

**First Regular Session
Sixty-fifth General Assembly
STATE OF COLORADO**

INTRODUCED

LLS NO. 05-0545.01 Thomas Morris

HOUSE BILL 05-1177

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A BILL FOR AN ACT

101 **CONCERNING THE NEGOTIATION OF INTERBASIN COMPACTS**
102 **REGARDING THE EQUITABLE DIVISION OF THE STATE'S WATERS.**

Bill Summary

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

Creates a 25-member interbasin compact committee ("committee") to negotiate interbasin compacts to promote the equitable use of the state's waters. Authorizes the basin roundtables, initially created pursuant to the statewide water supply initiative, to select 18 members of the committee and authorizes the governor to appoint 6 at-large members and one director. Requires the governor's appointments to the committee to

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.

include experts in environmental, municipal, agricultural, industrial, and recreational matters. Authorizes the committee to:

- Establish a framework for interbasin compact negotiations;
- Ensure the availability of technical information and data;
- Establish and oversee a public education and outreach process;
- Manage the interbasin compact negotiation budget;
- Approve proposed compacts for further consideration by the general assembly and the governor; and
- Report to the general assembly on the progress of the steering committee in meeting its responsibilities and the status of interbasin compact negotiations no later than October 31 of each year.

Creates a roundtable in each of the 7 water divisions and creates north and south metro roundtables consisting of the metropolitan areas of the South Platte and Arkansas river basins. Authorizes each roundtable to:

- Set its own rules for membership selection and adopt operational by-laws;
- Provide a forum for ongoing intra- and inter-basin collaboration; and
- Develop a basin water needs assessment and proposed project list.

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

2 **SECTION 1.** Title 37, Colorado Revised Statutes, is amended
3 BY THE ADDITION OF A NEW ARTICLE to read:

4 **ARTICLE 75**

5 **Interbasin Compacts**

6 **37-75-101. Short title.** THIS ARTICLE SHALL BE KNOWN AND MAY
7 BE CITED AS THE "COLORADO WATER FOR THE 21ST CENTURY ACT".

8 **37-75-102. Legislative declaration.** THE GENERAL ASSEMBLY
9 HEREBY DECLARES THAT IT IS THE POLICY OF THE STATE OF COLORADO
10 THAT ALL AREAS OF THE STATE MUST COOPERATE TO ENSURE AN
11 ADEQUATE SUPPLY OF WATER TO EQUITABLY MEET THE NEEDS OF PRESENT
12 AND FUTURE GENERATIONS. IN ORDER TO MEET SUCH NEEDS FOR ALL

1 COLORADANS, TO REMOVE CAUSES OF PRESENT AND FUTURE
2 CONTROVERSIES, TO SUPPORT COLORADO'S AGRICULTURAL ECONOMY AND
3 RURAL CULTURE, TO PROTECT COLORADO'S NATURAL ENVIRONMENT, TO
4 SUPPLY COLORADO'S GROWING POPULATIONS, TO CULTIVATE THE STATE'S
5 ECONOMIC DEVELOPMENT, AND TO FOSTER THE BENEFICIAL USE OF THE
6 STATE'S COMPACT ENTITLEMENTS, IT IS FURTHER DECLARED TO BE THE
7 POLICY OF THE STATE OF COLORADO THAT RIVER BASINS AND SUB-BASINS
8 SHOULD NEGOTIATE AGREEMENTS REGARDING THE EQUITABLE USE OF THE
9 STATE'S WATERS, INCLUDING TERMS AND CONDITIONS TO MITIGATE WATER
10 TRANSFERS. THIS ARTICLE CREATES THE INSTITUTIONAL FRAMEWORK
11 WITHIN WHICH SUCH AGREEMENTS CAN BE NEGOTIATED.

12 **37-75-103. Director of compact negotiations.** (1) WITHIN SIXTY
13 DAYS AFTER THE EFFECTIVE DATE OF THIS ARTICLE, THE GOVERNOR SHALL
14 APPOINT A DIRECTOR OF COMPACT NEGOTIATIONS, WHO SHALL ACT AS THE
15 PRIMARY OVERSEER AND CARETAKER OF THE COMPACT NEGOTIATIONS
16 PROCESS ESTABLISHED IN THIS ARTICLE.

