

## **IBCC LUNCH PANEL DISCUSSION**

### ***The Interbasin Compact Committee Needs Assessment Working Group***

#### **PANEL MEMBERS**

**Peter Binney**, Director, Aurora Water: Metro Roundtable.

**Alan Hamel**, Executive Director, Pueblo Board of Water Works: Arkansas Basin Roundtable.

**Bill Trampe**, President, Colorado River District Board: Gunnison Basin Roundtable.

**Eric Hecox**, Manager, Office of Interbasin Compact Negotiations, Colorado Department of Natural Resources: Moderator.

#### **Materials**

1. House Bill 05-1177, *Interbasin Compacts*, Colorado State Legislature.
2. *Interbasin Compact Process Overview*, Office of Interbasin Compact Negotiations.
3. *Interbasin Compact Process Fact Sheet*, Office of Interbasin Compact Negotiations.
4. *The Colorado Water for the 21<sup>st</sup> Century: Interbasin Compact Committee Charter*.
5. House Bill 06-1400, *Approval of the Interbasin Compact Charter*, Colorado State Legislature.
6. Senate Bill 06-179, *Concerning Additional Financial Support for Water Projects*, Colorado State Legislature.

**NOTE: This bill has been prepared for the signature of the appropriate legislative officers and the Governor. To determine whether the Governor has signed the bill or taken other action on it, please consult the legislative status sheet, the legislative history, or the Session Laws.**

# An Act

HOUSE BILL 05-1177

BY REPRESENTATIVE(S) Penry, Buescher, Decker, Liston, Massey, White, Berens, Clapp, Crane, Gallegos, Hall, Hoppe, Jahn, Kerr, Knoedler, Paccione, Rose, Stafford, Stengel, Sullivan, Romanoff, Boyd, Brophy, Coleman, Frangas, Harvey, King, Madden, May M., McCluskey, Merrifield, and Todd;  
also SENATOR(S) Isgar, Tapia, Taylor, Entz, Grossman, Kester, Fitz-Gerald, Groff, Teck, and Tupa.

CONCERNING THE NEGOTIATION OF INTERBASIN COMPACTS REGARDING THE  
EQUITABLE DIVISION OF THE STATE'S WATERS, AND MAKING AN  
APPROPRIATION IN CONNECTION THEREWITH.

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

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

## **ARTICLE 75** **Interbasin Compacts**

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

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*Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.*

**37-75-102. Water rights - protections.** (1) IT IS THE POLICY OF THE GENERAL ASSEMBLY THAT THE CURRENT SYSTEM OF ALLOCATING WATER WITHIN COLORADO SHALL NOT BE SUPERSEDED, ABROGATED, OR OTHERWISE IMPAIRED BY THIS ARTICLE. NOTHING IN THIS ARTICLE SHALL BE INTERPRETED TO REPEAL OR IN ANY MANNER AMEND THE EXISTING WATER RIGHTS ADJUDICATION SYSTEM. THE GENERAL ASSEMBLY AFFIRMS THE STATE CONSTITUTION'S RECOGNITION OF WATER RIGHTS AS A PRIVATE USUFRUCTUARY PROPERTY RIGHT, AND THIS ARTICLE IS NOT INTENDED TO RESTRICT THE ABILITY OF THE HOLDER OF A WATER RIGHT TO USE OR TO DISPOSE OF THAT WATER RIGHT IN ANY MANNER PERMITTED UNDER COLORADO LAW.

(2) THE GENERAL ASSEMBLY AFFIRMS THE PROTECTIONS FOR CONTRACTUAL AND PROPERTY RIGHTS RECOGNIZED BY THE CONTRACT AND TAKINGS PROTECTIONS UNDER THE STATE CONSTITUTION AND RELATED STATUTES. THIS ARTICLE SHALL NOT BE IMPLEMENTED IN ANY WAY THAT WOULD DIMINISH, IMPAIR, OR CAUSE INJURY TO ANY PROPERTY OR CONTRACTUAL RIGHT CREATED BY INTERGOVERNMENTAL AGREEMENTS, CONTRACTS, STIPULATIONS AMONG PARTIES TO WATER CASES, TERMS AND CONDITIONS IN WATER DECREES, OR ANY OTHER SIMILAR DOCUMENT RELATED TO THE ALLOCATION OR USE OF WATER. THIS ARTICLE SHALL NOT BE CONSTRUED TO SUPERSEDE, ABROGATE, OR CAUSE INJURY TO VESTED WATER RIGHTS OR DECREED CONDITIONAL WATER RIGHTS. THE GENERAL ASSEMBLY AFFIRMS THAT THIS ARTICLE DOES NOT IMPAIR, LIMIT, OR OTHERWISE AFFECT THE RIGHTS OF PERSONS OR ENTITIES TO ENTER INTO AGREEMENTS, CONTRACTS, OR MEMORANDA OF UNDERSTANDING WITH OTHER PERSONS OR ENTITIES RELATING TO THE APPROPRIATION, MOVEMENT, OR USE OF WATER UNDER OTHER PROVISIONS OF LAW.

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

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

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

(b) OVERSEE AND DIRECT THE EXPENDITURE OF MONEYS APPROPRIATED PURSUANT TO THIS ARTICLE; AND

(c) SERVE AS THE CHAIRPERSON OF THE INTERBASIN COMPACT COMMITTEE AND OVERSEE IMPLEMENTATION OF THE INTERBASIN COMPACT COMMITTEE'S RESPONSIBILITIES CONSISTENT WITH SECTION 37-75-105, INCLUDING THE TIMELY COMPLETION AND REFERRAL OF THE INTERBASIN COMPACT CHARTER.

**37-75-104. Basin roundtables.** (1) (a) TO FACILITATE CONTINUED DISCUSSIONS WITHIN AND BETWEEN BASINS ON WATER MANAGEMENT ISSUES, AND TO ENCOURAGE LOCALLY DRIVEN COLLABORATIVE SOLUTIONS TO WATER SUPPLY CHALLENGES, PERMANENT BASIN ROUNDTABLES ARE HEREBY CREATED IN COLORADO'S EIGHT WATER BASINS AND IN A DEMOGRAPHICALLY UNIQUE SUBREGION WITHIN WATER DIVISION 1 AS SPECIFIED IN SUBSECTION (3) OF THIS SECTION.

(b) THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OF NATURAL RESOURCES SHALL TAKE SUCH ACTIONS AS MAY BE NECESSARY TO ENSURE PROPER INTEGRATION AND NONDUPLICATION OF ACTIVITIES OCCURRING PURSUANT TO THE STATEWIDE WATER SUPPLY INITIATIVE AND THIS ARTICLE.

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

(a) (I) AS SOON AS PRACTICABLE FOLLOWING THE EFFECTIVE DATE OF THIS ARTICLE, EACH BASIN ROUNDTABLE SHALL ESTABLISH BYLAWS, OPERATING PROCEDURES, GOALS, AND OBJECTIVES TO GOVERN THE ACTIONS AND DECISIONS OF THE APPLICABLE ROUNDTABLE. BASIN ROUNDTABLES AND THEIR REPRESENTATIVES ON THE INTERBASIN COMPACT COMMITTEE MAY OPT OUT OF THE PROCEDURES ESTABLISHED IN THIS ARTICLE AT ANY TIME.

(II) AS DEEMED APPROPRIATE BY THE EXECUTIVE DIRECTOR, THE ROUNDTABLES ESTABLISHED PURSUANT TO THIS SECTION MAY TAKE ON THE DUTIES AND FUNCTIONS OF THE ROUNDTABLES CREATED PURSUANT TO THE STATEWIDE WATER SUPPLY INITIATIVE.

(b) SELECT TWO BASIN REPRESENTATIVES TO REPRESENT THE VIEWS AND INTERESTS OF THE BASIN ON THE INTERBASIN COMPACT COMMITTEE ESTABLISHED PURSUANT TO SECTION 37-75-105. BASIN REPRESENTATIVES

NEED NOT BE MEMBERS OF THE BASIN ROUNDTABLE.

