

CHAPTER 175

WATER AND IRRIGATION

HOUSE BILL 16-1228

BY REPRESENTATIVE(S) Arndt and Becker J., Becker K., Ginal, Lontine, Winter, Mitsch Bush, Pettersen, Priola, Vigil;
also SENATOR(S) Donovan and Sonnenberg, Hodge, Jones, Kefalas, Merrifield.

AN ACT

CONCERNING AN ALTERNATIVE TRANSFER MECHANISM FOR WATER RIGHTS THAT PROTECTS THE AGRICULTURAL USE FOR WHICH A WATER RIGHT WAS ORIGINALLY DECREED WHILE PERMITTING RENEWABLE ONE-YEAR TRANSFERS OF A PORTION OF THE WATER SUBJECT TO THE WATER RIGHT.

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

SECTION 1. In Colorado Revised Statutes, **add** 37-60-133 as follows:

37-60-133. Minimum criteria and guidelines for agricultural water protection programs. (1) (a) THE BOARD SHALL DEVELOP MINIMUM CRITERIA AND GUIDELINES FOR THE ESTABLISHMENT OF AN AGRICULTURAL WATER PROTECTION PROGRAM IN WATER DIVISION 1 OR 2 PURSUANT TO SECTION 37-92-305 (19) (b) (IV) (B) TO ASSURE SUFFICIENT PROTECTION AND MONITORING OF AGRICULTURAL WATER PROTECTION WATER RIGHTS PURSUANT TO SECTION 37-92-305 (19) (b) (III).

(b) THE BOARD MAY PROMULGATE SEPARATE MINIMUM CRITERIA AND GUIDELINES FOR EACH WATER DIVISION.

(c) (I) UNTIL FINALIZATION OF THE CRITERIA AND GUIDELINES, THE BOARD SHALL POST AND PERIODICALLY UPDATE DRAFT CRITERIA AND GUIDELINES ON ITS WEBSITE.

(II) THE BOARD SHALL CONSIDER ANY COMMENTS IT RECEIVES ON THE DRAFT CRITERIA AND GUIDELINES AND, UPON THE REQUEST OF AN ELIGIBLE ENTITY, AS DEFINED IN SECTION 37-92-305 (19) (c), THE BOARD SHALL HOLD A MEETING WITH THE ELIGIBLE ENTITY TO RECEIVE THE ELIGIBLE ENTITY'S COMMENTS.

(III) THE BOARD SHALL HOLD AT LEAST ONE PUBLIC MEETING IN EACH WATER DIVISION TO PRESENT THE DRAFT CRITERIA AND GUIDELINES AND RECEIVE COMMENTS ON THEM.

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

(2) THE BOARD SHALL FINALIZE THE CRITERIA AND GUIDELINES WITHIN ONE YEAR AFTER INITIATING THE PROCESS TO DEVELOP CRITERIA AND GUIDELINES.

(3) AS USED IN THIS SECTION, "AGRICULTURAL WATER PROTECTION WATER RIGHT" HAS THE SAME MEANING AS IN SECTION 37-92-305 (19) (a).

SECTION 2. In Colorado Revised Statutes, **add** 37-80-123 as follows:

37-80-123. Lease, loan, or trade of agricultural water protection water right - rules - definition. (1) (a) AS SOON AS PRACTICABLE, THE STATE ENGINEER SHALL INITIATE THE PROMULGATION OF RULES GOVERNING THE REVIEW OF A SUBSTITUTE WATER SUPPLY PLAN PURSUANT TO SECTION 37-92-308(12). IN PROMULGATING THE RULES, THE STATE ENGINEER SHALL FOLLOW THE STATE ENGINEER'S OWN RULE-MAKING PROCEDURES.

