

CHAPTER 300

WATER AND IRRIGATION

SENATE BILL 07-220

BY SENATOR(S) Schwartz, Isgar, and Taylor;
also REPRESENTATIVE(S) Gallegos, Buescher, Curry, Fischer, Gibbs, Hodge, Sonnenberg, McFadyen, and Merrifield.

AN ACT

CONCERNING AN INCREASE IN THE POWERS OF THE RIO GRANDE WATER CONSERVATION DISTRICT, AND, IN CONNECTION THEREWITH, SPECIFYING THE ESTABLISHMENT, OPERATION, AND FINANCING PROCEDURES OF SUBDISTRICTS OF THE RIO GRANDE WATER CONSERVATION DISTRICT.

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

SECTION 1. 37-48-105 (1), Colorado Revised Statutes, is amended BY THE ADDITION OF THE FOLLOWING NEW PARAGRAPHS to read:

37-48-105. Powers of district. (1) The district, in its corporate capacity, shall have power to:

(m) MAKE LOANS OR GRANTS TO ANY PUBLIC ENTITY, NONPROFIT CORPORATION, NOT-FOR-PROFIT CORPORATION, CARRIER DITCH COMPANY, MUTUAL DITCH OR RESERVOIR COMPANY, UNINCORPORATED DITCH OR RESERVOIR COMPANY, OR COOPERATIVE ASSOCIATION WITHIN THE BOUNDARIES OF THE DISTRICT TO CARRY OUT THE PURPOSES OF THE DISTRICT;

(n) IN CONNECTION WITH A PLAN OF WATER MANAGEMENT, ASSESS ANNUAL SERVICE CHARGES AND USER FEES ON THE DIVERSION OR USE OF WATER WITHIN THE DISTRICT OR A SUBDISTRICT. THIS PARAGRAPH (n) SHALL NOT ALLOW SERVICE CHARGES OR USER FEES TO BE IMPOSED ON SURFACE WATER DIVERSIONS IN A PLAN OF WATER MANAGEMENT TO REPLACE DEPLETIONS FROM GROUND WATER WITHDRAWALS OR TO REDUCE GROUND WATER DIVERSIONS.

(o) ESTABLISH A NONPROFIT OR CHARITABLE LAND TRUST;

(p) PURCHASE, RENT, LEASE, AND ACCEPT DONATIONS OF, OR COOPERATE IN 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.

CREATION OF, CONSERVATION EASEMENTS; AND

(q) COOPERATE IN THE CREATION OF CONSERVATION RESERVE PROGRAMS AND OTHER SIMILAR PROGRAMS.

SECTION 2. 37-48-105 (2), Colorado Revised Statutes, is amended to read:

37-48-105. Powers of district. (2) The district, in its own name, may issue revenue bonds to finance, in whole or in part, the construction of works, reservoirs, or other improvements for the beneficial use of water for the purposes for which it has been or may be appropriated, AND TO FINANCE PLANS OF WATER MANAGEMENT, whether or not the interest on such bonds may be subject to taxation. Such revenue bonds shall be issued in such denominations and with such maximum net effective interest rate as may be fixed by the board of directors of the district and shall bear interest such that the net effective interest rate of the bonds does not exceed the maximum net effective interest rate authorized. The board shall pledge only rental proceeds, service charges, ~~and~~ other income, or any combination thereof, from such works, PLANS OF WATER MANAGEMENT, or other improvements, and the district shall not be otherwise obligated for the payment thereof. At the time such revenue bonds are issued, the board of directors of the district shall make and enter in the minutes of the proceeding a resolution ~~in which~~ THAT SETS OUT the due dates of such revenue bonds, the rates of interest thereon, the general provisions of the bonds, and a recital that the same are payable only out of rental proceeds, service charges, ~~and~~ other income, or any combination thereof. ~~are set forth.~~ In addition, the board of directors shall require the payment of rental charges, service charges, or other charges by the political subdivisions or persons who are to use or derive benefits from the water or other services furnished by such works, PLANS OF WATER MANAGEMENT, or improvements. Such charges shall be sufficient to pay operation and maintenance expenses thereof, to meet said bond payments, and to accumulate and maintain reserve and replacement accounts pertaining thereto as set forth in such resolution. Such resolution shall be irrevocable during the time that any of the revenue bonds are outstanding and unpaid. The revenue bonds shall be signed "Rio Grande Water Conservation District, By, President. Attest, Secretary", and they shall be countersigned by the treasurer.

SECTION 3. 37-48-108 (3) and (4), Colorado Revised Statutes, are amended to read:

37-48-108. Creation of subdistricts. (3) Subdistricts shall be created and managed as provided in sections 37-48-123 to 37-48-193. Except as otherwise provided in said sections, the board of directors and the engineers, attorneys, secretary, and other officers, agents, and employees of the district, so far as it may be necessary, may serve in the same capacity for such subdivision or subdistricts. A contract and agreement between the main district and ~~the~~ A subdistrict, BETWEEN SUBDISTRICTS, BETWEEN A SUBDISTRICT AND A MUNICIPAL WATER SUPPLIER, AND BETWEEN A SUBDISTRICT AND AN AGENCY OF THE STATE OF COLORADO OR THE UNITED STATES, may be made in the same manner as contracts and agreements between two districts.

(4) As used in this article, a "plan of water management" means a cooperative plan for the utilization of water and water diversion, storage, and use facilities in

any lawful manner, ~~including~~ SO AS TO ASSURE THE PROTECTION OF EXISTING WATER RIGHTS AND PROMOTE THE OPTIMUM AND SUSTAINABLE BENEFICIAL USE OF THE WATER RESOURCES AVAILABLE FOR USE WITHIN THE DISTRICT OR A SUBDISTRICT, AND MAY INCLUDE development and implementation of plans of augmentation and exchanges of water ~~so as to assure the protection of existing water rights and promote the maximum beneficial use of water resources available to members of the district~~ AND GROUND WATER MANAGEMENT PLANS UNDER SECTION 37-92-501 (4) (c).

