

1943

**Amending Chapter 266 of the Laws Passed at the Thirty-First Session of the General Assembly, as Amended by Chapter 174 of the Laws Passed at the Thirty-Second Session of the General Assembly of the State of Colorado, Concerning Water Conservancy Districts.**

Colorado General Assembly

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**Recommended Citation**

Colorado General Assembly, "Amending Chapter 266 of the Laws Passed at the Thirty-First Session of the General Assembly, as Amended by Chapter 174 of the Laws Passed at the Thirty-Second Session of the General Assembly of the State of Colorado, Concerning Water Conservancy Districts." (1943). *Session Laws 1901-1950*. 5472.

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## CHAPTER 192

## WATER CONSERVATION DISTRICTS

## GENERAL POWERS

(House Bill No. 331. By Representatives Shotwell, Cawfield, Lewis, Morgan, Carlson, Jones and Kerr)

## AN ACT

AMENDING CHAPTER 266 OF THE LAWS PASSED AT THE THIRTY-FIRST SESSION OF THE GENERAL ASSEMBLY, AS AMENDED BY CHAPTER 174 OF THE LAWS PASSED AT THE THIRTY-SECOND 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 1. Section 13 of Chapter 266 of the Session Laws of Colorado, 1937, entitled, "An Act to Provide for the Organization of Water Conservancy Districts and to Define the Purposes and Power Thereof," approved May 13, 1937, appearing as Section 27 of Chapter 173 B, 1935 Colorado Statutes Annotated, as amended by an act passed at the Thirty-fourth General Assembly, known as S. B. No. 133, and approved February 25, 1943, is hereby amended so as to read as follows, to-wit:

Section Amended

Section 13. *General Powers.*

The board shall have power on behalf of said district:

General Powers

(a) To have perpetual succession.

(b) To take by appropriation, grant, purchase, bequest, devise or lease, and to hold and enjoy water, water works, water rights and sources of water supply and any and all real and personal property of any kind within or without the district necessary or convenient to the full exercise of its powers; and to sell, lease, encumber, alien or otherwise, dispose of water, water works, water rights and sources of supply of water

Acquire Real  
and Personal  
Property

for use within the district; also to acquire, construct, or operate, control and use any and all works, facilities and means necessary or convenient to the exercise of its power, both within and without the district for the purpose of providing for the use of such water within the district and to do and perform any and all things necessary or convenient to the full exercise of the powers herein granted; provided, however, that any works or facilities planned and designed for the exportation of water from the natural basin of the Colorado River and its tributaries in Colorado, by any district created under this Act, shall be subject to the provisions of the Colorado River Compact and the Boulder Canyon Project Act, as amended; that any such works or facilities shall be designed, constructed and operated in such a manner that the present appropriations of water, and in addition thereto prospective uses of water for irrigation and other beneficial consumptive-use purposes, including consumptive uses for domestic, mining and industrial purposes, within the natural basin of the Colorado River in the State of Colorado, from which water is exported, will not be impaired nor increased in cost at the expense of the water users within the said natural basin; and that the facilities and other means for the accomplishment of said purpose shall be incorporated in, and made a part of, any project plans for the exportation of water from said natural basin in Colorado.

**Eminent  
Domain**

(c) To have and to exercise the power of eminent domain and dominant eminent domain and in the manner provided by law for the condemnation of private property for public use to take any property necessary to the exercise of the powers herein granted; provided, however, such district shall not have or exercise the power of eminent domain over or by means thereof to acquire the title to or beneficial use of vested water rights for transmountain diversion, and in connection therewith such district shall not have the power to carry or transport water in transmountain diversion, the title to which has been acquired by any municipality by virtue of eminent domain proceedings against any such vested right or rights.

**Construct  
and Maintain  
Works and  
Facilities**

(d) To construct and maintain works and establish and maintain facilities across or along any public street or highway, and in, upon, or over any vacant public lands which public lands are now, or may become, the property of the state of Colorado, and to

construct works and establish and maintain facilities across any stream of water or water course; provided, however, that the district shall promptly restore any such street or highway to its former state of usefulness as nearly as may be, and shall not use the same in such manner as to completely or unnecessarily impair the usefulness thereof. The grant of the right to use such vacant State lands shall be effective upon the filing by such district with the state board of land commissioners of an application showing the boundaries, extent and locations of the lands, rights of way, or easements desired for such purposes. If the land, rights of way or easements for which application shall be made is for the construction of any aqueduct, ditch, pipeline, conduit, tunnel, or other works for the conveyance of water, or for roads, or for poles or towers, and wires for the conveyance of electrical energy or for telephonic or telegraphic communications, no compensation shall be charged the district therefor, unless in the opinion of the state board of land commissioners the construction of such works will render the remainder of the legal subdivision through which such works are to be constructed valueless or unsaleable, in which event the district shall pay for the lands to be taken and for such portion of any legal subdivision which in the opinion of the board is rendered valueless or unsaleable, at the rate of \$2.50 per acre. If the lands for which application is made are for purposes other than the construction of roads or works for the conveyance of water, or electricity or telephonic or telegraphic communication, such district shall pay to the state for such lands at the rate of \$2.50 per acre. Upon filing such application, accompanied by map or plat showing the location or proposed location of such works and/or facilities, the fee title to so much of such state lands as shall be necessary or convenient to enable such district efficiently and without interference to construct, maintain and operate its works and to establish, maintain and operate its facilities, shall be conveyed to said district by patent. If an easement or right of way only over such lands be sought by the district, such easement or right of way shall be evidenced by permit or grant executed by or on behalf of the state board of land commissioners. The state board of land commissioners may reserve easements and/or rights of way, in the public, across any lands in such patents, grants or permits described for streets, roads and highways theretofore established according to law. Before any such patent, grant or permit shall be executed, any