(c) USING DATA AND INFORMATION FROM THE STATEWIDE WATER SUPPLY INITIATIVE AND OTHER APPROPRIATE SOURCES AND IN COOPERATION WITH THE ON-GOING STATEWIDE WATER SUPPLY INITIATIVE, DEVELOP A BASIN-WIDE CONSUMPTIVE AND NONCONSUMPTIVE WATER SUPPLY NEEDS ASSESSMENT, CONDUCT AN ANALYSIS OF AVAILABLE UNAPPROPRIATED WATERS WITHIN THE BASIN, AND PROPOSE PROJECTS OR METHODS, BOTH STRUCTURAL AND NONSTRUCTURAL, FOR MEETING THOSE NEEDS AND UTILIZING THOSE UNAPPROPRIATED WATERS WHERE APPROPRIATE. BASIN ROUNDTABLES SHALL ACTIVELY SEEK THE INPUT AND ADVICE OF AFFECTED LOCAL GOVERNMENTS, WATER PROVIDERS, AND OTHER INTERESTED STAKEHOLDERS AND PERSONS IN ESTABLISHING ITS NEEDS ASSESSMENT, AND SHALL PROPOSE PROJECTS OR METHODS FOR MEETING THOSE NEEDS. RECOMMENDATIONS FROM THIS ASSESSMENT SHALL BE FORWARDED TO THE INTERBASIN COMPACT COMMITTEE AND OTHER BASIN ROUNDTABLES FOR ANALYSIS AND CONSIDERATION AFTER THE GENERAL ASSEMBLY HAS APPROVED THE INTERBASIN COMPACT CHARTER.

(d) SERVE AS A FORUM FOR EDUCATION AND DEBATE REGARDING METHODS FOR MEETING WATER SUPPLY NEEDS; AND

(e) AS NEEDED, ESTABLISH ROUNDTABLE SUBCOMMITTEES OR OTHER MECHANISMS TO FACILITATE DIALOGUE AND RESOLUTION OF ISSUES AND CONFLICTS WITHIN THE BASIN.

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

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

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

(b) THE FOLLOWING BASIN ROUNDTABLES ARE HEREBY CREATED:

(I) THE SOUTH PLATTE BASIN ROUNDTABLE, CONSISTING OF WATER DIVISION 1 EXCEPTING THOSE PORTIONS OF WATER DIVISION 1 LISTED IN SUBPARAGRAPHS (VIII) AND (IX) OF THIS PARAGRAPH (b);

(II) THE ARKANSAS BASIN ROUNDTABLE, CONSISTING OF WATER DIVISION 2;

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

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

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

(VI) THE YAMPA-WHITE ROUNDTABLE, CONSISTING OF WATER DIVISION 6 EXCEPTING WATER MANAGEMENT DISTRICT 47;

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

(VIII) THE METRO ROUNDTABLE, CONSISTING OF THE FOLLOWING AREAS IN WATER DIVISION 1: THOSE PORTIONS OF WATER MANAGEMENT DISTRICTS 7 TO 9 THAT LIE EAST OF THE BOUNDARY BETWEEN RANGES 71 AND 72 WEST AND THAT PORTION OF WATER MANAGEMENT DISTRICT 2 THAT LIES SOUTH OF THE BOUNDARY BETWEEN TOWNSHIP 1 NORTH AND TOWNSHIP 1 SOUTH; AND

(IX) THE NORTH PLATTE ROUNDTABLE, CONSISTING OF WATER MANAGEMENT DISTRICTS 47, 48, AND 76.

(4)(a) EACH BASIN ROUNDTABLE SHALL CONSIST OF THE FOLLOWING MEMBERS, EACH OF WHOM SHALL RESIDE WITHIN THE BORDERS OF THE ROUNDTABLE, EXCEPT AS OTHERWISE PROVIDED IN THIS PARAGRAPH (a):

(I) ONE MEMBER APPOINTED BY THE GOVERNING BODY OF EACH COUNTY OR CITY AND COUNTY WITHIN THE BORDERS OF THE BASIN ROUNDTABLE. A COUNTY OR CITY AND COUNTY SHALL BE ENTITLED TO A MEMBER ON EACH BASIN ROUNDTABLE THAT OVERLAPS ITS BOUNDARIES.

(II) ONE MUNICIPAL MEMBER FOR EACH COUNTY LOCATED IN WHOLE OR IN PART WITHIN THE BASIN ROUNDTABLE, WHO SHALL BE APPOINTED JOINTLY BY THE GOVERNING BODIES OF ALL MUNICIPALITIES WITHIN THAT PORTION OF THE COUNTY THAT IS LOCATED WITHIN THE ROUNDTABLE;

(III) ONE MEMBER APPOINTED BY THE BOARD OF DIRECTORS OF EACH WATER CONSERVANCY AND WATER CONSERVATION DISTRICT WITHIN THE BORDERS OF THE ROUNDTABLE. A WATER CONSERVANCY OR WATER CONSERVATION DISTRICT SHALL BE ENTITLED TO ONE MEMBER ON EACH BASIN ROUNDTABLE THAT OVERLAPS ITS JURISDICTION.

(IV) ONE MEMBER APPOINTED BY MUTUAL AGREEMENT OF THE CHAIRPERSON OF THE HOUSE AGRICULTURE, LIVESTOCK, AND NATURAL RESOURCES COMMITTEE AND THE CHAIRPERSON OF THE SENATE AGRICULTURE, NATURAL RESOURCES, AND ENERGY COMMITTEE;

(V) TEN AT LARGE MEMBERS APPOINTED BY THE ROUNDTABLE MEMBERS APPOINTED PURSUANT TO SUBPARAGRAPHS (I) TO (IV) OF THIS PARAGRAPH (a) IN CONSULTATION WITH THE DIRECTOR OF COMPACT NEGOTIATIONS, ONE OF WHOM SHALL REPRESENT ENVIRONMENTAL INTERESTS AND WHO SHALL BE SELECTED FROM NOMINEES SUBMITTED BY ONE OR MORE REGIONALLY, STATE-WIDE, OR NATIONALLY RECOGNIZED ENVIRONMENTAL CONSERVATION ORGANIZATIONS THAT HAVE OPERATED IN COLORADO FOR AT LEAST FIVE YEARS, ONE OF WHOM SHALL REPRESENT AGRICULTURAL INTERESTS, ONE OF WHOM SHALL REPRESENT RECREATION INTERESTS, ONE OF WHOM SHALL REPRESENT LOCAL DOMESTIC WATER PROVIDER INTERESTS, ONE OF WHOM SHALL REPRESENT INDUSTRIAL INTERESTS, AND AT LEAST FIVE OF WHOM SHALL OWN ADJUDICATED WATER RIGHTS, INCLUDING OWNERS OF SHARES IN A DITCH OR RESERVOIR COMPANY OR THEIR AGENTS, OR SHALL HAVE A CONTRACT FOR WATER WITH THE FEDERAL BUREAU OF RECLAMATION OR THEIR AGENTS. ANY SUCH AGENT SHALL BE APPOINTED BY THE MEMBER THE AGENT REPRESENTS AND SHALL RESIDE WITHIN THE BORDERS OF THE MEMBER'S ROUNDTABLE.

(VI) (A) THREE NONVOTING MEMBERS SHALL BE SELECTED BY THE ROUNDTABLE MEMBERS APPOINTED PURSUANT TO SUBPARAGRAPHS (I) TO (V) OF THIS PARAGRAPH (a), WHO SHALL REPRESENT ENTITIES OUTSIDE OF THE BASIN THAT OWN WATER RIGHTS WITHIN THE BASIN. MEMBERS APPOINTED PURSUANT TO THIS SUBPARAGRAPH (VI) SHALL NOT BE REQUIRED TO RESIDE WITHIN THE BORDERS OF THE ROUNDTABLE.

(B) IF NO ONE QUALIFIES FOR SELECTION PURSUANT TO SUB-SUBPARAGRAPH (A) OF THIS SUBPARAGRAPH (VI), THREE NONVOTING MEMBERS SHALL BE SELECTED FROM OUTSIDE THE BASIN WHO HAVE INTERESTS IN AND ARE KNOWLEDGEABLE ABOUT WATER MATTERS.

(b) MEMBERS SHALL SERVE FOR A TERM OF FIVE YEARS; EXCEPT THAT INITIAL TERMS SHALL BE STAGGERED PURSUANT TO EACH ROUNDTABLE'S BYLAWS. VACANCIES SHALL BE FILLED PURSUANT TO THE SAME CRITERIA AS THE ORIGINAL APPOINTMENT.

(c) THE MEMBER OF THE COLORADO WATER CONSERVATION BOARD WHO RESIDES WITHIN THE BORDERS OF THE BASIN ROUNDTABLE SHALL ACT AS THE BOARD'S LIAISON TO THE BASIN ROUNDTABLE AND TO THE INTERBASIN COMPACT COMMITTEE FOR THE PURPOSE OF ENSURING THE PROPER COORDINATION OF COLORADO WATER CONSERVATION BOARD INFORMATION, POLICIES, AND RESOURCES. SUCH COORDINATION SHALL BE SUBJECT TO AVAILABLE STAFF RESOURCES AS DETERMINED BY THE DIRECTOR OF THE BOARD AND THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OF NATURAL RESOURCES.

