

Original No changes made
Proposed Initiative #30

Be It Enacted by the People of the State of Colorado: The statutes of the state of Colorado are amended to read:

SECTION 1. Article 95 of title 37 is amended to read:

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

37-95-102. Legislative declaration. (1) It is hereby declared to be the ~~public~~-policy of the state to preserve, protect, ~~upgrade~~, AND conserve, ~~develop~~, utilize, and manage the water resources of the state, AND to promote the ~~beneficial~~ use of waters of the PEOPLE OF THE state for the protection and preservation of the public health, safety, ~~convenience~~, and welfare. ~~to create or preserve jobs and employment opportunities or to improve the economic welfare of the people of the state, and to assist and cooperate with governmental agencies in achieving such purposes. In furtherance of such public policy, the Colorado water resources and power development authority is created in this article to initiate, acquire, construct, maintain, repair, and operate projects or cause the same to be operated pursuant to a lease, sublease, or other agreement with any person or governmental agency and may issue its bonds and notes payable solely from revenues to pay the cost of such projects.~~

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

37-95-103. Definitions. As used in this article: (1) "Authority" means the FORMER Colorado water resources and power development authority ~~created by this article.~~

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

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

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

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

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

(4.8) "Drinking water project eligibility list" means the list of projects eligible for financial assistance ~~from the authority through the drinking water revolving fund or its other bonding capabilities,~~ as adopted, and from time to time modified. in accordance with section 37-95-

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107.8 (4). The list shall consist of new or existing water management facilities that extend, protect, improve, or replace domestic drinking water supplies in the state of Colorado and may include any domestic drinking water supply projects eligible for financial assistance through a state revolving fund pursuant to the terms of the "Safe Drinking Water act", as defined in subsection (12.2) of this section.

(5) "Governmental agencies", FOR THE PURPOSES OF THIS ARTICLE, means departments, divisions, or other units of state government, special districts, water conservation districts, metropolitan water districts, WATER conservancy districts, irrigation districts, ~~municipal corporations, counties, AND cities. , and other political subdivisions, and the United States or any agency thereof.~~

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(15) "WATER RESOURCES AND POWER DEVELOPMENT SECTION OF THE COLORADO WATER CONSERVATION BOARD" MEANS THAT STATE GOVERNMENTAL SECTION WITHIN THE COLORADO WATER CONSERVATION BOARD THAT WILL PROVIDE SERVICES FORMERLY ASSIGNED TO THE FORMER COLORADO WATER RESOURCES AND POWER DEVELOPMENT AUTHORITY REGARDING WATER RESOURCE DEVELOPMENT. .

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

~~(7) (a) The FORMER WATER RESOURCES AND POWER DEVELOPMENT authority may be IS DE-AUTHORIZED, AND ITS FORMER ACTIVITIES TERMINATED, by an act passed by the VOTERS OF THE STATE OF COLORADO-PURSUANT TO SECTION 1 OF ARTICLE V OF THE COLORADO CONSTITUTION. general assembly on condition that.~~

(b) ACTIVITIES AND SERVICES OF THE WATER RESOURCES AND POWER DEVELOPMENT AUTHORITY SHALL TERMINATE UPON JULY 1, 2009 AND UPON CERTIFICATION BY THE COLORADO STATE AUDITOR THAT the authority has no debts or obligations outstanding, or that provision has been made for the payment or retirement of such debts or obligations. Upon any such dissolution of the authority, all property, funds, and assets thereof shall be vested in the state.

