

CHAPTER 102

GOVERNMENT - SPECIAL DISTRICTS

HOUSE BILL 13-1186

BY REPRESENTATIVE(S) Vigil, Court, Gardner, Buckner, Fields, Fischer, Garcia, Hamner, Hullinghorst, Mitsch Bush, Moreno, Pettersen, Schafer, Wright, Young, Gerou;
also SENATOR(S) Schwartz, Baumgardner, Cadman, Carroll, Crowder, Giron, Harvey, Heath, Hodge, Jahn, Kefalas, Kerr, Lambert, Lundberg, Newell, Nicholson, Roberts, Scheffel, Tochtrop, Todd.

AN ACT

CONCERNING PROCEDURES FOR INCREASING TRANSPARENCY FOR CERTAIN SPECIAL DISTRICT BOARDS, AND, IN CONNECTION THEREWITH, REQUIRING THAT A PUBLIC MEETING BE HELD BEFORE A DISTRICT SETS OR CHANGES DOMESTIC WATER OR SANITARY SEWER SERVICE RATES AND REQUIRING THAT ALL SPECIAL DISTRICTS FORMED PURSUANT TO THE SPECIAL DISTRICTS PROVISIONS FILE A SPECIAL DISTRICT PUBLIC DISCLOSURE DOCUMENT TO BE RECORDED BY THE COUNTY CLERK AND RECORDER FOR ALL PROPERTIES INCLUDED WITHIN THE DISTRICT BOUNDARIES.

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

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

32-1-1001. Common powers - definitions. (2) (a) THE GOVERNING BODY OF ANY SPECIAL DISTRICT FURNISHING DOMESTIC WATER OR SANITARY SEWER SERVICES DIRECTLY TO RESIDENTS AND PROPERTY OWNERS WITHIN OR OUTSIDE THE DISTRICT MAY FIX OR INCREASE FEES, RATES, TOLLS, PENALTIES, OR CHARGES FOR DOMESTIC WATER OR SANITARY SEWER SERVICES ONLY AFTER CONSIDERATION OF THE ACTION AT A PUBLIC MEETING HELD AT LEAST THIRTY DAYS AFTER PROVIDING NOTICE STATING THAT THE ACTION IS BEING CONSIDERED AND STATING THE DATE, TIME, AND PLACE OF THE MEETING AT WHICH THE ACTION IS BEING CONSIDERED. NOTICE MUST BE PROVIDED TO THE CUSTOMERS RECEIVING THE DOMESTIC WATER OR SANITARY SEWER SERVICES OF THE DISTRICT IN ONE OR MORE OF THE FOLLOWING WAYS:

(I) MAILING THE NOTICE SEPARATELY TO EACH CUSTOMER OF THE SERVICE ON THE BILLING ROLLS OF THE DISTRICT;

(II) INCLUDING THE NOTICE AS A PROMINENT PART OF A NEWSLETTER, ANNUAL REPORT, BILLING INSERT, BILLING STATEMENT, LETTER, OR OTHER NOTICE OF ACTION,

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

OR OTHER INFORMATIONAL MAILING SENT BY THE SPECIAL DISTRICT TO THE CUSTOMERS OF THE DISTRICT;

(III) 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; OR

(IV) 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.

(b) THE POWER TO FIX OR INCREASE FEES, RATES, TOLLS, PENALTIES, OR CHARGES FOR DOMESTIC WATER OR SANITARY SEWER SERVICES IS A LEGISLATIVE POWER OF THE DISTRICT BOARD AND IS NOT CHANGED BY THE PROVISIONS OF THIS SECTION.

(c) NO ACTION TO FIX OR INCREASE FEES, RATES, TOLLS, PENALTIES, OR CHARGES FOR DOMESTIC WATER OR SANITARY SEWER SERVICES MAY BE INVALIDATED ON THE GROUNDS THAT A PERSON DID NOT RECEIVE THE NOTICE REQUIRED BY THIS SECTION IF THE DISTRICT ACTED IN GOOD FAITH IN PROVIDING THE NOTICE. GOOD FAITH IS PRESUMED IF THE DISTRICT PROVIDED THE NOTICE IN ONE OR MORE OF THE WAYS LISTED IN PARAGRAPH (a) OF THIS SUBSECTION (2).

SECTION 2. In Colorado Revised Statutes, add 32-1-104.8 as follows:

32-1-104.8. Information statement regarding taxes and debt. (1) EVERY SPECIAL DISTRICT SHALL RECORD A SPECIAL DISTRICT PUBLIC DISCLOSURE DOCUMENT AND A MAP OF THE BOUNDARIES OF THE DISTRICT WITH THE COUNTY CLERK AND RECORDER OF EACH COUNTY IN WHICH THE DISTRICT IS LOCATED THAT PROVIDES THE FOLLOWING INFORMATION:

(a) THE NAME OF THE DISTRICT;

(b) THE POWERS OF THE DISTRICT AS AUTHORIZED BY SECTION 32-1-1004 AND THE DISTRICT'S SERVICE PLAN OR, AS APPROPRIATE, THE DISTRICT'S STATEMENT OF PURPOSE AS DESCRIBED IN SECTION 32-1-208, CURRENT AS OF THE TIME OF THE FILING;

(c) A STATEMENT INDICATING THAT THE DISTRICT'S SERVICE PLAN OR, AS APPROPRIATE, THE DISTRICT'S STATEMENT OF PURPOSE AS DESCRIBED IN SECTION 32-1-208, WHICH CAN BE AMENDED FROM TIME TO TIME, INCLUDES A DESCRIPTION OF THE DISTRICT'S POWERS AND AUTHORITY, AND THAT A COPY OF THE SERVICE PLAN OR STATEMENT OF PURPOSE IS AVAILABLE FROM THE DIVISION; AND

