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Amending Chapter 266 of the Laws Passed at the Thirty-First Session of the General Assembly of the State of Colorado Concerning Water Conservancy Districts.

Colorado General Assembly

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CHAPTER 174

WATER CONSERVATION DISTRICTS
ORGANIZATION

(House Bill No. 836. By Representatives Harney, Lorton, Grimes and Sanburg; and Senators Shawcroft, Rockwell, Aspinall and Smith.)

A N A C T

AMENDING CHAPTER 266 OF THE LAWS PASSED AT THE THIRTY-FIRST SESSION OF THE GENERAL ASSEMBLY OF THE STATE OF COLORADO CONCERNING WATER CONSERVANCY DISTRICTS.

Be It Enacted by the General Assembly of the State of Colorado:

Section
Amended

Section 1. Section 4 of chapter 266 of the Session Laws of Colorado of 1937 entitled "An act to provide for the organization of water conservancy districts and to define the purposes and powers thereof," approved May 13, 1937, is hereby amended so as to read as follows, to-wit:

Petition

"Section 4. *Petition.* Before any water conservancy district shall be established under this act, a petition shall be filed in the office of the clerk of the court vested with jurisdiction, in a county in which all or part of the lands embraced in such proposed water conservancy district are situated, signed by not fewer than twenty-five per cent. (25%) of the owners of the irrigated lands to be included in the district, but not embraced within the incorporated limits of a city or town; and each tract (or tracts) of land shall be listed opposite the name of the signer, each such tract (or tracts), together with improvements thereon, to have an assessed value of not less than one thousand (\$1,000) dollars; and be also signed by not fewer than five per cent (5%) of the owners of non-irrigated land and/or lands embraced in the incorporated limits of a city or town, all situated in the proposed district; and each tract (or tracts) of land shall be listed opposite the name of the signer, each such tract (or tracts), together with improvements thereon, to have an assessed value of not less than one thousand (\$1,000) dollars.

Number of
Signers

Signer Shall
Not Withdraw
Name

"In the event a petitioner shall sign such petition both as owner of irrigated and non-irrigated land or lands situated within a municipality, his name shall be counted only as an owner of irrigated lands. A signing petitioner shall

not be permitted, after the filing of the petition, to withdraw his name therefrom.

No district shall be formed under this act unless the assessed valuation of irrigated land, together with improvements thereon, within the proposed district, is not less than two hundred thousand (\$200,000) dollars and no city, or city and county, having a population of more than 25,000 as determined by the last U. S. census shall be included within such district unless by and with the written consent of the chief executive officer of such city, or city and county, with the approval of the legislative body of such municipality, and such consent may specify that the rate of taxation on the assessed valuation of property within said city, or city and county, under section 16 of this act shall not exceed a maximum rate which may be less than the rates set out in said section 16, and in such case the district shall not have power to levy an assessment on the property in said city, or city and county, at a greater rate than that specified in said consent.

Assessed
Valuation and
Population
Required

“The petition shall set forth:

Contents of
Petition

“First: The proposed name of said district.

“Second: That property within the proposed district will be benefited by the accomplishment of the purposes enumerated in section 3 of this act.

“Third: A general description of the purpose of the contemplated improvement, and of the territory to be included in the proposed district. Said description need not be given by metes and bounds or by legal subdivision, but it shall be sufficient to enable a property owner to ascertain whether his property is within the territory proposed to be organized as a district. Said territory need not be contiguous, provided it is so situated that the organization of a single district of the territory described is calculated to promote one or more of the purposes enumerated in section 3 of this act.

“Fourth: The assessed value of all irrigated land within the boundaries of the proposed district.

“Fifth: A general designation of divisions of the district and the number of directors of the district proposed for each subdivision.

“Sixth: Said petition shall pray for the organization of the district by the name proposed.

“No petition with the requisite signatures shall be declared null and void on account of alleged defects, but the court may at any time permit the petition to be amended to conform to the facts by correcting any errors in the

Alleged Defects
Not to Void
Petition

description of the territory, or in any other particular. However, similar petitions or duplicate copies of the same petition for the organization of the same district may be filed and shall together 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.

Names on Tax
Rolls Prima
Facie Evidence

“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 which shall be *prima facie* evidence of such ownership.”

Section
Amended

Section 2. Section 7 of said chapter 266 is hereby amended so as to read as follows, to-wit:

“Section 7. *Protesting Petitions—Hearing on Petitions—Organization of District:*

Protesting
Petitions

“At any time after the filing of a petition for the organization of a conservancy district, and not less than thirty days prior to the time fixed by the order of court for the hearing upon said petition, and not thereafter, a petition may be filed in the office of the clerk of the court wherein the proceeding for the creation of said district is pending, signed by not fewer than twenty per cent. (20%) of the owners of the irrigated lands in said proposed district, but not embraced within the incorporated limits of a city or town, who have not signed the petition for creating such district, the aggregate assessed value of which, together with improvements, is not less than fifty thousand (\$50,000) dollars, and also signed by not fewer than five per cent. (5%) of owners of non-irrigated lands and/or lands embraced in the incorporated limits of a city or town, all situated in the proposed district who have not signed the petition for creating such district, the aggregate assessed value of which, together with improvements, is not less than twenty thousand (\$20,000) dollars, protesting the creation of said district. The signers of said protesting petition shall state therein the land owned by each, and shall also state the value thereof as shown by the last preceding assessment.