(c) C. R. S. 24-1-105 (3) AND C. R. S. 24-1-015 (4), SPECIFYING TYPE 3 TRANSFERS FOR ALL OR PARTS OF AN ABOLISHED OR DE-AUTHORIZED UNIT'S POWERS, DUTIES, FUNCTIONS, RECORDS, PERSONNEL, PROPERTY AND UNEXPENDED BALANCES OF APPROPRIATIONS, ALLOCATIONS, OR OTHER FUNDS WHEN AN EXISTING UNIT IS BEING ABOLISHED AND ALL OF THE FORMER UNIT'S EFFECTS ARE BEING TRANSFERRED TO A PRINCIPAL DEPARTMENT SHALL BE UTILIZED FOR THE TRANSFER OF ALL ELEMENTS BEING TRANSFERRED FROM THE FORMER WATER RESOURCES AND POWER DEVELOPMENT AUTHORITY TO ANY DESIGNATED DEPARTMENT.

37-95-104.1 Creation of the Colorado Water Resources and Power Development Section Within the Colorado Water Conservation Board. THE PEOPLE OF THE STATE OF COLORADO BY ADOPTION OF THIS ARTICLE CREATE THE WATER RESOURCES AND POWER DEVELOPMENT SECTION AT THE COLORADO WATER CONSERVATION BOARD.

37-95-105. Records and meetings of AUTHORITY board. (1) All resolutions and orders shall be recorded and authenticated by the signature of the chairman and the secretary of the board. Every legislative act of the board of a general or permanent nature shall be by resolution. The book of resolutions, corporate acts, and orders OF THE FORMER COLORADO WATER RESOURCES AND POWER DEVELOPMENT AUTHORITY shall be a REMAIN A public record. A public record shall also be made of all other proceedings of the board, minutes of the meetings, annual reports, certificates, contracts, and bonds given by officers, employees, and any other agents of the authority. The account of all moneys received by and disbursed on behalf of the authority shall also be a public record. Any public record of the authority shall be open for inspection by any citizen. All records shall be subject to uniform budget and audit laws, as set forth in article 1 of title 29, C.R.S., and shall be subject to regular audits, as provided therein.

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

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

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

37-95-106. Authority powers. REPEAL. ~~(1) Except as otherwise limited by this article, the authority, acting through the board, has the power:~~

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

~~(l) To make available the use or services of any project to one or more persons, one or more governmental agencies, or any combination thereof;~~

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

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

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

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

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

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

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

~~(t) To sell, convey, or lease to any person or governmental agency all or any portion of a project for such consideration and upon such terms as the board may determine to be reasonable;~~

~~(u) To make or cause to be made surveys, maps, and plans for, and estimates of the cost of, any project;~~

~~(v) (I) To acquire, in the name of the authority:~~

~~(A) Any land or other real or personal property, including water rights, which the authority determines is reasonably necessary for a project or for the relocation or reconstruction of any public road by the authority;~~

~~(B) Any and all right, title, and interest to and in such land and other real or personal property, including public lands, reservations, public roads, or parkways owned by or in which the state or any county, municipality, city and county, public corporation, or other political subdivision of the state has any right, title, or interest;~~

~~(C) Any fee simple absolute or any lesser interest in private property; and~~

~~(D) Any fee simple absolute in, or easements upon, or the benefit of restrictions upon abutting property to preserve and protect the project; except that the authority shall not acquire by purchase or condemnation land, an interest in land, or a right of way for the change of location of any portion of any public road, railroad, point of diversion, or public utility facility which is not needed for the construction of a project pursuant to this article.~~

~~(H) Acquisitions by the authority pursuant to this paragraph (v) may be made by purchase or otherwise, on such terms and conditions, and in such manner as the authority deems appropriate or may be made through the exercise of the power of eminent domain pursuant to, and subject to the limitations of, paragraph (n) of this subsection (1).~~

~~(w) To adopt rules and regulations for the use, management, and operation of the hydroelectric facilities and water management facilities financed by the authority;~~

~~(x) Subject to any agreement with bondholders or noteholders, to invest moneys of the authority not required for immediate use, including proceeds from the sale of any bonds or notes, in such obligations, securities, and other investments as the authority deems prudent;~~

~~(y) To contract for and to accept any gifts or grants or loans of funds or property or financial or other aid in any form from the United States or any agency or instrumentality thereof, or from the state or any governmental agency thereof, or from any other source and to comply, subject to the provisions of this article, with the terms and conditions thereof;~~