SECTION 4. 37-48-112 (1), Colorado Revised Statutes, is amended to read:

37-48-112. Rules. (1) ~~Such~~ THE district has the power to make general rules ~~and regulations~~ for the conduct of its business, as well as the conduct of the business of any subdistrict therein, and by such rules ~~and regulations~~ may provide for the rental of water or other services ~~which~~ THAT are to be furnished by said subdistrict to any municipality, public irrigation district, irrigation district, ~~or~~ other quasi-municipal corporation in this state, OR ANY AGENCY OF THE STATE OF COLORADO OR THE UNITED STATES, and to make contracts for the payment of the rental to be charged for any such water or services.

SECTION 5. 37-48-113 (1) (a), Colorado Revised Statutes, is amended to read:

37-48-113. Court confirmation. (1) (a) In its discretion, the board of directors, on the behalf and in the name of the district or any subdistrict ~~which~~ THAT is a party in interest, may file a petition at any time in the district court in and for the county in which the district's principal office is maintained or, if both the district and one or more subdistricts are parties to the petition, in the district court in and for the county in which any such subdistrict was organized praying for a judicial examination and confirmation of any power conferred or of any taxes, ~~or~~ rates, INCLUDING SERVICE CHARGES AND USER FEES, or other charges levied or proposed, or of any act, proceeding, or contract of the district, the subdistrict, or the subdistricts, or any combination thereof, as the case may be, whether or not said contract has been executed, including, without limitation, proposed contracts for the acquisition, improvement, equipment, maintenance, operation, or disposal of any properties or facilities for the benefit of the district, the subdistrict, or the subdistricts, as the case may be, and so including a proposed issue of revenue warrants, revenue bonds, special ~~assessment~~ IMPROVEMENT bonds, or general obligation bonds, issued or to be issued on behalf of any such entity. Such petition shall set forth the facts whereon the validity of such power, tax, assessment, SERVICE charge, USER FEE, act, proceeding, or contract is founded and shall be verified by the president of the board of directors or the board of managers.

SECTION 6. 37-48-123 (2) (e) (I) (C), (2) (e) (I) (D), and (2) (g), Colorado Revised Statutes, are amended to read:

37-48-123. Procedure for establishment of subdistricts. (2) (e) (I) The petition shall include a general description of the methods proposed to finance the proposed works and plans, including the acquisition, construction, maintenance, and operation thereof, with sufficient detail to enable a property owner within the proposed subdistrict to know whether the proposed methods of financing would result in the imposition of a lien or charge upon the taxable or assessable property

within the subdistrict and the amount thereof and to know further that such proposed methods of financing would be authorized without further election by the signing of the petition by the requisite number of petitioners to authorize the creation of the subdistrict. Such methods of financing the acquisition, construction, and improvement of needed property, including planning and development, may include any one or more, or any combination, of the following:

(C) Contracts of water users, MUTUAL DITCH OR RESERVOIR COMPANIES, or water users' associations creating liens upon lands within the subdistrict;

(D) The imposition of reasonable service CHARGES or user fees by the district for the conferring by the subdistrict of any benefits upon OR PROVIDING ANY SERVICE TO any person or property;

(g) ~~If the petition includes~~ IT IS ANTICIPATED THAT a plan of water management, PLAN OF AUGMENTATION, OR BOTH WILL BE ADOPTED for the subdistrict, ~~it~~ THE PETITION shall describe such plan ~~in detail~~ OR PLANS IN GENERAL TERMS and may also request establishment of a board of managers of the subdistrict, to be made up of landowners within the subdistrict, which shall have the authority and responsibility of DEVSING AND carrying out ~~the general supervision and operational management of the water management~~ SUCH plan OR PLANS. Where a board of managers is requested, the petition shall set forth in detail the qualifications, manner of selection, and terms of office of board members and may also define, in terms consistent with the requirements of this article, the scope of the responsibility of the board of managers and the functional relationship between such board and the board of directors of the district. Every such petition, when filed with the court, must be approved by the board of directors of the district, which approval shall be noted on the petition over the signature of the president or some other authorized officer thereof, unless the petition is signed and filed by the board of directors of the district.

SECTION 7. 37-48-126, Colorado Revised Statutes, is amended to read:

37-48-126. Official plan for subdistrict. (1) Upon organization of such subdistrict, the board of directors of said district, acting as the board of directors of said subdistrict, is authorized and required to prepare and adopt as the official plans for said subdistrict a comprehensive detailed plan, ~~showing the nature of the~~ SETTING FORTH ANY PLAN OF WATER MANAGEMENT FOR THE SUBDISTRICT, ANY improvements or works, including all canals, reservoirs, and ditches whether within or without the district TO BE CONSTRUCTED OR USED FOR THE SUBDISTRICT, and the manner of utilization of the same in any plan of augmentation ~~and~~ OR plan of water management, together with the estimated cost of each principal part of said PLAN OR PLANS, system, or works and the estimated cost of maintenance and operation thereof.

(2) Where a board of managers for the subdistrict is authorized by the petition and decree establishing the subdistrict, the preparation of the official plans for the subdistrict shall be carried out by the board of managers. Such official plans shall be submitted to and approved by the board of directors of the district ~~prior to~~ BEFORE the holding of the public hearing thereon required by subsection (3) of this section. IF THE OFFICIAL PLAN APPROVED BY THE BOARD OF DIRECTORS INCLUDES

A GROUND WATER MANAGEMENT PLAN WITHIN THE MEANING OF SECTION 37-92-501 (4) (c), THE BOARD OF DIRECTORS SHALL OBTAIN THE STATE ENGINEER'S APPROVAL OF THE GROUND WATER MANAGEMENT PLAN IN ACCORDANCE WITH SECTION 37-92-501 (4) (c) BEFORE HOLDING THE PUBLIC HEARING REQUIRED BY SUBSECTION (3) OF THIS SECTION.

(3) (a) Upon the completion of such OFFICIAL plan, the board of directors shall cause notice thereof to be given by publication in each county in which said district may be located, in whole or in part, and shall permit the inspection thereof at the office of the district by all persons interested. Said notice shall fix the time and place for the hearing of all objections to said plan not less than twenty days ~~nor~~ OR more than thirty days after the last publication of said notice. All objections to said plan shall be in writing and filed with the manager or secretary of the district at its office prior to the date established for the hearing. After said hearing before the board of directors, the board shall consult with the board of managers, if any, and shall adopt ~~a~~ THE plan as the official plan of the said subdistrict; ~~except that, if the plan was prepared by a board of managers for the subdistrict, no changes may be made therein prior to its adoption, except with concurrence of the board of managers and, further, except that the board of directors may, after such public hearing, withdraw its approval and adopt no plan for the subdistrict, in which case the board of managers shall proceed as in the first instance under this section to prepare another plan~~ ADOPT THE PLAN WITH CHANGES IN WHICH THE BOARD OF MANAGERS, IF ANY, CONCURS; OR DISAPPROVE THE PLAN, IN WHICH CASE THE BOARD OF MANAGERS, IF ANY, SHALL PROCEED AS SET FORTH IN THIS SECTION TO PREPARE ANOTHER PLAN.

