote the beneficial use of waters of the PEOPLE OF THE state for the
10 protection and preservation of the public health, safety, convenience, and welfare. ~~to create or~~
11 ~~preserve jobs and employment opportunities or to improve the economic welfare of the people~~
12 ~~of the state, and to assist and cooperate with governmental agencies in achieving such purposes.~~

13 (a) ~~In furtherance of such public policy, the Colorado water resources and power~~
14 ~~development authority is created in this article to initiate, acquire, construct, maintain, repair,~~
15 ~~and operate projects or cause the same to be operated pursuant to a lease, sublease, or other~~
16 ~~agreement with any person or governmental agency and may issue its bonds and notes payable~~
17 ~~solely from revenues to pay the cost of such projects.~~

18 (2) The general assembly finds ~~and declares~~ that the authority and powers conferred under this
19 article ~~and the expenditures of public moneys pursuant thereto~~ constitute a serving of a valid
20 public purpose. ~~and that the enactment of the provisions set forth in this article is in the public~~
21 ~~interest and is hereby so declared to be such as a matter of express legislative determination.~~

22 37-95-103. Definitions.

23 As used in this article:

24 (1) "Authority" means the Colorado water resources and power development authority. ~~created~~
25 ~~by this article.~~

26 (2) "Beneficial use" means a use of water, ~~including the method of diversion,~~ storage
27 ~~transportation, treatment~~ and application that is reasonable and consistent with the public
28 ~~interest in the proper~~ utilization of water resources, including, but not limited to, domestic,
29 agricultural, industrial, power, municipal, navigational, fish and wildlife, and recreational uses.

30 (3) ~~"Board" means the board of directors of the authority.~~

31 (4) "Bonds" means bonds, notes, or other obligations issued by the authority ~~pursuant to this~~
32 ~~article.~~

33 (4.5) "Clean water act" means the "Federal Water Pollution Control Act Amendments of
34 1972", P. L. 92-500, and any act amendatory or supplemental thereto as of April 4, 1988.

35 (4.7) (Deleted by amendment, L. 2003, p. 2410, § 4, effective June 5, 2003.)

1 (4.8) "Drinking water project eligibility list" means the list of projects eligible for financial
2 assistance ~~from the authority through the drinking water revolving fund or its other bonding~~
3 ~~capabilities, as adopted and from time to time TO BE modified. in accordance with section 37-~~
4 ~~95-107.8 (4).~~ The list shall consist of new or existing water management facilities that extend,
5 protect, improve, or replace domestic drinking water supplies in the state of Colorado and may
6 include any domestic drinking water supply projects eligible for financial assistance. ~~through a~~
7 ~~state revolving fund pursuant to the terms of the "Safe Drinking Water Act", as defined in~~
8 ~~subsection (12.2) of this section.~~

9 (5) (a) "Governmental agencies" means departments, divisions, or other units of state
10 government, special districts, water conservation districts, metropolitan water districts, WATER
11 conservancy districts, irrigation districts, ~~municipal corporations~~, counties, cities, and other
12 political subdivisions, ~~and the United States or any agency thereof.~~

13 (b) ~~"Governmental agencies" also includes enterprises and any entity, agency, commission, or~~
14 ~~authority established by any governmental agency specified in paragraph (a) of this subsection~~
15 ~~(5), including, without limitation, those established pursuant to an interstate compact or other~~
16 ~~intergovernmental compact or agreement.~~

17 (6) "Hydroelectric facilities" means facilities for the hydrogeneration or transmission of
18 electric power and energy.

19 ~~(7) "Notes" means notes issued by the authority pursuant to this article.~~

20 (8) "Owner" includes all individuals, copartnerships, associations, corporations, or
21 governmental agencies having any title or interest in any property rights, easements, and
22 interests. ~~authorized to be acquired by this article.~~

23 (9) "Person" means any individual, firm, partnership, association, or corporation, or two or
24 more or any combination thereof.

25 (10) "Project" means any water management facility or hydroelectric facility, ~~including~~
26 ~~undivided or other interests therein, acquired or constructed or to be acquired or constructed by~~
27 ~~the authority under this article,~~ including all buildings and facilities ~~which the authority deems~~
28 necessary for the operation of the project, together with all property rights, water rights,
29 easements, and interests, including gathering, storage, treatment, and transmission facilities
30 (unless adequate transmission capacity is available from any existing public utility), which may
31 be required for such operation. "Project" includes any water management facility or
32 hydroelectric facility. ~~financed in whole or in part by the authority.~~

33 (10.5) (Deleted by amendment, L. 2005, p. 38, § 1, effective March 23, 2005.)

34 (11) "Public roads" includes all public highways, roads, railroads, and streets in the state,
35 whether maintained by the state, a county, a city, or any other political subdivision.

1 (12) "Public utility facilities" includes tracks, pipes, mains, conduits, cables, wires, towers,
2 poles, and other equipment and appliances of any public utility.

3 (12.2) "Safe drinking water act" means the federal "Safe Drinking Water Act", 42 U.S.C. Sec.
4 300f et. seq., as amended or supplemented.

5 (12.5) (a) (I) "Small water resources project" means any water management facility or
6 hydroelectric facility that ~~is or will be financed in whole or in part by the authority and in~~
7 ~~which the total amount of financing provided by the authority to any participating A~~
8 governmental agency does not exceed five hundred million dollars.

9 (II) (Deleted by amendment, L. 2002, p. 78, § 1, effective March 22, 2002.)

10 (b) and (c) (Deleted by amendment, L. 98, p. 142, § 1, effective April 2, 1998.)

11 (13) "Water management facilities" means facilities for the purpose of the development, use,
12 and protection of water resources, including, without limiting the generality of the foregoing,
13 facilities for water supply and treatment, facilities for streamflow improvement, dams,
14 reservoirs, and other impoundments, water transmission lines, sewerage facilities, water wells
15 and well fields, pumping stations and works for underground water recharge, stream-
16 monitoring systems, and facilities for the stabilization of stream and river banks.

17 (13.5) "Water pollution control project eligibility list" means the list of projects eligible for
18 financial assistance ~~from the authority~~ through the water pollution control COMMISSION.
19 ~~revolving fund or its other bonding capabilities, as adopted and from time to time modified in~~
20 ~~accordance with section 37-95-107.6 (4).~~ The list shall consist of a project or projects from the
21 project priority list for federal funds adopted by the Colorado water quality control commission
22 for publicly owned treatment works as defined in section 212 of the clean water act and
23 nonpoint source management program projects pursuant to section 319 of the clean water act.

24 (14) "Water resources" means all waters in or arising from rivers, streams, lakes, ponds,
25 marshes, watercourses, waterways, wells, springs, irrigation systems, drainage systems,
26 underground aquifers, and other bodies, geologic formations, or accumulations of water, ~~either~~
27 ~~natural or artificial~~, which are situated wholly or partly within ~~or which border upon~~ this state.

28 (15) THE "WATER RESOURCES AND POWER DEVELOPMENT SECTION OF THE
29 COLORADO WATER CONSERVATION BOARD" MEANS THAT STATE GOVERNMENTAL
30 SECTION WITHIN THE COLORADO WATER CONSERVATION BOARD THAT PROVIDES
31 ACTIVITIES AND SERVICES THAT WERE FORMERLY STATUTORILY ASSIGNED TO THE
32 COLORADO WATER RESOURCES AND POWER DEVELOPMENT AUTHORITY.

33 37-95-104. Establishment of authority - board of directors - removal -
34 organization - compensation - dissolution. ~~(1) There is hereby created the Colorado~~
35 ~~water resources and power development authority, which shall be a body corporate and a~~
36 ~~political subdivision of the state. The authority shall not be an agency of state government, nor~~
37 ~~shall it be subject to administrative direction by any department, commission, board, bureau, or~~
38 ~~agency of the state, except to the extent provided by this article.~~

1 ~~(2) (a) The powers of the authority shall be vested in the governing body of the authority which~~
2 ~~shall be a board of directors consisting of nine members who shall be appointed by the~~
3 ~~governor, with the consent of the senate, as follows:~~

4 ~~(I) One member from the Rio Grande drainage basin;~~

5 ~~(II) One member from the North Platte drainage basin;~~

6 ~~(III) One member from the Arkansas drainage basin;~~

7 ~~(IV) One member from the South Platte drainage basin outside the city and county of Denver;~~

8 ~~(V) One member from the city and county of Denver who is familiar with its water problems;~~

9 ~~(VI) One member from the Yampa-White drainage basins;~~

10 ~~(VII) One member from the main Colorado drainage basin;~~

11 ~~(VIII) One member from the Gunnison-Uncompahgre drainage basins;~~

12 ~~(IX) One member from the San Miguel-Dolores-San Juan drainage basins.~~

13 ~~(b) Appointments to the board shall be made so as to include one member who shall be~~
14 ~~experienced in water project financing, one member who shall be experienced in the~~
15 ~~engineering aspects of water projects, one member who shall be experienced in the planning~~
16 ~~and developing of water projects, one member who shall be experienced in public health issues~~
17 ~~related to drinking water or water quality matters, and one member who shall be experienced in~~
18 ~~water law. Members of the board shall be representative of the water districts from which they~~
19 ~~are appointed.~~

20 ~~(c) No more than five members of the board shall be members of the same major political~~
21 ~~party.~~

22 ~~(3) Members of the board shall be appointed for terms of four years; except that, of the original~~
23 ~~terms commencing October 1, 1981, three members shall be appointed for terms of one year,~~
24 ~~two members shall be appointed for terms of two years, two members for terms of three years,~~
25 ~~and two members for terms of four years, at the governor's discretion. Each member shall hold~~
26 ~~office for the term of his appointment and until his successor has been appointed and has~~
27 ~~qualified. A member shall be eligible for reappointment. Any vacancy in the membership~~
28 ~~occurring other than by expiration of term shall be filled in the same manner as the original~~
29 ~~appointment but for the unexpired term only.~~

30 ~~(4) Each member may be removed from office by the governor for cause, after a public hearing,~~
31 ~~and may be suspended by the governor pending the completion of such hearing. Each member,~~
32 ~~before entering upon his duties, shall take and subscribe an oath to perform the duties of his~~

1 office faithfully, impartially, and justly to the best of his ability. A record of all such oaths shall
2 be filed in the office of the secretary of state.

