First Regular Session

Forty-fifth General Assembly

STATE OF COLORADO

By REPRESENTATIVE WOOLF

HOUSE BILL NO. 1066

A BILL FOR AN ACT

CONCERNING WATER; PROVIDING FOR THE EXECUTION AND ADMINISTRATION
OF THE WATER LAWS OF THE STATE BY THE STATE ENGINEER; AND

PROVIDING PENALTIES.

Be It Enacted by the General Assembly of the State of Colorado:

SECTION 1. Article 11 of chapter 148, Colorado Revised
Statutes 1963, is hereby amended by the addition of a new section

to read:

148-11-22. - State engineer to administer water laws. - (1)
The state engineer or his duly authorized representative shall
execute and administer the laws of the state relative to the dis-
tribution of the surface waters of the state including the under-
ground waters tributary thereto in accordance with the right of
priority of appropriation, and he shall adopt such rules and regu-
lations and issue such orders as are necessary for the performance
of the foregoing duties.

(2) In the event an order with respect to the distribution
of water is not complied with, the state engineer, in the name of
the people of the state of Colorado through the attorney general
of the state, may apply for an injunction in any court of competent jurisdiction, to enjoin any person, firm, association, partnership, or corporation from diverting the waters described in subsection (1) of this section by means of any ditch, canal, flume, reservoir, pipeline, conduit, well, or other structure, when necessary to prevent such diversion from materially injuring the vested rights of other appropriators. In determining whether or not the vested rights of other appropriators are materially injured by any well, or replacement thereof, there shall be a rebuttable presumption that there is no injury if a well or its replacement was both in existence prior to date of this act, and used continuously since that date, and is not located in the subsurface channel of a continuously flowing surface stream. If it is established that the defendant has been or is diverting waters to the injury of vested rights of other appropriators, the court shall enter a decree enjoining said defendant from further diverting such waters until such time as the state engineer shall find that water is available to the defendant without injury to other appropriators. Any interested party may intervene in such injunctive proceedings; provided, that such intervention is timely and will not cause undue delay. In case of a violation of any injunction issued under the provisions of this subsection, the court, or any judge thereof, may try and punish the offender for contempt of court. Such injunctive proceedings shall be in addition to, and not in
lieu of, any other penalties and remedies provided by law.

(3) It shall be unlawful for any person, firm, partnership, association, or corporation to divert waters from a stream or water tributary thereto when there is insufficient water available from such sources to supply the rights of senior appropriators at their point or points of diversion and to the extent of their decrees, and after having received written notice to that effect from the state engineer or his duly authorized representative. Any violation of this section shall be deemed a misdemeanor and punishable by a fine of not less than 100 dollars nor more than five hundred dollars, or by imprisonment in the county jail for not less than ten days nor more than ninety days, or by both such fine and imprisonment.

SECTION 2. - 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.
House bill 1066.


(Ekimiller, Office of Secretary of State)
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A BILL FOR AN ACT

RELATING TO WATER; REPEALING AND RE-ENACTING, WITH AMENDMENTS,

ARTICLE 18 OF CHAPTER 148, COLORADO REVISED STATUTES 1963;

PROVIDING FOR THE APPROPRIATION AND ADMINISTRATION OF

DESIGNATED GROUND WATER; AND PROVIDING FOR THE ESTABLISH-
MENT OF GROUND WATER MANAGEMENT DISTRICTS.

Be It Enacted by the General Assembly of the State of Colorado:

SECTION 1. Article 18 of chapter 148, Colorado Revised Statutes 1963, is hereby REPEALED AND RE-ENACTED, WITH AMEND-
MENTS, to read:

148-18-1. Declaration of policy. - It is hereby declared that the traditional policy of the state of Colorado, requiring the water resources of this state to be devoted to beneficial use in reasonable amounts through appropriation, is affirmed with respect to the designated ground waters of this state, as said waters are hereinafter defined. While the doctrine of prior appropriation is recognized, such doctrine should be modified to permit the full economic development of designated ground water resources. Prior appropriations of ground water should be
protected and reasonable ground water pumping levels maintained, but not to include the maintenance of historical water levels.

All designated ground waters in this state are therefore declared to be subject to appropriation in the manner herein defined.

148-18-2. Definitions. - (1) The term "person" as used herein shall mean any individual, partnership, association, or corporation authorized to do business in the state of Colorado, or any political subdivision or public agency thereof, or any agency of the United States of America, making a beneficial use, or taking steps, or doing work preliminary to making a beneficial use, of designated underground waters of Colorado.

(2) The terms "underground water" and "ground water" are used interchangeably in this article, and refer to any water not visible on the surface of the ground under natural conditions.

(3) The term "designated ground water" is that ground water which in its natural course would not be available to and required for the fulfillment of decreed surface rights, or ground water in areas not adjacent to a continuously flowing natural stream wherein ground water withdrawals have constituted the principal water usage for at least fifteen years preceding January 1, 1965; and which in both cases is within the boundaries, either geographic or geologic, of a designated ground water basin.

(4) The term "aquifer" is a member of a geological formation
that contains or transmits ground water.

(5) "Ground water commission" or "commission" as used herein refers to the ground water commission created and provided for herein to facilitate the functioning of this article.

(6) "State engineer" as used in this article refers to the state engineer of Colorado or any person deputized by him in writing to perform a duty or exercise a right granted in this article.

(7) "Colorado water conservation board" as used in this article refers to the board created in section 149-1-1, C.R.S. 1963.