(b) If any person objects to ~~said~~ THE official plan ~~so~~ adopted PURSUANT TO PARAGRAPH (a) OF THIS SUBSECTION (3), such person may, within ten days after the adoption of said official plan, file in the office of the clerk of the court in the original case establishing the district his OR HER objections in writing, specifying the features of the plan to which objection is made, and, thereupon, the court shall fix a day for the hearing thereof before the court, ~~not less than twenty days nor more than thirty days after the adoption of the official plan,~~ at which time the court shall hear said objections and adopt, reject, or refer back ~~said~~ THE plan to ~~said~~ THE board of directors. IF THE OFFICIAL PLAN INCLUDES A GROUND WATER MANAGEMENT PLAN, THE COURT MAY CONSOLIDATE THE HEARING ON OBJECTIONS TO THE OFFICIAL PLAN WITH ANY HEARING ON THE GROUND WATER MANAGEMENT PLAN REQUIRED BY SECTION 37-92-501 (4) (c).

(c) IF THE OFFICIAL PLAN INCLUDES A PLAN FOR AUGMENTATION, ALL ISSUES CONCERNING THE ADEQUACY OF SUCH PLAN UNDER THE APPLICABLE PROVISIONS OF ARTICLE 92 OF THIS TITLE SHALL BE ADJUDICATED PURSUANT TO THE PROCEDURES SPECIFIED IN SAID ARTICLE.

(4) If the court should reject ~~said~~ THE plan, the board or the board of managers, as the case may be, shall proceed as in the first instance under this section to prepare another plan. If the court should refer ~~back said~~ THE plan BACK to the board for amendment, the court shall continue the hearing to a day certain without publication of notice. If the court approves the ~~said~~ plan as the official plan of the district, a certified copy of the order of the court approving the ~~same~~ PLAN shall be filed with the secretary of the district and ~~by him~~ incorporated into the records of the district.

The official plan may be altered in detail as necessary from time to time but may not be altered in substance without notice and hearing as required in subsection (3) of this section, nor may the plan be altered in substance after the sale of bonds or warrants to finance the construction and development of the plan without notice to the holders of the bonds or warrants and opportunity for them to be heard, and in no event shall the plan be altered, except within the objects and purposes of the subdistrict as set forth in the petition to organize the same.

SECTION 8. 37-48-128, Colorado Revised Statutes, is amended to read:

37-48-128. Contracts. When it is determined to let the work by contract, contracts in amounts in excess of ~~two~~ TEN thousand dollars shall be advertised after notice by publication calling for bids, and the board may reject any or all bids or may let ~~said~~ THE contract to the lowest responsible bidder who gives a good and approved bond with ample security, conditioned on the carrying out of the contract. Such contract shall be in writing and shall be accompanied by or shall refer to plans and specifications for the work to be done prepared by the chief engineer. Said contract shall be approved by the board of directors and signed by the president of the district and by the contractor and shall be executed in duplicate; but, in case of sudden emergency when it is necessary in order to protect the district, the advertising of contracts may be waived upon the unanimous consent of the board of directors; but the provisions of this section shall not apply if it is determined by the board of directors that the work be done on force account.

SECTION 9. 37-48-137, Colorado Revised Statutes, is amended to read:

37-48-137. Appraisals. (1) During the preparation of ~~the~~ AN official plan THAT UTILIZES SPECIAL IMPROVEMENT BONDS FOR FINANCING, the board of appraisers shall examine and become acquainted with the nature of the plans for the improvement of the lands and other property affected thereby in order that they may be better prepared to make appraisals FOR THE SPECIAL IMPROVEMENT BONDS.

(2) When the official plan UTILIZING SPECIAL IMPROVEMENT BONDS is ~~filed with~~ ADOPTED BY THE DISTRICT, the secretary of the district ~~he~~ shall at once notify the appraisers, and they shall thereupon proceed to appraise the benefits of every kind to all land and property within the subdistrict ~~which~~ THAT will result from the ~~execution of~~ SPECIAL IMPROVEMENTS TO BE FINANCED BY THE SPECIAL IMPROVEMENT BONDS IN the official plan. ~~They~~ THE APPRAISERS shall also appraise the damages sustained and the value of the land and other property necessary to be acquired by the district in carrying out the official plan. In the progress of their work, the appraisers shall have the assistance of the attorney, engineers, secretary, and other agents and employees of the district or subdistrict.

SECTION 10. 37-48-138 (1), Colorado Revised Statutes, is amended to read:

37-48-138. Report of appraisers - special improvement bonds. (1) The board of appraisers shall prepare a tabulated report of its findings, which shall be bound in book form and which shall be known as the ~~conservancy~~ CONSERVATION DISTRICT appraisal record FOR SPECIAL IMPROVEMENT BONDS. Such record shall contain the names of the owners of property appraised as they appear on the tax rolls or from the records of the office of the county clerk and recorder, a description

of the property appraised, and the amount of benefits appraised. No error in the names of the owners of property or in the descriptions thereof shall invalidate said appraisal or the levy of assessments or taxes based thereon, if sufficient description is given to identify such property.

