

*Report to the Colorado General Assembly:*

**RECOMMENDATIONS FOR 1988**

**WATER QUALITY AND  
WATER RESOURCES**



**COLORADO LEGISLATIVE COUNCIL**

**RESEARCH PUBLICATION NO. 318  
December, 1987**

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COLORADO LEGISLATIVE COUNCIL  
RECOMMENDATIONS FOR 1988

COMMITTEE ON  
WATER QUALITY AND WATER RESOURCES

Legislative Council  
Report to the  
Colorado General Assembly

Research Publication No. 318  
December, 1987

# COLORADO GENERAL ASSEMBLY

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To Members of the Fifty-sixth Colorado General Assembly:

Submitted herewith is the final report of the Committee on Water Quality and Water Resources. The committee was appointed by the Legislative Council pursuant to House Joint Resolution No. 1032, 1987 session.

At its meeting on November 15, 1987, the Legislative Council reviewed this report and approved a motion to forward the committee's recommendations to the Fifty-sixth General Assembly.

Respectfully submitted,

/s/ Senator Ted L. Strickland  
Chairman  
Colorado Legislative Council

TLS/pn

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## SUMMARY OF RECOMMENDATIONS

### Committee Charge

Pursuant to House Joint Resolution 1032, the committee was charged with conducting a comprehensive study of various water quality and water resource issues. Included were matters relating to the protection and maintenance of drinking water standards, maintaining the state's water quality control program, and the management of surface and groundwater resources. Specifically, the study directive included the following water quality and water management issues:

- a) the current level, effectiveness and appropriateness of state and federal regulations governing drinking water;
- b) the desirability and cost of continuing a full state water quality control program in view of criticism by the Environmental Protection Agency of the current state program and the Environmental Protection Agency oversight which results in duplication and overturning of state regulatory actions;
- c) the need to provide for more specific guidelines under the definition of minimum general sanitary standards, taking into consideration any standards promulgated by the federal government under the "Safe Drinking Water Act" and, if no such standards have been so promulgated, providing the Department of Health with authority to promulgate its own standards;
- d) consideration of other provisions necessary to assure that this state's drinking water is fit for consumption and is not a threat to public health;
- e) the management and development of our surface water resources;
- f) the management of our groundwater resources;
- g) meeting our interstate water compact requirements;
- h) maintaining water quality; and
- i) recommendations relating to coordination of the activities of the various state agencies which have responsibilities relating to these water issues.



The eight bills and one resolution recommended for the 1988 session are the product of seven days of committee meetings. Two of the committee's hearings were held in Colorado Springs, in conjunction with the Colorado Water Congress annual conference. In the course of these meetings, consideration was given to all nine topics assigned the committee.

### Committee Recommendations

The committee offers the following recommendations for favorable consideration by the 1988 session of the Colorado General Assembly.

#### Protection of Drinking Water

Bill 1 -- Concerning the Protection of Drinking Water, and, in Connection Therewith, Conforming the State Drinking Water Protection Provisions to the Requirements of the 1986 Amendments to the Federal "Safe Drinking Water Act", Adopting Minimum General Sanitary Standards for Drinking Water in the Absence of Federally Promulgated Standards, Establishing a Laboratory Certification Program, and Providing for the Enforcement of Drinking Water Standards and Protection of Drinking Water Supplies

With the passage of amendments to the federal Safe Drinking Water Act and concerns regarding those contaminants not covered by federal standards, the committee recommends changes to Colorado's drinking water protection laws. Bill 1 conforms Colorado drinking water protection statutes with the requirements of amendments to the federal act, and provides authority to set standards for contaminants not covered by federal law.

The bill has three major sections: the establishment of an annual priority list of contaminants for which standards may be set; authority and criteria for setting standards where federal law is silent; and enforcement. The bill requires the Colorado Department of Health to establish and revise each year a priority list of contaminants for which standards may be considered. It also stipulates that the priority list must be prepared according to a ranking process incorporating various considerations. Following the department's submission of recommended standards, the State Board of Health may adopt minimum general sanitary standards for contaminants not addressed by federal law.

A specific process must be followed by the board in determining standards and a laboratory certification program is established for the purpose of ensuring competent testing of drinking water. Finally, the bill allows local water suppliers and the Colorado Department of Health a cause of action against anyone, including the federal government, who contaminates the water which water suppliers provide to the public.

## Water Pollution Control Revolving Fund

### Bill 2 -- Concerning Authorization for the State to Participate in the Water Pollution Control Revolving Fund Created by the Federal "Water Quality Act of 1987" by Providing for the Creation of a State Water Pollution Control Revolving Fund, and Relating to the Administration Thereof

The bill creates the water pollution control revolving fund in the Colorado Water Resources and Power Development Authority to finance construction and maintenance of wastewater treatment facilities. This funding mechanism is necessary due to the federal government shifting the responsibility for financing wastewater treatment facilities to state and local governments. To meet the state's wastewater treatment needs effectively and efficiently, the bill specifies that the expertise of the Division of Water Quality Control, the Division of Local Government, and the authority be utilized in the following manner:

- the Water Quality Control Division shall develop a project priority list and intended use plan with the other two agencies for wastewater treatment systems, which shall be approved by legislative joint resolution and signed by the Governor;
- the Water Quality Control Division is designated the lead contact with the Environmental Protection Agency and loan applicants; the division shall also provide technical, engineering, and environmental reviews and determine eligible project costs as well as provide planning, data collection, and files management;
- the Division of Local Government shall assess financial need, require maximum local effort based on the ability to pay, develop the financial package with the most appropriate form of financial assistance, and structure repayment schedules to the fund; and
- the Authority shall manage the fund, have the sole discretion to proceed with project financing, and may issue revenue bonds to provide state matching funds for the program.

## Water Quality Control Act

### Bill 3 -- Concerning Amendments to the "Colorado Water Quality Control Act"

This bill makes several administrative changes in the Colorado Water Quality Control Act, a result of testimony indicating a need to streamline the permit application process. The time required for

public notice of a hearing to promulgate any water quality standard or regulation is reduced from 60 to 45 days. The time allowed for public comment on a permit application is also reduced from 45 to 30 days. Additionally, the bill limits the time period in which a person suspected of violating any permit or control regulation may request samples of water pollutants.

Bill 3 clarifies that the Department of Health may not grant a variance from permit limitations unless it is authorized by the federal Clean Water Act. Finally, the bill authorizes criminal penalties for any person who recklessly, knowingly, intentionally, or with criminal negligence discharges pollutants into any state waters in violation of any pretreatment regulations of the Water Quality Control Commission.

#### Bill 4 -- Concerning Water Quality Control Permits System Fees

Bill 4 reauthorizes the annual fee levied for a permit to discharge pollutants into state waters. The bill provides that the current statutory categories and fee schedule be continued through fiscal year 1992-93. The committee expressed concern that any changes in categories or substantial increases in permit fees based on a total cash-funded program may adversely affect the regulated community. The present fee schedule will expire June 30, 1988, without statutory reauthorization.

#### Water Quality Authority

##### Bill 5 -- Concerning the Creation of the Cherry Creek Basin Water Quality Authority

Due to increasing levels of phosphorous found in the Cherry Creek Reservoir, local governmental agencies recently formed an authority to maintain water quality in the Cherry Creek Reservoir. The authority relies solely on dues paid by members to meet its costs. Without a statutory financing mechanism, the authority cannot receive federal funds.

Bill 5 creates the Cherry Creek Basin Water Quality Authority and defines its boundaries. Powers and duties of the authority include conducting pilot studies for potential water quality control solutions, implementing programs to provide incentives for water quality control projects, recommending the maximum loads of pollutants allowable to maintain certain standards, recommending erosion controls and urban runoff control standards, and exercising the power of eminent domain with respect to rights-of-way and sites for drainage and nonpoint source or runoff water quality control facilities. The authority may issue bonds and levy property taxes of no more than two mills per year on assessed valuation in its boundaries.

## Chemigation

### Bill 6 -- Concerning Amendments to the "Colorado Chemigation Act", and Relating to the Definitions of "Chemigation" and "Irrigation", an Increase in the Permit and Inspection Fees, and the Penalties Provided for Violations of the Act

Chemigation refers to an agricultural practice that uses irrigation water as a transport mechanism for the application of chemicals to soils and crops. Of greatest concern is the potential for direct aquifer contamination if the irrigation mixture of water and chemicals should backflow down the water supply well.

Under the 1987 Colorado Chemigation Act, the definition of "chemigation" is limited to wells greater than two inches in diameter and that have a well permit from the state engineer. Bill 6 expands the definition of chemigation to include any process whereby chemicals are applied to land or crops in or with water through an irrigation system. The definition of "irrigation" is enlarged to include any device or combination of devices having a hose, pipe, or other conduit which connects directly to any source of groundwater or surface water.

Bill 6 increases the provisional chemigation and chemigation permit fee to \$100 but limits the inspection fee to \$80. The penalty for violation of the act is reduced from a class 5 felony to a misdemeanor to provide a more realistic enforceable penalty.

## Meeting Colorado's Interstate Compact Requirements

### Bill 7 -- Concerning an Appropriation to the Department of Natural Resources for Allocation to the State Engineer

The United States Bureau of Reclamation will cease accounting for water stored and delivered from Green Mountain Reservoir and water delivered for transmountain diversions from the Colorado River Basin. In order to maintain an accurate record of water deliveries required by the Colorado River Compact, the state must assume the function. For purposes of administering the state's water compacts, Bill 7 provides an appropriation for additional staff to the Office of the State Engineer

## Authorization of Water Projects

### Bill 8 -- Concerning Projects Funded by the Colorado Water Conservation Board Construction Fund, and Relating to the Activities of the Colorado Water Conservation Board in Connection Therewith

Bill 8 authorizes financial assistance loans to water resource projects out of the Colorado Water Conservation Board Construction

Fund. This fund provides low interest loans for one-half of a water project's cost, after projects have been authorized by the Colorado General Assembly. These low interest loans are for projects which increase the beneficial consumptive use of Colorado's compact entitled waters or for projects which repair and rehabilitate existing water storage and delivery systems.

#### 404 Dredge and Fill Permit

##### Joint Resolution A -- Requesting That the United States Army Corps of Engineers Consolidate Their District Boundaries in Colorado

This resolution requests that the United States Army Corps of Engineers consolidate its five district boundaries for the state into one district and continue to maintain a district office in the state. The district offices of the Corps that have jurisdiction in Colorado are located in Albuquerque, Kansas City, Omaha, Sacramento, and Tulsa. Multiple districts oftentimes cause confusion as to which district office applicants for 404 dredge and fill permits must contact. Also situations are created in which similar projects are subject to different interpretations of rules and regulations by different districts.

#### Other Committee Activities

The committee studied the impact that transmountain diversions have on deterioration of water quality in the basin of diversion by examining the experiences of Grand and Summit counties. The committee also received a briefing on the status of the Water Rights Determination Study which was authorized by Senate Bill 15, 1987 legislative session, and an overview of the state's groundwater quality protection plan. The committee did not make any recommendations on these topics.

## BACKGROUND REPORT

### Protection of Drinking Water

Under the 1986 amendments to the federal Safe Drinking Water Act, the Environmental Protection Agency (EPA) is required to establish regulations by 1989 for more than 80 contaminants found in drinking water. Currently, 25 contaminant levels are regulated. As a result, the EPA has significantly increased its drinking water standards setting activities with regard to revisions of old standards as well as establishing standards of unregulated contaminants. Essentially the amendments require stricter monitoring and sampling of drinking water, the setting of additional primary standards, specifying criteria for filtration of surface water supplies, and disinfection of surface and groundwater supplies. Every public water supply in the nation must meet these primary drinking water standards.

Testimony to the committee revealed that Colorado's existing standards appear to be effective in the specific areas presently covered. Representatives of the Division of Water Quality Control said that very few waterborne disease outbreaks occur in the state and there have been no long-term health effects identified in Colorado associated with any of the chemical contaminants for which standards have been set.

However, a primary concern of the Department of Health is being able to set a standard for contaminants that are not covered by federal law. Certain drinking water contamination problems have involved chemicals for which no federal standards have been set (such as trichloroethylene and plutonium). Current state law forbids more stringent regulation of contaminants than those imposed by the federal government, which means the state cannot regulate contaminants for which no federal standards presently exist.

For example, hydrazine, a by-product of rocket fuel has been identified in the groundwater but has not been found in a water system as yet. Hydrazine is estimated to be 1,000 times more carcinogenic than the trichloroethylene found in the wells contaminated by the Rocky Mountain Arsenal. Because hydrazine is a "localized" problem, as opposed to a "national" problem, primary standards will not be set for this contaminant by the EPA and the state could not set a standard for hydrazine should it be discovered in a water supply.

Recommendations. The committee recommends that the State Board of Health be authorized to set additional standards for carcinogenic, mutagenic, tetragenic, and toxic contaminants found in a water source. Bill 1 has three major sections which are described in the following paragraphs.

Annual priority list. The bill requires the Colorado Department of Health to establish and revise annually a priority list of contaminants for which standards may be considered. The priority list

must be prepared according to a ranking process incorporating the following considerations:

- the actual presence of a contaminant in a drinking water supply or the relative imminence of a threat of contamination of a drinking water supply;
- the identifiability of a potential pathway of contamination;
- the availability of analytical techniques for measuring and identifying the contaminant in a reasonable manner;
- sufficient information concerning the contaminant to allow an appropriate standard to be developed;
- the magnitude of potential health risks of the contaminant at reasonably anticipated exposure levels;
- the fact that the contaminant will be the subject of a national primary drinking water regulation in the near future; and
- the level of effort and scope of work that will be necessary to develop sufficient data for the purpose of supporting an appropriate standard.

This priority list is submitted to the State Board of Health for review and approval.

Standard setting. The board may adopt minimum general sanitary standards for contaminants not addressed by federal law. Industry representatives expressed concern that state standards should be scientifically based, documented, and arrived at in a scientific manner. In short, the bill requires that a specific process be followed in determining standards.

The Board of Health must find that before any additional standards are contemplated: 1) the standards are adequate to protect public health and have a demonstrated medical, technological, and scientific basis; 2) based on credible medical and toxicological evidence that has been subjected to peer review, there exists a substantial risk to the public health; 3) the analytical techniques for measuring and identifying the contaminant are reasonably available; 4) the adverse health effects posed by the contaminant are known to a reasonable degree of scientific certainty; and 5) compliance with the standard is feasible utilizing the best technology or methodology which is generally available. Finally, if the department intends to recommend standards to the board, the severity of the risks involved must be assessed.