(8) "Well" as used in this article is any structure or device used for the purpose or with the effect of obtaining ground water for beneficial use from an aquifer.

(9) "Artesian well" as used in this article is a well tapping an aquifer in which the static water level in the well rises above where it was first encountered in the aquifer, due to hydrostatic pressure.

(10) "Designated ground water basin" as used herein is that area established by the ground water commission in accordance with section 148-18-5.

(11) "Subdivision" as used herein is an area within a ground water basin.
(12) "Historical water level" as used herein is the average elevation of the ground water level in any area before being lowered by the activities of man, as nearly as can be determined from scientific investigation and available facts.

(13) "Waste" as used herein is causing, suffering, or permitting any well to discharge water unnecessarily above or below the surface of the ground.

(14) "Taxpaying elector" is a person qualified to vote at general elections in Colorado, and who owns real property within the district and has paid ad valorem taxes thereon in the twelve months immediately preceding a designated time or event.

(15) "Ground water management district" or "district" as used herein means any district organized under the provisions of this article.

(16) "Well driller" as used in this article means any individual, corporation, partnership, association, political subdivision, or public agency which shall dig, drill, case, recase, deepen, or excavate a well or wells either by contract or for hire, or for any consideration whatsoever.

(17) "Private driller" as used in this article means any individual, corporation, partnership, association, political subdivision, or public agency which shall operate as lessee or owner of its own well drilling rig and equipment and which shall dig, drill, redrill, case, recase, deepen, or excavate a well or wells upon
the property of such entity.

is hereby created a ground water commission to consist of twelve
members, nine of whom shall be appointed by the governor, and
confirmed by the senate. Appointments shall be two each from
irrigation divisions one, two, and three, and one from either
division four or seven, and one from either division five or six,
and one at large. Of the two members appointed from divisions
one and two, one member from each of such divisions shall be ap-
pointed representing the area east of the 104° meridian and one
from the area west of the 104° meridian. Of the two members
appointed from division three, one member shall be appointed
representing the area north and east of the Rio Grande river and
one representing the area south and west of the Rio Grande river.

(2) The present appointed members of the commission hereto-
fore created by the "Colorado Ground Water Law" of 1957, by this
article repealed and re-enacted, shall constitute the appointed
members authorized by subsection (1) of this section for the
terms of their original appointments, and until their successors
are duly appointed and qualified.

(3) All subsequent appointments shall be for four year
terms, except those made to fill vacancies due to removal from
the irrigation division or by resignation. Appointees to the com-
mission shall be residents of their respective division, shall be
reasonably familiar with water usage including ground water usage in their respective divisions; six of whom shall be agriculturists and three shall represent municipal or industrial users, and, as nearly as may be determined, all shall be unbiased and without prejudice between surface and ground water use.

(4) The governor, the state engineer, and the director of the state water conservation board shall be voting members of the commission. Eight voting members shall constitute a quorum at any regularly called meeting of the commission, and a majority vote of those present shall rule. The commission shall establish and maintain, as nearly as may be practicable, a schedule of four general meetings each year. The governor may designate a representative to sit in his place on the commission and said designee shall have authority to vote the governor's proxy.

(5) Members of the commission shall be paid no compensation, but shall be paid actual necessary expenses incurred by them in the performance of their duties as members thereof and a per diem equal in amount to per diem payments made to members of other state commissions of a similar general character.

(6) The commission shall biennially select a chairman and vice-chairman from among the appointed members. The state engineer shall be ex officio the executive director of the commission and shall carry out and enforce the decisions and orders of the commission.
148-18-4. **Exemption.** - Wells used solely for stock watering purposes or used for domestic purposes having discharge pipes of two inches or less in diameter, and all artesian wells with discharge pipes not exceeding three inches in diameter, shall be exempt from the provisions of this article, unless otherwise specifically stated.

148-18-5. **Determination of designated ground water basins.** -

(1) (a) The commission, shall, from time to time as adequate factual data becomes available, determine designated ground water basins and subdivisions thereof by both geologic and geographic description, and as future conditions require and factual data justify, shall alter the boundaries or description thereof. In making such a determination the commission shall make the following findings:

(b) The name or names of the water bearing geological member or members of a defined formation;

(c) The boundaries of each formation or member being considered;

(d) The estimated quantity of water stored in each formation or member;

(e) The estimated annual rate of recharge;

(f) The estimated use of the ground water in the area;

(g) The estimated projected use of the ground water in the succeeding fifty years at ten-year intervals;
(h) If the source is an area of use exceeding fifteen years as defined in section 148-18-2 (3), the commission shall list those users who have been withdrawing water in excess of the fifteen-year period, the use made of the water, the average annual quantity of water withdrawn, and the year in which the user began to withdraw water.

(2) Before determining or altering the boundaries of a designated ground water basin or subdivisions thereof, the state engineer shall prepare and file in his office a map clearly showing all lands included therein, together with a written description thereof sufficient to apprise interested parties of the boundaries of the proposed basin or subdivisions thereof. The commission shall publish the same and hold a hearing thereon. Following such hearing, the commission shall enter an order to either create the proposed designated ground water basin, to include modification of the proposed boundaries, if any, or dismiss the original proposal, according to the factual information presented or available.

