Second Regular Session
Sixty-eighth General Assembly
STATE OF COLORADO

BILL D

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LLS NO. 12-0130.02 Thomas Morris x4218 **SENATE BILL**

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A BILL FOR AN ACT

101 **CONCERNING THE CONSOLIDATION OF CASH FUNDS ADMINISTERED BY**
102 **THE DIVISION OF WATER RESOURCES.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at http://www.leg.state.co.us/billsummaries.)

Water Resources Review Committee. The bill consolidates several funds administered by the division of water resources into a newly created water resources cash fund. **Section 1** of the bill creates the water resources cash fund and consolidates into a single section the laws

governing the fund's allowable uses. **Section 2** repeals the water data bank cash fund, division of water resources publication cash fund, and division of water resources ground water management cash fund. **Section 3** repeals the ground water publication fund, **section 4** repeals the gravel pit lakes augmentation fund, and **section 5** repeals the well enforcement cash fund. **Sections 6 through 11** make conforming amendments.

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

SECTION 1. In Colorado Revised Statutes, **add** 37-80-111.7 as follows:

37-80-111.7. Water resources cash fund - created - uses. (1) THERE IS HEREBY CREATED IN THE STATE TREASURY THE WATER RESOURCES CASH FUND, REFERRED TO IN THIS SECTION AS THE "FUND". REVENUES CREDITED TO THE FUND AND UNEXPENDED AT THE END OF EACH FISCAL YEAR REMAIN IN THE FUND AND DO NOT REVERT TO THE GENERAL FUND. ALL INTEREST DERIVED FROM THE DEPOSIT AND INVESTMENT OF REVENUES IN THE FUND REMAIN IN THE FUND AND DO NOT REVERT TO THE GENERAL FUND.

(2) THE STATE ENGINEER SHALL COLLECT THE FOLLOWING FEES AND TRANSMIT THEM TO THE STATE TREASURER, WHO SHALL CREDIT THEM TO THE FUND, EXCEPT AS SPECIFIED IN PARAGRAPH (b) OF THIS SUBSECTION (2):

(a) THE STATE ENGINEER SHALL SET FEES BY RULE FOR:

(I) THE DISTRIBUTION OF DATA GENERATED, COLLECTED, STUDIED, AND COMPILED ABOUT THE WATER SUPPLIES OF THIS STATE, WHICH FEES SHALL REFLECT THE DIRECT AND INDIRECT COSTS OF SUCH DISTRIBUTION;

(II) THE SALE OF PUBLICATIONS OF THE DIVISION OF WATER RESOURCES, WHICH FEES SHALL REFLECT THE DIRECT AND INDIRECT COSTS OF SUCH PUBLICATIONS;

(b) THE STATE ENGINEER SHALL COLLECT FEES PURSUANT TO SECTIONS 37-90-105 (3) (a) AND (4); 37-90-107 (7) (c) (I) AND (7) (d) (I); 37-90-108 (4) AND (6); 37-90-116 (1) (a), (1) (c), (1) (h), AND (1) (i); 37-90-137 (2), (3) (a), AND (3) (c); 37-90.5-106; 37-92-305 (17); 37-92-308; AND 37-92-602 (1) (g) (III) (C), (3) (a), AND (5). THE TREASURER SHALL CREDIT THE FEES COLLECTED PURSUANT TO THIS PARAGRAPH (b) TO THE FUND EXCEPT AS SPECIFIED IN SECTION 37-80-111.5 (1) (d) AND EXCEPT THAT, OF EACH FEE COLLECTED PURSUANT TO THE FOLLOWING SECTIONS, THE TREASURER SHALL CREDIT THE FOLLOWING AMOUNTS TO THE GENERAL FUND:

(I) SECTION 37-90-107 (7) (c) (I) AND (7) (d) (I) AND SECTION 37-90-116 (1) (a), (1) (h), AND (1) (i), THIRTY DOLLARS;

(II) SECTION 37-90-137 (2) AND (3) (a) (I) AND SECTION 37-92-602 (3) (a) FOR WELLS APPLIED FOR PURSUANT TO SECTION 37-92-602 (3) (b), TWENTY-FIVE DOLLARS;

(III) SECTION 37-90-116 (1) (c), TEN DOLLARS; AND

(IV) SECTION 37-90-105 (3) (a) AND (4) (a) AND SECTION 37-92-602 (3) (a) FOR WELLS APPLIED FOR PURSUANT TO SECTION 37-92-602 (3) (c) AND (5), FIVE DOLLARS.

