

Local Governance & Funding:
How does it work in our
neighboring states?

Colorado Water Districts

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The One Size Fits All

- Water Districts
§§ 32-1-101, *et seq.*, C.R.S.
- Water Conservancy Districts
§§ 37-45-101 *et seq.*, C.R.S.
- Irrigation Districts
§§ 37-42-101 *et seq.*, C.R.S.
- Ground Water Management Districts
§§ 37-90-118 *et seq.*, C.R.S.

Individual Statutes: Water Conservation Districts

- Colorado River WCD
§§ 37-46-101, *et seq.*, C.R.S.
- South Western WCD
§§ 37-47-101, *et seq.*, C.R.S.
- Rio Grande WCD
§§ 37-48-101, *et seq.*, C.R.S.
- Republican River WCD
§§ 37-50-101, *et seq.*, C.R.S.

Tax Payer's Bill of Rights

- (TABOR) Added to the Colorado Constitution by popular vote in 1992
- Applies to all levels of government (State, Counties, Cities, School Districts, Fire Districts and Special Districts)
- Restricts the ability to raise taxes or spending and incurring indebtedness that crosses a fiscal year, without a popular vote

Funding and Spending under TABOR

- “De-Bruceing”. By a popular vote, some or all of TABOR’s restrictions can be waived. Most small special districts have de-Bruced to at least waive the cap on spending
- Water Activity Enterprises

Water Districts

- Quasi-municipal special district, formed under the general special district laws
- A special district that supplies water for domestic and other public and private purpose by any available means and provides all necessary or proper reservoirs, treatment works and facilities, equipment and appurtenances incident thereto

Water Districts

- Formation
 - Submit a service plan to the board of county commissioners of each county that has territory included within the proposed special district -unless located entirely within a single municipality
 - County commissioners' hearing
 - Petition for Organization in District Court

Water Districts

- Powers and duties
 - run by Board of Directors, general election
 - Perpetual existence, sue and be sued, enter into contracts, borrow money, purchase and sell property, fix fees rates, tolls penalties or charges, furnish services or facilities
 - defined by, and limited by, the service plan

Water Districts

- Funding
 - Ad valorem taxes
 - Bonds
 - Fees, rates, tolls, penalties, charges or assessments

Water Conservancy Districts

- To provide for the conservation of water resources of the state of Colorado and for the greatest beneficial use of water within this state, the organization of water conservancy districts and the construction of works by such districts are a public use and will benefit the state

Water Conservancy Districts

- Formation
 - If the proposed district will encompass property with an assessed value of twenty million dollars or more, a petition must be filed with the office of the clerk of the district court in a county that is either completely or partially within the boundaries of the proposed district, signed by at least fifteen hundred owners of irrigated land situated within the boundaries of the proposed District and five hundred owners of non-irrigated land or lands within a municipality within the boundaries of the proposed district.

Water Conservancy Districts

- Formation

- If the proposed district will encompass lands with an assessed value of less than twenty million dollars, a petition must be filed with the office of the clerk of the district court in a county that is either completely or partially within the boundaries of the proposed district, signed by at least 25% of the owners of irrigated land within the boundaries of the proposed district and 5% of the owners of non-irrigated lands or lands within municipalities within the boundaries of the proposed district.

Water Conservancy District

- Formation
 - a petition may be filed with the clerk of the district court in a county that is either completely or partially within the boundaries of the proposed district, signed by at least 10% or two hundred electors of the proposed district, whichever is smaller
 - District Court hearing
 - Election

Water Conservancy Districts

- Governed by elected Board of Directors

Water Conservancy District

- Powers and Duties
 - Acquire, hold or dispose of water rights, water supplies and water works or facilities.
 - Exercise eminent domain.
 - Construct and maintain works or facilities across or along public streets and highways, in, upon, or over any vacant public lands, and construct works and facilities across any stream or watercourse.
 - Appropriate or otherwise acquire water and water rights within or outside of the state for any beneficial use.
 - Form subdistricts

Water Conservancy District

- Funding
 - Levy and collect property taxes
 - Issue bonds
 - Special Assessments

Irrigation Districts

- Three separate statutes:
 - Irrigation District Law of 1905
 - Irrigation District Law of 1921
 - Irrigation Districts of 1905 and 1921 and Irrigation District Salinity Control act

The Irrigation District Law of 1921 prohibits any future organization under the 1905 law, but the Salinity Control act did not expressly amend or repeal the other statutes

Irrigation Districts (1921)

- Formation
 - Petition to the county commissioners of the county with the largest area within the boundaries of the proposed district signed by a majority of the landowners that own a majority of the lands within the proposed district
 - The State Engineer examines the proposed district and the proposed irrigation systems and reports to the county commissioners the estimates of costs, availability of water, and general feasibility of the system
 - County commissioners then organize a meeting and election to determine whether or not to create the district

Irrigation Districts (1921)

- Governed by Board of Directors, elected by every owner of agricultural land within said district who is:
- A resident of the State of Colorado and has paid real property taxes upon the property located within the district on an area in excess of one acre during the year preceding the date of the election or on an area of forty acres or more if a resident of a state outside the district

Irrigation Districts (1921)

- Powers and Duties
 - Adopt a plan that includes a definite means for the irrigation or reclamation of the lands within the district
 - Appropriate, acquire or condemn water rights and other property, including canals, reservoirs and other works
 - Rules and regulations for the distribution of water

Irrigation Districts (1921)

- Funding
 - Assessments lands within the District that are suitable for irrigation
 - Bonds

