A BILL FOR AN ACT

Concerning the creation of the Groundwater Compact Compliance and Sustainability Fund.

Bill Summary

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

Water Resources Review Committee. The bill creates the groundwater compact compliance and sustainability fund to help finance groundwater use reduction efforts in the Rio Grande river basin and the Republican river basin, such as efforts to buy and retire irrigation wells and irrigated acreage in the river basins. The Colorado water conservation board administers the fund and can make expenditures from the fund...
based on recommendations from the board of directors of the Rio Grande water conservation district or the Republican river water conservation district. A conservation district's recommendations must first be approved by the state engineer.

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

SECTION 1. In Colorado Revised Statutes, add 37-60-134 as follows:

37-60-134. Groundwater compact compliance and sustainability fund - creation - conservation district recommendations for expenditures - state engineer approval - legislative declaration - repeal. (1) The general assembly hereby:

(a) Finds and determines that:

(I) Groundwater well pumping in certain areas of the state provides the principal source of irrigation water supply but consequently may reduce the quantity of groundwater in the aquifers and may impact the hydrogeology of connected surface streams, resulting in reduced stream flows that threaten senior water rights and the state's compliance with interstate compacts;

(II) Groundwater use is extensive in four of the eight major river basins in Colorado, namely the Rio Grande, Republican, Arkansas, and South Platte river basins, and such groundwater use is closely tied to the agricultural economy in those areas;

(III) Previous United States Supreme Court litigation initiated in neighboring states regarding compact compliance by the Rio Grande, Arkansas, and Republican river basins have
INVOVED COMPLAINTS REGARDING THE EXTENT OF GROUNDWATER USE IN THOSE AREAS. SETTLEMENTS OF THE LAWSUITS IN THE RIO GRANDE AND REPUBLICAN RIVER BASINS RESULTED IN THE CREATION OF WATER CONSERVATION DISTRICTS TO ADDRESS GROUNDWATER MANAGEMENT AND CONSERVATION.

(IV) DESPITE THE CONSERVATION DISTRICTS' AND THE STATE'S DILIGENT EFFORTS TO IMPLEMENT STRATEGIES TO REDUCE GROUNDWATER USE, INCLUDING THE CREATION OF SIX GROUNDWATER MANAGEMENT SUBDISTRICTS IN THE RIO GRANDE RIVER BASIN AND THE USE OF VARIOUS FEDERAL, STATE, AND LOCAL FUNDING SOURCES TO INCENTIVIZE THE PURCHASE AND RETIREMENT OF IRRIGATED ACREAGE, EXTENSIVE GROUNDWATER USE IN THE RIO GRANDE AND REPUBLICAN RIVER BASINS CONTINUES TO THREATEN AQUIFER SUSTAINABILITY, SENIOR WATER RIGHTS, AND COMPACT COMPLIANCE;

(V) AS PART OF THE EFFORTS TO REDUCE GROUNDWATER USE, THE STATE ENTERED INTO A STIPULATION WITH KANSAS AND NEBRASKA IN 2016 IN WHICH THE STATE AGREED TO RETIRE TWENTY-FIVE THOUSAND ACRES OF IRRIGATED ACREAGE IN THE REPUBLICAN RIVER BASIN BY 2029, AND, PURSUANT TO STANDARDS FOR GROUNDWATER MANAGEMENT SET FORTH IN SECTION 37-92-501 (4), THE GROUNDWATER MANAGEMENT SUBDISTRICT NUMBER 1 CREATED IN THE RIO GRANDE WATER CONSERVATION DISTRICT IS REQUIRED TO RETIRE FORTY THOUSAND ACRES OF IRRIGATED ACREAGE BY 2029;

(VI) TO DATE, ONLY ABOUT THREE THOUSAND ACRES HAVE BEEN RETIRED IN THE REPUBLICAN RIVER BASIN AND ONLY ABOUT THIRTEEN THOUSAND ACRES HAVE BEEN RETIRED IN THE RIO GRANDE RIVER BASIN; AND
(VII) If the acreage retirement requirements in the Rio Grande and Republican river basins are not met, the state might be required to mandate groundwater use reductions for productive farmland in the basins to achieve compact compliance, thus threatening the agricultural economies in the river basins; and

