

CHAPTER 163

AGRICULTURE

HOUSE BILL 02-1099

BY REPRESENTATIVE(S) Webster, Alexander, Coleman, Hodge, Hoppe, Rippey, Smith, and White;
also SENATOR(S) Owen, Chlouber, Entz, and Taylor.

AN ACT

CONCERNING THE NOMENCLATURE APPLICABLE TO AGENCIES WITHIN THE DEPARTMENT OF AGRICULTURE, AND, IN CONNECTION THEREWITH, CHANGING THE NAMES OF THE SOIL CONSERVATION BOARD AND SOIL CONSERVATION DISTRICTS TO THE CONSERVATION BOARD AND CONSERVATION DISTRICTS, RESPECTIVELY.

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

SECTION 1. Article 70 of title 35, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SECTION to read:

35-70-102.5. Legislative Declaration - change of name - continuity of existence. (1) THE GENERAL ASSEMBLY HEREBY FINDS AND DECLARES THAT:

(a) UPON CREATION IN ARTICLE 70 OF TITLE 35, COLORADO REVISED STATUTES, THE NAME "SOIL CONSERVATION DISTRICT" BEST REFLECTED THE ACTIVITIES OF SUCH DISTRICTS THROUGHOUT THIS STATE;

(b) TO BETTER REFLECT THE CURRENT ACTIVITIES OF THE SOIL CONSERVATION DISTRICTS IN THIS STATE, EACH SUCH DISTRICT SHOULD BE REFERRED TO AS A "CONSERVATION DISTRICT"; AND

(c) THE NAME OF THE STATE BOARD GOVERNING ALL SUCH DISTRICTS SHOULD ACCORDINGLY BE CHANGED FROM THE "SOIL CONSERVATION BOARD" TO THE "CONSERVATION BOARD".

(2) (a) ON AND AFTER JULY 1, 2002, THE CONSERVATION BOARD SHALL EXECUTE, ADMINISTER, PERFORM, AND ENFORCE THE RIGHTS, POWERS, DUTIES, FUNCTIONS, AND OBLIGATIONS VESTED IN THE SOIL CONSERVATION BOARD PRIOR TO JULY 1, 2002, AND ALL EMPLOYEES OF THE SOIL CONSERVATION BOARD SHALL BE TRANSFERRED TO THE

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

CONSERVATION BOARD AND SHALL BECOME EMPLOYEES THEREOF. SUCH EMPLOYEES SHALL RETAIN ALL RIGHTS TO THE STATE PERSONNEL SYSTEM AND RETIREMENT BENEFITS UNDER THE LAWS OF THIS STATE, AND THEIR SERVICES SHALL BE DEEMED TO HAVE BEEN CONTINUOUS. ALL TRANSFERS AND ANY ABOLISHMENT OF POSITIONS IN THE STATE PERSONNEL SYSTEM SHALL BE MADE AND PROCESSED IN ACCORDANCE WITH STATE PERSONNEL SYSTEM LAWS AND RULES AND REGULATIONS.

(b) ON JULY 1, 2002, ALL ITEMS OF PROPERTY, REAL AND PERSONAL, INCLUDING OFFICE FURNITURE AND FIXTURES, BOOKS, DOCUMENTS, AND RECORDS OF THE SOIL CONSERVATION BOARD ARE TRANSFERRED TO THE CONSERVATION BOARD AND SHALL BECOME THE PROPERTY THEREOF.

(c) WHENEVER THE SOIL CONSERVATION BOARD IS REFERRED TO OR DESIGNATED BY ANY CONTRACT OR OTHER DOCUMENT, SUCH REFERENCE OR DESIGNATION SHALL BE DEEMED TO APPLY TO THE CONSERVATION BOARD. ALL CONTRACTS ENTERED INTO BY THE SOIL CONSERVATION BOARD PRIOR TO JULY 1, 2002, ARE HEREBY VALIDATED, WITH THE CONSERVATION BOARD SUCCEEDING TO ALL THE RIGHTS AND OBLIGATIONS OF SUCH CONTRACTS. ANY APPROPRIATIONS OF FUNDS FROM PRIOR FISCAL YEARS OPEN TO SATISFY OBLIGATIONS INCURRED UNDER SUCH CONTRACTS ARE HEREBY TRANSFERRED AND APPROPRIATED TO THE CONSERVATION BOARD FOR THE PAYMENT OF SUCH OBLIGATIONS.