148-18-6. Application for use of ground water - publication of notice - conditional permit - hearing on objections. - (1) Any person desiring to appropriate ground water for a beneficial use in a designated ground water basin shall make application to the commission in a form to be prescribed by the commission. The applicant shall specify the particular designated ground water basin or subdivision thereof from which water is proposed to be
appropriated, the beneficial use to which it is proposed to apply such water, the location of the proposed well, the name of the owner of the land on which such well will be located, the average annual amount of water applied for in acre-feet, the proposed maximum pumping rate in gallons per minute, and if the proposed use is irrigation, the description of the land to be irrigated and the name of the owner thereof, together with such other reasonable information as the commission may designate on the form prescribed.

(2) Upon the filing of such application, the commission shall, within thirty days, cause notice of the same to be published.

(3) After the expiration of the time for filing objections, if no such objections shall have been filed, the commission shall, if it finds that the proposed appropriation will not unreasonably impair existing water rights from the same source, and will not create unreasonable waste, grant the said application, and the state engineer shall issue a conditional permit to the applicant to appropriate all or a part of the waters applied for, subject to such reasonable conditions and limitations as the commission may specify.

(4) If objections have been filed within the time in said notice specified, the commission shall set a date for a hearing on the application and the objections thereto, and shall notify the applicants and the objectors of the time and place. Such
hearing shall be held in the county in which the proposed well will be located. If after such hearing it shall appear that there are no unappropriated waters in the designated source, or that the proposed appropriation would unreasonably impair existing water rights from such source, or would create unreasonable waste, the application shall be denied; otherwise it shall be granted in accordance with subsection (3) of this section.

(5) In ascertaining whether a proposed use will create unreasonable waste or unreasonably affect the rights of other appropriators, the commission shall take into consideration the area, and geologic conditions, the average annual yield and recharge rate of the appropriate water supply, the priority and quantity of existing claims of all persons to use the water, the proposed method of use, and all other matters appropriate to such questions. With regard to whether a proposed use will impair uses under existing water rights, impairment shall include the unreasonable lowering of the water level, or the unreasonable deterioration of water quality, beyond reasonable economic limits of withdrawal or use.

148-18-7. Final permit - evidence of beneficial use - limitations. - (1) After having received a conditional permit to appropriate designated ground water, the applicant shall proceed with due diligence to construct the well or other works necessary to apply the water to a beneficial use. The applicant shall
furnish the commission with such evidence in the form prescribed
by the commission as will demonstrate that the water has been put
to beneficial use.

(2) If after due investigation the commission shall find
that the water has been put to beneficial use and that the other
terms of the conditional permit have been complied with, the com-
mission shall order the state engineer to issue a final permit
to use designated ground water, containing such limitations and
conditions as the commission shall deem necessary to prevent waste
and for the protection of other appropriators.

(3) A conditional permit to appropriate designated ground
water shall expire and be of no force or effect at the expiration
of one year from the date of its issuance, unless the conditions
set forth under subsection (1) of this section have been complied
with within that time, or unless extended by the commission for a
period certain upon good cause shown.

148-18-8. **Priority.** - (1) Priority of claims for the appropria-
tion of designated ground water shall be determined by the doctrine
of prior appropriation. All claims based on actual taking of
designated ground water for beneficial use prior to the effective
date of this article shall be determined by the doctrine of prior
appropriation and shall relate back to the date of placing desig-
nated ground water to beneficial use. All claims for the beneficial
use of designated ground water initiated after the effective date of this article shall relate back to the date of filing of an application with the commission, unless such application is rejected.

(2) In order to establish priority of a claim to appropriate designated ground water which has existed prior to the adoption of this article, a numbered priority shall be awarded to each well based upon the time the water was first applied to a beneficial use. The date shown in the records now filed in the state engineer's office shall be prima facie evidence of the date the water was first applied to beneficial use. All wells constructed as replacements for or as supplements to an original well or wells for the same beneficial use, shall be considered as a unit and awarded a priority date of the earliest well.

(3) As soon as practical after the establishment of a designated ground water basin, the commission shall establish tentative priority dates for the respective wells within such designated ground water basin, or subdivisions thereof, in accordance with the information contained in its files. The commission may require such additional information from the well claimant as will permit it to make a proper determination of the priority date and the total average annual volume of water used. If the claimant shall fail or refuse to furnish the requested information within a period of thirty days, the commission may proceed to make a determination.
from the records available.

(4) (a) After having established tentative priorities, the commission shall publish the same setting forth the following information:

(b) The priority number.

(c) The priority date.

(d) The name of the claimant.

(e) The forty acre subdivision in which the well is located.

(f) The average annual volume of the appropriation in acre-feet per year.

(g) The proposed maximum pumping rate in gallons per minute.

(5) The commission shall conduct a hearing thereon and following such hearing shall issue an order establishing priority dates of the respective wells and final permits therefor.

(6) In the event two or more appropriations of designated ground water, either heretofore or hereafter made, have a common date, the priority number shall be accorded by lot.

148-18-9. **Powers of the state engineer.** - (1) (a) In the administration and enforcement of this article and in the effectuation of the policy of this state to conserve its designated ground water resources, and for the protection of vested rights, the state engineer is empowered:

(b) To require all flowing wells to be equipped with valves so that the flow of water can be controlled.
(c) To require both flowing and nonflowing wells to be so constructed and maintained as to prevent the waste of ground waters through leaky wells, casings, pipes, fittings, valves, or pumps, either above or below the land surface.

(d) To prescribe satisfactory and economical measuring devices for the measurement of water levels in and the amount of water withdrawn from wells.

(e) To go upon all lands, both public and private, for the purpose of inspecting wells, pumps, casings, pipes, fittings, and measuring devices, including wells used or claimed to be used for domestic or stock purposes.

