

NOTE: The governor signed this measure on 5/18/2016.

An Act

SENATE BILL 16-211

BY SENATOR(S) Cadman and Scheffel, Crowder, Heath, Hodge, Jahn, Kefalas, Sonnenberg;
also REPRESENTATIVE(S) Hullinghorst and Duran, Arndt, Court, Lee, Leonard, Mitsch Bush, Pabon, Priola, Ryden.

CONCERNING CONTESTS TO SPECIFIED SPECIAL DISTRICT ELECTIONS THAT ARE MADE ON GROUNDS RELATING TO ELECTOR QUALIFICATIONS, AND, IN CONNECTION THEREWITH, IMPOSING A JURISDICTIONAL BAR ON CONTESTS OF CERTAIN ELECTIONS AND VALIDATING THE QUALIFICATIONS OF CERTAIN ACTORS WHEN TIMELY CONTESTS CHALLENGING THOSE QUALIFICATIONS HAVE NOT BEEN FILED.

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

SECTION 1. Legislative declaration. (1) The general assembly hereby finds and declares that:

(a) Special districts serve a public purpose and promote the health, safety, prosperity, security, and general welfare of the residents and property owners of such districts and of the people of the state of Colorado;

(b) Elections must be held to organize districts, to elect board members, and to authorize debt and tax increases;

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

(c) Bonds issued and other indebtedness incurred in reliance on those elections have financed essential public infrastructure, including roads, highway interchanges, bridges, and other transportation facilities; water lines, storage, and treatment facilities; wastewater collection and treatment facilities; storm drainage improvements; fire protection facilities; and parks and recreation facilities;

(d) Because infrastructure construction occurs by necessity before homes and other structures are built, there are typically no residents at the time a district is organized and its initial elections are held;

(e) To conduct such elections, electors have been qualified using purchase contracts for taxable property within the boundaries of the district, pursuant to the express provisions of section 32-1-103 (5) (b), Colorado Revised Statutes, and other applicable statutes;

(f) Uncertainty about the finality of election results and the qualifications of electors and district directors, if left unresolved, could substantially increase costs to cities and counties for facility maintenance, lead to increased costs and interruption of essential utility services for many residents, in particular those living in special districts, and impair the access to capital markets for financing public infrastructure and for refunding bonds at lower interest rates to reduce taxes and fees;

(g) This act does not validate any election or director qualification that is currently the subject of litigation; does not preclude a challenge to any special district election or the prior actions of a special district for reasons other than are stated in the act; and does not preclude or limit other claims and remedies available under the law; and

(h) The general welfare of citizens of the state will benefit from a validation of the voter qualifications of those who voted at elections on or before May 3, 2016, and of the qualifications of persons who were appointed or elected to serve on the board of a district on or before May 3, 2016.

SECTION 2. In Colorado Revised Statutes, **add** 1-1-105.5 as follows:

1-1-105.5. District elections conducted on or prior to May 3, 2016 - limitations on contests based on elector qualifications - exceptions - validation - definitions. (1) (a) EXCEPT AS PROVIDED IN PARAGRAPH (c) OF THIS SUBSECTION (1), FOR ANY DISTRICT ELECTION CONDUCTED UNDER THIS CODE OR THE "COLORADO LOCAL GOVERNMENT ELECTION CODE", ARTICLE 13.5 OF THIS TITLE, AND NOTWITHSTANDING ANY PROVISION OF LAW TO THE CONTRARY:

(I) NO DISTRICT ELECTION CONDUCTED PRIOR TO APRIL 21, 2016, MAY BE CONTESTED ON THE GROUNDS THAT ANY PERSON WHO VOTED AT SUCH ELECTION WAS NOT AN ELIGIBLE ELECTOR UNLESS SUCH A CONTEST WAS INITIATED PRIOR TO APRIL 21, 2016.

(II) NO DISTRICT ELECTION CONDUCTED ON MAY 3, 2016, MAY BE CONTESTED ON THE GROUNDS THAT ANY PERSON WHO VOTED AT SUCH ELECTION WAS NOT AN ELIGIBLE ELECTOR UNLESS SUCH A CONTEST WAS INITIATED WITHIN THE TIME PERIOD SPECIFIED IN SECTION 1-11-213 OR SECTION 1-13.5-1403, C.R.S., AS APPLICABLE.

(b) EXCEPT WHEN A CONTEST TO ELECTOR QUALIFICATIONS HAS BEEN TIMELY INITIATED AS DESCRIBED IN THIS SECTION, THIS SECTION VALIDATES, RATIFIES, AND CONFIRMS THE QUALIFICATIONS OF ANY PERSON WHO VOTED AT ANY DISTRICT ELECTION HELD ON OR BEFORE MAY 3, 2016, NOTWITHSTANDING ANY DEFECTS OR IRREGULARITIES IN SUCH QUALIFICATIONS.