(d) EACH SOIL CONSERVATION DISTRICT DULY ORGANIZED PURSUANT TO THIS ARTICLE PRIOR TO JULY 1, 2002, IS HEREBY RECOGNIZED AS A DULY ORGANIZED CONSERVATION DISTRICT, AND ITS EXISTENCE SHALL BE DEEMED TO HAVE BEEN CONTINUOUS. WHENEVER A SOIL CONSERVATION DISTRICT IS REFERRED TO OR DESIGNATED BY ANY CONTRACT OR OTHER DOCUMENT, SUCH REFERENCE OR DESIGNATION SHALL BE DEEMED TO APPLY TO THE CONSERVATION DISTRICT. ALL CONTRACTS ENTERED INTO BY SUCH SOIL CONSERVATION DISTRICT PRIOR TO JULY 1, 2002, ARE HEREBY VALIDATED, WITH THE CONSERVATION DISTRICT SUCCEEDING TO ALL THE RIGHTS AND OBLIGATIONS OF SUCH CONTRACTS.

(3) ON AND AFTER JULY 1, 2002, WHEN ANY PROVISION OF THE COLORADO REVISED STATUTES REFERS TO THE SOIL CONSERVATION BOARD OR TO A SOIL CONSERVATION DISTRICT, SAID LAW SHALL BE CONSTRUED AS REFERRING TO THE CONSERVATION BOARD OR TO A CONSERVATION DISTRICT, RESPECTIVELY. THE REVISOR OF STATUTES IS AUTHORIZED TO CHANGE ALL REFERENCES IN THE COLORADO REVISED STATUTES TO THE SOIL CONSERVATION BOARD AND TO SOIL CONSERVATION DISTRICTS TO REFER TO THE CONSERVATION BOARD AND CONSERVATION DISTRICTS.

SECTION 2. 24-1-123 (4) (i), Colorado Revised Statutes, is amended to read:

24-1-123. Department of agriculture - creation. (4) The department of agriculture shall consist of the following divisions:

(i) The state soil conservation board, created in article 70 of title 35, C.R.S. All its powers, duties, and functions are transferred by a **type 1** transfer to the department of agriculture as a division thereof. The employees of the state soil conservation board appointed pursuant to section 35-70-103 (5) (g), C.R.S., are transferred to the department of agriculture by a **type 2** transfer.

SECTION 3. 24-65.1-202 (2) (a) (I) and (2) (b), Colorado Revised Statutes, are amended to read:

24-65.1-202. Criteria for administration of areas of state interest.

(2) (a) Natural hazard areas shall be administered as follows:

(I) Floodplains shall be administered so as to minimize significant hazards to public health and safety or to property. The Colorado water conservation board shall promulgate a model floodplain regulation no later than September 30, 1974. Open space activities such as agriculture, recreation, and mineral extraction shall be encouraged in the floodplains. Any combination of these activities shall be conducted in a mutually compatible manner. Building of structures in the floodplain shall be designed in terms of the availability of flood protection devices, proposed intensity of use, effects on the acceleration of floodwaters, potential significant hazards to public health and safety or to property, and other impact of such development on downstream communities such as the creation of obstructions during floods. Activities shall be discouraged ~~which~~ THAT, in time of flooding, would create significant hazards to public health and safety or to property. Shallow wells, solid waste disposal sites, and septic tanks and sewage disposal systems shall be protected from inundation by floodwaters. Unless an activity of state interest is to be conducted therein, an area of corrosive soil, expansive soil and rock, or siltation shall not be designated as an area of state interest unless the Colorado ~~soil~~ conservation board, through the local ~~soil~~ conservation district, identifies such area for designation.

(b) After promulgation of guidelines for land use in natural hazard areas by the Colorado water conservation board, the Colorado ~~soil~~ conservation board through the ~~soil~~ conservation districts, the Colorado state forest service, and the Colorado geological survey, natural hazard areas shall be administered by local government in a manner ~~which~~ THAT is consistent with the guidelines for land use in each of the natural hazard areas.