(f) To order the cessation of the use of a well pending the correction of any defect that the state engineer has ordered corrected.

(g) To commence actions to enjoin the illegal opening or excavation of wells or withdrawal or use of water therefrom, and to appear and become a party to any action or proceeding pending in any court or administrative agency when it appears that the determination of such action or proceeding might result in depletion of the ground water resources of the state contrary to the public policy expressed in this article or might injure vested rights of other appropriators.

(h) To take such action as may be required to enforce compliance with any regulation, control, or order established by
the ground water commission as provided for under the provisions of this article.

148-18-10. Powers of the ground water commission. - (1) (a)
In the administration and enforcement of this article and in the effectuation of the policy of this state to conserve its designated ground water resources and for the protection of vested rights the ground water commission is empowered:

(b) To supervise and control the exercise and administration of all rights heretofore or hereafter acquired to the use of designated ground water. In the exercise of this power it may, by summary order, prohibit or limit withdrawal of water from any well during any period that it determines that such withdrawal of water from said well would cause unreasonable injury to prior appropriators; provided, that nothing in this article shall be construed as entitling any prior designated ground water appropriator to the maintenance of the historic water level or any other level below which water still can be economically extracted when the total economic pattern of the particular designated ground water basin is considered; and provided further, that no such order shall take effect until six months after its entry.

(c) To establish a reasonable ground water pumping level or levels in an area or areas having a common designated ground water supply. Water in wells shall not be deemed available to fill the water right therefor if withdrawal therefrom of the amount called
for by such right would, contrary to the declared policy of this article, unreasonably affect any prior water right, or result in withdrawing the ground water supply at a rate materially in excess of the reasonably anticipated average rate of future recharge.

(d) To provide regulations under which a well may be modified by a change of the well itself, the pumping equipment therefor, by the drilling of a substitute well, or otherwise, in order to make it possible for the owner of a well to obtain the water to which such owner may be entitled by virtue of his original appropriation.

(e) In the exercise of any of the powers or duties conferred by this section, the commission shall confer and consult with the board of directors of the ground water management district board in the affected area, if any such board exists, before promulgating any orders or regulations which would affect the district in general.

148-18-11. Notice - publication. - (1) When any notice is required to be published under any section of this article, including notice of elections, it shall be deemed to mean a publication in a newspaper of general circulation in each of the counties concerned, once each week for two successive weeks. The notice shall state the hour and date of the commencement of hearings on the subject matter of the notice; the place at which the hearings will be held, which shall be a place within the counties affected;

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the place where written objections may be filed; and the final date
by which written objections will be received; or if for an elec-
tion, the date, hours, and polling places.

(2) All objections to published notice shall be in writing
and shall briefly state the nature of the objection and shall be
filed within the time and at the place designated in the notice.

(3) The time for filing any written objections to notices
described in this article shall extend to thirty days following
the last publication of the notice.

148-18-12. Hearings. - (1) Hearings on all matters to be
heard by the commission shall be held in one of the counties in
which the water rights directly involved are situated. The hear-
ings shall be conducted before the commission under reasonable
rules and regulations of procedure prescribed by it. All parties
to the hearing, including the commission, shall have the right
to subpoena witnesses, who shall be sworn by the chairman or act-
ing chairman of the commission to testify under oath at the hear-
ing. All parties to the hearing shall be entitled to be heard
either in person or by attorney.

(2) In any hearings required to be conducted by the commis-
sion, it may, in its discretion, have such hearings conducted
before such agent or agents as it may designate, either alone or
in conjunction with the appearance of the commission; provided,
that such agent or agents are technically qualified to conduct
or assist in such hearings.

148-18-13. Other administrative hearings. - Any person claiming to be injured by any act of the state engineer or commission under the provisions of this article or the failure of the state engineer or commission to take any action under the provisions of this article, may file a written statement with the commission stating the basis of the alleged injury. Thereafter, upon thirty days' written notice to any adverse party, the commission shall conduct a hearing upon the petition in the manner provided in section 148-18-12.

148-18-14. Appeals from action of state engineer or the ground water commission - time for taking - notice - costs - evidence - trial. (1) Any person dissatisfied with any decision, act, or refusal to act of the state engineer or the commission under this article may take an appeal to the district court of the county wherein the water rights or wells involved are situated.

(2) Notices of such appeal shall be served by the appellant upon the state engineer or the commission and all parties interested within thirty days after notice of such decision, act, or refusal to act, and unless such appeal is taken within said time, the action of the state engineer or the commission shall be final and conclusive.

(3) Notice of such appeal, proof of service, and docketing of the appeal in the district court shall be accomplished in the
same manner as any other civil suit originally commenced in the
district courts of this state. Costs shall be taxed to the appellant
as in any other civil suit.

(4) Proceedings upon appeal shall be de novo, except evidence
taken in hearing before the commission may be considered as original
evidence, subject to legal objection, the same as if said evidence
were originally offered in such district court.

(5) It shall be the duty of the commission and state engi-
neer upon being served with notice of appeal, as aforesaid, to
forthwith transmit to the district court to which appeal may be
taken the papers, maps, plats, field notes, orders, decisions, and
other available data affecting the matter in controversy or certi-
fied copies thereof, which certified copies shall be admitted in
evidence as of equal validity with the originals.

