0318 Water Quality and Water Resources

Colorado Legislative Council

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0318 Water Quality and Water Resources

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Report to the Colorado General Assembly:

RECOMMENDATIONS FOR 1988

WATER QUALITY AND WATER RESOURCES

COLORADO LEGISLATIVE COUNCIL

RESEARCH PUBLICATION NO. 318
December, 1987
The fourteen-member Legislative Council serves as the fact-finding and information-collecting agency of the General Assembly. The Speaker of the House and the Majority Leader of the Senate serve ex officio with twelve appointed legislators -- six senators and six representatives.

Between sessions, the interim legislative committees concentrate on specific study assignments approved by resolution of the General Assembly or directed by the council. Committee documents, data, and reports are prepared with the aid of the council's professional staff.

During sessions, the council staff provides support services to the various committees of reference and furnishes individual legislators with facts, figures, arguments, and alternatives.
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
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
# TABLE OF CONTENTS

<table>
<thead>
<tr>
<th>Section</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>LETTER OF TRANSMITTAL</td>
<td>iii</td>
</tr>
<tr>
<td>TABLE OF CONTENTS</td>
<td>v</td>
</tr>
<tr>
<td>LIST OF BILLS AND RESOLUTIONS</td>
<td>vi</td>
</tr>
<tr>
<td>COMMITTEE ON WATER QUALITY AND WATER RESOURCES</td>
<td></td>
</tr>
<tr>
<td>Members of Committee</td>
<td>1</td>
</tr>
<tr>
<td>Summary of Recommendations</td>
<td>3</td>
</tr>
<tr>
<td>Committee Charge</td>
<td>3</td>
</tr>
<tr>
<td>Committee Recommendations</td>
<td>4</td>
</tr>
<tr>
<td>Protection of Drinking Water</td>
<td>4</td>
</tr>
<tr>
<td>Water Pollution Control Revolving Fund</td>
<td>5</td>
</tr>
<tr>
<td>Water Quality Control Act</td>
<td>5</td>
</tr>
<tr>
<td>Time Notice Change</td>
<td>5</td>
</tr>
<tr>
<td>Permits System Fees</td>
<td>6</td>
</tr>
<tr>
<td>Water Quality Authority</td>
<td>6</td>
</tr>
<tr>
<td>Chemigation</td>
<td>7</td>
</tr>
<tr>
<td>Interstate Compact Requirements</td>
<td>7</td>
</tr>
<tr>
<td>Authorization of Water Projects</td>
<td>7</td>
</tr>
<tr>
<td>404 Dredge and Fill Permit</td>
<td>8</td>
</tr>
<tr>
<td>Other Committee Activities</td>
<td>8</td>
</tr>
<tr>
<td>Background Report</td>
<td>9</td>
</tr>
<tr>
<td>Bills 1 to 8</td>
<td>21</td>
</tr>
<tr>
<td>Joint Resolution A</td>
<td>91</td>
</tr>
<tr>
<td>--------</td>
<td>----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------</td>
</tr>
<tr>
<td>BILL 2</td>
<td>Concerning Authorization for the State to Participate in the Water Pollution Control Revolving Fund Created by the Federal &quot;Water Quality Act of 1987&quot; by Providing for the Creation of a State Water Pollution Control Revolving Fund, and Relating to the Administration Thereof.</td>
</tr>
<tr>
<td>BILL 3</td>
<td>Concerning Amendments to the &quot;Colorado Water Quality Control Act&quot;.</td>
</tr>
<tr>
<td>BILL 4</td>
<td>Concerning Water Quality Control Permits System Fees.</td>
</tr>
<tr>
<td>BILL 5</td>
<td>Concerning the Creation of the Cherry Creek Basin Water Quality Authority.</td>
</tr>
<tr>
<td>BILL 6</td>
<td>Concerning Amendments to the &quot;Colorado Chemigation Act&quot;, and Relating to the Definitions of &quot;Chemigation&quot; and &quot;Irrigation&quot;, an Increase in the Permit and Inspection Fees, and the Penalties Provided for Violations of the Act.</td>
</tr>
<tr>
<td>BILL 7</td>
<td>Concerning an Appropriation to the Department of Natural Resources for Allocation to the State Engineer.</td>
</tr>
<tr>
<td>BILL 8</td>
<td>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.</td>
</tr>
<tr>
<td>JR A</td>
<td>Requesting That the United States Army Corps of Engineers Consolidate Their District Boundaries in Colorado.</td>
</tr>
</tbody>
</table>
Members of the Committee

Rep. Dan Williams, Chairman
Sen. Tilman Bishop, Vice Chairman
Sen. Wayne Allard
Sen. Steve Durham
Sen. Jana Mendez
Sen. Ray Peterson
Rep. Don Ament
Rep. Leo Berger
Rep. Ed Carpenter
Rep. Lewis Entz
Rep. Margaret Masson
Rep. Tom Norton
Rep. Jeannie Reeser
Rep. Sam Williams

Council Staff

Jim Hill
Senior Analyst
Scott Nachtrieb
Research Associate

Legislative Drafting Staff

John Berry
Senior Attorney
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


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
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)

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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.