SECTION 4. 24-65.1-302 (2) (a) and (2) (e), Colorado Revised Statutes, are amended to read:

24-65.1-302. Functions of other state agencies. (2) Primary responsibility for the recommendation and provision of technical assistance functions described in subsection (1) of this section is upon:

(a) The Colorado water conservation board, acting in cooperation with the Colorado ~~soil~~ conservation board, with regard to floodplains;

(e) The Colorado ~~soil~~ conservation board and ~~soil~~ conservation districts, with regard to resource data inventories, soils, soil suitability, erosion and sedimentation, floodwater problems, and watershed protection; and

SECTION 5. 34-32-105 (2), Colorado Revised Statutes, is amended to read:

34-32-105. Office of mined land reclamation - mined land reclamation board - created. (2) The board shall consist of seven members: The executive director, who shall serve as secretary to the board; a member of the state ~~soil~~ conservation board appointed by such board; and five persons appointed by the governor with the

consent of the senate. Such appointed members shall be: Three individuals with substantial experience in agriculture or conservation no more than two of whom shall have had experience in agriculture or conservation; and two individuals with substantial experience in the mining industry. Effective July 1, 1976, the terms of office of the existing members of the mined land reclamation board shall terminate, and, prior thereto, the governor shall appoint two members of the board, effective July 1, 1976, whose terms of office shall expire March 1, 1977, and three members of the board, effective July 1, 1976, whose terms of office shall expire March 1, 1979. Subsequent appointments shall be made for a term of four years. Vacancies shall be filled in the same manner as original appointments for the balance of the unexpired term. All members of the board shall be residents of the state of Colorado. All members of the board except for the executive director shall receive compensation for their service on the board at the rate of fifty dollars per diem and shall be reimbursed for necessary expenses incurred in the performance of their duties on the board. The board shall, by majority vote of all members, elect its ~~chairman~~ CHAIRPERSON from among the appointed members at its first meeting in July, 1976, and the board shall elect its ~~chairman~~ CHAIRPERSON from among the appointed members biannually thereafter.

SECTION 6. 34-32-106 (2), Colorado Revised Statutes, is amended to read:

34-32-106. Duties of the board. (2) It is the duty of the department of agriculture, the department of higher education, the state ~~soil~~ conservation board, the Colorado geological survey, the division of parks and outdoor recreation, the division of wildlife, the division of water resources, the university of Colorado, Colorado state university, Colorado school of mines, and the state forester to furnish the board and its designees, as far as practicable, whatever data and technical assistance the board may request and deem necessary for the performance of total reclamation and enforcement duties.

SECTION 7. 34-33-106 (2), Colorado Revised Statutes, is amended to read:

34-33-106. Additional duties of the division. (2) It is the duty of the department of agriculture, the department of higher education, the department of public health and environment, the state ~~soil~~ conservation board, the Colorado geological survey, the division of parks and outdoor recreation, the division of water resources, the division of wildlife, the university of Colorado, Colorado state university, Colorado school of mines, and the state forester to furnish the board and its designees, as far as practicable, whatever data and technical assistance the board may request and deem necessary for the performance of reclamation and enforcement duties pursuant to this article.

SECTION 8. The introductory portion to 35-70-103 (1) (a), Colorado Revised Statutes, is amended to read:

35-70-103. State conservation board - composition - powers. (1) (a) There is hereby created in the department of agriculture the state ~~soil~~ conservation board, referred to in this article as the "state board", which shall consist of nine members. One member shall be a qualified elector of the state appointed by the governor from the state at large for a term commencing January 1, 1974. The remaining eight positions on the state board shall be filled by elections held within the areas described

in this section. The boards of supervisors of local soil conservation districts within each such area shall elect the number of members specified in this subsection (1) between November 1 and December 31 in 1973 for terms commencing January 1, 1974, and within such dates in succeeding years as necessary to fill expiring terms. A candidate shall be or shall have been an elected supervisor of a local soil conservation district. The number of members to be elected and the areas from which they are to be elected are as follows:

SECTION 9. 35-72-103 (1), Colorado Revised Statutes, is amended to read:

35-72-103. Action by county commissioners - emergency conditions.

