

**Second Regular Session
Seventieth General Assembly
STATE OF COLORADO**

PREAMENDED

*This Unofficial Version Includes Committee
Amendments Not Yet Adopted on Second Reading*

LLS NO. 16-1271.02 Kate Meyer x4348

SENATE BILL 16-211

SENATE SPONSORSHIP

Cadman and Scheffel,

HOUSE SPONSORSHIP

Hullinghorst and Duran,

Senate Committees

Local Government

House Committees

A BILL FOR AN ACT

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

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://www.leg.state.co.us/bills summaries>.)

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.

With specified exceptions, the bill prohibits contests of special district elections on the grounds that an elector was unqualified either to vote or to serve on a special district board of directors, and otherwise validates such elections conducted prior to April 21, 2016, and on May 3, 2016.

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

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

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

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

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

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

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

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

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

13 (h) The general welfare of citizens of the state will benefit from
14 a validation of the voter qualifications of those who voted at elections on
15 or before May 3, 2016, and of the qualifications of persons who were
16 appointed or elected to serve on the board of a district on or before May
17 3, 2016.

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

20 **1-1-105.5. District elections conducted on or prior to May 3,**
21 **2016 - limitations on contests based on elector qualifications -**
22 **exceptions - validation - definitions.** (1) (a) EXCEPT AS PROVIDED IN
23 PARAGRAPH (c) OF THIS SUBSECTION (1), FOR ANY DISTRICT ELECTION
24 CONDUCTED UNDER THIS CODE OR THE "COLORADO LOCAL GOVERNMENT
25 ELECTION CODE", ARTICLE 13.5 OF THIS TITLE, AND NOTWITHSTANDING
26 ANY PROVISION OF LAW TO THE CONTRARY:

27 (I) NO DISTRICT ELECTION CONDUCTED PRIOR TO APRIL 21, 2016,

1 MAY BE CONTESTED ON THE GROUNDS THAT ANY PERSON WHO VOTED AT
2 SUCH ELECTION WAS NOT AN ELIGIBLE ELECTOR UNLESS SUCH A CONTEST
3 WAS INITIATED PRIOR TO APRIL 21, 2016.

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

9 (b) EXCEPT WHEN A CONTEST TO ELECTOR QUALIFICATIONS HAS
10 BEEN TIMELY INITIATED AS DESCRIBED IN THIS SECTION, THIS SECTION
11 VALIDATES, RATIFIES, AND CONFIRMS THE QUALIFICATIONS OF ANY
12 PERSON WHO VOTED AT ANY DISTRICT ELECTION HELD ON OR BEFORE MAY
13 3, 2016, NOTWITHSTANDING ANY DEFECTS OR IRREGULARITIES IN SUCH
14 QUALIFICATIONS.

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

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

21 (II) ANY DISTRICT ELECTION CONDUCTED BEFORE JANUARY 1,
22 2012, IF THE CONTEST TO SUCH ELECTION WAS INITIATED PRIOR TO APRIL
23 21, 2016.

24 (2) FOR PURPOSES OF THIS SECTION, "DISTRICT" MEANS ANY
25 DISTRICT FORMED UNDER PART 5 OF ARTICLE 20 OF TITLE 30, PART 6 OF
26 ARTICLE 25 OF TITLE 31, PART 8 OF ARTICLE 25 OF TITLE 31, PART 12 OF
27 ARTICLE 25 OF TITLE 31, OR ARTICLE 1 OF TITLE 32, C.R.S.

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

3 **32-1-808. Transfer of property title to qualify electors -**
4 **limitations - validation.** (5) Any person elected to a board whose
5 qualification as an eligible elector is not challenged and overturned in
6 accordance with the requirements specified in part 2 of article 11 of title
7 1, C.R.S., shall not be subject to further challenge based upon
8 qualification as a property owner under this section. ~~for the remainder of~~
9 ~~the director's term in office.~~

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

12 (I) THE QUALIFICATION OF ANY PERSON APPOINTED OR ELECTED TO
13 A BOARD PRIOR TO APRIL 21, 2016, IS HEREBY VALIDATED, RATIFIED, AND
14 CONFIRMED AND MAY NOT BE CHALLENGED, EXCEPT AS PROVIDED IN THIS
15 SUBSECTION (6), UNLESS A CONTEST WAS INITIATED PRIOR TO APRIL 21,
16 2016.

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

23 (b) EXCEPT WHERE A CONTEST TO THE QUALIFICATIONS OF A
24 PERSON TO SERVE ON A BOARD HAS BEEN TIMELY INITIATED AS DESCRIBED
25 IN THIS SUBSECTION (6), THIS SUBSECTION (6) VALIDATES, RATIFIES, AND
26 CONFIRMS THE QUALIFICATIONS OF ANY PERSON APPOINTED OR ELECTED
27 TO A BOARD PRIOR TO MAY 3, 2016, NOTWITHSTANDING ANY DEFECTS

1 AND IRREGULARITIES IN SUCH QUALIFICATIONS. ALL ACTIONS
2 UNDERTAKEN BY ANY BOARD MEMBER WHO MAY NOT HAVE BEEN
3 QUALIFIED TO SERVE ON THE BOARD WHEN APPOINTED OR ELECTED ON OR
4 BEFORE MAY 3, 2016, SHALL BE CONSIDERED AS ACTIONS OF A DE FACTO
5 OFFICER AND DIRECTOR AND AS VALID AND EFFECTIVE.

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

12 **SECTION 4. Safety clause.** The general assembly hereby finds,
13 determines, and declares that this act is necessary for the immediate
14 preservation of the public peace, health, and safety.