

CHAPTER 281

WATER AND IRRIGATION

SENATE BILL 16-145

BY SENATOR(S) Baumgardner and Donovan, Roberts, Scott, Crowder, Garcia, Heath, Hodge, Jones, Martinez Humenik, Merrifield, Sonnenberg, Tate, Woods;
also REPRESENTATIVE(S) Mitsch Bush and Willett, Becker K., Brown, Coram, Hamner, Rankin, Thurlow, Arndt, Lontine, Pabon, Priola, Salazar.

AN ACT

CONCERNING AN ALTERNATIVE MECHANISM FOR CREATING A SUBDISTRICT OF THE COLORADO RIVER WATER CONSERVATION DISTRICT.

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

SECTION 1. In Colorado Revised Statutes, 37-46-102, **amend** (5) as follows:

37-46-102. Definitions. As used in this article, unless the context otherwise requires:

(5) "Subdistrict" or "subdivision" ~~embraces and includes~~ the kind or character of special improvement districts created under the provisions of this article, including subdistricts organized under the name and style of "Water Users' Association No. of the Colorado River Water Conservation District" and "Special Improvement District No. of the Colorado River Water Conservation District". A subdistrict or subdivision is a body corporate and politic and a political subdivision of the state of Colorado. A SUBDISTRICT OR SUBDIVISION DOES NOT HAVE REGULATORY AUTHORITY OVER A WATER CONSERVATION DISTRICT, WATER CONSERVANCY DISTRICT, IRRIGATION DISTRICT, OR OTHER WATER USER OUTSIDE ITS GEOGRAPHIC BOUNDARIES; HOWEVER, A SUBDISTRICT OR SUBDIVISION MAY ENTER INTO A VOLUNTARY CONTRACT, STIPULATION, OR OTHER AGREEMENT WITH A WATER CONSERVATION DISTRICT, WATER CONSERVANCY DISTRICT, IRRIGATION DISTRICT, OR OTHER WATER USER OUTSIDE ITS GEOGRAPHIC BOUNDARIES.

SECTION 2. In Colorado Revised Statutes, **add** 37-46-114.5 as follows:

37-46-114.5. Alternative procedure for organizing a subdistrict.

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

(1) (a) NOTWITHSTANDING THE PROCESS FOR CREATING A SUBDISTRICT ESTABLISHED IN SECTIONS 37-46-112 TO 37-46-114, A PETITION FOR AN ELECTION ON THE ORGANIZATION OF A SUBDISTRICT MAY BE FILED WITH THE CLERK OF THE COURT THAT HAS JURISDICTION OVER ALL OR PART OF THE GEOGRAPHIC AREA TO BE REPRESENTED BY THE PROPOSED SUBDISTRICT. THE PETITION MUST BE:

(I) DULY APPROVED BY THE DISTRICT'S BOARD OF DIRECTORS;

(II) APPROVED BY A UNANIMOUS VOTE OF THE MEMBERS OF THE DISTRICT'S BOARD OF DIRECTORS WHO WERE APPOINTED BY THE COUNTIES THAT LIE WHOLLY OR PARTIALLY WITHIN THE BOUNDARIES OF THE PROPOSED SUBDISTRICT; AND

(III) SIGNED BY AT LEAST THE LESSER OF TEN PERCENT OR TWO HUNDRED OF THE ELECTORS LIVING IN THE GEOGRAPHIC AREA TO BE REPRESENTED BY THE PROPOSED SUBDISTRICT.

(b) THE PETITION MUST INCLUDE:

(I) THE NAME OF THE PROPOSED SUBDISTRICT;

(II) A GENERAL DESCRIPTION OF THE PURPOSE OF THE PROPOSED SUBDISTRICT CONSISTENT WITH SECTION 37-46-112 (2). THE DESCRIPTION NEED NOT BE GIVEN BY MEASUREMENTS AND BOUNDARIES OR BY LEGAL SUBDIVISION, BUT IT MUST BE SUFFICIENT TO ENABLE A PROPERTY OWNER TO ASCERTAIN WHETHER THE PROPERTY OWNER'S PROPERTY IS WITHIN THE TERRITORY PROPOSED TO BE ORGANIZED AS A SUBDISTRICT. IF THE PROPOSED SUBDISTRICT IS INTENDED TO PROMOTE ONE OR MORE OF THE PURPOSES SET FORTH IN SECTION 37-46-101, THE TERRITORY OF THE SUBDISTRICT NEED NOT BE CONTIGUOUS. THE BOUNDARY OF THE PROPOSED SUBDISTRICT MAY INCLUDE ALL OR ANY PART OF ANY CITY, COUNTY, OR CITY AND COUNTY, REGARDLESS OF SIZE.