(1) When the board of any county of the state is advised, in writing, or otherwise informed that soil is blowing from any land in the county and is supplied with a description of such land and it appears that, by reason of such blowing from any land in the county, private property, including but not limited to crops, grasslands, fences, fencerows, irrigation canals, ditches, or livestock on adjacent or other land, or roads, barrow ditches, fences, or other public property is being damaged, such board shall, as soon as practicable, give notice of such complaint to the owner or occupier of the land from which soil is blowing and inspect or cause to be inspected such land. If the board finds, after consultation with a member or members of the local district board of directors, with the state soil conservation board, or with local owners or occupiers, including the owner or occupier of the land from which soil is blowing, that soil is blowing from such land in sufficient quantity to be injurious to private property, including but not limited to crops, grasslands, fences, fencerows, irrigation canals, ditches, or livestock on adjacent or other land, or to roads, barrow ditches, fences, or other public property because of soil being blown thereon, such board shall determine what, if anything, can be done to prevent or materially lessen such blowing of soil from such land. If the board determines, after such consultation, that the complaint lodged with it falls under the provisions of article 3.5 of this title, no further action shall be taken by the board. If the board finds, after such consultation, that an emergency exists, that such blowing is occurring, that it can be prevented or materially lessened by treatment of the soil, and that property damage appears to be resulting therefrom, such board shall issue a citation to the owner as listed upon the records of the county assessor and to the occupier, if known to such board, specifying the nature of the treatment required and the extent thereof and the date by which such treatment is to be commenced and the date it is to be completed.

SECTION 10. 24-30-1502 (4.3) and (5), Colorado Revised Statutes, are amended to read:

24-30-1502. Definitions. As used in this part 15, unless the context otherwise requires:

(4.3) "Liability protection" means professional liability protection for damages from any negligent professional act, error, or omission on the part of the members of the board of supervisors of each local soil conservation district.

(5) "State agency" means any principal department of the state, any state agency, institution, or hospital, any board, commission, advisory board, or other entity established by law within or as an advisory to any existing state department, institution, or agency, and any state-supported institution of higher education or other

instrumentality thereof, except as provided in section 24-30-1517 (2), and the legislative and judicial departments of the state. The term also includes the Colorado state fair authority created pursuant to section 35-65-401, C.R.S., and any ~~soil~~ conservation district organized and certified pursuant to article 70 of title 35, C.R.S.; except that, in the case of ~~soil~~ conservation districts, such inclusion under the risk management fund is only for the purpose of liability protection as defined in subsection (4.3) of this section.

SECTION 11. 25-8-205 (5), Colorado Revised Statutes, is amended to read:

25-8-205. Control regulations. (5) The commission shall not adopt control regulations ~~which~~ THAT require agricultural nonpoint source dischargers to utilize treatment techniques ~~which~~ THAT require additional consumptive or evaporative use which would cause material injury to water rights. With regard to nonpoint source water pollution control related to agricultural practices, the commission and division shall pursue incentive, grant, and cooperative programs in preference to the promulgation of control regulations. When interested water conservation districts, water conservancy districts, and ~~soil~~ conservation districts recommend nonpoint source control activities related to agricultural practices to the division and commission, the division and commission, after consultation with such districts, shall give substantial weight to the recommendations of such districts into the approved program. Except as provided by section 25-8-205.5, control regulations related to agricultural practices shall be promulgated only if incentive, grant, and cooperative programs are determined by the commission to be inadequate and such regulations are necessary to meet state law or the federal act. This subsection (5) does not allocate wasteloads or relieve any source from participation in wasteload allocations determined necessary under any duly promulgated regulations established by the water quality control commission under this section.

SECTION 12. 25-8.5-102 (8), Colorado Revised Statutes, is amended, and the said 25-8.5-102 is further amended BY THE ADDITION OF A NEW SUBSECTION, to read:

25-8.5-102. Definitions. As used in this article, unless the context otherwise requires:

(3.5) "CONSERVATION DISTRICT" MEANS ANY CONSERVATION DISTRICT CREATED PURSUANT TO ARTICLE 70 OF TITLE 35, C.R.S.

~~(8) "Soil conservation district" means any soil conservation district created pursuant to article 70 of title 35, C.R.S.~~

SECTION 13. 25-8.5-108 (1) (a), Colorado Revised Statutes, is amended to read:

25-8.5-108. Ex officio members. (1) Ex officio members shall be provided with notice of the authority meetings. Ex officio members shall not serve on the board. Ex officio members are not voting members. The following shall be considered ex officio members:

(a) Every ~~soil~~ conservation district of which more than two-thirds of its territory is included within the authority's boundaries;

SECTION 14. 30-28-136 (1) (f), Colorado Revised Statutes, is amended to read:

30-28-136. Referral and review requirements. (1) Upon receipt of a complete preliminary plan submission, the board of county commissioners or its authorized representative shall distribute copies of prints of the plan as follows:

(f) To the local ~~soil~~ conservation district board within the county for explicit review and recommendations regarding soil suitability, floodwater problems, and watershed protection. Such referral shall be made even though all or part of a proposed subdivision is not located within the boundaries of a conservation district.