(b) THE RULES MUST INCLUDE:

(I) TERMS AND CONDITIONS THAT THE STATE ENGINEER MAY IMPOSE THROUGH AN APPROVED SUBSTITUTE WATER SUPPLY PLAN PURSUANT TO SECTION 37-92-308(12);

(II) CRITERIA THAT THE STATE ENGINEER SHOULD CONSIDER IN REVIEWING A SUBSTITUTE WATER SUPPLY PLAN APPLICATION FILED PURSUANT TO SECTION 37-92-308(12);

(III) CRITERIA TO ENSURE THAT SUBSTITUTE WATER SUPPLY PLANS APPROVED PURSUANT TO SECTION 37-92-308(12) DO NOT FACILITATE THE DIVERSION OF WATER BETWEEN WATER DIVISIONS BY DIRECT DIVERSION, EXCHANGE, REPLACEMENT, OR OTHER MEANS;

(IV) PROCEDURES BY WHICH THE STATE ENGINEER MAY RECONSIDER A DECISION; AND

(V) PROCEDURES FOR CREATING A DATABASE THAT TRACKS AND INVENTORIES SUBSTITUTE WATER SUPPLY PLANS APPROVED UNDER SECTION 37-92-308(12) AND FOR MAKING THE FOLLOWING INFORMATION FROM THE DATABASE ACCESSIBLE TO THE PUBLIC:

(A) THE AMOUNT OF WATER SUBJECT TO EACH APPROVED PLAN;

(B) THE LOCATION OF USE OF WATER UNDER EACH APPROVED PLAN; AND

(C) THE DECREED BENEFICIAL USE OF WATER LEASED, LOANED, OR TRADED IN CONNECTION WITH EACH APPROVED PLAN.

(c) THE WATER JUDGE FOR WATER DIVISION 1 SHALL REVIEW THE RULES PROMULGATED UNDER THIS SECTION IN ACCORDANCE WITH THE PROCEDURES SET FORTH IN SECTION 37-92-501 (2) (g), (3) (a), AND (3) (b).

(2) AS USED IN THIS SECTION, "AGRICULTURAL WATER PROTECTION WATER RIGHT" HAS THE SAME MEANING AS IN SECTION 37-92-305 (19) (a).

SECTION 3. In Colorado Revised Statutes, 37-92-305, **add** (4) (c) and (19) as follows:

37-92-305. Standards with respect to rulings of the referee and decisions of the water judge - definitions. (4) (c) WITH RESPECT TO A CHANGE-IN-USE APPLICATION THAT SEEKS APPROVAL TO CHANGE AN ABSOLUTE DECREED IRRIGATION WATER RIGHT USED FOR AGRICULTURAL PURPOSES TO AN AGRICULTURAL WATER PROTECTION WATER RIGHT, AS DESCRIBED IN SUBSECTION (19) OF THIS SECTION, THE DECREE MUST:

(I) QUANTIFY THE HISTORICAL DIVERSIONS AND HISTORICAL CONSUMPTIVE USE OF THE ABSOLUTE DECREED IRRIGATION WATER RIGHT USED FOR AGRICULTURAL PURPOSES PURSUANT TO SUBSECTION (3) OF THIS SECTION;

(II) QUANTIFY THE RETURN FLOWS ASSOCIATED WITH THE HISTORICAL USE OF THE WATER RIGHT IN TIME, PLACE, AND AMOUNT;

(III) PROVIDE TERMS AND CONDITIONS, PURSUANT TO PARAGRAPH (a) OF THIS SUBSECTION (4), FOR A CHANGE IN THE USE OF THE AGRICULTURAL WATER PROTECTION WATER RIGHT PURSUANT TO A SUBSTITUTE WATER SUPPLY PLAN, APPROVED IN ACCORDANCE WITH SECTIONS 37-92-308 (12) AND 37-80-123, INCLUDING THE RETURN FLOW OBLIGATIONS IN TIME, PLACE, AND AMOUNT THAT PREVENT MATERIAL INJURY TO OTHER VESTED WATER RIGHTS AND DECREED CONDITIONAL WATER RIGHTS;

(IV) IN ACCORDANCE WITH SUBPARAGRAPH (II) OF PARAGRAPH (b) OF SUBSECTION (19) OF THIS SECTION, ALLOW AN AMOUNT OF THE QUANTIFIED HISTORICAL CONSUMPTIVE PORTION OF WATER SUBJECT TO THE CHANGED AGRICULTURAL WATER PROTECTION WATER RIGHT TO BE DELIVERED TO A POINT OF DIVERSION WITHIN THE WATER DIVISION OF HISTORICAL USE WITHOUT DESIGNATING THE BENEFICIAL USE TO WHICH THE WATER WILL BE APPLIED. DELIVERY MUST BE TO A POINT OF DIVERSION THAT IS APPROVED BY THE STATE ENGINEER IN ACCORDANCE WITH CONDITIONS:

(A) SET FORTH IN SECTION 37-92-308 (12); AND

(B) DEVELOPED BY THE STATE ENGINEER PURSUANT TO SECTION 37-80-123; AND

(V) FOR A PERIOD THAT THE WATER JUDGE DEEMS NECESSARY AND DESIRABLE TO REMEDY OR PRECLUDE INJURY AND PURSUANT TO SECTION 37-92-304 (6), BE SUBJECT TO RETAINED JURISDICTION BY THE WATER JUDGE ON THE QUESTION OF INJURY TO OTHER VESTED WATER RIGHTS.