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 Engineers 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.

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 reasonab", 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.

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

SECTION 1. 25-1-107 (1) (x) (1) 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 __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 of 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 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.
A BILL FOR AN ACT

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.

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.

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

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

(2) The Colorado water resources and power development authority was created to initiate, acquire, construct, maintain, repair, and operate or cause to be operated water management projects which include wastewater treatment facilities and to issue its bonds to pay the cost of such
projects. The division of local government in the department of local affairs has the responsibility of assisting units of local government in obtaining the benefits of various state and federal programs. The division of administration in the department of health has the responsibility of administering the "Colorado Water Quality Control Act". The general assembly hereby recognizes that the expertise of each of these governmental agencies is necessary to allow the state to participate in the federal "Water Quality Act of 1987". It is the intent of the general assembly that these governmental agencies cooperate in a manner which will efficiently and effectively serve the wastewater treatment needs of the state.

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

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

SECTION 2. 37-95-103, Colorado Revised Statutes, as amended, is amended BY THE ADDITION OF A NEW SUBSECTION TO
Definitions. (4.5) "Clean water act" means the "Federal Water Pollution Control Act Amendments of 1972", P.L. 92-500, and any act amendatory or supplemental thereto as of the effective date of this section.

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

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

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

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

(c) Moneys on deposit in the water pollution control revolving fund may be used by the authority for wastewater treatment facilities through the making of loans to governmental agencies; purchasing or refinancing debt obligations of governmental agencies where the debt obligations were incurred after March 7, 1985; purchasing insurance for debt obligations of governmental agencies; securing or providing revenues for payment of the principal and interest on bonds of the authority; providing for the costs of administering the water pollution control revolving fund; and providing for any other expenditure consistent with the clean water act and state law. Money not currently needed for the operation of the water pollution control revolving fund may be invested and all interest earned on such investments shall be credited to the specific account, if any, in the water pollution control revolving fund.
(3) (a) The authority may make and contract to make loans to governmental agencies in accordance with and subject to the provisions of this section to finance the cost of wastewater treatment system projects which are on the project eligibility list established pursuant to subsection (4) of this section and any other projects authorized under the clean water act and which the governmental agencies may lawfully undertake or acquire under state law, including, but not limited to, applicable provisions of the "Colorado Water Quality Control Act", article 8 of title 25, C.R.S., and for which the governmental agencies are authorized by law to borrow money. The loans may be made subject to such terms and conditions as the authority shall determine to be consistent with the purposes thereof. Each loan by the authority and the terms and conditions thereof shall be subject to approval by the division of local government of the department of local affairs. The division of local government in the department of local affairs may establish procedures with respect to providing financial assistance from the water pollution control revolving fund. Each loan to a local governmental agency shall be evidenced by notes, bonds, or other obligations thereof issued to the authority. In the case of each governmental agency, notes and bonds to be issued to the authority by the local government agency shall be authorized and issued as provided by law for the issuance of notes and bonds by the governmental agency, may be sold at private sale to the authority at any price, whether or not less than par.
value, and shall be subject to redemption prior to maturity at
such times and at such prices as the authority and
governmental agency may agree. Each loan to a local
government agency and the notes, bonds, or other obligations
thereby issued shall bear interest at such rate or rates per
annum at or below market interest rate and shall be for such
terms not to exceed twenty years as the authority and the
governmental agency may agree.

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

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

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

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

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

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

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

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

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

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.
A BILL FOR AN ACT

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

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.

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

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

25-8-105. Regional wastewater management plans amendments. (1) (a) Regional wastewater WATER QUALITY management plans which include plans known for purposes of the
federal act as "208 plans" may be developed by designated
planning agencies or by the state for nondesignated areas or
for statewide purposes.

