

Second Regular Session

Sixty-second General Assembly
LLS NO. 00-1064.01 Bart Miller **SENATE BILL 00-215**

STATE OF COLORADO

BY SENATORS Evans and Powers;
also REPRESENTATIVE McElhany.

A BILL FOR AN ACT

101 CONCERNING STATE PLANNING FOR INFRASTRUCTURE NEEDS RELATED TO
102 POPULATION GROWTH, AND, IN CONNECTION THEREWITH,
103 DIRECTING THE COLORADO WATER CONSERVATION BOARD TO
104 STUDY INTEGRATED WATER INFRASTRUCTURE FACILITIES AND
105 ORGANIZATIONAL REQUIREMENTS NECESSARY TO ACCOMPLISH
106 SUCH PLANNING.

Bill Summary

(Note: This summary applies to this bill as introduced and does not necessarily reflect any amendments that may be subsequently adopted.)

Declares that, in order to plan for the growth in water supply demands caused by Colorado's population growth, in addition to alternatives already studied by the Colorado water conservation board, other infrastructure possibilities should be considered. Under the current authority of the Colorado water conservation board, requires the board to solicit proposals and recommend to the general assembly by December 15, 2002, the development of a water supply project consisting of integrated water infrastructure facilities that will result in the delivery of water to the eastern and western slopes. Sets forth parameters for the project.

Specifies that the board's recommendation to the general assembly shall take the form of a feasibility study containing certain information. Specifies that the general assembly, if it accepts the project recommended by the board, shall approve a funding plan for the project that may involve funding from the Colorado water conservation board construction fund.

Requires the board to carry out development of the project if approved by the general assembly. Authorizes the board to contract out operation of the project with the board exercising ultimate oversight. Authorizes the board to issue water supply contracts for water from the project, but grants first priority to a proponent whose project is accepted by the board in whole, or in part, under this act. Grants the board rule-making authority concerning the project.

Requires that the board study its current membership and permits it to recommend to the general assembly the reorganization of the board and changes in its organizational structure in order to carry out the integrated water infrastructure facilities contemplated under this bill. Provides that any such recommendations shall be communicated in writing to the general assembly with possible legislative changes to implement such recommendations.

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

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

4 **37-60-122.3. Development of Colorado river water supply -**
5 **legislative declaration - rules.** (1) THE GENERAL ASSEMBLY HEREBY
6 FINDS, DETERMINES, AND DECLARES THAT, TAKING INTO CONSIDERATION
7 THE UNRELIABILITY OF NONRENEWABLE GROUNDWATER, IN ORDER TO
8 PLAN FOR THE GROWTH IN WATER SUPPLY DEMANDS CAUSED BY
9 POPULATION GROWTH ACROSS THE STATE, WATER INFRASTRUCTURE, IN
10 ADDITION TO THE ALTERNATIVES STUDIED UNDER THE COLORADO WATER
11 CONSERVATION BOARD'S METROPOLITAN WATER SUPPLY INVESTIGATION,
12 MUST BE EVALUATED. THEREFORE, IN ORDER TO MEET THE DEMANDS OF
13 THE STATE'S NEW POPULATION GROWTH, THE COLORADO WATER
14 CONSERVATION BOARD, UNDER ITS GENERAL WATER PLANNING
15 AUTHORITY, SHALL SOLICIT PROPOSALS FOR AND RECOMMEND TO THE
16 GENERAL ASSEMBLY BY DECEMBER 15, 2002, THE DEVELOPMENT OF A