SECTION 15. 34-32-116 (7) (j) and (7) (n), Colorado Revised Statutes, are amended to read:

34-32-116. Duties of operators - reclamation plans. (7) Reclamation plans and the implementation thereof shall conform to the following general requirements:

(j) On all affected land, the operator in consultation with the landowner where possible, subject to the approval of the board, shall determine which parts of the affected land shall be reclaimed for forest, range, crop, horticultural, homesite, recreational, industrial, or other uses, including food, shelter, and ground cover for wildlife. Prior to approving any new reclamation plan or approving a change in any existing reclamation plan as provided in this section, the board shall confer with the local board of county commissioners and the board of supervisors of the ~~soil~~ conservation district if the mining operation is within the boundaries of a ~~soil~~ conservation district. Reclamation shall be required on all the affected land.

(n) If the operator's choice of reclamation is for range, the affected land shall be restored to the satisfaction of the board to slopes commensurate with the proposed land use and shall not be too steep to be traversed by livestock. The legume seed shall be properly inoculated in all cases. The area may be seeded either by hand or power or by the aerial method. The species of grasses and legumes and the rates of seeding to be used per acre shall be determined primarily by recommendations from the agricultural experiment stations established pursuant to article 33 of title 23, C.R.S., and experienced reclamation personnel of the operator, after considering other research or successful experience with range seeding. No grazing shall be permitted on reclaimed land until the planting is firmly established. The board, in consultation with the landowner and the local ~~soil~~ conservation district, if any, shall determine when grazing may start.

SECTION 16. 34-32.5-116 (4) (m) and (4) (n), Colorado Revised Statutes, are amended to read:

34-32.5-116. Duties of operators - reclamation plans. (4) Reclamation plans and their implementation are required on all affected lands and shall conform to the following requirements:

(m) With respect to all affected land, the operator, in consultation with the landowner where possible subject to the approval of the board, shall determine which parts of the affected land shall be reclaimed for forest, range, crop, horticultural, homesite, recreational, industrial, or other uses, including food, shelter, and ground

cover for wildlife. Before approving a new reclamation plan or a change in an existing reclamation plan, the board may confer with the local board of county commissioners and the board of supervisors of the ~~soil~~ conservation district if the mining operation is within the boundaries of a ~~soil~~ conservation district.

(n) If the operator's choice of reclamation is for range, the affected land shall be restored to slopes commensurate with the proposed land use that shall not be too steep to be traversed by livestock. No grazing shall be permitted on reclaimed land until the planting is firmly established. The board, in consultation with the landowner and the local ~~soil~~ conservation district, if any, shall determine when grazing may start.

SECTION 17. 35-70-103 (5) (a), (5) (d), (5) (g), (5) (h), and (6) (c), Colorado Revised Statutes, are amended to read:

35-70-103. State conservation board - composition - powers. (5) The state board has the following powers and duties:

(a) To promote and assist in the organization of ~~soil~~ conservation districts in any section of the state where erosion damage exists or is threatened;

(d) To act in an advisory capacity with the board of supervisors of each district and to coordinate the programs of all ~~soil~~ conservation districts;

(g) To administer and disburse any funds ~~which~~ THAT may be made available to the state board for the purpose of assisting ~~soil~~ conservation districts in the conservation of soil and water resources of the state of Colorado and to defray expenses of the state board and its duly appointed or employed agents in carrying out the provisions of this article;

(h) To loan money to ~~soil~~ conservation districts to assist such districts in furthering the purposes of this article, such loans to be in such amounts and for such terms as the state board may prescribe by rule ~~and regulation~~ in order to fully protect the funds and interest of the state board.

(6) In addition to the powers and duties granted to the state board in other sections of this article, the board has the following powers and duties:

(c) To plan, in cooperation with the United States government or any of its agencies, the state of Colorado or any of its political subdivisions, and private individuals or corporations, ~~soil~~ conservation districts, and others, watershed improvement, underground water storage and flood prevention projects, conservation and erosion control practices, and other projects not inconsistent with this article;

SECTION 18. 35-70-104 (1), Colorado Revised Statutes, is amended to read:

35-70-104. Petition for organization of district - qualified electors. (1) Proceedings to determine whether or not a ~~soil~~ conservation district shall be organized shall be instituted by a petition addressed to the state board ~~which shall be~~ AND signed by not less than twenty-five percent of the owners of land within the district and who own not less than half of the area to be included within the proposed district. A determination after hearing by the state board that the requisite number

of landowners have signed such petition and that such petition has been signed by landowners who own not less than half of the area to be included within the proposed district shall be final and conclusive unless objection is made to the sufficiency of such petition and appeal is taken from the determination of the board.