(d) THE FOLLOWING STATEMENT:

[NAME OF THE DISTRICT] IS AUTHORIZED BY TITLE 32 OF THE COLORADO REVISED STATUTES TO USE A NUMBER OF METHODS TO RAISE REVENUES FOR CAPITAL NEEDS AND GENERAL OPERATIONS COSTS. THESE METHODS, SUBJECT TO THE LIMITATIONS IMPOSED BY SECTION 20 OF ARTICLE X OF THE

COLORADO CONSTITUTION, INCLUDE ISSUING DEBT, LEVYING TAXES, AND IMPOSING FEES AND CHARGES. INFORMATION CONCERNING DIRECTORS, MANAGEMENT, MEETINGS, ELECTIONS, AND CURRENT TAXES ARE PROVIDED ANNUALLY IN THE NOTICE TO ELECTORS DESCRIBED IN SECTION 32-1-809 (1), COLORADO REVISED STATUTES, WHICH CAN BE FOUND AT THE DISTRICT OFFICE, ON THE DISTRICT'S WEB SITE, ON FILE AT THE DIVISION OF LOCAL GOVERNMENT IN THE STATE DEPARTMENT OF LOCAL AFFAIRS, OR ON FILE AT THE OFFICE OF THE CLERK AND RECORDER OF EACH COUNTY IN WHICH THE SPECIAL DISTRICT IS LOCATED.

(2) SPECIAL DISTRICTS EXISTING AS OF THE EFFECTIVE DATE OF THIS SUBSECTION (2) SHALL RECORD THE SPECIAL DISTRICT PUBLIC DISCLOSURE DOCUMENT REQUIRED BY SUBSECTION (1) OF THIS SECTION ON OR BEFORE DECEMBER 31, 2014. THE DISCLOSURE DOCUMENT FOR ANY DISTRICT ORGANIZED AFTER THE EFFECTIVE DATE OF THIS SUBSECTION (2), OR FOR ANY INCLUSION OF ADDITIONAL REAL PROPERTY WITHIN AN EXISTING DISTRICT, SHALL BE RECORDED AT THE SAME TIME THE DECREE OR ORDER CONFIRMING THE ACTION IS RECORDED AS REQUIRED BY SECTION 32-1-105. THE REQUIREMENT TO RECORD THE DISCLOSURE DOCUMENT MAY BE ENFORCED BY THE BOARD OF COUNTY COMMISSIONERS OR THE GOVERNING BODY OF ANY MUNICIPALITY THAT HAS APPROVED THE SERVICE PLAN OF THE DISTRICT IN THE SAME MANNER AS THE ENFORCEMENT OF INFORMATION REPORTING REQUIREMENTS UNDER SECTION 32-1-209. NOTWITHSTANDING ANY OTHER PROVISION OF THIS SECTION, FAILURE TO RECORD A DISCLOSURE DOCUMENT DOES NOT INVALIDATE THE ORGANIZATION OF, OR CHANGE THE BOUNDARIES OF, A DISTRICT OR PROVIDE A CAUSE OF ACTION AGAINST THE DISTRICT OR ANY OTHER PERSON, NOR DOES IT INVALIDATE OR REDUCE ANY DEBT ISSUED AT ANY TIME BY THE DISTRICT, NOR DOES IT REDUCE FOR ANY PROPERTY THE MILL LEVY OR ITS RESPONSIBILITY FOR THE PROPORTIONATE SHARE OF THE DISTRICT'S OUTSTANDING DEBT.

(3) THIS SECTION DOES NOT APPLY TO ANY SPECIAL DISTRICT WHILE IT IS ON INACTIVE STATUS UNDER SECTION 32-1-104 (4).

(4) NOTHING CONTAINED IN THE SPECIAL DISTRICT PUBLIC DISCLOSURE DOCUMENT REQUIRED BY THIS SECTION CONSTITUTES THE BASIS FOR A TITLE DEFECT OR CREATION OF AN UNMARKETABLE TITLE.

(5) RECORDING A SPECIAL DISTRICT PUBLIC DISCLOSURE DOCUMENT AND MAP IS SUBJECT TO THE FEE PAYMENT REQUIREMENTS SET FORTH IN SECTION 30-1-103 (1), C.R.S.

SECTION 3. In Colorado Revised Statutes, 32-1-104, **add** (3) (d) as follows:

32-1-104. Establishment of a special districts file. (3) (d) A SPECIAL DISTRICT SHALL NOT RETURN TO ACTIVE STATUS UNTIL IT HAS FILED AN INFORMATION STATEMENT UNDER SECTION 32-1-104.8.

SECTION 4. Act subject to petition - effective date - applicability. (1) This act takes effect at 12:01 a.m. on the day following the expiration of the ninety-day period after final adjournment of the general assembly (August 7, 2013, if adjournment sine die is on May 8, 2013); except that, if a referendum petition is filed pursuant to section 1 (3) of article V of the state constitution against this act

or an item, section, or part of this act within such period, then the act, item, section, or part will not take effect unless approved by the people at the general election to be held in November 2014 and, in such case, will take effect on the date of the official declaration of the vote thereon by the governor.

(2) Section 1 of this act applies to fees, rates, tolls, penalties, or charges fixed or increased on or after January 1, 2014.

Approved: April 4, 2013