(5) A BASIN ROUNDTABLE SHALL BE DEEMED TO BE A LOCAL PUBLIC BODY FOR PURPOSES OF THE OPEN MEETINGS LAW, PART 4 OF ARTICLE 6 OF TITLE 24, C.R.S.

**37-75-105. Interbasin compact committee - report - repeal.**

(1) (a) TO FACILITATE THE PROCESS OF INTERBASIN COMPACT NEGOTIATIONS, A TWENTY-SEVEN-MEMBER INTERBASIN COMPACT COMMITTEE IS HEREBY CREATED. THE INTERBASIN COMPACT COMMITTEE SHALL INCLUDE TWO REPRESENTATIVES FROM EACH BASIN ROUNDTABLE, AT LEAST ONE OF WHOM SHALL RESIDE WITHIN THE BORDERS OF THE ROUNDTABLE AND AT LEAST ONE OF WHOM SHALL OWN ADJUDICATED WATER RIGHTS, INCLUDING OWNERS OF SHARES IN A DITCH OR RESERVOIR COMPANY OR THEIR AGENTS, SIX AT-LARGE MEMBERS APPOINTED BY THE GOVERNOR, ONE MEMBER APPOINTED BY THE CHAIRPERSON OF THE HOUSE AGRICULTURE, LIVESTOCK, AND NATURAL RESOURCES COMMITTEE, ONE MEMBER APPOINTED BY THE CHAIRPERSON OF THE SENATE AGRICULTURE, NATURAL RESOURCES, AND ENERGY COMMITTEE, AND THE DIRECTOR OF COMPACT NEGOTIATIONS. THE GOVERNOR'S APPOINTMENTS SHALL COME FROM GEOGRAPHICALLY DIVERSE PARTS OF THE STATE AND SHALL INCLUDE INDIVIDUALS WITH EXPERTISE IN ENVIRONMENTAL, RECREATIONAL, LOCAL GOVERNMENTAL, INDUSTRIAL, AND AGRICULTURAL MATTERS. NO MORE THAN THREE OF THE GOVERNOR'S APPOINTEES SHALL BE AFFILIATED WITH THE SAME POLITICAL PARTY. ANY SUCH AGENT SHALL BE APPOINTED BY THE MEMBER THE AGENT REPRESENTS AND SHALL RESIDE WITHIN THE BORDERS OF THE MEMBER'S ROUNDTABLE.

(b) AS SOON AS PRACTICABLE FOLLOWING THE EFFECTIVE DATE OF THIS ARTICLE, THE COMMITTEE SHALL ESTABLISH BYLAWS TO GOVERN ITS ACTIONS, INCLUDING A PROCEDURE WHEREBY BASIN ROUNDTABLES THAT OPT OUT OF THE PROCEDURES ESTABLISHED IN THIS ARTICLE ARE NO LONGER REPRESENTED ON THE COMMITTEE BUT MAY OPT BACK IN.

(2) NOT LATER THAN JULY 1, 2006, THE INTERBASIN COMPACT COMMITTEE SHALL ESTABLISH AND REFER TO THE GENERAL ASSEMBLY AN INTERBASIN COMPACT CHARTER THAT SHALL GOVERN AND GUIDE ALL NEGOTIATIONS BETWEEN BASIN ROUNDTABLES UNDER THIS ARTICLE. IF THE COMMITTEE DOES NOT SO REFER THE CHARTER BY JULY 1, 2006, THIS ARTICLE IS REPEALED, EFFECTIVE JULY 1, 2006. UPON RECEIPT, CONSIDERATION, AND APPROVAL OF THE CHARTER BY THE GENERAL ASSEMBLY ACTING BY BILL, NEGOTIATIONS BETWEEN BASIN ROUNDTABLES MAY COMMENCE. ANY COMPACT OR OTHER AGREEMENT ESTABLISHED USING THE PROCEDURES ESTABLISHED IN THIS ARTICLE SHALL FULLY COMPLY WITH THE TERMS, REQUIREMENTS, AND PROCEDURES ESTABLISHED IN THE INTERBASIN COMPACT CHARTER AS APPROVED PURSUANT TO THIS SUBSECTION (2).

(3) AT A MINIMUM, THE INTERBASIN COMPACT CHARTER SHALL INCLUDE THE FOLLOWING:

(a) A NEGOTIATING FRAMEWORK AND FOUNDATIONAL PRINCIPLES TO GUIDE VOLUNTARY NEGOTIATIONS BETWEEN BASIN ROUNDTABLES, INCLUDING PRESENT AND FUTURE CONSUMPTIVE AND NONCONSUMPTIVE WATER USES AND SUCH POLICIES AS MAY BE NECESSARY TO ENSURE THAT COMPACTS OR OTHER AGREEMENTS BETWEEN ROUNDTABLES DO NOT CONFLICT OR OTHERWISE NOT CONFORM WITH ONE ANOTHER;

(b) SUBJECT TO THE PRINCIPLES ESTABLISHED IN SECTION 37-75-102, PROCEDURES FOR RATIFYING COMPACTS OR OTHER AGREEMENTS BETWEEN BASIN ROUNDTABLES, INCLUDING THE REQUIREMENT THAT EVERY BASIN ROUNDTABLE WHOSE WATERS ARE AFFECTED BY A PROPOSED COMPACT OR OTHER AGREEMENT SHALL PROVIDE ITS AFFIRMATIVE SUPPORT FOR SUCH PROPOSED COMPACT OR OTHER AGREEMENT BEFORE SUCH COMPACT OR AGREEMENT IS FINAL OR BINDING;

(c) AS DEEMED APPROPRIATE BY THE INTERBASIN COMPACT COMMITTEE BUT SUBJECT TO THE PRINCIPLES ESTABLISHED IN SECTION 37-75-102, AUTHORITIES AND PROCEDURES FOR MAKING COMPACTS OR

OTHER AGREEMENTS BETWEEN ROUNDTABLES LEGALLY BINDING AND ENFORCEABLE; AND

(d) AS DEEMED APPROPRIATE BY THE INTERBASIN COMPACT COMMITTEE, PROCEDURES FOR INTEGRATING THE PROCESSES ESTABLISHED IN THIS ARTICLE WITH EXISTING PLANNING, PERMITTING, AND PUBLIC PARTICIPATION PROCESSES RELATED TO THE CONSERVATION AND DEVELOPMENT OF WATER WITHIN COLORADO; EXCEPT THAT NO PROVISION OF THE CHARTER SHALL SUPERCEDE, IMPAIR, OR OTHERWISE MODIFY THE AUTHORITY, JURISDICTION, OR PERMITTING POWERS OF COUNTIES OR OTHER LOCAL GOVERNMENT ENTITIES.

(4) COMMENCING IN 2006, THE COMMITTEE SHALL SUBMIT AN ANNUAL REPORT TO THE HOUSE OF REPRESENTATIVES COMMITTEE ON AGRICULTURE, LIVESTOCK, AND NATURAL RESOURCES AND THE SENATE COMMITTEE ON AGRICULTURE, NATURAL RESOURCES, AND ENERGY BY OCTOBER 31 CONCERNING THE STATUS OF COMPACT NEGOTIATIONS.

(5) THE COMMITTEE SHALL BE DEEMED TO BE A STATE PUBLIC BODY FOR PURPOSES OF THE OPEN MEETINGS LAW, PART 4 OF ARTICLE 6 OF TITLE 24, C.R.S.

**37-75-106. Public education - outreach.** (1) THE INTERBASIN COMPACT COMMITTEE SHALL DEVELOP A PUBLIC EDUCATION, PARTICIPATION, AND OUTREACH WORKING GROUP.

(2) THE PUBLIC EDUCATION, PARTICIPATION, AND OUTREACH WORKING GROUP SHALL:

(a) CREATE A PROCESS TO INFORM, INVOLVE, AND EDUCATE THE PUBLIC ON THE INTERBASIN COMPACT COMMITTEE'S ACTIVITIES AND PROGRESS OF THE INTERBASIN COMPACT NEGOTIATIONS; AND

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

**SECTION 2. Appropriation.** In addition to any other appropriation, there is hereby appropriated, out of any moneys in the operational account of the severance tax trust fund established pursuant to section 39-29-109 (1) (a) (II), Colorado Revised Statutes, not otherwise

appropriated, to the department of natural resources, Colorado water conservation board, for the fiscal year beginning July 1, 2005, the sum of two hundred forty-seven thousand forty-four dollars (\$247,044) and 0.5 FTE, or so much thereof as may be necessary, for the implementation of this act.