(3) THE STATE ENGINEER MAY EXPEND MONEYS IN THE FUND, SUBJECT TO APPROPRIATION BY THE GENERAL ASSEMBLY, FOR THE PURPOSES SPECIFIED IN THE SECTIONS LISTED IN THE INTRODUCTORY PORTION TO PARAGRAPH (b) OF SUBSECTION (2) OF THIS SECTION AND FOR THE FOLLOWING PURPOSES:

(a) DEVELOPING AN AUTOMATED WELL PERMIT PROCESSING SYSTEM THAT WILL EXPEDITE THE ISSUANCE OF WELL PERMITS, CREATING AND MAINTAINING A GROUND WATER INFORMATION MANAGEMENT

SYSTEM, ESTABLISHING A GROUND WATER DATA NETWORK, ESTABLISHING GROUND WATER RECHARGE PROGRAMS, CONDUCTING GROUND WATER INVESTIGATIONS, MONITORING COMPLIANCE WITH ROOFTOP PRECIPITATION CAPTURE LAWS AND PERMITS PURSUANT TO SECTION 37-92-602 (1) (g), THE ADMINISTRATION OF ROTATIONAL CROP MANAGEMENT CONTRACTS, AND FOR OTHER GROUNDWATER-RELATED ACTIVITIES THAT ARE DEEMED NECESSARY BY THE STATE ENGINEER IN PERFORMING STATUTORY DUTIES, SUBJECT TO APPROPRIATION BY THE GENERAL ASSEMBLY. THE OFFICE OF THE STATE ENGINEER SHALL MAKE DATA IN THE GROUND WATER DATA NETWORK AVAILABLE TO THE PUBLIC AS EXPEDITIOUSLY AS POSSIBLE.

(b) PAYING FOR PUBLICATIONS MADE PURSUANT TO SECTION 37-90-116 (1) (f) TO PROCESS FINAL PERMITS PURSUANT TO SECTION 37-90-108;

(c) REVIEWING APPLICATIONS FOR APPROVAL OF A PLAN FOR AUGMENTATION OR A PLAN OF SUBSTITUTE SUPPLY PURSUANT TO SECTION 37-90-137 (11) (f);

(d) INVESTIGATING AND CONDUCTING ENFORCEMENT OF VIOLATIONS OF ORDERS ISSUED BY THE STATE ENGINEER OR THE GROUND WATER COMMISSION FOR THE ILLEGAL WITHDRAWAL OF DESIGNATED GROUND WATER, INCLUDING COSTS ASSOCIATED WITH THE IMPLEMENTATION OF SECTION 37-90-111.5;

(e) REVIEWING ENGINEERING REPORTS, FIELD INSPECTIONS, AND ADMINISTERING ROTATIONAL CROP MANAGEMENT CONTRACTS PURSUANT TO SECTION 37-92-305 (17);

(f) PUBLISHING AND ADMINISTRATIVE COSTS INCURRED IN PROCESSING APPLICATIONS AND RENEWALS AND ADMINISTERING SUBSTITUTE WATER SUPPLY PLANS PURSUANT TO SECTION 37-92-308;

(g) PUBLISHING AND ADMINISTRATIVE COSTS INCURRED IN PROCESSING APPLICATIONS, REVIEWING ENGINEERING REPORTS, AND ADMINISTERING INTERRUPTIBLE WATER SUPPLY AGREEMENTS PURSUANT TO SECTION 37-92-309; AND

(h) FUNDING THE OPERATIONS AND ADMINISTRATION OF THE DIVISION BASED ON ONGOING PRIORITIES OF THE DIVISION.

