

### **37-95-107. Feasibility studies - repayment of costs.**

(1) (a) (I) Before any proposed project can receive consideration for construction funding by the authority, the Colorado water conservation board must first review the feasibility study of any such proposed project, and the general assembly must authorize the authority to proceed to consider the construction of any proposed project.

(II) (A) Upon receipt of a feasibility study by the Colorado water conservation board, said board shall review such study and forward the study to the general assembly together with its recommendation as to whether or not the proposed project should be authorized by the general assembly.

(B) Upon receipt of a feasibility study from the Colorado water conservation board, the general assembly may authorize the authority, by means of a joint resolution signed by the governor, to proceed with the consideration of any project that the general assembly deems to be in the interests of and to the advantage of the people of this state. However, such joint resolution shall in no way require or compel the authority to fund or in any way finance and proceed with the development, acquisition, construction, reconstruction, enlargement, extension, improvement, furnishing, equipping, maintenance, repair, management, operation, or disposition of, or participation in any proposed project. A decision to proceed, when made subsequent to such joint resolution, shall be entirely within the discretion of the authority.

(C) Should the authority choose to proceed with a project, then the authority shall make, or cause to be made, the necessary final designs and specifications for such project; except that the final project location, operation, and purposes must be in substantial compliance with the feasibility study for a project that was reviewed by the Colorado water conservation board. The authority shall also develop and implement detailed plans for the financing of projects with which it chooses to proceed. The terms and conditions of such financing shall be at the sole discretion of the authority.

(III) The provisions of this subsection (1) shall not apply to any small water resources project; except that, in the case of any small water resources project that consists of or includes raw water diversion or storage facilities, the board shall promptly forward a copy of the project loan application to the Colorado water conservation board for informational purposes.

(b) The state engineer shall not issue a permit or license or approve plans, pursuant to any law or rule governing such actions, for construction of any water management facility or hydroelectric power facility for which the authority has paid in whole or in part for a feasibility study or an environmental assessment or environmental impact study without a written resolution or written statement by the authority notifying the state engineer that the applicant has reimbursed the authority for its expenditures for the conduct of such studies.

(2) If the Colorado water conservation board enters into a contract for the performance of a feasibility study for a proposed raw water project with a governmental agency and incurs expenses in performing such feasibility study, then the authority shall provide for the reimbursement of such expenses out of its financing contract with the governmental agency for such project prior to the start of construction only when:

(a) The Colorado water conservation board's contract with the governmental agency sponsoring the project unconditionally requires the repayment of all of the expenses associated with the feasibility study prior to the start of construction, regardless of the funding source for such construction; and

(b) Such governmental agency obtains financing from the authority.

(3) The reimbursement obligation of the authority pursuant to subsection (2) of this section shall not apply:

(a) To the expenses of any feasibility study commenced or initiated by the Colorado water conservation board prior to June 5, 2003;

(b) To the expenses of any full or partial stream-wide, basin-wide, or statewide feasibility study that is not focused on a single discrete raw water supply project;

(c) To the expenses of any feasibility study identified and authorized or directed by law to be performed by the Colorado water conservation board without a contract with another governmental agency for such study;

(d) To the study of any domestic water supply project;

(e) If the Colorado water conservation board waives the obligation of the governmental agency to make such repayment or if the Colorado water conservation board releases, in whole or in part, such governmental agency from its obligation to make such repayment; and

(f) If otherwise agreed to by the authority and the Colorado water conservation board in an agreement entered into pursuant to section 37-60-106 (1) (t).

**Source: L. 81:** Entire article added, p. 1801, § 1, effective July 1. **L. 83:** (1) and (7) amended, p. 1442, § 3, effective June 10. **L. 85:** (5) amended, p. 1191, § 2, effective June 13. **L. 89:** (8) added, p. 1433, § 4, effective April 18. **L. 98:** (8) amended, p. 143, § 2, effective April 2. **L. 2003:** Entire section R&RE, p. 2411, § 5, effective June 5.