

Second Regular Session
Seventy-fourth General Assembly
STATE OF COLORADO

REENGROSSED

*This Version Includes All Amendments
Adopted in the House of Introduction*

LLS NO. 24-0943.02 Caroline Martin x5902

HOUSE BILL 24-1463

HOUSE SPONSORSHIP

deGruy Kennedy and Hartsook, Bird, Duran, Froelich, Story

SENATE SPONSORSHIP

Hansen and Kirkmeyer,

House Committees

Transportation, Housing & Local Government

Senate Committees

A BILL FOR AN ACT

101 **CONCERNING RESTRICTIONS ON THE AUTHORITY OF A SPECIAL**
102 **DISTRICT TO SET FEES ON DEVELOPMENTS.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://leg.colorado.gov>.)

Current law permits the board of a special district (board) to fix and from time to time to increase or decrease fees for services, programs, or facilities furnished by the special district (district). The bill specifies that tap fees and system development fees imposed by the board of a special district must only be imposed in order to:

- Assign to developers a portion of the costs associated with

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters or bold & italic numbers indicate new material to be added to existing law.
Dashes through the words or numbers indicate deletions from existing law.

HOUSE
3rd Reading Unamended
May 3, 2024

HOUSE
Amended 2nd Reading
May 2, 2024

- new development or redevelopment;
- Refrain from imposing costs associated with new development or redevelopment on existing customers; and
- Ensure districts have sufficient funding and capacity to continue to manage and operate their water and sanitation systems.

The bill requires the board to:

- Set tap fees and system development fees at a level that is reasonably related to the anticipated costs of development, as acknowledged in the Colorado supreme court's decision in *Krupp v. Breckenridge Sanitation Dist.*, 19 P.3d 687 (Colo. 2001);
- Consider professional analyses performed for the purpose of setting tap fees and system development fees when setting such fees; and
- Set tap fees and system development fees so that current customers of the district are not required to subsidize growth related to new development or redevelopment.

The bill clarifies that:

- It must not be construed to prohibit the board from securing sufficient water and sanitation capacity for the district's existing customers or from complying with the district's existing water and sanitation service agreements;
- A district shall not, for reasons unrelated to the district's capacity to provide water or sanitation services, refuse to provide water or sanitation services to new development or redevelopment projects that have been approved by the relevant land use jurisdiction; and
- A district must assess the costs of increasing capacity and purchasing water rights and require developers to bear those costs, thereby ensuring that service is not denied arbitrarily and is provided in accordance with the district's ability to expand capacity or acquire necessary resources.

The bill also permits an applicant for water or sanitation services to file a declaratory judgment action to determine whether tap fees or system development fees imposed by the board are reasonably related to the anticipated costs of development and services as set forth in the bill, or to file a challenge to the specific fees imposed upon the application pursuant to rule 106 of the Colorado rules of civil procedure. The bill requires that a board, within 30 days of receiving a written request from any local government within the boundaries of which a district operates or partly operates, provide the rate schedule for the district's tap fees, system development fees, or other fees and charges that contemplate future water or sanitation system usage, and, upon request of the local government, provide the professional analyses and a detailed written

justification of the costs and methodologies used to calculate those fees.

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

2 **SECTION 1.** In Colorado Revised Statutes, 32-1-1001, **add** (4)
3 as follows:

4 **32-1-1001. Common powers - definitions.** (4) (a) WITHIN
5 THIRTY DAYS OF RECEIVING A WRITTEN REQUEST FROM ANY LOCAL
6 GOVERNMENT WITHIN THE BOUNDARIES OF WHICH THE SPECIAL DISTRICT
7 GOVERNED BY THE BOARD OPERATES OR PARTLY OPERATES, THE BOARD
8 SHALL PROVIDE THE RATE SCHEDULE FOR TAP FEES, SYSTEM
9 DEVELOPMENT FEES, OR OTHER FEES AND CHARGES THAT CONTEMPLATE
10 FUTURE WATER OR SANITATION SYSTEM USAGE, AND, UPON REQUEST OF
11 THE LOCAL GOVERNMENT, SHALL PROVIDE ANY PROFESSIONAL ANALYSES
12 AND A DETAILED WRITTEN JUSTIFICATION OF THE COSTS AND
13 METHODOLOGIES USED TO CALCULATE THOSE FEES.

14 (b) AS USED IN THIS SUBSECTION (4), "LOCAL GOVERNMENT"
15 MEANS A HOME RULE OR STATUTORY COUNTY, CITY AND COUNTY, OR
16 MUNICIPALITY.

17 **SECTION 2. Act subject to petition - effective date.** This act
18 takes effect at 12:01 a.m. on the day following the expiration of the
19 ninety-day period after final adjournment of the general assembly; except
20 that, if a referendum petition is filed pursuant to section 1 (3) of article V
21 of the state constitution against this act or an item, section, or part of this
22 act within such period, then the act, item, section, or part will not take
23 effect unless approved by the people at the general election to be held in
24 November 2024 and, in such case, will take effect on the date of the
25 official declaration of the vote thereon by the governor.