17 (2) THE DIRECTOR OF COMPACT NEGOTIATIONS SHALL HAVE THE
18 FOLLOWING RESPONSIBILITIES:

19 (a) PROVIDE SUPPORT AND ASSISTANCE TO APPLICABLE LOCAL
20 STAKEHOLDERS IN THE FORMATION OF PERMANENT BASIN ROUNDTABLES
21 ESTABLISHED PURSUANT TO SECTION 37-75-104;

22 (b) SERVE AS THE CHAIRPERSON OF THE INTERBASIN COMPACT
23 COMMITTEE AND OVERSEE IMPLEMENTATION OF THE INTERBASIN COMPACT
24 COMMITTEE'S RESPONSIBILITIES CONSISTENT WITH SECTION 37-75-105;
25 AND

26 (c) ENSURE THAT NEGOTIATIONS AND OTHER DISCUSSIONS ARE
27 OCCURRING AT AN APPROPRIATE PACE;

1 **37-75-104. Basin roundtables.** (1) TO FACILITATE CONTINUED
2 DISCUSSIONS WITHIN AND BETWEEN BASINS ON WATER MANAGEMENT
3 ISSUES, AND TO ENCOURAGE LOCALLY DRIVEN COLLABORATIVE SOLUTIONS
4 TO WATER SUPPLY CHALLENGES, PERMANENT BASIN ROUNDTABLES ARE
5 HEREBY CREATED IN COLORADO'S SEVEN WATER BASINS AND IN
6 DEMOGRAPHICALLY UNIQUE SUBREGIONS WITHIN WATER DIVISIONS I AND
7 II AS SPECIFIED IN SUBSECTION (3) OF THIS SECTION.

8 (2) EACH BASIN ROUNDTABLE SHALL HAVE THE FOLLOWING
9 POWERS AND RESPONSIBILITIES:

10 (a) AS SOON AS PRACTICABLE FOLLOWING THE EFFECTIVE DATE OF
11 THIS ARTICLE, EACH BASIN ROUNDTABLE CREATED PURSUANT TO THE
12 STATEWIDE WATER SUPPLY INITIATIVE AUTHORIZED BY SECTION 14 OF
13 SENATE BILL 03-110, ENACTED AT THE FIRST REGULAR SESSION OF THE
14 SIXTY-FOURTH GENERAL ASSEMBLY, SHALL ESTABLISH BYLAWS,
15 OPERATING PROCEDURES, AND MEMBERSHIP GUIDELINES TO GOVERN THE
16 ACTIONS AND DECISIONS OF THE APPLICABLE ROUNDTABLE. THE DIRECTOR
17 OF COMPACT NEGOTIATIONS SHALL WORK WITH APPLICABLE LOCAL
18 ELECTED OFFICIALS AND STAKEHOLDERS IN THE SOUTH AND NORTH METRO
19 ROUNDTABLES IN ESTABLISHING BYLAWS, OPERATING PROCEDURES, AND
20 MEMBERSHIP GUIDELINES FOR THOSE ROUNDTABLES. EACH COUNTY AND
21 CITY AND COUNTY WITHIN A ROUNDTABLE SHALL BE ENTITLED TO AT
22 LEAST ONE MEMBER ON THE BASIN ROUNDTABLE AS SELECTED BY THAT
23 COUNTY OR CITY AND COUNTY'S BOARD OF COUNTY COMMISSIONERS OR
24 OTHER SIMILAR GOVERNING BODY FOR THAT COUNTY OR CITY AND
25 COUNTY.

26 (b) SELECT TWO BASIN REPRESENTATIVES TO REPRESENT THE
27 VIEWS AND INTERESTS OF THE BASIN ON THE INTERBASIN COMPACT

1 COMMITTEE ESTABLISHED PURSUANT TO SECTION 37-75-105. BASIN
2 REPRESENTATIVES NEED NOT BE MEMBERS OF THE BASIN ROUNDTABLE.

