

First Regular Session  
Sixty-fourth General Assembly  
STATE OF COLORADO

INTRODUCED

LLS NO. 03-0669.01 Thomas Morris

HOUSE BILL 03-1195

---

HOUSE SPONSORSHIP

Weissmann,

SENATE SPONSORSHIP

Gordon,

---

House Committees  
State, Veterans, & Military Affairs

Senate Committees

---

A BILL FOR AN ACT

101 CONCERNING THE ELECTION OF WATER CONSERVANCY DISTRICT  
102 BOARDS OF DIRECTORS.

---

Bill Summary

*(Note: This summary applies to this bill as introduced and does not necessarily reflect any amendments that may be subsequently adopted.)*

Requires that all directors of a water conservancy district be elected.

Allows any registered elector who resides in a water conservancy district for at least 32 days to vote in an election to fill a vacancy for the district board of directors.

---

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.  
*Capital letters indicate new material to be added to existing statute.*  
*Dashes through the words indicate deletions from existing statute.*

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

2 **SECTION 1.** 37-45-114, Colorado Revised Statutes, is amended  
3 to read:

4 **37-45-114. Election of board of directors.** (1) (a) Within thirty  
5 days after entering the decree incorporating said district, the court shall  
6 ~~appoint a~~ ENTER AN ORDER SETTING A DATE FOR AN ELECTION OF THE  
7 board of directors of the district. ~~with backgrounds reflecting the~~  
8 ~~agricultural, municipal, industrial, and other interests in the beneficial use~~  
9 ~~of water within the district.~~ Such board shall consist of not more than  
10 fifteen persons who are residents of the counties in which the water  
11 conservancy district is situated, all of whom shall be the owners of real  
12 property in said district. ~~and knowledgeable in water matters. Directors~~  
13 ~~shall be appointed so as to generally achieve geographical representation.~~  
14 ~~No specific number of directors shall be required to represent any specific~~  
15 ~~interest in the beneficial use of water. In order to achieve geographical~~  
16 ~~representation, the court shall appoint a director from each county within~~  
17 ~~the district which contains more than one percent of the total land area of~~  
18 ~~the district, which person shall be the owner of real property within the~~  
19 ~~district and within said county. Based on the most recent federal census,~~  
20 ~~the court shall appoint the remaining directors, so far as practicable, in~~  
21 ~~the same proportion that the population of each county or portion thereof~~  
22 ~~within the district bears to the total population of the district. Said~~  
23 ~~directors shall reside and own real property within each county, or~~  
24 ~~portion thereof within the district, which is entitled to such proportional~~  
25 ~~representation.~~ The district shall maintain, for public inspection at its  
26 offices during normal working hours, a current list showing the names,  
27 counties of residence, and expiration dates of the terms of each member

1 of the district's board of directors. ~~Not more than sixty days and not less~~  
2 ~~than forty-five days prior to expiration of a director's term, the~~  
3 ~~conservancy district shall publish notice, once in a newspaper of general~~  
4 ~~circulation within the district, that applications for appointment as~~  
5 ~~director will be accepted by the court until thirty days prior to the~~  
6 ~~expiration of the director's term. The notice shall specify the address of~~  
7 ~~the court to which resumes may be sent, shall specify that the applicant~~  
8 ~~must have resided within the district for a period of one year and be the~~  
9 ~~owner of real property within the district, and, when applicable by decree~~  
10 ~~or revised decree, shall specify that the applicant must be the owner of~~  
11 ~~real property within the particular county whose director's term is~~  
12 ~~expiring. If the organizational decree of the district provides criteria for~~  
13 ~~the appointment of board members, the provisions of this paragraph (a),~~  
14 ~~regarding geographical and population criteria for appointment, shall not~~  
15 ~~apply to districts which were created pursuant to this article prior to July~~  
16 ~~1, 1985, unless the court enters an order pursuant to paragraph (d) of this~~  
17 ~~subsection (1).~~