~~(z) Subject to any agreements with bondholders or noteholders, to purchase bonds or notes of the authority out of any funds or moneys of the authority available therefor and to hold, cancel, or resell such bonds or notes;~~

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

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

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

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

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

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

~~(gg) Repealed.~~

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

37-95-107. Feasibility studies - repayment of costs. REPEAL. ~~(1)(a)(I) Before any proposed project can receive consideration for construction funding by the authority, the Colorado water conservation board must first review the feasibility study of any such proposed project, and the general assembly must authorize the authority to proceed to consider the construction of any proposed project.~~

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

~~(B) Upon receipt of a feasibility study from the Colorado water conservation board, the general assembly may authorize the authority, by means of a joint resolution signed by the governor, to proceed with the consideration of any project that the general assembly deems to be in the interests of and to the advantage of the people of this state. However, such joint resolution shall~~

~~in no way require or compel the authority to fund or in any way finance and proceed with the development, acquisition, construction, reconstruction, enlargement, extension, improvement, furnishing, equipping, maintenance, repair, management, operation, or disposition of, or participation in any proposed project. A decision to proceed, when made subsequent to such joint resolution, shall be entirely within the discretion of the authority.~~

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

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

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

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

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

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

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

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

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

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

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

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

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

37-95-107.5. Legislative declaration - specific project authorizations. REPEAL. ~~(1) It is hereby declared to be the policy of the general assembly to protect and foster the full utilization of Colorado's limited surface water resources by allocation thereof through the operation of the appropriation system as provided by sections 5 and 6 of article XVI of the state constitution. Any judicial interpretation or other law to the contrary notwithstanding, the water rights appropriation and adjudication system of the state of Colorado shall continue to be utilized to establish priority of right to the use of the natural streams within the state which include ground water tributary thereto.~~

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

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

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

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

37-95-107.6. Creation and administration of THE water pollution control revolving fund AT THE COLORADO DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT.

(1) (a) ~~There is hereby created in the authority~~ THE PEOPLE OF THE STATE OF COLORADO HEREBY DISSOLVE THE FORMER COLORADO WATER RESOURCES AND POWER DEVELOPMENT AUTHORITY'S ~~the water pollution control revolving fund, which shall be maintained and administered by the authority and be available in perpetuity for the purposes stated in this section. The authority~~ AND RELOCATE ALL LEGAL ACTIONS AND AUTHORITIES OF A WATER POLLUTION CONTROL REVOLVING FUND WITHIN THE SUPERVISION OF THE COLORADO DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT.

(b.) THE COLORADO WATER POLLUTION CONTROL REVOLVING FUND SHALL BE CREATED IN SECTION 25-8-309, C. R. S., TO ASSUME THE LEGAL AUTHORITIES OF THE FORMER COLORADO WATER RESOURCES AND POWER DEVELOPMENT AUTHORITY WATER POLLUTION CONTROL REVOLVING FUND AS THAT FUND HAS BEEN MODIFIED BY THIS SECTION. THE COLORADO WATER POLLUTION CONTROL FUND DIRECTOR is authorized to establish such procedures as may be required to administer the water pollution control revolving fund in accordance with the clean water act and state law. ~~The authority may create separate accounts in the water pollution control revolving fund, which accounts may be pledged and assigned as security for the payment of the bonds of the authority.~~

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(7) ~~The authority, on behalf of the state, with the written approval of THE COLORADO DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT, SUBJECT TO PROVISIONS ADOPTED BY THE GENERAL ASSEMBLY, SHALL BE authorized to enter into such agreements with the United States as may be necessary to comply with the provisions of the federal "Water Quality Act of 1987" (P. L. 100-4) and as otherwise may be required to provide for the capitalization of the water pollution control revolving fund from federal grant moneys.~~