Land Board  
May Reserve  
Easements  
or Rights  
of Way

compensation due to the state under the provisions hereof, must be paid. No fee shall be exacted from the district for any patent, permit or grant so issued or for any service rendered hereunder. In the use of streets, the district shall be subject to the reasonable rules and regulations of the county, city or town where such streets lie, concerning excavation and the refilling of excavation, the relaying of pavements and the protection of the public during periods of construction; provided, that the district shall not be required to pay any license or permit fees, or file any bonds. The district may be required to pay reasonable inspection fees.

Contract With  
Federal  
Government

(e) To contract with the government of the United States or any agency thereof for the construction, preservation, operation and maintenance of tunnels, reservoirs, regulating basins, diversion canals and works, dams, power plants and all necessary works incident thereto, and to acquire perpetual rights to the use of water from such works; to sell and dispose of perpetual rights to the use of water from such works to persons and corporations, public and private.

Allot  
Water

(f) To list in separate ownership the lands within the district which are susceptible of irrigation from district sources and to make an allotment of water to all such lands, which allotment of water shall not exceed the maximum amount of water that the board determines could be beneficially used on such lands; to levy assessments as hereinafter provided, against the lands within the district to which water is allotted on the basis of the value per acre-foot of water allotted to said lands within the district; provided, that the board may divide the district into units and fix a different value per acre-foot of water in the respective units, and in such case shall assess the lands within each unit upon the same basis of value per acre-foot of water allotted to lands within such unit.

Fix Rates

(g) To fix rates at which water not allotted to lands is (as) hereinbefore provided, shall be sold, leased or otherwise disposed of; provided, however, that rates shall be equitable although not necessarily equal or uniform, for like classes of service throughout the district.

Make  
Contracts—  
Employ  
Agents, etc.

(h) To enter into contracts, employ and retain personal services and employ laborers; to create, establish and maintain such offices and positions as shall

be necessary and convenient for the transaction of the business of the district; and to elect, appoint and employ such officers, attorneys, agents and employees therefor as shall be found by the board to be necessary and convenient.

(i) To adopt plans and specifications for the works for which the district was organized, which plans and specifications may at any time be changed or modified by the board. Such plans shall include maps, profiles, and such other data (data) and descriptions as may be necessary to set forth the location and character of the works, and a copy thereof shall be kept in the office of the district and open to public inspection.

Adopt Plans  
and  
Specifications

(j) To appropriate and otherwise acquire water and water rights within or without the state; to develop, store and transport water; to subscribe for, purchase and acquire stock in canal companies, water companies and water users' associations; to provide, sell, lease, and deliver water for municipal and domestic purposes, irrigation, power, milling, manufacturing, mining, metallurgical and any and all other beneficial uses and to derive revenue and benefits therefrom; to fix the terms and rates therefor; and to make and adopt plans for and to acquire, construct, operate and maintain dams, reservoirs, canals, conduits, pipelines, tunnels, power plants and any and all work, facilities, improvements and property necessary or convenient therefor, and in the doing of all of said things to obligate itself and execute and perform such obligations according to the tenor thereof: provided, however, the sale, leasing and delivery of water for irrigation and domestic purposes as hereinbefore provided shall only be made for use within the district.

Appropriate,  
Acquire, or  
Store and  
Dispose of  
Water and  
Water Rights

Nothing in this Act provided shall be construed to grant to the district or board the power to generate, distribute or sell electric energy except for the operation of the works and facilities of the district.

Generating or  
Distributing  
Electrical  
Energy  
Prohibited

(k) To invest any surplus money in the district treasury, including such money as may be in any sinking fund established for the purpose of providing for the payment of the principal or interest of any contract, or bonded, or other indebtedness or for any other purpose, not required for the immediate necessities of the district, in its own bonds, or in treasury notes or bonds of the United States, or of this state, and such investment may be made by direct purchase

Invest Surplus  
Money and

of any issue of such bonds or treasury notes, or part thereof, at the original sale of the same, or by the subsequent purchase of such bonds or treasury notes. Any bonds or treasury notes thus purchased and held, may from time to time, be sold and the proceeds re-invested in bonds or treasury notes as above provided. Sales of any bonds or treasury notes thus purchased and held shall, from time to time, be made in season so that the proceeds may be applied to the purposes for which the money with which the bonds or treasury notes were originally purchased were placed in the treasury of the district.

The functions and duties authorized by this paragraph shall be performed under such rules and regulations as shall be prescribed by the board.

Refund Bonded  
Indebtedness

(l) To refund bonded indebtedness incurred by the district under and pursuant to such rules and regulations as shall be prescribed by the board.

Borrow  
Money

(m) To borrow money and incur indebtedness and to issue bonds or other evidence of such indebtedness.

Adopt  
By-Laws

(n) To adopt by-laws not in conflict with the constitution and laws of the state for carrying on the business, objects and affairs of the board and of the district.

Safety Clause

Section 2. It is hereby declared that this Act is necessary for the immediate preservation of the public peace, health and safety.

Emergency

Section 3. 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: April 20, 1943.