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

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

(b) Notwithstanding the provisions of paragraph (a) of
this subsection (3), the commission may delegate to the
division the authority to approve, conditionally approve, or
reject nonrule-making amendments to regional wastewater WATER
QUALITY management plans. If the commission delegates such
authority, the division shall give notice of its decision on
an amendment to the commission and to anyone who has requested
notice of amendments to the affected plan. Notice of such
decision shall also be included on the next commission agenda.
Upon a request by any affected person, the commission shall
review the division's decision. The decision of the division
shall be final within forty-five days after agenda notice of
the decision has been given unless review is requested by an
affected person.

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

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

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

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

-43-  

BILL 3
prior to the hearing and shall include each proposed standard
or regulation.

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

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

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

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

SECTION 5. 25-8-503 (2) and (9), Colorado Revised
Statutes, 1982 Repl. Vol., as amended, are amended to read:

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

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

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

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

SECTION 7. 25-8-702 (1), Colorado Revised Statutes, 1982 -45-
Repl. Vol., is REPEALED AND REENACTED, WITH AMENDMENTS, to read:

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

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

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

SECTION 9. 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.
A BILL FOR AN ACT

CONCERNING WATER QUALITY CONTROL PERMITS SYSTEM FEES.

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.

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

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

25-8-502. Application - definitions - fees - water quality control fund - public participation. (I) (b) (I) The only fee the division may assess is an annual fee upon a discharger, and such fee shall be in accordance with the following schedule:
Facility Categories and Subcategories Fiscal Years for Permit Fees through 1987-88

1983-84

1992-93

Annual Fees

(A) Category 01 Sand and gravel and placer mining

Subcategory 1 Pit dewatering only $ 220
Subcategory 2 Pit dewatering and/or washwater discharge $ 250
Subcategory 3 Mercury use with discharge impact $ 280

(B) Category 02 Coal mining

Subcategory 1 Sedimentation ponds, surface runoff only $ 430
Subcategory 2 Mine water, preparation plant discharge $ 580

(C) Category 03 Hardrock mining

Subcategory 1 Mine dewatering from 0 up to 49,999 gallons per day $ 500
Subcategory 2 Mine dewatering from 50,000 up to 999,999 gallons per day $ 940
Subcategory 3 Mine dewatering from 1,000,000 gallons per day or over $ 1,440

Subcategory 4 Mine dewatering and milling
1. with no discharge $1,440
2. Subcategory 5 Mine dewatering and milling with discharge $4,330
3. Subcategory 6 No discharge $500

(D) Category 04 Oil shale
6. Subcategory 1 Sedimentation ponds, surface runoff only $870
8. Subcategory 2 Mine water from 0 up to 49,999 gallons per day $940
10. Subcategory 3 Mine water from 50,000 up to 999,999 gallons per day $1,170
12. Subcategory 4 Mine water from 1,000,000 gallons per day or over $1,440
15. Subcategory 5 Mine water and process water discharge $4,330
16. Subcategory 6 No discharge $800

(E) Category 05 Agricultural facilities
18. Subcategory 1 Under 5,000 maximum animal units $80
20. Subcategory 2 5,000 and over maximum animal units $110

(F) Category 06 Water treatment plants
23. Subcategory 1 Intermittent discharge $250
24. Subcategory 2 Routine discharge $360

(G) Category 07 General permits
26. Subcategory 1 Sand and gravel $220
27. Subcategory 2 Construction dewatering (not
Hydrostatic pipeline testing (not issued yet) $ 220

(H) Category 08 Power plants

Subcategory 1 Cooling water only, no discharge $ 500

Subcategory 2 Process water from 0 up to 49,999 gallons per day $ 940

Subcategory 3 Process water from 50,000 up to 999,999 gallons per day $ 1,440

Subcategory 4 Process water from 1,000,000 up to 4,999,999 gallons per day $ 4,330

Subcategory 5 Process water from 5,000,000 gallons per day or over $ 4,330

(I) Category 09 Sugar processing

Subcategory 1 Cooling water only, no discharge $ 530

Subcategory 2 Process water from 0 up to 49,999 gallons per day $ 650

Subcategory 3 Process water from 50,000 up to 999,999 gallons per day $ 1,620

Subcategory 4 Process water from 1,000,000 up to 4,999,999 gallons per day $ 4,330