**SECTION 3. 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.

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Andrew Romanoff  
SPEAKER OF THE HOUSE  
OF REPRESENTATIVES

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Joan Fitz-Gerald  
PRESIDENT OF  
THE SENATE

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Marilyn Eddins  
CHIEF CLERK OF THE HOUSE  
OF REPRESENTATIVES

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Karen Goldman  
SECRETARY OF  
THE SENATE

APPROVED \_\_\_\_\_

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Bill Owens  
GOVERNOR OF THE STATE OF COLORADO



## Interbasin Compact Process Overview

### Introduction

The dialogue on water in Colorado has changed. The Colorado Water for the 21<sup>st</sup> Century Act creates a collaborative process which establishes structure to deal with how the state addresses its water challenges.

Historical water use patterns have caught up with our choices of where we live and work. Increasingly communities have outgrown available water supplies. This predicament was created over time and will become more dramatic as Colorado's population grows and its water uses and needs change. To correct this problem by moving water from place to place without regard for the communities, economies, and the environment does not recognize the value and importance of water in all parts of Colorado. Water is moved from basin to basin and sub-basin to sub-basin in every corner of the state. In the past, and far too often, the movement of water has been viewed as creating winners and losers. This need not be the case. There is absolutely no question that compromise will be necessary to accommodate the many competing water uses in Colorado—but it does not mean that we are dealing with a zero sum proposition.

This is the backdrop behind the collaborative initiative created by the Colorado Water for the 21<sup>st</sup> Century Act. This Interbasin Compact process is based upon the premise that Coloradans must work together to address the water needs within our entire state. In order to foster this, the Colorado Water for the 21<sup>st</sup> Century Act creates a framework that changes the dialogue on water throughout Colorado, broadens the range of stakeholders that will actively participate in the state's water decisions, and creates a locally driven process where the decision-making power is exactly where it should be – in the hands of those living throughout the state's river basins.

### Colorado Water for the 21<sup>st</sup> Century Act Provisions

The Colorado Water for the 21<sup>st</sup> Century Act sets up a framework that provides a permanent forum for broad-based water discussions. It creates two new structures: 1. The *Interbasin Compact Committee*, a state-wide committee that will address issues between basins; and 2. The *Basin Roundtables*.

#### Basin Roundtables

Nine separate roundtables are established for each of the state's major river basins, and a "Metro Roundtable" for the Denver metropolitan area. (see map)



The nine Roundtables are:

- The South Platte Basin
- The Arkansas Basin
- The Rio Grande Basin
- The Gunnison Basin
- The Colorado Basin
- North Platte
- The Yampa/White
- The Metro
- The Dolores, San Miguel, and San Juan Basins

### Roundtable Membership

These Basin Roundtables are permanent structures setup to facilitate discussions on water management issues and to encourage locally driven collaborative solutions. The broad-based, collaborative nature of this process is reflected in the roundtable membership. The roundtables are made up of a set of “designated members,” ten “at-large” members, and three non-voting members (see Figure One).

**Figure One: Roundtable Membership**

<b>Designated Members</b>
One member appointed by each <i>county</i> within the roundtable’s boundaries
One member appointed jointly by all the <i>municipalities</i> within any county in the roundtable’s boundaries
One member appointed by each water conservancy and water conservation <i>districts</i> within the roundtable’s boundaries
One member appointed jointly by the chairpersons of the Colorado <i>House and Senate Ag. Committees</i>
<b>10 At-Large Members</b> (appointed by the designated members in consultation with the Director of compact negotiations)
One representing <i>agricultural</i> interests
One representing <i>recreational</i> interests
One representing local, domestic <i>water providers</i>
One representing <i>industrial</i> interests
One representing <i>environmental</i> interests – Selected from eligible candidates representing established Colorado environmental organizations
At least five of the ten at-large roundtable members must own water rights or have a contract for federal water
<b>Non-Voting Members</b> (appointed by the full roundtable membership)
Three non-voting members who must own water rights or have a contract for federal water to represent out-of-basin water interests within the roundtable’s boundaries
--Or--
If no one qualifies, representatives that have interests in and are knowledgeable about water matters
<b>Colorado Water Conservation Board</b>
The CWCB member from the basin will serve as the liaison between the roundtable and the CWCB.

This roundtable membership not only broadens the range of stakeholders that will actively participate in Colorado’s future water decisions, but it creates a locally driven process. Of all the roundtable members, only the non-voting members may reside outside the roundtable’s



boundaries. All other roundtable members must be local stakeholders residing within the basin.

While the number of roundtable members differs among the roundtables and in some cases may be quite large, this membership formula is designed to ensure that all stakeholders and the general public are fully represented.

### **Roundtable Responsibilities**

The responsibilities of the basin roundtables can be grouped into three categories: procedural responsibilities, substantive responsibilities, and public involvement responsibilities.

#### Procedural

Each roundtable must adopt by-laws that include the roundtable's goals, objectives, and operating procedures. These bylaws will reflect the specific needs of the roundtable and reflect the uniqueness of each basin. In conjunction with adopting by-laws, each roundtable may also decide upon leadership positions. Suggestions for these positions include a chairperson, 2 vice-chairpersons, and a recording secretary.

#### Substantive

Once the procedural responsibilities are completed, the roundtable's substantive work can begin. Each roundtable has the power to select two members of the Interbasin Compact Committee, and the appointees do not need to be members of the roundtable.

The most extensive substantive responsibility is to develop a basin-wide water needs assessment. This is to be performed in cooperation with local governments, area water providers, and other stakeholders. The needs assessment will:

- Look at both consumptive and nonconsumptive needs,
- Analyze the availability of water supplies including unappropriated waters within the basin, and
- Propose projects or non-structural methods for meeting water supply needs and utilizing unappropriated waters where appropriate.

Any proposed projects or methods that result from this needs assessment will be forwarded to the Interbasin Compact Committee for consideration. Any compact coming out of the IBCC will be submitted to all affected roundtables for their ratification.

The many localized examples of cooperation on water indicate that as better relationships are fostered through these basin roundtables, practical and innovative solutions to Colorado's water problems can emerge. In addition to goodwill and trust between the participants, the success of the roundtables will require a strong base of information. The Statewide Water Supply Initiative (SWSI) has provided a wealth of important information, and the data can be used by the



roundtables in completing their water needs assessment and in considering alternatives to meet any identified needs. SWSI creates a scientific standard from which the roundtables can accomplish their work, and as SWSI continues to add new information, the data will be provided to all the roundtables to help ensure that they are making rational decisions based upon the best available information.

In order to assist the roundtables with their basin-wide water needs assessments, the IBCC has established a needs assessment working group. The purpose of this working group is to encourage development of a common technical platform, and provide coordination and resources for the roundtables.

### Public Involvement

Equally important to the selecting members of the Interbasin Compact Committee and developing a basin-wide water needs assessment, the roundtables will serve as a forum for public involvement. The roundtable activities are required by law to be open, public meetings. In addition, roundtables may develop a process that will involve the public as the needs assessment is conducted and as alternative proposals for meeting water needs of the basin are considered. The roundtable process will create and expanded foundation for public involvement.

### Interbasin Compact Committee (IBCC)

The other structure created by the Colorado Water for the 21<sup>st</sup> Century Act is the Interbasin Compact Committee. This is a 27-member committee established to facilitate conversations between basins and to address statewide issues. The IBCC is build out of the basin roundtables and will bring the issues of each roundtable to a statewide forum.

### **IBCC Membership**

The IBCC will be made up of:

- Two members appointed by each of the nine roundtables;
- Six members appointed by the Governor, who must come from “geographically diverse parts of the state” and have expertise in environmental, recreational, local governmental, industrial, and agricultural matters;
- One member appointed by the chairperson of the Senate Ag. Committee;
- One member appointed by the chairperson of the House Ag. Committee and the Director of Compact Negotiations, who will chair the IBCC.

### **IBCC Responsibilities**

The Colorado Water for the 21<sup>st</sup> Century Act gives the Interbasin Compact Committee a series of responsibilities. These include establishing by-laws, developing a charter, and creating a Public Education and Outreach Working Group (see Figure Two).