The Department of Health is to maintain a laboratory certification program to ensure competent testing of drinking water laboratories that

test drinking water. This provision assures that sufficient qualified laboratory facilities exist to meet the demands of public water suppliers on a timely basis.

Enforcement. Bill 1 allows local water suppliers and the Colorado Department of Health a cause of action against anyone, including the federal government, who contaminates the water which purveyors supply to the public. Current law allows the Colorado Department of Health to enforce drinking water standards only against public water suppliers, not against the source of pollution.

The bill authorizes water suppliers or the department to bring suit to prevent or to mitigate a release or imminent release of contaminants which would result in either a violation of a minimum general sanitary standard or would render a public drinking water supply unfit for human consumption. Costs of providing an interim substitute drinking water supply are to be borne by the owner or operator of the source from which the contaminants occur.

#### State Water Pollution Control Revolving Fund

Also with regard to maintaining water quality, the committee reviewed impacts that amendments to the Federal Clean Water Act may have on financing wastewater treatment facilities. One important requirement of the act is that states create a water pollution control revolving fund to provide assistance to municipalities and state agencies for construction of publicly owned wastewater treatment plants. A program must be in place by October 1, 1988. The federal amendments further authorize the use of construction grant moneys in fiscal year 1988 and 1989 to capitalize the revolving fund. This method of capitalization gradually phases the current federal grants program into a loan program designed to meet the state's future wastewater treatment needs.

All federal money for financing treatment facilities will end in 1994. The state must match the federal portion of the revolving fund with 20 percent cash, so that \$200,000 of state money must be deposited in the fund for each \$1 million granted by the federal government. Since 1956, the Division of Water Quality Control has administered 460 federal grants for wastewater treatment facilities totaling \$315 million. The division estimates that the 55 entities on the 1988 Construction Grants State Project Priority List need an estimated \$137.5 million. The committee recommends Bill 2, which creates a revolving fund for water pollution control, thus allowing the state to take full advantage of the changes in the federal program. Colorado's expected federal grants and maximum capitalization possible in the revolving fund for the next seven years, are as follows:



**Estimated Maximum Capitalization for Revolving Fund 1/**  
 (\$ in millions)

<u>Year</u>	<u>Federal Contribution</u>	<u>SRF</u>	<u>State Match</u>	<u>Total</u>
FY 88	\$19.4	\$14.5 <u>2/</u>	\$2.9	\$17.4
FY 89	19.4	19.4 <u>2/</u>	3.88	40.68
FY 90	19.4	19.4	3.88	63.96
FY 91	19.4	19.4	3.88	87.24
FY 92	14.6	14.6	2.9	104.74
FY 93	9.7	9.7	1.94	116.38
FY 94	4.9	4.9	.98	122.26

The bill is designed so the state manages the fund for local governments and provides these governments with the best possible financing package using a variety of financing mechanisms. The bill coordinates the water quality expertise of the Division of Water Quality Control, assistance provided to local governments by the Division of Local Government to obtain federal and state loans, and the bonding and management capability of the Colorado Water Resources and Power Development Authority.

The Division of Water Quality Control is the primary contact agency for the EPA and loan applicants and ensures that projects conform to the provisions of the "Colorado Water Quality Control Act". The Division of Local Government is to assist local governments in acquiring the best financing package available and approve all loan terms and conditions. The Colorado Water Resources and Power Development Authority has the final determination for issuing loans and is to manage the fund.

All three agencies are to develop an intended use plan that is to enumerate bonds the authority needs to issue, the amounts and conditions of the bonds, a list of loans to be made, including terms and conditions, and the interest and repayment schedules. Thus, a partnership has been established whereby each agency has specific responsibilities and authority individually, and all three have some joint responsibility.

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1/ Source: Division of Local Government, 1987.

2/ Maximum amount used to capitalize the fund has not been decided.

## Amendments to the Water Quality Control Act

The committee discussed the desirability of continuing a full state water quality control program in view of criticism by the federal government. During the last few years, there have been a number of disputes between Colorado and the EPA regarding whether state laws, rules and regulations, and the implementation of the state's water quality program are consistent with the requirements of federal laws and EPA policies. A major dispute concerns the degree of flexibility in granting permits accorded the state by the EPA in implementing the state's water quality program.

Under delegation agreements with the EPA, the state is responsible for the implementation of various water quality programs. The goals are to eliminate dual federal and state regulation, to better address regional and local water quality problems, and to tailor a program to Colorado's arid climate and unique water rights system. The state has full authority to manage the permit issuance activity, to assure all permits for industrial and municipal dischargers are issued in a timely manner, and to meet applicable state and EPA requirements. The EPA, under federal law and its agreement with the state, oversees state programs so as to assure compliance with the minimum federal requirements.

Members of the regulated community testified that EPA has vetoed a number of state-issued discharge permits and has instead issued its own permits. This has resulted in dual permitting and increased expense and effort on the part of the state and the regulated community. In addition, there have been separate and parallel enforcement actions taken on discharge permit violations by the EPA and the state. Dual enforcement actions result in increased administrative time and cost for governmental agencies and the groups subject to regulation.

The EPA regional administrator defended the EPA's attempt to provide fair and consistent regulation of the act and oversight. The EPA has objected to only ten proposed state permits since 1984, and eventually issued only two federal permits. In general, the regulated community supports the state's authority to administer the permit program. There are several advantages in retaining the state permit program: 1) it would keep regulation and decision making closer to the problem, as state agencies tend to be more familiar with local issues and more readily accessible to permittees; 2) the state has a better understanding of the relationship between water quality requirements and the state's water rights system; 3) interest groups in Colorado have a greater opportunity for involvement in the development of program regulations and related rule-making; 4) state enforcement mechanisms are not as burdensome as EPA's; 5) the state would maintain control over all water quality program functions including water quality standards, planning, construction grants, monitoring, and enforcement; and 6) the state would not experience the loss of federal funds. No recommendation is submitted on withdrawing the state from the permit program.

One of the committee's charges related to coordination of the activities of various state agencies responsible for water issues. Towards this end, the committee invited the regulated community and state and local agencies to identify problems and areas of duplication in the permit system. Problems identified involved the length of time to obtain permits, the costs involved, and the interpretation of the federal "Endangered Species Act" in delaying the process. Several recommendations outlined in the following paragraphs are made for improving the permitting process.

Time notice change. To expedite the issuance of permits, Bill 3 decreases the required time for public notice of a hearing to promulgate rules and regulations (from 60 to 45 days) and reduces the time for public comment on a permit application from (45 to 30 days). A recent performance audit of the Water Quality Control Division indicated that the 45 day comment period on permits contributed to delays in getting permits issued within 180 days as required by statute. The public notice period needs to be shortened to 30 days to facilitate meeting the 180-day deadline.

Further, the bill limits the time to six months after collection for a person who is suspected of violating any permit or control regulation to request a sample of water or water pollutants. The addition of the qualifying language will relieve the Water Quality Control Division of the need to both deliver a split sample to a discharger and to store a sample for an excessive time waiting for a request for a sample. The bill also clarifies the division's inability to grant variances from any federal requirement or from a standards-based limit, unless it is authorized by the federal Clean Water Act. Lastly, the bill imposes criminal penalties for any person who recklessly, knowingly, intentionally, or with criminal negligence discharges pollutants into any state waters in violation of any pretreatment regulations promulgated by the Water Quality Control Commission.

Permit system fees. Bill 4 reauthorizes the annual fee levied on a discharger for a permit to discharge pollutants into state waters. The current statutory categories and fee schedule are continued through fiscal year 1992-93. Concern was expressed that any changes in categories or substantial increases in permit fees, based on a total cash-funded program, may adversely affect the regulated community. The present fee schedule expires June 30, 1988, without statutory reauthorization.

#### Cherry Creek Basin Water Quality Authority

Cherry Creek Reservoir is a mildly eutrophic plains reservoir which has limited outlets. Its water quality is adequate for the classified uses at present. However, acceleration of eutrophication resulting from projected population growth could cause harm to recreation and aquatic life uses. Most of the pollutants entering the reservoir, such as phosphorus, come from non-point sources via surface

drainages. The Colorado Water Quality Control Commission has set phosphorous and chlorophyll standards for Cherry Creek Reservoir to stop the lake's pollution, thereby protecting the reservoir's recreational use and aquatic life.

Local governmental agencies in the basin have established by intergovernmental agreement the Cherry Creek Basin Water Quality Authority to maintain water quality in the Cherry Creek Basin. The authority is comprised of members such as the cities of Castle Rock, Parker, Aurora, the Arapahoe Water and Sanitation District, Denver Southeast Suburban Water and Sanitation District, and the Meridian Metropolitan District. The authority monitors the lake's phosphorous levels and has developed a strategy for resolving the problem by recommending practices, policies, and incentive programs to local entities.

The authority relies solely on dues paid by members to meet its costs. Without a statutory financing mechanism, the authority cannot receive federal funds. Under Bill 5, the authority may issue bonds and levy property taxes of no more than two mills per year on assessed valuation within its boundaries which are defined in the bill. Powers and duties of the authority include conducting pilot studies for potential water quality control solutions, implementing programs to provide incentives for water quality control projects, recommending the maximum loads of pollutants allowable to maintain certain standards, and recommending erosion controls and urban runoff control standards. The Cherry Creek Basin Water Quality Authority is an example of a unified approach to the protection of water quality.

#### Amendments to the "Colorado Chemigation Act"

The Colorado Chemigation Act was enacted in 1987. Chemigation refers to an agricultural practice that uses irrigation water as a transport mechanism for the application of chemicals to soils and crops. The practice of chemigation has increased during recent years due primarily to increased energy costs and advancements in irrigation system design. Of greatest concern is the potential for direct aquifer contamination if the irrigation mixture of water and chemicals should backflow down the water supply well. This poses a serious health risk to the irrigator, given that most irrigation wells are drilled into the same aquifer that supplies the household and domestic water needs of the agricultural community.

Bill 6 expands the definition of "chemigation" to include any process whereby chemicals are applied to land or crops in or with water through a closed irrigation system. Also enlarged is the definition of "irrigation" which includes any device or combination of devices having a hose, pipe, or other conduit which connects directly to any source of groundwater or surface water. The bill increases the provisional chemigation and chemigation permit fee to \$100 but limits the inspection fee to \$80. The penalty for violation of the act is reduced

from a class 5 felony to a misdemeanor to provide a more realistic enforceable penalty.

### Meeting Colorado's Interstate Compact Requirements

Representatives from state agencies and legal counsel retained by the General Assembly provided an update on Colorado's interstate compact agreements. Overall, the state is meeting its compact requirements on the Colorado, Rio Grande, Republican, and South Platte Rivers. According to a spokesman from the Colorado Water Conservation Board, the Colorado River has an estimated one million acre feet of unused compact water allocated to the state. The water debt owed to New Mexico and Texas on the Rio Grande River was erased when water deliveries spilled on Elephant Butte Reservoir.

A new Special Master has been appointed in the Colorado/Kansas litigation over the Arkansas River Compact which could increase the state's share of costs in the lawsuit. A spokesperson of the Attorney General's Office said that the state may also be involved in litigation concerning the North Platte River. Litigation has arisen involving Wyoming, Nebraska, and groups defending wildlife protected by the Endangered Species Act. Colorado is currently monitoring this litigation and has filed arguments against the petitioners in conjunction with Wyoming. In addition, the State Engineer said that litigation involving the interpretation of the Endangered Species Act may also arise over future development of unused compact water.

Finally, the Bureau of Reclamation will soon cease to do the accounting for water stored in and delivered from Green Mountain Reservoir and water delivered for transmountain diversions out of the Colorado River Basin. Bill 7 makes an appropriation for additional staff to the Office of the State Engineer to assume this function.

### Water Project Authorization

With regard to management and development of our surface water resources, the committee recommends Bill 8. The bill authorizes approval of financial assistance loans to water resource projects out of the Colorado Water Conservation Board Construction Fund. This fund provides low interest loans for one-half of a water project's cost, after projects have been authorized by the General Assembly. Recipients of these low interest loans are projects which increase the beneficial consumptive use of Colorado's compact entitled waters or projects which repair and rehabilitate existing water storage and delivery systems. These water resource projects are reviewed and recommended by the Colorado Water Conservation Board to the General Assembly in January.

#### 404 Dredge and Fill Permit

Consideration was given to state assumption of the 404 permit program for discharge of dredge or fill material into state regulated waters. Section 404 of the Federal Clean Water Act provides that most discharges of dredged or fill materials into a waterway or wetland require a permit issued by the United States Army Corps of Engineers. Section 404 also allows states desiring to obtain the suspension of the issuance of permits by the Corps to apply for such suspension. In this manner a state may assume the sole responsibility for regulating the disposal of dredge or fill materials into the navigable waters within its jurisdiction. However, the Federal Clean Water Act and regulations pursuant to Section 404 set forth a number of requirements which must be satisfied by a state before it may qualify for the 404 permit assumption.

Proponents of state assumption argued that the state is a closer, more directly responsible political entity to the citizen applicant. The state agency responsible for administering the program would be more aware of local issues and concerns and therefore, more responsive to the impacts of permit decisions.

Frustration with dealing with the five district Corps of Engineer offices was also expressed. The district offices of the Corps that have jurisdiction in Colorado are located in Albuquerque, Kansas City, Omaha, Sacramento, and Tulsa. Permit applicants pointed to inconsistencies of the different corps districts in administering the program. Multiple districts oftentimes cause confusion as to which district office applicants must contact, and create situations where similar projects are subject to different interpretations of rules and regulations by different districts. Costly delays due to the distance from Colorado to district corps offices are also created. State assumption, it was suggested, would eliminate much of this inconsistency, and make it easier and less expensive for applicants who will have fewer agencies to deal with.

After examining the cost of funding the program, the degree of federal oversight, and the benefits the state would receive by assuming the program, the committee decided not to pursue this matter. However, Joint Resolution A is recommended requesting that the Corps of Engineers consolidate its five district boundaries for the state into one district and maintain a district office in the state.

#### Effect of Transmountain Diversion on Water Quality

In order to gain an understanding of the impact of transmountain diversions on water quality, the committee examined the effect of diversions experienced in Grand and Summit counties. The combination of transmountain diversions occurring high in the watershed and water quality regulations have severely limited Grand County's ability to grow. Grand County officials testified that to develop some of the 22,000 acres of land in the county a person must provide 20 times the

water required in order to meet state and federal standards. For example, the cost of purchasing 96 acre feet of water is approximately \$375,000, but the county's water needs to meet these standards are much higher. Developing alternative water supplies is also costly and difficult.