Subcategory 5 Process water from 5,000,000 gallons per day or over $ 4,330

-50-
1 (J) **Category 10**  
   **Petroleum refining**

2 Subcategory 1  
   Cooling water only, no discharge  
   $500

3 Subcategory 2  
   Process water from 0 up to 49,999 gallons per day  
   $1,120

4 Subcategory 3  
   Process water from 50,000 up to 999,999 gallons per day  
   $1,440

5 Subcategory 4  
   Process water from 1,000,000 up to 4,999,999 gallons per day  
   $4,330

6 Subcategory 5  
   Process water from 5,000,000 gallons per day or over  
   $4,330

(K) **Category 11**  
   **Fish hatcheries**

7 No subcategories at this time  
   $360

(L) **Category 12**  
   **Manufacturing and other industry**

8 Subcategory 1  
   Cooling water only  
   $500

9 Subcategory 2  
   Process water from 0 up to 49,999 gallons per day  
   $940

10 Subcategory 3  
   Process water from 50,000 up to 999,999 gallons per day  
   $1,440

11 Subcategory 4  
   Process water from 1,000,000 up to 4,999,999 gallons per day  
   $4,330

12 Subcategory 5  
   Process water from 5,000,000 up to 19,999,999 gallons per day  
   $5,320
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Subcategory 5  Sewage from 500,000 up to 
999,999 gallons per day  $ 1,630

Subcategory 6  Sewage from 1,000,000 up to 
2,499,999 gallons per day  $ 2,670

Subcategory 7  Sewage from 2,500,000 up to 
9,999,999 gallons per day  $ 5,000

Subcategory 8  Sewage from 10,000,000 up to 
49,999,999 gallons per day  $ 8,670

Subcategory 9  Sewage from 50,000,000 up to 
99,999,999 gallons per day  $10,000

Subcategory 10 Sewage from 100,000,000 
gallons per day or over  $11,000

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

SECTION 2. 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 5

A BILL FOR AN ACT

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

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.

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

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

ARTICLE 8.5

Cherry Creek Basin Water Quality Authority

25-8.5-101. Legislative declaration. (1) The general assembly hereby finds and declares that the organization of a Cherry Creek basin water quality authority will:
(a) Be for the public benefit and advantage of the people of the state of Colorado;

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

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

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

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

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

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

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

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

(2) "Board" means the governing body of the authority
provided for in section 25-8.5-106.

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

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

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

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

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

(8) "Wastewater treatment facility" means a facility providing wastewater treatment services which has a designed capacity to receive sewage for treating, neutralizing, stabilizing, and reducing pollutants contained therein prior to the disposal or discharge of the treated sewage.
"Wastewater treatment facility" does not include any pretreatment facilities, lift stations, interceptor lines, or other transmission facilities to transmit sewage effluent outside the boundaries of the authority.

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

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

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

(I) Arapahoe county: Portions of sections thirty-five and thirty-six, township four south, range sixty-seven west of the sixth principal meridian; a portion of section thirty-one, township four south, range sixty-six west of the sixth principal meridian; portions of sections one, two, three, ten, fifteen, twenty-two, twenty-three, twenty-seven, and thirty-four, and all of sections eleven, twelve, thirteen, fourteen, twenty-four, twenty-five, twenty-six, thirty-five and thirty-six, township five south, range sixty-seven west of the sixth principal meridian; all of sections seven, seventeen, eighteen, nineteen, twenty, twenty-one, twenty-two,
twenty-five, twenty-six, twenty-seven, twenty-eight, twenty-nine, thirty, thirty-one, thirty-two, thirty-three, thirty-four, thirty-five, thirty-six and portions of sections five, six, eight, nine, fourteen, fifteen, sixteen, twenty-three and twenty-four, township five south, range sixty-six west of the sixth principal meridian; all of section thirty-one and portions of sections nineteen, twenty-nine, thirty, and thirty-two, township five south, range sixty-five west of the sixth principal meridian;

