

CHAPTER 325

GOVERNMENT - SPECIAL DISTRICTS

SENATE BILL 09-087

BY SENATOR(S) Carroll M., Cadman, Harvey, Heath, Hodge, King K., Kopp, Lundberg, Newell, Shaffer B., Tochtrop;
also REPRESENTATIVE(S) Peniston, Court, Ryden, Schafer S.

AN ACT

**CONCERNING INCREASED ACCOUNTABILITY REQUIREMENTS FOR SPECIAL DISTRICTS, AND MAKING
AN APPROPRIATION IN CONNECTION THEREWITH.**

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

SECTION 1. Part 1 of article 1 of title 32, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SECTION to read:

32-1-104.5. Audit and budget requirements - election results - description on state web sites. (1) THE DIVISION SHALL POST ON ITS OFFICIAL WEB SITE IN A FORM THAT IS READILY ACCESSIBLE TO THE PUBLIC:

(a) A GENERAL DESCRIPTION IN PLAIN, NONTECHNICAL LANGUAGE OF THE REQUIREMENTS FOR A SPECIAL DISTRICT TO HAVE AN ANNUAL AUDIT OF THE DISTRICT'S FINANCIAL STATEMENTS PREPARED IN ACCORDANCE WITH THE "COLORADO LOCAL GOVERNMENT AUDIT LAW", PART 6 OF ARTICLE 1 OF TITLE 29, C.R.S., AND INFORMATION ABOUT WHERE A COPY OF THE AUDIT REPORT IS AVAILABLE FOR PUBLIC INSPECTION; AND

(b) A GENERAL DESCRIPTION IN PLAIN, NONTECHNICAL LANGUAGE OF THE PROCESS AND REQUIREMENTS FOR A SPECIAL DISTRICT TO ADOPT AN ANNUAL BUDGET IN ACCORDANCE WITH THE "LOCAL GOVERNMENT BUDGET LAW OF COLORADO", PART 1 OF ARTICLE 1 OF TITLE 29, C.R.S., AND INFORMATION ABOUT WHERE A COPY OF THE BUDGET IS AVAILABLE FOR PUBLIC INSPECTION.

(2) THE DIVISION SHALL NOTIFY THE SECRETARY OF STATE OF THE ELECTION RESULTS CERTIFIED TO THE DIVISION PURSUANT TO SECTION 1-11-103 (3), C.R.S., AND THE SECRETARY OF STATE SHALL POST THE SAME ON THE OFFICIAL WEB SITE OF THE DEPARTMENT OF STATE. THE GENERAL ASSEMBLY SHALL APPROPRIATE MONEYS

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

IN THE DEPARTMENT OF STATE CASH FUND CREATED IN SECTION 24-21-104 (3) (b), C.R.S., TO THE SECRETARY OF STATE FOR SUCH PURPOSE.

SECTION 2. 32-1-207 (3) (d), Colorado Revised Statutes, is amended to read:

32-1-207. Compliance - modification - enforcement. (3) (d) Any special district created on or after July 1, 1991, shall annually file the report specified in paragraph (c) of this subsection (3) with the board of county commissioners or the governing body of the municipality that has adopted a resolution of approval of the special district pursuant to section 32-1-204.5 or 32-1-204.7 for five years after its organization and for succeeding annual periods, if so requested by the board of county commissioners or the governing body of the municipality. The annual report shall also be filed with the division and with the state auditor. The state auditor shall review the annual report and report any apparent decrease in the financial ability of the district to discharge its existing or proposed indebtedness in accordance with the service plan to the division. In such event, the division shall confer with the board of the special district and the board of county commissioners or the governing body of the municipality regarding such condition. THE DIVISION MAY ESTABLISH A STANDARD FORM FOR THE ANNUAL REPORT THAT THE BOARD OF A SPECIAL DISTRICT MAY ELECT TO USE.

SECTION 3. 32-1-306, Colorado Revised Statutes, is amended to read:

32-1-306. Filing decree. Within thirty days after the special district has been declared organized by the court, the special district shall transmit to the county clerk and recorder in each of the counties in which the special district or a part thereof extends certified copies of the findings and the order of the court organizing said special district. The same shall be recorded by the county clerk and recorder in each county as provided in section 32-1-105. A copy of the approved service plan of the district shall be delivered to each such county clerk and recorder, who shall retain the service plan as a public record for public inspection. In addition, a copy of the service plan, together with a copy of the court's findings and order, shall be filed with the division as provided in section 32-1-105, and a map of the special district shall be filed with the county assessor in each county in which the special district or a part thereof extends and with the division according to the standards of the division. ON OR BEFORE JANUARY 1, 2010, A SPECIAL DISTRICT SHALL FILE A CURRENT, ACCURATE MAP OF ITS BOUNDARIES WITH THE COUNTY CLERK AND RECORDER IN EACH OF THE COUNTIES IN WHICH THE SPECIAL DISTRICT OR A PART THEREOF EXTENDS. ~~Thereafter, the~~ A special district shall maintain a current, accurate map of its boundaries and shall provide for such map to be on file with the county assessor, THE CLERK AND RECORDER, and the division on or before January 1 of each year.