3 ~~(5) The members of the board shall elect a chairman and a vice chairman. The members of the~~
4 ~~board shall also elect a secretary and a treasurer who need not be members, and the same~~
5 ~~person may be elected to serve as both secretary and treasurer. The powers of the board shall be~~
6 ~~vested in the members thereof in office from time to time, and five members of the board shall~~
7 ~~constitute a quorum at any meeting thereof. Action may be taken and motions and resolutions~~
8 ~~adopted by the board at any meeting thereof by the affirmative vote of at least five members of~~
9 ~~the authority. No vacancy in the membership of the board shall impair the right of a quorum of~~
10 ~~the members to exercise all the powers and perform all the duties of the board.~~

11 ~~(6) Each member of the board not otherwise in full time employment of the state shall receive a~~
12 ~~per diem of fifty dollars for each day actually and necessarily spent in the discharge of official~~
13 ~~duties, and all members shall receive traveling and other necessary expenses actually incurred~~
14 ~~in the performance of official duties.~~

15 (7) The authority ~~may be~~ IS HEREBY dissolved by an act passed by the VOTERS OF THE
16 STATE OF COLORADO VIA ELECTION HELD PURSUANT TO SECTION 1 OF ARTICLE V OF
17 THE COLORADO CONSTITUTION, ~~general assembly~~ AND ALL ACTIVITIES AND SERVICES
18 OF THE WATER RESOURCES AND POWER DEVELOPMENT AUTHORITY SHALL
19 TERMINATE UPON JANUARY 1, 2009, AND UPON CERTIFICATION BY THE COLORADO
20 STATE AUDITOR THAT the authority has no debts or obligations outstanding, or that provision
21 has been made for the payment or retirement of such debts or obligations. Upon any such
22 dissolution of the authority, all property, funds, and assets thereof shall be vested in the state.

23 (8) ALL ACTIVITIES AND SERVICES OF THE FORMER WATER RESOURCES AND POWER
24 DEVELOPMENT AUTHORITY STATUTORILY ENABLED BY THIS ARTICLE SHALL BE
25 ASSUMED WITHIN THE ACTIVITIES AND SERVICES OF THE COLORADO WATER
26 RESOURCES AND POWER DEVELOPMENT DIVISION OF THE COLORADO WATER
27 CONSERVATION BOARD.

28 37-95-104.1 Creation of the Colorado Water Resources and Power Development
29 Section Within the Colorado Water Conservation Board.

30 (1) THE PEOPLE OF THE STATE OF COLORADO BY ADOPTION OF THIS ARTICLE
31 HEREBY CREATE THE WATER RESOURCES AND POWER DEVELOPMENT DIVISION OF
32 THE COLORADO WATER CONSERVATION BOARD.

33
34 (2) ALL ACTIVITIES AND SERVICES OF THE FORMER WATER RESOURCES AND
35 POWER DEVELOPMENT AUTHORITY, AS STATUTORILY MODIFIED UNDER THIS ARTICLE,
36 SHALL BE ASSUMED AS ACTIVITIES AND SERVICES OF THE COLORADO WATER
37 RESOURCES AND POWER DEVELOPMENT DIVISION OF THE COLORADO WATER
38 CONSERVATION BOARD.

39 37-95-105. Records and meetings of AUTHORITY board

40 ~~(1) All resolutions and orders shall be recorded and authenticated by the signature of the~~
41 ~~chairman and the secretary of the board. Every legislative act of the board of a general or~~

1 ~~permanent nature shall be by resolution.~~The book of resolutions, corporate acts, and orders OF
2 THE FORMER COLORADO WATER RESOURCES AND POWER DEVELOPMENT AUTHORITY
3 shall be a REMAIN public record. A public record shall also be made of all other proceedings of
4 the board, minutes of the meetings, annual reports, certificates, contracts, and bonds given by
5 officers, employees, and any other agents of the authority. The account of all moneys received
6 by and disbursed on behalf of the authority shall also be a public record. Any public record of
7 the authority shall be open for inspection by any citizen. All records shall be subject to uniform
8 budget and audit laws, as set forth in article 1 of title 29, C.R.S., ~~and shall be subject to regular~~
9 ~~audits, as provided therein.~~

10 ~~(2) All meetings of the board shall be open to the public. No business of the board shall be~~
11 ~~transacted except at a regular or special meeting at which a quorum is present. If a meeting of~~
12 ~~the board is called for the sole purpose of adopting resolutions authorizing the issuance of~~
13 ~~bonds, notes, bond anticipation notes, or other obligations by the authority, one or more~~
14 ~~members of the board may participate in such meeting and may vote on such resolutions~~
15 ~~through the usage of telecommunications devices, including, but not limited to, the usage of a~~
16 ~~conference telephone or similar communications equipment. Such participation through~~
17 ~~telecommunications devices shall constitute presence in person at such meeting. Such use of~~
18 ~~telecommunications shall not supersede any requirements for public hearing otherwise~~
19 ~~provided by law.~~

20 (3) Any board member, employee, or other agent or adviser of the board who has HAD a direct
21 or indirect interest in any contract or transaction with, OR OF, OR BY, the authority shall
22 disclose this interest THE GENERAL ASSEMBLY. ~~to the board. This interest shall be set forth in~~
23 ~~the minutes of the board, and no board member, employee, or other agent or adviser having~~
24 ~~such interest shall participate on behalf of the board.~~

25 (4) THE BOOK OF RESOLUTIONS OF THE COLORADO WATER RESOURCES AND POWER
26 DEVELOPMENT AUTHORITY, OF ITS CORPORATE ACTS, AND ORDERS SHALL BE A
27 CONTINUING PUBLIC RECORD. THE COLORADO WATER RESOURCES AND POWER
28 DEVELOPMENT AUTHORITY CONTINUING PUBLIC RECORD SHALL ALSO INCLUDE OF
29 ALL AND ANY OTHER PROCEEDINGS OF THE BOARD, MINUTES OF MEETINGS, ANNUAL
30 REPORTS, CERTIFICATES, CONTRACTS, AND BONDS GIVEN BY OFFICERS, EMPLOYEES,
31 AND ANY OTHER AGENTS OF THE AUTHORITY. THE ACCOUNT OF ALL MONEYS
32 RECEIVED BY AND DISBURSED ON BEHALF OF THE AUTHORITY SHALL ALSO BE A PART
33 OF THE COLORADO WATER RESOURCES AND POWER DEVELOPMENT AUTHORITY
34 CONTINUING PUBLIC RECORD. ANY AND ALL RECORDS OF THE AUTHORITY SHALL BE
35 OPEN FOR INSPECTION BY ANY CITIZEN.

36 37-95-106. Authority powers. REPEALED

37 ~~(1) Except as otherwise limited by this article, the authority, acting through the board, has the~~
38 ~~power:~~

39 ~~(a) To have the duties, privileges, immunities, rights, liabilities, and disabilities of a body~~
40 ~~corporate and political subdivision of the state;~~

- 1 ~~(b) To sue and be sued;~~
- 2 ~~(c) To have an official seal and to alter the same at pleasure;~~
- 3 ~~(d) To make and alter bylaws for its organization and internal management and for the conduct~~
4 ~~of its affairs and business;~~
- 5 ~~(e) To maintain an office at such place or places within the state as it may determine;~~
- 6 ~~(f) To acquire, hold, use, and dispose of its income, revenues, funds, and moneys;~~
- 7 ~~(g) To charge, alter, and collect rentals or other charges for the use or services of any project, to~~
8 ~~contract in the manner provided in this article with one or more persons or governmental~~
9 ~~agencies or combinations thereof desiring the use or services thereof, and to fix the terms,~~
10 ~~conditions, rentals, or other charges for such use or services;~~
- 11 ~~(h) To acquire, lease as lessee or lessor, rent, hold, use, and dispose of real or personal~~
12 ~~property, including water rights, for its purposes; except that the acquisition by the authority of~~
13 ~~existing decreed water rights of a governmental agency shall not occur without the consent of~~
14 ~~the affected governmental agency and that negotiation by the authority for the purchase of~~
15 ~~water rights shall not proceed without first notifying any affected agency when an existing~~
16 ~~governmental agency has initiated negotiations for the purchase of such rights. The submission~~
17 ~~of a bona fide offer by a governmental agency for the purchase of such water rights shall be~~
18 ~~deemed evidence of such initiated negotiations.~~
- 19 ~~(i) To deposit any moneys of the authority in any banking institution within or outside the state;~~
- 20 ~~(j) To fix the time and place or places at which its regular and special meetings are to be held;~~
- 21 ~~(k) (I) To plan, design, develop, acquire, construct, reconstruct, enlarge, extend, improve,~~
22 ~~furnish, equip, maintain, repair, manage, operate, dispose of, and participate in one or more~~
23 ~~projects within or without the state and to appropriate water for said projects;~~
- 24 ~~(II) To designate Colorado water conservation board or, with said board's permission, one or~~
25 ~~more other persons or governmental agencies participating in project to act as its agent, in~~
26 ~~connection with the planning designing, development, acquisition, construction, reconstruction,~~
27 ~~enlargement, extension, improvement, furnishing, equipping, maintenance, repair,~~
28 ~~management, operation, disposition of, or participation in such projects;~~
- 29 ~~(III) To establish rules and regulations for the use of such projects; and~~
- 30 ~~(IV) To finance or participate in the financing of a project, or any interest therein, acquired or~~
31 ~~constructed or to be acquired or constructed by any governmental agency;~~
- 32 ~~(l) To make available the use or services of any project to one or more persons, one or more~~
33 ~~governmental agencies, or any combination thereof;~~

1 ~~(m) To borrow money and to issue its negotiable bonds or notes in furtherance of its purposes~~
2 ~~and to provide for the rights of the holders thereof;~~

