

CHAPTER 222

GOVERNMENT - COUNTY

HOUSE BILL 98-1305

BY REPRESENTATIVES Grossman, Gotlieb, and June;
also SENATORS Wham, Hernandez, Martinez, Tanner, and Weddig.

AN ACT

CONCERNING ADJUSTMENTS TO A LIMITED AREA OF THE BOUNDARY BETWEEN TWO CONTIGUOUS COUNTIES THAT MAY BE MADE WITHOUT AN ELECTION IF ONE OF SUCH COUNTIES EXCEEDS A POPULATION OF FOUR HUNDRED THOUSAND.

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

SECTION 1. Part 1 of article 6 of title 30, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SECTION to read:

30-6-109.7. Minor boundary adjustments - repeal. (1) (a) THE GENERAL ASSEMBLY HEREBY FINDS AND DECLARES THAT:

(I) THE EXISTENCE OF CERTAIN IRREGULAR AND IRRATIONAL BOUNDARIES BETWEEN PORTIONS OF THE CITY AND COUNTY OF DENVER AND THE NEIGHBORING COUNTIES OF ADAMS, ARAPAHOE, AND JEFFERSON HAS RESULTED IN CONFUSION AND INEFFICIENCY IN THE DELIVERY OF PUBLIC SERVICES, INCLUDING POLICE, FIRE, AND EMERGENCY MEDICAL SERVICES TO PROPERTIES ON OR NEAR SUCH BOUNDARIES; AND

(II) SUCH IRREGULAR BOUNDARIES JEOPARDIZE THE ABILITY OF LANDOWNERS TO UTILIZE AND DEVELOP THEIR PROPERTY AND IMPOSE INCREASED COSTS AND SERVICE DELAYS WHEN THOSE LANDOWNERS SEEK DEVELOPMENT APPROVAL.

(b) THE GENERAL ASSEMBLY FURTHER FINDS AND DECLARES THAT IT IS THE PURPOSE OF THIS SECTION TO:

(I) CREATE A STATUTORY MECHANISM, PERMITTED BY SECTION 3 OF ARTICLE XIV OF THE COLORADO CONSTITUTION, THAT PROVIDES LANDOWNERS WITH A LIMITED MEANS BY WHICH SUCH IRREGULAR AND IRRATIONAL BOUNDARIES MAY BE CORRECTED FOR TERRITORY LOCATED IN THE CITY AND COUNTY OF DENVER AND IN

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

THE COUNTIES OF ADAMS, ARAPAHOE, AND JEFFERSON;

(II) LIMIT THE MINOR BOUNDARY ADJUSTMENTS UNDER THIS SECTION TO NO MORE THAN FIFTY ACRES PER ADJUSTMENT AND TO NO MORE THAN TWO HUNDRED FIFTY ACRES FOR EACH SUCH COUNTY; AND

(III) PERMIT A MINOR COUNTY BOUNDARY ADJUSTMENT ONLY IF SUCH ADJUSTMENT IS REQUESTED BY ONE HUNDRED PERCENT OF THE LANDOWNERS OF PROPERTY WITHIN THE TERRITORY THAT IS SUBJECT TO SUCH ADJUSTMENT AND ONLY AFTER THE CONSENT OF ALL AFFECTED COUNTIES, MUNICIPALITIES, AND SCHOOL DISTRICTS HAS BEEN OBTAINED.

(2) ANY PROVISION OF THIS ARTICLE TO THE CONTRARY NOTWITHSTANDING, A PORTION OF THE TERRITORY OF ONE COUNTY MAY BE STRICKEN OFF AND ADDED TO AN ADJOINING COUNTY WITHOUT AN ELECTION PURSUANT TO THE PROCEDURE CONTAINED IN THIS SECTION.

(3) (a) A PETITION INITIATING A MINOR BOUNDARY ADJUSTMENT THAT IS SIGNED BY ONE HUNDRED PERCENT OF THE LANDOWNERS OF THE TERRITORY OF A COUNTY PROPOSED TO BE STRICKEN OFF MAY BE SUBMITTED TO THE BOARD OF COUNTY COMMISSIONERS IN WHICH SUCH TERRITORY IS SITUATE. THE PETITION SHALL INCLUDE A MAP, SURVEY, AND LEGAL DESCRIPTION GIVING THE AREA AND GENERAL BOUNDARIES OF SUCH TERRITORY.