(19) **Agricultural water protection - definitions.** (a) (I) AFTER THE STATE ENGINEER'S PROPOSED RULES PROMULGATED UNDER SECTION 37-80-123 ARE REVIEWED AND FINALIZED PURSUANT TO SECTION 37-80-123 (1) (c) AND AFTER THE COLORADO WATER CONSERVATION BOARD HAS FINALIZED THE CRITERIA AND GUIDELINES DEVELOPED PURSUANT TO SECTION 37-60-133, THE OWNER OF AN ABSOLUTE DECREED IRRIGATION WATER RIGHT IN WATER DIVISION 1 OR 2 USED FOR AGRICULTURAL PURPOSES MAY APPLY IN WATER COURT TO CHANGE THE USE OF THE WATER RIGHT TO AN AGRICULTURAL WATER PROTECTION WATER RIGHT. A WATER

RIGHT DECREED IN WATER DIVISION 3, 4, 5, 6, OR 7 IS NOT ELIGIBLE FOR A CHANGE IN WATER RIGHT TO AN AGRICULTURAL WATER PROTECTION WATER RIGHT. AS USED IN THIS SECTION, AN "AGRICULTURAL WATER PROTECTION WATER RIGHT" MEANS A WATER RIGHT DECREED TO ALLOW THE LEASE, LOAN, OR TRADE OF UP TO FIFTY PERCENT OF THE WATER SUBJECT TO THE WATER RIGHT.

(II) AFTER A PERSON HAS OBTAINED A DECREED AGRICULTURAL WATER PROTECTION WATER RIGHT, THE PERSON MAY APPLY FOR SUBSTITUTE WATER SUPPLY PLAN APPROVAL PURSUANT TO SECTION 37-92-308 (12).

(b) IF THE OWNER OF A DECREED AGRICULTURAL WATER PROTECTION WATER RIGHT OBTAINS A SUBSTITUTE WATER SUPPLY PLAN PURSUANT TO SECTION 37-92-308 (12), THE AGRICULTURAL WATER PROTECTION WATER RIGHT IS SUBJECT TO THE FOLLOWING CONDITIONS:

(I) THE OWNER OF A DECREED AGRICULTURAL WATER PROTECTION WATER RIGHT MUST COMPLY WITH THE TERMS OF THE DECREE GOVERNING THE POINT OF DIVERSION WHERE THE LEASED, LOANED, OR TRADED WATER IS BEING DELIVERED;

(II) THE OWNER MAY LEASE, LOAN, OR TRADE UP TO FIFTY PERCENT OF THE QUANTIFIED HISTORICAL CONSUMPTIVE USE PORTION OF THE AGRICULTURAL WATER PROTECTION WATER RIGHT;

(III) ANY AMOUNT OF WATER NOT BEING LEASED, LOANED, OR TRADED MUST CONTINUE TO BE USED FOR AGRICULTURAL PURPOSES:

(A) ON THE PROPERTY HISTORICALLY DECREED TO BE SERVED BY THE ORIGINAL ABSOLUTE DECREED IRRIGATION WATER RIGHT; OR

(B) FOR AS LONG AS THE OTHER PORTION OF WATER IS BEING LEASED, LOANED, OR EXCHANGED, ON ANOTHER PROPERTY SERVED BY THE SAME DITCH SYSTEM;

(IV) THE OWNER OF THE AGRICULTURAL WATER PROTECTION WATER RIGHT IS REQUIRED TO PARTICIPATE IN ONE OR MORE OF THE FOLLOWING PROGRAMS:

