

My name is Tony Hernandez and I live in Denver County, and was honored to have served 5-terms as Colorado State Representative. During my legislative service, the Economic Development Councils of Colorado recognized my efforts as Legislator of the year because of my dedication to help and support business. I have worked with developers for over 25 years.

I am here to speak against SB21-262 [Special District Transparency](#). SB262 is a demonstration of unintended consequences of legislation. Special District legislation was passed to help support cities and developers to build better communities which included housing. The unintended consequence is that Special Districts (Metro Districts) have become entities that are cash cows for the developers with out any checks and balances to protect the taxpayer and allow the developer take advantage of a financing tool at the expense of taxpayers.

Section 5 of the bill attempts to get the legislature to take sides in an existing court case and is another example of developers fighting to eliminate any check and balance to protect citizens, eliminating transparency. I urge you to strike section 5.

Special Districts serve an important purpose, but the current law and practice creates sacrificial lambs of citizens to fill developer's cups with cash without any checks and balance to hold them accountable. They are the developer, the board, the lender, and the collector of interest on the loan and accountant to pay off the bond.

Transparency is more than a word and there has been no good faith effort from Developers (Special Districts) to involve citizens in what is good transparency. There needs to be an independent body lend money to the developer and independent body board not made up of the developer and their team with more oversight from cities because cities no longer represent the citizens of the special district when it comes to financing the infrastructure and taxes.

Special Districts are the privatization of a role of government with no protection for people who live in the district. Lack of oversight and transparency allows greed to flourish. There needs to be more checks and balance.

I urge you to strike section 5 of the bill and then kill the bill. If you do not kill the bill, you may want to strike below the enacting clause and replace it with an interim committee to analyze the benefits and the abuse that Special Districts are reigning down on Colorado taxpayers.

Thank you.

As the Publisher of the Crested Butte News in Crested Butte, Colorado, I am writing to respectfully request your assistance with SB21-262, the "Special District Transparency" bill. Without amendment, this bill would not only adversely impact newspapers across the state at a time when our industry can ill-afford financial hits, but also undermine the transparency that the bill seeks to hold.

Section 1 of the bill removes the current legislative requirement that special districts provide public notice via publication (newspapers) of a call for nominations for a regular local government election.

While this seems minor, it has a major impact on newspapers and the small towns they represent. Newspapers are the primary vehicle for public notice in all 50 states because only they and their websites can ensure:

accessibility

independence

verifiability

archivability

The requirement of mailing or emailing these public notices may meet challenges with the amount of people that actually read them especially email which would be less of a financial impact on the entity than mailing. According to Mailchimp, the leading email service provider, the average email open rate for government emails is 28.77% with click through rates of 3.99%. So, more than 70% of these emails will go unread, and any details linked therein will not be seen by 96% of intended readers. So accessibility remains a problem with this new requirement and leaves independence and archivability unaddressed.

-Newspapers and newspaper websites provide independent, third-party verification of public notice and prevent officials from obscuring such notifications.

-Newspapers and newspaper websites have much larger audiences than most of the alternative mechanisms in this bill and are more reliably accessed than via email.

-Coloradans rely on newspapers and newspaper websites for vital civic matters. Notices on government websites are often only found when people search for them, whereas newspapers reach local readers who don't know to search for special district activities.

-Significant numbers of people in rural areas still lack high-speed internet access. Allowing special districts to cut out newspapers disproportionately impacts rural, elderly and low-income residents, disenfranchising them from participating in decision-making..

-Newspapers websites are maintained and archived in more professional and enduring ways that special district websites may not be, and that direct mail cannot be. In addition, newspapers are already legally required to submit public notices to the Colorado Press Association's website, which is professionally maintained and archived (at no cost to our members or the public). Special districts cannot ensure this level of accessibility, independence, verifiability and archivability. Some public-notice methods allowed by this bill, such as inclusion in annual reports, may not meet any of those standards.

-Newspapers offer public-notice services for minimal prices. A typical notice costs around \$30 to place. The legislative cap on public notice charges has not changed in nearly 30 years. Placing public notices in newspapers is not a financial burden for special districts, and the alternative methods proposed in this bill cannot replicate the benefits of placing notices in independent news publications.