Summit County officials were concerned with transported hazardous materials being spilled in the watershed and the increasing phosphorous levels in Lake Dillon. Also mentioned were problems of the economic and environmental impacts of future transmountain diversions above Lake Dillon which may reduce the stream flows between Lake Dillon and Green Mountain Reservoir. The county has concentrated on reducing the phosphorous levels in the lake through its land use powers, erosion control programs, and the consolidation of sewage treatment plants to reduce lake pollution.

#### Water Rights Determination Study

Section 4 of Senate Bill 15, 1987 session, directed the Colorado Water Conservation Board to study Colorado's water rights system together with the systems employed in other western states. A representative of the board informed the committee that a draft of the proposed study has been mailed to over 1,000 interested persons. The draft study poses the following questions.

- 1) Is the current system of managing Colorado water resources too costly and time consuming?
- 2) Is the water managed by the system used in the most efficient manner possible?
- 3) How are water quality and water quantity issues integrated?

After it receives and assesses public comments, the board will discuss a revised version of the proposal. Statute also provides that the board cannot proceed until its request for proposals is approved by the Legislative Council.

#### Groundwater Quality Protection Program

Members of the Water Quality Control Commission briefed the committee on the development of a state groundwater quality protection program. The commission has adopted an overall goal:

"to provide maximum beneficial use of groundwater resources, while assuring the safety of the users by preventing or controlling those activities which have the potential to impair existing or future beneficial uses of groundwater or to adversely affect the public health."

The commission has determined that any new control regulations should be designed to fill gaps in existing programs, rather than to create a new blanket program that would likely result in duplication and inconsistencies with existing programs.



BILL 1

A BILL FOR AN ACT

CONCERNING THE PROTECTION OF DRINKING WATER, AND, IN CONNECTION THEREWITH, CONFORMING THE STATE DRINKING WATER PROTECTION PROVISIONS TO THE REQUIREMENTS OF THE 1986 AMENDMENTS TO THE FEDERAL "SAFE DRINKING WATER ACT", ADOPTING MINIMUM GENERAL SANITARY STANDARDS FOR DRINKING WATER IN THE ABSENCE OF FEDERALLY PROMULGATED STANDARDS, ESTABLISHING A LABORATORY CERTIFICATION PROGRAM, AND PROVIDING FOR THE ENFORCEMENT OF DRINKING WATER STANDARDS AND PROTECTION OF DRINKING WATER SUPPLIES.

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Bill Summary

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

Conforms the drinking water protection statutes with the requirements of amendments to the federal "Safe Drinking Water Act". Provides that minimum general sanitary standards adopted by the department of health are reasonable, consistent with the protection of public health and welfare. Requires that water quality standards for water supplied to the public must, at a minimum, be consistent with existing federal standards or, if no federal standards exist, allows the department of health to adopt its own such standards. Provides for enforcement of drinking water standards and protection of drinking water supplies. Establishes a laboratory certification program for laboratories which test

drinking water.

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

SECTION 1. 25-1-107 (1) (x) (I) and (2), Colorado Revised Statutes, 1982 Repl. Vol., are amended, and the said 25-1-107 (1) (x) is further amended BY THE ADDITION OF A NEW SUBPARAGRAPH, to read:

25-1-107. Powers and duties of the department.

(1) (x) (I) To adopt and enforce minimum general sanitary standards and regulations to protect the quality of drinking water supplied to the public, including the authority to require disinfection AND TREATMENT of such water. WHEN THE LABORATORY ANALYSIS OF A WATER SUPPLY HAS CONSISTENTLY SHOWN THAT THE WATER MEETS ALL APPLICABLE STANDARDS AND HAS MET SUCH STANDARDS FOR A PERIOD OF FIVE YEARS, THE DEPARTMENT MAY NOT REQUIRE ADDITIONAL TREATMENT OR DISINFECTION OF THE SUPPLY, UNLESS THE DEPARTMENT CAN DEMONSTRATE BEYOND A REASONABLE DOUBT THAT THE QUALITY OF THE WATER WILL DETERIORATE.

(VIII) (A) Any political subdivision of the state which stores, releases, carries, conveys, supplies, or treats water for use by or in a public drinking water supply system or the department may bring suit for injunctive relief, in addition to all remedies otherwise available, to prevent or abate any release or imminent release of contaminants which results or would result in a violation of any minimum general sanitary standard or regulation adopted pursuant to this section or which interferes or would interfere with the treatment

capability of a water treatment system or renders or would render the system's drinking water supply unfit for human consumption. Such an action may be maintained against the owner or operator of the source or sources of the release of the contaminants, but no such action may be maintained with regard to surface or underground agricultural return flows except as otherwise provided in the "Colorado Chemigation Act", article 11 of title 35, C.R.S. The costs of any remedy ordered or approved by the court, including, as necessary, the costs of providing an interim substitute drinking water supply, shall be borne by the owner or operator of the source or sources from which the release of contaminants is occurring or is threatened to occur.

(B) Any person who has resolved his liability to the state or to a supplier of drinking water under this subparagraph (VIII) in a judicially approved settlement shall not be liable for claims for contribution regarding matters addressed in the settlement. Such settlement does not discharge any of the other potentially liable persons unless the terms of the settlement so provide.

(C) Nothing in this paragraph (x) shall be construed to restrict or preempt any right which the state, the department, any public water system, or any other person may have under any other law to seek enforcement, in any court or in any administrative proceeding, of any provision of this paragraph (x) or any other relief regarding contamination of any drinking water supply. In addition, nothing in this paragraph

(x) shall be construed to condition, restrict, or prevent any other civil or criminal actions which may be brought by the state or any political subdivision pursuant to any other state or federal statute or regulation or any local ordinance or regulation.

(2) (a) The phrase "minimum general sanitary standards" as used in this section and section 25-1-109 (1) (h) means the minimum standards reasonably consistent with ASSURING ADEQUATE protection of the public health, and, in the case of minimum general sanitary standards as to the quality of water supplied to the public, the same shall in-no-event--be--more--than--the drinking--water--standards-promulgated-pursuant-to-the-federal "safe--drinking--water--act" BE ESTABLISHED BY RULE AND REGULATION AND SHALL BE APPROPRIATE TO PROMOTE AND PROTECT THE PUBLIC HEALTH FROM ENDANGERMENT PRESENTED BY CARCINOGENIC, MUTAGENIC, TERATOGENIC, OR TOXIC CONTAMINANTS OR SUBSTANCES. SUCH STANDARDS SHALL BE BASED ON THE BEST AVAILABLE ENDANGERMENT ASSESSMENT EVIDENCE AND THE BEST AVAILABLE TREATMENT TECHNOLOGY OR METHODOLOGY. The word "standards" as used in this section and section 25-1-109 (1) (h) means standards reasonably designed to promote and protect the public health.

(b) MINIMUM GENERAL SANITARY STANDARDS FOR THE QUALITY OF WATER SUPPLIED TO THE PUBLIC SHALL BE NO MORE STRINGENT THAN THE DRINKING WATER STANDARDS PROMULGATED PURSUANT TO THE FEDERAL "SAFE DRINKING WATER ACT", IF SUCH STANDARDS EXIST. IF NO STANDARDS HAVE BEEN PROMULGATED PURSUANT TO THE FEDERAL

"SAFE DRINKING WATER ACT" REGARDING THE PERMISSIBLE CONCENTRATION OF ANY CONTAMINANT OR ANY SUBSTANCE IN DRINKING WATER, THE DEPARTMENT MAY RECOMMEND TO THE BOARD FOR PROMULGATION MINIMUM GENERAL SANITARY STANDARDS REGARDING SUCH CONTAMINANT OR SUBSTANCE.

(c) (I) THE DEPARTMENT SHALL ANNUALLY ESTABLISH AND REVISE A PRIORITY LIST OF CONTAMINANTS OR SUBSTANCES FOR WHICH STANDARDS MAY BE CONSIDERED AND SHALL SUBMIT SAID LIST TO THE BOARD FOR REVIEW AND APPROVAL.

(II) THE PRIORITY LIST OF CONTAMINANTS OR SUBSTANCES, TOGETHER WITH THE DEPARTMENT'S EVALUATION OF THE CONSIDERATIONS LISTED IN THIS SUBPARAGRAPH (II), SHALL BE SUBMITTED TO THE BOARD FOR REVIEW AND APPROVAL. THE PRIORITY LIST SHALL BE PREPARED ACCORDING TO A RANKING PROCESS WHICH INCORPORATES THE FOLLOWING CONSIDERATIONS:

(A) THE ACTUAL PRESENCE OF A CONTAMINANT OR SUBSTANCE IN A DRINKING WATER SUPPLY SYSTEM OR THE RELATIVE IMMINENCE OF THREAT OF CONTAMINATION OF A DRINKING WATER SUPPLY SOURCE;

(B) THE IDENTIFIABILITY OF A POTENTIAL PATHWAY OR CONTINUED PATHWAY OF CONTAMINATION;

(C) THE AVAILABILITY OF ANALYTICAL TECHNIQUES FOR MEASURING AND IDENTIFYING THE CONTAMINANT IN A REASONABLE MANNER;

(D) SUFFICIENT AVAILABLE INFORMATION CONCERNING THE CONTAMINANT OR SUBSTANCE TO ALLOW AN APPROPRIATE STANDARD TO BE DEVELOPED, INCLUDING INFORMATION ON THE HEALTH EFFECTS OF THE CONTAMINANT OR SUBSTANCE AS WELL AS AVAILABLE TREATMENT

TECHNOLOGY;

(E) THE MAGNITUDE OF POTENTIAL HEALTH RISKS OF THE CONTAMINANT OR SUBSTANCE AT REASONABLY ANTICIPATED EXPOSURE LEVELS;

(F) THE FACT THAT THE CONTAMINANT OR SUBSTANCE WILL BE THE SUBJECT OF A NATIONAL PRIMARY DRINKING WATER REGULATION IN THE NEAR FUTURE; AND

(G) THE LEVEL OF EFFORT AND SCOPE OF WORK THAT WILL BE NECESSARY TO DEVELOP SUFFICIENT DATA FOR THE PURPOSE OF SUPPORTING AN APPROPRIATE STANDARD.

(d) (I) FOLLOWING THE DEPARTMENT'S SUBMISSION OF RECOMMENDED STANDARDS TO THE BOARD, THE BOARD MAY PROMULGATE STANDARDS FOR CONTAMINANTS OR SUBSTANCES THAT ARE NOT THE SUBJECT OF A STANDARD SET PURSUANT TO THE FEDERAL "SAFE DRINKING WATER ACT".

(II) IN THE PROMULGATION OF SUCH STANDARDS, THE BOARD SHALL FIND THAT THE STANDARDS ARE ADEQUATE TO PROTECT PUBLIC HEALTH AND HAVE A DEMONSTRATED MEDICAL, TECHNOLOGICAL, AND SCIENTIFIC BASIS AND THAT:

(A) BASED ON CREDIBLE MEDICAL AND TOXICOLOGICAL EVIDENCE THAT HAS BEEN SUBJECTED TO PEER REVIEW, THERE EXISTS A SUBSTANTIAL RISK TO THE PUBLIC HEALTH;

(B) THE ANALYTICAL TECHNIQUES FOR MEASURING AND IDENTIFYING THE CONTAMINANT OR SUBSTANCE ARE REASONABLY AVAILABLE;

(C) THE ADVERSE HEALTH EFFECTS POSED BY THE CONTAMINANT OR SUBSTANCE ARE KNOWN TO A REASONABLE DEGREE OF SCIENTIFIC

CERTAINTY; AND

(D) COMPLIANCE WITH SUCH STANDARD IS FEASIBLE UTILIZING THE BEST TECHNOLOGY OR METHODOLOGY WHICH IS GENERALLY AVAILABLE.

(e) IN THE EVENT THE DEPARTMENT INTENDS TO RECOMMEND STANDARDS TO THE BOARD, THE DEPARTMENT SHALL PREPARE AN ENDANGERMENT ASSESSMENT.

SECTION 2. 25-1-107 (1), Colorado Revised Statutes, 1982 Repl. Vol., as amended, is amended BY THE ADDITION OF A NEW PARAGRAPH to read:

25-1-107. Powers and duties of the department.

(1) (x.5) (I) To establish and maintain a laboratory certification program for the purpose of ensuring competent testing of drinking water as required by the federal "Safe Drinking Water Act" and subsection (2) of this section. Certification procedures shall, at a minimum, include water supply evaluation verification and on-site inspections. The laboratory certification program shall consist of certification levels which correspond to the testing capability and capacity of each laboratory. In addition to certifying laboratories for contaminants regulated as of the effective date of this paragraph (x.5) the department shall adopt and implement a schedule for certifying sufficient laboratory capacity for the testing and analysis of contaminants for which reference methods are available and which are scheduled to be regulated under the federal "Safe Drinking Water Act".

(II) Upon request, the department shall refer a public water supplier to a laboratory, either the department's or one certified by the department, which is determined to be equipped to perform the required testing and analysis on a timely basis.

(III) To facilitate an effective laboratory certification program, the department shall work with local public water suppliers toward creating and maintaining a centralized data base which:

(A) Quantifies the current and expected demands for the monitoring, testing, and analysis of each supplier, grouped according to the size of the supply system, the source of its supply, and the requirements imposed on each supplier;

(B) Includes an updated list of laboratories certified and available for the testing and analysis of specific contaminants; and

(C) Tracks violations of drinking water standards for the purpose of facilitating an exchange among public water suppliers in addressing similar problems posed by specific contaminants.

SECTION 3. 25-1-114.1 (3), Colorado Revised Statutes, 1982 Repl. Vol., as amended, is amended, and the said 25-1-114.1 is further amended BY THE ADDITION OF A NEW SUBSECTION, to read:

25-1-114.1. Civil penalties. (3) The ~~division--of~~ ~~administration~~ DEPARTMENT may request the attorney general to bring a suit for a temporary restraining order OR A



PRELIMINARY or permanent injunction to prevent or abate any violation of a minimum general sanitary standard or regulation adopted pursuant to section 25-1-107 (1) (x) OR TO PREVENT OR ABATE ANY CONDITION OR ACTIVITY THAT CAUSES OR IS LIKELY TO CAUSE CONTAMINATION RESULTING IN LIABILITY UNDER SECTION 25-1-107 (1) (x) (VIII). The ~~division--of-administration~~ DEPARTMENT is not required to issue an enforcement order prior to institution of such a suit. Upon A finding that such a violation has occurred, IS OCCURRING, or is about to occur ~~and that-the-violation-constitutes-a-clear-danger-to-the-health-of any--person,~~ OR THAT SUCH CONDITION OR ACTIVITY EXISTS, the court shall ENJOIN SUCH VIOLATION, CONDITION, OR ACTIVITY AND enter such order as the public health may require, taking into consideration, where appropriate, the cost and time necessary to comply.