SECTION 11. 37-48-145 (1), Colorado Revised Statutes, is amended to read:

37-48-145. Preliminary fund. (1) As soon as any subdistrict has been organized, the board of directors ~~has the authority to~~ MAY fix the amount of an assessment upon the property within the subdistrict at a level rate to be used for the purpose of paying the expenses of organization, for surveys and plans, and for other incidental expenses ~~which~~ THAT may have been incurred prior to the time when money is received from the sale of bonds or otherwise. Such assessment shall not exceed five mills for every dollar of valuation for assessment of such property unless the petition for creation of the subdistrict and the order for the district court thereon ~~shall provide~~ PROVIDES for a higher rate. In accordance with the schedule prescribed by section 39-5-128, C.R.S., the amount of assessment for each dollar of valuation for assessment shall be certified to the boards of county commissioners of the various counties in which the district, or any portion thereof, is located and by them included in their next annual levy for state and county purposes. Said amount shall be collected for the use of such subdistrict in the same manner as are taxes for county purposes, and the revenue laws of the state for the levy and collection of ad valorem taxes on real estate for county purposes, except as modified in this article, shall be applicable for the levy and collection of the amount certified by the directors of such district as aforesaid, including the enforcement of penalties and forfeiture for delinquent taxes.

SECTION 12. 37-48-146, Colorado Revised Statutes, is amended to read:

37-48-146. Power to borrow money for the preliminary fund. In order to facilitate the preliminary work, the board of directors may borrow money at a net effective interest rate as determined by the board and, as evidence of the debt so contracted, may issue and sell or may issue to contractors or others negotiable evidences of debt, in this article called "warrants", and may pledge, after it has been levied, the preliminary assessment of not exceeding five mills for the repayment thereof, OR MAY PLEDGE THE REVENUE FROM ANY SERVICE CHARGE OR USER FEE TO BE LEVIED BY THE SUBDISTRICT. If any warrant so issued by the board of directors is presented for payment and is not paid for want of funds in the treasury, that fact, with the date of presentation, shall be endorsed on the back of such warrant, which shall thereafter draw interest at the rate specified in the endorsement, not exceeding the net effective interest rate as when issued, until such time as there is money on hand sufficient to pay the amount of said warrant with interest.

SECTION 13. 37-48-147, Colorado Revised Statutes, is amended to read:

37-48-147. Directors bound by financing plan. (1) The board of directors of ~~said~~ THE district shall be bound by the plan of financing set forth in the petition for the organization of the subdistrict and approved by the decree of the district court. The appointment of appraisers shall not be necessary ~~in the event that~~ IF the OFFICIAL plan adopted does not utilize special ~~assessments~~ IMPROVEMENT BONDS as a means of financing the subdistrict official plan, but the district or the subdistrict

board of managers, as the case may be, may nevertheless retain appraisers as needed to appraise the value of property to be acquired.

(2) If the plan of financing provides for the issuance of general obligation bonds of the subdistrict, such bonds shall be signed "Water Users' Association No. in the Rio Grande Water Conservation District, by, President, Attest, Secretary", or "Special Improvement District No. in the Rio Grande Water Conservation District, by, President, Attest, Secretary". They shall be countersigned by the treasurer. General obligation bonds shall recite that they are obligations of the subdistrict, are issued pursuant to the provisions of this article, and are to be payable at the time, ~~and~~ in the manner, and with the rate of interest therein specified and that the same were issued under and pursuant to a COURT decree ~~of court~~ and a resolution of the board of directors authorizing the issue of said obligations and referring to the date of said resolution. Said bonds shall further recite that they are payable from funds to be derived by SPECIAL assessments and tax levies against the property in said subdistrict and other revenues derived from the operation of the subdistrict's official plan, as provided by the plan of financing in the petition for organization of the subdistrict, and not otherwise, ~~and~~ that the same are not to be deemed to be an obligation of the Rio Grande water conservation district but only an obligation of said subdistrict, and that the district itself is not to be obligated in any manner for the payment of said bonds. If there is a board of managers for the subdistrict, the resolution of the board of directors authorizing said obligations shall be approved by the board of managers before being adopted by the board of directors.

SECTION 14. 37-48-148, Colorado Revised Statutes, is amended to read:

37-48-148. Special assessments - procedure in making. (1) ~~In the event that~~ IF the proceedings for the organization of the subdistrict, including the petition and the decree entered thereon, provide for the financing of the construction or acquisition of the works or other improvements proposed and of the other steps necessary to the development and implementation of the subdistrict's official plan by special assessments to be levied against the appraised benefits to property within said subdistrict, then ~~said~~ THE board of directors may make SPECIAL assessments from time to time, as required, and, in making ~~said~~ THE assessments, ~~said~~ THE board shall be guided by the procedure for the levy of similar assessments under the conservancy law of the state of Colorado, articles 1 to 8 of this title, and particularly the provisions of said law appearing in sections 37-5-104 to 37-5-106, and the same shall apply to subdistricts created under this article.

(2) From time to time, as the affairs of the subdistrict may demand, the board of directors may levy on all property ~~upon~~ TO which benefits ~~have been appraised an~~ ARE PROVIDED BY THE SUBDISTRICT'S OFFICIAL PLAN A SPECIAL assessment of such portion of said benefits as may be found necessary by ~~said~~ THE board to pay the cost of ~~the~~ ANY appraisal, the preparation and execution of the official plan for said subdistrict, and the superintendence of construction and administration during the period of construction, plus ten percent of ~~said~~ THE total to be added for contingencies, but not to exceed in the total of principal the appraised benefits so adjudicated. The SPECIAL assessments, to be known as the "construction fund SPECIAL assessment", shall be apportioned to and levied on each tract of land or other property in ~~said~~ THE district in proportion to the benefits appraised and not in

excess thereof, and in case SPECIAL IMPROVEMENT bonds are issued, as provided in section 37-48-149, then the amount of interest ~~which~~ THAT will accrue on such bonds as estimated by ~~said~~ THE board of directors shall be included in and added to the ~~said~~ assessment, but the interest to accrue on account of the issuance of ~~said~~ THE SPECIAL IMPROVEMENT bonds shall not be construed as a part of the cost of construction in determining whether or not the expenses and cost of making ~~said~~ THE improvement are or are not equal to or in excess of the benefits appraised.

(3) As soon as ~~said~~ THE SPECIAL assessment is levied, the secretary of the subdistrict, at the expense thereof, shall prepare in duplicate an assessment of the subdistrict. It shall be in the form of a well-bound book endorsed and named "Construction Fund SPECIAL Assessment Record of Water Users' Association No., or Special Improvement District No., of the Rio Grande Water Conservation District". Said record shall be in the form of similar records for conservancy districts under the laws of this state, particularly as provided in section 37-5-104. ~~Said~~ THE SPECIAL assessments may be paid in the manner provided in section 37-5-105 relating to conservancy districts under the laws of this state. All proceedings provided in said sections with respect to conservancy districts shall apply to the SPECIAL assessments, the records thereof, and the manner of payment of SPECIAL assessments of subdistricts organized under this article.