3 ~~(n) To have and exercise the power of eminent domain and, in general, to have and exercise~~
4 ~~rights and powers of eminent domain conferred upon other agencies as provided in articles 1 to~~
5 ~~7 of title 38, C.R.S.; but the authority shall neither have nor exercise the power of eminent~~
6 ~~domain against the state nor acquire thereby any electric generation facilities, electric~~
7 ~~distribution lines, or any conditional or absolute water rights;~~

8 ~~(o) To contract with any person or governmental agency within or without the state for the~~
9 ~~construction of any project, or for the sale of the output of any project, or for any interest~~
10 ~~therein or any right to capacity thereof, on such terms and for such period of time as the board~~
11 ~~shall determine;~~

12 ~~(p) To purchase, sell, exchange, transmit, or distribute the power generated by any project~~
13 ~~within or without the state, in such amounts as it shall determine to be necessary and~~
14 ~~appropriate to make the most effective use of its powers and to meet its responsibilities, and to~~
15 ~~enter into agreements with any person or governmental agency with respect to such purchase,~~
16 ~~sale, exchange, transmission, or distribution on such terms and for such period of time as the~~
17 ~~board shall determine;~~

18 ~~(q) To purchase, sell, exchange, transmit, or distribute the water of any project within or~~
19 ~~without the state, subject to the limitation that the waters of the project shall not be delivered~~
20 ~~outside of the state for purposes other than meeting Colorado compact commitments, in such~~
21 ~~amounts as it shall determine to be necessary and appropriate to make the most effective use of~~
22 ~~its powers and to meet its responsibilities, and to enter into agreements with any person or~~
23 ~~governmental agency with respect to such purchase, sale, exchange, transmission, or~~
24 ~~distribution on such terms and for such period of time as the board shall determine; except that~~
25 ~~such action shall not interrupt the development, completion, or operation of existing water~~
26 ~~projects, nor shall the action adversely affect the ability of a district or governmental agency~~
27 ~~from fulfilling its contractual commitments associated with such projects;~~

28 ~~(r) To make loans to any governmental agency for the planning, designing, acquiring,~~
29 ~~constructing, reconstructing, improving, equipping, and furnishing of a project, which loans~~
30 ~~may be secured by loan and security agreements, leases, or any other instruments, upon such~~
31 ~~terms and conditions as the board shall deem reasonable, including provisions for the~~
32 ~~establishment and maintenance of reserve and insurance funds, and to require the inclusion, in~~
33 ~~any lease, contract, loan and security agreement, or other instrument, of such provisions for the~~
34 ~~construction, use, operation, maintenance, and financing of a project as the board may deem~~
35 ~~necessary or desirable;~~

36 ~~(s) To make and enter into all contracts, leases, and agreements which are necessary or~~
37 ~~incidental to the performance of its duties and the exercise of its powers under this article;~~

- 1 ~~(t) To sell, convey, or lease to any person or governmental agency all or any portion of a~~
2 ~~project for such consideration and upon such terms as the board may determine to be~~
3 ~~reasonable;~~
- 4 ~~(u) To make or cause to be made surveys, maps, and plans for, and estimates of the cost of, any~~
5 ~~project;~~
- 6 ~~(v) (I) To acquire, in the name of the authority:~~
- 7 ~~(A) Any land or other real or personal property, including water rights, which the authority~~
8 ~~determines is reasonably necessary for a project or for the relocation or reconstruction of any~~
9 ~~public road by the authority;~~
- 10 ~~(B) Any and all right, title, and interest to and in such land and other real or personal property,~~
11 ~~including public lands, reservations, public roads, or parkways owned by or in which the state~~
12 ~~or any county, municipality, city and county, public corporation, or other political subdivision~~
13 ~~of the state has any right, title, or interest;~~
- 14 ~~(C) Any fee simple absolute or any lesser interest in private property; and~~
- 15 ~~(D) Any fee simple absolute in, or easements upon, or the benefit of restrictions upon abutting~~
16 ~~property to preserve and protect the project; except that the authority shall not acquire by~~
17 ~~purchase or condemnation land, an interest in land, or a right of way for the change of location~~
18 ~~of any portion of any public road, railroad, point of diversion, or public utility facility which is~~
19 ~~not needed for the construction of a project pursuant to this article.~~
- 20 ~~(II) Acquisitions by the authority pursuant to this paragraph (v) may be made by purchase or~~
21 ~~otherwise, on such terms and conditions, and in such manner as the authority deems appropriate~~
22 ~~or may be made through the exercise of the power of eminent domain pursuant to, and subject~~
23 ~~to the limitations of, paragraph (n) of this subsection (1).~~
- 24 ~~(w) To adopt rules and regulations for the use, management, and operation of the hydroelectric~~
25 ~~facilities and water management facilities financed by the authority.~~
- 26 ~~(x) Subject to any agreement with bondholders or note holders, to invest moneys of the~~
27 ~~authority not required for immediate use, including proceeds from the sale of any bonds or~~
28 ~~notes, in such obligations, securities, and other investments as the authority deems prudent;~~
- 29 ~~(y) To contract for and to accept any gifts or grants or loans of funds or property or financial or~~
30 ~~other aid in any form from the United States or any agency or instrumentality thereof, or from~~
31 ~~the state or any governmental agency thereof, or from any other source and to comply, subject~~
32 ~~to the provisions of this article, with the terms and conditions thereof;~~
- 33 ~~(z) Subject to any agreements with bondholders or note holders, to purchase bonds or notes of~~
34 ~~the authority out of any funds or moneys of the authority available therefore and to hold,~~
35 ~~cancel, or resell such bonds or notes;~~

1 ~~(aa) To employ accountants, attorneys, financial advisers, underwriters, and other experts and~~
2 ~~such other persons to act as agents and employees as may be required and to determine their~~
3 ~~qualifications, terms of office, duties, and compensation, all without regard to the provisions of~~
4 ~~the state personnel system; except that the authority may utilize the services of the officers,~~
5 ~~personnel, and consultants of the Colorado water conservation board to perform any or all~~
6 ~~activities specified in paragraphs (k) and (u) of this subsection (1);~~

7 ~~(bb) To do and perform any acts authorized by this article under, through, or by means of its~~
8 ~~officers, agents, or employees or by contracts with any person, firm, or corporation;~~

9 ~~(cc) To procure insurance against any losses in connection with its property, operations,~~
10 ~~personal liability, or assets in such amounts and from such insurers as it deems desirable;~~

11 ~~(dd) To do any and all things necessary or convenient to carry out its purposes and exercise the~~
12 ~~powers given and granted in this article;~~

13 ~~(ee) To purchase or refinance all or any portion of principal and interest on, and to purchase~~
14 ~~insurance or other credit enhancement for the payment of, bonds, notes, or other obligations~~
15 ~~issued by the authority or any governmental agency to finance any project;~~

16 ~~(ff) To charge to and collect from governmental agencies and persons fees and charges in~~
17 ~~connection with the authority's loans or other services, including, but not limited to, fees and~~
18 ~~charges sufficient to reimburse the authority for all reasonable costs necessarily incurred by the~~
19 ~~authority in connection with its financing and administration thereof and the establishment and~~
20 ~~maintenance of reserves or other funds, as the authority may determine to be reasonable;~~

21 ~~(gg) Repealed.~~

22 ~~(hh) To enter into one or more agreements with the Colorado water conservation board and any~~
23 ~~other governmental agencies to assist in the development of the water resources of the state.~~

24 ~~37-95-107. Feasibility studies—repayment of costs REPEALED~~

25 ~~(1) (a) (I) Before any proposed project can receive consideration for construction funding by~~
26 ~~the authority, the Colorado water conservation board must first review the feasibility study of~~
27 ~~any such proposed project, and the general assembly must authorize the authority to proceed to~~
28 ~~consider the construction of any proposed project.~~

29 ~~(II) (A) Upon receipt of a feasibility study by the Colorado water conservation board, said~~
30 ~~board shall review such study and forward the study to the general assembly together with its~~
31 ~~recommendation as to whether or not the proposed project should be authorized by the general~~
32 ~~assembly.~~

33 ~~(B) Upon receipt of a feasibility study from the Colorado water conservation board, the general~~
34 ~~assembly may authorize the authority, by means of a joint resolution signed by the governor, to~~
35 ~~proceed with the consideration of any project that the general assembly deems to be in the~~

1 interests of and to the advantage of the people of this state. However, such joint resolution shall
2 in no way require or compel the authority to fund or in any way finance and proceed with the
3 development, acquisition, construction, reconstruction, enlargement, extension, improvement,
4 furnishing, equipping, maintenance, repair, management, operation, or disposition of, or
5 participation in any proposed project. A decision to proceed, when made subsequent to such
6 joint resolution, shall be entirely within the discretion of the authority.

7 (C) Should the authority choose to proceed with a project, then the authority shall make, or
8 cause to be made, the necessary final designs and specifications for such project; except that the
9 final project location, operation, and purposes must be in substantial compliance with the
10 feasibility study for a project that was reviewed by the Colorado water conservation board. The
11 authority shall also develop and implement detailed plans for the financing of projects with
12 which it chooses to proceed. The terms and conditions of such financing shall be at the sole
13 discretion of the authority.

14 (H) The provisions of this subsection (1) shall not apply to any small water resources project;
15 except that, in the case of any small water resources project that consists of or includes raw
16 water diversion or storage facilities, the board shall promptly forward a copy of the project loan
17 application to the Colorado water conservation board for informational purposes.

18 (b) The state engineer shall not issue a permit or license or approve plans, pursuant to any law
19 or rule governing such actions, for construction of any water management facility or
20 hydroelectric power facility for which the authority has paid in whole or in part for a feasibility
21 study or an environmental assessment or environmental impact study without a written
22 resolution or written statement by the authority notifying the state engineer that the applicant
23 has reimbursed the authority for its expenditures for the conduct of such studies.