(II) Douglas county: Portions of sections four, nine, sixteen, twenty-one, twenty-eight and thirty-three, and all of sections five, six, seven, eight, seventeen, eighteen, nineteen, twenty, twenty-nine, thirty, thirty-one, thirty-two, and thirty-three, and all of sections one, two, eleven, twelve, thirteen, fourteen, twenty-three, twenty-four, twenty-five, twenty-six, twenty-seven, thirty-four, thirty-five, and thirty-six, township six south, range sixty-six west of the sixth principal meridian; township six south, range sixty-six west of the sixth principal meridian; portions of sections three, ten, fifteen, twenty-one, twenty-two, twenty-eight, thirty-one, thirty-two, and thirty-three, and all of sections one, two, eleven, twelve, thirteen, fourteen, twenty-three, twenty-four, twenty-five, twenty-six, twenty-seven, thirty-four, thirty-five, and thirty-six, township six south, range sixty-seven west of the sixth principal meridian; portions of sections four, nine, sixteen, and twenty-one, and all of sections five, six, seven, eight, seventeen, eighteen, nineteen, twenty, twenty-eight, twenty-nine, thirty, thirty-one, thirty-two, and thirty-three, township seven south, range sixty-five west of the sixth principal meridian;
township seven south, range sixty-six west of the sixth principal meridian; portions of sections four, five, nine, fourteen, fifteen, sixteen, twenty-three, twenty-five, twenty-six, and thirty-six, and all of sections one, two, three, ten, eleven, twelve, thirteen, and twenty-four, township seven south, range sixty-seven west of the sixth principal meridian; portions of sections twenty-eight and thirty-three and all of sections four, five, six, seven, eight, nine, sixteen, seventeen, eighteen, nineteen, twenty, twenty-one, twenty-nine, thirty, thirty-one, and thirty-two, township eight south, range sixty-five west of the sixth principal meridian; portions of sections six, seven, eighteen, nineteen, twenty-nine, thirty, and thirty-one, and all of sections one, two, three, four, five, eight, nine, ten, eleven, twelve, thirteen, fourteen, fifteen, sixteen, seventeen, twenty, twenty-one, twenty-two, twenty-three, twenty-four, twenty-five, twenty-six, twenty-seven, twenty-eight, thirty-two, thirty-three, thirty-four, thirty-five and thirty-six, township eight south, range sixty-six west of the sixth principal meridian; a portion of section one, township eight south, range sixty-seven west of the sixth principal meridian; all of sections four, five, six, seven, eight, nine, sixteen, seventeen, eighteen, nineteen, twenty, twenty-one, twenty-eight, twenty-nine, thirty, thirty-one, thirty-two and thirty-three, township nine south, range sixty-five west of the sixth principal meridian; all of township nine south, range sixty-six west excepting portions
of sections six and seven; portions of sections thirteen, twenty-three, twenty-four, twenty-five, and thirty-six, township nine south, range sixty-seven west of the sixth principal meridian; portions of sections twenty-eight and thirty-three, and all of sections four, five, six, seven, eight, nine, sixteen, seventeen, eighteen, nineteen, twenty, twenty-one, twenty-nine, thirty, thirty-one, and thirty-two, township ten south, range sixty-five west of the sixth principal meridian; portions of sections five, six, seven, eight, seventeen, eighteen, nineteen, twenty-nine, thirty, thirty-one, and all of sections one, two, three, four, nine, ten, eleven, twelve, thirteen, fourteen, fifteen, sixteen, twenty, twenty-one, twenty-two, twenty-three, twenty-four, twenty-five, twenty-six, twenty-seven, twenty-eight, thirty-two, thirty-three, thirty-four, and thirty-six, township ten south, range sixty-six west of the sixth principal meridian; a portion of section one, township ten south range sixty-seven west of the sixth principal meridian;

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

(IV) El Paso county: Portions of sections three, ten, eleven, fourteen, fifteen, twenty-two, twenty-seven, twenty-eight, thirty-one, thirty-three and all of sections four, five, six, seven, eight, nine, sixteen, seventeen, eighteen, nineteen, twenty, twenty-one, twenty-nine, thirty, and thirty-two, township eleven south, range sixty-five west of the sixth principal meridian; portions of sections seven, eight, seventeen, eighteen, twenty, twenty-one, twenty-two, twenty-five, twenty-six, twenty-seven, thirty-six and all of sections one, two, three, four, five, six, nine, ten, eleven, twelve, thirteen, fourteen, fifteen, sixteen, twenty-three, and twenty-four, township eleven south, range sixty-six west of the sixth principal meridian; a portion of section one, township eleven south, range sixty-seven west of the sixth principal meridian; portions of sections four, five, and six, township twelve south, range sixty-five west of the sixth principal meridian;

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

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

25-8.5-105. Authority members. (1) The following
governmental entities shall be members of the authority:

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

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

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

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

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

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

(4) No director shall receive compensation as an
employee of the authority. Reimbursement of actual expenses
for directors shall not be considered compensation.

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

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

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

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

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

(10) The secretary-treasurer shall keep strict and accurate accounts of all money received by and disbursed for
and on behalf of the authority.

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

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

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

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

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

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

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

25-8.5-108. Meetings. (1) The board shall fix the time
and place at which its regular meetings shall be held and provide for the calling and holding of special meetings.