3 (c) USING DATA AND INFORMATION FROM THE STATEWIDE WATER
4 SUPPLY INITIATIVE AND OTHER APPROPRIATE SOURCES, DEVELOP A
5 BASIN-WIDE WATER SUPPLY NEEDS ASSESSMENT, CONDUCT AN ANALYSIS
6 OF AVAILABLE UNAPPROPRIATED WATERS WITHIN THE BASIN, AND PROPOSE
7 PROJECTS OR METHODS FOR MEETING THOSE NEEDS AND UTILIZING THOSE
8 UNAPPROPRIATED WATERS WHERE APPROPRIATE. BASIN ROUNDTABLES
9 SHALL ACTIVELY SEEK THE INPUT AND ADVICE OF AFFECTED LOCAL
10 GOVERNMENTS, WATER PROVIDERS, AND OTHER INTERESTED
11 STAKEHOLDERS AND PERSONS IN ESTABLISHING ITS NEEDS ASSESSMENT,
12 AND SHALL PROPOSE PROJECTS OR METHODS FOR MEETING THOSE NEEDS.
13 RECOMMENDATIONS FROM THIS ASSESSMENT SHALL BE FORWARDED TO
14 THE INTERBASIN COMPACT COMMITTEE AND OTHER BASIN ROUNDTABLES
15 FOR ANALYSIS AND CONSIDERATION.

16 (3) (a) AS USED IN THIS SUBSECTION (3), UNLESS THE CONTEXT
17 OTHERWISE REQUIRES:

18 (I) "WATER DIVISION" HAS THE SAME MEANING AS SET FORTH IN
19 SECTION 37-92-201.

20 (II) "WATER MANAGEMENT DISTRICT" MEANS THOSE DISTRICTS
21 ESTABLISHED BY THE DIVISION OF WATER RESOURCES AND DEPICTED ON
22 MAPS PUBLISHED BY THE DIVISION.

23 (b) THE FOLLOWING BASIN ROUNDTABLES ARE HEREBY CREATED:

24 (I) THE SOUTH PLATTE BASIN ROUNDTABLE, CONSISTING OF WATER
25 DIVISION 1 EXCEPTING THOSE PORTIONS OF WATER DIVISION 1 LISTED IN
26 SUBPARAGRAPH (VIII) OF THIS PARAGRAPH (b);

27 (II) THE ARKANSAS BASIN ROUNDTABLE, CONSISTING OF WATER

1 DIVISION 2 EXCEPTING THOSE PORTIONS OF WATER DIVISION 2 LISTED IN
2 SUBPARAGRAPH (IX) OF THIS PARAGRAPH (b);

3 (III) THE RIO GRANDE BASIN ROUNDTABLE, CONSISTING OF WATER
4 DIVISION 3;

5 (IV) THE GUNNISON BASIN ROUNDTABLE, CONSISTING OF WATER
6 DIVISION 4;

7 (V) THE COLORADO BASIN ROUNDTABLE, CONSISTING OF WATER
8 DIVISION 5;

9 (VI) THE NORTHWESTERN COLORADO ROUNDTABLE, CONSISTING
10 OF WATER DIVISION 6;

11 (VII) THE DOLORES AND SAN JUAN BASINS ROUNDTABLE,
12 CONSISTING OF WATER DIVISION 7;

13 (VIII) THE NORTH METRO ROUNDTABLE, CONSISTING OF THE
14 FOLLOWING AREAS IN WATER DIVISION 1: THOSE PORTIONS OF WATER
15 MANAGEMENT DISTRICTS 2 TO 9 THAT LIE EAST OF THE BOUNDARY
16 BETWEEN RANGES 71 AND 72 WEST, SOUTH OF THE BOUNDARY BETWEEN
17 TOWNSHIPS 8 AND 9 NORTH, AND NORTH OF THE BOUNDARY BETWEEN
18 TOWNSHIPS 8 AND 9 SOUTH; AND

19 (IX) THE SOUTH METRO ROUNDTABLE, CONSISTING OF THE
20 FOLLOWING AREAS IN WATER DIVISION 2: THOSE PORTIONS OF WATER
21 MANAGEMENT DISTRICT 10 THAT LIE NORTH OF THE BOUNDARY BETWEEN
22 TOWNSHIPS 16 AND 17 SOUTH AND WEST OF THE BOUNDARY BETWEEN
23 RANGES 64 AND 65 WEST OR SOUTH OF THE BOUNDARY BETWEEN
24 TOWNSHIPS 19 AND 20 SOUTH; AND THOSE PORTIONS OF WATER
25 MANAGEMENT DISTRICTS 14 AND 15 THAT LIE WEST OF THE BOUNDARY
26 BETWEEN RANGES 61 AND 62 WEST, NORTH OF THE BOUNDARY BETWEEN
27 TOWNSHIPS 21 AND 22 SOUTH, EAST OF THE BOUNDARY BETWEEN RANGES

1 66 AND 67 WEST, AND SOUTH OF THE BOUNDARY BETWEEN TOWNSHIPS 19
2 AND 20 SOUTH.