(A) AS ESTABLISHED BY THE FEDERAL GOVERNMENT, THE STATE, A SUBDIVISION OF THE STATE, OR A NONPROFIT ORGANIZATION, CONSERVATION PROGRAMS THAT CONSERVE THE LAND HISTORICALLY SERVED BY THE IRRIGATION WATER RIGHT, WHICH PROGRAMS INCLUDE COLORADO'S CONSERVATION EASEMENT PROGRAM ESTABLISHED IN ARTICLE 30.5 OF TITLE 38, C.R.S., THE UNITED STATES FISH AND WILDLIFE SERVICE EASEMENT PROGRAM, THE NATURAL RESOURCES CONSERVATION SERVICES EASEMENT PROGRAM, THE COLORADO DIVISION OF PARKS AND WILDLIFE EASEMENT PROGRAM, AND A COUNTY OPEN SPACE EASEMENT PROGRAM; OR

(B) AN AGRICULTURAL WATER PROTECTION PROGRAM DESIGNED TO ASSURE COMPLIANCE WITH THE TERMS OF SUBPARAGRAPH (III) OF THIS PARAGRAPH (b). THE PROGRAM MUST BE SPONSORED AND OPERATED BY AN ELIGIBLE ENTITY THROUGH A FORMAL ACTION OR ORDINANCE AND IN COMPLIANCE WITH MINIMUM CRITERIA AND GUIDELINES ESTABLISHED BY THE COLORADO WATER CONSERVATION BOARD PURSUANT TO SECTION 37-60-133. AN ELIGIBLE ENTITY MAY ENROLL AGRICULTURAL WATER PROTECTION WATER RIGHTS ONLY FROM A WATER RIGHT HISTORICALLY

DECREED WITHIN THE ENTITY'S GEOGRAPHIC BOUNDARY.

(V) IF THE OWNER'S PARTICIPATION IN A CONSERVATION PROGRAM PURSUANT TO SUBPARAGRAPH (IV) OF THIS PARAGRAPH (b) CEASES, THE OWNER'S ELIGIBILITY TO TRANSFER WATER SUBJECT TO THE AGRICULTURAL WATER PROTECTION WATER RIGHT BY LEASE, LOAN, OR TRADE OR TO OBTAIN A SUBSTITUTE WATER SUPPLY PLAN PURSUANT TO SECTION 37-92-308 (12) IS SUSPENDED, AND THE WATER MUST BE USED ONLY FOR AGRICULTURAL IRRIGATION PURPOSES ON THE PROPERTY HISTORICALLY DECREED TO BE SERVED BY THE ORIGINAL ABSOLUTE DECREED IRRIGATION WATER RIGHT UNTIL THE OWNER PARTICIPATES IN ONE OF THE CONSERVATION PROGRAMS AGAIN; AND

(VI) THE OWNER SHALL NOT LEASE, LOAN, OR TRADE WATER SUBJECT TO THE AGRICULTURAL WATER PROTECTION WATER RIGHT OUTSIDE OF THE WATER DIVISION WHERE THE HISTORICAL CONSUMPTIVE USE WAS LOCATED.

(c) AS USED IN THIS SUBSECTION (19), AN "ELIGIBLE ENTITY" MEANS AN ENTITY IN WATER DIVISION 1 OR 2 THAT:

(I) HAS GEOGRAPHIC BOUNDARIES THAT ARE LOCATED ENTIRELY WITHIN THE WATER DIVISION OF THE WATER RIGHT'S HISTORICAL PLACE OF USE AND ARE DEFINED IN AN ORIGINAL OR AMENDED DOCUMENT GOVERNING THE ENTITY; AND

(II) IS A WATER CONSERVATION DISTRICT, WATER CONSERVANCY DISTRICT, IRRIGATION DISTRICT, DITCH OR RESERVOIR COMPANY, NONPROFIT WATER PROVIDER, OR A MUNICIPALITY.

SECTION 4. In Colorado Revised Statutes, 37-92-308, **add** (12) as follows:

37-92-308. Substitute water supply plans - special procedures for review - water adjudication cash fund - legislative declaration - repeal.

(12) **Agricultural water protection.** (a) AFTER A PERSON HAS OBTAINED A DECREED AGRICULTURAL WATER PROTECTION WATER RIGHT PURSUANT TO SECTION 37-92-305 (19), WHICH WATER RIGHT IS AVAILABLE ONLY IN WATER DIVISION 1 OR 2, THE PERSON MAY APPLY FOR A SUBSTITUTE WATER SUPPLY PLAN PURSUANT TO THIS SUBSECTION (12).