It may be a good idea for special districts to include public notices via other mechanisms, but they should be steps officials take in addition to, not instead of publishing in newspapers, the only method that can ensure accessibility, independence, verifiability and archivability.

All we are asking is that SB21-262 retain the current legislative requirement that special districts notify the public via publication. Additional methods of notification are welcome, but special district officials should not be allowed to avoid publication in newspapers for the reasons stated above.

I respectfully ask that you support an amendment to the bill to retain the requirement of notice via publication.

Sincerely,

Jill Clair

Publisher, Crested Butte News

My testimony at House Committee Meeting on June 2.

My name is Fayre Ruszczuk, and I am a resident of the Dancing Willows Metro District. I am disturbed by SB-262 in that no input was asked for nor given by metro district residents, only by individuals affiliated with the Metro District industry and the cottage industry that has grown up around it. This bill either needs some serious amending or to be shelved until more input can be solicited from the taxpayers who will be affected by it. My husband and I purchased our home in 2010, never having heard of a Metro District, let alone what they were. We were asked to sign a document stating that we understood that the neighborhood had a metro district. To our understanding at the time the metro district was to pay for maintenance of the pool and clubhouse in addition to cleaning the streets after snowstorms. What we were not told was that there was a debt associated with the district that would take 30 years to pay off and that the county would offer no services in our neighborhood during that period. Our Metro District even has to pay to pave the streets. We were told that we could deduct the tax on our Schedule A of our tax return which now is a moot point, because we have to take the standard deduction. I don't believe this qualifies as disclosure and section 7 of the bill does not include the critical content that should be given to homeowners buying in a MD.

In order to have had true disclosure we should have been told the following:

1. The amount of debt for the Metro District + the interest to be paid over time of bond
2. The maximum limit on debt for the Metro District as listed in an updated Service Plan
3. The mill levy for operations and the mill levy toward paying off debt
4. The total district tax in dollars for the home, ie. Metro District tax dollars + rest of taxes due
5. The percentage of district tax (operations and debt) to all property taxes (60% of property taxes pay for district taxes)
6. The ratio of debt to assessed value. (2006 DOLA Report stated that if greater than 20% is cause for concern. The current ratio in my MD is 37.5%. (\$3,630,000 to \$9,663,992)

Even all of this does not paint a true picture. For instance, I read through the 234 page service plan for my district. It states that "it is estimated that a mill levy of 40 mills will produce revenue sufficient to support the operations and maintenance and debt retirement throughout the bond repayment period." Our current mill levy is 65, 46.3 going for general operations and 18.7 going to debt obligations, 25 mills more than the estimate in the service plan. This is not uncommon and there is a caveat for the builder/board to change the Mill Levy Cap as necessary to pay the debt service, without limitation of rate. So basically, a pie in the sky presentation is made in the service plan with a built-in ability to raise the mills to cover the debt.

Based on the information that I have, if the builder had just charged an additional \$10,000 to \$15,000 per house, there would have been no need for any Metro District debt at all.

I know not what else to say to you all. When you consider that taxpayers are currently saddled with \$1.7 trillion in metro district debt, 10 times more that the debt of the state of Colorado, you must recognize that something needs to be done. SB-262, as it stands, is not going to do it. And Coloradoans cannot afford it. If you pass this bill, be sure the first sentence in Section 4 is eliminated, Section 5 removed altogether and that the disclosures mentioned above be included specifically in Section 7. Otherwise, you should table it until a committee can research it over the summer.

WRITTEN TESTIMONY OF BRIAN MATISE TO THE HOUSE
TRANSPORTATION & LOCAL GOVERNMENT COMMITTEE

RE: SB 21-262, Special District Transparency

Good afternoon, Representatives,

I am Brian Matisse. My address is 5378 S. Harvest Way, Aurora, Colorado 80016. I had prepared these remarks to testify live, but unfortunately it appears this hearing is running late and due to another urgent commitment this evening I may not be able to attend. Therefore, this is the testimony I planned to give.

I have been a board member of my local metropolitan district, Tollgate Crossing Metropolitan District No. 2, in southeast Aurora for the past 15 years. But today I am testifying strictly on my own as an individual.

I agree there is a need for meaningful special district transparency. The problem is, this bill was crafted by special interest groups – what I call the “cottage industry” of attorneys, accountants, managers and bond underwriters that make their living off of metro districts. As my retired partner, Sen. Alan Simpson of Wyoming might say, suckling at the teats of metro district taxpayers. It was crafted without homeowner or taxpayer input.

