

CHAPTER 45

GOVERNMENT - SPECIAL DISTRICTS

SENATE BILL 95-057

BY SENATORS Tebedo, Matsunaka, and Weddig;
also REPRESENTATIVE Tucker.**AN ACT****CONCERNING THE QUINQUENNIAL REVIEW OF SPECIAL DISTRICT DEBT.***Be it enacted by the General Assembly of the State of Colorado:*

SECTION 1. 32-1-1101.5, Colorado Revised Statutes, as amended, is amended to read:

32-1-1101.5. Special district debt - quinquennial findings of reasonable diligence. (1) THE RESULTS OF SPECIAL DISTRICT BALLOT ISSUE ELECTIONS TO INCUR GENERAL OBLIGATION INDEBTEDNESS SHALL BE CERTIFIED BY THE SPECIAL DISTRICT BY REGISTERED MAIL TO THE BOARD OF COUNTY COMMISSIONERS OF EACH COUNTY IN WHICH THE SPECIAL DISTRICT IS LOCATED OR TO THE GOVERNING BODY OF A MUNICIPALITY THAT HAS ADOPTED A RESOLUTION OF APPROVAL OF THE SPECIAL DISTRICT PURSUANT TO SECTION 32-1-204.5 WITHIN FORTY-FIVE DAYS AFTER THE ELECTION. FOR ALL SPECIAL DISTRICTS WITH AUTHORIZED BUT UNISSUED GENERAL OBLIGATION DEBT APPROVED BEFORE JULY 1, 1995, THE RESULTS OF THE ELECTION AT WHICH SUCH APPROVAL WAS GIVEN AND A STATEMENT OF THE PRINCIPAL AMOUNT OF ANY GENERAL OBLIGATION DEBT THAT HAS BEEN ISSUED PURSUANT TO SUCH AUTHORIZATION SHALL BE SO CERTIFIED BY THE SPECIAL DISTRICT ON OR BEFORE JANUARY 1, 1996. IF FOR ANY REASON CERTIFICATION REQUIRED BY THIS SUBSECTION (1) IS NOT MADE, THE SPECIAL DISTRICT SHALL CERTIFY SUCH ELECTION RESULTS BY REGISTERED MAIL NO LATER THAN THIRTY DAYS BEFORE ISSUING ANY GENERAL OBLIGATION DEBT TO THE BOARD OF COUNTY COMMISSIONERS OR THE GOVERNING BODY OF SUCH MUNICIPALITY. THE SPECIAL DISTRICT SHALL FILE A COPY OF ANY CERTIFICATION MADE UNDER THIS SUBSECTION (1) WITH THE DIVISION OF SECURITIES CREATED BY SECTION 11-51-701, C.R.S., WITHIN THE APPLICABLE TIME PERIOD PRESCRIBED IN THIS SUBSECTION (1). WHENEVER A SPECIAL DISTRICT INCURS GENERAL OBLIGATION DEBT, THE SPECIAL DISTRICT SHALL SUBMIT A COPY OF THE

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

NOTICE REQUIRED BY SECTION 32-1-1604 TO THE BOARD OF COUNTY COMMISSIONERS OF EACH COUNTY IN WHICH THE DISTRICT IS LOCATED OR THE GOVERNING BODY OF SUCH MUNICIPALITY WITHIN THIRTY DAYS AFTER INCURRING THE DEBT.

(1.5) In every fifth calendar year after the calendar year in which a special district's ~~proposition to issue~~ BALLOT ISSUE TO INCUR general obligation indebtedness was approved by its electors, the ~~board of such special district shall file with the~~ board of county commissioners or the governing body of the municipality ~~which~~ THAT has adopted a resolution of approval of the special district pursuant to section 32-1-204.5 MAY REQUIRE THE BOARD OF SUCH SPECIAL DISTRICT TO FILE an application for a quinquennial finding of reasonable diligence. If THE BOARD OF COUNTY COMMISSIONERS OR THE GOVERNING BODY OF SUCH MUNICIPALITY REQUIRES SUCH FILING, IT SHALL NOTIFY THE SPECIAL DISTRICT IN WRITING TO FILE AN APPLICATION WITHIN SIXTY DAYS AFTER RECEIPT OF THE NOTICE. THE APPLICATION SHALL SET FORTH THE AMOUNT OF THE SPECIAL DISTRICT'S AUTHORIZED AND UNISSUED GENERAL OBLIGATION DEBT, ANY CURRENT OR ANTICIPATED PLAN TO ISSUE SUCH DEBT, A COPY OF THE DISTRICT'S LAST AUDIT OR APPLICATION FOR EXEMPTION FROM AUDIT, AND ANY OTHER INFORMATION REQUIRED BY THE BOARD OF COUNTY COMMISSIONERS OR THE GOVERNING BODY OF SUCH MUNICIPALITY RELEVANT TO MAKING THE DETERMINATIONS UNDER SUBSECTION (2) OF THIS SECTION. IF REQUIRED BY THE BOARD OF COUNTY COMMISSIONERS OR THE GOVERNING BODY OF SUCH MUNICIPALITY, subsequent applications shall be filed ~~during the same month~~ WITHIN SIXTY DAYS AFTER RECEIPT OF SUCH NOTICE BUT NO MORE FREQUENTLY THAN every five years ~~thereafter~~ AFTER THE PRIOR NOTICE until all of the general obligation debt ~~which~~ THAT was authorized by the election has been issued or abandoned. If a special district is wholly or partially located in a municipality ~~which~~ THAT has not adopted a resolution of approval of such special district pursuant to section 32-1-204.5, the board OF THE SPECIAL DISTRICT shall file a copy of any such application with the governing body of such municipality, and such municipality may submit comments thereon prior to the determination made under subsection (2) of this section.