148-18-15. Fees. - (1) (a) The state engineer shall collect
in advance the following fees:

(b) With an application for the use of ground water, $25.00.
(c) For issuance of final permit to use ground water, $10.00.
(d) For issuing a permit to modify or replace an existing
well, $10.00.
(e) Making a copy of a document filed in his office, $1.00
per page or fraction thereof.
(f) For certifying copies of documents, records, or maps,
$2.00 for each certification.
(g) The anticipated expenses of publication, if any is re-
quired.

water conservation board shall have power, and it shall be its 
duty, to investigate and determine the nature and extent of the 
ground water resources of the state of Colorado. It shall also 
be the duty of said board to study and determine the effect, if any, 
of the withdrawal of ground water upon aquifer supply and upon the 
surface flow of streams, and the information obtained thereby 
shall be made available to the state engineer and the ground water 
commission and any designated ground water management district. 
Nothing herein shall be construed as impairing the authority of 
the state engineer, the ground water commission, or any ground water 
management district to make such investigation as they may find 
necessary or desirable to enable them to perform their duties under 
this article.

148-18-17. Ground water management districts - formation. - 
Within areas determined as designated ground water basins by 
action of the commission in accordance with section 148-18-5, 
ground water management districts may be formed in the manner, and 
having the power, provided in sections 148-18-17 through 148-18-34; 
provided, that no district shall be organized unless all ground 
water aquifers within the geographic boundaries of the district 
have been designated as a part of the district by the commission.
148-18-18. Creation of districts - proposal - submission - changes - proposed boundaries. - A proposal for the formation of a designated ground water management district must have first been submitted to the ground water commission, which shall make a hydrologic, geographic, and geologic evaluation of the proposed boundaries and recommend any changes in such boundaries as are indicated by such evaluation. No further steps for the formation of such district shall be taken until the commission, in writing, gives its consent to the boundaries thereof. The commission shall give either its consent or disapproval of the proposed boundaries within ninety days after the proposal has been submitted to it.

148-18-19. Management districts - petition - signatures required - filing. - Following receipt of the consent required by section 148-18-18, a petition calling for formation of the proposed district may be filed with the commission. The petition shall be signed by not less than fifteen per cent of the taxpaying electors owning real property within the proposed district.


(b) The name of the proposed district and boundaries thereof;

(c) A proposed division of the district into divisions as nearly equal in size as may be practicable, and considering the population thereof, each of which is to be represented by a
director who is a resident owner of land in such division;

(d) The number of directors that the district shall have if formed, not less than five nor more than fifteen in number, together with the name and address of each of the proposed directors, the division to be represented by each of them, and their terms of office, which shall be so designated that approximately one-half of them shall expire on the first Tuesday in March of the second year after the organization of the district is completed, the remainder of them on the first Tuesday in March of the fourth year after the organization of the district is completed.

(e) Where the offices of such proposed district are to be maintained; and

(f) A prayer that the organization of the district be submitted to a vote of the taxpaying electors as hereinafter provided.

(2) No petition for the organization of a district with the requisite signatures shall be declared null and void on account of minor defects, but the commission may at any time, prior to final determination of the sufficiency thereof, permit the petition to be amended in form to conform to the facts. Several similar petitions or duplicate copies of the same petition for the organization of the same district may be filed and shall together be regarded as one petition. All petitions, filed prior to the determination of the sufficiency of such petition, shall be considered as though
filed with the first petition placed on file.

148-18-21. Management district - petition - certification of signatures - hearing - notice - publication. - The commission shall examine the petition and, if it finds that it bears the requisite number of signatures and otherwise meets the stated requirements, it shall thereupon set a date for hearing upon such petition and shall cause notice of such hearing, together with a copy of such petition, to be published, the final publication being not less than ten nor more than thirty days prior to the date set for such hearing. The cost of such publication shall be paid by the petitioners and shall be advanced by them prior to publication.

148-18-22. Management districts - hearing - objections - change of boundaries. - At the time set for such hearing, the commission shall examine the petition and hear objections thereto and may order changes in the boundaries thereof by the inclusion or removal of land therefrom upon finding that such change would be hydrologically, geologically, and geographically sound. The action of the commission may be reviewed by the district court in error proceedings filed within twenty days after its decision has been announced, which decision shall be announced within ninety days after the hearing.

148-18-23. Election on organization. - (1) If after the completion of the hearing or hearings on the feasibility of the
organization of a district, it is determined that such district shall be organized, the commission shall forthwith make an order allowing the prayer of the petition, and, by order duly entered upon their record, shall call an election of the taxing electors in the district for the purpose of determining whether such district shall be organized, and shall set the date for such election.

(2) The commission shall thereupon publish a notice, the final publication to be not less than ten nor more than thirty days immediately preceding the election, which notice shall state: (a) the fact of filing of the petition; (b) in summary form, the information required by subsection (1) of section 148-18-20 to be included in the petition; (c) that an election will be held to decide the question of organization of the proposed district; (d) the date of such election; (e) the polling places at which such election is to be held; (f) the qualifications of those eligible to vote at such election; and (g) the specific question to be submitted.

(3) The commission shall appoint three taxing electors of the district as judges for each designated polling place. The election shall be held and conducted as nearly as may be in the same manner as general elections in this state. There shall be no special registration for such elections, but for the purpose of determining qualifications of electors, the judges shall be permitted to use the last official registry lists of electors.
residing in the district and a certified list of landowners in
the district prepared by the county treasurer, and in addition,
may require the execution of an affidavit concerning the qualifi-
cation of any such landowner to vote.