## **Figure Two: Interbasin Compact Committee’s Initial Responsibilities**

*By-Laws* – The IBCC has established by-laws to govern its operations and actions, including a required provision addressing how roundtables that opt out of the process may return to the process.

*Charter* – On April 5, 2006 the IBCC adopted a Charter to “govern and guide compact negotiations between roundtables.” The Charter was approved by the Colorado General Assembly through HB06-1400. The Charter includes:

- The roles of the IBCC including a directive to help develop a common vision for statewide water negotiations through the discussion and dissemination of information to the roundtables. The IBCC is also charged with encouraging the development of a common technical platform in order to guide the process of negotiating interbasin compacts.
- A framework and principles to guide negotiations between roundtables, including policies to ensure that individual compacts do not conflict with one another;
- Procedures for ratification of compacts, including a mandatory provision that every affected roundtable must approve the draft compact;
- Authorities and procedures to ensure that approved compacts are legally binding and enforceable; and
- Procedures for integrating the Interbasin Compact processes with other water planning and development processes, except that no provision may supersede, impair, or modify any local government’s “authority, jurisdiction, or permitting powers.”

*Public Education and Outreach* – The IBCC, in accordance with the Colorado Water for the 21<sup>st</sup> Century Act, has developed a public education and outreach working group. This group will create a process to inform, involve, and educate the public on the IBCC’s activities and progress of the interbasin compact negotiations, and create a mechanism by which public input and feedback can be relayed to the Interbasin Compact Committee and compact negotiators.

*Criteria and Guidelines Pertaining to SB06-179*- The Water Supply Reserve Account created by SB06-179 provides \$10 million annually for four years (total of \$40 million) to be invested in water activities. The IBCC is currently working closely with the Office of Interbasin Compact Negotiations and the Colorado Water Conservation Board to develop criteria and guidelines that will provide a framework for the allocation of monies provided for in SB06-179.



## **Conclusion**

The Interbasin Compact process created by the Colorado Water for the 21<sup>st</sup> Century Act is a new approach to managing water in Colorado. As with anything new, this process will certainly encounter challenges. It will no doubt be cumbersome at first. Asking so many participants with such varied interests to come to the table together is daunting. It is hoped, however, that citizens will work together in a cooperative and collaborative manner to address the state's water challenges. There is no way to predict the results of this process, but it is certain that this approach today will benefit Colorado for generations to come.



## Interbasin Compact Process Fact Sheet (Updated: 7/20/06)

The Interbasin Compact process established by the Colorado Water for the 21<sup>st</sup> Century Act (HB-1177) is being fully implemented with an impressive amount of energy and interest at all levels. Nine basin roundtables are established throughout the state. Roundtable membership is meeting the Act's goal of being broadly inclusive. Two hundred and ninety nine Coloradans are serving as roundtable members bringing a diversity of interests, backgrounds, experiences, and geographic perspectives to Colorado's water discussions (see Figure One). Roundtable participants also include representatives from eight different state and federal agencies, and the involvement of 26 non-voting members bringing a cross-basin perspective to each roundtable.

**Figure One: Number of Roundtable Members**

Arkansas	53
Colorado	34
Dolores/SM/SJ	34 (including 2 Tribes)
Gunnison	33
Metro	26
North Platte	15
Rio Grande	30
South Platte	51
Yampa/White	23
<b>Total</b>	<b>299</b>

The roundtable meetings are being held on a regular basis, are well attended, and have a high level of discourse and engagement. Meetings have been marked by competitive elections, spirited debates about their decision-making and operating procedures, and constructive analysis of water issues and data within their basin as members begin their basin-wide water needs assessments and examine how this process can move the state forward. Figure Two summarizes the roundtables' work.

**Figure Two: Roundtable Summary Data**

Roundtable Meetings Held	75 in all basins
IBCC Meetings Held	5
Non-Voting Cross Basin Participation	24
Federal and State Agency Liaisons	10 agencies actively involved
CSU Cooperative Extension Liaisons	11
<b>Work Accomplished:</b>	
<ul style="list-style-type: none"> <li>• 9 roundtables fully formed with elected leadership and adopted by-laws.</li> <li>• All roundtables pursuing an education agenda with presentations on important water issues within their basin.</li> <li>• All roundtables have received a Basin Report, all information relevant to their basin, generated through SWSI. These Basin Reports form the starting point and core of the basin-wide water needs assessment.</li> <li>• Roundtables are receiving presentations and information on proposed projects or methods to meet water needs within their basin.</li> </ul>	



The Colorado Water for the 21<sup>st</sup> Century Act also established the Interbasin Compact Committee (IBCC). The Governor has appointed Russell George as the Director of Compact Negotiations, the roundtables have chosen their IBCC representatives, and the executive and legislative branches of government have made their appointments

With the roundtables and the IBCC fully formed, the structures are in place to comprehensively address water issues throughout the state. The coming months will be marked by an impressive array of activities. Many of the roundtables are assessing their water interests as a basin, utilizing the information from Statewide Water Supply Initiative (SWSI) and other studies to complete a basin wide water needs assessment, working with Colorado Water Conservation Board (CWCB) to analyze alternatives for meeting identified water needs, and making recommendations on how to meet their water needs to the IBCC. Roundtables are also positioned to analyze and respond to projects or processes that are voluntarily brought before them by other entities.

The IBCC's work has primarily focused on writing and submitting a Charter to legislature. The IBCC's charter was approved on April 5, 2006 and approved by the second assembly through HB06-1400. This Charter will govern and guide water negotiations between roundtables, articulates the role of the IBCC, and forms the framework and foundational principles to guide voluntary negotiations between roundtables. The IBCC will also guide the public education and outreach efforts of this process. Working groups have been established to spearhead efforts with regard to public education, roundtable needs assessments, and establishing criteria and guidelines associated with allocating money provided for in Senate Bill 06-179.

### Figure Three: IBCC Work Accomplished

<ul style="list-style-type: none"><li>• Charter written and approved by legislature in accordance with the Colorado Water for the 21<sup>st</sup> Century Act. The charter establishes procedural framework for the interbasin negotiation process.</li></ul>
<ul style="list-style-type: none"><li>• By-laws written and approved establishing operational procedures for the IBCC</li></ul>
<ul style="list-style-type: none"><li>• Working groups established to address IBCC responsibilities with regard to public education, basin-wide needs assessments, and SB06-179 criteria and guidelines</li></ul>

For further information contact:

Eric Hecox

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Colorado Department of Natural Resources

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# **THE COLORADO WATER FOR THE 21<sup>ST</sup> CENTURY INTERBASIN COMPACT COMMITTEE**

## **CHARTER**

### **I. PREAMBLE**

The Colorado Water for the 21st Century Act creates a voluntary, collaborative process to help the state address its water challenges. The process is based upon the premise that Coloradoans can work together to address the water needs within the state. The Act sets up a framework that provides a permanent forum for broad-based water discussions. It creates nine Basin Roundtables and the Interbasin Compact Committee (IBCC), a statewide committee that will guide discussions and voluntary negotiations between basins.

The IBCC is mandated to: 1) Establish bylaws to govern its actions, 2) Establish and refer to the general assembly an interbasin compact charter that shall govern and guide all negotiations between Basin Roundtables, 3) Submit an annual report to the legislature concerning the status of compact negotiations, and 4) Develop a public education, participation, and outreach working group.

HB 05-1177 states that the IBCC Charter should contain a negotiating framework and foundational principles to guide voluntary negotiations between Basin Roundtables, including present and future consumptive and nonconsumptive water uses and such policies as may be necessary to ensure that compacts or other agreements between Roundtables do not conflict or otherwise not conform with one another.

### **II. FOUNDATIONAL LEGAL PRINCIPLES**

The following foundational legal principles are drawn from the text of the legislation.

1. The current system of allocating water within Colorado shall not be superseded, abrogated, or otherwise impaired by this article.
2. Nothing in HB 05-1177 shall be interpreted to repeal or in any manner amend the existing water rights adjudication system.
3. HB 05-1177 affirms the state constitution's recognition of water rights as a private usufructuary property right, and is not intended to restrict the ability of the holder of a water right to use or to dispose of that water right in any manner permitted under Colorado law.
4. HB 05-1177 affirms the protections for contractual and property rights recognized by the contract and takings protections under the state constitution and related statutes.