(b) (I) THE STATE ENGINEER MAY APPROVE THE LEASE, LOAN, OR TRADE OF WATER UNDER A SUBSTITUTE WATER SUPPLY PLAN PURSUANT TO THIS SUBSECTION (12) IF THE APPLICANT HAS:

(A) PROVIDED WRITTEN NOTICE OF THE REQUEST FOR APPROVAL OF THE SUBSTITUTE WATER SUPPLY PLAN BY ELECTRONIC MAIL OR FIRST-CLASS MAIL TO ALL PARTIES WHO HAVE SUBSCRIBED TO THE SUBSTITUTE WATER SUPPLY PLAN NOTIFICATION LIST FOR THE WATER DIVISION IN WHICH THE PROPOSED PLAN IS LOCATED; AND

(B) FILED PROOF OF THE NOTICE WITH THE STATE ENGINEER.

(II) A PERSON WHO RECEIVES WRITTEN NOTICE OF THE REQUEST FOR APPROVAL OF A SUBSTITUTE WATER SUPPLY PLAN PURSUANT TO SUBPARAGRAPH (I) OF THIS

PARAGRAPH (b) HAS THIRTY-FIVE DAYS AFTER THE DATE THAT THE NOTICE WAS MAILED TO FILE COMMENTS WITH THE STATE ENGINEER ON THE SUBSTITUTE WATER SUPPLY PLAN APPLICATION. A PARTY FILING A COMMENT WITH THE STATE ENGINEER MUST INCLUDE THE FOLLOWING IN THE COMMENT:

(A) ANY CLAIM OF INJURY;

(B) ANY TERMS AND CONDITIONS THAT THE PARTY BELIEVES SHOULD BE IMPOSED ON THE PLAN TO PREVENT INJURY TO A PARTY'S WATER RIGHTS OR DECREED CONDITIONAL WATER RIGHTS; AND

(C) ANY OTHER INFORMATION THE PARTY WISHES THE STATE ENGINEER TO CONSIDER IN REVIEWING THE SUBSTITUTE WATER SUPPLY PLAN REQUEST.

(c) IF, AFTER CONSIDERATION OF THE APPLICATION AND ANY COMMENTS RECEIVED ON THE APPLICATION, THE STATE ENGINEER APPROVES A SUBSTITUTE WATER SUPPLY PLAN PURSUANT TO THIS SUBSECTION (12), THE APPROVAL MUST:

(I) COMPLY WITH CONDITIONS:

(A) SET FORTH IN SECTION 37-92-305 (19); AND

(B) DEVELOPED BY THE STATE ENGINEER PURSUANT TO SECTION 37-80-123;

(II) COMPLY WITH THE TERMS AND CONDITIONS OF THE APPLICANT'S DECREED AGRICULTURAL WATER PROTECTION WATER RIGHT, AS RECOGNIZED BY THE CASE NUMBER OF THE DECREE;

(III) IDENTIFY THE ASSOCIATED WATER RIGHT AS AN AGRICULTURAL WATER PROTECTION WATER RIGHT;

(IV) QUANTIFY THE PORTION OF THE HISTORICAL CONSUMPTIVE USE OF THE WATER RIGHT TO BE LEASED, LOANED, OR TRADED;

(V) QUANTIFY THE PORTION OF THE RETURN FLOWS ASSOCIATED WITH THE HISTORICAL USE OF THE WATER TO BE LEASED, LOANED, OR TRADED IN TIME, PLACE, AND AMOUNT;

(VI) PROVIDE TERMS AND CONDITIONS FOR THE USE OF THE WATER RIGHT, INCLUDING THE RETURN FLOW OBLIGATIONS IN TIME, PLACE, AND AMOUNT, THAT PREVENT MATERIAL INJURY TO OTHER VESTED WATER RIGHTS AND DECREED CONDITIONAL WATER RIGHTS; AND

(VII) IN ACCORDANCE WITH SECTION 37-92-305 (19) (b) (I), ALLOW DELIVERY OF AN AMOUNT OF THE QUANTIFIED HISTORICAL CONSUMPTIVE PORTION OF THE AGRICULTURAL WATER PROTECTION WATER RIGHT. DELIVERY MUST BE TO A POINT OF DIVERSION THAT IS SUBJECT TO AN EXISTING WATER COURT DECREE.