24 (2) If the Colorado water conservation board enters into a contract for the performance of a
25 feasibility study for a proposed raw water project with a governmental agency and incurs
26 expenses in performing such feasibility study, then the authority shall provide for the
27 reimbursement of such expenses out of its financing contract with the governmental agency for
28 such project prior to the start of construction only when:

29 (a) The Colorado water conservation board's contract with the governmental agency sponsoring
30 the project unconditionally requires the repayment of all of the expenses associated with the
31 feasibility study prior to the start of construction, regardless of the funding source for such
32 construction; and

33 (b) Such governmental agency obtains financing from the authority.

34 (3) The reimbursement obligation of the authority pursuant to subsection (2) of this section
35 shall not apply:

36 (a) To the expenses of any feasibility study commenced or initiated by the Colorado water
37 conservation board prior to June 5, 2003;

1 ~~(b) To the expenses of any full or partial stream-wide, basin-wide, or statewide feasibility study~~
2 ~~that is not focused on a single discrete raw water supply project;~~

3 ~~(c) To the expenses of any feasibility study identified and authorized or directed by law to be~~
4 ~~performed by the Colorado water conservation board without a contract with another~~
5 ~~governmental agency for such study;~~

6 ~~(d) To the study of any domestic water supply project;~~

7 ~~(e) If the Colorado water conservation board waives the obligation of the governmental agency~~
8 ~~to make such repayment or if the Colorado water conservation board releases, in whole or in~~
9 ~~part, such governmental agency from its obligation to make such repayment; and~~

10 ~~(f) If otherwise agreed to by the authority and the Colorado water conservation board in an~~
11 ~~agreement entered into pursuant to section 37-60-106 (1) (t).~~

12 37-95-107.5. Legislative declaration—specific project authorizations. REPEALED

13 ~~(1) It is hereby declared to be the policy of the general assembly to protect and foster the full~~
14 ~~utilization of Colorado's limited surface water resources by allocation thereof through the~~
15 ~~operation of the appropriation system as provided by sections 5 and 6 of article XVI of the state~~
16 ~~constitution. Any judicial interpretation or other law to the contrary notwithstanding, the water~~
17 ~~rights appropriation and adjudication system of the state of Colorado shall continue to be~~
18 ~~utilized to establish priority of right to the use of the natural streams within the state which~~
19 ~~include ground water tributary thereto.~~

20 ~~(2) It is the recognition and intent of the general assembly that investment in the state's water~~
21 ~~resources for future generations must be made from state funds, from private capital, or from~~
22 ~~other moneys available to the authority. Major Colorado water projects should be developed as~~
23 ~~soon as possible in anticipation of demand and revenues.~~

24 ~~(3) Several compacts relating to interstate streams have been entered into by the state on behalf~~
25 ~~of the people of the state of Colorado to reserve for the people the right to the use of such~~
26 ~~waters under the appropriation doctrine. It is hereby declared to be the policy of the general~~
27 ~~assembly to fully utilize, for the maximum benefit of all the people, said natural stream~~
28 ~~resources. To achieve such utilization, the general assembly hereby directs the authority to~~
29 ~~proceed with project development and financing in accordance with agreements between the~~
30 ~~project sponsor and the authority, and consistent with the provisions of this article, such~~
31 ~~projects as the Colorado water conservation board identifies in statewide water supply~~
32 ~~initiatives and associated feasibility studies and other projects identified by the authority.~~

33 ~~(4) (Deleted by amendment, L. 2003, p. 2412, § 6, effective June 5, 2003.)~~

34 ~~(5) The provisions of this section shall not be applicable to the financing of any small water~~
35 ~~resources project.~~

1 37-95-107.6. Creation and administration of THE water pollution control revolving
2 fund AT THE COLORADO WATER QUALITY CONTROL DIVISION.

3 (1)(a) ~~There is hereby created in~~ THE GENERAL ASSEMBLY BY AUTHORITY OF THE
4 ADOPTION OF THIS ARTICLE SHALL DISSOLVE THE COLORADO WATER RESOURCES
5 AND POWER DEVELOPMENT authority'S the water pollution control revolving fund, which
6 shall be maintained and administered by the authority and be available in perpetuity for the
7 ~~purposes stated in this section~~ BY HEREUNDER RELOCATING THE LEGAL ACTIONS AND
8 AUTHORITIES OF THE WATER POLLUTION CONTROL REVOLVING FUND WITHIN THE
9 SUPERVISION OF THE COLORADO WATER QUALITY CONTROL DIVISION.

10 (B.) THE GENERAL ASSEMBLY SHALL HEREUNDER CREATE THE COLORADO WATER
11 POLLUTION CONTROL REVOLVING FUND - AT TITLE 25, ARTICLE 8, SECTION 309 - TO
12 ASSUME THE LEGAL AUTHORITIES OF THE FORMER COLORADO WATER RESOURCES
13 AND POWER DEVELOPMENT AUTHORITY WATER POLLUTION CONTROL REVOLVING
14 FUND AS THAT FUND SHALL HAVE BEEN MODIFIED BY THESE PROVISIONS. THE
15 COLORADO WATER POLLUTION CONTROL REVOLVING FUND - AT TITLE 25, ARTICLE 8,
16 SECTION 309 - is authorized to establish such procedures as may be required to administer the
17 water pollution control revolving fund in accordance with the clean water act and state law. ~~The~~
18 ~~authority may create separate accounts in the water pollution control revolving fund, which~~
19 ~~accounts may be pledged and assigned as security for the payment of the bonds of the~~
20 ~~authority.~~

21 (2) (a) Subject to the provisions of the clean water act, AND SUBJECT TO PROVISIONS
22 ADOPTED BY THE COLORADO GENERAL ASSEMBLY, ~~and agreements with the holders of~~
23 ~~bonds of the authority, the authority~~ THE COLORADO WATER POLLUTION CONTROL
24 DIVISION shall deposit in the water pollution control revolving fund grants from the federal
25 government or its agencies allocated to the state for deposit in said fund; state matching funds
26 where required; loan principal, interest, and penalty payments; and other moneys ~~determined by~~
27 ~~the authority~~ to be deposited therein.

28 (b) Moneys in the water pollution control revolving fund shall be expended in a manner
29 consistent with terms and conditions of the clean water act, AND SUBJECT TO PROVISIONS
30 ADOPTED BY THE COLORADO GENERAL ASSEMBLY, and may be used to provide assistance
31 to governmental agencies for the construction of publicly owned wastewater treatment plants
32 that appear on the priority list under section 216 of the clean water act and as are defined in
33 section 212 of the clean water act; for implementation of a nonpoint source pollution
34 management program under section 319 of the clean water act; and for any other purposes
35 permitted by the clean water act.

36 (c) Moneys on deposit in the water pollution control revolving fund may be used TO FUND,
37 SUBJECT TO PROVISIONS ADOPTED BY THE COLORADO GENERAL ASSEMBLY ~~by the~~
38 ~~authority for~~ wastewater treatment facilities. ~~through the making of loans to governmental~~
39 ~~agencies; purchasing or refinancing debt obligations of governmental agencies where the debt~~
40 ~~obligations were incurred after March 7, 1985; purchasing insurance for debt obligations of~~
41 ~~governmental agencies; securing or providing revenues for payment of the principal and~~
42 ~~interest on bonds of the authority; providing for the costs of administering the water pollution~~
43 ~~control revolving fund, including the administrative costs of state agencies; and providing for~~

1 any other expenditure consistent with the clean water act and state law. Money not currently
2 needed for the operation of the water pollution control revolving fund may be invested, and all
3 interest earned on such investments shall be credited to the specific account, if any, in the water
4 pollution control revolving fund.

5 (3) (a) The authority ~~COLORADO WATER POLLUTION CONTROL REVOLVING FUND,~~
6 ~~SUBJECT TO PROVISIONS ADOPTED BY THE GENERAL ASSEMBLY,~~ may make and contract
7 to make loans to governmental agencies in accordance with and subject to the provisions of this
8 section to finance the cost of wastewater treatment system projects that are on the water
9 pollution control project eligibility list established pursuant to subsection (4) of this section and
10 any other projects authorized under the clean water act and that the governmental agencies may
11 lawfully undertake or acquire under state law, including, but not limited to, applicable
12 provisions of the "Colorado Water Quality Control Act", article 8 of title 25, C.R.S., and for
13 which the governmental agencies are authorized by law to borrow money. ~~The loans may be~~
14 ~~made subject to such terms and conditions as the authority shall determine to be consistent with~~
15 ~~the purposes thereof. Each loan by the authority COLORADO WATER POLLUTION CONTROL~~
16 ~~REVOLVING FUND, and the terms and conditions thereof shall be subject TO PROVISIONS~~
17 ~~ADOPTED BY THE GENERAL ASSEMBLY, AND BY financial analysis by the division of local~~
18 ~~government of the department of local affairs. Such financial analysis shall include an analysis~~
19 ~~of the capacity to repay a loan and the need for financial assistance. Each loan to a local~~
20 ~~governmental agency shall be evidenced by notes, bonds, or other obligations thereof issued to~~
21 ~~the authority. In the case of each governmental agency, notes and bonds to be issued to the~~
22 ~~authority by the local governmental agency shall be authorized and issued as provided by law~~
23 ~~for the issuance of notes and bonds by the governmental agency, may be sold at private sale to~~
24 ~~the authority at any price, whether or not less than par value, and shall be subject to redemption~~
25 ~~prior to maturity at such times and at such prices as the authority and governmental agency may~~
26 ~~agree. Each loan to a local governmental agency and the notes, bonds, or other obligations~~
27 ~~thereby issued shall bear interest at such rate or rates per annum at or below market interest rate~~
28 ~~and shall be for such terms not to exceed twenty years after project completion as the authority~~
29 ~~and the governmental agency may agree.~~

30 (b) ~~The authority is authorized, from moneys in the water pollution control revolving fund, to~~
31 ~~purchase or refinance or purchase insurance for the payment of all or any portion of the~~
32 ~~principal and interest on bonds, notes, or other obligations issued by a governmental agency to~~
33 ~~finance the cost of any wastewater treatment system project which the governmental agency~~
34 ~~may lawfully undertake or acquire under state law, including, but not limited to, applicable~~
35 ~~provisions of the "Colorado Water Quality Control Act", article 8 of title 25, C.R.S., and for~~
36 ~~which the governmental agency is authorized by law to borrow money. Each purchase or~~
37 ~~refinancing or purchase of insurance by the authority shall be subject to financial analysis by~~
38 ~~the division of local government in the department of local affairs. Such financial analysis shall~~
39 ~~include an analysis of the capacity to repay a loan and the need for financial assistance.~~

40 (c) ~~The authority may charge to and collect from governmental agencies fees and charges in~~
41 ~~connection with the authority's loans or other services, including, but not limited to, fees and~~
42 ~~charges sufficient to reimburse the authority for all reasonable costs necessarily incurred by it~~

1 ~~in connection with its financing and the establishment and maintenance of reserves or other~~
2 ~~funds, as the authority may determine to be reasonable.~~

3 (4) (a) The initial water pollution control project eligibility list shall consist of those projects
4 ranked one through thirty on the construction grant project priority list for federal funds
5 adopted by the water quality control commission effective January 30, 1988.

