

1967

**Amending Chapter 150, Colorado Revised Statutes 1963, as Amended, to Provide for the Creation of a Water Conservation District, to Be Called "Rio Grande Water Conservation District", for Conservation, Recreation , and Other Purposes; to Provide for the Government of Said District**

Colorado General Assembly

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## CHAPTER 329

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WATER CONSERVATION AND IRRIGATION DISTRICTSRIO GRANDE WATER CONSERVATION DISTRICT

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(House Bill No. 1536. By Representatives Quinlan, Massari, and Caywood; also Senators Taylor, Denny, and Locke.)

## A N A C T

AMENDING CHAPTER 150, COLORADO REVISED STATUTES 1963, AS AMENDED, TO PROVIDE FOR THE CREATION OF A WATER CONSERVATION DISTRICT, TO BE CALLED "RIO GRANDE WATER CONSERVATION DISTRICT", FOR CONSERVATION, RECREATION, AND OTHER PURPOSES; TO PROVIDE FOR THE GOVERNMENT OF SAID DISTRICT.

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

Section 1. Chapter 150 of Colorado Revised Statutes 1963, as amended, is amended BY THE ADDITION OF A NEW ARTICLE 10 to read:

## ARTICLE 10

## RIO GRANDE WATER CONSERVATION DISTRICT

**150-10-1. Declaration.**—In the opinion of the general assembly of the state of Colorado, the conservation of the water of the Rio Grande and its tributaries for beneficial use, and the construction of reservoirs, ditches, and works for such purposes is of vital importance to the growth and development of the entire area and the welfare of all its inhabitants, and that to promote the health and general welfare of the state of Colorado, an appropriate agency for the conservation, use, and development of the water resources of the Rio Grande and its tributaries should be established and given such powers as may be necessary to safeguard for Colorado, all waters to which the state of Colorado is equitably entitled.

**150-10-2. Creation and name of district.**—There is hereby created a water conservation district to be known and designated as "Rio Grande Water Conservation District" when the governor declares, pursuant to section 150-10-21, that such district is formed. Such district is hereby declared to be a body corporate under the laws of Colorado. Said district shall comprise the counties of Alamosa, Conejos, Rio Grande, and those portions of Saguache and Mineral counties which are within the drainage basin of the Rio Grande River and its tributaries, including the closed basin thereof.

**150-10-3. Board of directors.**—(1) The district shall be managed and

controlled by a board of nine directors. The members of said board shall hold their offices for a term of three years and until their successors are appointed and qualified. Two members of such board shall be appointed from each of the counties of Conejos, Alamosa, Rio Grande and Saguache, and one such member shall be appointed from Mineral county. At the time of his appointment each director shall be a resident and freeholder of the county from which he is appointed, or if only a part of the county is included within the boundaries of said district, then a resident and freeholder of such included part. Each director shall be appointed by the board of county commissioners of the county in which such director resides. He may be a member of the board of county commissioners of such county. Within thirty days after this article becomes effective, the board of county commissioners of each of said counties shall designate the member to be appointed by it, and certify the same to the governor of the state of Colorado, and within fifteen days after receipt of all such certifications, the governor shall call a meeting of said board at a time and at a place within said district to be fixed by the governor. The members of said board shall convene at the time and place so designated and select one of their number to act as president and one of their number to act as vice-president, each to hold office for one year or until his successor is duly selected by the board.

(2) The office of a director shall become vacant when any director ceases to reside in the county from which he was appointed. In the event a vacancy occurs in said office by reason of death, resignation, removal, or otherwise, it shall be filled by the board of county commissioners of the county from which said director originally came. Before entering upon the discharge of his duties, each director shall take an oath to support and defend the constitution of the United States and of the state of Colorado and to impartially, without fear or favor, discharge the duties of a director of said district.

**150-10-4. Employees.**—The board of directors of said district shall appoint a secretary and a treasurer. The same individual at the election of the board may hold both said offices. The board shall likewise hire such other employees, including engineers and attorneys, as may be required to properly transact the business of the district, and said board is authorized to provide for the compensation of the secretary and treasurer and other appointees. The treasurer shall be required by the board to give bond with corporate surety in such amount as the board may fix and which it deems sufficient to protect the funds in the hands of the treasurer or under his control. Such bond is to be subject to the approval of the board.