SECTION 19. 35-70-105 (1) (a), (1) (d), (5) (c), and (6), Colorado Revised Statutes, are amended to read:

35-70-105. Hearing on petition - election. (1) Within sixty days after it receives a petition, the state board shall cause notice by publication to be made of the pendency of the petition. Such notice shall state:

(a) That a petition has been filed for the organization of a ~~soil~~ conservation district and the name of the proposed district;

(d) That anytime after the filing of the petition for the organization of a ~~soil~~ conservation district, but no later than five days before the day fixed for the hearing thereon, the owner of any real property within the proposed district may file a petition with the state board stating reasons why said property should not be included therein and requesting that said real property be excluded therefrom. Such petition shall be duly verified and shall describe the property sought to be excluded. The state board shall hear said petition and all objections thereto at the time of the hearing on the petition for organization and shall determine whether, in the best public interest, said property should be excluded or included in the proposed district.

(5) (c) At such election the qualified voter shall vote for or against the organization of the ~~soil~~ conservation district.

(6) For the purposes of this section, "publication" means printing, once a week for two consecutive weeks, by two publications in one newspaper of general circulation in the proposed ~~soil~~ conservation district if there is such a newspaper, and, if not, then in a newspaper in the county in which the proposed ~~soil~~ conservation district is located. It is not necessary that publication be made on the same day of each week.

SECTION 20. 35-70-106, Colorado Revised Statutes, is amended to read:

35-70-106. Creation of district - certification. Within sixty days after the holding of such election, if more than a majority of the votes cast are for organization of such proposed district, the state board shall certify to the division of local government in the department of local affairs a statement of such election and the result thereof, together with a map or plat showing the area included within such district. The director of said division shall thereupon execute and deliver to the state board a certificate declaring the area within the boundaries of such district to be a lawful ~~soil~~ conservation district under its name as shown in the records, and thereafter such district shall be a public body corporate and shall have all the powers and duties imposed upon such districts under the provisions of this article.

SECTION 21. The introductory portion to 35-70-108 (1) and 35-70-108 (1) (m), Colorado Revised Statutes, are amended to read:

35-70-108. Powers and duties of districts. (1) A ~~soil~~ conservation district, in

the exercise of its public powers, has the following powers and duties in addition to others granted in this article, which powers and duties may be exercised by the supervisors subject to the rules, regulations, and bylaws adopted by such district and to the direction of the qualified voters at any regular or regularly called special meeting of the district:

(m) To make contributions of information, data, statistics, funds, or other contributions valuable in the furtherance of land conservation to any state association or other organization representing the interests of ~~soil~~ conservation districts in the state in the accomplishment of that purpose;

SECTION 22. 35-70-109 (3), Colorado Revised Statutes, is amended to read:

35-70-109. Assessments - amendments to bylaws. (3) The bylaws of any ~~soil~~ conservation district may be altered, amended, or repealed or additions made thereto at any regular or regularly called special meeting of the district, upon compliance with the following requirements: A petition whose text sets forth the proposed amendment in full, signed by not less than three percent or fifty of the qualified voters of the district, whichever is less, must be filed with the supervisors; the complete text of the proposed amendment must be published in the notice of the meeting at which it is to be considered, which notice must be published at least once in a newspaper of general circulation within each county in which property included within the district is located, not less than ten days prior to the said meeting; and those present at the said meeting at which the proposed amendment is to be considered shall constitute a quorum for the consideration of the proposed amendment, and the affirmative vote of a two-thirds majority thereof shall be required to adopt the proposed amendment.

SECTION 23. 35-70-115 (1) (a), (1) (c), (1) (d), (2), and (5), the introductory portion to 35-70-115 (7), and 35-70-115 (7) (f) and (10), Colorado Revised Statutes, are amended to read:

35-70-115. Additions and withdrawals. (1) (a) If any owner of lands adjoining or in the immediate vicinity of the boundary of an established ~~soil~~ conservation district desires to have his OR HER lands included within the district, ~~he~~ THE OWNER may petition the supervisors of the district, stating the legal description of the lands affected and the reasons why it is desired to have such lands included within the district and shall accompany the petition with two maps showing the outer boundaries of the lands petitioned to be included within the district.