SECTION 15. 37-48-149, Colorado Revised Statutes, is amended to read:

37-48-149. Special improvement bonds. (1) The board of directors of ~~said~~ THE district may issue as obligations of the subdistrict, not as obligations of the Rio Grande water conservation district, SPECIAL improvement ~~district~~ bonds to be paid out of special IMPROVEMENT assessments made by ~~said~~ THE board of directors against all lands in the subdistrict benefited by the improvements financed by the bond proceeds, which special IMPROVEMENT assessments shall not exceed in the aggregate an amount equal to ninety percent of the amount of benefits determined to have accrued to said lands by reason of such improvements and unpaid at the time of issue of said bonds. Such bonds shall contain a recital to the effect that they are issued under and in accordance with the provisions of this article as special improvement ~~district~~ bonds and are payable out of special IMPROVEMENT assessments to be levied against the property in said subdistrict and not otherwise.

(2) ~~Said~~ THE SPECIAL improvement ~~district~~ bonds ISSUED PURSUANT TO SUBSECTION (1) OF THIS SECTION shall be signed "Water Users' Association No., or Special Improvement District No., of the Rio Grande Water Conservation District, by, President", and countersigned "....., Treasurer". Otherwise said bonds shall be in such denominations and become due at such dates, with interest at such rate, payable either annually or semiannually, but not exceeding the rate of ten percent per annum, and contain such other provisions as may be fixed by the board of directors, not inconsistent with the provisions of this article. Except as otherwise expressly modified in this article, the law relating to the form and issuance of special improvement bonds of conservancy districts under the laws of this state, particularly section 37-5-106, shall apply and govern officers of the district in the issuance and sale of said bonds; and other provisions of said law with respect to the levy of assessments for the payment of said bonds with interest, particularly section 37-5-110, shall likewise be applicable to the bonds of a subdistrict organized under this article. If the subdistrict has a board of managers,

the board of managers shall annually determine and certify to the board of directors of the district the total amount of the SPECIAL IMPROVEMENT assessments to be collected; and the board of directors of the district, if it deems the amount so certified to be correct, shall order and levy the total SPECIAL IMPROVEMENT assessments and otherwise conform to the procedure set forth in ~~said~~ section 37-5-110.

SECTION 16. 37-48-150, Colorado Revised Statutes, is amended to read:

37-48-150. Manner of collection - tax sale - certificate of purchase - tax deed.

(1) Lands sold for delinquent SPECIAL IMPROVEMENT ASSESSMENTS, special assessments, SERVICE CHARGES, OR USER FEES under this article shall be struck off to the district, or bid in for the district, in like manner and effect, including issuance of a deed therefor, as provided by law with respect to lands struck off to, or bid in for, counties, cities, or towns, as the case may be; but, when a certificate of purchase has been issued to the district with respect to any lands, no certificate of purchase for subsequent SPECIAL IMPROVEMENT ASSESSMENTS, SPECIAL assessments, SERVICE CHARGES, OR USER FEES shall be issued with respect to the same lands, except to the district, until all SPECIAL IMPROVEMENT ASSESSMENTS, SPECIAL assessments, SERVICE CHARGES, OR USER FEES represented by certificates of purchase held by the district have been redeemed or paid.

(2) No holder of such certificate of purchase, other than the district, shall be entitled to a tax deed thereon, except upon payment of all SPECIAL IMPROVEMENT ASSESSMENTS, SPECIAL assessments, SERVICE CHARGES, OR USER FEES subsequent to such certificate of purchase ~~which~~ THAT are due and unpaid or unredeemed, at the time of issuance of the tax deed; and the tax deed so issued to such holder shall be subject to future unpaid SPECIAL IMPROVEMENT ASSESSMENTS, SPECIAL assessments, SERVICE CHARGES, OR USER FEES. Any such holder of a certificate of purchase may, at any time after three years after issuance thereof, present the same to the county treasurer, together with all subsequent certificates held by him OR HER, as evidence of subsequent payment of SPECIAL IMPROVEMENT ASSESSMENTS, SPECIAL assessments, SERVICE CHARGES, OR USER FEES, and request the county treasurer to issue one tax deed thereon; and one tax deed shall be issued accordingly in the same manner as other tax deeds.

(3) The district may, at any time after three years after issuance of any such certificate of purchase held by the district, present the same to the county treasurer, together with all subsequent certificates of purchase held by it, as evidence of unpaid subsequent SPECIAL IMPROVEMENT ASSESSMENTS, SPECIAL assessments, SERVICE CHARGES, OR USER FEES, and request the county treasurer to issue one tax deed thereon, and one deed shall be issued accordingly in the same manner as other tax deeds; but such tax deeds shall not prejudice the parity of any existing lien for general taxes. Upon the delivery of the tax deed, the ~~conservancy~~ CONSERVATION district shall have and enjoy all the rights of an owner in fee simple to the lands described therein; but no sale of such land shall be made by the district, except one subject to the lien of SPECIAL IMPROVEMENT ASSESSMENTS, SPECIAL assessments, SERVICE CHARGES, OR USER FEES due and unpaid subsequent to the issuance of the tax deed to the district as well as to future unpaid SPECIAL IMPROVEMENT ASSESSMENTS, SPECIAL assessments, SERVICE CHARGES, OR USER FEES, nor shall the district convey such property by deed with covenants of warranty, nor shall any sale

of such property be made for less than the principal amount of the original SPECIAL IMPROVEMENT ASSESSMENTS, SPECIAL assessment, SERVICE CHARGES, OR USER FEES thereon remaining due and unpaid, unless such sale is approved by an order of the district court in which the organization proceedings of the district are filed.