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

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

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

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

37-95-107.8. Creation and administration of drinking water revolving fund AT THE COLORADO DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT. (1) ~~There is hereby created in the authority the drinking water revolving fund that the authority shall maintain and administer for the purposes stated in this section. The authority may:~~ THE PEOPLE OF THE STATE OF COLORADO BY THE ADOPTION OF THESE ARTICLES, REVISED PURSUANT TO SECTION 1 OF ARTICLE V OF THE COLORADO CONSTITUTION, DISSOLVES THE FORMER COLORADO WATER RESOURCES AND POWER DEVELOPMENT AUTHORITY'S DRINKING WATER REVOLVING FUND BY PLACING THE ACTIONS AND AUTHORITIES OF THE DRINKING WATER REVOLVING FUND WITHIN THE COLORADO DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT DIVISION OF DRINKING WATER MANAGEMENT. THE PEOPLE OF THE STATE OF COLORADO HEREBY CREATE THE COLORADO DRINKING WATER REVOLVING FUND AT SECTION 25-1.5-210., C. R. S..

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

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

(c) To the extent permitted by the safe drinking water act, AND UPON ADOPTION OF PROVISIONS BY THE GENERAL ASSEMBLY, MAY transfer moneys to and divide moneys

between the drinking water revolving fund and the water pollution control revolving fund created in section 37-95-107.6.

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

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

(II) State matching funds, if required;

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

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

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

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

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

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

(c) SUBJECT TO PROVISIONS ADOPTED BY THE GENERAL ASSEMBLY, the ~~authority~~ COLORADO DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT may spend moneys in the drinking water revolving fund for financial assistance to governmental agencies for eligible projects, including expenditures by any of the following means:

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

(II) Making loans to governmental agencies;

(III) Purchasing or refinancing obligations of governmental agencies if the debt obligations were incurred after October 14, 1993, or for a project to comply with amendments to regulations enacted by the 1986 amendments to the safe drinking water act;

~~(IV) Securing or purchasing insurance for debt obligations;~~

~~(V) Securing or providing moneys for payment of the principal and interest on bonds of the authority;~~

(VI) Securing or providing moneys for payment of the principal and interest on other bonds issued to finance eligible projects;

(VII) Providing for the costs of administering the drinking water revolving fund, including the administrative costs of state agencies;

~~(VIII) Investing money that is not currently needed for the operation of the drinking water revolving fund in the manner determined by the authority. All interest earned on these investments shall be credited to the specified account, if any, in the drinking water revolving fund.~~

(IX) Providing for any other expenditure that is consistent with the safe drinking water act and state law.

(3) The authority COLORADO DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT DRINKING WATER REVOLVING FUND DIRECTOR may make, SUBJECT TO PROVISIONS ADOPTED BY THE GENERAL ASSEMBLY, ~~and contract to make~~ loans to governmental agencies in accordance with and subject to this section to finance the cost of eligible projects that the governmental agency may lawfully undertake or acquire under state law and for which the governmental agency is entitled by law to borrow money. The authority COLORADO DEPARTMENT OF HEALTH DRINKING WATER REVOLVING FUND DIRECTOR may make the loans subject to terms and conditions determined ~~by the authority~~ to be consistent with the purposes of the loans, and, to the extent that moneys originating in grants from the federal government are the source of the loans, consistent with the provisions of the safe drinking water act. Loans by ~~the authority~~ THE COLORADO DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT DRINKING WATER REVOLVING FUND, and the terms and conditions of the loans, are subject to financial analysis by the division of local government in the department of local affairs. The financial analysis shall include an analysis of the capacity to repay a loan and the need for financial assistance. ~~The loans shall be evidenced by notes, bonds, or other obligations of the borrower that are issued to the authority. In the case of a governmental agency, notes and bonds to be issued to the authority shall be authorized and issued pursuant to this paragraph (a). All notes, bonds, or other obligations evidencing a loan from the authority may be sold at private sale to the authority at any price, whether or not less than par value. The denominations, the times for payment of principal and interest, and the provisions for redemption prior to maturity of such notes, bonds, or other obligations shall be as the authority and the borrower agree. Each loan to a governmental agency and the notes, bonds, or other obligations thereby issued shall bear interest at such rate or rates per annum at or below market interest rate and shall be for such terms not to exceed twenty years after project completion as the authority and the borrower may agree; except that, if the source of the loaned funds is a grant from the United States, the loan term may be extended in accordance with the terms of the safe drinking water act providing for extended loan terms.~~