(4) At such election the voters shall vote for or against
the organization of the district. The judges of each polling
place shall certify the returns of the election to the ground
water commission. If a majority of votes cast at said election
are against the organization of the district, the commission shall
forthwith dismiss the petition, and no election shall be held on
the original petition or another petition for organization of
the same district within one year of such dismissal.

(5) If a majority of the votes cast at said election are
for the organization of said district, the commission, by order
duly entered of record, shall declare the district organized, de-
fine the boundaries thereof, and give it the corporate name design-
nated in the petition by which in all proceedings it shall there-
after be known, and designate the members of the first board of
directors, as named in the organization petition and the districts
they represent. Thereupon the district shall be a governmental
subdivision of the state of Colorado, and a body corporate with
all the powers of a public or quasi-municipal corporation.

148-18-24. Filing decree. - Within thirty days after the
district has been declared a corporation by the board, it shall
transmit to the county clerk and recorder of the county, or of each of the counties in which the district or a part thereof may be or extend, copies of the decree of the board incorporating the district.

148-18-25. Management district - directors - qualifications - oath - bond - vacancies. - The members of the board of directors shall be resident landowners within the district. Each member of the board shall take an oath of office, and shall give bond in the sum of five thousand dollars conditioned that he shall faithfully perform the duties of director and of such further office to which he may be elected in such district, and shall account for all funds or property coming into his hands as such director or other officer. Such bonds shall run to the district, be signed by a surety or sureties approved by the ground water commission, and shall be filed and recorded in the office of the state engineer. When such bond is so filed and approved, such person so elected shall take and hold office until his successor is elected and qualified. When a vacancy occurs on the board, such vacancy shall be filled by the remaining members of the board.

148-18-26. Management district - directors - election - term of office. - As the terms of the members of the board of directors expire, their successors shall be nominated by petitions containing the signatures of not less than fifteen per cent of the number of qualified taxing electors of the division who voted at the last
preceding district election, and filed with the secretary of the
district not less than thirty days before the election, and there-
after elected for terms of four years by the plurality vote of the
taxpaying electors of the division of the district which they repre-
sent. Such elections shall be held on the first Tuesday in
February preceding the expiration of such terms and shall be con-
ducted by the district board in the general manner prescribed in
section 148-18-23 of this article.

148-18-27. Management district - directors - no compensa-
tion - expenses. - The members of the board of directors shall
receive no compensation, but shall be paid their actual expenses
while engaged in the business of such district.

board of directors shall annually elect a president, vice-presi-
dent, secretary, treasurer, and such other officers as may be
necessary.

148-18-29. Management districts - board of directors. - (1)
The district board shall have the duty and responsibility of con-
sulting with the commission on all ground water matters affecting
the district to determine whether proposed restrictions or regula-
tions are suitable for such area, to determine in conjunction with
the commission whether the area of the district should be enlarged
or contracted, to cooperate with the commission and the state
engineer in the assembling of data on the ground water aquifers
in the area and the enforcement of regulations or restrictions
which may be imposed thereon, and to assist the commission and the
state engineer to the end of conserving the ground water supplies
of the area for the maximum beneficial use thereof.

(2) (a) The district board shall have the authority to regu-
late the use, control, and conservation of the ground water of the
district by any one or more of the following methods, provided that
the proposed controls, regulations, or conservation measures shall
be subject to review and final approval by the ground water commis-
sion if objection is made in accordance with section 148-18-30.

(b) To provide for the spacing of wells producing from the
ground water aquifer or subdivision thereof, and to regulate the
production therefrom so as to minimize as far as practicable the
lowering of the water table or the reduction of the artesian
pressure.

(c) To acquire lands for the erection of dams and for the
purpose of draining lakes, draws, and depressions, and to construct
dams, drain lakes, depressions, draws, and creeks, and to install
pumps and other equipment necessary to recharge the ground water
reservoir or subdivision thereof.

(d) To develop comprehensive plans for the most efficient
use of the water of the ground water aquifer or subdivision there-
of, and for the control and prevention of waste of such water,
which plans shall specify in such detail as may be practicable the
acts, procedure, performance, and avoidance which are or may be
necessary to effect such plans, including specifications therefor;
to carry out research projects, develop information, and determine
limitations, if any, which should be made on the withdrawal of
water from the ground water aquifer or subdivisions thereof; to
collect and preserve information regarding the use of such water
and the practicability of recharge of the ground water aquifer; to
publish such plans and information, bring them to the notice and
attention of the users of such ground water within the district,
and to encourage their adoption and execution;

(e) To require the owner or operator of any land in the dis-
trict upon which is located any open or uncovered well to close
or cap the same permanently with a covering capable of sustaining
weight of not less than four hundred pounds, except when said well
is in actual use by the owner or operator thereof;

(f) To promulgate reasonable rules and regulations for the
purpose of conserving, preserving, protecting, and recharging the
ground water of the ground water aquifer or subdivision thereof,
in conformity with the provisions of this article.

(g) To prohibit, after affording an opportunity for a
hearing before the board of the local district and presentation
of evidence, the use of ground water outside the boundaries of the
district where such use materially affects the rights acquired by
permit by any owner or operator of land within the district.
148-18-30. Management district - board of directors - control measures - hearing - notice - publication - order. - Whenever the board of directors shall determine that control measures are necessary in order to ensure the proper conservation of ground water within the district, it shall confer with the ground water commission and ground water users within the district. No control measures shall be instituted until after a public hearing. Notice of such hearing shall be published. Such notice shall state the time and place of the hearing and in general terms the corrective measure or measures proposed. Within thirty days after such hearing, the board shall announce the measure or measures ordered to be taken and shall cause notice thereof to be published; provided, that the ground water commission may review any measure or measures ordered by the board when an objection thereto is made to said commission by an affected party or parties within thirty days after publication of the corrective measures. Notice of such measure or measures shall also be sent to all known ground water users throughout such district by either certified or registered mail. The board shall have authority to compel compliance with such measure or measures by an action brought in the district court of the county in which any failure to comply is found to exist.