(4) The district, by resolution of its board of directors, may sell, assign, and deliver any such certificates held by the district for such sum as the board of directors may determine and authorize; but no such sale or assignment shall be made ~~which~~ THAT does not include all certificates held by the district with respect to the same land. Upon presentation and surrender of such certificates by the assignee thereof to the county treasurer, such officer shall accept the same in payment of the ~~assessment~~ SPECIAL IMPROVEMENT ASSESSMENTS, SPECIAL ASSESSMENTS, SERVICE CHARGES, OR USER FEES represented thereby, unless such purchaser requests a tax deed thereon as provided in this section. No such assignment shall be made by the district for less than the principal sum represented by the certificate assigned, except upon order approving the assignment made by the district court wherein the organization proceedings of the district are pending.

SECTION 17. 37-48-151, Colorado Revised Statutes, is amended to read:

37-48-151. Collection by civil action. In addition to all other remedies for collection of assessments, INCLUDING SPECIAL IMPROVEMENT ASSESSMENTS, SPECIAL ASSESSMENTS, SERVICE CHARGES, OR USER FEES, provided by this article, and cumulative therewith, the district may, at any time after three years after the issuance of any certificate of purchase held by the district, bring civil action to foreclose the lien for SPECIAL IMPROVEMENT ASSESSMENTS, SPECIAL assessments, SERVICE CHARGES, OR USER FEES, represented by all certificates of purchase held by the district with respect to the same land and for other relief with respect to such land as provided by the Colorado rules of civil procedure then in effect for the foreclosure of liens on real property; but no statute of limitations shall be applicable to the rights of the district arising from any ~~assessment~~ SPECIAL IMPROVEMENT ASSESSMENTS, SPECIAL ASSESSMENTS, SERVICE CHARGES, OR USER FEES, and no decree, or sale of lands thereunder, shall be made except one subject to the lien of future unpaid installments of SPECIAL IMPROVEMENT ASSESSMENTS, SPECIAL assessments, SERVICE CHARGES, OR USER FEES. The county treasurer shall be made a party to any action of the district authorized by this section.

SECTION 18. 37-48-152, Colorado Revised Statutes, is amended to read:

37-48-152. Special improvement assessments constitute perpetual lien. All SPECIAL IMPROVEMENT assessments ~~on account of special improvements~~ against appraised benefits and interest thereon and penalties for default of payment thereof, together with the cost of collecting the same, from the date of the filing of the construction fund SPECIAL assessment record in the office of the treasurer of the county wherein the lands and property are situate shall constitute a perpetual lien in an amount not in excess of the benefits severally appraised upon the land and other property against which said SPECIAL IMPROVEMENT assessments have been levied and such benefits appraised; and no sale of said property to enforce any general state, county, city, town, or school tax or other lien shall extinguish the perpetual lien of said SPECIAL IMPROVEMENT assessment. At any time, any landowner may pay the full amount of said SPECIAL IMPROVEMENT assessment, and thereafter the

property of any such landowner shall be clear and free from said lien and shall not be subject to SPECIAL IMPROVEMENT assessment for and on account of benefits appraised against any other land or default in the payment of SPECIAL IMPROVEMENT assessments made against any other land.

SECTION 19. 37-48-153, Colorado Revised Statutes, is amended to read:

37-48-153. Directors to remedy defects - special improvement assessments - special assessments. If any SPECIAL IMPROVEMENT assessment, SPECIAL ASSESSMENT, SERVICE CHARGE, OR USER FEE made under the provisions of this article proves invalid, the board of directors shall, by subsequent or amended acts or proceedings, promptly and without delay remedy all defects or irregularities, as the case may require, by making and providing for the collection of new SPECIAL IMPROVEMENT assessments, SPECIAL ASSESSMENTS, SERVICE CHARGES, OR USER FEES, or otherwise.

SECTION 20. 37-48-154, Colorado Revised Statutes, is amended to read:

37-48-154. Records of assessments, service charges, or user fees as evidence. The record of SPECIAL IMPROVEMENT ASSESSMENTS, SPECIAL assessments, SERVICE CHARGES, OR USER FEES contained in the respective ~~assessment~~ records of the district shall be prima facie evidence in all courts of all matters therein contained.

SECTION 21. 37-48-155, Colorado Revised Statutes, is amended to read:

37-48-155. Defects in notice perfected. Whenever notice is provided for in this article, if the court finds that due notice was not given, jurisdiction shall not thereby be lost or the proceedings abated or held void, but the court shall continue the hearing until such time as proper notice may be given and shall thereupon proceed as though proper notice had been given in the first instance. If any ~~appraisement~~ APPRAISAL, SPECIAL IMPROVEMENT ASSESSMENT, SPECIAL assessment, levy, SERVICE CHARGE, OR USER FEE or other proceeding relating to said district is held defective, then the board of directors may file a motion in the cause in which said district was organized to perfect any such defect, and the court shall set a time for hearing thereon. If the original notice as a whole is held to be sufficient but faulty only with reference to publication as to certain particular lands or as to service as to certain persons, publication of the defective notice may be ordered as to the particular lands, or service may be made on the persons not properly served, and said notice is thereby corrected without invalidating the original notice as to other lands or persons.

SECTION 22. 37-48-156, Colorado Revised Statutes, is amended to read:

37-48-156. Contracts of subdistricts. (1) When the ~~petition for the organization of a subdistrict and the decree for such organization so provide~~ OFFICIAL PLAN SO PROVIDES, it shall be lawful for any subdistrict to make contracts as follows:

(a) A water users' association, PUBLIC ENTITY, NONPROFIT CORPORATION, NOT-FOR-PROFIT CORPORATION, CARRIER DITCH COMPANY, MUTUAL DITCH OR RESERVOIR COMPANY, UNINCORPORATED DITCH OR RESERVOIR COMPANY, OR

COOPERATIVE ASSOCIATION may bind itself to levy an annual assessment for the use of water and to secure ~~same~~ THE ASSESSMENT by liens on land and water rights or in such OTHER manner as may be provided by law.

(b) Any person or corporation landowner may create a mortgage lien upon lands or give other security satisfactory to the board or any other contracting agency, and all such contracts shall provide for forfeiture of the use of water for nonpayment of assessments or installments in the same manner and procedure as provided by statute for forfeiture of stock in a mutual ditch OR RESERVOIR company.