(III) A STATEMENT WHETHER ANY PART OF THE PROPOSED SUBDISTRICT IS INCLUDED WITHIN THE BOUNDARIES OF AN EXISTING SUBDISTRICT ESTABLISHED UNDER THIS ARTICLE AND, IF SO, A GENERAL DESCRIPTION OF THE OVERLAPPING GEOGRAPHIC AREA;

(IV) A GENERAL DESIGNATION OF ANY SUBDIVISIONS OF THE SUBDISTRICT AND THE NUMBER OF DIRECTORS PROPOSED FOR EACH SUBDIVISION; AND

(V) A FORMAL REQUEST FOR THE ORGANIZATION OF THE SUBDISTRICT BY THE NAME PROPOSED AND A REQUEST TO HOLD AN ELECTION ON THE QUESTION OF THE ORGANIZATION OF THE SUBDISTRICT.

(2) (a) (I) ON THE DAY FIXED FOR A HEARING ON THE PETITION, OR AT A CONTINUANCE OF THE HEARING DATE, THE COURT SHALL FIRST ASCERTAIN WHETHER THE REQUIREMENTS OF SUBSECTION (1) OF THIS SECTION HAVE BEEN SATISFIED.

(II) THE COURT SHALL NOT DECLARE A PETITION WITH THE REQUISITE SIGNATURES VOID ON ACCOUNT OF ALLEGED DEFECTS IN THE PETITION, BUT MAY REQUIRE THE PETITION TO BE AMENDED AT ANY TIME TO CORRECT ANY ERRORS, INCLUDING AN ERROR IN THE DESCRIPTION OF THE TERRITORY. IF DUPLICATE OR SIMILAR PETITIONS

FOR THE ORGANIZATION OF A SUBDISTRICT ARE FILED BEFORE A HEARING IS HELD ON THE FIRST PETITION FILED, THE COURT SHALL REGARD THE FIRST AND ANY DUPLICATE OR SIMILAR PETITIONS AS ONE PETITION.

(III) IF, AT THE HEARING, IT APPEARS THAT THE PETITION FOR THE ORGANIZATION OF A SUBDISTRICT HAS BEEN SIGNED AND PRESENTED IN CONFORMITY WITH THIS SECTION AND THAT THE CLAIMS OF THE PETITION ARE TRUE, THE COURT, BY ORDER ENTERED INTO THE RECORD, SHALL DIRECT THAT THE QUESTION OF THE ORGANIZATION OF THE SUBDISTRICT BE SUBMITTED AT AN ELECTION WITHIN THE BOUNDARIES OF THE PROPOSED SUBDISTRICT TO BE HELD FOR THAT PURPOSE IN ACCORDANCE WITH THE LAWS OF THIS STATE FOR CONDUCTING A GENERAL ELECTION OR A SPECIAL ELECTION HELD ON THE FIRST TUESDAY IN NOVEMBER OF AN ODD-NUMBERED YEAR.

(b) AT AN ELECTION ON THE ORGANIZATION OF A SUBDISTRICT, A VOTER MAY VOTE FOR OR AGAINST THE ORGANIZATION OF THE SUBDISTRICT. IF A MAJORITY OF THE VOTES CAST AT THE ELECTION ARE IN FAVOR OF THE ORGANIZATION OF A SUBDISTRICT, THE COURT SHALL DECLARE THE SUBDISTRICT ORGANIZED AND GIVE IT THE CORPORATE NAME DESIGNATED IN THE PETITION, BY WHICH NAME IT WILL BE KNOWN FOR ALL PROCEEDINGS. UPON ORGANIZATION OF THE SUBDISTRICT, THE SUBDISTRICT WILL BE A BODY CORPORATE AND POLITICAL SUBDIVISION OF THE STATE OF COLORADO WITH ALL OF THE POWERS AFFORDED TO A SUBDISTRICT OR SUBDIVISION BY THIS ARTICLE.