SECTION 2. In Colorado Revised Statutes, 37-80-111.5, **amend** (1) (d); and **repeal** (1) (a), (1) (b), and (2) as follows:

37-80-111.5. Fees - satellite monitoring system cash fund - well inspection cash fund - created. (1) (a) ~~The state engineer shall set and collect fees by rule and regulation for the distribution of data generated, collected, studied, and compiled about the water supplies of this state, which fees shall reflect the direct and indirect costs of such distribution. All such fees collected by the state engineer shall be transmitted to the state treasurer, who shall credit the same to the water data bank cash fund, which fund is hereby created. Moneys in the water data bank cash fund may be expended by the state engineer for the purposes of this paragraph (a), subject to appropriation by the general assembly.~~

(b) ~~The state engineer shall set and collect fees by rule and regulation for the sale of publications of the division of water resources, which fees shall reflect the direct and indirect costs of such publications. All such fees collected by the state engineer shall be transmitted to the state treasurer, who shall credit the same to the division of water resources publication cash fund, which fund is hereby created. Moneys in the publication cash fund may be expended by the state engineer for the purposes of this paragraph (b), subject to appropriation by the general assembly.~~

(d) ~~The state engineer shall collect fees pursuant to sections 37-90-105 (3) (a), (3) (c), and (4), 37-90-107 (7) (c) (I) and (7) (d) (I), 37-90-108 (4) and (6), 37-90-116 (1) (a), (1) (c), (1) (h), and (1) (i), 37-90-137 (2), (3) (a), and (3) (c), 37-90.5-106, 37-92-305 (17), 37-92-308, and 37-92-602 (1) (g) (III) (C), (3) (a), (3) (d), and (5). All such fees shall be transmitted to the state treasurer, who shall credit the same to the division of water resources ground water management cash fund, which is hereby created; except that, of each fee collected pursuant to section 37-90-107 (7) (c) (I) and (7) (d) (I) and section 37-90-116 (1) (a), (1) (h), and (1) (i), thirty dollars shall be credited to the general fund; of each fee collected pursuant to section 37-90-137 (2), (3) (a) (I), and (3) (a) (II) and section 37-92-602 (3) (a) for wells applied for pursuant to section 37-92-602 (3) (b), twenty-five dollars shall be credited to the general fund; of each fee collected pursuant to section 37-90-116 (1) (c), ten dollars shall be credited to the general fund; of each fee collected pursuant to section 37-90-105 (3) (a) and (4) (a) and section 37-92-602 (3) (a) for wells applied for pursuant to section 37-92-602 (3) (c) and (5), five dollars shall be credited to the general fund; and except that,~~ Of each fee collected pursuant to sections 37-90-105 (3) (a) (I) and (4) (a), 37-90-107 (7) (d) (I), 37-90-116 (1) (a), (1) (c), and (1) (h), 37-90-137 (2) (a), and 37-92-602 (3) (a) and (5), forty dollars shall be credited to the well inspection cash fund, which fund is hereby created. Moneys in the well inspection cash fund shall be appropriated to and expended by the state engineer for the purposes established in section 37-91-113. Any moneys credited to the well inspection cash fund and unexpended at the end of any given fiscal year ~~shall~~ remain in the fund and ~~shall~~ DO not revert to the general fund. All interest derived from the deposit and

investment of this fund ~~shall~~ remain in the fund and ~~shall~~ DO not revert to the general fund. ~~Moneys in the ground water management cash fund shall be expended by the state engineer for the purposes of developing an automated well permit processing system that will expedite the issuance of well permits, creating and maintaining a ground water information management system, establishing a ground water data network, establishing ground water recharge programs, conducting ground water investigations, monitoring compliance with rooftop precipitation capture laws and permits pursuant to section 37-92-602 (1) (g), the administration of rotational crop management contracts, and for other groundwater-related activities that are deemed necessary by the state engineer in performing statutory duties, subject to appropriation by the general assembly. Data in the ground water data network shall be made available to the public by the office of the state engineer as expeditiously as possible.~~