(4.5) An action for civil penalties under this section may be joined with a civil action to recover the state's costs pursuant to section 25-1-107 (1) (x) (VIII).

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

BILL 2

A BILL FOR AN ACT

1 CONCERNING AUTHORIZATION FOR THE STATE TO PARTICIPATE IN THE  
2 WATER POLLUTION CONTROL REVOLVING FUND CREATED BY THE  
3 FEDERAL "WATER QUALITY ACT OF 1987" BY PROVIDING FOR THE  
4 CREATION OF A STATE WATER POLLUTION CONTROL REVOLVING  
5 FUND, AND RELATING TO THE ADMINISTRATION THEREOF.

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Bill Summary

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

Declares that the construction, rehabilitation, operation, and maintenance of modern and efficient wastewater treatment facilities and other pollution control projects are essential to protecting and improving the water resources of the state. States that the federal "Water Quality Act of 1987" requires increased state and local participation in the financing of such projects. Specifies that the division of local government in the department of local affairs, the division of administration in the department of health, and the Colorado water resources and power development authority have the combined expertise necessary to allow the state to effectively and efficiently serve the wastewater treatment needs of the state.

Creates the water pollution control revolving fund in the authority for purposes of participating in such act. Authorizes the authority to issue bonds for the purpose of providing state matching funds for the federal program. Requires the water quality control commission to develop a project eligibility list for wastewater treatment systems and

other projects authorized under such act. States that the project eligibility list shall be approved by joint resolution signed by the governor. Provides that no project may be financed unless it has been approved in such a joint resolution. Specifies that the authority has the sole discretion in proceeding with the financing of any project on the eligibility list. States that before any loan to a governmental agency may be made the project must be approved by the division of administration in the department of health pursuant to applicable provisions of the "Colorado Water Quality Control Act" and the financial loan package must be approved by the division of local government in the department of local affairs.

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

2 SECTION 1. Legislative declaration. (1) The general  
3 assembly hereby declares that the construction,  
4 rehabilitation, operation, and maintenance of modern and  
5 efficient wastewater treatment facilities and other water  
6 pollution control projects are essential to protecting and  
7 improving the water resources of the state. The United  
8 States, pursuant to the federal "Water Quality Act of 1987",  
9 requires increased state and local participation in the  
10 financing of the cost of wastewater treatment projects. Said  
11 water quality act requires each state to establish a water  
12 pollution control revolving fund to be administered by an  
13 instrumentality of the state before the state may receive  
14 capitalization grants for such projects.

15 (2) The Colorado water resources and power development  
16 authority was created to initiate, acquire, construct,  
17 maintain, repair, and operate or cause to be operated water  
18 management projects which include wastewater treatment  
19 facilities and to issue its bonds to pay the cost of such

1 projects. The division of local government in the department  
2 of local affairs has the responsibility of assisting units of  
3 local government in obtaining the benefits of various state  
4 and federal programs. The division of administration in the  
5 department of health has the responsibility of administering  
6 the "Colorado Water Quality Control Act". The general  
7 assembly hereby recognizes that the expertise of each of these  
8 governmental agencies is necessary to allow the state to  
9 participate in the federal "Water Quality Act of 1987". It is  
10 the intent of the general assembly that these governmental  
11 agencies cooperate in a manner which will efficiently and  
12 effectively serve the wastewater treatment needs of the state.

13 (3) The creation of a water pollution control revolving  
14 fund to be administered by the authority will enable the state  
15 to comply with the provisions of said federal "Water Quality  
16 Act of 1987", and the administration of said fund by said  
17 authority is consistent with, and in furtherance of, the  
18 powers and duties of the authority.

19 (4) The general assembly finds and declares that the  
20 creation of a water pollution control revolving fund to be  
21 administered by the Colorado water resources and power  
22 development authority and the powers and duties conferred on  
23 said authority pursuant to this act and the expenditure of  
24 public moneys pursuant thereto constitute a valid public  
25 purpose and are in the best interests of the state.

26 SECTION 2. 37-95-103, Colorado Revised Statutes, as  
27 amended, is amended BY THE ADDITION OF A NEW SUBSECTION to

1 read:

2 37-95-103. Definitions. (4.5) "Clean water act" means  
3 the "Federal Water Pollution Control Act Amendments of 1972",  
4 P.L. 92-500, and any act amendatory or supplemental thereto as  
5 of the effective date of this section.

6 SECTION 3. Article 95 of title 37, Colorado Revised  
7 Statutes, as amended, is amended BY THE ADDITION OF A NEW  
8 SECTION to read:

9 37-95-107.6. Creation and administration of water  
10 pollution control revolving fund. (1) There is hereby  
11 created in the authority the water pollution control revolving  
12 fund which shall be maintained and administered by the  
13 authority and be available in perpetuity for the purposes  
14 stated in this section. The authority is authorized to  
15 establish such procedures as may be required to administer the  
16 water pollution control revolving fund in accordance with the  
17 clean water act and state law. The authority may create  
18 separate accounts in the water pollution control revolving  
19 fund which accounts may be pledged and assigned as security  
20 for the payment of the bonds of the authority.

21 (2) (a) Subject to the provisions of the clean water act  
22 and agreements with the holders of bonds of the authority, the  
23 authority shall deposit in the water pollution control  
24 revolving fund grants from the federal government or its  
25 agencies allocated to the state for deposit in said fund;  
26 state matching funds where required; loan principal, interest  
27 and penalty payments; and other moneys determined by the

1 authority to be deposited therein.

2 (b) Moneys in the water pollution control revolving fund  
3 shall be expended in a manner consistent with terms and  
4 conditions of the clean water act and may be used to provide  
5 assistance to governmental agencies for the construction of  
6 publicly owned wastewater treatment plants that appear on the  
7 priority list under section 216 of the clean water act and as  
8 are defined in section 212 of the clean water act; for  
9 implementation of a nonpoint source pollution management  
10 program under section 319 of the clean water act; and for any  
11 other purposes permitted by the clean water act.

12 (c) Moneys on deposit in the water pollution control  
13 revolving fund may be used by the authority for wastewater  
14 treatment facilities through the making of loans to  
15 governmental agencies; purchasing or refinancing debt  
16 obligations of governmental agencies where the debt  
17 obligations were incurred after March 7, 1985; purchasing  
18 insurance for debt obligations of governmental agencies;  
19 securing or providing revenues for payment of the principal  
20 and interest on bonds of the authority; providing for the  
21 costs of administering the water pollution control revolving  
22 fund; and providing for any other expenditure consistent with  
23 the clean water act and state law. Money not currently needed  
24 for the operation of the water pollution control revolving  
25 fund may be invested and all interest earned on such  
26 investments shall be credited to the specific account, if any,  
27 in the water pollution control revolving fund.

1           (3) (a) The authority may make and contract to make  
2 loans to governmental agencies in accordance with and subject  
3 to the provisions of this section to finance the cost of  
4 wastewater treatment system projects which are on the project  
5 eligibility list established pursuant to subsection (4) of  
6 this section and any other projects authorized under the clean  
7 water act and which the governmental agencies may lawfully  
8 undertake or acquire under state law, including, but not  
9 limited to, applicable provisions of the "Colorado Water  
10 Quality Control Act", article 8 of title 25, C.R.S., and for  
11 which the governmental agencies are authorized by law to  
12 borrow money. The loans may be made subject to such terms and  
13 conditions as the authority shall determine to be consistent  
14 with the purposes thereof. Each loan by the authority and the  
15 terms and conditions thereof shall be subject to approval by  
16 the division of local government of the department of local  
17 affairs. The division of local government in the department  
18 of local affairs may establish procedures with respect to  
19 providing financial assistance from the water pollution  
20 control revolving fund. Each loan to a local governmental  
21 agency shall be evidenced by notes, bonds, or other  
22 obligations thereof issued to the authority. In the case of  
23 each governmental agency, notes and bonds to be issued to the  
24 authority by the local government agency shall be authorized  
25 and issued as provided by law for the issuance of notes and  
26 bonds by the governmental agency, may be sold at private sale  
27 to the authority at any price, whether or not less than par

1 value, and shall be subject to redemption prior to maturity at  
2 such times and at such prices as the authority and  
3 governmental agency may agree. Each loan to a local  
4 government agency and the notes, bonds, or other obligations  
5 thereby issued shall bear interest at such rate or rates per  
6 annum at or below market interest rate and shall be for such  
7 terms not to exceed twenty years as the authority and the  
8 governmental agency may agree.

9 (b) The authority is authorized, from moneys in the  
10 water pollution control revolving fund, to purchase or  
11 refinance or purchase insurance for the payment of all or any  
12 portion of the principal and interest on bonds, notes, or  
13 other obligations issued by a governmental agency to finance  
14 the cost of any wastewater treatment system project which the  
15 governmental agency may lawfully undertake or acquire under  
16 state law, including, but not limited to, applicable  
17 provisions of the "Colorado Water Quality Control Act",  
18 article 8 of title 25, C.R.S., and for which the governmental  
19 agency is authorized by law to borrow money. Each purchase or  
20 refinancing or purchase of insurance by the authority or any  
21 other application of moneys on deposit in the water pollution  
22 control revolving fund and the terms and conditions thereof  
23 shall be subject to approval by the division of local  
24 government in the department of local affairs.

25 (c) The authority may charge to and collect from  
26 governmental agencies, fees and charges in connection with the  
27 authority's loans or other services, including, but not



1 limited to, fees and charges sufficient to reimburse the  
2 authority for all reasonable costs necessarily incurred by it  
3 in connection with its financing and the establishment and  
4 maintenance of reserves or other funds, as the authority may  
5 determine to be reasonable.

6 (4) (a) The water quality control commission shall  
7 develop a project eligibility list for wastewater treatment  
8 systems and other projects authorized under the clean water  
9 act. The project eligibility list shall be in conformance  
10 with applicable provisions of the clean water act and state  
11 law. On or before April 1, 1988, the project eligibility list  
12 shall be approved by joint resolution signed by the governor.

13 (b) Additions or modifications to the project  
14 eligibility list which have been developed by the water  
15 quality control commission shall be submitted to the general  
16 assembly on or before January 15 of each year. On or before  
17 April 1 of each year, such additions or modifications shall be  
18 approved by a joint resolution signed by the governor.

19 (c) No funds may be expended from the water pollution  
20 control revolving fund or bonds issued by the authority  
21 pursuant to subsection (6) of this section for any wastewater  
22 treatment system project unless the wastewater treatment  
23 system project is on the project eligibility list approved by  
24 the general assembly. Financial assistance for a project  
25 pursuant to this section may be provided regardless of the  
26 rank of such project on the eligibility list.

27 (5) The division of local government in the department

1 of local affairs, the division of administration in the  
2 department of health, and the authority shall develop an  
3 intended use plan in compliance with the clean water act. The  
4 intended use plan shall include, in addition to the material  
5 required by, but not be limited to, the clean water act, an  
6 enumeration of the bonds the authority would need to issue,  
7 including the amounts thereof and the terms and conditions  
8 therefor, a list of loans to be made to governmental agencies,  
9 including the terms and conditions thereof and the anticipated  
10 rate of interest per annum and repayment schedule therefor. A  
11 decision to proceed with the issuance of such bonds shall be  
12 entirely within the discretion of the authority.

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

18 (7) The authority, on behalf of the state, with the  
19 written approval of the department of health, is authorized to  
20 enter into such agreements with the United States as may be  
21 necessary to comply with the provisions of the federal "Water  
22 Quality Act of 1987" (P.L. 100-4) and as otherwise may be  
23 required to provide for the capitalization of the water  
24 pollution control revolving fund from federal grant moneys.

25 (8) The provisions of sections 37-95-107 and 37-95-107.5  
26 shall not be applicable to any wastewater treatment system  
27 project on the project eligibility list approved by the

1 general assembly pursuant to subsection (4) of this section.

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

BILL 3

A BILL FOR AN ACT

1 CONCERNING AMENDMENTS TO THE "COLORADO WATER QUALITY CONTROL  
2 ACT".

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Bill Summary

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

Decreases the number of days' notice which must be given for a hearing to promulgate any water quality standard or any control regulation. Limits the period of time within which a person who is suspected of violating any permit or control regulation may request a sample of water or water pollutants. Decreases the length of time for public comment on a permit application. Clarifies that the division of administration of the department of health may grant a variance only to the extent authorized by the federal act or implementing regulations. Authorizes criminal penalties for pretreatment violations.

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3 Be it enacted by the General Assembly of the State of Colorado:

4 SECTION 1. 25-8-105 (1) (a), (2), (3) and (4), Colorado  
5 Revised Statutes, 1982 Repl. Vol., are amended to read:

6 25-8-105. Regional wastewater management plans -  
7 amendments. (1) (a) Regional wastewater WATER QUALITY  
8 management plans which include plans known for purposes of the

1 federal act as "208 plans" may be developed by designated  
2 planning agencies or by the state for nondesignated areas or  
3 for statewide purposes.

4 (2) Each regional wastewater WATER QUALITY management  
5 plan and each amendment to such a plan must be either  
6 developed or reviewed by the division.

7 (3) (a) The commission, after notice and hearing, shall  
8 approve, conditionally approve, or reject proposed regional  
9 wastewater WATER QUALITY management plans and amendments  
10 thereto. The commission shall approve, conditionally approve,  
11 or reject a plan or an amendment developed by a management or  
12 planning agency within one hundred eighty days after submittal  
13 of the plan or amendment by the management or planning agency  
14 to the division. Only those portions of a regional wastewater  
15 WATER QUALITY management plan which are adopted as a  
16 regulation by the commission pursuant to section 24-4-103,  
17 C.R.S., 1973, shall be binding on regulatory decisions,  
18 including, but not limited to, site approvals, construction  
19 grants, or point or nonpoint source control decisions. Only  
20 those plans or portions thereof which are adopted by the  
21 commission as regulations shall be binding for purposes of any  
22 federal law, regulation, or action.

23 (b) Notwithstanding the provisions of paragraph (a) of  
24 this subsection (3), the commission may delegate to the  
25 division the authority to approve, conditionally approve, or  
26 reject nonrule-making amendments to regional wastewater WATER  
27 QUALITY management plans. If the commission delegates such

1 authority, the division shall give notice of its decision on  
2 an amendment to the commission and to anyone who has requested  
3 notice of amendments to the affected plan. Notice of such  
4 decision shall also be included on the next commission agenda.  
5 Upon a request by any affected person, the commission shall  
6 review the division's decision. The decision of the division  
7 shall be final within forty-five days after agenda notice of  
8 the decision has been given unless review is requested by an  
9 affected person.