(c) When, in the opinion of the supervisors, there is public land owned by the United States government ~~which~~ THAT, by reason of its topography, drainage, and other factors, should be included in the ~~soil~~ conservation district, the supervisors may file with the clerk and recorder of the county in which the land is situated a notice of inclusion of said land in the ~~soil~~ conservation district. A copy of said notice shall be served personally or by registered mail, return receipt requested, upon the head of the agency controlling said land, and, at the discretion of the board, information copies may be provided to local agency officials. Said notice shall describe the land to be included within the district and shall further state that said land shall, on the sixtieth day after personal service or delivery of said notice by registered mail, be deemed to be within the district until and unless the controlling agency files a statement with the county clerk and recorder withdrawing said land from the ~~soil~~ conservation district.

(d) All costs for including any such area within a ~~soil~~ conservation district shall be paid by the district, and no assessment of any sort shall be made against said land at any time on account of its inclusion within said district.

(2) In the event five or more owners of land adjoining or in the immediate vicinity of the boundary of an established ~~soil~~ conservation district desire to have their own and neighboring lands added to and included within such district, they shall first secure the written consent of the supervisors of such district and may then petition the state board substantially in the form and with the supporting data required by section 35-70-104, and thereafter the state board shall proceed as to the owners of land within the proposed addition substantially as provided in section 35-70-105 (5) and (7); except that the sole question to be voted upon at the meeting of the landowners shall be the question of whether or not the lands within the boundaries of the proposed addition to the district shall be so included.

(5) If the boundary line common to two adjoining ~~soil~~ conservation districts divides the land of any owner so that such land lies partially within each of such districts, the owner of such land, with the written consent of the supervisors of both such districts, may have all of such land included in ~~either district which he may select~~ WHICHEVER OF THE TWO DISTRICTS THE OWNER SELECTS and excluded from the other. No land shall be excluded from a district until and unless all lawful taxes and other charges of the district against such land have been paid. The supervisors of the district to which such land shall be transferred shall cause to be recorded in the books of the county clerk and recorder of the county in which the land so transferred lies in whole or in part a certificate of such transfer, together with the legal description of the land so transferred, and shall collect from the owner of such land the cost of recording such certificate.

(7) In the event that any lands included within a district cease to be used for agricultural purposes and are thereafter devoted exclusively to commercial or industrial uses or other uses related to urban development, or are subdivided for residential purposes, or become a part of the area included within an incorporated municipality, such lands may be withdrawn from a ~~soil~~ conservation district as follows:

(f) Said notice shall be published in one issue of a newspaper of general circulation published within the district from which such lands are to be withdrawn, and, if there is no such newspaper within said district, one publication in a newspaper of general circulation throughout the state shall be sufficient. Said notice shall also be posted in a conspicuous place in the ~~soil~~ conservation district office of the district from which such lands are to be withdrawn. The written notice or, if notice is given by publication, both the publication and the posted notice shall state the reasons for the withdrawal and the date on which the withdrawal becomes final and shall describe the lands to be withdrawn with such certainty as to enable a property owner to determine whether his OR HER property is included in such lands.

(10) No land within a ~~soil~~ conservation district shall be deemed withdrawn from the district until the procedures set forth in subsection (9) of this section have been met.

SECTION 24. 35-70-117, Colorado Revised Statutes, is amended to read:

35-70-117. Counties to cooperate. The county commissioners of any county in which a ~~soil~~ conservation district lies in whole or in part shall cooperate with the supervisors of such district in carrying out the purposes of this article, and to that end may use the equipment of the county and ~~men~~ PERSONS employed by the county to do such physical work as may be required by the supervisors, and may make a reasonable charge therefor; and, if the county commissioners find that the benefits accruing to the county by reason of the program of a ~~soil~~ conservation district justify such action, they may make donations to such district of money, services, or the use of equipment.

SECTION 25. 35-70-118 (1) and (5) (a), Colorado Revised Statutes, are amended to read:

35-70-118. Dissolution - procedure. (1) No proceeding for the dissolution of a ~~soil~~ conservation district shall be initiated within five years after the date of the organization of the district. Anytime after the expiration of such five-year period, proceedings to determine whether or not a ~~soil~~ conservation district shall be dissolved may be instituted by a petition addressed to the state board, which shall be signed by not less than twenty-five percent of the owners of land within the district and approved by a majority of the supervisors of such district. Such petition shall state the reasons for the dissolution and the proposed disposition of all contracts, assets, and liabilities held or owed by the district and shall request that the state board proceed to hold a hearing and call an election to determine whether or not such district shall be dissolved.