(2) (a) ~~In reviewing the~~ WITHIN THIRTY DAYS AFTER SUBMITTAL OF ANY application REQUIRED UNDER SUBSECTION (1.5) OF THIS SECTION, the board of county commissioners or the governing body of the municipality ~~which~~ THAT has adopted a resolution of approval of the special district pursuant to section 32-1-204.5 shall ~~determine~~ ACCEPT SUCH APPLICATION WITHOUT FURTHER ACTION OR SHALL CONDUCT A PUBLIC HEARING WITHIN THE NEXT THIRTY DAYS, WITH NO LESS THAN TEN DAYS PRIOR NOTICE TO THE DISTRICT, TO CONSIDER whether the service plan and financial plan of the district are adequate to meet the debt financing requirements of the authorized and unissued general obligation debt based upon present conditions within the district. ~~After its review of the application~~ WITHIN THIRTY DAYS AFTER SUCH HEARING, the board of county commissioners or the governing body of the municipality ~~is authorized to~~ SHALL:

(I) Determine that the implementation of the service plan or financial plan will result in the timely and reasonable discharge of the special district's general obligation debt. If the board of county commissioners or the governing body of the municipality makes such a finding, it shall grant a continuation of the authority for the board of the special district to issue any remaining authorized general obligation debt.

(II) Determine that the implementation of the service plan or financial plan will not result in the timely and reasonable discharge of the special district's general obligation debt and that such implementation will place property owners at risk for excessive tax burdens to support the servicing of such debt. If the board of county commissioners or the governing body of the municipality makes such a finding, it shall deny a continuation of the authority of the board of the special district to issue any remaining authorized general obligation debt.

(III) Determine that the implementation of the service plan or financial plan will not result in the timely and reasonable discharge of general obligation debt and require the board of the special district to submit amendments or modifications to such plans as a precondition to a finding of reasonable diligence; except that nothing in this ~~subparagraph~~ SECTION ~~(HH)~~ shall be construed as limiting the board's power to issue refunding bonds in accordance with statutory requirements.

(b) The board of county commissioners or the governing body of such municipality shall have all available legal remedies to enforce its determination under paragraph (a) of this subsection (2).

(3) The provisions of this section shall apply to all authorized but unissued general obligation debt for each special district organized under this title. ~~For all unissued general obligation debt authorized by any special district created on or after January 1, 1980, such special district shall file an application for a quinquennial finding of reasonable diligence no later than September 1, 1994. Special districts created before January 1, 1980, which have authorized but unissued general obligation debt in excess of five million dollars shall file such application no later than September 1, 1996. The board of county commissioners or the governing body of the municipality which has adopted a resolution of approval of the special district pursuant to section 32-1-204.5 may require special districts created before January 1, 1980, which have authorized but unissued general obligation debt less than five million dollars to file an application; except that no such application shall be required to be filed before September 1, 1994.~~ All such authorized but unissued debt shall be valid until the board of county commissioners or the governing body of the municipality has made the determination ~~required by~~ TO DENY THE CONTINUATION OF SUCH AUTHORITY PURSUANT TO subsection (2) of this section.

(4) ANY DETERMINATION MADE PURSUANT TO THIS SECTION IS SUBJECT TO JUDICIAL REVIEW BY A DISTRICT COURT. IF THE COURT FINDS THE DETERMINATION IS ARBITRARY, CAPRICIOUS, OR UNREASONABLE, THE COURT SHALL REMAND THE MATTER TO THE BOARD OF COUNTY COMMISSIONERS OR TO THE GOVERNING BODY OF THE MUNICIPALITY TO HOLD ANOTHER HEARING WITH NO LESS THAN TEN DAYS PRIOR NOTICE TO THE DISTRICT AND FOR ANY OTHER FURTHER ACTION CONSISTENT WITH THE COURT'S DIRECTION TO AVOID THE ARBITRARY, CAPRICIOUS, OR UNREASONABLE DETERMINATION.

(5) ANY ACTION TO ENFORCE THIS SECTION EXCEPT AN ACTION BROUGHT UNDER SUBSECTION (4) OF THIS SECTION SHALL BE INITIATED ONLY BY THE BOARD OF COUNTY COMMISSIONERS OR THE GOVERNING BODY OF A MUNICIPALITY THAT HAS ADOPTED A RESOLUTION OF APPROVAL OF THE SPECIAL DISTRICT PURSUANT TO SECTION 32-1-204.5 AND BEFORE ANY BONDS ARE ISSUED AS AUTHORIZED BY LAW.

(6) ANY DETERMINATION MADE UNDER THIS SECTION BEFORE JULY 1, 1995, IS HEREBY VALIDATED, UNLESS DECIDED OTHERWISE IN A LEGAL PROCEEDING INSTITUTED TO CHALLENGE THE DETERMINATION. ANY APPLICATION FOR A QUINQUENNIAL FINDING OF REASONABLE DILIGENCE FILED BY A SPECIAL DISTRICT THAT IS PENDING ON JULY 1, 1995, AND ANY SUBSEQUENT APPLICATION FILED BY A SPECIAL DISTRICT ON OR AFTER JULY 1, 1995, IS SUBJECT TO THIS SECTION.

SECTION 2. Effective date. This act shall take effect July 1, 1995.

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.

Approved: March 31, 1995