10 (4) The governor may certify to the federal  
11 environmental protection agency a regional wastewater WATER  
12 QUALITY management plan or an amendment thereto which has been  
13 approved by the commission or an amendment thereto which has  
14 become final after approval by the division. The governor may  
15 designate planning agencies for the purposes of the federal  
16 act.

17 SECTION 2. 25-8-402 (1), Colorado Revised Statutes, 1982  
18 Repl. Vol., is amended to read:

19 25-8-402. Procedures to be followed in classifying state  
20 waters, and setting standards and control regulations.

21 (1) Prior to the classification of state waters, and  
22 promulgating any water quality standard or any control  
23 regulation authorized in this article, the commission shall  
24 conduct a public hearing thereon as provided in section  
25 24-4-103, C.R.S. 1973. Notice of any such hearing shall  
26 conform to the requirements of section 24-4-103, C.R.S., 1973,  
27 but such notice shall be given at least ~~sixty~~ FORTY-FIVE days

1 prior to the hearing and shall include each proposed standard  
2 or regulation.

3 SECTION 3. 25-8-405 (1), Colorado Revised Statutes, 1982  
4 Repl. Vol., is amended to read:

5 25-8-405. Samples, secret processes. (1) If samples of  
6 water or water pollutants are taken for analysis and a  
7 violation of any permit or control regulation is suspected, a  
8 representative portion of the sample shall be furnished upon  
9 request, WITHIN SIX MONTHS AFTER COLLECTION, to the person who  
10 is believed to be responsible for such suspected violation. A  
11 representative portion of such sample shall be furnished UPON  
12 REQUEST, WITHIN SIX MONTHS AFTER COLLECTION, to any suspected  
13 violator whenever any remedial action is taken with respect  
14 thereto by the division. A duplicate of every analytical  
15 report pertaining to such sample shall also be furnished as  
16 soon as practicable to such person.

17 SECTION 4. 25-8-502 (3) (c), Colorado Revised Statutes,  
18 1982 Repl. Vol., is amended to read:

19 25-8-502. Application - definitions - fees - water  
20 quality control fund - public participation. (3) (c) The  
21 period for public comment shall close ~~forty-five~~ THIRTY days  
22 from the date of notice of the permit application and the  
23 division's preliminary analysis thereof; except that, if a  
24 public meeting is held on the application and analysis, the  
25 period for public comment shall close sixty days from the date  
26 of notice of the application. ~~and-analysis.~~

27 SECTION 5. 25-8-503 (2) and (9), Colorado Revised

1 Statutes, 1982 Repl. Vol., as amended, are amended to read:

2 25-8-503. Permits - when required and when prohibited -  
3 variances. (2) No permit shall be issued which is  
4 inconsistent with any duly promulgated and controlling state,  
5 regional, or local land use plan or any portion of an approved  
6 regional ~~wastewater~~ WATER QUALITY management plan which has  
7 been adopted as a regulation pursuant to this article, unless  
8 all other requirements and conditions of this act have been  
9 met or will be met pursuant to a schedule of compliance or a  
10 variance specifying treatment requirements as determined by  
11 the division.

12 (9) The division may grant a variance from otherwise  
13 applicable requirements ONLY to the extent authorized in the  
14 federal act or implementing regulations. Variances may be  
15 granted for no longer than the duration of the permit.  
16 Variances shall be granted or renewed according to the  
17 procedure established in section 25-8-401 (5). Any variances  
18 granted prior to June 4, 1985, which were validly granted  
19 under the provisions then in effect shall be valid according  
20 to their original terms.

21 SECTION 6. 25-8-609 (1), Colorado Revised Statutes, 1982  
22 Repl. Vol., as amended, is amended BY THE ADDITION OF A NEW  
23 PARAGRAPH to read:

24 25-8-609. Criminal pollution of state waters -  
25 penalties. (1) (e) In violation of any pretreatment  
26 regulations promulgated by the commission.

27 SECTION 7. 25-8-702 (1), Colorado Revised Statutes, 1982



1 Repl. Vol., is REPEALED AND REENACTED, WITH AMENDMENTS, to  
2 read:

3 25-8-702. Approval for commencement of construction.

4 (1) No person shall commence the construction of any domestic  
5 wastewater treatment works or the enlargement of the capacity  
6 of an existing domestic wastewater treatment works, unless the  
7 site location and the design for the construction or expansion  
8 have been approved by the division.

9 SECTION 8. Effective date. This act shall take effect  
10 July 1, 1988.

11 SECTION 9. Safety clause. The general assembly hereby  
12 finds, determines, and declares that this act is necessary  
13 for the immediate preservation of the public peace, health,  
14 and safety.

BILL 4

A BILL FOR AN ACT

1 CONCERNING WATER QUALITY CONTROL PERMITS SYSTEM FEES.

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Bill Summary

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

Extends the expiration of the annual fee for discharge permits.

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2 Be it enacted by the General Assembly of the State of Colorado:

3 SECTION 1. 25-8-502 (1) (b) (I), Colorado Revised  
4 Statutes, 1982 Repl. Vol., as amended, is amended to read:

5 25-8-502. Application - definitions - fees - water  
6 quality control fund - public participation. (1) (b) (I) The  
7 only fee the division may assess is an annual fee upon a  
8 discharger, and such fee shall be in accordance with the  
9 following schedule:

1	<u>Facility Categories and Subcategories</u>	<u>Fiscal Years</u>
2		<u>1983-84</u>
3	<u>for Permit Fees</u>	<u>through 1987-88</u>
4		<u>1992-93</u>
5		<u>Annual Fees</u>
6	(A) <u>Category 01</u> <u>Sand and gravel and placer</u>	
7	<u>mining</u>	
8	Subcategory 1 Pit dewatering only	\$ 220
9	Subcategory 2 Pit dewatering and/or	
10	washwater discharge	\$ 250
11	Subcategory 3 Mercury use with discharge	
12	impact	\$ 280
13	(B) <u>Category 02</u> <u>Coal mining</u>	
14	Subcategory 1 Sedimentation ponds, surface	
15	runoff only	\$ 430
16	Subcategory 2 Mine water, preparation	
17	plant discharge	\$ 580
18	(C) <u>Category 03</u> <u>Hardrock mining</u>	
19	Subcategory 1 Mine dewatering from 0 up to	
20	49,999 gallons per day	\$ 500
21	Subcategory 2 Mine dewatering from 50,000	
22	up to 999,999 gallons per	
23	day	\$ 940
24	Subcategory 3 Mine dewatering from	
25	1,000,000 gallons per day	
26	or over	\$ 1,440
27	Subcategory 4 Mine dewatering and milling	

1		with no discharge	\$ 1,440
2	Subcategory 5	Mine dewatering and milling	
3		with discharge	\$ 4,330
4	Subcategory 6	No discharge	\$ 500
5	(D) <u>Category 04</u>	<u>Oil shale</u>	
6	Subcategory 1	Sedimentation ponds, surface	
7		runoff only	\$ 870
8	Subcategory 2	Mine water from 0 up to	
9		49,999 gallons per day	\$ 940
10	Subcategory 3	Mine water from 50,000 up to	
11		999,999 gallons per day	\$ 1,170
12	Subcategory 4	Mine water from 1,000,000	
13		gallons per day or over	\$ 1,440
14	Subcategory 5	Mine water and process water	
15		discharge	\$ 4,330
16	Subcategory 6	No discharge	\$ 800
17	(E) <u>Category 05</u>	<u>Agricultural facilities</u>	
18	Subcategory 1	Under 5,000 maximum animal	
19		units	\$ 80
20	Subcategory 2	5,000 and over maximum	
21		animal units	\$ 110
22	(F) <u>Category 06</u>	<u>Water treatment plants</u>	
23	Subcategory 1	Intermittent discharge	\$ 250
24	Subcategory 2	Routine discharge	\$ 360
25	(G) <u>Category 07</u>	<u>General permits</u>	
26	Subcategory 1	Sand and gravel	\$ 220
27	Subcategory 2	Construction dewatering (not	

1		issued yet)	\$ 220
2	Subcategory 3	Hydrostatic pipeline testing	
3		(not issued yet)	\$ 220
4	(H) <u>Category 08</u>	<u>Power plants</u>	
5	Subcategory 1	Cooling water only, no	
6		discharge	\$ 500
7	Subcategory 2	Process water from 0 up to	
8		49,999 gallons per day	\$ 940
9	Subcategory 3	Process water from 50,000 up	
10		to 999,999 gallons per day	\$ 1,440
11	Subcategory 4	Process water from 1,000,000	
12		up to 4,999,999 gallons	
13		per day	\$ 4,330
14	Subcategory 5	Process water from 5,000,000	
15		gallons per day or over	\$ 4,330
16	(I) <u>Category 09</u>	<u>Sugar processing</u>	
17	Subcategory 1	Cooling water only, no	
18		discharge	\$ 530
19	Subcategory 2	Process water from 0 up to	
20		49,999 gallons per day	\$ 650
21	Subcategory 3	Process water from 50,000 up	
22		to 999,999 gallons per day	\$ 1,620
23	Subcategory 4	Process water from 1,000,000	
24		up to 4,999,999 gallons	
25		per day	\$ 4,330
26	Subcategory 5	Process water from 5,000,000	
27		gallons per day or over	\$ 4,330

1	(J) <u>Category 10</u>	<u>Petroleum refining</u>	
2	Subcategory 1	Cooling water only, no	
3		discharge	\$ 500
4	Subcategory 2	Process water from 0 up to	
5		49,999 gallons per day	\$ 1,120
6	Subcategory 3	Process water from 50,000 up	
7		to 999,999 gallons per day	\$ 1,440
8	Subcategory 4	Process water from 1,000,000	
9		up to 4,999,999 gallons	
10		per day	\$ 4,330
11	Subcategory 5	Process water from 5,000,000	
12		gallons per day or over	\$ 4,330
13	(K) <u>Category 11</u>	<u>Fish hatcheries</u>	
14	No subcategories at this time		\$ 360
15	(L) <u>Category 12</u>	<u>Manufacturing and other</u>	
16		<u>industry</u>	
17	Subcategory 1	Cooling water only	\$ 500
18	Subcategory 2	Process water from 0 up to	
19		49,999 gallons per day	\$ 940
20	Subcategory 3	Process water from 50,000 up	
21		to 999,999 gallons per day	\$ 1,440
22	Subcategory 4	Process water from 1,000,000	
23		up to 4,999,999 gallons	
24		per day	\$ 4,330
25	Subcategory 5	Process water from 5,000,000	
26		up to 19,999,999 gallons	
27		per day	\$ 5,320

1	Subcategory 6	Process water 20,000,000	
2		gallons per day or over	\$ 8,660
3	Subcategory 7	No discharge	\$ 650
4	(M) <u>Category 20</u>	<u>Domestic wastewater -</u>	
5		<u>lagoons</u>	
6	Subcategory 1	Sewage from 0 up to 49,999	
7		gallons per day	\$ 230
8	Subcategory 2	Sewage from 50,000 up to	
9		99,999 gallons per day	\$ 370
10	Subcategory 3	Sewage from 100,000 up to	
11		499,999 gallons per day	\$ 540
12	Subcategory 4	Sewage from 500,000 up to	
13		999,999 gallons per day	\$ 930
14	Subcategory 5	Sewage from 1,000,000 up to	
15		1,999,999 gallons per day	\$ 1,390
16	Subcategory 6	Sewage 2,000,000 gallons per	
17		day or over	\$ 2,830
18	(N) <u>Category 21</u>	<u>Domestic wastewater -</u>	
19		<u>mechanical plants</u>	
20	Subcategory 1	Sewage from 0 up to 19,999	
21		gallons per day	\$ 270
22	Subcategory 2	Sewage from 20,000 up to	
23		49,999 gallons per day	\$ 430
24	Subcategory 3	Sewage from 50,000 up to	
25		99,999 gallons per day	\$ 630
26	Subcategory 4	Sewage from 100,000 up to	
27		499,999 gallons per day	\$ 980

1	Subcategory 5	Sewage from 500,000 up to	
2		999,999 gallons per day	\$ 1,630
3	Subcategory 6	Sewage from 1,000,000 up to	
4		2,499,999 gallons per day	\$ 2,670
5	Subcategory 7	Sewage from 2,500,000 up to	
6		9,999,999 gallons per day	\$ 5,000
7	Subcategory 8	Sewage from 10,000,000 up to	
8		49,999,999 gallons per day	\$ 8,670
9	Subcategory 9	Sewage from 50,000,000 up to	
10		99,999,999 gallons per day	\$10,000
11	Subcategory 10	Sewage from 100,000,000	
12		gallons per day or over	\$11,000

13 Note: Gallons per day is based on design capacity of the  
14 facility, not flow. This applies to all categories.

15 SECTION 2. Safety clause. The general assembly hereby  
16 finds, determines, and declares that this act is necessary  
17 for the immediate preservation of the public peace, health,  
18 and safety.



BILL 5

A BILL FOR AN ACT

1 CONCERNING THE CREATION OF THE CHERRY CREEK BASIN WATER  
2 QUALITY AUTHORITY.

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Bill Summary

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

Creates the Cherry Creek basin water quality authority for the purpose of maintaining the water quality in Cherry Creek reservoir. Enumerates powers and duties of the authority, including the power to issue bonds and to levy special assessments. Defines the boundaries of the authority.

---

3 Be it enacted by the General Assembly of the State of Colorado:

4 SECTION 1. Title 25, Colorado Revised Statutes, 1982  
5 Repl. Vol., as amended, is amended BY THE ADDITION OF A NEW  
6 ARTICLE to read:

7 ARTICLE 8.5

8 Cherry Creek Basin Water Quality Authority

9 25-8.5-101. Legislative declaration. (1) The general  
10 assembly hereby finds and declares that the organization of a  
11 Cherry Creek basin water quality authority will:

1 (a) Be for the public benefit and advantage of the  
2 people of the state of Colorado;

3 (b) Benefit the inhabitants and landowners within the  
4 authority by preserving water quality in Cherry Creek and  
5 Cherry Creek reservoir;

6 (c) Benefit the people of the state of Colorado by  
7 preserving waters for recreation, fisheries, water supplies,  
8 and other beneficial uses;

9 (d) Promote the health, safety, and welfare of the  
10 people of the state of Colorado.

11 (2) It is further declared that the authority will  
12 provide for effective efforts by the various counties,  
13 municipalities, special districts, and landowners within the  
14 boundaries of the authority in the protection of water  
15 quality.

16 (3) It is further declared that the authority should  
17 provide that new developments and construction activities pay  
18 their equitable proportion of costs for water quality  
19 preservation and facilities.