(2) ~~All moneys deposited in the water data bank cash fund, the division of water resources publication cash fund, the satellite monitoring system cash fund, or the division of water resources ground water management cash fund pursuant to subsection (1) of this section, together with any interest earned thereon, shall be deposited in the cash fund as provided in this section.~~

SECTION 3. In Colorado Revised Statutes, 37-90-116, **amend** (1) (f) as follows:

37-90-116. Fees. (1) The state engineer or the commission shall collect the following fees:

(f) The actual expenses of publication, if any is required, which sums shall be promptly billed to the applicant and paid prior to the

approval of any permit or other application, unless the commission requires the applicant to pay these expenses directly to the newspaper, and the applicant provides a proof of such payment to the commission. ~~except that, when a publication is made to process final permits pursuant to section 37-90-108, such publication expenses shall be paid by the state engineer from the division of water resources ground water management cash fund created pursuant to section 37-80-111.5 (1) (d).~~ All ~~such~~ FEES FOR publication expenses collected by the state engineer or by the commission shall be transmitted to the state treasurer, who shall credit ~~the same~~ THEM to the ~~ground~~ water ~~publication fund, which fund is hereby created. All moneys in the ground water publication fund are hereby continuously appropriated to the division of water resources for the actual expenses of publications. The moneys in the ground water publication fund shall not be credited or transferred to the general fund or to any other fund of the state~~ RESOURCES CASH FUND CREATED IN SECTION 37-80-111.7 (1).

SECTION 4. In Colorado Revised Statutes, 37-90-137, **amend** (11) (f) as follows:

37-90-137. Permits to construct wells outside designated basins - fees - permit no ground water right - evidence - time limitation - well permits - rules - repeal. (11) (f) Excluding the well permit filing fee required by subsection (2) of this section, THE STATE TREASURER SHALL CREDIT all fees collected with an application for approval of a plan for augmentation or a plan of substitute supply ~~shall be credited~~ to the ~~gravel pit lakes augmentation~~ WATER RESOURCES CASH fund ~~which fund is hereby~~ created ~~and shall be used by the state engineer for the implementation and enforcement of the water augmentation~~

~~program. The general assembly shall make annual appropriations from the gravel pit lakes augmentation fund for such purposes, and no moneys from the general fund shall be expended or appropriated for such purposes~~ IN SECTION 37-80-111.7 (1).

SECTION 5. In Colorado Revised Statutes, 37-90-111.5, **amend** (5) (b) as follows:

37-90-111.5. Well enforcement - injunction - fines. (5) (b) ~~A fine~~ THE STATE ENGINEER SHALL TRANSMIT ALL FINES collected for violations of paragraph (a) of this subsection (5) ~~shall be transmitted~~ to the state treasurer, who shall deposit ~~it~~ THEM in the ~~well enforcement~~ WATER RESOURCES cash fund ~~which fund is hereby~~ created in ~~the state treasury. All moneys credited to the fund and unexpended at the end of any given fiscal year shall remain in the fund and shall not revert to the general fund. All interest earned on the investment of moneys in the fund shall be credited to the fund. Moneys in the fund shall be appropriated solely to the division of water resources for costs associated with the investigation and enforcement of violations of orders issued by the state engineer or the commission for the illegal withdrawal of designated ground water, including costs associated with the implementation of this~~ section 37-80-111.7 (1).