5. HB 05-1177 shall not be implemented in any way that would diminish, impair, or cause injury to any property or contractual right created by intergovernmental agreements, contracts, stipulations among parties to water cases, terms and conditions in water decrees, or any other similar document related to the allocation or use of water.
6. HB 05-1177 shall not be construed to supersede, abrogate, or cause injury to vested water rights or decreed conditional water rights.
7. HB 05-1177 does not impair, limit, or otherwise affect the rights of persons or entities to enter into agreements, contracts, or memoranda of understanding with other persons or entities relating to the appropriation, movement, or use of water under other provisions of law.

### **III. FOUNDATIONAL GUIDING PRINCIPLES**

The IBCC is informed and guided by the following foundational principles, which will provide a framework for future discussions.

1. All Colorado water users must share in solving Colorado's water resource problems.
2. The State of Colorado should provide assistance, when requested, for local water supply planning and assist in the implementation of consensus-based water resource solutions that respect local authorities, private property and water rights.
3. During the process of planning to meet future needs, water suppliers and utilities should give preference to development of economically viable local water sources and demand management as they consider other options, including development of new water transfers.
4. Additional water storage should be pursued through the improvement and rehabilitation of existing structures and the development of new structures. These activities should be accomplished with local consensus.
5. The right of water rights owners to market their water rights must be protected.
  - a. Colorado must fully explore flexible, market-based approaches to water supply management, including interruptible water contracts, water banking, in-state water leasing and groundwater recharge management.
  - b. Those seeking to transfer agricultural water to another use should consider leasing or other temporary arrangements for transfer of water, rather than relying exclusively on the purchase of water rights. Leasing or other such temporary arrangements could allow for

reversion of the water to agricultural purposes under certain conditions.

- c. In the event that agricultural water is transferred, the transaction must adequately address the need for maintaining the existing tax base, protecting the remaining water rights in the area, and maintaining the proper stewardship of the land including revegetation and weed control.
6. Appropriate recognition should be given to preservation of flows necessary to support recreational, hydroelectric and environmental needs concurrent with development of water for beneficial consumptive uses.
  7. Adverse economic, environmental, and social impacts of future water projects and water transfers should be minimized; unavoidable adverse impacts must be reasonably mitigated; all communities involved should commit themselves to identifying and implementing reasonable mitigation measures as an integral part of future water projects or transfers.
  8. Future water supply solutions must benefit both the area of origin and the area of use.
  9. Water conservation measures that do not injure other water rights should be aggressively pursued.
  10. There must be an ongoing, concerted effort to educate all Coloradans on the importance of water, and the need to conserve, manage, and plan for the needs of this and future generations.

#### **IV. ROLES OF THE COMMITTEE**

The IBCC will:

1. Provide a forum to develop and disseminate information, create a positive environment for a statewide perspective, and develop a vision for statewide water negotiations;
2. Serve as a forum for discussing and addressing the socio-economic, recreation and environmental impacts of water development and management, as well as potential impacts on the ability of the state to use its entitlements and meet its Interstate Compact requirements.
3. Assist in finding resources to enable Roundtables to develop basin-wide visions;
4. Encourage development of a common technical platform upon which negotiations can be based;
5. Guide the process of negotiating interbasin compacts and other agreements by providing a framework that creates incentives for successful deliberations, agreements, and their implementation; and
6. Perform all other roles and functions of the IBCC identified in legislation.

## **V. USE OF THE NEGOTIATION CHARTER**

1. Discussions or negotiations conducted under the framework of the IBCC offer an opportunity for parties with water rights, project proponents, others concerned about water issues and Basin Roundtables to collaboratively search for solutions that hold mutual benefit, avoid litigation, and are sustainable and stable.
2. While all negotiations are voluntary and may be conducted directly between the parties with water rights, project proponents, others concerned about water issues and Basin Roundtables involved, parties are encouraged but not compelled to use the IBCC framework as a forum for discussions and as a way to keep all parties informed.
3. Should the Basin Roundtables feel it necessary or beneficial to bring discussion of a particular topic, issue, or proposal of interest to one or more basins before the entire IBCC, the committee members representing the basin(s) may raise the issue during a meeting of the IBCC. The IBCC will then decide on a procedure that will be utilized by the IBCC for discussing the issue or proposal.
4. Every Basin Roundtable whose waters are affected by a proposed compact or other agreement negotiated under the framework of the IBCC and Basin Roundtables, must provide its affirmative support for such proposed compact or other agreement before such compact or other agreement can be approved or ratified by the IBCC.

## **VI. NEGOTIATING FRAMEWORK**

1. The IBCC, in helping Roundtables reach agreements, will encourage the use of a collaborative decision making process. Collaborative decision making processes may include but are not limited to:
  - a. Unassisted cooperative problem solving and/or negotiation
  - b. Assisted cooperative problem solving and/or negotiation by facilitation and/or mediation
  - c. Adaptive management
  - d. Any other procedures on which Roundtables can mutually agree
2. Informed constituencies will enhance the prospects for acceptance of compacts or other agreements negotiated by the Roundtables or decisions made by the IBCC.
  - a. Members of the IBCC who represent constituencies or agencies will inform their constituents and solicit their opinions about the issues under discussion. They will represent the interests of their constituent group and bring their constituents' concerns and ideas to the deliberations.

- b. Members of the IBCC may elect to hold regular meetings with their constituent group (a formal caucus), to provide copies of work session minutes to their constituents and request comments, and to communicate informally with their constituents.
- c. Prior to any decision being made by the IBCC, representatives will have adequate time to consult with their constituents or other relevant officials to explain deliberations and gain their input and/or approval.
- d. IBCC meetings will be open to the public. In order for the IBCC to achieve its mission, discussion and deliberation at work sessions must be focused and manageable. Participation by non-members of the IBCC will be at the discretion of the Director of Compact Negotiations. IBCC will include a period for public comment at each of its meetings.

## **VII. AGREEMENTS BETWEEN ROUNDTABLES**

1. Basin Roundtables choosing to enter into agreements with other Basin Roundtables are responsible for the form and structure of those agreements. Where appropriate and in a mutually agreed upon manner, agreements will have authorities and procedures addressing the extent to which the agreements are legally binding and enforceable.

## **VIII. INTEGRATION WITH OTHER PROCESSES**

1. The IBCC will coordinate as appropriate with existing planning, permitting, and public participation processes related to the conservation and development of water within Colorado. No provision of this Charter is intended to supersede, impair, or otherwise modify the authority, jurisdiction, planning or permitting powers of counties or other local government entities.

## **IX. RATIFICATION OF NEGOTIATED AGREEMENTS**

1. Every Basin Roundtable whose waters are affected by a proposed compact or other agreement negotiated under the framework of the IBCC and Basin Roundtables, must provide its affirmative support for such proposed compact or other agreement before such compact or other agreement can be approved or ratified by the IBCC.
2. The IBCC will review from a statewide perspective all compacts or other agreements reached by Basin Roundtables or other concerned parties, which are referred to it for assessment and ratification. If questions or concerns arise during the IBCC's review and approval process, the Committee will communicate its questions or concerns to involved Roundtables or parties through appropriate Basin representatives to the IBCC. The IBCC may choose to defer further

discussion of a compact or other agreement until its questions or concerns have been adequately addressed.

3. When reviewing or ratifying compacts or other agreements reached by Basin Roundtables or other concerned parties, the IBCC will first use a decision making process that seeks to identify and positively affirm a broad general level of support for or approval of the issue or proposal in question by all Committee members. An agreement will be considered to have been reached when either the facilitator or a group member has articulated the proposed agreement, and all IBCC members either verbally affirm their support for it, or at a minimum agree not to actively oppose or subvert it. The above process does not require all Committee members to support a proposal or ultimate agreement to the same degree for an agreement to have been reached. Some members may strongly endorse an agreement, while others may believe it to be not ideal, but ultimately workable and acceptable.
4. When a decision is being made using the above process, any IBCC member may request a non-binding poll of Committee members to determine their views. Members may voice affirmative support for a proposal or agreement, remain silent and allow the agreement to be approved without objection, or state that a broad general level of agreement has not been reached, and request the committee to continue deliberations.
5. If the IBCC cannot reach a mutually acceptable agreement on a proposed compact or other agreement that has been brought to it for review and ratification, its members will use the following procedure. After a complete discussion of the issue(s) in question has occurred at three or more IBCC meetings, and all members have had an opportunity to consult their Basin Roundtables and been given a fair opportunity to present their views and be heard, the Committee may change its decision making process from one seeking broad support for or agreement on an issue or proposal in question, to a majority/minority vote. The shift from one decision making procedure to another will require a 75% or greater majority of the members attending the meeting in favor of the shift. In addition, all IBCC members must have been given the opportunity be present at the meeting at which the vote to shift decision making procedures is taken, and properly notified of the proposed action.
6. If a 75% majority of IBCC members attending the meeting do not approve changing the decision making process, the issue(s) under consideration along with IBCC members questions or concerns will be returned to concerned Roundtables or parties for further clarification and/or to be addressed by the Roundtables or parties.
7. If a 75% majority of IBCC members attending the meeting vote to shift the IBCC's decision making process to voting, a decision by vote may be made at the next regularly scheduled IBCC meeting. A compact or other agreement will be

considered to have been approved or ratified by the IBCC if a 75% majority of IBCC members attending the meeting vote to approve it. All IBCC members must have been given the opportunity to be present at the meeting at which the vote is taken, and properly notified of the proposed action. Following the vote, majority and minority reports will be prepared. Reports will indicate the number of IBCC members that support each view. Reports will be forwarded to concerned parties and made available to the general public.