SECTION 4. 32-1-805, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SUBSECTION to read:

32-1-805. Time for holding elections - type of election - manner of election - notice - permanent mail-in voters. (5) (a) AT LEAST SIXTY DAYS PRIOR TO A METROPOLITAN DISTRICT ELECTION, A DESIGNATED ELECTION OFFICIAL OF THE METROPOLITAN DISTRICT SHALL REQUEST A CLERK AND RECORDER OF A COUNTY IN WHICH THE METROPOLITAN DISTRICT IS WHOLLY OR PARTIALLY LOCATED TO

PROVIDE THE DESIGNATED ELECTION OFFICIAL WITH A LIST OF THE NAMES AND ADDRESSES OF REGISTERED ELECTORS OF THE COUNTY WHO ARE ALSO REGISTERED ELECTORS OF THE METROPOLITAN DISTRICT AND WHO HAVE APPLIED TO THE COUNTY CLERK AND RECORDER FOR PERMANENT MAIL-IN VOTER STATUS IN ACCORDANCE WITH SECTION 1-8-104.5 (1), C.R.S. ALONG WITH THE REQUEST, THE DESIGNATED ELECTION OFFICIAL SHALL CERTIFY THAT THE METROPOLITAN DISTRICT HAS PROVIDED THE COUNTY CLERK AND RECORDER WITH A CURRENT, ACCURATE MAP OF ITS BOUNDARIES IN ACCORDANCE WITH SECTION 32-1-306. AFTER RECEIPT OF THE REQUEST, THE CLERK AND RECORDER SHALL PROVIDE THE DESIGNATED ELECTION OFFICIAL WITH SUCH LIST OF THE NAMES AND ADDRESSES OF REGISTERED ELECTORS; EXCEPT THAT, IF THE DESIGNATED ELECTION OFFICIAL HAS NOT CERTIFIED THAT THE SPECIAL DISTRICT HAS PROVIDED THE COUNTY CLERK AND RECORDER WITH A CURRENT, ACCURATE MAP OF ITS BOUNDARIES, THE CLERK AND RECORDER SHALL PROVIDE TO THE DESIGNATED ELECTION OFFICIAL THE NAMES AND ADDRESSES OF ALL REGISTERED ELECTORS OF THE COUNTY WHO HAVE APPLIED FOR PERMANENT MAIL-IN VOTER STATUS IN ACCORDANCE WITH SECTION 1-8-104.5 (1), C.R.S. IF, WITHIN TEN DAYS OF RECEIVING THE LIST OF THE NAMES AND ADDRESSES OF REGISTERED ELECTORS PURSUANT TO THIS PARAGRAPH (a), A DESIGNATED ELECTION OFFICIAL NOTIFIES THE COUNTY CLERK AND RECORDER OF ANY PROBLEMS WITH THE LIST, THE COUNTY CLERK AND RECORDER MAY PROVIDE THE DESIGNATED ELECTION OFFICIAL WITH A CORRECTED LIST.

(b) IN AN ELECTION CONDUCTED BY THE BOARD, THE DESIGNATED ELECTION OFFICIAL SHALL MAIL A MAIL-IN BALLOT TO EACH ELIGIBLE ELECTOR ON THE LIST PROVIDED TO THE DESIGNATED ELECTION OFFICIAL PURSUANT TO PARAGRAPH (a) OF THIS SUBSECTION (5).

(c) THE PROVISIONS OF THIS SUBSECTION (5) SHALL ONLY APPLY TO A METROPOLITAN DISTRICT WITH MORE THAN TWENTY-FIVE THOUSAND DOLLARS OF ANNUAL REVENUE OR A METROPOLITAN DISTRICT THAT HAS TOTAL AUTHORIZED DEBT OF MORE THAN ONE THOUSAND DOLLARS PER ELIGIBLE ELECTOR.