Ground Water Management Districts

- Can only be formed within areas determined as “Designated Groundwater Basins”
 - groundwater which in its natural course would not be available to and require for the fulfillment of decreed surface rights
 - groundwater in areas not adjacent to a continuously flowing natural stream where groundwater withdrawals have constituted the principal water usage for at least fifteen years

Ground Water Management Districts

- Formation:
 - Petition to the Ground Water Commission
 - Petition signed by at least 15% of taxpaying electors
 - Hearing before Ground Water Commission
 - Vote by taxpaying electors (simple majority)

Ground Water Management Districts

- Powers and Duties
 - Run by a Board of Directors, nomination and election
 - Consult with Ground Water Commission on all matters affecting the district
 - Regulate the use, control and conservation of groundwater within the district
 - Enforce compliance with groundwater permits

Ground Water Management Districts

- Funding
 - Levy and collect annual taxes of not more than two mills
 - Special Assessments
 - Bonds

Colorado Water Conservation District

- Created in 1937
- The conservation of the water of the Colorado river in Colorado for storage irrigation, mining, and manufacturing purpose and the construction of reservoirs, ditches and works for the purpose of irrigation and reclamation of additional lands not yet irrigated, as well as to furnish a supplemental supply of water for lands now under irrigation and the conservation use and development of the water resources of the Colorado River

Southwestern Water Conservation District

- Created in 1941
- The conservation of waters of the San Juan and Dolores rivers and their tributaries for storage, irrigation, mining and manufacturing purposes and the reclamation of additional lands not yet irrigated, as well as to furnish a supplemental supply of water for lands now under irrigation and the conservation, use and development of the water resources of the San Juan and Dolores Rivers and their tributaries

Rio Grande Water Conservation District

- Created in 1967
- The conservation of the water of the Rio Grande and its tributaries for beneficial use and the construction of reservoirs, ditches, and works for such purposes and the conservation, use and development of the water resources of the Rio Grande and its tributaries

Republican River Water Conservation District

- Created in 2004, due to Kansas v. Nebraska and Colorado, No. 126, Original
- The conservation of the water of the Republican river, its tributaries, and that portion of the Ogallala aquifer underlying the district for compliance with the Republican river compact and the conservation, use and development of those waters and to assist the state in carrying out its duty to comply with the limitations and duties imposed upon the state by the Republican River Compact

Water Conservation Districts

- Governance
 - CRWCD: Board of Directors appointed by County Commissioners (15)
 - SWCD: Board of Directors appointed by County Commissioners (9)
 - RGWCD: Board of Directors appointed by County Commissioners (9)
 - RRWCD: Board of Directors appointed by County Commissioners (7), Ground Water Management Districts (7) and Colorado Ground Water Commission (1)

Water Conservation Districts

- General Powers and Duties
 - appropriate, acquire or condemn water rights and other property
 - build and operate reservoirs, canals and other works
 - Make surveys and conduct investigations to determine the best manner of utilizing stream flows
 - Create subdistricts
 - Create water activity enterprises
- RRWCD actions must be related to Compact compliance

Water Conservation Districts

- General Funding
 - Mill levy on property
 - Special Assessments
 - Bonds
- CWCD, SWCD and RGWCD rely primarily on mill levy
- RRWCD relies primarily on a per-irrigated acre fee

Water Activity Enterprises

- Can be created by districts for the purpose of pursuing or continuing water activities
- Operates as a separate business entity under the sponsoring district, but boards are identical
- Excluded from most TABOR limitations, but cannot levy a tax
- Cannot receive more than 10% of annual revenues from grants
- rely upon a fee-for-service funding

Subdistricts

- May be created by Water Conservancy Districts and 3 of the 4 Water Conservation Districts (RRWCD is not authorized to create subdistricts)
- Generally, created by petition to the overlying district with more than 50% of the landowners representing 50% of the lands within the proposed Subdistrict
- Petition approved by overlying district and District Court

Subdistricts

- Intended to be a flexible tool for a sub-region to accomplish a local need or goal
- Governance and funding is established in the petition to form the subdistrict
- Provides a very flexible form of entity
- Boundaries may be inclusive of all lands, or a 'checkerboard' of only those lands wishing to join

Subdistricts

- Special Improvement District No 1 of the Rio Grande Water Conservation District
 - Created to assure groundwater withdrawals would meet the requirements of forthcoming rules and regulations that would require injurious depletions be remedied and the unconfined aquifer underlying the Subdistrict achieve and maintain a sustainable water level.
 - Local funding and control for a local problem.

Subdistricts

- Five additional subdistricts forming under the Rio Grande Water Conservation District.
- One Subdistrict formed under the Trinchera Water Conservancy District.
- All to address depletions and sustainability due to groundwater withdrawals.

Examples of Funding Sources

- Rio Grande Water Conservation District
 - mill levy on real property within the District
- Subdistrict No. 1 of the RGWCD
 - fee on each acre-foot of groundwater withdrawn (can be offset by bringing surface water into the Subdistrict)
 - fee on each irrigated acre
- Forming Subdistricts of the RGWCD
 - fee per well/meter
 - fee per acre-foot of groundwater withdrawn
 - may adjust fee based on broad categories of consumptive use
 - may use dual fee structure with one fee for remedying injurious depletions and one fee addressing sustainability
- Republican River Water Conservation District
 - fee on each irrigated acre

Conclusion

The flexibility inherent in the drafting and passing of specific legislation applicable to a single area allows the ability to craft and entity to address the specific issues in a limited geographic area, controlled by and funded by, those with an interest in that area. The ability to created subdistricts within an water conservation district allows, where beneficial, even more localized control and funding