~~(b) From moneys in the drinking water revolving fund, the authority may purchase or refinance or purchase insurance for the payment of all or any portion of the principal and interest on bonds, notes, or other obligations issued by a governmental agency to finance an~~

~~eligible project that the governmental agency may lawfully undertake or acquire under state law and for which the governmental agency is authorized by law to borrow money. The purchase or refinancing or purchase of insurance by the authority is subject to financial analysis by the division of local government in the department of local affairs. The financial analysis shall include an analysis of the capacity to repay a loan and the need for financial assistance.~~

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

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

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

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

(d) ~~The water quality control commission~~ COLORADO DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT may amend the drinking water project eligibility list at any time, pursuant to its regular procedures, to include drinking water projects that it determines and declares to be emergency projects needed to prevent or address threats to the public health or environment. No later than January 15 of each year, the authority shall provide to the general assembly a listing of all emergency projects for which moneys from the drinking water revolving fund have been expended in the preceding calendar year.

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

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

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

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

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

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

37-95-108. Acquisition and disposition of property - change of location of highways, railroad, or public utilities - regulation of public utility facilities on a project. REPEAL.

~~(1) When the authority, or the person or governmental agency with which the authority contracts, finds it necessary to change the location of any portion of any public road, state highway, railroad, point of diversion, or public utility facility in connection with the construction of a project, it shall cause the same to be reconstructed at such location as the other person owning or the unit of government having jurisdiction over such road, highway, railroad, or public utility facility deems most favorable. Such construction shall be of substantially the same type and in as good condition as the original road, highway, railroad, or public utility facility. The cost of such reconstruction, relocation, or removal and any damage incurred in changing the location of any such road, highway, railroad, or public utility facility shall be paid by the authority, or the person or governmental agency responsible to the authority for repayment of bonds or notes in conjunction with any project authorized by the authority, as a part of the cost of such project.~~

~~(2) If the authority finds it necessary in connection with the undertaking of any project to change the location of any portion of any public highway or road, it may contract with any governmental agency or any public or private corporation which may have jurisdiction over said public highway or road to cause said public highway or road to be constructed. The cost of such reconstruction and any damage incurred in changing the location of any such highway~~

~~shall be ascertained and paid by the authority, or the person or governmental agency with which the authority contracts, as a part of the cost of the project. Any public highway affected by the construction of the project may be vacated or relocated by the authority in the manner now provided by law for the vacation or relocation of public roads, and any damages awarded on account thereof shall be paid by the authority as a part of the cost of the project. In all undertakings authorized by this subsection (2), the authority shall consult with and obtain the approval of the department of transportation.~~

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

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

37-95-109. Bonds or notes - issuance - terms. REPEAL. ~~(1) The authority has the power and is hereby authorized from time to time to issue its bonds or notes in such principal amounts as in the opinion of the board are necessary to provide sufficient funds for any of its corporate purposes, including the payment, funding, or refunding of the principal of, or interest or redemption premiums on, any bonds or notes issued by it, whether the bonds or notes or interest to be funded or refunded have or have not become due, and including the establishment or increase of such reserves to secure or to pay such bonds agencies that do not share the same or notes or interest thereon and all other costs or expenses of the authority incident to and necessary to carry out its corporate purposes and powers. The authority shall subsidize some or all of the cost of issuance of bonds and notes pursuant to this article for projects, including small water resources projects, to build water management facilities that are raw water diversion or storage projects that are jointly sponsored by two or more governmental governing body.~~