(5) (a) Within thirty days after the division of local government has issued a certificate of dissolution, the supervisors shall proceed, as trustees, to sell the assets of the district at public or private sale, whichever may be approved by the state board. After paying any outstanding accounts of the district and the cost of such dissolution and sale, the remainder of the proceeds shall be paid over to the state board and shall be deposited with the state treasurer to the credit of such board in a fund to be known as the ~~soil~~ conservation fund. Such fund shall be expended by the state board as needed by the organizations of ~~soil~~ conservation districts and for carrying out the purposes of this article and not otherwise. If at any time after such fund is established there are no ~~soil~~ conservation districts in existence in the state, the state board shall so notify the controller, and any balance remaining in such fund shall be transferred to the general fund of the state.

SECTION 26. 35-70-119 (1) (e), Colorado Revised Statutes, is amended to read:

35-70-119. Consolidation of districts. (1) Two or more established districts may be consolidated into a single district by the following procedure:

(e) A consolidated district has all of the rights, powers, and authority of each of the ~~soil~~ conservation districts consolidated. After consolidation the district may consolidate with any other ~~soil~~ conservation districts, and all actions and proceedings of the consolidated district shall be done without regard to the fact of consolidation.

SECTION 27. 35-70-120, Colorado Revised Statutes, is amended to read:

35-70-120. Change of name. The term "soil erosion district" as used in "The

Colorado Soil Conservation Act of 1937" and "~~soil~~" conservation district" as used in this article shall be deemed synonymous. Districts organized after April 3, 1941, shall be known as ~~soil~~ conservation districts, and districts organized before April 3, 1941, may be known either as soil erosion districts or as ~~soil~~ conservation districts, as determined by the supervisors of such districts. The change of name permitted by this section shall not affect in any way the rights or obligations of districts or landowners or impair the obligations of any contract to which any such district is a party at the time of such change of name.

SECTION 28. 35-70-121, Colorado Revised Statutes, is amended to read:

35-70-121. Cooperation between districts. Whenever, by reason of location, similarity of problems, and need for mutual assistance, the purpose of this article may be more economically, completely, and satisfactorily performed and accomplished thereby, two or more ~~soil~~ conservation districts may cooperate with each other by the joint exercise of the powers granted in section 35-70-108. The nature and extent of such cooperation and the duties and obligations of and benefits to the respective cooperating districts and interests in property ~~which~~ THAT may be jointly acquired and used shall be determined by contract to be entered into between or among the cooperating districts, subject to the bylaws adopted by each of such districts and to the direction of the qualified voters at any regular or regularly called special meeting of each such district.

SECTION 29. 35-70-122, Colorado Revised Statutes, is amended to read:

35-70-122. Contributions for purposes of inclusion of conservation districts in the risk management fund. Each ~~soil~~ conservation district shall contribute moneys, which shall be deposited in the risk management fund, for the ~~soil~~ conservation district's proportionate share, as determined by the executive director of the department of personnel, of potential claims arising from ~~soil~~ conservation districts.

SECTION 30. 35-72-101.5 (2), Colorado Revised Statutes, is amended to read:

35-72-101.5. Definitions. As used in this article, unless the context otherwise requires:

(2) "District" means a ~~soil~~ conservation district formed under the provisions of article 70 of this title.

SECTION 31. 37-40-102, Colorado Revised Statutes, is amended to read:

37-40-102. Public agencies - powers of participation. Agencies within the department of natural resources of the state of Colorado, quasi-municipal corporations, and political subdivisions of the state, including, but not exclusively, counties, towns, cities, city and counties, water conservancy districts, water conservation districts, water and sanitation districts, ~~soil~~ conservation districts, drainage districts, and special improvement districts are authorized to become members of organizations existing or to be organized within the state of Colorado, to assist in or contribute to the protection, conservation, and development of water within the state of Colorado. Any such organization shall be construed to be an

instrumentality of the agencies and political subdivisions ~~which~~ THAT are members thereof. No such organization shall be ineligible under this section by virtue of the fact that it also admits private individuals and organizations to membership.

SECTION 32. Effective date. This act shall take effect July 1, 2002.

SECTION 33. 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: May 24, 2002