**150-10-5. Powers of district.**—(1) (a) The district, in its corporate capacity, shall have power to:

(b) Sue and be sued in the name of the Rio Grande water conservation district and otherwise to participate in litigation;

(c) Acquire, operate, and hold in the name of the district such real and personal property as may be necessary to carry out the provisions of this article, and to sell and convey such property or its products as provided in this article, or when said property is no longer needed for the purposes of said district;

(d) Borrow money and incur indebtedness and to issue bonds or other evidence of such indebtedness, except that the district may not incur any indebtedness in an aggregate amount exceeding the product of the assessed valuation of the district multiplied by two mills;

(e) Make surveys and conduct investigations to determine the best manner of utilizing stream flows within the district, the amount of such stream flow or other water supply, and to locate ditches, irrigation works, and reservoirs to store or utilize water for irrigation, mining, manufacturing, or other purposes, and to make filings upon said water and initiate appropriations for the use and benefit of the ultimate appropriators, and to do and perform all acts and things necessary or advisable to secure and insure an adequate supply of water, present and future, for irrigation, mining, manufacturing, and domestic purposes within said district;

(f) Make contracts with respect to the relative rights of said district under its claims and filings, and the rights of any other person, association, or organization seeking to divert water from any of the streams within said district;

(g) Contract with any agencies, officers, bureaus, and departments of the state of Colorado and the United States of America, including the board of control of the state penitentiary, to obtain services or labor for the initiation or construction of irrigation works, canals, reservoirs, power plants, or retaining ponds within said district;

(h) Enter upon any privately owned land or other real property for the purpose of making surveys or obtaining other information, without obtaining any order so to do, providing the same can be done without damage to the lands, crops, or improvements thereon;

(i) Contract with the United States government, the bureau of reclamation, or other agencies of the United States government, for the construction of any works;

(j) Have and to exercise the power of eminent domain to acquire ditches, reservoirs, or other works or lands or rights-of-way therefor, which said district may need to carry out the plans of said district and in general to exercise any and all rights and powers of eminent domain conferred upon other agencies as provided in chapter 50, C.R.S. 1963, as amended;

(k) File upon and hold for the use of the public sufficient water of any natural stream to maintain a constant stream flow in the amount necessary to preserve fish, and to use such water in connection with retaining ponds for the propagation of fish for the benefit of the public;

(l) Exercise such implied powers and perform such other acts as may be necessary to carry out and effect any of the express powers hereby conferred upon such district.

**150-10-6. Principal office—meetings.**—The board of directors of the district shall designate a place within the district where the principal office is to be maintained and may change such place from time to time. Regular quarterly meetings of said board shall be held at said office on the fourth Tuesday in the months of January, April, July, and October. The board shall also be empowered to hold such special meetings as may be required for the proper transaction of business. Special meetings may be called by the president of the board or by any three directors. Meetings of the board shall be public and proper minutes of the proceedings of said board shall be preserved and shall be open to the inspection of any elector of the district during business hours.

**150-10-7. Assessment and levy by board.**—(1) As soon as the district shall have been organized and a board of directors shall have been appointed and qualified, such board of directors shall have the power and authority to fix the amount of an assessment upon the property within the district

not to exceed four-tenths of one mill for every dollar of assessed valuation therein, as a level or general levy to be used for the purpose of paying the expenses of organization, for surveys and plans, to pay the salary of officers, and the per diem allowed to directors and their expenses, and for other expenses which may be incurred in the administration of the affairs of the district.

(2) The amount of assessment on each dollar of assessed valuation shall be certified to boards of county commissioners of the various counties in which the district is located, and by them included in their next annual levy for state and county purposes. Such amount so certified shall be collected for the use of such district in the same manner as are taxes for county purposes, and the revenue laws of the state for the levy and collection of taxes on real estate for county purposes, except as herein modified, shall be applicable to the levy and collection of the amount certified by the board of directors of said district as aforesaid, including the enforcement of penalties, forfeiture, and sale for delinquent taxes.

(3) All collections made by the county treasurer pursuant to such levy shall be paid to the treasurer of the conservancy district on or before the tenth day of the next succeeding calendar month. If any items of expense have already been paid in whole or in part from any other sources by the said district, they may be repaid from receipts of such levy. Such levy may be made, although the work proposed, or any part thereof, may have been found impracticable, or for other reasons abandoned. The collection of data and the payment of expenses therefor, including salaries of engineers, attorneys, and others, to conserve the water of said district, and to enable said district to adopt plans for the orderly development of said district is hereby declared to be a matter of general benefit to the public welfare, and such that a tax for said purposes may be properly imposed, in the opinion of the general assembly.

(4) If any provision of this section be held unconstitutional or invalid by any court of competent jurisdiction, such decision shall not affect the validity or force of any other part of this section, or any other part of this article, and the general assembly hereby declares it would have enacted the remainder of this article without this section.