20 (4) This article, being necessary to secure the public  
21 health, safety, convenience, and welfare, shall be liberally  
22 construed to effect its purposes.

23 25-8.5-102. Definitions. As used in this article,  
24 unless the context otherwise requires:

25 (1) "Authority" means the Cherry Creek basin water  
26 quality authority created pursuant to section 25-8.5-103.

27 (2) "Board" means the governing body of the authority

1 provided for in section 25-8.5-106.

2 (3) "County" means any county enumerated in article 5 of  
3 title 30, C.R.S.

4 (4) "Municipality" means a municipality as defined in  
5 section 31-1-101 (6), C.R.S.

6 (5) "Publication" means three consecutive weekly  
7 advertisements in a newspaper or newspapers of general  
8 circulation within the boundaries of the authority. It shall  
9 not be necessary that an advertisement be made on the same day  
10 of the week in each of the three weeks, but not less than  
11 twelve days, excluding the day of first publication, shall  
12 intervene between the first publication and the last  
13 publication. Publication shall be complete on the date of the  
14 last publication.

15 (6) "Resolution" means an ordinance as passed by a  
16 member municipality or a resolution as passed by a member  
17 county or special district.

18 (7) "Special district" means any district created  
19 pursuant to article 1 of title 32, C.R.S., which has the power  
20 to provide sanitation services or water and sanitation  
21 services and has wastewater treatment facilities within the  
22 boundaries of the authority.

23 (8) "Wastewater treatment facility" means a facility  
24 providing wastewater treatment services which has a designed  
25 capacity to receive sewage for treating, neutralizing,  
26 stabilizing, and reducing pollutants contained therein prior  
27 to the disposal or discharge of the treated sewage.

1 "Wastewater treatment facility" does not include any  
2 pretreatment facilities, lift stations, interceptor lines, or  
3 other transmission facilities to transmit sewage effluent  
4 outside the boundaries of the authority.

5 25-8.5-103. Creation and organization. The Cherry Creek  
6 basin water quality authority is hereby created. The  
7 authority shall be a quasi-municipal corporation and political  
8 subdivision of the state, with the powers provided in this  
9 article.

10 25-8.5-104. Boundaries of the authority. (1) The  
11 boundaries of the authority shall be determined by the  
12 authority, subject to the following:

13 (a) The boundaries shall be limited to the drainage  
14 basin of Cherry Creek from its headwaters to the dam at Cherry  
15 Creek reservoir, which the general assembly hereby finds to  
16 be:

17 (1) Arapahoe county: Portions of sections thirty-five  
18 and thirty-six, township four south, range sixty-seven west of  
19 the sixth principal meridian; a portion of section thirty-one,  
20 township four south, range sixty-six west of the sixth  
21 principal meridian; portions of sections one, two, three, ten,  
22 fifteen, twenty-two, twenty-three, twenty-seven, and  
23 thirty-four, and all of sections eleven, twelve, thirteen,  
24 fourteen, twenty-four, twenty-five, twenty-six, thirty-five  
25 and thirty-six, township five south, range sixty-seven west of  
26 the sixth principal meridian; all of sections seven,  
27 seventeen, eighteen, nineteen, twenty, twenty-one, twenty-two,

1 twenty-five, twenty-six, twenty-seven, twenty-eight,  
2 twenty-nine, thirty, thirty-one, thirty-two, thirty-three,  
3 thirty-four, thirty-five, thirty-six and portions of sections  
4 five, six, eight, nine, fourteen, fifteen, sixteen,  
5 twenty-three and twenty-four, township five south, range  
6 sixty-six west of the sixth principal meridian; all of section  
7 thirty-one and portions of sections nineteen, twenty-nine,  
8 thirty, and thirty-two, township five south, range sixty-five  
9 west of the sixth principal meridian;

10 (II) Douglas county: Portions of sections four, nine,  
11 sixteen, twenty-one, twenty-eight and thirty-three, and all of  
12 sections five, six, seven, eight, seventeen, eighteen,  
13 nineteen, twenty, twenty-nine, thirty, thirty-one, and  
14 thirty-two, township six south, range sixty-five west of the  
15 sixth principal meridian; township six south, range sixty-six  
16 west of the sixth principal meridian; portions of sections  
17 three, ten, fifteen, twenty-one, twenty-two, twenty-eight,  
18 thirty-one, thirty-two and thirty-three, and all of sections  
19 one, two, eleven, twelve, thirteen, fourteen, twenty-three,  
20 twenty-four, twenty-five, twenty-six, twenty-seven,  
21 thirty-four, thirty-five and thirty-six, township six south,  
22 range sixty-seven west of the sixth principal meridian;  
23 portions of sections four, nine, sixteen, and twenty-one, and  
24 all of sections five, six, seven, eight, seventeen, eighteen,  
25 nineteen, twenty, twenty-eight, twenty-nine, thirty,  
26 thirty-one, thirty-two, and thirty-three, township seven  
27 south, range sixty-five west of the sixth principal meridian;

1 township seven south, range sixty-six west of the sixth  
2 principal meridian; portions of sections four, five, nine,  
3 fourteen, fifteen, sixteen, twenty-three, twenty-five,  
4 twenty-six, and thirty-six, and all of sections one, two,  
5 three, ten, eleven, twelve, thirteen, and twenty-four,  
6 township seven south, range sixty-seven west of the sixth  
7 principal meridian; portions of sections twenty-eight and  
8 thirty-three and all of sections four, five, six, seven,  
9 eight, nine, sixteen, seventeen, eighteen, nineteen, twenty,  
10 twenty-one, twenty-nine, thirty, thirty-one, and thirty-two,  
11 township eight south, range sixty-five west of the sixth  
12 principal meridian; portions of sections six, seven, eighteen,  
13 nineteen, twenty-nine, thirty, and thirty-one, and all of  
14 sections one, two, three, four, five, eight, nine, ten,  
15 eleven, twelve, thirteen, fourteen, fifteen, sixteen,  
16 seventeen, twenty, twenty-one, twenty-two, twenty-three,  
17 twenty-four, twenty-five, twenty-six, twenty-seven,  
18 twenty-eight, thirty-two, thirty-three, thirty-four,  
19 thirty-five and thirty-six, township eight south, range  
20 sixty-six west of the sixth principal meridian; a portion of  
21 section one, township eight south, range sixty-seven west of  
22 the sixth principal meridian; all of sections four, five, six,  
23 seven, eight, nine, sixteen, seventeen, eighteen, nineteen,  
24 twenty, twenty-one, twenty-eight, twenty-nine, thirty,  
25 thirty-one, thirty-two and thirty-three, township nine south,  
26 range sixty-five west of the sixth principal meridian; all of  
27 township nine south, range sixty-six west excepting portions

1 of sections six and seven; portions of sections thirteen,  
2 twenty-three, twenty-four, twenty-five, and thirty-six,  
3 township nine south, range sixty-seven west of the sixth  
4 principal meridian; portions of sections twenty-eight and  
5 thirty-three, and all of sections four, five, six, seven,  
6 eight, nine, sixteen, seventeen, eighteen, nineteen, twenty,  
7 twenty-one, twenty-nine, thirty, thirty-one, and thirty-two,  
8 township ten south, range sixty-five west of the sixth  
9 principal meridian; portions of sections five, six, seven,  
10 eight, seventeen, eighteen, nineteen, twenty-nine, thirty,  
11 thirty-one, and all of sections one, two, three, four, nine,  
12 ten, eleven, twelve, thirteen, fourteen, fifteen, sixteen,  
13 twenty, twenty-one, twenty-two, twenty-three, twenty-four,  
14 twenty-five, twenty-six, twenty-seven, twenty-eight,  
15 thirty-two, thirty-three, thirty-four, thirty-five and  
16 thirty-six, township ten south, range sixty-six west of the  
17 sixth principal meridian; a portion of section one, township  
18 ten south range sixty-seven west of the sixth principal  
19 meridian;

20 (III) Elbert county: Portions of sections twenty-two,  
21 twenty-seven, and thirty-four, township seven south, range  
22 sixty-five west of the sixth principal meridian; portions of  
23 sections three, ten, fifteen, twenty-two, twenty-seven and  
24 thirty-four, township eight south, range sixty-five west of  
25 the sixth principal meridian; portions of sections three, ten,  
26 eleven, fourteen, twenty-two, twenty-seven and thirty-four and  
27 all of section fifteen, township nine south, range sixty-five

1 west of the sixth principal meridian; portions of sections  
2 two, three, ten, eleven, fifteen, twenty-two, twenty-seven and  
3 thirty-four, township ten south, range sixty-five west of the  
4 sixth principal meridian;

5 (IV) El Paso county: Portions of sections three, ten,  
6 eleven, fourteen, fifteen, twenty-two, twenty-seven,  
7 twenty-eight, thirty-one, thirty-three and all of sections  
8 four, five, six, seven, eight, nine, sixteen, seventeen,  
9 eighteen, nineteen, twenty, twenty-one, twenty-nine, thirty,  
10 and thirty-two, township eleven south, range sixty-five west  
11 of the sixth principal meridian; portions of sections seven,  
12 eight, seventeen, eighteen, twenty, twenty-one, twenty-two,  
13 twenty-five, twenty-six, twenty-seven, thirty-six and all of  
14 sections one, two, three, four, five, six, nine, ten, eleven,  
15 twelve, thirteen, fourteen, fifteen, sixteen, twenty-three,  
16 and twenty-four, township eleven south, range sixty-six west  
17 of the sixth principal meridian; a portion of section one,  
18 township eleven south, range sixty-seven west of the sixth  
19 principal meridian; portions of sections four, five, and six,  
20 township twelve south, range sixty-five west of the sixth  
21 principal meridian;

22 (b) Lands within the boundaries identified in paragraph  
23 (a) of this subsection (1) may be excluded from the authority  
24 pursuant to section 25-8.5-117.

25 (2) The authority shall maintain a current map, showing  
26 all lands that are included in the authority's boundaries.

27 25-8.5-105. Authority members. (1) The following



1 governmental entities shall be members of the authority:

2 (a) Every county which has property within the  
3 authority's boundaries;

4 (b) Every municipality which has property within the  
5 authority's boundaries; and

6 (c) Every special district which includes in its service  
7 area property within the Cherry Creek basin and which owns and  
8 operates a wastewater treatment services facility in the  
9 Cherry Creek basin. For the purposes of this paragraph (c),  
10 wastewater treatment services shall mean a wastewater  
11 treatment facility with a designed capacity to receive more  
12 than two thousand gallons of sewage per day.

13 25-8.5-106. Board of directors. (1) The governing body  
14 of the authority shall be a board of directors which shall  
15 exercise and perform all powers, rights, privileges, and  
16 duties invested or imposed by this article.

17 (2) Each authority member shall appoint one  
18 representative and two alternates to serve on the board. Any  
19 county, municipality, or special district that provides  
20 wastewater treatment services by contract with another entity  
21 which is a member of the authority shall not be entitled to a  
22 separate member on the board.

23 (3) Directors shall be appointed for terms of two years.  
24 Notice of each appointment shall be given to the recording  
25 secretary for the authority.

26 (4) No director shall receive compensation as an  
27 employee of the authority. Reimbursement of actual expenses

1 for directors shall not be considered compensation.

2 (5) An appointment to fill a vacancy on the board shall  
3 be made by the authority member for the remainder of the  
4 unexpired term.

5 (6) If a board member or designated alternate fails to  
6 attend two consecutive regular meetings of the board, the  
7 authority may submit a written request to the appointing  
8 authority member to have its representative attend the next  
9 regular meeting. If, following such request, said  
10 representative fails to attend the next regular board meeting,  
11 the board may appoint an interim representative from the  
12 authority member's jurisdiction to serve until the authority  
13 member appoints a new representative.

14 (7) An authority member, at its discretion, may remove  
15 from office any board member or designated alternate  
16 representing the authority member and appoint a successor.

17 (8) The board shall elect one of its members as chairman  
18 of the authority and one of its members as secretary-treasurer  
19 and shall appoint a recording secretary who may be a member of  
20 the board.

21 (9) The recording secretary shall keep, in a well-bound  
22 book, a record of all of the authority's meetings,  
23 resolutions, certificates, contracts, bonds given by employees  
24 or contractors, and all corporate acts which shall be open to  
25 inspection of all interested parties.

26 (10) The secretary-treasurer shall keep strict and  
27 accurate accounts of all money received by and disbursed for

1 and on behalf of the authority.

2 25-8.5-107. Voting. (1) Each authority member, through  
3 its designated director or designated alternate acting in the  
4 director's place, shall be entitled to one vote.

5 (2) Board action upon wasteload allocations, site  
6 location, or site plans selected pursuant to section 25-8-702,  
7 discharge permits secured pursuant to section 25-8-501,  
8 amendments to the authority's wastewater management plan, and  
9 all budget and funding decisions shall require a vote of the  
10 following combinations of member votes:

11 (a) An affirmative vote of fifty percent of the counties  
12 which are members of the authority; and

13 (b) An affirmative vote of a majority of the  
14 municipalities which are members of the authority; and

15 (c) An affirmative vote of a majority of the special  
16 districts which are members of the authority.

17 (3) All decisions of the board not enumerated in  
18 subsection (2) of this section shall be made and decided by a  
19 majority of the members present at the meeting.

20 (4) A director shall disqualify himself from voting on  
21 any issue in which he has a conflict of interest unless such  
22 director has disclosed such conflict of interest in compliance  
23 with section 18-8-308, C.R.S., in which case such disclosure  
24 shall cure the conflict. A director shall abstain from voting  
25 if the director would obtain a personal financial gain from  
26 the contract or services being voted upon by the authority.

27 25-8.5-108. Meetings. (1) The board shall fix the time

1 and place at which its regular meetings shall be held and  
2 provide for the calling and holding of special meetings.

3 (2) Notice of the time and place designated for all  
4 regular meetings shall be posted at the office of the county  
5 clerk and recorder of each of the counties included within the  
6 authority. Such notices shall remain posted and shall be  
7 changed in the event that the time or place of such regular  
8 meetings is changed.

9 (3) Special meetings of the board shall be held at the  
10 call of the chairman or upon request of two board members.  
11 The authority shall inform all board members five calendar  
12 days before the special meeting and shall post notice in  
13 accordance with subsection (2) of this section at least three  
14 days before the special meeting of the date, time, and place  
15 of such special meeting and the purpose for which it is  
16 called.

17 (4) All business of the board shall be conducted only  
18 during said regular or special meetings, and all said meetings  
19 shall be open to the public, but the board may hold executive  
20 sessions as provided in article 9 of title 29, C.R.S.