SECTION 5. Part 8 of article 1 of title 32, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SECTION to read:

32-1-809. Notice to electors. (1) NO MORE THAN SIXTY DAYS PRIOR TO AND NOT LATER THAN JANUARY 15 OF EACH YEAR, THE BOARD SHALL PROVIDE NOTICE TO THE ELIGIBLE ELECTORS OF THE SPECIAL DISTRICT IN THE MANNER SET FORTH IN SUBSECTION (2) OF THIS SECTION. THE NOTICE SHALL CONTAIN THE FOLLOWING:

(a) THE ADDRESS AND TELEPHONE NUMBER OF THE PRINCIPAL BUSINESS OFFICE OF THE SPECIAL DISTRICT;

(b) THE NAME AND BUSINESS TELEPHONE NUMBER OF THE MANAGER OR OTHER PRIMARY CONTACT PERSON OF THE SPECIAL DISTRICT;

(c) THE NAMES OF THE MEMBERS OF THE BOARD, INDICATING EACH MEMBER WHOSE OFFICE WILL BE ON THE BALLOT AT THE NEXT REGULAR SPECIAL DISTRICT ELECTION;

(d) THE TIMES AND PLACES DESIGNATED FOR REGULARLY SCHEDULED MEETINGS

OF THE BOARD DURING THE YEAR AND THE PLACE WHERE NOTICE OF BOARD MEETINGS IS POSTED PURSUANT TO SECTION 24-6-402 (2) (c), C.R.S.;

(e) THE CURRENT MILL LEVY OF THE SPECIAL DISTRICT AND THE TOTAL AD VALOREM TAX REVENUE RECEIVED BY THE DISTRICT DURING THE LAST YEAR;

(f) THE DATE OF THE NEXT REGULAR SPECIAL DISTRICT ELECTION AT WHICH MEMBERS OF THE BOARD WILL BE ELECTED;

(g) INFORMATION ON THE PROCEDURE AND TIME FOR AN ELIGIBLE ELECTOR OF THE SPECIAL DISTRICT TO SUBMIT A SELF-NOMINATION FORM FOR ELECTION TO THE BOARD PURSUANT TO SECTION 32-1-804.3;

(h) A STATEMENT THAT AN APPLICATION TO REQUEST PERMANENT MAIL-IN VOTER STATUS CAN BE OBTAINED FROM THE COUNTY CLERK AND RECORDER, OR ON-LINE FROM THE OFFICE OF THE SECRETARY OF STATE, AND CAN BE RETURNED TO THE COUNTY CLERK AND RECORDER OF THE COUNTY OR COUNTIES IN WHICH THE DISTRICT IS WHOLLY OR PARTIALLY LOCATED; AND

(i) THE ADDRESS OF ANY WEB SITE ON WHICH THE SPECIAL DISTRICT'S ELECTION RESULTS WILL BE POSTED.

(2) THE NOTICE REQUIRED BY SUBSECTION (1) OF THIS SECTION SHALL BE MADE IN ONE OR MORE OF THE FOLLOWING WAYS:

(a) MAILING THE NOTICE SEPARATELY TO EACH HOUSEHOLD WHERE ONE OR MORE ELIGIBLE ELECTORS OF THE SPECIAL DISTRICT RESIDES;

(b) INCLUDING THE NOTICE AS A PROMINENT PART OF A NEWSLETTER, ANNUAL REPORT, BILLING INSERT, BILLING STATEMENT, LETTER, VOTER INFORMATION CARD OR OTHER NOTICE OF ELECTION, OR OTHER INFORMATIONAL MAILING SENT BY THE SPECIAL DISTRICT TO THE ELIGIBLE ELECTORS OF THE SPECIAL DISTRICT;

(c) POSTING THE INFORMATION ON THE OFFICIAL WEB SITE OF THE SPECIAL DISTRICT IF THERE IS A LINK TO THE DISTRICT'S WEB SITE ON THE OFFICIAL WEB SITE OF THE DIVISION;

(d) FOR ANY DISTRICT THAT IS A MEMBER OF A STATEWIDE ASSOCIATION OF SPECIAL DISTRICTS FORMED PURSUANT TO SECTION 29-1-401, C.R.S., BY MAILING OR ELECTRONICALLY TRANSMITTING THE NOTICE TO THE STATEWIDE ASSOCIATION OF SPECIAL DISTRICTS, WHICH ASSOCIATION SHALL POST THE NOTICE ON A PUBLICLY ACCESSIBLE SECTION OF THE ASSOCIATION'S WEB SITE; OR

(e) FOR A SPECIAL DISTRICT WITH LESS THAN ONE THOUSAND ELIGIBLE ELECTORS THAT IS WHOLLY LOCATED WITHIN A COUNTY WITH A POPULATION OF LESS THAN THIRTY THOUSAND, POSTING THE NOTICE IN AT LEAST THREE PUBLIC PLACES WITHIN THE LIMITS OF THE SPECIAL DISTRICT AND, IN ADDITION, POSTING A NOTICE IN THE OFFICE OF THE COUNTY CLERK AND RECORDER OF THE COUNTY IN WHICH THE SPECIAL DISTRICT IS LOCATED. SUCH NOTICES SHALL REMAIN POSTED UNTIL THE TUESDAY SUCCEEDING THE FIRST MONDAY OF THE FOLLOWING MAY.