1 PROJECT OR PROJECTS DESIGNED TO ASSIST IN MEETING GROWTH-RELATED
 2 INCREASES IN DEMAND. THE PROJECT OR PROJECTS SHALL COMPRISE THE
 3 INTEGRATED WATER INFRASTRUCTURE FACILITIES. THE
 4 RECOMMENDATION SHALL:
 5 (a) ENCOURAGE A COOPERATIVE APPROACH TO WATER SUPPLY
 6 PLANNING;
 7 (b) FOSTER A SYSTEM INTEGRATION APPROACH TO WATER SUPPLY
 8 PLANNING;
 9 (c) REASONABLY PROTECT THE ENVIRONMENT OF THE BASIN OF
 10 ORIGIN AND BASIN OF USE;
 11 (d) PROMOTE A COST-EFFECTIVE APPROACH TO THE PROVISION OF
 12 WATER SUPPLIES;
 13 (e) PROVIDE THAT NO CURRENT IRRIGATED AGRICULTURE WILL BE
 14 TAKEN OUT OF PRODUCTION IN EITHER THE BASIN OF ORIGIN OR THE BASIN
 15 OF USE TO ACHIEVE THE DELIVERY GOALS;
 16 (f) COMMENCING IN 2020, MAKE AVAILABLE FOR DELIVERY TO THE
 17 BASIN OF USE WATER FOR POSSIBLE ENDANGERED SPECIES REQUIREMENTS,
 18 IF ANY, IN ADDITION TO WATER FOR TRADITIONAL RECOGNIZED
 19 CONSUMPTIVE USES;
 20 (g) COMMENCING IN 2020, MAKE AVAILABLE FOR DELIVERY FROM
 21 WATER DIVISION 4 OR 5, ON AN AVERAGE ANNUAL BASIS A MINIMUM OF
 22 ONE HUNDRED TWENTY THOUSAND ACRE-FEET OF WATER FOR BENEFICIAL
 23 USE IN WATER DIVISIONS 1 AND 2;
 24 (h) COMMENCING IN 2020, MAKE AVAILABLE ON AN AVERAGE
 25 ANNUAL BASIS FOR BENEFICIAL USE IN WATER DIVISIONS 4 AND 5 AN
 26 AMOUNT OF WATER THAT REFLECTS EXISTING OR REASONABLY

*Why omit the Rio Grande Valley
 why not study availability of Lake R
 on a long term basis*

misspelled?

1 FORESEEABLE FUTURE NEEDS, BUT WHICH IN NO EVENT EXCEEDS
2 THIRTY-THREE PERCENT OF THE WATER THAT IS DELIVERED ON AN
3 AVERAGE ANNUAL BASIS TO WATER DIVISIONS 1 AND 2;

4 (i) COMPLY WITH THE PROVISIONS OF SECTION 37-60-122.2.

5 (2) THE BOARD'S RECOMMENDATION TO THE GENERAL ASSEMBLY
6 OF THE INTEGRATED WATER INFRASTRUCTURE FACILITIES UNDER THIS
7 SECTION SHALL TAKE THE FORM OF A FEASIBILITY STUDY PURSUANT TO
8 SECTION 37-60-122 (1) (c). THE RECOMMENDATION SHALL CONTAIN BUT
9 NOT BE LIMITED TO A TIMELINE FOR THE COMPLETION OF THE INTEGRATED
10 WATER INFRASTRUCTURE FACILITIES INCLUDING AN ANALYSIS OF ANY
11 POTENTIAL IMPEDIMENTS ASSOCIATED WITH OBTAINING ANY NECESSARY
12 FEDERAL PERMITS.

13 (3) IF THE GENERAL ASSEMBLY APPROVES THE INTEGRATED WATER
14 INFRASTRUCTURE FACILITIES RECOMMENDED PURSUANT TO THIS SECTION,
15 IT SHALL ALSO APPROVE STATE FUNDING PLANS THAT MAY OR MAY NOT
16 REQUIRE FUNDING FROM THE COLORADO WATER CONSERVATION BOARD
17 CONSTRUCTION FUND.

18 (4) (a) UPON APPROVAL BY THE GENERAL ASSEMBLY PURSUANT TO
19 THIS SECTION, THE BOARD SHALL DEVELOP, OPERATE, AND MAINTAIN THE
20 INTEGRATED WATER INFRASTRUCTURE FACILITIES IN ACCORDANCE WITH
21 ITS POWERS CONTAINED WITHIN THIS ARTICLE, INCLUDING BUT NOT
22 LIMITED TO SECTIONS 37-60-106, 37-60-115 (1) (b), 37-60-119 (1) AND
23 (2), 37-60-120, AND AS AUTHORIZED IN THIS SUBSECTION (4).