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

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

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

~~(c) From its revenues and receipts generally.~~

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

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

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

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

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

~~(8) Bonds and notes of the authority issued under the provisions of this article shall not be in any way a debt or liability of the state or of any political subdivision thereof other than the authority and shall not create or constitute any indebtedness, liability, or obligation of the state~~

~~or of any such political subdivision or be or constitute a pledge of the faith and credit of the state or of any such political subdivision, but all such bonds and notes, unless funded or refunded by bonds or notes of the authority, shall be payable solely from revenues or funds pledged or available for their payment as authorized in this article. Each bond and note shall contain on its face a statement to the effect that the authority is obligated to pay the principal thereof or the interest thereon only from revenues or funds of the authority and that neither the state nor any political subdivision thereof is obligated to pay such principal or interest and that neither the faith and credit nor the taxing power of the state or any political subdivision thereof is pledged to the payment of the principal of or the interest on such bonds or notes.~~

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

37-95-110. Power to make covenants to secure payment. REPEAL. ~~(1) In any resolution of the board authorizing or relating to the issuance of any bonds or notes, the authority, in order to secure the payment of such bonds or notes and in addition to its other powers, has the power by provisions therein which shall constitute covenants by the authority and contracts with the holders of such bonds or notes:~~

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

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

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

~~(d) To covenant with respect to limitations on any right to sell, lease, or otherwise dispose of any project or any part thereof or any property of any kind;~~

~~(e) To covenant as to any bonds and notes to be issued and the limitations thereon and the terms and conditions thereof and as to the custody, application, investment, and disposition of the proceeds thereof;~~

~~(f) To covenant as to the issuance of additional bonds or notes or as to limitations on the issuance of additional bonds or notes and on the incurring of other debts by it;~~

~~(g) To covenant as to the payment of the principal of or interest on the bonds or notes, or any other obligations, as to the courses and methods of such payment, as to the rank or priority of~~

~~any such bonds, notes, or obligations with respect to any lien or security, or as to the acceleration of the maturity of any such bonds, notes, or obligations;~~

~~(h) To provide for the replacement of lost, stolen, destroyed, or mutilated bonds or notes;~~

~~(i) To covenant against extending the time for the payment of bonds or notes or interest thereon;~~

~~(j) To covenant as to the redemption of bonds or notes and privileges of exchange thereof for other bonds or notes of the authority;~~

~~(k) To covenant as to the rates to be established and charged and the amount to be raised each year or other period of time by such charges and as to the use and disposition to be made thereof;~~

~~(l) To covenant to create or authorize the creation of special funds or moneys to be held in pledge or otherwise for construction, operating expenses, payment or redemption of bonds or notes, reserves, or other purposes and as to the use, investment, and disposition of the moneys held in such funds;~~

~~(m) To establish the procedure, if any, by which the terms of any contract or covenant with or for the benefit of the holders of bonds or notes may be amended or abrogated, the amount of bonds or notes the holders of which must consent thereto, and the manner in which such consent may be given;~~

~~(n) To covenant as to the construction, improvement, operation, or maintenance of its real and personal property, the replacement thereof, the insurance to be carried thereon, and the use and disposition of insurance moneys;~~

~~(o) To provide for the release of property, leases, or other agreements;~~

~~(p) To provide for the rights and liabilities and the powers and duties arising upon the breach of any covenant, condition, or obligation and to prescribe the events of default and the terms and conditions upon which any or all of the bonds, notes, or other obligations of the authority shall become or may be declared due and payable before maturity and the terms and conditions upon which any such declaration and its consequences may be waived;~~

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

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

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

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

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

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

37-95-111. Pledge of revenues, moneys, funds, or other property - lien. REPEAL. ~~Any pledge of revenues, moneys, funds, or other property made by the authority shall be valid and binding from the time when the pledge is made; the revenues, moneys, funds, or other property so pledged and thereafter received by the authority shall immediately be subject to the lien of such pledge without any physical delivery thereof or further act, and the lien of any such pledge shall be valid and binding as against all parties having claims of any kind in tort, contract, or otherwise against the authority, irrespective of whether such parties have notice thereof. Neither the resolution nor any other instrument by which a pledge of revenues, moneys, or funds is created need be filed or recorded, except in the records of the authority.~~