(b) UPON RECEIPT OF THE PETITION, THE BOARD OF COUNTY COMMISSIONERS IN WHICH SUCH TERRITORY IS SITUATE SHALL CONDUCT A HEARING ON THE PETITION AFTER NOT LESS THAN THIRTY DAYS' NOTICE TO THE PUBLIC AND ALLOW THE OPPORTUNITY FOR ORAL AND WRITTEN COMMENT ON THE PETITION. SUCH NOTICE SHALL BE PUBLISHED IN AT LEAST ONE NEWSPAPER OF GENERAL CIRCULATION IN SUCH TERRITORY. ALL OWNERS OF REAL PROPERTY IN THE TERRITORY AND ANY SPECIAL DISTRICT ORGANIZED PURSUANT TO TITLE 32, C.R.S., THAT SERVES THE TERRITORY ARE TO BE NOTIFIED OF SUCH HEARING BY FIRST CLASS MAIL NOT LESS THAN TEN DAYS AND NOT MORE THAN THIRTY DAYS BEFORE THE HEARING.

(c) FOLLOWING SUCH HEARING, THE BOARD OF COUNTY COMMISSIONERS IN WHICH SUCH TERRITORY IS SITUATE SHALL ACT BY RESOLUTION TO APPROVE OR DENY THE MINOR BOUNDARY ADJUSTMENT INITIATED BY THE PETITION. IN THE EVENT THE MINOR BOUNDARY ADJUSTMENT IS DENIED, NO FURTHER ACTION SHALL BE TAKEN.

(d) AS USED IN THIS SUBSECTION (3), "LANDOWNER" MEANS THE OWNER IN FEE OF ANY UNDIVIDED INTEREST IN A GIVEN PARCEL OF LAND THAT IS WITHIN THE BOUNDARIES OF THE TERRITORY OF THE COUNTY PROPOSED TO BE STRICKEN OFF. IF THE MINERAL ESTATE HAS BEEN SEVERED, THE LANDOWNER IS THE OWNER IN FEE OF AN UNDIVIDED INTEREST IN THE SURFACE ESTATE AND NOT THE OWNER IN FEE OF AN UNDIVIDED INTEREST IN THE MINERAL ESTATE.

(4) NO RESOLUTION APPROVING A BOUNDARY ADJUSTMENT SHALL BE ADOPTED OR EFFECTIVE PURSUANT TO THIS SECTION UNLESS:

(a) THE TERRITORY TO BE STRICKEN OFF AND ADDED TO AN ADJOINING COUNTY IS CONTIGUOUS TO SUCH ADJOINING COUNTY;

(b) THE TOTAL AREA OF THE TERRITORY TO BE STRICKEN OFF AND ADDED TO AN ADJOINING COUNTY DOES NOT EXCEED FIFTY ACRES;

(c) BOTH THE COUNTY FROM WHICH SUCH TERRITORY IS TO BE STRICKEN OFF AND THE ADJOINING COUNTY TO WHICH SUCH TERRITORY IS TO BE ADDED ARE REPRESENTED ON THE BOUNDARY CONTROL COMMISSION ESTABLISHED BY SECTION 1 OF ARTICLE XX OF THE COLORADO CONSTITUTION AND THE GOVERNING BODIES OF SUCH COUNTIES HAVE CONSENTED BY RESOLUTION TO THE ADJUSTMENT;

(d) AS TO ANY COUNTY BOUNDARY ADJUSTMENT UNDER THIS SECTION WHICH WILL RESULT IN THE DETACHMENT OF AREA FROM ANY SCHOOL DISTRICT AND THE ATTACHMENT OF THE SAME TO ANOTHER SCHOOL DISTRICT, THE BOARD OF DIRECTORS OF THE SCHOOL DISTRICT TO WHICH SUCH AREA WILL BE ATTACHED AND THE BOARD OF DIRECTORS OF THE SCHOOL DISTRICT FROM WHICH SUCH AREA WILL BE DETACHED HAVE CONSENTED BY RESOLUTION TO SUCH ADJUSTMENT;

(e) THE GOVERNING BODY OF ANY MUNICIPALITY HAVING INCORPORATED TERRITORY CONTIGUOUS TO OR CONTAINED WITHIN ANY PORTION OF THE TERRITORY TO BE STRICKEN OFF HAS CONSENTED, BY ORDINANCE OR RESOLUTION, TO SUCH ADJUSTMENT.

