

Second Regular Session
Seventieth General Assembly
STATE OF COLORADO

PREAMENDED

*This Unofficial Version Includes Committee
Amendments Not Yet Adopted on Second Reading*

LLS NO. 16-1095.01 Jennifer Berman x3286

SENATE BILL 16-145

SENATE SPONSORSHIP

Baumgardner and Donovan, Roberts, Scott

HOUSE SPONSORSHIP

Mitsch Bush and Willett, Becker K., Brown, Coram, Hamner, Rankin, Thurlow

Senate Committees

Agriculture, Natural Resources, & Energy

House Committees

Agriculture, Livestock, & Natural Resources

A BILL FOR AN ACT

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

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://www.leg.state.co.us/bills summaries>.)

The Colorado river water conservation district's (district) 1937 organic act provides a mechanism for the creation of a subdistrict within the 15-county district that requires a petition signed by 50% of the property owners of the proposed subdistrict to be presented to, and approved by, a court which may then declare the subdistrict formed.

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.

SENATE
3rd Reading Unamended
March 24, 2016

SENATE
Amended 2nd Reading
March 22, 2016

Because of changes in the amount and type of property ownership over the years, the 50% signature threshold is no longer practical.

The bill provides an alternative mechanism to petition for the organization of a subdistrict of the district. Following initial approval of the board of directors, including unanimous approval of the directors representing the geographic area that would be covered by the proposed subdistrict, the petition must include the signatures of the lesser of 10% or 200 electors of the geographic area covered by the proposed subdistrict. The petition must then be presented to a court for approval at a hearing, and, upon approval, is put to a vote at a districtwide election. If a majority of the votes are in favor of the formation of the proposed subdistrict, the court shall declare the subdistrict formed.

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

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

4 **37-46-102. Definitions.** As used in this article, unless the context
5 otherwise requires:

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

1 OUTSIDE ITS GEOGRAPHIC BOUNDARIES.

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

4 **37-46-114.5. Alternative procedure for organizing a**
5 **subdistrict.** (1) (a) NOTWITHSTANDING THE PROCESS FOR CREATING A
6 SUBDISTRICT ESTABLISHED IN SECTIONS 37-46-112 TO 37-46-114, A
7 PETITION FOR AN ELECTION ON THE ORGANIZATION OF A SUBDISTRICT MAY
8 BE FILED WITH THE CLERK OF THE COURT THAT HAS JURISDICTION OVER
9 ALL OR PART OF THE GEOGRAPHIC AREA TO BE REPRESENTED BY THE
10 PROPOSED SUBDISTRICT. THE PETITION MUST BE:

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

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

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

19 (b) THE PETITION MUST INCLUDE:

20 (I) THE NAME OF THE PROPOSED SUBDISTRICT;

21 (II) A GENERAL DESCRIPTION OF THE PURPOSE OF THE PROPOSED
22 SUBDISTRICT CONSISTENT WITH SECTION 37-46-112 (2). THE

23 DESCRIPTION NEED NOT BE GIVEN BY MEASUREMENTS AND BOUNDARIES
24 OR BY LEGAL SUBDIVISION, BUT IT MUST BE SUFFICIENT TO ENABLE A
25 PROPERTY OWNER TO ASCERTAIN WHETHER THE PROPERTY OWNER'S
26 PROPERTY IS WITHIN THE TERRITORY PROPOSED TO BE ORGANIZED AS A
27 SUBDISTRICT. IF THE PROPOSED SUBDISTRICT IS INTENDED TO PROMOTE

1 ONE OR MORE OF THE PURPOSES SET FORTH IN SECTION 37-46-101, THE
2 TERRITORY OF THE SUBDISTRICT NEED NOT BE CONTIGUOUS. THE
3 BOUNDARY OF THE PROPOSED SUBDISTRICT MAY INCLUDE ALL OR ANY
4 PART OF ANY CITY, COUNTY, OR CITY AND COUNTY, REGARDLESS OF SIZE.