SECTION 23. 37-48-157 (2), Colorado Revised Statutes, is amended to read:

37-48-157. Issuance of general obligation bonds - revenue bonds. (2)(a) The subdistrict, in its own name, may issue revenue bonds to finance, in whole or in part, the construction of works, reservoirs, or other improvements PROVIDED FOR IN THE OFFICIAL PLAN for the beneficial use of water for the purposes for which it has been or may be appropriated, whether or not the interest on such bonds may be subject to taxation. Such revenue bonds shall be issued in such denominations and with such maximum net effective interest rate as may be fixed by the board of directors of the district and shall bear interest such that the net effective interest rate of the bonds does not exceed the maximum net effective interest rate authorized. The bonds may be sold in one or more series at par, or below or above par, at public or private sale, in such manner and for such price as the district, in its discretion, shall determine. As an incidental expense of the issuance, the subdistrict, in its discretion, may employ financial and legal consultants in regard to the financing of the official plan. The subdistrict may exchange all or a part of its bonds for all or an equivalent part of property or services included in the official plan for which the bonds are issued, the exchange to be preceded by determination of the fair value of the property or services exchanged for the bonds. Such determination shall be by resolution of the board of directors and shall be conclusive.

(b) The board of directors shall pledge only rental proceeds, service charges, USER FEES, and other income, or any combination thereof, from such works, PLANS OF WATER MANAGEMENT, or other improvements of the subdistrict, and neither the district nor the subdistrict shall be otherwise obligated for the payment thereof. At the time said revenue bonds are issued, the board of directors of the district shall make and enter in the minutes of the proceeding a resolution ~~in which~~ THAT SETS OUT the due dates of such revenue bonds, the rates of interest thereon, the general provisions of the bonds, and a recital that the same are payable only out of THE rental proceeds, service charges, and other income, or any combination thereof THAT are ~~set forth~~ PLEDGED FOR PAYMENT OF THE REVENUE BONDS. In addition, the board of directors shall require the payment of rental charges, service charges, or other charges by the political subdivisions, ~~or persons, who~~ OR LAND OWNERS THAT are to use or derive benefits from the water or other services ~~furnished by such works or improvements~~ FINANCED BY THE REVENUE BONDS. Such charges shall be sufficient to pay operation and maintenance expenses ~~thereof~~ OF ANY WORKS OR IMPROVEMENTS OR ANY WATER MANAGEMENT PLAN FINANCED BY THE REVENUE BONDS, to meet said REVENUE bond payments, and to accumulate and maintain reserve and replacement accounts pertaining thereto as set forth in such resolution. Such resolution shall be irrevocable during the time that any of the revenue bonds are outstanding and unpaid. The revenue bonds shall be signed "Water Users'

Association No. in the Rio Grande Water Conservation District, By, President. Attest, Secretary" or "Special Improvement District No. in the Rio Grande Water Conservation District, By, President. Attest, Secretary", and they shall be countersigned by the treasurer.

SECTION 24. 37-48-158, Colorado Revised Statutes, is amended to read:

37-48-158. Board to certify tax assessments. To maintain, operate, and preserve ditches, canals, reservoirs, or other improvements made pursuant to this article and to strengthen, repair, and restore the same, when needed, FOR OPERATION OF ANY PLAN OF WATER MANAGEMENT, and for the purpose of defraying any incidental expenses of the subdistrict, the board of directors may, at the time of certification of the general district mill levy to the boards of county commissioners of the counties in which the district is located, certify also, to the boards of county commissioners of the counties in which said subdistrict or any part thereof is located, an additional assessment upon the taxable property within the subdistrict, not to exceed five mills for every dollar of valuation for assessment within said subdistrict, for the purpose of raising funds to be used for the maintenance and operation of the subdistrict's official plan. If there is a board of managers for the subdistrict, the amount of money needed to be raised by such assessment shall be certified by the board of managers to the district board of directors in time for inclusion of the ~~same~~ AMOUNT in the district budget for the succeeding calendar year. ASSESSMENTS so certified shall be levied by the boards of county commissioners of the counties in which said subdistrict is situate on the property of said subdistrict in their respective counties, to be collected by the county treasurers of the several counties and delivered to the treasurer of the district in like manner and with like effect as is provided for the collection and return of other assessments under this article. The whole assessment shall be due and payable as and when taxes for county purposes levied in the same year are due and payable. The said ~~maintenance~~ assessments shall be in addition to any ~~assessments which have~~ SPECIAL IMPROVEMENT ASSESSMENT OR SPECIAL ASSESSMENT THAT HAS been levied against benefits appraised for and on account of construction.

SECTION 25. 37-48-176 (1), Colorado Revised Statutes, is amended to read:

37-48-176. Definition of elector. (1) An "elector", "elector of the district", or "elector of the subdistrict", or any term of similar import, means a person:

(a) Who, at the time of the election, is qualified to vote in general elections in this state; and

(b) Who EITHER:

(I) Is a resident of the district or subdistrict proposing to incur an indebtedness at the time of the election; OR

(II) OWNS REAL PROPERTY WITHIN THE DISTRICT OR SUBDISTRICT THAT IS SUBJECT TO SPECIAL IMPROVEMENT ASSESSMENTS, SPECIAL ASSESSMENTS, OR SERVICE CHARGES OF THE SUBDISTRICT.

SECTION 26. 37-48-189, Colorado Revised Statutes, is amended to read:

37-48-189. Rents and charges. (1) (a) The district, any subdistrict, and any political subdivision of the state of Colorado contracting with the district or subdistrict and fixing and collecting annual rentals, service charges, USER FEES, and other charges, or any combination thereof, are, in supplementation of the powers provided in this article, authorized to fix and collect rents, rates, fees, tolls, and other charges, in this article sometimes referred to as "service charges", for direct or indirect connection with, or the use or services of, a water system, electrical system, joint system, or other facilities, OR A PLAN OF WATER MANAGEMENT, including, without limitation, connection charges, minimum charges, WATER USE FEES, and charges for the availability of service.

(b) Such service charges may be charged to and collected in advance or otherwise by a district OR SUBDISTRICT from any political subdivision, ~~or~~ person, OR OWNER OR OCCUPANT OF REAL PROPERTY THAT IS DIRECTLY OR INDIRECTLY CONNECTED WITH, OR SERVED OR BENEFITTED BY, ANY SUCH FACILITIES OR PLAN OF WATER MANAGEMENT, and by any political subdivision from any person contracting for such connection or use or services or from the owner or occupant, or any combination thereof, of any real property ~~which~~ THAT directly or indirectly is or has been or will be connected with OR SERVED OR BENEFITTED BY any such facilities OR PLAN OF WATER MANAGEMENT, and the political subdivision or owner or occupant of any such real property shall be liable for and shall pay such service charges to the district, subdistrict, or political subdivision fixing the service charges at the time when and place where such service charges are due and payable.