SECTION 6. In Colorado Revised Statutes, 37-83-105, **amend** (2) (b) (I) introductory portion as follows:

37-83-105. Owner may loan agricultural water right - loans to Colorado water conservation board for instream flows. (2) (b) In determining whether injury will occur, the division engineer shall ensure that the following conditions are met:

(I) The proponent has filed a request for approval of the loan with

the division engineer, together with a filing fee in the amount of one hundred dollars. Moneys from the fee shall be transmitted to the state treasurer and deposited in the ~~ground~~ water ~~management~~ RESOURCES cash fund created in section ~~37-80-111.5~~ 37-80-111.7 (1). The request for approval shall include:

SECTION 7. In Colorado Revised Statutes, 37-90-107, **amend** (6) (e) as follows:

37-90-107. Application for use of ground water - publication of notice - conditional permit - hearing on objections - well permits. (6) (e) Excluding the well permit filing fee required by section 37-90-116 (2), THE STATE TREASURER SHALL CREDIT all fees collected with a replacement plan ~~shall be credited~~ to the ~~gravel pit lakes augmentation~~ WATER RESOURCES CASH fund ~~which fund is~~ created in section ~~37-90-137 (11) (f)~~ 37-80-111.7 (1).

SECTION 8. In Colorado Revised Statutes, 37-92-305, **amend** (17) (b) as follows:

37-92-305. Standards with respect to rulings of the referee and decisions of the water judge. (17) (b) ~~The fees shall be used by the state engineer for the review of the engineering reports, field inspections, and the administration of the rotational crop management contract.~~ The state engineer shall transmit ~~such~~ THE fees to the state treasurer, who shall deposit them in the ~~division of~~ water resources ~~ground water management~~ cash fund created in section ~~37-80-111.5~~ 37-80-111.7 (1).

SECTION 9. In Colorado Revised Statutes, 37-92-308, **amend** (8) as follows:

37-92-308. Substitute water supply plans - special procedures for review - water adjudication cash fund - legislative declaration -

repeal. (8) After July 1, 2002, water users requesting approval of a new plan or a substitute water supply plan pursuant to this section shall pay a fee of three hundred dollars. ~~The fees shall be used by the state engineer for the publishing and administrative costs for processing applications and renewals and administering plans. Such fees shall be deposited~~ THE STATE ENGINEER SHALL COLLECT THE FEES AND TRANSMIT THEM TO THE STATE TREASURER, WHO SHALL DEPOSIT THEM in the ~~ground~~ water ~~management~~ RESOURCES cash fund ~~pursuant to~~ CREATED IN section ~~37-80-111.5~~ 37-80-111.7 (1).

SECTION 10. In Colorado Revised Statutes, 37-92-309, **amend** (5) as follows:

37-92-309. Interruptible water supply agreements - special review procedures - rules - water adjudication cash fund - legislative declaration. (5) Applicants for approval of an interruptible water supply agreement pursuant to this section shall pay a fee established by the state engineer, pursuant to rules promulgated by the state engineer. ~~The fees shall be used by the state engineer for the publishing and administrative costs for processing the applications, the review of the engineering reports, and the administration of the interruptible water supply agreements.~~ The state engineer shall COLLECT THE FEES AND transmit ~~such fees~~ THEM to the state treasurer, who shall deposit them in the ~~ground~~ water ~~management~~ RESOURCES cash fund created ~~pursuant to~~ IN section ~~37-80-111.5~~ 37-80-111.7 (1).

SECTION 11. In Colorado Revised Statutes, 37-92-602, **amend** (1) introductory portion and (1) (g) (V) (C) as follows:

37-92-602. Exemptions - presumptions - legislative declaration. (1) ~~The provisions of~~ This article, except for sections

37-92-201 and 37-92-202, ~~shall~~ DOES not ~~be applicable~~ APPLY to:

(g) (V) (C) Any person who violates an order issued by the state engineer pursuant to sub-subparagraph (A) of this subparagraph (V) shall forfeit and pay a sum not to exceed five hundred dollars for each violation. Any fine collected for violations of this paragraph (g) shall be transmitted to the state treasurer, who shall credit the same to the ~~division of~~ water resources ~~ground water management~~ cash fund created in section ~~37-80-111.5 (1) (d)~~ 37-80-111.7 (1).

SECTION 12. Effective date - applicability. This act shall take effect July 1, 2012, and shall apply to revenues credited on or after said date.

SECTION 13. 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.