(d) A SUBSTITUTE WATER SUPPLY PLAN APPROVED PURSUANT TO THIS SUBSECTION (12) IS VALID FOR ONE YEAR. IF THE TERMS AND CONDITIONS OF THE PLAN REMAIN UNCHANGED, THE HOLDER OF THE PLAN MAY RENEW THE PLAN TWO

TIMES WITHOUT REAPPLYING BY NOTIFYING THE STATE ENGINEER BY ELECTRONIC MAIL OR FIRST-CLASS MAIL THAT THE TERMS AND CONDITIONS REMAIN UNCHANGED. TO MAINTAIN THE SUBSTITUTE WATER SUPPLY PLAN, THE HOLDER OF THE PLAN MUST FILE A NEW APPLICATION EVERY THREE YEARS. ANY CHANGE IN THE TERMS AND CONDITIONS IMMEDIATELY NULLIFIES THE SUBSTITUTE WATER SUPPLY PLAN, AND A NEW APPLICATION MUST BE APPLIED FOR AND APPROVED BY THE STATE ENGINEER PURSUANT TO THIS SUBSECTION (12).

(e) WHEN THE STATE ENGINEER APPROVES OR DENIES A SUBSTITUTE WATER SUPPLY PLAN, THE STATE ENGINEER SHALL SERVE A COPY OF THE DECISION ON ALL PARTIES TO THE APPLICATION AND THE WATER COURT APPLICATION BY FIRST-CLASS MAIL OR, IF A PARTY HAS SO ELECTED, BY ELECTRONIC MAIL.

(f) THE STATE ENGINEER MUST PROVIDE A DETAILED STATEMENT OF THE BASIS AND RATIONALE FOR THE DECISION. FOR A DECISION APPROVING THE APPLICATION, THE STATEMENT OF THE BASIS AND RATIONALE MUST INCLUDE A COMPLETE EXPLANATION OF THE TERMS AND CONDITIONS IMPOSED TO PREVENT INJURY TO OTHER WATER RIGHTS AND WHY THEY ARE IMPOSED. THE DECISION MUST INCLUDE A DESCRIPTION OF THE CONSIDERATION GIVEN TO ANY WRITTEN COMMENTS THAT WERE FILED BY OTHER PARTIES.

(g) NEITHER THE STATE ENGINEER'S APPROVAL NOR DENIAL OF AN APPLICATION CREATES ANY PRESUMPTIONS, SHIFTS THE BURDEN OF PROOF, OR SERVES AS A DEFENSE IN ANY LEGAL ACTION THAT MAY BE INITIATED CONCERNING THE SUBSTITUTE WATER SUPPLY PLAN.

(h) ANY APPEAL OF A DECISION MADE BY THE STATE ENGINEER CONCERNING A SUBSTITUTE WATER SUPPLY PLAN APPROVED OR DENIED PURSUANT TO THIS SUBSECTION (12) MUST BE MADE WITHIN THIRTY-FIVE DAYS AFTER THE DATE OF SERVICE OF THE DECISION. ANY APPEAL MUST BE FILED UNDER THE SAME CASE NUMBER AS THE DECREED AGRICULTURAL WATER PROTECTION WATER RIGHT AND SHALL BE HEARD USING THE PROCEDURES AND STANDARDS SET FORTH IN SECTIONS 37-92-304 AND 37-92-305 FOR DETERMINATION OF THE MATTERS REFERRED TO THE WATER JUDGE BY THE REFEREE. THE WATER JUDGE SHALL HEAR AND DETERMINE ANY APPEAL ON AN EXPEDITED BASIS.

SECTION 5. Act subject to petition - effective date. This act takes effect at 12:01 a.m. on the day following the expiration of the ninety-day period after final adjournment of the general assembly (August 10, 2016, if adjournment sine die is on May 11, 2016); except that, if a referendum petition is filed pursuant to section 1 (3) of article V of the state constitution against this act or an item, section, or part of this act within such period, then the act, item, section, or part will not take effect unless approved by the people at the general election to be held in November 2016 and, in such case, will take effect on the date of the official declaration of the vote thereon by the governor.

Approved: May 18, 2016