3 **37-75-105. Interbasin compact committee.** (1) TO FACILITATE
4 THE PROCESS OF INTERBASIN COMPACT NEGOTIATIONS, A
5 TWENTY-FIVE-MEMBER INTERBASIN COMPACT COMMITTEE IS HEREBY
6 CREATED. THE INTERBASIN COMPACT COMMITTEE SHALL INCLUDE
7 EIGHTEEN MEMBERS SELECTED BY THE BASIN ROUNDTABLES, SIX
8 AT-LARGE MEMBERS APPOINTED BY THE GOVERNOR, AND THE DIRECTOR
9 OF COMPACT NEGOTIATIONS. THE GOVERNOR'S APPOINTMENTS SHALL
10 COME FROM GEOGRAPHICALLY DIVERSE PARTS OF THE STATE AND SHALL
11 INCLUDE INDIVIDUALS WITH EXPERTISE IN ENVIRONMENTAL,
12 RECREATIONAL, MUNICIPAL, INDUSTRIAL, AND AGRICULTURAL MATTERS.

13 (2) THE INTERBASIN COMPACT COMMITTEE SHALL HAVE THE
14 FOLLOWING RESPONSIBILITIES AND AUTHORITIES:

15 (a) AS SOON AS PRACTICABLE FOLLOWING THE APPOINTMENT OF
16 MEMBERS, ESTABLISH BYLAWS AND OPERATING PROCEDURES GOVERNING
17 ITS FUTURE DECISIONS AND ACTIONS. BYLAWS AND OPERATING
18 PROCEDURES SHALL BE RATIFIED BY THE MEMBERS OF THE INTERBASIN
19 COMPACT COMMITTEE.

20 (b) ESTABLISH A NEGOTIATING FRAMEWORK AND FOUNDATIONAL
21 PRINCIPLES TO GUIDE VOLUNTARY NEGOTIATIONS BETWEEN THE BASINS;

22 (c) FOSTER VOLUNTARY NEGOTIATIONS BETWEEN MEMBERS OF THE
23 INTERBASIN COMPACT COMMITTEE;

24 (d) AT THE DISCRETION OF THE DIRECTOR OF COMPACT
25 NEGOTIATIONS, ESTABLISH ONE OR MORE NEGOTIATING SUBCOMMITTEES
26 TO FACILITATE ORDERLY DELIBERATIONS AMONG THE BASINS;

27 (e) ENSURE THE AVAILABILITY OF TECHNICAL INFORMATION AND

1 DATA FOR NEGOTIATORS;

2 (f) DEVELOP, CONSIDER, AND ACT ON PROPOSED COMPACTS
3 ARISING FROM THE INTERBASIN COMPACT COMMITTEE, CONSISTENT WITH
4 SECTION 37-75-106;

5 (g) ESTABLISH AND OVERSEE A PUBLIC EDUCATION AND OUTREACH
6 PROCESS;

7 (h) OVERSEE AND DIRECT THE EXPENDITURE OF MONEYS
8 APPROPRIATED PURSUANT TO THIS ARTICLE; AND

9 (i) REPORT TO THE GENERAL ASSEMBLY ON THE PROGRESS OF THE
10 INTERBASIN COMPACT COMMITTEE IN MEETING ITS RESPONSIBILITIES AND
11 THE STATUS OF INTERBASIN COMPACT NEGOTIATIONS NO LATER THAN
12 OCTOBER 31 OF EACH YEAR.

13 **37-75-106. Compact ratification.** (1) PROPOSED COMPACTS
14 SHALL REQUIRE PRELIMINARY CONSENT ACCORDING TO THE
15 REQUIREMENTS SET OUT IN THE INTERBASIN COMPACT COMMITTEE BYLAWS
16 ESTABLISHED PURSUANT TO SECTION 37-75-104 (2) (a). A COMPACT THAT
17 DOES NOT RECEIVE PRELIMINARY CONSENT SHALL NOT RECEIVE FURTHER
18 CONSIDERATION.