6 (b) Additions or modifications to the water pollution control project eligibility list that have
7 been developed by the water quality control commission shall be submitted to the general
8 assembly on or before January 15 of each year. The additions and modifications shall be in
9 conformance with applicable provisions of the clean water act and state law. ~~On or before April~~
10 ~~1 of each year, the additions or modifications shall be approved by a joint resolution presented~~
11 ~~to the governor in accordance with section 39 of article V of the state constitution.~~

12 (c) No funds may be expended from the water pollution control revolving fund ~~or bonds issued~~
13 ~~by the authority pursuant to subsection (6) of this section~~ for any wastewater treatment system
14 project unless the wastewater treatment system project is on the water pollution control project
15 eligibility list approved by the general assembly or is an emergency project. ~~in accordance with~~
16 ~~paragraph (d) of this subsection (4).~~ Financial assistance for a project pursuant to this section
17 may be provided regardless of the rank of such project on the eligibility list.

18 (d) The Colorado water quality control commission may amend the water pollution control
19 project eligibility list at any time, in accordance with its regular procedures, to include
20 wastewater treatment system projects that it determines and declares to be emergency projects
21 needed to prevent or address threats to the public health or environment. ~~No later than January~~
22 ~~15 of each year, the authority shall provide to the general assembly a listing of all emergency~~
23 ~~projects for which moneys from the water pollution control revolving fund have been expended~~
24 ~~in the preceding calendar year.~~

25 (5) The division of local government in the department of local affairs, the division of
26 administration in the department of health, and the authority shall develop an intended use plan
27 in compliance with the clean water act.

28 ~~(6) In order to finance the cost of making loans to governmental agencies and provide reserves~~
29 ~~therefore pursuant to paragraph (a) of subsection (3) of this section, the authority is authorized~~
30 ~~to issue bonds pursuant to the provisions of this article.~~

31 ~~(7) The authority, on behalf of the state, with the written approval of THE COLORADO WATER~~
32 ~~QUALITY CONTROL DIVISION, SUBJECT TO PROVISIONS ADOPTED BY THE GENERAL~~
33 ~~ASSEMBLY, SHALL BE~~ is authorized to enter into such agreements with the United States as
34 may be necessary to comply with the provisions of the federal "Water Quality Act of 1987" (P.
35 L. 100-4) and as otherwise may be required to provide for the capitalization of the water
36 pollution control revolving fund from federal grant moneys.

1 ~~(8) The provisions of sections 37-95-107 and 37-95-107.5 shall not be applicable to any~~
2 ~~wastewater treatment system project on the project eligibility list approved by the general~~
3 ~~assembly pursuant to subsection (4) of this section.~~

4 ~~(9) Notwithstanding anything to the contrary in any other provision of this article, moneys on~~
5 ~~deposit in the water pollution control revolving fund may, if permitted by applicable federal~~
6 ~~law and the terms of any agreement between the state and the United States relating to the~~
7 ~~water pollution control revolving fund, be deposited by the authority, in its discretion, into one~~
8 ~~or more funds or accounts created or pledged to secure the payments of bonds issued by the~~
9 ~~authority in connection with the drinking water revolving fund created and administered under~~
10 ~~section 37-95-107.8. Any moneys transferred under this subsection (9) from the water pollution~~
11 ~~control revolving fund into or for the benefit of the drinking water revolving fund shall be~~
12 ~~repaid into the water pollution control revolving fund as soon as practicable.~~

13 ~~(10) The authority COLORADO WATER POLLUTION CONTROL REVOLVING FUND may,~~
14 ~~acting in its discretion and with the approval of the governor, transfer moneys from the water~~
15 ~~pollution control revolving fund to the drinking water revolving fund created and administered~~
16 ~~pursuant to section 37-95-107.8, if the transfer of such moneys is permitted by applicable~~
17 ~~federal law and the terms of any agreement between the state and the United States relating to~~
18 ~~the water pollution control revolving fund.~~

19 37-95-107.7. Creation and administration of domestic water supply project
20 revolving fund - repeal (Repealed).

21 37-95-107.8. Creation and administration of drinking water revolving fund AT THE
22 DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT. (1) ~~There is hereby created in~~
23 ~~the authority the drinking water revolving fund that the authority shall maintain and administer~~
24 ~~for the purposes in this section. The authority may:~~ THE PEOPLE OF THE STATE OF
25 COLORADO BY THE ADOPTION OF THIS ARTICLE PURSUANT TO SECTION 1 OF ARTICLE
26 V OF THE COLORADO CONSTITUTION DISSOLVES THE COLORADO WATER RESOURCES
27 AND POWER DEVELOPMENT AUTHORITY'S DRINKING WATER REVOLVING FUND BY
28 HEREUNDER PLACING THE LEGAL ACTIONS AND AUTHORITIES OF THE DRINKING
29 WATER REVOLVING FUND WITHIN THE COLORADO DEPARTMENT OF PUBLIC HEALTH
30 AND ENVIRONMENT DIVISION OF DRINKING WATER MANAGEMENT.
31

32 (2) THE GENERAL ASSEMBLY HEREBY CREATES THE COLORADO DRINKING WATER
33 REVOLVING FUND - AT TITLE 25, ARTICLE 1.5, SECTION 210 - TO ASSUME ANY AND ALL
34 OF THE ACTS AND AUTHORITIES OF THE FORMER COLORADO WATER RESOURCES AND
35 POWER DEVELOPMENT AUTHORITY DRINKING WATER REVOLVING FUND AS MODIFIED
36 BY THESE PROVISIONS. The authority COLORADO DEPARTMENT OF HEALTH DRINKING
37 WATER REVOLVING FUND - AT TITLE 25, ARTICLE 1.5, SECTION 210 is authorized to
38 establish such procedures as may be required to administer the ~~water pollution control~~
39 DRINKING WATER revolving fund in accordance with the SAFE DRINKING water act and state
40 law.

1 (a) Establish procedures to administer the drinking water revolving fund in accordance with the
2 safe drinking water act and state law;

3 ~~(b) Create separate accounts in the drinking water revolving fund and pledge and assign the~~
4 ~~accounts as security for the payment of the bonds of the authority;~~

5 (c) To the extent permitted by the safe drinking water act, AND UPON ADOPTION OF
6 PROVISIONS BY THE GENERAL ASSEMBLY, TO transfer moneys to and divide moneys
7 between the drinking water revolving fund and the water pollution control revolving fund.
8 ~~created in section 37-95-107.6.~~

9 (2) (a) Subject to any applicable provisions of the safe drinking water act , AND UPON THE
10 ADOPTION OF PROVISIONS BY THE GENERAL ASSEMBLY, ~~and agreements with the holders~~
11 ~~of bonds of the authority, the authority~~ THE COLORADO DRINKING WATER REVOLVING
12 FUND shall deposit in the drinking water revolving fund:

13 (I) Any grants from the federal government or its agencies allocated to the state for deposit in
14 said fund;

15 (II) State matching funds, if required;

16 (III) Loan principal, interest, and penalty payments received with respect to loans made from
17 the drinking water revolving fund; and

18 (IV) and (V) (Deleted by amendment, L. 2001, p. 1279, § 52, effective June 5, 2001.)

19 ~~(VI) Any other moneys as determined by the authority.~~

20 (b) Moneys in the drinking water revolving fund shall be spent in a manner consistent with the
21 terms and conditions of any state revolving program fund established by the safe drinking water
22 act and may be used:

23 (I) To provide assistance to governmental agencies for projects that appear on the drinking
24 water project eligibility list, referred to in this section as "eligible projects"; and

25 (II) For any other purposes permitted by the safe drinking water act.

26 (c) The ~~authority~~ COLORADO DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT may
27 spend moneys in the drinking water revolving fund for financial assistance to governmental
28 agencies for eligible projects, including expenditures by any of the following means:

29 (I) Any means specified in the safe drinking water act;

30 (II) SUBJECT TO PROVISIONS ADOPTED BY THE COLORADO GENERAL ASSEMBLY,
31 Making loans to governmental agencies;

- 1 (III) Purchasing or refinancing obligations of governmental agencies if the debt obligations
2 were incurred after October 14, 1993, or for a project to comply with amendments to
3 regulations enacted by the 1986 amendments to the safe drinking water act;
- 4 ~~(IV) Securing or purchasing insurance for debt obligations;~~
- 5 ~~(V) Securing or providing moneys for payment of the principal and interest on bonds of the~~
6 ~~authority;~~
- 7 (VI) Securing or providing moneys for payment of the principal and interest on other bonds
8 issued to finance eligible projects;
- 9 (VII) Providing for the costs of administering the drinking water revolving fund, including the
10 administrative costs of state agencies;
- 11 ~~(VIII) Investing money that is not currently needed for the operation of the drinking water~~
12 ~~revolving fund in the manner determined by the authority. All interest earned on these~~
13 ~~investments shall be credited to the specified account, if any, in the drinking water revolving~~
14 ~~fund.~~
- 15 (IX) Providing for any other expenditure that is consistent with the safe drinking water act and
16 state law.