21 25-8.5-109. Powers of board - organization -  
22 administration. (1) The board has the following powers  
23 relating to carrying on the affairs of the authority:

24 (a) To organize, adopt bylaws and rules of procedure,  
25 and select a chairman and chairman pro tempore;

26 (b) To make and pass resolutions and orders which are  
27 necessary for the governance and management of the affairs of

1 the authority, for the execution of the powers vested in the  
2 authority, and for carrying out the provisions of this  
3 article;

4 (c) To fix the location of the principal place of  
5 business of the authority and the location of all offices  
6 maintained under this article;

7 (d) To prescribe by resolution a system of business  
8 administration, to create any and all necessary offices, to  
9 establish the powers and duties and compensation of all  
10 employees, and to require and fix the amount of all official  
11 bonds necessary for the protection of the funds and property  
12 of the authority;

13 (e) To appoint and retain employees, agents, and  
14 consultants to make recommendations, coordinate authority  
15 activities, conduct routine business of the authority, and act  
16 on behalf of the authority under such conditions and  
17 restrictions as shall be fixed by the board;

18 (f) To prescribe a method of auditing and allowing or  
19 rejecting claims and demands and a method for the letting of  
20 contracts on a fair and competitive basis for the construction  
21 of works, structures, or equipment or for the performance or  
22 furnishing of such labor, materials, or supplies as may be  
23 required for the carrying out of any of the purposes of this  
24 article.

25 25-8.5-110. Powers of authority - general and financial.

26 (1) In order to accomplish its purposes, the authority has  
27 the power to:

1           (a) Develop and implement, with such revisions as become  
2 necessary in light of changing conditions, plans for water  
3 quality controls for the applicable drainage basin, waters,  
4 and watershed;

5           (b) Conduct pilot studies and other studies that may be  
6 appropriate for the development of potential water quality  
7 control solutions;

8           (c) Develop and implement programs to provide incentives  
9 and rewards for water quality control projects;

10          (d) Recommend the maximum loads of pollutants allowable  
11 to maintain the water quality standards and allocate, as  
12 allowed by federal and state law, wasteloads among both  
13 present and future sources of pollutants;

14          (e) Recommend erosion controls and urban runoff control  
15 standards;

16          (f) Recommend septic system maintenance programs;

17          (g) Incur debts, liabilities, and obligations;

18          (h) Have perpetual existence;

19          (i) Have and use a corporate seal;

20          (j) Sue and be a party to suits, actions, and  
21 proceedings;

22          (k) Enter into contracts and agreements affecting the  
23 affairs of the authority including, but not limited to,  
24 contracts with the United States and the state of Colorado and  
25 any of their agencies or instrumentalities, political  
26 subdivisions of the state of Colorado, corporations, and  
27 individuals;

1           (l) Acquire, hold, lease (as lessor or lessee), and  
2 otherwise dispose of and encumber real and personal property;

3           (m) Have and exercise the power of eminent domain with  
4 respect to rights-of-way and sites for drainage and nonpoint  
5 source or runoff water quality control facilities as provided  
6 in article 1 of title 38, C.R.S.;

7           (n) Acquire, lease, rent, manage, operate, construct,  
8 and maintain water quality control facilities or improvements  
9 for drainage, nonpoint sources, or runoff within or without  
10 the authority;

11           (o) Establish rates, tolls, fees, charges, and penalties  
12 for the functions, services, facilities, and programs of the  
13 authority;

14           (p) Levy and collect ad valorem taxes on and against all  
15 taxable property within the authority subject to the  
16 limitation that no levy for any fiscal year shall exceed two  
17 mills;

18           (q) Issue and refund revenue and assessment bonds and  
19 pledge the revenues of the authority or assessments therefor  
20 to the payment thereof in the manner provided in part 4 of  
21 article 35 of title 31, C.R.S., and as provided in this  
22 article;

23           (r) Invest any moneys of the authority in any manner  
24 permitted by law;

25           (s) Review and approve water quality control projects of  
26 any entity other than the authority within the boundaries of  
27 the authority;

1           (t) Have and exercise all rights and powers necessary or  
2 incidental to or implied from the specific powers granted to  
3 the authority by this article. Such specific powers shall not  
4 be considered as a limitation upon any power necessary or  
5 appropriate to carry out the purposes and intent of this  
6 article.

7           25-8.5-111. Power to issue bonds. To carry out the  
8 purposes of this article, the board is authorized to issue  
9 revenue or assessment bonds of the authority. Bonds shall  
10 bear interest at a rate such that the net effective interest  
11 rate of the issue of bonds does not exceed the maximum  
12 interest rate set forth in the resolution adopted by the board  
13 authorizing the issuance of the bonds, payable semiannually,  
14 and shall be due and payable serially, either annually or  
15 semiannually, commencing not later than three years after date  
16 of issuance. The form and terms of said bonds, including  
17 provisions for their payment and redemption, shall be  
18 determined by the board. If the board so determines, such  
19 bonds may be redeemable prior to maturity upon payment of a  
20 premium not exceeding three percent of the principal thereof.  
21 Said bonds shall be executed in the name and on behalf of the  
22 authority, signed by the chairman of the board with the seal  
23 of the authority affixed thereto, and attested by the  
24 secretary of the board. Said bonds shall be in such  
25 denominations as the board shall determine, and the bonds and  
26 coupons shall bear the original or facsimile signature of the  
27 chairman of the board.



1           25-8.5-112. Revenue refunding bonds. Any revenue bonds  
2 issued by the authority may be refunded by the authority, or  
3 by any successor thereof, in the name of the authority,  
4 subject to the provisions concerning their payment and to any  
5 other contractual limitations in the proceedings authorizing  
6 their issuance or otherwise appertaining thereto, by the  
7 issuance of bonds to refund, pay, and discharge all or any  
8 part of such outstanding bonds, including any interest on the  
9 bonds in arrears or about to become due, for the purpose of  
10 avoiding or terminating any default in the payment of the  
11 interest on and principal of the bonds, of reducing interest  
12 costs or effecting other economies, or of modifying or  
13 eliminating restrictive contractual limitations appertaining  
14 to the issuance of additional bonds or to any system  
15 appertaining thereto or for any combination of such purposes.  
16 Refunding bonds may be delivered in exchange for the  
17 outstanding bonds refunded or may be sold as provided in this  
18 article for an original issue of bonds.

19           25-8.5-113. Use of proceeds of revenue refunding bonds.  
20 The proceeds of revenue refunding bonds shall either be  
21 immediately applied to the retirement of the bonds being  
22 refunded or be placed in escrow in any state or national bank  
23 within the state which is a member of the federal deposit  
24 insurance corporation to be applied to the payment of the  
25 bonds being refunded upon their presentation therefor; but, to  
26 the extent any incidental expenses have been capitalized, such  
27 refunding bond proceeds may be used to defray such expenses,

1 and any accrued interest and any premium appertaining to a  
2 sale of refunding bonds may be applied to the payment of the  
3 interest thereon or the principal thereof, or both interest  
4 and principal, or may be deposited in a reserve therefor, as  
5 the board may determine. Any such escrow shall not  
6 necessarily be limited to proceeds of refunding bonds but may  
7 include other moneys available for its purpose. Any proceeds  
8 in escrow, pending such use, may be invested or reinvested in  
9 any items permitted by the state of Colorado and bills,  
10 certificates of indebtedness, notes, or bonds which are direct  
11 obligations of, or the principal and interest of which  
12 obligations are unconditionally guaranteed by, the United  
13 States. Such proceeds and investments in escrow, together  
14 with any interest to be derived from any such investment,  
15 shall be in an amount at all times sufficient as to principal,  
16 interest, any prior redemption premium due, and any charges of  
17 the escrow agent payable therefrom to pay the bonds being  
18 refunded as they become due at their respective maturities or  
19 due at any designated prior redemption dates in connection  
20 with which the board shall exercise a prior redemption option.  
21 Any purchase of any refunding bond issued under this article  
22 shall in no manner be responsible for the application of the  
23 proceeds thereof by the authority or any of its officers,  
24 agents, or employees.

25 25-8.5-114. Facilities - comprehensive program.

26 (1) The authority, acting by and through the board, may  
27 acquire, construct, lease, rent, improve, equip, relocate,

1 maintain, and operate water quality control facilities, any  
2 project, or any part thereof for the benefit of the authority  
3 and the inhabitants thereof, after the board has made such  
4 preliminary studies and otherwise taken such action as it  
5 determines to be necessary or desirable.

6 (2) (a) The authority shall develop a comprehensive  
7 program for the water quality control facilities specified in  
8 subsection (1) of this section. A comprehensive program may  
9 consist of one project or more than one project.

10 (b) A hearing on the proposed comprehensive program  
11 shall be scheduled, and notice of the hearing shall be given  
12 by publication and posted in the office of the county clerk  
13 and recorder of each member county. Upon closure of the  
14 hearing, the board may either require changes to be made in  
15 the comprehensive program or the board may approve or reject  
16 the comprehensive program as prepared.

17 (c) If any substantial changes to the comprehensive  
18 program are ordered at any time, a further hearing shall be  
19 held pursuant to notice which shall be given by publication.

20 25-8.5-115. Power to levy special assessments. (1) The  
21 board, in the name of the authority, for the purpose of  
22 defraying all the cost of acquiring or constructing, or both,  
23 any project or facility authorized by this article, or any  
24 portion of the cost thereof not to be defrayed with moneys  
25 available therefor from its own funds, any special funds, or  
26 otherwise, also has the power under this article:

27 (a) To levy assessments against all or portions of the

1 property within the authority and to provide for collection of  
2 the assessments pursuant to part 6 of article 20 of title 30,  
3 C.R.S.;

4 (b) To pledge the proceeds of any assessments levied  
5 under this article to the payment of assessment bonds and to  
6 create liens on such proceeds to secure such payments;

7 (c) To issue assessment bonds payable from the  
8 assessments, which assessment bonds shall constitute special  
9 obligations of the authority and shall not be a debt of the  
10 authority; and

11 (d) To make all contracts, to execute all instruments,  
12 and to do all things necessary or convenient in the exercise  
13 of the powers granted in this article or in the performance of  
14 the authority's duties or in order to secure the payment of  
15 its assessment bonds.

16 (2) The authority shall give notice, by publication once  
17 in a newspaper of general circulation in the authority, to the  
18 owners of the property to be assessed, which shall include:

19 (a) The kind of improvements proposed;

20 (b) The number of installments and the time in which the  
21 cost of the project will be payable;

22 (c) A description of the properties which will be  
23 assessed;

24 (d) The probable cost per acre or other unit basis  
25 which, in the judgment of the authority, reflects the benefits  
26 which accrue to the properties to be assessed;

27 (e) The time, not less than thirty days after the

1 publication, when a resolution authorizing the improvements  
2 will be considered;

3 (f) A map of the properties to be assessed, together  
4 with an estimate and schedule showing the approximate amounts  
5 to be assessed, and a statement that all resolutions and  
6 proceedings are on file and may be seen and examined by any  
7 interested person at the office of the authority or other  
8 designated place at any time within said period of thirty  
9 days; and

10 (g) A statement that all complaints and objections by  
11 the owners of property to be assessed in writing concerning  
12 the proposed improvements will be heard and determined by the  
13 authority before final action thereon.

14 (3) The finding, by resolution, of the board that said  
15 improvements were ordered after notice given and after hearing  
16 held and that such proposal was properly initiated by the said  
17 authority shall be conclusive of the facts so stated in every  
18 court or other tribunal.

19 (4) Any resolution or order regarding the assessments or  
20 improvements may be modified, confirmed, or rescinded at any  
21 time prior to the passage of the resolution authorizing the  
22 improvements.

23 25-8.5-116. Inclusion of territory. (1) Any  
24 municipality, county, or special district, or any portion  
25 thereof, shall be eligible for inclusion upon resolution of  
26 its governing body requesting inclusion in the authority and  
27 describing the property to be included. The authority, by

1 resolution, may include such property on such terms and  
2 conditions as may be determined appropriate by the board.

3 (2) Upon receipt of a resolution requesting inclusion,  
4 the board shall cause an investigation to be made within a  
5 reasonable time to determine whether or not the municipality,  
6 county, or special district, or portion thereof, may feasibly  
7 be included within the authority, whether the municipality,  
8 county, or special district has any property which is  
9 tributary to the basin, waters, or watersheds governed by the  
10 authority, and the terms and conditions upon which the  
11 municipality, county, or special district may be included  
12 within the authority. If it is determined that it is feasible  
13 to include the municipality, county, or special district, or  
14 portion thereof, in the authority, and the municipality,  
15 county, or special district has property tributary to the  
16 basin, waters, or watersheds governed by the authority, the  
17 board by resolution shall set the terms and conditions upon  
18 which the municipality, county, or special district, or  
19 portion thereof, may be included within the authority and  
20 shall give notice thereof to the municipality, county, or  
21 special district. If the board determines that the  
22 municipality, county, or special district, or portion thereof,  
23 cannot feasibly be included within the authority or otherwise  
24 determines that the municipality, county, or special district  
25 should not be included within the authority, the board shall  
26 pass a resolution so stating and notifying the municipality,  
27 county, or special district of the action of the board. The

1 board's determination that the county, municipality, or  
2 special district, or portion thereof, should not be included  
3 in the authority shall be conclusive.

4 (3) (a) If the governing body of the municipality,  
5 county or special district desires to include the  
6 municipality, county, or special district, or portion thereof,  
7 within the authority upon the terms and conditions set forth  
8 by the board, the governing body shall adopt a resolution  
9 declaring that the public health, safety, and general welfare  
10 requires the inclusion of said municipality, county, or  
11 special district within the authority and that the governing  
12 body desires to have said municipality, county, or special  
13 district, or portion thereof, included therein upon the terms  
14 and conditions prescribed by the board. The governing body of  
15 such municipality, county, or special district, before final  
16 adoption of said resolution, shall hold a public hearing  
17 thereon, notice of which shall be given by publication in a  
18 newspaper of general circulation within such municipality,  
19 county, or special district, which shall be complete at least  
20 ten days before the hearing. Upon the final adoption of said  
21 resolution, the clerk of the governing body of such  
22 municipality, county, or special district shall forthwith  
23 transmit a certified copy of the resolution to the board and  
24 to the division of local government in the department of local  
25 affairs.

26 (b) After receipt of a copy of such resolution, the  
27 board shall pass and adopt a resolution including said

1 municipality, county, or special district, or portion thereof,  
2 in the authority and shall cause a certified copy thereof to  
3 be transmitted to the division of local government and a  
4 certified copy to the governing body of the municipality,  
5 county, or special district.