19 (2) A PROPOSED COMPACT THAT RECEIVES PRELIMINARY CONSENT
20 BY THE INTERBASIN COMPACT COMMITTEE SHALL BE REFERRED TO EACH
21 ROUNDTABLE THAT IS AFFECTED BY THE PROPOSED COMPACT. THE
22 CONSENT OF EACH OF THE AFFECTED ROUNDTABLES SHALL BE REQUIRED
23 IN ORDER FOR THE PROPOSED COMPACT TO RECEIVE FURTHER
24 CONSIDERATION.

25 (3) A COMPACT THAT RECEIVES PRELIMINARY APPROVAL BY THE
26 INTERBASIN COMPACT COMMITTEE AND THE AFFECTED ROUNDTABLES
27 SHALL BE REFERRED TO THE GENERAL ASSEMBLY FOR CONSIDERATION. IN

1 ORDER FOR A COMPACT TO BECOME FINAL AND BINDING AS A MATTER OF
2 LAW, THE COMPACT MUST BE APPROVED BY THE GENERAL ASSEMBLY
3 ACTING BY BILL. A COMPACT THAT REQUIRES A CHANGE IN THE
4 COLORADO CONSTITUTION SHALL BE REFERRED TO THE VOTERS IN THE
5 MANNER SPECIFIED IN SECTION 2 OF ARTICLE XIX OF THE STATE
6 CONSTITUTION AND SHALL BECOME FINAL AND BINDING UPON APPROVAL
7 OF THE VOTERS PURSUANT TO SECTION 2 OF ARTICLE XIX OF THE STATE
8 CONSTITUTION.

9 (4) A COMPACT APPROVED PURSUANT TO SUBSECTIONS (1), (2),
10 AND (3) OF THIS SECTION SHALL BE TREATED AS A CONTRACT BETWEEN
11 BASINS AS A MATTER OF LAW AND MAY BE MODIFIED, AMENDED, OR
12 ABROGATED ONLY WITH THE AFFIRMATIVE CONSENT OF THE ROUNDTABLES
13 THAT ARE A PARTY TO THE COMPACT AND THE GENERAL ASSEMBLY ACTING
14 BY BILL, AND, IF THE MODIFICATION, AMENDMENT, OR ABROGATION
15 REQUIRES A CHANGE IN THE COLORADO CONSTITUTION, THE APPROVAL OF
16 THE VOTERS PURSUANT TO SECTION 2 OF ARTICLE XIX OF THE STATE
17 CONSTITUTION.

18 **37-75-107. Legislative declaration - public education -**
19 **outreach.** (1) THE GENERAL ASSEMBLY FINDS THAT THE EQUITABLE USE
20 OF THE STATE'S WATERS WILL NOT BE SUCCESSFUL UNLESS THE PUBLIC IS
21 INFORMED AND ABLE TO PROVIDE INPUT. THEREFORE, THE INTERBASIN
22 COMPACT COMMITTEE SHALL DEVELOP A PUBLIC EDUCATION AND
23 OUTREACH WORKING GROUP.

24 (2) THE PUBLIC EDUCATION AND OUTREACH WORKING GROUP
25 SHALL:

26 (a) CREATE A PROCESS TO INFORM AND EDUCATE THE PUBLIC ON
27 THE INTERBASIN COMPACT COMMITTEE'S ACTIVITIES AND PROGRESS OF THE

1 INTERBASIN COMPACT NEGOTIATIONS; AND

2 (b) CREATE A MECHANISM BY WHICH PUBLIC INPUT AND FEEDBACK
3 CAN BE RELAYED TO THE INTERBASIN COMPACT COMMITTEE AND COMPACT
4 NEGOTIATORS.

5 **37-75-108. Savings clause.** NOTHING IN THIS ARTICLE SHALL BE
6 CONSTRUED TO IMPAIR OR ABROGATE ANY VALID WATER RIGHT.

7 **SECTION 2. Effective date.** This act shall take effect at 12:01
8 a.m. on the day following the expiration of the ninety-day period after
9 final adjournment of the general assembly that is allowed for submitting
10 a referendum petition pursuant to article V, section 1 (3) of the state
11 constitution (August 10, 2005, if adjournment sine die is on May 11,
12 2005); except that, if a referendum petition is filed against this act or an
13 item, section, or part of this act within such period, then the act, item,
14 section, or part, if approved by the people, shall take effect on the date of
15 the official declaration of the vote thereon by proclamation of the
16 governor.