17 (3) (a) The ~~authority~~ COLORADO DEPARTMENT OF HEALTH DRINKING WATER
18 REVOLVING FUND may make, SUBJECT TO PROVISIONS ADOPTED BY THE COLORADO
19 GENERAL ASSEMBLY, ~~and contract to make~~ loans to governmental agencies in accordance
20 with and subject to this section to finance the cost of eligible projects that the governmental
21 agency may lawfully undertake or acquire under state law and for which the governmental
22 agency is entitled by law to borrow money. The ~~authority~~ COLORADO DEPARTMENT OF
23 HEALTH DRINKING WATER REVOLVING FUND may make the loans subject to terms and
24 conditions determined ~~by the authority~~ to be consistent with the purposes of the loans, and, to
25 the extent that moneys originating in grants from the federal government are the source of the
26 loans, consistent with the provisions of the safe drinking water act. Loans by ~~the authority~~ THE
27 COLORADO DEPARTMENT OF HEALTH DRINKING WATER REVOLVING FUND and the
28 terms and conditions of the loans are subject to financial analysis by the division of local
29 government in the department of local affairs. The financial analysis shall include an analysis
30 of the capacity to repay a loan and the need for financial assistance. ~~The loans shall be~~
31 ~~evidenced by notes, bonds, or other obligations of the borrower that are issued to the authority.~~
32 ~~In the case of a governmental agency, notes and bonds to be issued to the authority shall be~~
33 ~~authorized and issued pursuant to this paragraph (a). All notes, bonds, or other obligations~~
34 ~~evidencing a loan from the authority may be sold at private sale to the authority at any price,~~
35 ~~whether or not less than par value. The denominations, the times for payment of principal and~~
36 ~~interest, and the provisions for redemption prior to maturity of such notes, bonds, or other~~
37 ~~obligations shall be as the authority and the borrower agree. Each loan to a governmental~~
38 ~~agency and the notes, bonds, or other obligations thereby issued shall bear interest at such rate~~
39 ~~or rates per annum at or below market interest rate and shall be for such terms not to exceed~~

1 ~~twenty years after project completion as the authority and the borrower may agree; except that,~~
2 ~~if the source of the loaned funds is a grant from the United States, the loan term may be~~
3 ~~extended in accordance with the terms of the safe drinking water act providing for extended~~
4 ~~loan terms.~~

5 (b) ~~From moneys in the drinking water revolving fund, the authority may purchase or refinance~~
6 ~~or purchase insurance for the payment of all or any portion of the principal and interest on~~
7 ~~bonds, notes, or other obligations issued by a governmental agency to finance an eligible~~
8 ~~project that the governmental agency may lawfully undertake or acquire under state law and for~~
9 ~~which the governmental agency is authorized by law to borrow money. The purchase or~~
10 ~~refinancing or purchase of insurance by the authority is subject to financial analysis by the~~
11 ~~division of local government in the department of local affairs. The financial analysis shall~~
12 ~~include an analysis of the capacity to repay a loan and the need for financial assistance.~~

13 (c) ~~The authority may charge to and collect from governmental agencies provided financial~~
14 ~~assistance from the drinking water revolving fund fees and charges in connection with the~~
15 ~~authority's loans or other services, including, but not limited to, fees and charges sufficient to~~
16 ~~reimburse the authority for all reasonable costs it necessarily incurred in providing financial~~
17 ~~assistance from the drinking water revolving fund, including, but not limited to, costs of~~
18 ~~financing and the establishment and maintenance of reserves or other funds as the authority~~
19 ~~may determine is reasonable.~~

20 (4) (a) The initial drinking water project eligibility list shall be developed by the division of
21 administration in the department of public health and environment.

22 (b) Additions or modifications to the drinking water project eligibility list shall be developed by
23 the COLORADO DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT and shall be
24 submitted to the general assembly on or before January 15 of each year. The additions or
25 modifications shall conform to applicable provisions of the safe drinking water act and state
26 law. On or before April 1 of each year, the additions or modifications shall be adopted by the
27 passage of a joint resolution that is approved by a majority vote of both houses of the general
28 assembly and that is presented to the governor in accordance with section 39 of article V of the
29 state constitution.

30 (c) Moneys shall not be spent from the drinking water revolving fund ~~or bonds issued by the~~
31 ~~authority pursuant to subsection (6) of this section for any project unless the project is on the~~
32 ~~drinking water project eligibility list. approved in accordance with this subsection (4) or is an~~
33 ~~emergency project in accordance with paragraph (d) of this subsection (4).~~ Financial assistance
34 for a project pursuant to this section may be provided regardless of the rank, if any, of the
35 project on the eligibility list; except that any priority for eligible projects established or required
36 by the safe drinking water act shall apply in the issuance of financial assistance if the source of
37 the financial assistance is grant moneys from the federal government.

38 (d) ~~The water quality control commission~~ COLORADO DEPARTMENT OF PUBLIC HEALTH
39 AND ENVIRONMENT may amend the drinking water project eligibility list at any time,
40 pursuant to its regular procedures, to include drinking water projects that it determines and

1 declares to be emergency projects needed to prevent or address threats to the public health or
2 environment. No later than January 15 of each year, the authority shall provide to the general
3 assembly a listing of all emergency projects for which moneys from the drinking water
4 revolving fund have been expended in the preceding calendar year.

5 (5) (a) The division of local government in the department of local affairs, AND the division of
6 administration in the department of public health and environment, ~~and the authority~~ shall
7 develop an intended use plan that complies with the safe drinking water act.

8 (b) (Deleted by amendment, L. 2005, p. 40, § 3, effective March 23, 2005.)

9 ~~(6) The authority may issue bonds pursuant to this article to finance the cost of providing~~
10 ~~financial assistance from the drinking water revolving fund and to provide reserves therefore~~
11 ~~pursuant to subsection (3) of this section.~~

12 (7) On behalf of the state ~~and with the written approval of the water quality control~~
13 ~~commission, the authority~~ THE COLORADO DEPARTMENT OF HEALTH DRINKING WATER
14 REVOLVING FUND may enter into, SUBJECT TO PROVISIONS ADOPTED BY THE
15 COLORADO GENERAL ASSEMBLY, any agreements with the federal government as necessary
16 to comply with any provisions of the safe drinking water act and if otherwise required to
17 provide for any capitalization of the drinking water revolving fund from federal grant moneys.

18 ~~(8) Sections 37-95-107 and 37-95-107.5 shall not apply to any project on the drinking water~~
19 ~~project eligibility list approved in accordance with subsection (4) of this section.~~

20 (9) The ~~authority~~ COLORADO DEPARTMENT OF HEALTH DRINKING WATER REVOLVING
21 FUND may, acting in its discretion, SUBJECT TO PROVISIONS ADOPTED BY THE COLORADO
22 GENERAL ASSEMBLY, MAY ~~and with the approval of the governor~~, transfer moneys from the
23 drinking water revolving fund to the water pollution control revolving fund, ~~created and~~
24 ~~administered pursuant to section 37-95-107.6~~, if the transfer of such moneys is permitted by
25 applicable federal law and the terms of any agreement between the state and the United States
26 relating to the drinking water revolving fund.

27 ~~37-95-108. Acquisition and disposition of property—change of location of~~
28 ~~highways, railroad, or public utilities—regulation of public utility facilities on a~~
29 ~~project.— REPEALED~~

30 ~~(1) When the authority, or the person or governmental agency with which the authority~~
31 ~~contracts, finds it necessary to change the location of any portion of any public road, state~~
32 ~~highway, railroad, point of diversion, or public utility facility in connection with the~~
33 ~~construction of a project, it shall cause the same to be reconstructed at such location as the~~
34 ~~other person owning or the unit of government having jurisdiction over such road, highway,~~
35 ~~railroad, or public utility facility deems most favorable. Such construction shall be of~~
36 ~~substantially the same type and in as good condition as the original road, highway, railroad, or~~
37 ~~public utility facility. The cost of such reconstruction, relocation, or removal and any damage~~
38 ~~incurred in changing the location of any such road, highway, railroad, or public utility facility~~

1 shall be paid by the authority, or the person or governmental agency responsible to the
2 authority for repayment of bonds or notes in conjunction with any project authorized by the
3 authority, as a part of the cost of such project.

4 (2) If the authority finds it necessary in connection with the undertaking of any project to
5 change the location of any portion of any public highway or road, it may contract with any
6 governmental agency or any public or private corporation which may have jurisdiction over
7 said public highway or road to cause said public highway or road to be constructed. The cost of
8 such reconstruction and any damage incurred in changing the location of any such highway
9 shall be ascertained and paid by the authority, or the person or governmental agency with
10 which the authority contracts, as a part of the cost of the project. Any public highway affected
11 by the construction of the project may be vacated or relocated by the authority in the manner
12 now provided by law for the vacation or relocation of public roads, and any damages awarded
13 on account thereof shall be paid by the authority as a part of the cost of the project. In all
14 undertakings authorized by this subsection (2), the authority shall consult with and obtain the
15 approval of the department of transportation.

16 (3) The authority and its authorized agents and employees may enter upon any lands and
17 premises for the purpose of making such surveys, soundings, drillings, and examinations as it
18 may deem necessary or convenient for the purposes of this section, all in accordance with due
19 process of law, and such entry shall not be deemed a trespass nor shall an entry for such
20 purpose be deemed an entry under any condemnation proceedings which may be then pending.
21 The authority shall make reimbursement for any actual damages resulting to such lands and
22 premises as a result of such activities.

23 (4) The authority also has the power to make reasonable regulations for the installation,
24 construction, maintenance, repair, renewal, relocation, and removal of railroad and public
25 utility facilities in, on, along, over, or under any of its projects. Whenever the authority
26 determines that it is necessary that any such public utility and railroad facilities which now are,
27 or hereafter may be, located in, on, along, over, or under any project be relocated in any project
28 or should be removed therefrom, the public utility or railroad owning or operating such
29 facilities shall relocate or remove the same in accordance with the order of the authority, but
30 the cost and expenses of such relocation or removal, including the cost of installing such
31 facilities in a new location, and the cost of any lands, or any rights or interests in lands, and any
32 other rights acquired to accomplish such relocation or removal shall be ascertained and paid by
33 the authority, or the person or governmental agency with which the authority contracts, as a
34 part of the cost of the project. In the case of any such relocation or removal of facilities, the
35 public utility or railroad owning or operating the same or its successors or assigns may
36 maintain and operate such facilities, with the necessary appurtenances, in the new location for
37 as long a period and upon the same terms and conditions as it had to maintain and operate such
38 facilities in their former location.