(b) Declares that:

(I) Greater funding is needed to incentivize the retirement of irrigation wells and irrigated acreage to comply with the groundwater use reduction requirements;

(II) To accelerate the state’s progress in retiring irrigated acreage in the Republican and Rio Grande river basins in order to meet state-mandated deadlines, a state fund should be created to provide financial incentives and assistance for the buying and retiring of irrigation wells and irrigated acreage in the basins;

(III) Such use of state money would also help promote conservation and sustainability of groundwater resources in furtherance of the state water plan developed pursuant to section 37-60-106.3; and

(IV) The board should administer the fund and distribute money from the fund based on recommendations of the board of directors of the Rio Grande water conservation district appointed pursuant to section 37-48-103 or the board of directors of the Republican river water conservation district appointed pursuant to section 37-50-104, which recommendations the state engineer should first review.
The Groundwater Compact Compliance and Sustainability Fund, referred to in this section as the "Fund", is hereby created in the state treasury and consists of money that the general assembly may appropriate or transfer to the Fund; money that the state may receive from federal sources, including federal sources of stimulus funding or recovery funding; and any gifts, grants, or donations that the board seeks, accepts, and expends for the purposes set forth in this section. The money in the Fund is subject to annual appropriation by the general assembly.

The board shall administer the Fund to implement the groundwater compact compliance and sustainability purposes established in accordance with this section. The board may use up to five percent of the money annually appropriated to the Fund to pay the board's direct and indirect costs, as well as the direct and indirect costs incurred by the Rio Grande Water Conservation District, the Republican River Water Conservation District, and the state engineer in implementing this section.

The board may disburse money from the Fund for purposes related to compact compliance and groundwater resource sustainability and conservation, including the financing of programs directed at buying and retiring irrigated acreage to reduce groundwater use. The board of directors of the Rio Grande water conservation district and the board of directors of the Republican river water conservation district, in collaboration with the board and the state engineer, may each establish eligibility and application criteria for
DISBURSEMENT OF MONEY FROM THE FUND. EACH BOARD OF DIRECTORS SHALL POST ON ITS WEBSITE ANY CRITERIA ESTABLISHED PURSUANT TO THIS SUBSECTION (3).

(4) THE BOARD SHALL DISBURSE MONEY FROM THE FUND BASED ON RECOMMENDATIONS FROM THE BOARD OF DIRECTORS OF EITHER THE RIO GRANDE WATER CONSERVATION DISTRICT OR THE REPUBLICAN RIVER WATER CONSERVATION DISTRICT, WHICH RECOMMENDATIONS MUST FIRST BE APPROVED BY THE STATE ENGINEER.

(5) IF ALL GROUNDWATER REDUCTION REQUIREMENTS ESTABLISHED BY FEDERAL OR STATE COURT ORDER OR STIPULATION HAVE BEEN MET AND ALL STATUTORILY MANDATED GROUNDWATER REDUCTION STANDARDS HAVE BEEN ACHIEVED, THIS SECTION WILL BE REPEALED. THE BOARD SHALL NOTIFY THE REVISOR OF STATUTES IN WRITING OF THE DATE WHEN THE CONDITIONS SPECIFIED IN THIS SUBSECTION (5) HAVE OCCURRED BY EMAILING THE NOTICE TO revisorofstatutes.ga@state.co.us. THE BOARD SHALL ALSO SEND A COPY OF THE NOTICE TO THE STATE TREASURER WHO, WITHIN THREE DAYS AFTER RECEIVING THE NOTICE, SHALL TRANSFER ANY MONEY REMAINING IN THE FUND TO THE GENERAL FUND. THIS SECTION IS REPEALED, EFFECTIVE UPON THE DATE IDENTIFIED IN THE NOTICE OR, IF THE NOTICE DOES NOT SPECIFY THAT DATE, UPON THE DATE OF THE NOTICE TO THE REVISOR OF STATUTES.

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, or safety.