37-95-112. Personal liability. REPEAL. ~~Neither the members of the board nor any person executing bonds or notes issued pursuant to this article shall be liable personally on such bonds or notes by reason of the issuance thereof.~~

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

37-95-114. Guarantee by state not to limit or alter rights or powers vested in authority. REPEAL. ~~The state of Colorado does hereby pledge to and covenant and agree with the holders of any bonds or notes issued pursuant to the powers set forth in this article that the state will not limit or alter the rights or powers vested by this article in the authority to acquire, construct, maintain, improve, repair, and operate the project in any way that would jeopardize the interest of such holders, or to perform and fulfill the terms of any agreement made with the holders of such bonds or notes, or to fix, establish, charge, and collect such rents, fees, rates, or other charges as may be convenient or necessary to produce sufficient revenues to meet all expenses of the authority and fulfill the terms of any agreement made with the holders of such bonds and notes, together with interest thereon, with interest on any unpaid installments of interest, and all costs and expenses in connection with any action or proceedings by or on behalf of such holders, until the bonds, together with interest thereon, are fully met and discharged or provided for.~~

37-95-115. Exemption of bonds from taxation. Any bonds issued by the FORMER WATER RESOURCES AND POWER DEVELOPMENT authority, under the provisions of this article, their transfer, and the income therefrom (including any profit made on the sale thereof) shall at all times be free from taxation by the state or any political subdivision or other instrumentality of the state.

37-95-116. Annual report - annual audit - annual budget. REPEAL. ~~(1) On or before April 30 of each year, the authority shall make an annual report of its activities for the preceding fiscal year to the governor and the joint agriculture and natural resource committee of the house of representatives and the senate. Each such report shall set forth a complete operating and financial statement covering its operations during the year. Included within such report shall be detailed financial data setting forth the manner in which any previously appropriated state funds have been used. The authority, no later than November 30 of each year, shall report to the governor any requests for state funds for the upcoming state fiscal year, detailing the purposes for which said funds are to be utilized.~~

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

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

37-95-117. Services by state officers, departments, boards, agencies, divisions, and commissions. REPEAL. ~~All officers, departments, boards, agencies, divisions, and commissions of the state are hereby authorized and empowered to render any and all of such services to the authority as may be within the area of their respective governmental functions as fixed or established by law and as may be requested by the authority. The cost and expense of any such services shall be met and provided for by the authority.~~

37-95-118. Bonds eligible for investment. Bonds issued under the provisions of this article are hereby made securities in which all insurance companies, trust companies, banking associations, savings and loan associations, investment companies, executors, administrators, trustees, and other fiduciaries may properly and legally invest funds, including capital, in their control or belonging to them. Public entities, as defined in section 24-75-601 (1), C.R.S., may invest public funds in such bonds only if said bonds satisfy the investment requirements established in part 6 of article 75 of title 24, C.R.S. Such bonds are hereby made securities which may properly and legally be deposited with and received by any public entity for any purpose for which the deposit of bonds, notes, or obligations of the state is authorized by law.

37-95-119. Charges for use of service of projects. REPEAL. ~~Rentals or other charges with respect to a project shall not be subject to supervision or regulation by any other authority, commission, board, bureau, or agency of the state, and such contract with respect to a project may provide for acquisition by such person or governmental agency of all or any part of such~~

~~project for such consideration, payable over the period of the contract or otherwise, as the authority in its sole discretion determines to be appropriate, but subject to the provisions of any resolution authorizing the issuance of bonds or notes of the authority or any trust agreement securing the same.~~

37-95-120. Agreements with governmental agencies or persons. REPEAL. (1)