(c) Such service charges of the district or subdistrict may accrue from any date on which the board of directors reasonably estimates, in any resolution authorizing the issuance of any securities or other instrument pertaining thereto or in any contract with any political subdivision or person, OR IN ANY PLAN OF WATER MANAGEMENT, that any facilities or project being acquired or improved and equipped OR SERVICES OR BENEFIT OF SUCH PLAN will be available for service or use.

(2) (a) Such rents, rates, fees, tolls, and other charges, being in the nature of use or service charges, shall, as nearly as the district, subdistrict, or political subdivision fixing the service charges shall deem practicable and equitable, be reasonable, and such service charges shall be uniform throughout the district, subdistrict, or political subdivision for the same type, class, and amount of use or service of the facilities OR PLAN OF WATER MANAGEMENT, and may be based or computed either on:

(I) Measurements of water, flow devices, or electric meters, duly provided and maintained by the district, subdistrict, or political subdivision, or any user as approved by the district, subdistrict, or political subdivision fixing such charges; ~~or~~
~~on~~

(II) The DIVERSION OR consumption of water or CONSUMPTION OF electricity in or on or in connection with the political subdivision, or BY any person or OWNER OR OCCUPANT OF real property, making due allowance for commercial use of water and infiltration of ground water and discharge of surface runoff to the facilities OR PROPERTY; ~~or on~~

(III) The number and kind of water or electric outlets on or in connection with the

political subdivision, person, or real property; ~~or on~~

(IV) The water or electric fixtures or facilities in or on or in connection with the political subdivision, person, or real property; ~~or on~~

(V) The number of persons residing or working in or on or otherwise connected or identified with the political subdivision, person, or real property; ~~or on~~

(VI) The capacity of the improvements in or on or connected with the political subdivision, person, or real property; ~~or upon~~

(VII) The availability of service or readiness to serve by the facilities; ~~or on~~

(VIII) THE AMOUNT OF SURFACE OR GROUND WATER USAGE BY OR IN CONNECTION WITH OR FOR THE BENEFIT OF THE POLITICAL SUBDIVISION, PERSON, OR OWNER OR OCCUPANT OF REAL PROPERTY;

(IX) Any other factors determining the type, class, and amount of use or service of the facilities; or ~~on~~

(X) Any combination of any such factors.

(b) Reasonable penalties may be fixed for any delinquencies, including, without limitation, interest on delinquent service charges from any date due at a rate of not exceeding one percent per month or fraction thereof, reasonable ~~attorneys'~~ ATTORNEY fees, and other costs of collection.

(3) The district, subdistrict, or political subdivision fixing the service charges shall prescribe and, from time to time when necessary, revise a schedule of such service charges, which shall comply with the terms of any contract of the district, subdistrict, or political subdivision fixing the service charges.

(4) The general assembly has determined and declared that the obligations, arising from time to time, of the district, any subdistrict, any political subdivision, or any person to pay service charges fixed in connection with any facilities shall constitute general obligations of the district, subdistrict, political subdivision, or person charged with their payment; but, as such obligations accrue for current services and benefits from, and the use of, any such facilities OR PLAN, the obligations shall not constitute an indebtedness of the district, any subdistrict, or any political subdivision within the meaning of any constitutional, charter, or statutory limitation or any other provision restricting the incurrence of any debt.

(5) No board, agency, bureau, commission, or official, other than the board of directors or the board of managers of the district or subdistrict, respectively, or the governing body of the political subdivision fixing the service charges, has authority to fix, prescribe, levy, modify, supervise, or regulate the making of service charges or to prescribe, supervise, or regulate the performance of services pertaining to the facilities thereof, as authorized by this article; but this subsection (5) shall not be construed to be a limitation on the contracting powers of the board of directors or the board of managers of the district, respectively, or any subdistrict or the governing body of any such political subdivision.

(6) ANY SERVICE CHARGES PAYABLE BY THE OWNERS OR OCCUPANTS OF REAL PROPERTY AND ANY PENALTIES FOR DELINQUENCY MAY BE CERTIFIED TO THE BOARDS OF COUNTY COMMISSIONERS OF THE RESPECTIVE COUNTIES IN WHICH THE REAL PROPERTY IS LOCATED AND SHALL THEN BE INCLUDED BY THEM IN THEIR NEXT ANNUAL LEVY FOR STATE AND COUNTY PURPOSES. SUCH AMOUNT SO CERTIFIED SHALL BE COLLECTED IN THE SAME MANNER AS PROVIDED IN SECTION 37-48-110(2). THE PROCEEDS OF SUCH LEVY SHALL BE PAID TO THE DISTRICT AS PROVIDED IN SECTION 37-48-107(3).

SECTION 27. 37-48-190 (1) (c) and (1) (d) (I), Colorado Revised Statutes, are amended to read:

37-48-190. Miscellaneous powers. (1) The district and any subdistrict thereof shall also have the following powers:

(c) To adopt, amend, repeal, enforce, and otherwise administer such reasonable resolutions, rules, regulations, and orders as the district or subdistrict shall deem necessary or convenient for the operation, maintenance, management, government, and use of the facilities OR ANY PLAN OF WATER MANAGEMENT of the district or subdistrict, as the case may be, and any other facilities under its control, whether situated within or without or both within and without the territorial limits of the district or subdistrict; and

(d) (I) To adopt, amend, repeal, enforce, and otherwise administer under the police power such reasonable resolutions, rules, regulations, and orders pertaining to water or electric services performed by any person through the district's or subdistrict's facilities, PLAN OF WATER MANAGEMENT, or pertaining to SUCH facilities OR PLANS of the district or subdistrict, any political subdivision, or any person, or any combination thereof, reasonably affecting the activities of the district or subdistrict, directly or indirectly, as the board of directors may from time to time deem necessary or convenient.

SECTION 28. Applicability. This act shall apply to acts occurring on or after the effective date of this act.

SECTION 29. 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 25, 2007