18 (b) At the expiration of their respective terms of office as fixed by  
19 the court, ~~appointments of one-third of the board, to the nearest whole~~  
20 ~~number, shall be made by said court~~ ELIGIBLE FOR ELECTION for terms of  
21 one year; a like number shall be ~~appointed~~ ELIGIBLE FOR ELECTION for  
22 terms of two years; and the remainder shall be ~~appointed~~ ELIGIBLE FOR  
23 ELECTION for terms of four years. Thereafter all ~~appointments of~~  
24 directors shall be ELECTED for terms of four years. The court shall fill,  
25 for the duration of the unexpired term, any vacancy ~~which~~ THAT may  
26 occur on the board. Each director shall hold office during the term for  
27 which he OR SHE is appointed OR ELECTED and until his OR HER successor

1 is duly appointed OR ELECTED and has qualified and shall furnish a  
2 corporate surety bond at the expense of the district, in the amount and  
3 form fixed and approved by the court, conditioned for the faithful  
4 performance of his OR HER duties as such director. FOR PURPOSES OF THE  
5 ELECTIONS SPECIFIED IN THIS SECTION, AN ELIGIBLE ELECTOR INCLUDES A  
6 PERSON WHO, AT THE DESIGNATED TIME OR EVENT, IS QUALIFIED TO VOTE  
7 IN GENERAL ELECTIONS IN THIS STATE AND WHO HAS BEEN A RESIDENT OF  
8 THE DISTRICT OR THE AREA TO BE INCLUDED IN THE DISTRICT FOR NOT LESS  
9 THAN THIRTY-TWO DAYS.

10 (c) ~~In the event that any water conservancy district extends into~~  
11 ~~two or more judicial districts, or any parts thereof, the directors of such~~  
12 ~~water conservancy district shall be appointed by the presiding district~~  
13 ~~judges of all such judicial districts, who, sitting en banc, shall constitute~~  
14 ~~"the court" for purposes of this paragraph (c) and paragraph (a) of this~~  
15 ~~subsection (1). In the event of a disagreement regarding appointees, the~~  
16 ~~presiding judge of each judicial district shall appoint the directors from~~  
17 ~~each eligible county within his judicial district.~~

18 (d) ~~The court which entered the organizational decree of a district~~  
19 ~~created before July 1, 1985, may reopen the organizational decree in~~  
20 ~~accordance with this subsection (1). If a petition to reopen any such~~  
21 ~~organizational decree is filed with the court in which the decree was~~  
22 ~~originally entered, such petition shall be signed by the board of directors~~  
23 ~~in its discretion or by the owners of ten percent of the allocation of a~~  
24 ~~district's water supply or by ten percent of the registered electors who~~  
25 ~~have resided within the district for a period of one year and who are~~  
26 ~~owners of real property within the district. The court shall promptly~~  
27 ~~conduct a hearing for the limited purpose of reviewing and revising the~~

1 organizational decree, if necessary to meet the criteria of paragraph (a) of  
2 this subsection (1), to specify the number of directors from each county  
3 according to the criteria of paragraph (a) of this subsection (1). After the  
4 initial reopening and revision of a decree under the provisions of this  
5 subsection (1), such decree may be reopened and revised only once every  
6 ten years if necessary to reflect the criteria of paragraph (a) of this  
7 subsection (1). Any revision to the decree shall take effect upon entry,  
8 but no provision of the revised decree shall remove a director then serving  
9 prior to the expiration of his term. A director whose term expires after a  
10 proper petition has been filed pursuant to this paragraph (d) shall continue  
11 to serve, and the court shall make no appointment of a successor director  
12 until such time as a revised organizational decree is entered pursuant to  
13 this paragraph (d) or until the court makes a determination that no  
14 revision is necessary. The revised decree shall stagger the terms of the  
15 directors so that no more than one-third of the terms of the directors shall  
16 expire in any given year.