**150-10-8. Creation of subdistricts.**—Notwithstanding the organization of the district herein provided for, irrigation and internal improvement districts organized under articles 1, 2, 4, and 5 of this chapter, and any other form or organization designed or intended to acquire, construct, or maintain reservoirs, ditches, and similar works for irrigation or other beneficial purposes under any law of the state of Colorado or of the United States of America, may be organized to cover and include areas within the Rio Grande water conservation district, and may likewise embrace territory within that said district and partly out of the district. The creation of the Rio Grande water conservation district shall not affect the existence of public irrigation districts heretofore created under article 4 of chapter 149, CRS 1953, or water conservancy districts heretofore created pursuant to article 5 of chapter 150. A contract and agreement between the main district and the subdistrict may be made in the same manner as contracts and agreements between two districts.

**150-10-9. Compensation of directors.**—The directors of the district shall receive as compensation a sum not to exceed twenty-five dollars per day while actually engaged in the business of said district, and in addition shall be entitled to their actual traveling and transportation expenses when away from their respective places of residence on district business.

**150-10-10. Limitations on power to levy and contract.**—The district shall have no power of taxation or right to levy or assess taxes, except an annual levy, not exceeding four-tenths of a mill on each dollar of the assessed value of property in said district. The district shall have no power to contract or incur any obligation or indebtedness except as herein expressly provided, and then any obligation or indebtedness so contracted or incurred is to be payable out of the funds derived through said limited tax and not otherwise.

**150-10-11. Investment of surplus funds.**—The board of directors of said district may invest any surplus funds of the district not needed for immediate use in interest bearing bonds or securities of the United States or of any agency of the United States, if the bonds are guaranteed by the United States, or in the bonds of the state of Colorado or any county or municipal corporation in said state. The board of directors of said district may require any funds of the district, or of any subdistrict, to be deposited with such depository or bank as may be designated by the board, and likewise shall have authority to require the treasurer of the district to take from such depository a bond with corporate surety to insure payment of any such deposit, or to require such depository to pledge securities of the same kind as the district is authorized to invest its funds in, to insure payment of any such deposit.

**150-10-12. Rules and regulations.**—Such district shall have the power and authority to make general rules and regulations for the conduct of its business.

**150-10-13. Ratification of contract.**—(1) The board of directors of the district, at any time, may apply to the court within which any subdistrict was organized to ratify and confirm any contract, or other action.

(2) Notice of such proceeding shall be given by publication once a week for four weeks in a newspaper located within the district describing the contract or other action to be ratified and confirmed in a general way, but in sufficient detail to identify the same, with a statement to the effect that any such contract, or other proceeding may be seen and examined by any person in interest in the office of the board of directors of said district during specified hours. Publication of said notice shall give the court full jurisdiction of the subject matter and of all persons interested therein. Any landowner or other person in interest may appear and protest, setting forth reasons therefor.

(3) The hearing shall be conducted as provided by the Colorado rules of civil procedure, but without a jury as in other cases, and upon conclusion thereof, and if the court finds that all the proceedings were regular and in accordance with this article, a decree of confirmation shall be entered and the same shall be binding upon all persons and upon all property thereby affected.

**150-10-14. Petition.**—Before the Rio Grande water conservation district shall be established under this article, a petition shall be filed in the office of the clerk of the district court of the twelfth judicial district in and for Alamosa county, signed by not fewer than four hundred landowners, each of which owns eighty or more acres of land situated within the limits proposed to be organized into said district. The petition shall set forth the name of the proposed district, a general description of the boundaries of the proposed district, and shall pray for an election on the question of organization of the proposed district. No petition with the requisite signatures shall be declared void on account of alleged defects, but the court

may permit the petition to be amended at any time to conform to the facts by correcting any error. Similar petitions, except for signatures, may be filed and together shall be regarded as one petition. All such petitions filed prior to the hearing on the first petition filed shall be considered by the court the same as though filed with the first petition placed on file. In determining whether the requisite number of landowners have signed the petition, the court shall be governed by the names as they appear upon the tax roll. Duplicate copies of the petition covering the lands in each county shall be prepared and sent to the treasurer of each such county. Each treasurer shall examine the copy of such petition sent to him and shall file a certificate with said district court in and for Alamosa county stating as to each signatory whether such person owns eighty acres of land or more. Such certificate shall be prima facie evidence as to such ownership. For the purposes of this article, any person owning land in joint tenancy or as a tenant in common shall be deemed an owner of all land so held.