39 37-95-109. Bonds or notes—issuance—terms. REPEALED

40 (1) The authority has the power and is hereby authorized from time to time to issue its bonds
41 or notes in such principal amounts as in the opinion of the board are necessary to provide

1 sufficient funds for any of its corporate purposes, including the payment, funding, or refunding
2 of the principal of, or interest or redemption premiums on, any bonds or notes issued by it,
3 whether the bonds or notes or interest to be funded or refunded have or have not become due,
4 and including the establishment or increase of such reserves to secure or to pay such bonds or
5 notes or interest thereon and all other costs or expenses of the authority incident to and
6 necessary to carry out its corporate purposes and powers. The authority shall subsidize some or
7 all of the cost of issuance of bonds and notes pursuant to this article for projects, including
8 small water resources projects, to build water management facilities that are raw water
9 diversion or storage projects that are jointly sponsored by two or more governmental agencies
10 that do not share the same governing body.

11 (2) Except as may be otherwise expressly provided in this article or by the authority, every
12 issue of bonds or notes shall be special obligations payable out of any revenues or funds of the
13 authority, subject only to any agreements with the holders of particular bonds or notes pledging
14 any particular revenues or funds. The authority may issue such types of bonds or notes as it
15 may determine, including, without limiting the generality of the foregoing, bonds or notes as to
16 which the principal and interest are payable:

17 (a) Exclusively from the revenues and receipts of the part of the project financed with the
18 proceeds of such bonds or notes;

19 (b) Exclusively from the revenues and receipts of certain designated parts of the project,
20 whether or not the same are financed in whole or in part from the proceeds of such bonds or
21 notes; or

22 (c) From its revenues and receipts generally.

23 (3) Any such bonds or notes may be additionally secured by a pledge of any grant, subsidy, or
24 contribution from the United States or any agency or instrumentality thereof, or the state or any
25 governmental agency thereof, or any person, firm, or corporation or by a pledge of any income
26 or revenues, funds, or moneys of the authority from any source whatsoever.

27 (4) Whether or not the bonds and notes are of such form and character as to be negotiable
28 instruments under the terms of the "Uniform Commercial Code", title 4, C.R.S., the bonds and
29 notes are hereby made negotiable instruments within the meaning of and for all the purposes of
30 said title 4, subject only to the provisions of the bonds and notes for registration.

31 (5) Bonds or notes of the authority shall be authorized by a resolution or resolutions of the
32 board, and may be issued in one or more series, and shall bear such date or dates, mature at
33 such time or times, bear interest at such rate or rates of interest per annum, be in such
34 denomination or denominations, be in such form, either coupon or registered, carry such
35 conversion or registration privileges, have such rank or priority, be executed in such manner, be
36 payable from such sources in such medium of payment at such place or places within or
37 without the state, and be subject to such terms of redemption (with or without premium) as
38 such resolution or resolutions may provide.

1 ~~(6) Bonds or notes of the authority may be sold at public or private sale at such price or prices~~
2 ~~and in such manner as the board shall determine.~~

3 ~~(7) Bonds or notes may be issued under the provisions of this article without obtaining the~~
4 ~~consent of any department, division, commission, board, bureau, or agency of the state and~~
5 ~~without any other proceeding or the happening of any other conditions or other things than~~
6 ~~those proceedings, conditions, or things which are specifically required by this article.~~

7 ~~(8) Bonds and notes of the authority issued under the provisions of this article shall not be in~~
8 ~~any way a debt or liability of the state or of any political subdivision thereof other than the~~
9 ~~authority and shall not create or constitute any indebtedness, liability, or obligation of the state~~
10 ~~or of any such political subdivision or be or constitute a pledge of the faith and credit of the~~
11 ~~state or of any such political subdivision, but all such bonds and notes, unless funded or~~
12 ~~refunded by bonds or notes of the authority, shall be payable solely from revenues or funds~~
13 ~~pledged or available for their payment as authorized in this article. Each bond and note shall~~
14 ~~contain on its face a statement to the effect that the authority is obligated to pay the principal~~
15 ~~thereof or the interest thereon only from revenues or funds of the authority and that neither the~~
16 ~~state nor any political subdivision thereof is obligated to pay such principal or interest and that~~
17 ~~neither the faith and credit nor the taxing power of the state or any political subdivision thereof~~
18 ~~is pledged to the payment of the principal of or the interest on such bonds or notes.~~

19 ~~(9) All expenses incurred in carrying out the provisions of this article shall be payable solely~~
20 ~~from revenues or funds provided or to be provided under the provisions of this article, and~~
21 ~~nothing in this article shall be construed to authorize the authority to incur any indebtedness or~~
22 ~~liability on behalf of or payable by the state or any political subdivision thereof.~~

23 ~~37-95-110. Power to make covenants to secure payment. REPEALED~~

24 ~~(1) In any resolution of the board authorizing or relating to the issuance of any bonds or notes,~~
25 ~~the authority, in order to secure the payment of such bonds or notes and in addition to its other~~
26 ~~powers, has the power by provisions therein which shall constitute covenants by the authority~~
27 ~~and contracts with the holders of such bonds or notes:~~

28 ~~(a) To pledge all or any part of its rents, fees, revenues, or receipts to which its right then exists~~
29 ~~or may thereafter come into existence, and the moneys derived therefrom, and the proceeds of~~
30 ~~any bonds or notes;~~

31 ~~(b) To pledge any lease or other agreement or the rents or other revenues thereunder and the~~
32 ~~proceeds thereof;~~

33 ~~(c) To covenant against pledging all or any part of its rents, fees, revenues, or receipts, or its~~
34 ~~leases or agreements or rents or other revenues thereunder, or the proceeds thereof; or against~~
35 ~~mortgaging all or any part of its real or personal property then owned or thereafter acquired; or~~
36 ~~against permitting or suffering any lien on any of the foregoing;~~

- 1 ~~(d) To covenant with respect to limitations on any right to sell, lease, or otherwise dispose of~~
2 ~~any project or any part thereof or any property of any kind;~~
- 3 ~~(e) To covenant as to any bonds and notes to be issued and the limitations thereon and the terms~~
4 ~~and conditions thereof and as to the custody, application, investment, and disposition of the~~
5 ~~proceeds thereof;~~
- 6 ~~(f) To covenant as to the issuance of additional bonds or notes or as to limitations on the~~
7 ~~issuance of additional bonds or notes and on the incurring of other debts by it;~~
- 8 ~~(g) To covenant as to the payment of the principal of or interest on the bonds or notes, or any~~
9 ~~other obligations, as to the courses and methods of such payment, as to the rank or priority of~~
10 ~~any such bonds, notes, or obligations with respect to any lien or security, or as to the~~
11 ~~acceleration of the maturity of any such bonds, notes, or obligations;~~
- 12 ~~(h) To provide for the replacement of lost, stolen, destroyed, or mutilated bonds or notes;~~
- 13 ~~(i) To covenant against extending the time for the payment of bonds or notes or interest~~
14 ~~thereon;~~
- 15 ~~(j) To covenant as to the redemption of bonds or notes and privileges of exchange thereof for~~
16 ~~other bonds or notes of the authority;~~
- 17 ~~(k) To covenant as to the rates to be established and charged and the amount to be raised each~~
18 ~~year or other period of time by such charges and as to the use and disposition to be made~~
19 ~~thereof;~~
- 20 ~~(l) To covenant to create or authorize the creation of special funds or moneys to be held in~~
21 ~~pledge or otherwise for construction, operating expenses, payment or redemption of bonds or~~
22 ~~notes, reserves, or other purposes and as to the use, investment, and disposition of the moneys~~
23 ~~held in such funds;~~
- 24 ~~(m) To establish the procedure, if any, by which the terms of any contract or covenant with or~~
25 ~~for the benefit of the holders of bonds or notes may be amended or abrogated, the amount of~~
26 ~~bonds or notes the holders of which must consent thereto, and the manner in which such~~
27 ~~consent may be given;~~
- 28 ~~(n) To covenant as to the construction, improvement, operation, or maintenance of its real and~~
29 ~~personal property, the replacement thereof, the insurance to be carried thereon, and the use and~~
30 ~~disposition of insurance moneys;~~
- 31 ~~(o) To provide for the release of property, leases, or other agreements;~~
- 32 ~~(p) To provide for the rights and liabilities and the powers and duties arising upon the breach of~~
33 ~~any covenant, condition, or obligation and to prescribe the events of default and the terms and~~
34 ~~conditions upon which any or all of the bonds, notes, or other obligations of the authority shall~~

1 ~~become or may be declared due and payable before maturity and the terms and conditions upon~~
2 ~~which any such declaration and its consequences may be waived;~~

3 ~~(q) To vest in a trustee or trustees within or without the state such property, rights, powers, and~~
4 ~~duties in trust as the authority may determine, including the right to foreclose any mortgage,~~
5 ~~and to limit the rights, duties, and powers of such trustee;~~

6 ~~(r) To execute all bills of sale, conveyances, deeds of trust, and other instruments necessary or~~
7 ~~convenient in the exercise of its powers or in the performance of its covenants or duties;~~

8 ~~(s) To pay the costs or expenses incident to the enforcement of such bonds or notes or of the~~
9 ~~provisions of such resolution or of any covenant or agreement of the authority with the holders~~
10 ~~of its bonds or notes;~~

11 ~~(t) To limit the powers of the authority to construct, acquire, or operate any structures,~~
12 ~~facilities, or properties which may compete or tend to compete with the project;~~

13 ~~(u) To limit the rights of the holders of any bonds or notes to enforce any pledge or covenant~~
14 ~~securing bonds or notes; and~~