## **X. PROVISIONS FOR MODIFICATION OF THE CHARTER**

1. Proposals for revision of the Charter can be raised by any member at any time.
2. Final revisions to the IBCC Charter can only be made after discussion of revisions have occurred at two consecutive regularly scheduled meetings. This procedure will allow time for members to deliberate and consult other parties as appropriate. If an agreement cannot be reached in two meetings, a third may be allowed.
3. When revising the IBCC's Charter, the Committee will first use a decision making process similar to the one described above for review and approval of compacts or agreements between Basin Roundtables or other concerned parties. The process will seek to identify and positively affirm a broad general level of support for or approval of a proposed change to the Charter by all Committee members. An agreement will be considered to have been reached when either the facilitator or a group member has articulated the proposed change in the Charter, and all IBCC members either verbally affirm their support for it, or at a minimum agree not to actively oppose or subvert it.
4. When a decision is being made using the above process, any IBCC member may request a non-binding poll of Committee members to determine their views on the proposed change to the Charter.
5. If the IBCC cannot reach a mutually acceptable agreement on a proposed change to the Charter, Committee members will use the following procedure. After a complete discussion of issue(s) in question has occurred at two or more IBCC meetings, and all members have had an opportunity to consult their Basin Roundtables and been given a fair opportunity to present their views and be heard, the Committee may change its decision making process from one seeking broad support for or agreement on a proposal, to a majority/minority vote. The shift from one decision making procedure to another will require a 75% or greater majority of IBCC members present at the meeting in favor of the shift. All IBCC members must have been given the opportunity to be present at the meeting at which the vote to shift decision making procedures is taken, and properly notified of the proposed change.
6. If a 75% majority of IBCC members present at the meeting do not approve a shift in the decision making procedure, the charter modification under consideration

may be dropped. Alternatively, the IBCC may continue to discuss the proposed change with the goal of developing either a broad level of support for it or another mutually acceptable option, or the issue may be deferred until such time as a 75% majority of Committee members agree to change the decision making process.

7. If a 75% majority vote to shift the IBCC's decision has been attained, the proposal for a change may be voted on at the Committee's next regularly scheduled meeting. Approval of proposed changes will require a 75% majority of IBCC members. All IBCC members must have been given the opportunity be present at the meeting at which the vote to change the Charter is taken, and properly notified of the proposed change.

**NOTE: This bill has been prepared for the signature of the appropriate legislative officers and the Governor. To determine whether the Governor has signed the bill or taken other action on it, please consult the legislative status sheet, the legislative history, or the Session Laws.**

# An Act

SENATE BILL 06-179

BY SENATOR(S) Isgar, Brophy, Dyer, Entz, Fitz-Gerald, Kester, Owen, Taylor, Teck, Wiens, Evans, and Tochtrop;  
also REPRESENTATIVE(S) Penry, Berens, Butcher, Crane, Gardner, Harvey, Hefley, Hoppe, Knoedler, Merrifield, Paccione, Schultheis, Stafford, and Witwer.

CONCERNING ADDITIONAL FINANCIAL SUPPORT FOR WATER PROJECTS.

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

**SECTION 1.** 39-29-109 (1) (a), Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SUBPARAGRAPH to read:

**39-29-109. Severance tax trust fund - created - administration - use of moneys - definitions - repeal.** (1) (a) There is hereby created in the office of the state treasurer the severance tax trust fund. The fund is to be perpetual and held in trust as a replacement for depleted natural resources and for the development and conservation of the state's water resources pursuant to sections 37-60-106 (1) (j) and (1) (l), 37-60-119, and 37-60-122, C.R.S., and for the use in funding programs that promote and encourage sound natural resource planning, management, and development related to minerals, energy, geology, and water. State severance tax receipts shall be credited to the severance tax trust fund as provided in section

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*Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.*

39-29-108. All income derived from the deposit and investment of the moneys in the severance tax trust fund shall be credited to the severance tax trust fund. At the end of any fiscal year, all unexpended and unencumbered moneys in the fund shall remain therein and shall not be credited or transferred to the general fund or any other fund. All moneys in the fund shall be subject to appropriation by the general assembly for the following purposes:

(III) THE WATER SUPPLY RESERVE ACCOUNT. SUBJECT TO THE MAINTENANCE OF A TWO-YEAR RESERVE PURSUANT TO SUB-SUBPARAGRAPH (A) OF SUBPARAGRAPH (III) OF PARAGRAPH (c) OF THIS SUBSECTION (1), ON OR AFTER JULY 1 OF EACH FISCAL YEAR, THE STATE TREASURER SHALL TRANSFER TEN MILLION DOLLARS FROM THE OPERATIONAL ACCOUNT OF THE SEVERANCE TAX TRUST FUND TO THE WATER SUPPLY RESERVE ACCOUNT, ALSO REFERRED TO IN THIS SUBPARAGRAPH (III) AS THE "ACCOUNT". THE MONEYS IN THE ACCOUNT ARE HEREBY CONTINUOUSLY APPROPRIATED TO THE COLORADO WATER CONSERVATION BOARD FOR PURPOSES AUTHORIZED BY THIS SUBPARAGRAPH (III). ALL INTEREST DERIVED FROM THE INVESTMENT OF MONEYS IN THE ACCOUNT SHALL BE CREDITED TO THE ACCOUNT. ANY BALANCE REMAINING IN THE ACCOUNT AT THE END OF ANY FISCAL YEAR SHALL REMAIN IN THE ACCOUNT; EXCEPT THAT THE UNENCUMBERED AND UNEXPENDED BALANCE OF THE ACCOUNT SHALL REVERT ON JUNE 30, 2010, TO THE OPERATIONAL ACCOUNT OF THE SEVERANCE TAX TRUST FUND. THE BOARD SHALL ALLOCATE MONEYS BY GRANT OR LOAN FROM THE ACCOUNT ONLY FOR WATER ACTIVITIES APPROVED BY A ROUNDTABLE PURSUANT TO ARTICLE 75 OF TITLE 37, C.R.S. THE APPROVING ROUNDTABLE SHALL BE THE ROUNDTABLE FOR THE BASIN IN WHICH THE PROPOSED WATER DIVERSION OR NONSTRUCTURAL ACTIVITY WOULD OCCUR. THE BOARD, IN CONSULTATION WITH THE INTERBASIN COMPACT COMMITTEE CREATED IN SECTION 37-75-105, C.R.S., SHALL JOINTLY ESTABLISH CRITERIA AND GUIDELINES FOR ALLOCATING MONEYS FROM THE ACCOUNT. ELIGIBLE WATER ACTIVITIES INCLUDE, BUT ARE EXPRESSLY NOT LIMITED TO, THE CATEGORIES LISTED IN THIS SUBPARAGRAPH (III). THE CRITERIA SHALL ENSURE THAT THE ALLOCATIONS WILL ASSIST IN MEETING THOSE WATER SUPPLY NEEDS IDENTIFIED UNDER SECTION 37-75-104 (2) (c), C.R.S., IN A MANNER CONSISTENT WITH SECTION 37-75-102, C.R.S., AND SHALL FACILITATE BOTH STRUCTURAL AND NONSTRUCTURAL PROJECTS OR METHODS. ELIGIBLE WATER ACTIVITIES INCLUDE THE FOLLOWING:

(A) COMPETITIVE GRANTS FOR ENVIRONMENTAL COMPLIANCE AND FEASIBILITY STUDIES;

(B) TECHNICAL ASSISTANCE REGARDING PERMITTING, FEASIBILITY STUDIES, AND ENVIRONMENTAL COMPLIANCE;

(C) STUDIES OR ANALYSES OF STRUCTURAL, NONSTRUCTURAL, CONSUMPTIVE, AND NONCONSUMPTIVE WATER NEEDS, PROJECTS, OR ACTIVITIES; AND

(D) STRUCTURAL AND NONSTRUCTURAL WATER PROJECTS OR ACTIVITIES.