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

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

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

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

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

(b) To make and pass resolutions and orders which are necessary for the governance and management of the affairs of
the authority, for the execution of the powers vested in the
authority, and for carrying out the provisions of this
article;

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

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

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

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


(1) In order to accomplish its purposes, the authority has
the power to:
(a) Develop and implement, with such revisions as become necessary in light of changing conditions, plans for water quality controls for the applicable drainage basin, waters, and watershed;

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

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

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

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

(f) Recommend septic system maintenance programs;

(g) Incur debts, liabilities, and obligations;

(h) Have perpetual existence;

(i) Have and use a corporate seal;

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

(k) Enter into contracts and agreements affecting the affairs of the authority including, but not limited to, contracts with the United States and the state of Colorado and any of their agencies or instrumentalities, political subdivisions of the state of Colorado, corporations, and individuals;
(1) Acquire, hold, lease (as lessor or lessee), and otherwise dispose of and encumber real and personal property;

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

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

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

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

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

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

(s) Review and approve water quality control projects of any entity other than the authority within the boundaries of the authority;
(t) Have and exercise all rights and powers necessary or incidental to or implied from the specific powers granted to the authority by this article. Such specific powers shall not be considered as a limitation upon any power necessary or appropriate to carry out the purposes and intent of this article.

25-8.5-111. Power to issue bonds. To carry out the purposes of this article, the board is authorized to issue revenue or assessment bonds of the authority. Bonds shall bear interest at a rate such that the net effective interest rate of the issue of bonds does not exceed the maximum interest rate set forth in the resolution adopted by the board authorizing the issuance of the bonds, payable semiannually, and shall be due and payable serially, either annually or semiannually, commencing not later than three years after date of issuance. The form and terms of said bonds, including provisions for their payment and redemption, shall be determined by the board. If the board so determines, such bonds may be redeemable prior to maturity upon payment of a premium not exceeding three percent of the principal thereof. Said bonds shall be executed in the name and on behalf of the authority, signed by the chairman of the board with the seal of the authority affixed thereto, and attested by the secretary of the board. Said bonds shall be in such denominations as the board shall determine, and the bonds and coupons shall bear the original or facsimile signature of the chairman of the board.
25-8.5-112. **Revenue refunding bonds.** Any revenue bonds issued by the authority may be refunded by the authority, or by any successor thereof, in the name of the authority, subject to the provisions concerning their payment and to any other contractual limitations in the proceedings authorizing their issuance or otherwise appertaining thereto, by the issuance of bonds to refund, pay, and discharge all or any part of such outstanding bonds, including any interest on the bonds in arrears or about to become due, for the purpose of avoiding or terminating any default in the payment of the interest on and principal of the bonds, of reducing interest costs or effecting other economies, or of modifying or eliminating restrictive contractual limitations appertaining to the issuance of additional bonds or to any system appertaining thereto or for any combination of such purposes. Refunding bonds may be delivered in exchange for the outstanding bonds refunded or may be sold as provided in this article for an original issue of bonds.

25-8.5-113. **Use of proceeds of revenue refunding bonds.**

The proceeds of revenue refunding bonds shall either be immediately applied to the retirement of the bonds being refunded or be placed in escrow in any state or national bank within the state which is a member of the federal deposit insurance corporation to be applied to the payment of the bonds being refunded upon their presentation therefor; but, to the extent any incidental expenses have been capitalized, such refunding bond proceeds may be used to defray such expenses,
and any accrued interest and any premium appertaining to a
sale of refunding bonds may be applied to the payment of the
interest thereon or the principal thereof, or both interest
and principal, or may be deposited in a reserve therefor, as
the board may determine. Any such escrow shall not
necessarily be limited to proceeds of refunding bonds but may
include other moneys available for its purpose. Any proceeds
in escrow, pending such use, may be invested or reinvested in
any items permitted by the state of Colorado and bills,
certificates of indebtedness, notes, or bonds which are direct
obligations of, or the principal and interest of which
obligations are unconditionally guaranteed by, the United
States. Such proceeds and investments in escrow, together
with any interest to be derived from any such investment,
shall be in an amount at all times sufficient as to principal,
interest, any prior redemption premium due, and any charges of
the escrow agent payable therefrom to pay the bonds being
refunded as they become due at their respective maturities or
due at any designated prior redemption dates in connection
with which the board shall exercise a prior redemption option.
Any purchase of any refunding bond issued under this article
shall in no manner be responsible for the application of the
proceeds thereof by the authority or any of its officers,
agents, or employees.