I want to focus on one sentence in the bill that is an abomination and should be removed by amendment.

In section 4 of the bill, on page 10 of the latest bill text, there is a single sentence after Roman Numeral III of CRS 32-1-307 subsection (3) (c) :

“Special districts operating under a consolidated service plan or serving the same community may file a consolidated annual report setting forth the information contained in this subsection 3(c) for each of the special districts.”

This is the first time, to my knowledge, that the legislature would acknowledge consolidated service plans. Consolidated service plans are devices not recognized in statute but conceived by developers and their consultants whereby developers create master-servant district structures.

Often developers will create 5, 10 or even 20 districts at once, with many of them being nothing more than tiny uninhabitable tracts, often as small as 10 feet by 10 feet for the entire district. Only developers will control these districts.

Consolidated service plans allow for abuse – developers control the master “postage stamp” size district which spends the money, while taxpayers live in the taxing districts where they are taxed and the funds are transferred to the master district for the developers to spend with no supervision.

The legislature must not legitimize or even recognize this practice. It is undemocratic and allows for individual developers to control the taxation and spending of future homeowners often for 30 or more years.

Two examples of such abuse follow:

- 1) 4-Way Ranch Metropolitan District No. 1 in El Paso County. On the eve of an election where homeowners were expected to take control of the district board, the developers excluded all of their remaining property (about 90% of the property in the district) and the district’s water system and moved it to 4-Way Ranch Metropolitan District No. 2 that the developers controlled. The homeowners were left paying the debt without control of the water system.
- 2) Murphy Creek Metro District No. 3 in Aurora – on the eve of a bond offering, the developer excluded all the property south of Jewell from District 3 which was mostly owned by homeowners and moved that property into a new district, District 4, leaving only the homeowners to pay the debt and leaving the developer property free from debt even though subsurface improvements had been made on that property.

I respectfully request you amend the bill to remove this one sentence after roman numeral III on page 10 of the bill text.

Brian Matise
5378 S. Harvest Way
Aurora, CO 80016

House Transportation & Local Government
 06/02/2021 Upon Adjournment
 SB21-262 Special District Transparency
 Typed Text of Testimony Submitted

Name, Position, Representing	Typed Text of Testimony
Gail Bell Against Self	<p>Dear Representatives,</p> <p>SB262 is being considered by your committee this coming Tuesday, June 2, 2021. As a Colorado resident of both the Town Center Metropolitan District, and the Ebert Metropolitan District, I am requesting that you not approve the passage of SB262 because this bill never included any stakeholders who are the actual “victims” of the metropolitan district abuse and corruption that permeates all of these special districts.</p> <p>When I purchased my house over seven years ago, I never received any disclosure from either the developer or my realtor when I inquired about a metropolitan district. Nothing! It wasn’t until after I moved into my home that I started to learn about the outrageous taxes associated with my home purchase (two thirds of which go to the metropolitan districts, or in my case 114 mils), and one third that actually goes to the City and County of Denver. As a retired teacher, I wish that all of my tax money would go into improving our state’s public schools, our decaying roads and infrastructure, and improvements to our healthcare system. But, no! Most of my taxes go into the pockets of wealthy developers, and their cabal of attorneys, accountants, and managerial firms to make them even wealthier! I also learned after my purchase that every resident is put into millions of dollars of debt for decades because the developer converts all of his costs into bonds that the residents are obligated to pay. In the end, the developers have no skin in the game, and the unknowing residents are placed in debt forever!</p> <p>How did the Colorado State Legislature ever allow this atrocity to happen by passing Title 32 back in the 1980s? SB 262 does little to nothing to rectify the atrocity placed on the people of this state who are the victims of this scam. We need real, important, strong legislation to protect the millions of Coloradans who have been caught in this untenable situation. We, the people, need to be included in the process of reforming this atrocity! SB262 meets none of the criteria to correct this horrendous wrong to the people that all of you represent!</p> <p>Thank you for considering my personal testimony, and I am always available to further discuss any questions that you might have. Please do the right thing for the people that you represent. Do not pass this bill, and promise to work on future legislation that will actually include resident participation, and contribute to improving our lives!</p>