**SECTION 2. Effective date.** This act shall be effective July 1, 2006.

**SECTION 3. 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.

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Joan Fitz-Gerald  
PRESIDENT OF  
THE SENATE

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Andrew Romanoff  
SPEAKER OF THE HOUSE  
OF REPRESENTATIVES

---

Karen Goldman  
SECRETARY OF  
THE SENATE

---

Marilyn Eddins  
CHIEF CLERK OF THE HOUSE  
OF REPRESENTATIVES

APPROVED \_\_\_\_\_

---

Bill Owens  
GOVERNOR OF THE STATE OF COLORADO

**NOTE: This bill has been prepared for the signature of the appropriate legislative officers and the Governor. To determine whether the Governor has signed the bill or taken other action on it, please consult the legislative status sheet, the legislative history, or the Session Laws.**



HOUSE BILL 06-1400

BY REPRESENTATIVE(S) Buescher and Penry and Curry, Coleman, Frangas, Gallegos, Gardner, Hall, Hodge, Hoppe, Jahn, King, Liston, Madden, Merrifield, Paccione, Rose, Stafford, Sullivan, White, and Witwer;  
also SENATOR(S) Isgar, Fitz-Gerald, and Taylor.

CONCERNING INTERBASIN COMPACTS, AND, IN CONNECTION THEREWITH,  
APPROVING THE INTERBASIN COMPACT CHARTER, ALTERING THE  
BOUNDARIES THAT DEFINE CERTAIN WESTERN SLOPE BASIN  
ROUNDTABLES, AND MAKING AN APPROPRIATION.

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

**SECTION 1.** 37-75-105 (2), Colorado Revised Statutes, is amended to read:

**37-75-105. Interbasin compact committee - report - repeal.**  
(2) (a) Not later than July 1, 2006, the interbasin compact committee shall establish and refer to the general assembly an interbasin compact charter that shall govern and guide all negotiations between basin roundtables under this article. If the committee does not so refer the charter by July 1, 2006, this article is repealed, effective July 1, 2006. Upon receipt, consideration, and approval of the charter by the general assembly acting by

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*Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.*

bill, negotiations between basin roundtables may commence. Any compact or other agreement established using the procedures established in this article shall fully comply with the terms, requirements, and procedures established in the interbasin compact charter as approved pursuant to this subsection (2).

(b) THE GENERAL ASSEMBLY HEREBY APPROVES THE INTERBASIN COMPACT CHARTER AS SUBMITTED TO THE GENERAL ASSEMBLY ON APRIL 6, 2006, BY THE INTERBASIN COMPACT COMMITTEE. THE REVISOR OF STATUTES SHALL PUBLISH THE FULL TEXT OF THE CHARTER IN THE COLORADO REVISED STATUTES AS NONSTATUTORY MATTER IN ACCORDANCE WITH SECTION 2-5-102 (9), C.R.S.

**SECTION 2.** 2-5-102, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SUBSECTION to read:

**2-5-102. Inclusions - nonstatutory.** (9) THERE SHALL BE INCLUDED IN THE PUBLICATION OF THE "COLORADO WATER FOR THE 21ST CENTURY ACT", AS NONSTATUTORY MATTER, FOLLOWING SECTION 37-75-105, C.R.S., THE FULL TEXT OF THE INTERBASIN COMPACT CHARTER AS SUBMITTED TO THE GENERAL ASSEMBLY ON APRIL 6, 2006, BY THE INTERBASIN COMPACT COMMITTEE.

**SECTION 3.** 37-75-104 (3) (b) (IV) and (3) (b) (VII), Colorado Revised Statutes, are amended to read:

**37-75-104. Basin roundtables.** (3) (b) The following basin roundtables are hereby created:

(IV) The Gunnison basin roundtable, consisting of water division 4 EXCEPTING WATER MANAGEMENT DISTRICTS 60, 61, AND 63;

(VII) The Dolores, San Miguel, and San Juan basins roundtable, consisting of water division 7 AND WATER MANAGEMENT DISTRICTS 60, 61, AND 63;

**SECTION 4.** 37-75-103 (1), Colorado Revised Statutes, is amended to read:

**37-75-103. Director of compact negotiations.** (1) Within thirty

days after June 7, 2005, the governor shall appoint a director of compact negotiations, ~~who~~ WHICH OFFICE IS HEREBY CREATED IN THE OFFICE OF THE GOVERNOR. THE DIRECTOR OF COMPACT NEGOTIATIONS shall act as the overseer and caretaker of the compact negotiations process established in this article.

**SECTION 5.** 39-29-109 (1) (c) (I) (D) and (1) (c) (III) (A), Colorado Revised Statutes, are amended to read:

**39-29-109. Severance tax trust fund - created - administration - use of moneys - repeal.** (1) (c) (I) For fiscal years commencing on and after July 1, 1997, the executive director of the department of natural resources shall submit with the department's budget request for each fiscal year a list and description of the programs the executive director recommends to be funded from the operational account of the severance tax trust fund. The state minerals, energy, and geology policy advisory board established pursuant to section 34-20-104, C.R.S., shall review the executive director's recommendation before submittal. The general assembly may appropriate moneys from the total moneys available in the operational account of the severance tax trust fund to fund recommended programs as follows:

(D) For programs within the Colorado water conservation board AND FOR PURPOSES AUTHORIZED BY ARTICLE 75 OF TITLE 37, C.R.S., up to five percent of the moneys in the operational account.

(III) (A) It is the intent of the general assembly that the operational account of the severance tax trust fund maintain a state fiscal year end balance equal to twice the current state fiscal year's operating appropriations for the programs specified in this paragraph (c); EXCEPT THAT MONEYS APPROPRIATED FOR PURPOSES AUTHORIZED BY ARTICLE 75 OF TITLE 37, C.R.S., SHALL NOT BE CONSIDERED IN ESTABLISHING SUCH TWO-YEAR RESERVE. Moneys may be appropriated or otherwise made available from such two-year reserve only to offset temporary revenue reductions in the programs specified in this paragraph (c); except that, if the general assembly determines that transfers of moneys from the reserve are needed during a state revenue crisis, such transfers shall be a loan from the reserve to be repaid as soon as moneys are available. This provision is intended to mitigate the impact of fluctuations in the amount of revenue credited to the fund from year to year so as to maintain current levels of service for such

programs.

**SECTION 6. Appropriation.** (1) In addition to any other appropriation, there is hereby appropriated, out of any moneys in the operational account of the severance tax trust fund created in section 39-29-109, Colorado Revised Statutes, not otherwise appropriated, to the office of the governor, for the director of compact negotiations, for the fiscal year beginning July 1, 2006, the sum of seventy-five thousand eight hundred thirty-seven dollars (\$75,837) and 0.5 FTE, or so much thereof as may be necessary, for the on-going implementation of article 75 of title 37, Colorado Revised Statutes.

(2) In addition to any other appropriation, there is hereby appropriated, out of any moneys in the operational account of the severance tax trust fund created in section 39-29-109, Colorado Revised Statutes, not otherwise appropriated, to the department of natural resources, Colorado water conservation board, for the fiscal year beginning July 1, 2006, the sum of eight hundred fifty-five thousand four hundred eighty-one dollars (\$855,481) and 1.2 FTE, or so much thereof as may be necessary, for the on-going implementation of article 75 of title 37, Colorado Revised Statutes, including basin roundtable meetings, interbasin compact committee meetings, a water needs assessment refinement, and public education outreach.

(3) The moneys appropriated in subsections (1) and (2) of this section shall remain available for the designated purposes until they are fully expended.

**SECTION 7. 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.

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Andrew Romanoff  
SPEAKER OF THE HOUSE  
OF REPRESENTATIVES

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Joan Fitz-Gerald  
PRESIDENT OF  
THE SENATE

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Marilyn Eddins  
CHIEF CLERK OF THE HOUSE  
OF REPRESENTATIVES

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Karen Goldman  
SECRETARY OF  
THE SENATE

APPROVED \_\_\_\_\_

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Bill Owens  
GOVERNOR OF THE STATE OF COLORADO