(c) THE BAR TO ELECTION CONTESTS IN PARAGRAPH (a) OF THIS SUBSECTION (1) DOES NOT APPLY TO:

(I) ANY DISTRICT ELECTION CONDUCTED AFTER JANUARY 1, 2012, IF THE CONTEST TO SUCH ELECTION IS MADE ON THE GROUNDS THAT FEDERAL OR STATE CONSTITUTIONAL RIGHTS OF ELIGIBLE ELECTORS WERE VIOLATED IN THE CONDUCT OF THE ELECTION; OR

(II) ANY DISTRICT ELECTION CONDUCTED BEFORE JANUARY 1, 2012, IF THE CONTEST TO SUCH ELECTION WAS INITIATED PRIOR TO APRIL 21, 2016.

(2) FOR PURPOSES OF THIS SECTION, "DISTRICT" MEANS ANY DISTRICT FORMED UNDER PART 5 OF ARTICLE 20 OF TITLE 30, PART 6 OF

ARTICLE 25 OF TITLE 31, PART 8 OF ARTICLE 25 OF TITLE 31, PART 12 OF ARTICLE 25 OF TITLE 31, OR ARTICLE 1 OF TITLE 32, C.R.S.

SECTION 3. In Colorado Revised Statutes, 32-1-808, **amend** (5); and **add** (6) as follows:

32-1-808. Transfer of property title to qualify electors - limitations - validation. (5) Any person elected to a board whose qualification as an eligible elector is not challenged and overturned in accordance with the requirements specified in part 2 of article 11 of title 1, C.R.S., shall not be subject to further challenge based upon qualification as a property owner under this section. ~~for the remainder of the director's term in office.~~

(6) (a) NOTWITHSTANDING ANY PROVISION OF LAW TO THE CONTRARY:

(I) THE QUALIFICATION OF ANY PERSON APPOINTED OR ELECTED TO A BOARD PRIOR TO APRIL 21, 2016, IS HEREBY VALIDATED, RATIFIED, AND CONFIRMED AND MAY NOT BE CHALLENGED, EXCEPT AS PROVIDED IN THIS SUBSECTION (6), UNLESS A CONTEST WAS INITIATED PRIOR TO APRIL 21, 2016.

(II) THE QUALIFICATION OF ANY PERSON APPOINTED OR ELECTED TO A BOARD ON MAY 3, 2016, IS HEREBY VALIDATED, RATIFIED, AND CONFIRMED AND MAY NOT BE CHALLENGED, EXCEPT AS PROVIDED IN THIS SUBSECTION (6), UNLESS A CONTEST WAS INITIATED WITHIN THE TIME PERIOD SPECIFIED IN SECTION 1-11-213 OR 1-13.5-1403, C.R.S., AS APPLICABLE.

(b) EXCEPT WHERE A CONTEST TO THE QUALIFICATIONS OF A PERSON TO SERVE ON A BOARD HAS BEEN TIMELY INITIATED AS DESCRIBED IN THIS SUBSECTION (6), THIS SUBSECTION (6) VALIDATES, RATIFIES, AND CONFIRMS THE QUALIFICATIONS OF ANY PERSON APPOINTED OR ELECTED TO A BOARD PRIOR TO MAY 3, 2016, NOTWITHSTANDING ANY DEFECTS AND IRREGULARITIES IN SUCH QUALIFICATIONS. ALL ACTIONS UNDERTAKEN BY ANY BOARD MEMBER WHO MAY NOT HAVE BEEN QUALIFIED TO SERVE ON THE BOARD WHEN APPOINTED OR ELECTED ON OR BEFORE MAY 3, 2016, SHALL BE CONSIDERED AS ACTIONS OF A DE FACTO OFFICER AND DIRECTOR AND AS VALID AND EFFECTIVE.

(c) NOTHING IN THIS SUBSECTION (6) IS INTENDED TO LIMIT CHALLENGES BY LEGAL PROCEEDINGS IN THE NATURE OF QUO WARRANTO TO THE CONTINUING SERVICE OF PERSONS APPOINTED OR ELECTED TO A BOARD WHO MAY NO LONGER BE ELIGIBLE TO SERVE IN ACCORDANCE WITH SECTION 32-1-905 TOGETHER WITH CHALLENGES TO THE ACTIONS OF SUCH BOARD TAKEN AFTER INITIATION OF THOSE LEGAL PROCEEDINGS.

SECTION 4. 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.

Bill L. Cadman
PRESIDENT OF
THE SENATE

Dickey Lee Hullinghorst
SPEAKER OF THE HOUSE
OF REPRESENTATIVES

Effie Ameen
SECRETARY OF
THE SENATE

Marilyn Eddins
CHIEF CLERK OF THE HOUSE
OF REPRESENTATIVES

APPROVED _____

John W. Hickenlooper
GOVERNOR OF THE STATE OF COLORADO