148-18-31. Management district - board of directors - taxes - levy - limitation. - The board of directors may levy and collect annually taxes necessary to finance the activities of such district
to the amount of not more than one-half mill on the dollar of the assessed value of all taxable property within such district. It shall, on or before the fifteenth day of October of each year, certify its mill levy to the board of county commissioners of the counties wholly or partially within the district, who shall extend the same on the county tax list, and the same shall be collected by the county treasurer in the same manner as state and county taxes. In addition, annually the board of directors of the district may assess and certify a special assessment on all water wells in the district not to exceed five cents per gallon of the rated pump capacity of each such well. Said assessment shall be collected by the county treasurer in the same manner as other special assessments. It shall be the duty of the board to apply for and to receive from the county treasurers all money to the credit of the district.

148-18-32. Management district - claims - warrants - payment. - All claims against ground water management districts may be paid by warrants or orders, duly drawn against the district, as authorized by the board.

148-18-33. Management district - issuance of bonds - indebtedness - submission to electors. - (1) To pay for the construction, operation, and maintenance of any works, and expenses preliminary and incidental thereto, which the board is authorized to construct for the benefit of the district, the board is hereby

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authorized to enter into contracts providing for payment in install-
ments or to issue negotiable bonds of the district. If bonds are
authorized, the same shall bear interest at a rate not exceeding
six per cent per annum, payable semi-annually, and shall be due
and payable not more than fifty years from their dates. The form,
terms, and provisions of said bonds or contracts, provisions for
their payment, and conditions for their retirement and calling,
not inconsistent with law, shall be vested and determined by the
board, and they shall be issued in payment of the works, equip-
ment, expenses, and interest during and after the period of con-
struction. Said bonds or contracts shall be executed in the name
of and on behalf of the district and signed by the president of the
board, the seal of the district affixed thereto and attested to by
the secretary of the board, said bonds or contracts must be in such
denominations or upon such conditions as the board shall determine
and shall be payable to bearer and may be registered in the office
of the county treasurer of each of the counties wherein the dis-
trict or part of it is situated, with the interest coupons payable
to bearer, which shall bear the facsimile signature of the presi-
dent of the board. Bond interest shall be exempt from all state,
county, municipal, school, and other taxes imposed by any taxing
authority of the state of Colorado, and shall not be sold at less
than par and accrued interest.

(2) Whenever the board incorporated under this article, by

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resolution adopted by majority of said board, shall determine that
the interests of said district and the public interest or necessity
demand the acquisition, construction, or completion of any source
of water supply, water works, or other improvements or facilities,
or the making of any contract with the United States or other per-
sons or corporations, to carry out the objects and purposes of
said district, wherein the indebtedness or obligation shall be
created, to satisfy which shall require a greater expenditure than
the ordinary annual income and revenue of the district shall per-
mit, said board shall order the submission of the proposition of
insuring such obligation or bonded or other indebtedness for the
purposes set forth in said resolution, to the qualified taxpaying
electors of the district at an election held for that purpose.
Any election held for the purpose of submitting any proposition of
incurring such obligation or indebtedness may be held separately,
or may be consolidated, or held concurrently with any other elec-
tion authorized by law at which such qualified taxpaying electors
of the district shall be entitled to vote. Notice of the resolution
and election shall be published in a form sufficient to apprise the
taxpaying electors of the objects and purposes for which the in-
debtedness is proposed to be incurred, the estimated cost of the
works or improvement, the amount of principal of the indebtedness
to be incurred therefor, and the maximum rate of interest to be
paid on such indebtedness. Such resolution and notice shall also
fix the date upon which such election shall be held, the manner of holding the same and the method of voting for or against the incurring of the proposed indebtedness. Such election shall be held in the same general manner as in this article provided for the election of directors. The bond issue or indebtedness proposed shall not be valid unless a majority of those voting at the election held for that purpose shall have voted in favor of such bond issue or indebtedness in accordance with the terms of the resolution.

148-18-34. Management district - dissolution - procedure - funds - disposition. - If there are no debts outstanding, the board of directors may, on its own motion, or on the written petition of twenty per cent of the taxpaying electors of the district, request of the ground water commission that the question of dissolution of such district be submitted to the electors of the district. The commission shall fix the date of such election, notice of which shall be given and which shall be conducted in the same manner as elections for the formation of such districts. If a majority of those voting on such question vote in favor of dissolution, the commission shall so certify to the county clerks of the counties involved and the district shall thereupon stand dissolved. The question of dissolution shall not be submitted more often than once every twelve months. In case a district is dissolved the funds on hand or to be collected shall be held by the treasurer, and the
directors shall petition the district court of the county in which the main office is located for an order approving the distribution of funds to the taxpayers of the district on the same basis as collected.

148-18-35. **Unlawful to divert water for application outside of state.** - For the purpose of aiding and preserving unto the state of Colorado and all its citizens, the use of all ground waters of this state, whether tributary or nontributary to a natural stream, which waters are necessary for the health and prosperity of all the citizens of the state of Colorado, and for the growth, maintenance, and general welfare of the state, it shall be unlawful for any person to divert, carry, or transport by ditches, canals, pipelines, conduits, or any other manner, any of the ground waters of this state, as said waters are in this section defined, into any other state for use therein.