6 (4) The director of said division, upon receipt of a  
7 certified copy of the resolution of the board, shall forthwith  
8 issue a certificate reciting that the municipality, county, or  
9 special district, or portion thereof, described in such  
10 resolution has been duly included within the authority  
11 according to the laws of the state of Colorado. The inclusion  
12 of such territory shall be deemed effective upon the date of  
13 the issuance of such certificate, and the validity of such  
14 inclusion shall not be contestable in any suit or proceeding  
15 which has not been commenced within thirty days from such  
16 date. The said division shall forthwith transmit to the  
17 governing body of such municipality, county, or special  
18 district and to the board five copies of such certificate, and  
19 the clerk of such governing body shall forthwith record a copy  
20 of the certificate in the office of the clerk and recorder of  
21 each county in which such municipality, county, or special  
22 district, or portion thereof, is located and file a copy  
23 thereof with the county assessor of each such county.  
24 Additional copies of said certificate shall be issued by the  
25 division of local government upon request.

26 25-8.5-117. Exclusion of property. (1) Any owner of  
27 property within the boundaries of the authority may petition



1 to be excluded from the authority.

2 (2) In order for such property to be excluded, the board  
3 shall determine that the property to be excluded does not  
4 receive wastewater treatment services or have an individual  
5 sewage disposal system located within the authority and  
6 either:

7 (a) Was improperly included within the authority; or

8 (b) Is not tributary to the basin, waters, or watersheds  
9 governed by the authority or will not benefit from projects or  
10 improvements provided by the authority.

11 (3) Any petition for exclusion shall specify the  
12 property to be excluded, and evidence that the property  
13 complies with the criteria of subsection (2) of this section.

14 (4) The authority shall provide notice of the date,  
15 time, and place of the authority's meeting to consider the  
16 petition for exclusion.

17 (5) The authority may approve, modify, or deny a  
18 petition for exclusion.

19 (6) If the authority approves a petition for exclusion  
20 of property, the authority shall file a copy of said  
21 resolution with the division of local government and with the  
22 county, municipality, or special district authority members  
23 which includes within its boundaries the excluded property,  
24 record a copy of the resolution in the office of the county  
25 clerk and recorder in the county in which said excluded  
26 property is located, and file a copy with the county assessor  
27 in such county.

1           SECTION 2. Safety clause. The general assembly hereby  
2 finds, determines, and declares that this act is necessary  
3 for the immediate preservation of the public peace, health,  
4 and safety.

BILL 6

A BILL FOR AN ACT

1 CONCERNING AMENDMENTS TO THE "COLORADO CHEMIGATION ACT", AND  
2 RELATING TO THE DEFINITIONS OF "CHEMIGATION" AND  
3 "IRRIGATION", AN INCREASE IN THE PERMIT AND INSPECTION  
4 FEES, AND THE PENALTIES PROVIDED FOR VIOLATIONS OF THE  
5 ACT.

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Bill Summary

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

Deletes from the definition of "chemigation" language which limited the application of the "Colorado Chemigation Act" to wells which are greater than two inches in diameter and have been issued a well permit by the state engineer. Enlarges the definition of "irrigation" to include any device or combination of devices having a hose, pipe, or other conduit which connects directly to any source of ground water or surface water. Increases the fees for permits and imposes a limit on the fee for an inspection. Changes the penalty for violating the provisions of the act from a class 5 felony to a misdemeanor.

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6 Be it enacted by the General Assembly of the State of Colorado:  
7 SECTION 1. 35-11-102 (2) and (8), Colorado Revised  
8 Statutes, 1984 Repl. Vol., as amended, are amended to read:

1           35-11-102. Definitions. (2) "Chemigation" means any  
2 process whereby chemicals are applied to land or crops in or  
3 with water pumped ~~from a well more than two inches in diameter~~  
4 ~~which has been issued a permit by the state engineer~~ THROUGH A  
5 CLOSED IRRIGATION SYSTEM. "Chemigation" does not mean any  
6 process whereby chemicals are applied to land or crops in or  
7 with water pumped from a stock watering well or a domestic  
8 well with a diameter of two inches or less.

9           (8) "Irrigation system" means any device or combination  
10 of devices having a hose, pipe, or other conduit, which  
11 connects directly to any source of ground water ~~by means of a~~  
12 ~~water well which has been issued a permit by the state~~  
13 ~~engineer~~ OR SURFACE WATER, through which water or a mixture of  
14 water and chemicals is drawn and applied for ~~commercial~~  
15 agricultural or ~~commercial~~ horticultural purposes. For  
16 ~~purposes of this article, a water well shall not include any~~  
17 ~~stock watering well or any domestic well with a diameter of~~  
18 ~~two inches or less.~~ "Irrigation system" does not include any  
19 hand-held hose sprayer or other similar device which is  
20 constructed so that an interruption in water flow  
21 automatically prevents any backflow to the water source AND  
22 DOES NOT INCLUDE STOCK WATER WELLS OR ANY DOMESTIC WELL WITH A  
23 DIAMETER OF TWO INCHES OR LESS.

24           SECTION 2. 35-11-105 (4), Colorado Revised Statutes,  
25 1984 Repl. Vol., as amended, is amended to read:

26           35-11-105. Issuance of provisional chemigation permit -  
27 fees. (4) The fee for a provisional chemigation permit and

1 the annual renewal permit shall be established by rule and  
2 regulation of the commissioner and shall reflect all direct  
3 and indirect costs for the administration of this article but  
4 shall not exceed ~~sixty-five~~ ONE HUNDRED dollars. The  
5 inspection fee for a provisional chemigation permit shall be  
6 established by the commissioner and shall reflect all direct  
7 and indirect costs of the inspection BUT SHALL NOT EXCEED  
8 EIGHTY DOLLARS. A provisional chemigation permit shall expire  
9 on March 31 of the year subsequent to the date the provisional  
10 chemigation permit was issued. The reinstatement fee for an  
11 expired provisional chemigation permit shall be double the  
12 amount of the fee for a provisional chemigation permit. A  
13 provisional chemigation permit shall not be assignable.

14 SECTION 3. 35-11-106 (3), Colorado Revised Statutes,  
15 1984 Repl. Vol., as amended, is amended to read:

16 35-11-106. Issuance of chemigation permit - fees.

17 (3) The fee for a chemigation permit and the annual renewal  
18 fee shall be established by the commissioner through rules and  
19 regulations. Such fees shall reflect all direct and indirect  
20 costs of the department for the administration of this article  
21 but shall not exceed ~~forty~~ ONE HUNDRED dollars. The  
22 inspection fee shall be established by rule and regulation of  
23 the commissioner and shall reflect all direct and indirect  
24 costs for the inspection BUT SHALL NOT EXCEED EIGHTY DOLLARS.  
25 A chemigation permit shall expire on March 31 of the year  
26 subsequent to the date the chemigation permit was issued. The  
27 reinstatement fee for an expired chemigation permit shall be

1 double the amount of the fee for a chemigation permit. The  
2 reinstatement fee shall not be assessed to any person who  
3 filed an affidavit in lieu of a permit for the year prior to  
4 the year such person seeks a permit. A chemigation permit  
5 shall not be assignable.

6 SECTION 4. 35-11-115 (1), Colorado Revised Statutes,  
7 1984 Repl. Vol., as amended, is amended to read:

8 35-11-115. Penalties. (1) On and after January 1,  
9 1990, any person utilizing chemigation without a permit  
10 ~~commits--a-class-5-felony-and-shall-be-punished-as-provided-in~~  
11 ~~section-18-1-105, G.R.S.~~ IS GUILTY OF A MISDEMEANOR AND, UPON  
12 CONVICTION THEREOF, SHALL BE PUNISHED BY A FINE OF NOT MORE  
13 THAN TWO THOUSAND DOLLARS, OR BY IMPRISONMENT IN THE COUNTY  
14 JAIL FOR NOT MORE THAN ONE HUNDRED EIGHTY DAYS, OR BY BOTH  
15 SUCH FINE AND IMPRISONMENT. EACH DAY IN WHICH A VIOLATION  
16 OCCURS SHALL CONSTITUTE A SEPARATE OFFENSE.

17 SECTION 5. Effective date. This act shall take effect  
18 July 1, 1988.

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

BILL 7

A BILL FOR AN ACT

1 CONCERNING AN APPROPRIATION TO THE DEPARTMENT OF NATURAL  
2 RESOURCES FOR ALLOCATION TO THE STATE ENGINEER.

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Bill Summary

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

Makes an appropriation to the department of natural resources for allocation to the state engineer for purposes of administering the state's water compacts.

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3 Be it enacted by the General Assembly of the State of Colorado:

4 SECTION 1. Appropriation. In addition to any other  
5 appropriation, there is hereby appropriated, out of any moneys  
6 in the general fund not otherwise appropriated, to the  
7 department of natural resources for allocation to the state  
8 engineer, for the fiscal year beginning July 1, 1988, the sum  
9 of \_\_\_\_\_ dollars (\$) and \_\_\_\_\_ FTE, or so much  
10 thereof as may be necessary, for administering the state's  
11 water compacts.

12 SECTION 2. Safety clause. The general assembly hereby

1 finds, determines, and declares that this act is necessary  
2 for the immediate preservation of the public peace, health,  
3 and safety.



BILL 8

A BILL FOR AN ACT

1 CONCERNING PROJECTS FUNDED BY THE COLORADO WATER CONSERVATION  
2 BOARD CONSTRUCTION FUND, AND RELATING TO THE ACTIVITIES  
3 OF THE COLORADO WATER CONSERVATION BOARD IN CONNECTION  
4 THEREWITH.

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Bill Summary

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

Approves water resources projects for financial assistance loans out of the Colorado water conservation board construction fund.

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5 Be it enacted by the General Assembly of the State of Colorado:  
6 SECTION 1. Project authorization. (1) Pursuant to  
7 section 37-60-122 (1) (b), Colorado Revised Statutes, the  
8 Colorado water conservation board is hereby authorized to loan  
9 moneys to enable the construction of the following water  
10 resources projects:

<u>Priority</u>	<u>Project Name</u>	<u>Board Loan</u>	<u>Repayment Period (Years)</u>	<u>Total Repayment</u>
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4           (2) The Colorado water conservation board may make loans  
 5 for the construction of each project specified in subsection  
 6 (1) of this section from such moneys as are or may hereafter  
 7 become available to the Colorado water conservation board  
 8 construction fund, said loans to be in the amounts listed in  
 9 said subsection (1) plus or minus such amounts, if any, as may  
 10 be justified by reason of ordinary fluctuations in  
 11 construction costs as indicated by the engineering cost  
 12 indices applicable to the types of construction involved for  
 13 such projects or as may be justified by reason of changes made  
 14 in the plans for a project if those changes are required by  
 15 final engineering drawings and specifications or by federal or  
 16 state requirements. The board's loan for any project  
 17 specified in subsection (1) of this section shall not exceed  
 18 fifty percent of the total cost of constructing a project.

19           (3) Contracts entered into by the Colorado water  
 20 conservation board pursuant to section 37-60-119 (2), Colorado  
 21 Revised Statutes, for loans to enable the construction of the  
 22 projects specified in subsection (1) of this section shall be  
 23 subject to the repayment periods and total repayments set

1   forth therein; except that total repayments shall be adjusted  
2   to reflect any changes in the amounts loaned by reason of  
3   subsection (2) of this section.

4         SECTION 2. Safety clause. The general assembly hereby  
5   finds, determines, and declares that this act is necessary  
6   for the immediate preservation of the public peace, health,  
7   and safety.

JOINT RESOLUTION A

1           WHEREAS, The "Federal Water Pollution Control Act  
2 Amendments of 1972", as amended by the federal "Clean Water  
3 Act of 1977", were enacted to "restore and maintain the  
4 chemical, physical, and biological integrity of the nation's  
5 waters", and section 404 of the "Clean Water Act" authorizes  
6 the Secretary of the Army, acting through the Chief of the  
7 U.S. Army Corps of Engineers, to issue permits for the  
8 discharge of dredged or fill material into the waters of the  
9 United States applying guidelines developed by the  
10 Administrator of the Environmental Protection Agency in  
11 conjunction with the Secretary of the Army; and

12           WHEREAS, Section 404 has expanded the regulatory  
13 authority of the Corps from traditional navigable waters to  
14 "waters of the United States" which has been construed by some  
15 to encompass practically all waters and wetlands; and

16           WHEREAS, The "Clean Water Act" calls for minimization of  
17 duplication, needless paperwork, and delays in issuance of  
18 permits and sets a target of ninety days for a final decision  
19 on an application for a section 404 permit. For this purpose,  
20 the Secretary of the Army is required to develop agreements  
21 with heads of other agencies, such as the EPA and the  
22 Departments of Interior and Commerce, which have statutory  
23 responsibilities for advising the Corps about environmental,  
24 wildlife, and other impacts of permit applications; and

25           WHEREAS, In administering its regulatory program, the  
26 Corps is subject to a large number of statutory, executive,  
27 and regulatory constraints requiring extensive documentation;  
28 and

29           WHEREAS, The State of Colorado is divided and managed by  
30 five different U.S. Army Corps of Engineers Districts, whose  
31 offices are all located in other states; and

32           WHEREAS, Multiple districts oftentimes cause confusion as  
33 to which district office applicants must contact and create

1 situations where transbasin projects are subject to different  
2 interpretations of rules and regulations by different  
3 districts; and

4 WHEREAS, The enforcement of the provisions of the 404  
5 permit program is difficult to monitor due to the extreme  
6 distances between the district offices and projects in  
7 Colorado and only two of the five districts maintain local  
8 offices in Colorado; and

9 WHEREAS, Permit applicants from the public and private  
10 sectors point to inconsistencies among the different Corps  
11 districts in administering the program; and

12 WHEREAS, There is a need for a local presence in the  
13 state by the Corps and a need for consistent application of  
14 rules and regulations to 404 permits originating within the  
15 state; now, therefore,

16 Be It Resolved by the House of Representatives of the  
17 Fifty-sixth General Assembly of the State of Colorado, the  
18 Senate concurring herein:

19 The United States Army Corps of Engineers consolidate  
20 their district boundaries for the state of Colorado into one  
21 district and continue to maintain a local presence in the  
22 state.

23 Be It Further Resolved, That copies of this Resolution be  
24 transmitted to the United States Army Corps of Engineers, the  
25 Colorado Congressional delegation, the United States  
26 Department of Interior, the United States Department of  
27 Commerce, the United States Fish and Wildlife Service, the  
28 Soil Conservation Service, the Environmental Protection  
29 Agency, the Colorado Joint Review Process, and the Colorado  
30 Division of Wildlife.