24 (b) TO THE EXTENT REASONABLY POSSIBLE AND CONSISTENT WITH
25 THE OWNERSHIP INTERESTS IDENTIFIED IN THIS SECTION, THE BOARD
26 SHALL DEVELOP THE INTEGRATED WATER INFRASTRUCTURE FACILITIES IN

1 ACCORDANCE WITH THE TIMELINE CONTAINED IN THE BOARD'S
2 RECOMMENDATION TO THE GENERAL ASSEMBLY.

3 (c) THE BOARD MAY ENTER INTO CONTRACTS FOR THE
4 DEVELOPMENT, OPERATION, AND MAINTENANCE OF THE INTEGRATED
5 WATER INFRASTRUCTURE FACILITIES, BUT THE BOARD SHALL RETAIN
6 ULTIMATE RESPONSIBILITY FOR SUCH DEVELOPMENT, OPERATION, AND
7 MAINTENANCE. THE BOARD SHALL EITHER ACQUIRE AND MAINTAIN
8 OWNERSHIP OF THE INTEGRATED WATER INFRASTRUCTURE FACILITIES,
9 INCLUDING ALL ASSOCIATED INTERESTS IN LAND, RIGHTS-OF-WAY, AND
10 WATER RIGHTS DETERMINED TO BE NECESSARY TO MEET THE
11 REQUIREMENTS OF PARAGRAPHS (a) AND (b) OF THIS SUBSECTION (4), OR
12 ENTER INTO CONTRACTS WITH THE OWNERS OF SUCH LANDS, WATER
13 RIGHTS, OR FACILITIES FOR THE PURPOSE OF MEETING SUCH
14 REQUIREMENTS.

15 (d) THE BOARD OR ITS CONTRACTORS SHALL EXECUTE WATER
16 SUPPLY CONTRACTS WITH WATER USERS IN WATER DIVISIONS 1, 2, 4, AND
17 5 TO ENABLE WATER FROM THE INTEGRATED WATER INFRASTRUCTURE
18 FACILITIES TO BE APPLIED TO BENEFICIAL USE. THE OWNER OF ANY
19 FACILITY WATER RIGHTS OR PROPOSED FACILITY THAT IS, IN WHOLE OR IN
20 PART, INCLUDED BY THE BOARD IN THE INTEGRATED WATER
21 INFRASTRUCTURE FACILITIES SHALL RECEIVE FIRST PRIORITY TO WATER
22 SUPPLY CONTRACTS TO MEET THE REASONABLY ANTICIPATED NEEDS OF
23 SUCH INDIVIDUAL OR ENTITY WITHIN ITS EXISTING OR PLANNED SERVICE
24 AREA AS DETERMINED BY THE BOARD IN ITS REASONABLE DISCRETION.

25 (e) ANY WATER COURT PROCEEDINGS NECESSARY TO MEET THE
26 PURPOSES OF AN APPROVED PROJECT, INCLUDING ANY CHANGE OR

1 EXCHANGE OF WATER RIGHTS, SHALL BE THE RESPONSIBILITY OF THE
2 BOARD WORKING IN COOPERATION WITH ANY OWNER OF SUCH WATER
3 RIGHTS, OR FACILITIES THAT ARE TO BE INTEGRATED INTO THE PROJECT.
4 ALL NECESSARY FEDERAL, STATE, AND LOCAL PERMITTING REQUIREMENTS
5 SHALL BE THE RESPONSIBILITY OF THE BOARD.
6 (5) THE BOARD SHALL STUDY ITS CURRENT MEMBERSHIP AND MAY
7 RECOMMEND THE REORGANIZATION OF THE BOARD AND CHANGES TO ITS
8 ORGANIZATIONAL STRUCTURE IN ORDER TO CARRY OUT THE INTEGRATED
9 WATER INFRASTRUCTURE FACILITIES CONTEMPLATED UNDER THIS
10 SECTION. ANY SUCH RECOMMENDATIONS SHALL BE COMMUNICATED IN
11 WRITING TO THE GENERAL ASSEMBLY WITH POSSIBLE LEGISLATIVE
12 CHANGES TO IMPLEMENT SUCH RECOMMENDATIONS.
13 **SECTION 2. Safety clause.** The general assembly hereby finds,
14 determines, and declares that this act is necessary for the immediate
15 preservation of the public peace, health, and safety.