25-8.5-114. Facilities - comprehensive program.
(1) The authority, acting by and through the board, may
acquire, construct, lease, rent, improve, equip, relocate,
maintain, and operate water quality control facilities, any
project, or any part thereof for the benefit of the authority
and the inhabitants thereof, after the board has made such
preliminary studies and otherwise taken such action as it
determines to be necessary or desirable.

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

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

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

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

(a) To levy assessments against all or portions of the
property within the authority and to provide for collection of
the assessments pursuant to part 6 of article 20 of title 30,
C.R.S.;

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

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

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

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

(a) The kind of improvements proposed;

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

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

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

(e) The time, not less than thirty days after the
publication, when a resolution authorizing the improvements will be considered;

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

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

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

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

25-8.5-116. Inclusion of territory. (1) Any municipality, county, or special district, or any portion thereof, shall be eligible for inclusion upon resolution of its governing body requesting inclusion in the authority and describing the property to be included. The authority, by
resolution, may include such property on such terms and
conditions as may be determined appropriate by the board.

(2) Upon receipt of a resolution requesting inclusion,
the board shall cause an investigation to be made within a
reasonable time to determine whether or not the municipality,
county, or special district, or portion thereof, may feasibly
be included within the authority, whether the municipality,
county, or special district has any property which is
tributary to the basin, waters, or watersheds governed by the
authority, and the terms and conditions upon which the
municipality, county, or special district may be included
within the authority. If it is determined that it is feasible
to include the municipality, county, or special district, or
portion thereof, in the authority, and the municipality,
county, or special district has property tributary to the
basin, waters, or watersheds governed by the authority, the
board by resolution shall set the terms and conditions upon
which the municipality, county, or special district, or
portion thereof, may be included within the authority and
shall give notice thereof to the municipality, county, or
special district. If the board determines that the
municipality, county, or special district, or portion thereof,
cannot feasibly be included within the authority or otherwise
determines that the municipality, county, or special district
should not be included within the authority, the board shall
pass a resolution so stating and notifying the municipality,
county, or special district of the action of the board. The
board's determination that the county, municipality, or
special district, or portion thereof, should not be included
in the authority shall be conclusive.

(3) (a) If the governing body of the municipality,
county or special district desires to include the
municipality, county, or special district, or portion thereof,
within the authority upon the terms and conditions set forth
by the board, the governing body shall adopt a resolution
declaring that the public health, safety, and general welfare
requires the inclusion of said municipality, county, or
special district within the authority and that the governing
body desires to have said municipality, county, or special
district, or portion thereof, included therein upon the terms
and conditions prescribed by the board. The governing body of
such municipality, county, or special district, before final
adoption of said resolution, shall hold a public hearing
thereon, notice of which shall be given by publication in a
newspaper of general circulation within such municipality,
county, or special district, which shall be complete at least
ten days before the hearing. Upon the final adoption of said
resolution, the clerk of the governing body of such
municipality, county, or special district shall forthwith
transmit a certified copy of the resolution to the board and
to the division of local government in the department of local
affairs.

(b) After receipt of a copy of such resolution, the
board shall pass and adopt a resolution including said
municipality, county, or special district, or portion thereof, in the authority and shall cause a certified copy thereof to be transmitted to the division of local government and a certified copy to the governing body of the municipality, county, or special district.

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

25-8.5-117. Exclusion of property. (1) Any owner of property within the boundaries of the authority may petition
to be excluded from the authority.

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

(a) Was improperly included within the authority; or

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

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

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

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

(6) If the authority approves a petition for exclusion of property, the authority shall file a copy of said resolution with the division of local government and with the county, municipality, or special district authority members which includes within its boundaries the excluded property, record a copy of the resolution in the office of the county clerk and recorder in the county in which said excluded property is located, and file a copy with the county assessor in such county.
SECTION 2. **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.
A BILL FOR AN ACT

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.

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.

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

SECTION 1. 35-11-102 (2) and (8), Colorado Revised Statutes, 1984 Repl. Vol., as amended, are amended to read:
35-11-102. Definitions. (2) "Chemigation" means any process whereby chemicals are applied to land or crops in or with water pumped from a well more than two inches in diameter which has been issued a permit by the state engineer through a closed irrigation system. "Chemigation" does not mean any process whereby chemicals are applied to land or crops in or with water pumped from a stock watering well or a domestic well with a diameter of two inches or less.