**150-10-15. Notice and hearing on petition.**—(1) Immediately after the filing of such petition, the court shall fix a time not less than forty-five days nor more than ninety days after the petition is filed for hearing thereon, and the clerk of said court shall cause notice by publication to be made of the pendency of the petition and of the time and place of hearing thereon. Such notice shall be published in a newspaper of general circulation published within the boundaries of the proposed district, such notice to be published once each week for four successive weeks. The clerk shall also notify the county commissioners of each of said counties of the pendency of the petition and the time and place of hearing thereon. No judge of the district court of the twelfth judicial district in and for the county of Alamosa shall be disqualified to perform duties imposed by this article by reason of ownership of property within the proposed district.

(2) Upon the day set for the hearing upon the original petition, if it shall appear to the court from the certificates of the county treasurers, and from such other evidence as may be adduced by any party in interest, that the petition is signed by the requisite number of owners of land, the court shall thereupon set a day certain for the holding of a meeting by the boards of county commissioners of the counties, part or all of which lands lie within the boundaries of the proposed Rio Grande water conservation district, and shall set the time and place of meeting.

**150-10-16. Election resolution.**—On such day certain or as soon thereafter as is reasonably possible, the board of county commissioners of the counties, part or all of whose lands lie within the boundaries of the proposed Rio Grande water conservation district, shall meet at the time and place specified by such court, or at such other place as the county commissioners of said counties shall designate. The county commissioners of said counties shall call an election by resolution adopted at least thirty days prior to such election. Such resolution shall recite that the object and purpose of the election is to determine whether or not the Rio Grande water conservation district is to be formed. The county commissioners shall provide in the election resolution, or by supplemental resolution, for the appointment of sufficient judges and clerks of the election who shall be taxpaying electors residing within the proposed district and shall set their compensation. The election resolution shall also then designate the precincts and polling places. The description of precincts may be made by reference to any order of the governing body of any county, municipality, or other public body in which the proposed district or any part thereof is situated, or by reference to any previous order or by other instrument of such governing body, or by detailed description of such precincts or by other sufficient description. Precincts established by any such govern-

ing body may be consolidated in the election resolution by the county commissioners for the election.

**150-10-17. Conduct of election.**—(1) Except as provided in this act, an election held pursuant hereto shall be opened and conducted in the manner provided by the laws of the state of Colorado for the conduct of general elections, except that only taxpaying electors may vote in such election. Registration pursuant to the general election laws or any other statute is not required.

(2) Any taxpaying elector may vote in any election by absent voter's ballot under the terms and conditions and in substantially the same manner insofar as is practicable as prescribed in the Colorado election code of 1963 for general elections.

**150-10-18. Notice of election.**—Notice of such election shall be given by publication. No other notice of election need be given.

**150-10-19. Polling places.**—All polling places designated by the election resolution shall be within the area included within the proposed district.

**150-10-20. Election supplies.**—The county commissioners of each county shall have provided at each polling place ballots or ballot labels, or both, ballot boxes or voting machines, or both, instructions, elector's affidavits, and other material and supplies required for a general election by law. The county commissioners, acting as a group, may procure all of the necessary supplies and may agree among themselves as to a division of the costs therefor. Election officials may require the execution of an affidavit by any person desiring to vote at any election of the district of evidence of his qualifications as a taxpaying elector, which affidavit shall be prima facie evidence of the facts therein stated.

**150-10-21. Election returns.**—The election officials shall make their returns directly to the county commissioners of said counties in care of the board of county commissioners of Alamosa county, Alamosa, Colorado. The county commissioners of said counties shall act as the canvassing body. The returns of said election shall be made and canvassed at any time and in the manner provided by law for the canvass of the returns of any general election. It shall be the duty of such canvassing body to certify promptly and to transmit to the governor of the state of Colorado a statement of the results of the vote upon the proposition submitted. If a majority of the voters voting in said election vote in favor of the formation of the Rio Grande water conservation district, the governor shall declare the same to be formed. If a majority of the voters voting in said election do not vote in favor of formation of said district, the governor shall declare that the district is not formed. If the governor declares said district to be formed, it shall be formed as of the time and date specified in his declaration of its formation.

**150-10-22. Expenses of election.**—The expenses of the election shall be paid by the Colorado water conservation board to the extent of fifteen thousand dollars, and there is hereby appropriated to said board the sum of fifteen thousand dollars to be used for this purpose and no other. Each county shall be entitled to a fraction of said sum, the numerator of which is the election expense incurred by each such county and the denominator of which is the total election expense of all such counties.

**Section 2. Safety clause.**—The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Approved: June 8, 1967