(5) IF A MINOR BOUNDARY ADJUSTMENT IS APPROVED PURSUANT TO THIS SECTION, THE BOARD OF COUNTY COMMISSIONERS OF THE COUNTY FROM WHICH SUCH TERRITORY IS TO BE STRICKEN OFF SHALL NEGOTIATE AN INTERGOVERNMENTAL AGREEMENT WITH THE ADJOINING COUNTY TO WHICH SUCH TERRITORY IS TO BE ADDED. THE INTERGOVERNMENTAL AGREEMENT SHALL SET FORTH THE TERMS ADJUSTING THE BOUNDARY OF EACH COUNTY AND SHALL INCLUDE, BUT NOT BE LIMITED TO, THE FOLLOWING:

(a) A DESCRIPTION OF THE PURPOSE OF THE MINOR BOUNDARY ADJUSTMENT AND OF THE PETITION INITIATING SUCH ADJUSTMENT;

(b) A PROVISION SPECIFYING THAT OBLIGATIONS THAT ARE IN ANY WAY SECURED BY PROPERTY TAXES OR OTHER REVENUE STREAMS FROM THE TERRITORY TO BE STRICKEN OFF SHALL BE PAID AS PROVIDED IN SECTION 30-6-109.

(6) UPON APPROVAL BY BOTH COUNTIES OF AN INTERGOVERNMENTAL AGREEMENT DESCRIBED IN SUBSECTION (5) OF THIS SECTION, THE BOARD OF COUNTY COMMISSIONERS OF EACH COUNTY THAT IS A PARTY TO THE AGREEMENT SHALL ADOPT A RESOLUTION APPROVING THE MINOR BOUNDARY ADJUSTMENT. A COPY OF EACH RESOLUTION SHALL BE RECORDED IN THE DEED RECORDS OF EACH COUNTY PURSUANT TO SECTION 30-6-108. EFFECTIVE UPON SUCH RECORDATION, THE NEW COUNTY BOUNDARY SO ESTABLISHED SHALL BE THE LAWFULLY CONSTITUTED LINE BETWEEN EACH COUNTY, AND THE TERRITORY STRICKEN OFF FROM ONE COUNTY AND ADDED TO THE ADJOINING COUNTY SHALL BE SUBJECT TO THE JURISDICTION OF SUCH ADJOINING COUNTY AND A PART AND PARCEL OF THE AREA OF SUCH ADJOINING COUNTY; EXCEPT THAT THE EFFECTIVE DATE OF SUCH NEW BOUNDARY FOR THE PURPOSE OF GENERAL TAXATION SHALL BE ON AND AFTER THE NEXT JANUARY 1.

(7) NOT MORE THAN TWO HUNDRED FIFTY ACRES MAY BE STRICKEN FROM OR ADDED TO ANY COUNTY PURSUANT TO THE PROVISIONS OF THIS SECTION.

(8) NOTWITHSTANDING ANY PROVISION OF THIS SECTION TO THE CONTRARY, NO TERRITORY OF A COUNTY THAT CONTAINS AN OCCUPIED RESIDENTIAL UNIT MAY BE STRICKEN OFF AND ADDED TO AN ADJOINING COUNTY PURSUANT TO THIS SECTION. AS USED IN THIS SUBSECTION (8), "OCCUPIED RESIDENTIAL UNIT" MEANS A BUILDING, OR THAT PORTION OF A BUILDING, DESIGNED FOR USE PREDOMINANTLY AS A PLACE OF RESIDENCY BY A PERSON, A FAMILY, OR FAMILIES.

(9) IN ADDITION TO ANY OTHER REQUIREMENTS CONTAINED IN THIS SECTION, PRIOR TO THE INITIATION OF ANY MINOR BOUNDARY ADJUSTMENT IN WHICH TERRITORY IS PROPOSED TO BE STRICKEN OFF OF THE COUNTIES OF ADAMS, ARAPAHOE, OR JEFFERSON AND ADDED TO THE CITY AND COUNTY OF DENVER, A DECISION APPROVING THE PROPOSED MINOR BOUNDARY ADJUSTMENT SHALL BE MADE BY A MAJORITY VOTE OF THE SIX-MEMBER BOUNDARY CONTROL COMMISSION, ESTABLISHED BY SECTION 1 OF ARTICLE XX OF THE STATE CONSTITUTION.

(10) THIS SECTION IS REPEALED, EFFECTIVE ON THE DATE THAT IS FIVE YEARS FROM THE EFFECTIVE DATE OF THIS ACT.

SECTION 2. Effective date. This act shall take effect at 12:01 a.m. on the day following the expiration of the ninety-day period after final adjournment of the general assembly that is allowed for submitting a referendum petition pursuant to article V, section 1 (3) of the state constitution; except that, if a referendum petition is filed against this act or an item, section, or part of this act within such period, then the act, item, section, or part, if approved by the people, shall take effect on the date of the official declaration of the vote thereon by proclamation of the governor.

Approved: May 22, 1998