(8) "Irrigation system" means any device or combination of devices having a hose, pipe, or other conduit, which connects directly to any source of ground water by means of a water well which has been issued a permit by the state engineer or surface water, through which water or a mixture of water and chemicals is drawn and applied for commercial agricultural or commercial horticultural purposes. For purposes of this article, a water well shall not include any stock watering well or any domestic well with a diameter of two inches or less. "Irrigation system" does not include any hand-held hose sprayer or other similar device which is constructed so that an interruption in water flow automatically prevents any backflow to the water source and does not include stock water wells or any domestic well with a diameter of two inches or less.

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

35-11-105. Issuance of provisional chemigation permit fees. (4) The fee for a provisional chemigation permit and
the annual renewal permit shall be established by rule and
regulation of the commissioner and shall reflect all direct
and indirect costs for the administration of this article but
shall not exceed sixty-five ONE HUNDRED dollars. The
inspection fee for a provisional chemigation permit shall be
established by the commissioner and shall reflect all direct
and indirect costs of the inspection BUT SHALL NOT EXCEED
EIGHTY DOLLARS. A provisional chemigation permit shall expire
on March 31 of the year subsequent to the date the provisional
chemigation permit was issued. The reinstatement fee for an
expired provisional chemigation permit shall be double the
amount of the fee for a provisional chemigation permit. A
provisional chemigation permit shall not be assignable.

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

35-11-106. Issuance of chemigation permit - fees.
(3) The fee for a chemigation permit and the annual renewal
fee shall be established by the commissioner through rules and
regulations. Such fees shall reflect all direct and indirect
costs of the department for the administration of this article
but shall not exceed forty ONE HUNDRED dollars. The
inspection fee shall be established by rule and regulation of
the commissioner and shall reflect all direct and indirect
costs for the inspection BUT SHALL NOT EXCEED EIGHTY DOLLARS.
A chemigation permit shall expire on March 31 of the year
subsequent to the date the chemigation permit was issued. The
reinstatement fee for an expired chemigation permit shall be
double the amount of the fee for a chemigation permit. The reinstatement fee shall not be assessed to any person who filed an affidavit in lieu of a permit for the year prior to the year such person seeks a permit. A chemigation permit shall not be assignable.

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

35-11-115. Penalties. (1) On and after January 1, 1990, any person utilizing chemigation without a permit commits a class 6 felony and shall be punished as provided in section 18-1-106.5, C.R.S. IS GUILTY OF A MISDEMEANOR AND, UPON CONVICTION THEREOF, SHALL BE PUNISHED BY A FINE OF NOT MORE THAN TWO THOUSAND DOLLARS, OR BY IMPRISONMENT IN THE COUNTY JAIL FOR NOT MORE THAN ONE HUNDRED EIGHTY DAYS, OR BY BOTH SUCH FINE AND IMPRISONMENT. EACH DAY IN WHICH A VIOLATION OCCURS SHALL CONSTITUTE A SEPARATE OFFENSE.

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

SECTION 6. 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 7

A BILL FOR AN ACT

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

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.

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

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

SECTION 2. 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.
A BILL FOR AN ACT

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 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.

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

SECTION 1. Project authorization. (1) Pursuant to section 37-60-122 (1) (b), Colorado Revised Statutes, the Colorado water conservation board is hereby authorized to loan moneys to enable the construction of the following water resources projects:
The Colorado water conservation board may make loans for the construction of each project specified in subsection (1) of this section from such moneys as are or may hereafter become available to the Colorado water conservation board construction fund, said loans to be in the amounts listed in said subsection (1) plus or minus such amounts, if any, as may be justified by reason of ordinary fluctuations in construction costs as indicated by the engineering cost indices applicable to the types of construction involved for such projects or as may be justified by reason of changes made in the plans for a project if those changes are required by final engineering drawings and specifications or by federal or state requirements. The board's loan for any project specified in subsection (1) of this section shall not exceed fifty percent of the total cost of constructing a project.

Contracts entered into by the Colorado water conservation board pursuant to section 37-60-119 (2), Colorado Revised Statutes, for loans to enable the construction of the projects specified in subsection (1) of this section shall be subject to the repayment periods and total repayments set...
forth therein; except that total repayments shall be adjusted
to reflect any changes in the amounts loaned by reason of
subsection (2) of this section.

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

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

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

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

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

WHEREAS, Multiple districts oftentimes cause confusion as to which district office applicants must contact and create
situations where transbasin projects are subject to different interpretations of rules and regulations by different districts; and

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

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

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

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

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

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