Number of
Signers
Required

“In the event a petitioner shall sign such petition both as owner of irrigated and non-irrigated land or lands situated within a municipality, his name shall be counted only as an owner of irrigated lands.

Clerk of Court
Make Certified
Copies

“Upon the filing of such protesting petition, it shall be the duty of the clerk of the court forthwith to make as many certified copies thereof, including the signatures thereto, as there are counties in which any part of said proposed district extends, and forthwith to place in the hands of the county treasurer of each of such counties one

of said certified copies. Thereupon it shall be the duty of each of such county treasurers to determine from the tax rolls of his county in his hands, and to certify to the said district court under his official seal, prior to the day fixed for the hearing as aforesaid, the total valuation of the several tracts of land listed in the protest, situated in said proposed district within his county. Upon the day set for the hearing upon the original petition, if it shall appear to the court from such certificate or certificates, and from such other evidence as may be adduced by any party in interest, that said protesting petition is not signed by the requisite number of owners of lands and of the requisite value as herein set forth, the court shall thereupon dismiss said protesting petition and shall proceed with the original hearing as in this section provided.

County Treasurer Determine and Certify Valuation of Land

“If the court shall find from the evidence that said protesting petition is signed by the requisite number of owners of lands, and of the requisite values, the court shall forthwith dismiss the original petition praying for the creation of the district. The finding of the court upon the question of such total valuation, the genuineness of the signatures, and all matters of law and fact incident to such determination shall be final and conclusive on all parties in interest whether appearing or not.

Dismissal of Petition

“Any owner of real property in said proposed district not having individually signed a petition for the organization of a conservancy district, and desiring to object to the organization and incorporation of said district, may, on or before the date set for the cause to be heard, file objection to the organization and incorporation of the district.

Individual May File Objections

“Such objection shall be limited to a denial of the statements in the petition and shall be heard by the court as an advanced case without unnecessary delay.

Objections Limited

“Upon the said hearing, if it shall appear that a petition for the organization of a water conservancy district has been signed and presented, as hereinabove provided, in conformity with this act, and that the allegations of the petition are true, and that no protesting petition has been filed, or if filed has been dismissed as hereinabove provided, the court shall, by order duly entered of record, adjudicate all questions of jurisdiction, declare the district organized and give it a corporate name, by which in all proceedings it shall thereafter be known, and thereupon the district shall be a political subdivision of the state of Colorado and a body corporate with all the powers of a public or municipal corporation.

Granting of Petition and Forming of District

“In such decree the court shall designate the place where the office or principal place of business of the district shall be located, which shall be within the corporate

Principal Office and Place of Business

limits of the district, and which may be changed by order of court from time to time. The regular meetings of the board shall be held at such office or place of business, but for cause may be adjourned to any other convenient place. The official records and files of the district shall be kept at the office so established.

“If the court finds that no petition has been signed and presented in conformity with this act, or that the material facts are not as set forth in the petition filed, it shall dismiss said proceedings and adjudge the costs against the signers of the petition in such proportion as it shall deem just and equitable. No appeal or writ of error shall lie from an order dismissing said proceeding; but nothing herein shall be construed to prevent the filing of a subsequent petition or petitions for similar improvements or for similar improvements or for a similar water conservancy district, and the right so to renew such proceeding is hereby expressly granted and authorized.

Dismissal of
Petition

No Appeal

Orders Final
and Binding
Except on State

“If an order be entered establishing the district, such order shall be deemed final and no appeal or writ of error shall lie therefrom, and the entry of such order shall finally and conclusively establish the regular organization of the said district against all persons except the state of Colorado, in an action in the nature of a writ of *quo warranto*, commenced by the attorney general within three months after said decree declaring such district organized as herein provided, and not otherwise. The organization of said district shall not be directly nor collaterally questioned in any suit, action or proceeding except as herein expressly authorized.”

Construction
of Act

Section 3. Nothing herein contained shall be construed to affect districts heretofore organized under the provisions of chapter 266 of the 1937 Colorado Session Laws.

Severability
Clause

Section 4. If any provision of this act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to this end the provisions of this act are hereby declared to be severable.

Safety
Clause

Section 5. It is hereby declared that this act is necessary for the immediate preservation of the public peace, health and safety.

Emergency

Section 6. In the opinion of the general assembly an emergency exists; therefore, this act shall take effect and be in force from and after its passage.

Approved: May 10, 1939.