148-18-36. **Permits to construct wells outside designated areas - fees - permit not ground water right - evidence.** - (1) From and after the date this article becomes effective, no new wells shall be constructed outside the boundaries of a designated ground water basin, nor the supply of water from existing wells outside the boundaries of a designated ground water basin increased or extended, unless the user shall make an application in writing to the state engineer for a "permit to construct a well", in a form to be prescribed by the state engineer. The applicant shall
specify the particular designated aquifer or aquifers from which the water is to be diverted, the beneficial use to which it is proposed to apply such water, the location of the proposed well, the name of the owner of the land on which such well will be located, the average annual amount of water applied for in acre-feet per year, the proposed maximum pumping rate in gallons per minute, and if the proposed use is irrigation, a description of the land to be irrigated and the name of the owner thereof, together with such other reasonable information as the state engineer may designate on the form prescribed.

(2) Upon receipt of an application for a new, increased, or additional supply of ground water from an area outside the boundaries of a designated ground water basin, accompanied by a filing fee of twenty-five dollars, the state engineer shall make a determination as to whether or not the exercise of the requested permit will materially injure the vested water rights of others. If the state engineer shall find that the vested water rights of others will not be materially injured, he shall issue a "permit to construct a well", but not otherwise. The permit shall set forth such conditions for drilling, casing, and equipping wells and other diversion facilities as are reasonably necessary to prevent waste, pollution, or material injury to existing rights. The state engineer shall endorse upon the application the date of its receipt, file, and preserve such application and make a record of such
receipt and the issuance of the permit in his office so indexed as to be useful in determining the extent of the uses made from various ground water sources.

(3) A "permit to construct a well" shall not have the effect of granting nor conferring a ground water right upon the user, nor shall anything in this section be so construed. Nevertheless, the permit shall be a necessary prerequisite for the initiation of a new or additional supply and shall be prima facie evidence of the date and extent thereof.

148-18-37. Waste - well logs - license - bond - violations - penalties. - (1) The state engineer in cooperation with the commission shall have power to regulate the drilling and construction of all wells in the state of Colorado to the extent necessary to prevent the waste of water and the injury to or destruction of other water resources, and shall require well drillers and private drillers to file a log of each well drilled whether or not exempt by virtue of section 148-18-4. The state engineer shall adopt such rules and regulations as are necessary to accomplish the purposes of this section.

(2) If the state engineer finds any well to have been drilled or maintained in a manner or condition contrary to any of the provisions of this article or the regulations issued hereunder, he shall immediately notify the user in writing of such violation and give him such time as may reasonably be necessary, not to
exceed sixty days, to correct deficiencies. If the user fails or refuses to make the changes within the allowed time the state engineer is authorized to enter upon his land and do whatever is necessary that the user comply with the provisions of this article or regulations issued hereunder.

(3) No well driller or private driller shall drill a new well or otherwise do work on any well requiring authority from the state engineer until a permit with respect thereto shall have been secured for such work. Any structure which would fall in the classification of a "well" as defined in section 148-18-2 (8) except for the fact that the same is made for the purpose of a test only shall be completely filled within thirty days after completion of the test, and if not so filled shall be deemed a "well" as defined in said subsection (8).

(4) No well driller or private driller shall perform any function with respect to a well without first obtaining a well driller's license from the state engineer. Each license issued shall terminate at the end of the calendar year in which the same shall be issued and shall only be issued upon the payment of a fee therefor of twenty-five dollars. Such a license shall be issued by the state engineer upon the submission of a written application showing the qualifications of the well driller, together with a bond in the amount of five thousand dollars with a corporate surety authorized to do business in the state of
Colorado, conditioned to require such driller to comply with the laws of the state of Colorado and the rules of the state engineer promulgated in compliance with this article. In the event of a breach of the conditions of the bond and upon failure of the principal to comply with the provisions thereof, it shall be the duty of the person upon whose land any well is drilled, redrilled, cased, recased, or deepened or otherwise constructed or changed to make such rectification of the work performed as will bring about a compliance with the provisions of law and the rules and regulations of the state engineer. In case of failure to do so, the state engineer may perform the necessary work and the landowner, the well driller and the surety on the bond shall be jointly and severally liable for the cost of the work done and services performed to bring about compliance with the law, and the rules and regulations of the state engineer.

(5) The state engineer may revoke the license of any well driller who shall be found by the state engineer, after hearing, to have intentionally violated the terms of this law. No license shall thereafter be issued to such well driller until he shall have given reasonable assurance of an ability and intention to perform his duties as a well driller in compliance with the law.

(6) Any well driller who shall intentionally and willfully violate the provisions of this section shall be deemed guilty of a misdemeanor and shall be punished, upon conviction, by a fine
not to exceed three hundred dollars, or imprisonment in the county
jail for a term not to exceed ninety days, or both.

148-18-38. Article - how cited. - This article may be cited
as the "Colorado Ground Water Management Act".

SECTION 2. Severability clause. - If any provision of this
act, or the application thereof to any person or circumstances,
is held invalid, such invalidity shall not affect other provisions
or applications of the act which can be given effect without the
invalid provision or application, and to this end the provisions of
this act are declared to be severable.

SECTION 3. 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.

Senate bill 367.

Signed by Governor Love May 17 1965.

(Ellen Miller, Office of Secretary of State, Room 124)

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