

CHAPTER 175

GOVERNMENT - SPECIAL DISTRICTS

HOUSE BILL 12-1239

BY REPRESENTATIVE(S) Vaad, Hullinghorst, Vigil, Fields;
also SENATOR(S) Carroll, King S.

AN ACT

CONCERNING REQUIRED COUNTY APPROVAL FOR THE EXPANSION OF SPECIAL DISTRICT DOMESTIC WATER OR SANITARY SERVICE INTO A COUNTY THAT HAS NOT PREVIOUSLY APPROVED THE SPECIAL DISTRICT'S SERVICE PLAN.

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

SECTION 1. In Colorado Revised Statutes, 32-1-207, **amend** (2) as follows:

32-1-207. Compliance - modification - enforcement. (2) (a) After the organization of a special district pursuant to the provisions of this part 2 and part 3 of this article, material modifications of the service plan as originally approved may be made by the governing body of such special district only by petition to and approval by 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 in substantially the same manner as is provided for the approval of an original service plan; but the processing fee for such modification procedure shall not exceed two hundred fifty dollars. Such approval of modifications shall be required only with regard to changes of a basic or essential nature, including but not limited to the following: Any addition to the types of services provided by the special district; a decrease in the level of services; a decrease in the financial ability of the district to discharge the existing or proposed indebtedness; or a decrease in the existing or projected need for organized service in the area. Approval for modification shall not be required for changes necessary only for the execution of the original service plan or for changes in the boundary of the special district; except that the inclusion of property that is located in a county or municipality with no other territory within the special district may constitute a material modification of the service plan or the statement of purposes of the special district as set forth in section 32-1-208. In the event that a special district changes its boundaries to include territory located in a county or municipality with no other

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

territory within the special district, the special district shall notify the board of county commissioners of such county or the governing body of the municipality of such inclusion. The board of county commissioners or the governing body of the municipality may review such inclusion and, if it determines that the inclusion constitutes a material modification, may require the governing body of such special district to file a modification of its service plan in accordance with the provisions of this subsection (2).

(b) EXCEPT AS OTHERWISE DESCRIBED IN PARAGRAPH (d) OF THIS SUBSECTION (2), A SPECIAL DISTRICT SHALL NOT FURNISH DOMESTIC WATER OR SANITARY SEWER SERVICE DIRECTLY TO RESIDENTS AND PROPERTY OWNERS IN UNINCORPORATED TERRITORY LOCATED IN A COUNTY THAT HAS NOT APPROVED THE SPECIAL DISTRICT'S SERVICE PLAN UNLESS THE SPECIAL DISTRICT NOTIFIES THE BOARD OF COUNTY COMMISSIONERS OF THE COUNTY OF ITS PLAN TO FURNISH DOMESTIC WATER OR SANITARY SEWER SERVICE DIRECTLY TO RESIDENTS AND PROPERTY OWNERS IN THE COUNTY AND RECEIVES APPROVAL FROM THE BOARD TO DO SO. WITHIN FORTY-FIVE DAYS OF RECEIVING THE NOTIFICATION, THE BOARD MAY REVIEW THE SPECIAL DISTRICT'S PLANNED ACTION AND MAY, IN ITS OWN DISCRETION AND FOLLOWING NOTICE BY THE BOARD, REQUIRE A PUBLIC HEARING PRIOR TO GIVING APPROVAL OF THE PLANNED ACTION, PRIOR TO WHICH HEARING THE GOVERNING BODY OF THE SPECIAL DISTRICT SHALL PROVIDE SUCH INFORMATION AND DATA AS THE BOARD REASONABLY REQUESTS. FAILURE TO PROVIDE INFORMATION AS REQUESTED BY THE BOARD IS GROUNDS FOR THE BOARD TO DELAY THE PUBLIC HEARING UNTIL THE BOARD RECEIVES THE INFORMATION. THE BOARD SHALL EITHER APPROVE OR DENY THE PROPOSED ACTION WITHIN ONE HUNDRED TWENTY DAYS OF THE PUBLIC HEARING.

(c) BEFORE APPROVING A PLANNED SPECIAL DISTRICT ACTION DESCRIBED IN PARAGRAPH (b) OF THIS SUBSECTION (2), THE BOARD OF COUNTY COMMISSIONERS OF A COUNTY SHALL, NOT LESS THAN FORTY-FIVE DAYS PRIOR TO THE FIRST MEETING OF THE BOARD AT WHICH THE APPROVAL SPECIFIED IN PARAGRAPH (b) OF THIS SECTION MAY BE GIVEN, PROVIDE PUBLIC NOTICE IN THE MANNER THAT THE COUNTY REQUIRES OF THE POSSIBLE APPROVAL WITHIN THE NEWLY DESCRIBED AREA TO BE SERVED. THE NOTICE IS REQUIRED TO INCLUDE SPECIFIC NOTIFICATION THAT ANY PROPERTY OWNER WISHING TO HAVE HIS OR HER PROPERTY EXCLUDED FROM THE PROPOSED AREA TO BE SERVED SHALL, NOT LATER THAN FORTY DAYS FROM THE FIRST PUBLIC NOTICE, REQUEST THAT HIS OR HER PROPERTY BE EXCLUDED FROM THE PROPOSED AREA TO BE SERVED BY THE SPECIAL DISTRICT. THE BOARD IS NOT LIMITED IN ITS ACTION WITH RESPECT TO EXCLUSION OF TERRITORY BASED ON THE REQUEST. A REQUEST FOR EXCLUSION SHALL INCLUDE A LEGAL DESCRIPTION OF THE PROPERTY SUBJECT TO THE REQUEST, AND THE BOARD SHALL ACT UPON THE REQUEST BEFORE TAKING FINAL ACTION ON THE REQUEST FOR APPROVAL PURSUANT TO PARAGRAPH (b) OF THIS SUBSECTION (2).

(d) THE REQUIREMENTS DETAILED IN PARAGRAPHS (b) AND (c) OF THIS SUBSECTION (2) DO NOT APPLY IN THE FOLLOWING CIRCUMSTANCES:

(I) A SPECIAL DISTRICT PROVIDES DOMESTIC WATER OR SANITARY SEWER SERVICE ONLY TO PRIVATE PROPERTY OWNERS PURSUANT TO WRITTEN AGREEMENT BETWEEN THE SPECIAL DISTRICT AND THE PROPERTY OWNERS;

(II) A SPECIAL DISTRICT PROVIDES DOMESTIC WATER OR SANITARY SEWER SERVICE WITHIN THE BOUNDARIES OF ANOTHER GOVERNMENTAL ENTITY, INCLUDING, WITHOUT LIMITATION, A CITY, A MUNICIPALITY, OR ANOTHER SPECIAL DISTRICT, PURSUANT TO AN INTERGOVERNMENTAL AGREEMENT;

(III) A SPECIAL DISTRICT PROVIDES ANY STORM DRAINAGE OR STORM SEWER SERVICES OR FACILITIES WITHIN THE COUNTY; OR

(IV) DOMESTIC WATER SERVICE AND SANITARY SEWER SERVICE IS BEING PROVIDED, OR A WATER OR SANITARY SEWER SERVICE AREA EXTENSION HAS BEEN APPROVED BY THE COUNTY INTO WHICH THE SERVICE AREA IS TO BE EXPANDED, WITHIN UNINCORPORATED TERRITORY LOCATED IN THE COUNTY AS OF THE EFFECTIVE DATE OF THIS SUBPARAGRAPH (IV).

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.

Approved: May 11, 2012