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

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

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

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

19 ==
20 (II) THE COURT SHALL NOT DECLARE A PETITION WITH THE
21 REQUISITE SIGNATURES VOID ON ACCOUNT OF ALLEGED DEFECTS IN THE
22 PETITION, BUT MAY REQUIRE THE PETITION TO BE AMENDED AT ANY TIME
23 TO CORRECT ANY ERRORS, INCLUDING AN ERROR IN THE DESCRIPTION OF
24 THE TERRITORY. IF DUPLICATE OR SIMILAR PETITIONS FOR THE
25 ORGANIZATION OF A SUBDISTRICT ARE FILED BEFORE A HEARING IS HELD
26 ON THE FIRST PETITION FILED, THE COURT SHALL REGARD THE FIRST AND
27 ANY DUPLICATE OR SIMILAR PETITIONS AS ONE PETITION.

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

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

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

23 **37-46-112. Petition.** (1) EXCEPT AS SPECIFIED IN SECTION
24 37-46-114.5, before any subdistrict is established under this article, a
25 petition shall be filed in the office of the clerk of the district court of the
26 county in which the territory to be ~~embraced~~ INCLUDED in ~~said~~ THE
27 subdistrict, or the greater part ~~thereof~~ OF THE TERRITORY is ~~situate~~

1 LOCATED, signed by the board of directors of the district or by a majority
2 of the owners of land ~~situate~~ LOCATED within the limits of the territory
3 proposed to be organized into a subdistrict.

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

6 **37-46-113. Notice of hearing on petition.** (1) Immediately after
7 the filing of ~~such~~ A petition CREATED PURSUANT TO SECTION 37-46-112,
8 the court, ~~wherein such petition is filed,~~ by order, shall fix a place and
9 time, not less than sixty days nor more than ninety days after the petition
10 is filed, for A hearing ~~thereon~~ ON THE PETITION, and ~~thereupon~~ the clerk
11 of ~~said~~ THE court shall ~~cause~~ PROVIDE notice by publication, which may
12 be substantially the same as provided in section 37-8-101, ~~to be made of~~
13 ~~the pendency~~ of the petition and of the time and place of the hearing
14 ~~thereon~~ ON THE PETITION. The clerk of ~~said~~ THE court shall also ~~forthwith~~
15 ~~cause a copy of said~~ MAIL THE notice ~~to be mailed~~ by United States
16 registered mail to the board of county commissioners of each of the
17 ~~several~~ counties having territory within the proposed subdistrict and, IF
18 THE PETITION IS FILED BY LANDOWNERS, AND NOT BY THE BOARD OF
19 DIRECTORS, to the board of directors of ~~said~~ THE district. ~~in the event that~~
20 ~~said petition is filed by the landowners.~~

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

23 **37-46-114. Protesting of petitions.** (1) ~~At any time~~ After the
24 filing of a petition for the organization of a subdistrict PURSUANT TO
25 SECTION 37-46-112, ~~and not less than~~ A WRITTEN PROTEST OBJECTING TO
26 THE ORGANIZATION OF THE SUBDISTRICT MAY BE FILED WITH THE COURT
27 CLERK UP TO thirty days ~~prior to~~ BEFORE the ~~time fixed by the order of the~~

1 court for the DATE FOR THE hearing upon said ON THE petition, and BUT
2 not thereafter, a protest may be filed in the office of the clerk of the court
3 wherein the proceedings for the organization of such subdistrict is
4 pending, AFTER THE DATE OF THE HEARING. THE PROTEST MUST BE signed
5 by a majority of the owners of the land LANDOWNERS in said THE
6 proposed subdistrict. protesting the organization or creation of said
7 subdistrict. It is the duty of The clerk of the court forthwith, upon filing
8 of said protest, to SHALL THEN make as many certified copies thereof OF
9 THE WRITTEN PROTEST, including the signatures, thereto, as there are
10 counties into any part of which said THE proposed subdistrict extends and
11 forthwith to place in the hands of PROVIDE A COPY TO the county treasurer
12 of each of such THE counties. one of said certified copies.

13 **SECTION 6. Act subject to petition - effective date -**
14 **applicability.** (1) This act takes effect at 12:01 a.m. on the day following
15 the expiration of the ninety-day period after final adjournment of the
16 general assembly (August 10, 2016, if adjournment sine die is on May 11,
17 2016); except that, if a referendum petition is filed pursuant to section 1
18 (3) of article V of the state constitution against this act or an item, section,
19 or part of this act within such period, then the act, item, section, or part
20 will not take effect unless approved by the people at the general election
21 to be held in November 2016 and, in such case, will take effect on the
22 date of the official declaration of the vote thereon by the governor.

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