(3) A SPECIAL DISTRICT SHALL:

(a) FILE A COPY OF THE NOTICE REQUIRED BY SUBSECTION (1) OF THIS SECTION WITH THE CLERK AND RECORDER OF EACH COUNTY IN WHICH THE SPECIAL DISTRICT IS LOCATED AND WITH THE DIVISION; AND

(b) MAKE A COPY OF THE NOTICE REQUIRED BY SUBSECTION (1) OF THIS SECTION AVAILABLE FOR PUBLIC INSPECTION AT THE PRINCIPAL BUSINESS OFFICE OF THE SPECIAL DISTRICT.

(4) SPECIAL DISTRICTS WITH OVERLAPPING BOUNDARIES MAY COMBINE THE NOTICES MAILED PURSUANT TO PARAGRAPH (a) OF SUBSECTION (2) OF THIS SECTION, SO LONG AS THE INFORMATION REGARDING EACH DISTRICT IS SEPARATELY DISPLAYED AND IDENTIFIED.

SECTION 6. 32-1-903 (2), Colorado Revised Statutes, is amended to read:

32-1-903. Meetings. (2) Notice of time and place designated for all regular meetings shall be posted in at least three public places within the limits of the special district, and, in addition, one such notice shall be posted in the office of the county clerk and recorder in the county or counties in which the special district is located. Such notices shall remain posted and shall be changed in the event that the time or place of such regular meetings is changed. Special meetings may be called by any director by informing the other directors of the date, time, and place of such special meeting, and the purpose for which it is called, and by posting notice as provided in this section at least ~~three days~~ SEVENTY-TWO HOURS prior to said meeting. All official business of the board shall be conducted only during said regular or special meetings at which a quorum is present, and all said meetings shall be open to the public.

SECTION 7. 38-35.7-101 (1), Colorado Revised Statutes, is amended to read:

38-35.7-101. Disclosure - special taxing districts - general obligation indebtedness. (1) Every contract for the purchase and sale of residential real property shall contain a disclosure statement in bold-faced type which is clearly legible and in substantially the following form:

SPECIAL TAXING DISTRICTS MAY BE SUBJECT TO GENERAL OBLIGATION INDEBTEDNESS THAT IS PAID BY REVENUES PRODUCED FROM ANNUAL TAX LEVIES ON THE TAXABLE PROPERTY WITHIN SUCH DISTRICTS. PROPERTY OWNERS IN SUCH DISTRICTS MAY BE PLACED AT RISK FOR INCREASED MILL LEVIES AND EXCESSIVE TAX BURDENS TO SUPPORT THE SERVICING OF SUCH DEBT WHERE CIRCUMSTANCES ARISE RESULTING IN THE INABILITY OF SUCH A DISTRICT TO DISCHARGE SUCH INDEBTEDNESS WITHOUT SUCH AN INCREASE IN MILL LEVIES. ~~PURCHASERS SHOULD INVESTIGATE THE DEBT FINANCING REQUIREMENTS OF THE AUTHORIZED GENERAL OBLIGATION INDEBTEDNESS OF SUCH DISTRICTS, EXISTING MILL~~

~~LEVIES OF SUCH DISTRICT SERVICING SUCH INDEBTEDNESS, AND THE POTENTIAL FOR AN INCREASE IN SUCH MILL LEVIES~~ BUYERS SHOULD INVESTIGATE THE SPECIAL TAXING DISTRICTS IN WHICH THE PROPERTY IS LOCATED BY CONTACTING THE COUNTY TREASURER, BY REVIEWING THE CERTIFICATE OF TAXES DUE FOR THE PROPERTY, AND BY OBTAINING FURTHER INFORMATION FROM THE BOARD OF COUNTY COMMISSIONERS, THE COUNTY CLERK AND RECORDER, OR THE COUNTY ASSESSOR.

SECTION 8. Appropriation. In addition to any other appropriation, there is hereby appropriated, out of any moneys in the department of state cash fund created in section 24-21-104 (3) (b), Colorado Revised Statutes, not otherwise appropriated, to the department of state, for the fiscal year beginning July 1, 2009, the sum of seven thousand five dollars (\$7,005), or so much thereof as may be necessary, for the implementation of this act.

SECTION 9. Effective date. This act shall take effect September 1, 2009; except that section 7 of this act amending section 38-35.7-101 (1), Colorado Revised Statutes, and sections 8 and 9 shall take effect July 1, 2009.

SECTION 10. 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: June 1, 2009