SECTION 3. In Colorado Revised Statutes, 37-46-112, **amend** (1) as follows:

37-46-112. Petition. (1) EXCEPT AS SPECIFIED IN SECTION 37-46-114.5, before any subdistrict is established under this article, a petition shall be filed in the office of the clerk of the district court of the county in which the territory to be ~~embraced~~ INCLUDED in ~~said~~ THE subdistrict, or the greater part ~~thereof~~ OF THE TERRITORY IS ~~situate~~ LOCATED, signed by the board of directors of the district or by a majority of the owners of land ~~situate~~ LOCATED within the limits of the territory proposed to be organized into a subdistrict.

SECTION 4. In Colorado Revised Statutes, 37-46-113, **amend** (1) as follows:

37-46-113. Notice of hearing on petition. (1) Immediately after the filing of ~~such~~ A petition CREATED PURSUANT TO SECTION 37-46-112, the court, ~~wherein such petition is filed,~~ by order, shall fix a place and time, not less than sixty days nor more than ninety days after the petition is filed, for a hearing ~~thereon~~ ON THE PETITION, and ~~thereupon~~ the clerk of ~~said~~ THE court shall ~~cause~~ PROVIDE notice by publication, which may be substantially the same as provided in section 37-8-101, ~~to be made of the pendency of the petition and of the time and place of the hearing thereon~~ ON THE PETITION. The clerk of ~~said~~ THE court shall also ~~forthwith cause a copy of said~~ MAIL THE notice ~~to be mailed~~ by United States registered mail to the board of county commissioners of each of the ~~several~~ counties having territory within the proposed subdistrict and, IF THE PETITION IS FILED BY LANDOWNERS, AND NOT BY THE BOARD OF DIRECTORS, to the board of directors of ~~said~~ THE district. ~~in the event that said petition is filed by the landowners.~~

SECTION 5. In Colorado Revised Statutes, 37-46-114, **amend** (1) as follows:

37-46-114. Protesting of petitions. (1) ~~At any time~~ After the filing of a petition for the organization of a subdistrict PURSUANT TO SECTION 37-46-112, ~~and not less than~~ A WRITTEN PROTEST OBJECTING TO THE ORGANIZATION OF THE SUBDISTRICT MAY BE FILED WITH THE COURT CLERK UP TO thirty days ~~prior to~~ BEFORE the time ~~fixed by the order of the court for the~~ DATE FOR THE hearing ~~upon said~~ ON THE petition, ~~and~~ BUT not thereafter, a protest may be filed in the office of the clerk of the court ~~wherein the proceedings for the organization of such subdistrict is pending,~~ AFTER THE DATE OF THE HEARING. THE PROTEST MUST BE signed by a majority of the ~~owners of the land~~ LANDOWNERS in ~~said~~ THE proposed subdistrict. ~~protesting the organization or creation of said subdistrict. It is the duty of~~ The clerk of the court ~~forthwith, upon filing of said protest, to~~ SHALL THEN make as many certified copies ~~thereof~~ OF THE WRITTEN PROTEST, including the signatures, ~~thereto,~~ as there are counties into any part of which ~~said~~ THE proposed subdistrict extends ~~and forthwith to place in the hands of~~ PROVIDE A COPY to the county treasurer of each of ~~such~~ THE counties. ~~one of said certified copies.~~

SECTION 6. Act subject to petition - effective date - applicability. (1) This act takes effect at 12:01 a.m. on the day following the expiration of the ninety-day period after final adjournment of the general assembly (August 10, 2016, if adjournment sine die is on May 11, 2016); except that, if a referendum petition is filed pursuant to section 1 (3) of article V of the state constitution against this act or an item, section, or part of this act within such period, then the act, item, section, or part will not take effect unless approved by the people at the general election to be held in November 2016 and, in such case, will take effect on the date of the official declaration of the vote thereon by the governor.

(2) This act applies to petitions filed on or after the applicable effective date of this act.

Approved: June 10, 2016