15 ~~(v) To make covenants other than those expressly authorized in this section, of like or different~~
16 ~~character, and to make such covenants to do or refrain from doing such acts and things as may~~
17 ~~be necessary, or convenient and desirable, in order to better secure bonds or notes or which, in~~
18 ~~the absolute discretion of the authority, will tend to make bonds or notes more marketable,~~
19 ~~notwithstanding that such covenants, acts, or things may not be enumerated in this section.~~

20 ~~37-95-111. Pledge of revenues, moneys, funds, or other property—lien.~~
21 ~~REPEALED~~

22 ~~Any pledge of revenues, moneys, funds, or other property made by the authority shall be valid~~
23 ~~and binding from the time when the pledge is made; the revenues, moneys, funds, or other~~
24 ~~property so pledged and thereafter received by the authority shall immediately be subject to the~~
25 ~~lien of such pledge without any physical delivery thereof or further act, and the lien of any such~~
26 ~~pledge shall be valid and binding as against all parties having claims of any kind in tort,~~
27 ~~contract, or otherwise against the authority, irrespective of whether such parties have notice~~
28 ~~thereof. Neither the resolution nor any other instrument by which a pledge of revenues,~~
29 ~~moneys, or funds is created need be filed or recorded, except in the records of the authority.~~

30 ~~37-95-112.—Personal liability. REPEALED~~

31 ~~Neither the members of the board nor any person executing bonds or notes issued pursuant to~~
32 ~~this article shall be liable personally on such bonds or notes by reason of the issuance thereof.~~

33 ~~37-95-113.—Debt service reserve funds. (Repealed).~~

1 37-95-114. ~~Guarantee by state not to limit or alter rights or powers vested in~~
2 ~~authority.~~ REPEALED

3 ~~The state of Colorado does hereby pledge to and covenant and agree with the holders of any~~
4 ~~bonds or notes issued pursuant to the powers set forth in this article that the state will not limit~~
5 ~~or alter the rights or powers vested by this article in the authority to acquire, construct,~~
6 ~~maintain, improve, repair, and operate the project in any way that would jeopardize the interest~~
7 ~~of such holders, or to perform and fulfill the terms of any agreement made with the holders of~~
8 ~~such bonds or notes, or to fix, establish, charge, and collect such rents, fees, rates, or other~~
9 ~~charges as may be convenient or necessary to produce sufficient revenues to meet all expenses~~
10 ~~of the authority and fulfill the terms of any agreement made with the holders of such bonds and~~
11 ~~notes, together with interest thereon, with interest on any unpaid installments of interest, and all~~
12 ~~costs and expenses in connection with any action or proceedings by or on behalf of such~~
13 ~~holders, until the bonds, together with interest thereon, are fully met and discharged or~~
14 ~~provided for.~~

15 37-95-115. Exemption of bonds from taxation.

16 Any bonds issued by the authority ~~under the provisions of this article~~, their transfer, and the
17 income therefrom (including any profit made on the sale thereof) shall at all times be free from
18 taxation by the state or any political subdivision or other instrumentality of the state

19 37-95-116. ~~Annual report—annual audit—annual budget.~~ REPEALED

20 ~~(1) On or before April 30 of each year, the authority shall make an annual report of its activities~~
21 ~~for the preceding fiscal year to the governor and the joint agriculture and natural resource~~
22 ~~committee of the house of representatives and the senate. Each such report shall set forth a~~
23 ~~complete operating and financial statement covering its operations during the year. Included~~
24 ~~within such report shall be detailed financial data setting forth the manner in which any~~
25 ~~previously appropriated state funds have been used. The authority, no later than November 30~~
26 ~~of each year, shall report to the governor any requests for state funds for the upcoming state~~
27 ~~fiscal year, detailing the purposes for which said funds are to be utilized.~~

28 ~~(2) The authority shall cause an audit of its books and accounts to be made at least once in each~~
29 ~~year by certified public accountants, and the cost thereof shall be considered as expenses of the~~
30 ~~authority, and a copy thereof shall be filed with the state treasurer.~~

31 ~~(3) The authority shall develop and adopt an annual administrative operating budget and submit~~
32 ~~such budget on a timely basis to each district, governmental entity, and other entity~~
33 ~~participating in projects, so as to permit such districts and entities to make necessary~~
34 ~~adjustments in their respective budgets, fees, and charges.~~

35 37-95-117. ~~Service by state officers, departments, boards, agencies, divisions,~~
36 ~~and commissions.~~ REPEALED

37 All officers, departments, boards, agencies, divisions, and commissions of the state are hereby
38 authorized and empowered to render any and all of such services to the authority as may be

1 within the area of their respective governmental functions as fixed or established by law and as
2 may be requested by the authority. The cost and expense of any such services shall be met and
3 provided for by the authority.

4 37-95-118. Bonds eligible for investment.

5 Bonds issued under the provisions of this article are hereby made securities in which all
6 insurance companies, trust companies, banking associations, savings and loan associations,
7 investment companies, executors, administrators, trustees, and other fiduciaries may properly
8 and legally invest funds, including capital, in their control or belonging to them. Public entities,
9 as defined in section [24-75-601](#) (1), C.R.S., may invest public funds in such bonds only if said
10 bonds satisfy the investment requirements established in part 6 of article [75](#) of title [24](#), C.R.S.
11 Such bonds are hereby made securities which may properly and legally be deposited with and
12 received by any public entity for any purpose for which the deposit of bonds, notes, or
13 obligations of the state is authorized by law.

14 37-95-119. ~~Charges for use of service of projects.~~ REPEALED

15 ~~Rentals or other charges with respect to a project shall not be subject to supervision or~~
16 ~~regulation by any other authority, commission, board, bureau, or agency of the state, and such~~
17 ~~contract with respect to a project may provide for acquisition by such person or governmental~~
18 ~~agency of all or any part of such project for such consideration, payable over the period of the~~
19 ~~contract or otherwise, as the authority in its sole discretion determines to be appropriate, but~~
20 ~~subject to the provisions of any resolution authorizing the issuance of bonds or notes of the~~
21 ~~authority or any trust agreement securing the same.~~

22 37-95-120. ~~Agreements with governmental agencies or persons.~~ REPEALED

23 ~~(1) Governmental agencies or persons may enter into lease, sale, or loan agreements with the~~
24 ~~authority with respect to any project, and governmental agencies or persons may also enter into~~
25 ~~purchase agreements with the authority for the purchase of the capacity use or service of any~~
26 ~~project. Such lease, sale, loan, or purchase agreements may be for a term covering the life of a~~
27 ~~project, or for any other term, or for an indefinite period. Pursuant to any such agreements, such~~
28 ~~governmental agencies or persons may obligate themselves to make payments in amounts~~
29 ~~which shall be sufficient to enable the authority to meet its expenses, the interest and principal~~
30 ~~payments (whether at maturity or upon sinking fund redemption) for its bonds, its reasonable~~
31 ~~reserves for debt service, operation and maintenance, and renewals and replacements, and the~~
32 ~~requirements of any rate covenant with respect to debt service coverage contained in any~~
33 ~~resolution, trust indenture, or other security instrument.~~

34 ~~(2) Purchase agreements between the authority and any governmental agency or persons may~~
35 ~~contain such other terms and conditions as the authority and the purchasers may determine,~~
36 ~~including provisions whereby the purchaser is obligated to pay for the output, capacity, or use~~
37 ~~of any project irrespective of whether such output, capacity, or use is produced or delivered to~~
38 ~~the purchaser or whether any water development project contemplated by any such agreement~~
39 ~~is completed, operable, or operating, and notwithstanding suspension, interruption,~~

1 interference, reduction, or curtailment of the output, use, or service of such project. Subject to
2 local charter and state constitutional limitations, such purchase agreements may also provide
3 that if one or more of the purchasers defaults in the payment of its obligations under any such
4 purchase agreement, the remaining purchasers which also have such agreements shall be
5 required to accept and pay for, and shall be entitled proportionately to use or otherwise dispose
6 of, the output, capacity, or use of the project contracted for by the defaulting purchaser.

7 (3) The obligations of a governmental agency or persons under an agreement with the authority
8 or arising out of the default by any other purchaser with respect to such an agreement shall not,
9 unless otherwise lawful, be construed to constitute a debt of the governmental agency or
10 persons. To the extent provided in agreements with the authority, such obligations shall
11 constitute special obligations of the governmental agency or persons, payable solely from the
12 revenues and other moneys derived by the governmental agency or persons from their utility
13 systems, and shall be treated as expenses of operating such systems.

14 37-95-121. Effect on inconsistent acts and rules and regulations adopted
15 thereunder.

16 It is the intent of the general assembly that, in the event of any conflict or inconsistency in the
17 provisions of this article and any other statutes pertaining to matters established or provided for
18 in this article or in any rules and regulations adopted under this article or under said other
19 statutes, to the extent of such conflict or inconsistency, the provisions of this article and the
20 rules and regulations adopted under this article shall be enforced, and the provisions of such
21 other statutes and rules and regulations adopted thereunder shall be of no force and effect;
22 except that nothing in this article shall be construed to amend or affect any existing water law.

23 37-95-122. Severability.

24 If any provision of this article or the application thereof to any person or circumstances is held
25 invalid, such invalidity shall not affect other provisions or applications of the article which can
26 be given effect without the invalid provision or application, and to this end the provisions of
27 this article are declared to be severable.

28 37-94-123. Construction of article.

29 This article shall be construed liberally to effectuate the legislative intent and the purposes of
30 this article as the complete and independent authority for the performance of each and every act
31 and thing authorized in this article, and all the powers granted in this article shall be broadly
32 interpreted to effectuate such intent and purposes. and shall not be interpreted as a limitation of
33 such powers; except that it is hereby recognized that the primary purpose of this article relates
34 to the development of water resources of the state of Colorado as set forth in section [37-95-102](#)
35 (1), and that the only generation of electric energy authorized hereunder is generation from
36 hydroelectric facilities. This article shall not be construed to authorize the board to generate
37 electric energy by fossil fuel or other nonhydroelectric methods.