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

~~(2) Purchase agreements between the authority and any governmental agency or persons may contain such other terms and conditions as the authority and the purchasers may determine, including provisions whereby the purchaser is obligated to pay for the output, capacity, or use of any project irrespective of whether such output, capacity, or use is produced or delivered to the purchaser or whether any water development project contemplated by any such agreement is completed, operable, or operating, and notwithstanding suspension, interruption, interference, reduction, or curtailment of the output, use, or service of such project. Subject to local charter and state constitutional limitations, such purchase agreements may also provide that if one or more of the purchasers defaults in the payment of its obligations under any such purchase agreement, the remaining purchasers which also have such agreements shall be required to accept and pay for, and shall be entitled proportionately to use or otherwise dispose of, the output, capacity, or use of the project contracted for by the defaulting purchaser.~~

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

37-95-121. Effect on inconsistent acts and rules and regulations adopted thereunder. It is the intent of the general assembly that, in the event of any conflict or inconsistency in the provisions of this article and any other statutes pertaining to matters established or provided for in this article or in any rules and regulations adopted under this article or under said other statutes, to the extent of such conflict or inconsistency, the provisions of this article and the rules and regulations adopted under this article shall be enforced, ~~and the provisions of such~~

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ELECTIONS / LICENSING
SECRETARY OF STATE

*Original No changes
made.
Proposed Initiative
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**INITIATED PROPOSAL FOR STATUTORY MODIFICATION OF
37-95-101 ET. SEQ.,
THE "COLORADO WATER RESOURCES AND POWER
DEVELOPMENT AUTHORITY ACT"**

The proposal would modify the Colorado Revised Statutes authorizing the Colorado Water Resources and Power Development Authority, C. R. S. 37-95-101 et. seq., by de-authorizing the Authority in statute, and by creating the Colorado water resources and power development section in the Colorado Water Conservation Board.

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

- The Colorado Water Resources and Power Development Authority is a state recognized authority whose services are basically duplicative of state agency responsibilities. The purported justification for the existence of the Colorado Water Resources and Power Development Authority is that state of Colorado government agencies are not permitted to issue debt - therefore the necessity for a non-governmental, special authority specializing in debt financing.
- The Colorado Water Resources and Power Development Authority's efforts toward federal assistance for grants and awards regarding the Safe Drinking Water Act and the Clean Water Act are fiscal, not structural.
- Debt instruments issued for state and local projects undertaken by the Colorado Water Resources and Power Development Authority are generally tax-exempt revenue bonds. The revenue bond debt instruments authorized by the Authority are not General Obligation bonds, and therefore do not require voter approval for the issuance of debt obligations.
- The legislation enabling the Colorado Water Resources and Power Development Authority provides that the Authority can own and encumber water rights as a non-governmental, governmentally-sponsored entity. Under the existing statute authorizing the Authority, the Authority can encumber water rights to secure debt. Water rights, a property right in

Colorado, can be assigned to a proprietary entity without the consent of the people of Colorado.

- Large financial reserves are retained by the Colorado Water Resources and Power Development Authority as retained "earnings" and held by the Authority. Those "earnings" appear to have been generated by interest payments on issued debt. The existence of large retained financial resources, generated from tax-exempt bonds and secured as a public encumbrance by a non-profit, non-governmental entity, conflicts with the philosophy of a zero-based, annualized, budget-funding process where public participation in government financing is invited by virtue of annual Legislative review and approval by the state government for acknowledged water development proposals.
 - Not only does the Colorado Water Resources and Power Development Authority water resources development program appear to bypass the Colorado legislative open hearings process, but it also appears to be a redundancy that mirrors the list of water development projects compiled by the Colorado Water Conservation Board. The Colorado Water Conservation Board's list undergoes review, and approval, through the legislative process. Only after that legislative process has been completed does the Colorado Water Conservation Board have the authority to assist Colorado communities with water projects on the legislatively approved list.
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Proposed Initiative 2007-2008 #30

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