17 (e) Upon petition or upon its own motion, the court may remove  
18 any director of a district board for malfeasance, misfeasance, willful  
19 neglect of duty, or any other cause which renders such director incapable  
20 or unfit to perform the duties of his office. Such action for removal of a  
21 director shall occur after notice and a public hearing, unless such notice  
22 and hearing is expressly waived in writing by the challenged director.

23 (2) In the event that a petition, signed by not fewer than ten  
24 percent of the registered electors residing in a county, or portion of a  
25 county entitled to a director, of a water conservancy district, which  
26 electors, for the purpose of this subsection (2), are those persons entitled  
27 to vote in general elections, praying for the election of a director from

1 that county to fill the term of office of the specified director from that  
2 county then about to expire, in lieu of the appointment thereof by the  
3 court, shall be filed with the clerk of the court at any time prior to ninety  
4 days preceding the expiration date of the term of office of such director  
5 appointed by the court, the court shall order the holding of an election in  
6 the county, or portion of a county entitled to a director, in the district for  
7 the purpose of filling the vacancy to be caused by the expiration of the  
8 term of office of the director so about to expire in lieu of the appointment  
9 of a successor by the court as provided in subsection (1) of this section.

10 (3) Upon the entry of such order by the court, the clerk of the  
11 court shall prepare a certified copy of such order and file the same with  
12 IMPENDING EXPIRATION OF THE TERM OF ANY BOARD MEMBER, the board  
13 of directors which shall thereafter provide for the holding of such AN  
14 election for the election of such member of the board of directors in  
15 accordance with the provisions of section 37-45-139.

16 (4) Any director so elected shall have the qualifications required  
17 for members of the board of directors appointed by the court and shall  
18 furnish like bond as required of directors appointed by the court under  
19 subsection (1) of this section.

20 (5) The call of such AN election PURSUANT TO THIS SECTION shall  
21 be published as required by the provisions of section 37-45-140, and such  
22 election and the canvass of returns thereof shall be held in pursuance of  
23 the provisions of section 37-45-141.

24 (6) Repealed.

25 **SECTION 2.** 37-45-140, Colorado Revised Statutes, is amended  
26 to read:

27 **37-45-140. Publication of call.** The resolution provided in

1 section 37-45-139 OR ORDER PROVIDED FOR IN SECTION 37-45-114 shall  
2 be published once a week for two consecutive weeks, the last publication  
3 of which shall be at least ten days prior to the date set for said election,  
4 in a newspaper of general circulation within the district, and no other or  
5 further notice of such election or publication of the names of election  
6 officers or of the precincts or polling places need be made.

7 **SECTION 3.** 37-45-136 (4), Colorado Revised Statutes, is  
8 amended to read:

9 **37-45-136. Inclusion of lands.** (4) As a part of any order entered  
10 establishing the inclusion of lands or areas into the district, the court shall  
11 designate the division of the district to which such included lands or areas  
12 shall be attached or shall, in combination with or in lieu of the foregoing,  
13 create a new division from such included lands or areas and ~~appoint~~  
14 ORDER AN ELECTION FOR THE ELECTION OF the directors therefor; but the  
15 total number of directors of the district shall not exceed fifteen.

16 **SECTION 4. Effective date - applicability.** (1) This act shall  
17 take effect January 1, 2004.

18 (2) However, if a referendum petition is filed against this act or  
19 an item, section, or part of this act during the 90-day period after final  
20 adjournment of the general assembly that is allowed for submitting a  
21 referendum petition pursuant to article V, section 1 (3) of the state  
22 constitution, then the act, item, section, or part, shall not take effect  
23 unless approved by the people at a biennial regular general election and  
24 shall take effect on the date specified in subsection (1) or on the date of  
25 the official declaration of the vote thereon by proclamation of the  
26 governor, whichever is later.

27 (3) The provisions of this act shall apply to water conservancy

- 1 district board of director vacancies occurring on or after the applicable
- 2 effective date of this act.