HOUSE BILL 19-1052

A BILL FOR AN ACT

CONCERNING THE CREATION OF SPECIAL DISTRICTS TO PROVIDE EARLY CHILDHOOD DEVELOPMENT SERVICES.

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://leg.colorado.gov.)

The bill authorizes the creation of early childhood development service districts (districts) to provide services for children from birth through 8 years of age. Early childhood development services are defined to include early care and educational, health, mental health, and developmental services, including prevention and intervention. Districts are authorized to seek voter approval to levy property taxes and sales...
taxes in the district to generate revenues to provide early childhood development services.

The district must be organized pursuant to the "Special District Act" as modified by the bill. Under the bill, all eligible electors in the proposed district, rather than only property owners, are able to vote on the organization of the district and related ballot issues. The service plan for a proposed district is not required to be submitted to the planning commission for each county in which the special district is proposed to be located, and instead is submitted directly to the board of county commissioners (board) for such counties. In addition, the bill directs that the board shall not accept or act upon the request of a person owning property in the proposed service area to have his or her property excluded from the special district. The court conducting a hearing for the petition is also directed to not accept or act upon such a petition to exclude property from the district. The districts are governed by the "Special District Act"; except that they are not subject to provisions concerning the inclusion or exclusion of property, procedures for the levy and collection of taxes, the certification and notice of special district taxes for general obligation indebtedness, property tax reduction agreements, and public improvement contracts.

A district is authorized to contract with or work with another district or other provider of early childhood development services to provide services throughout the district.

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

SECTION 1. In Colorado Revised Statutes, 32-1-103, amend the introductory portion; and add (4.5) as follows:

32-1-103. Definitions. As used in this article ARTICLE 1, unless the context otherwise requires:

(4.5) "EARLY CHILDHOOD DEVELOPMENT SERVICE DISTRICT" MEANS A SPECIAL DISTRICT CREATED PURSUANT TO ARTICLE 21 OF THIS TITLE 32 TO PROVIDE, DIRECTLY OR INDIRECTLY, EARLY CHILDHOOD DEVELOPMENT SERVICES TO CHILDREN FROM BIRTH THROUGH EIGHT YEARS OF AGE.

SECTION 2. In Colorado Revised Statutes, 32-1-202, amend (1)(b); and add (2)(l) as follows:
32-1-202. Filing of service plan required - report of filing - contents - fee. (1) (b) Notwithstanding the requirements of paragraph (a) of this subsection (1) SUBSECTION (1)(a) OF THIS SECTION, the service plan of a proposed health service district, or health assurance district, or EARLY CHILDHOOD DEVELOPMENT SERVICE DISTRICT shall not be referred to the county planning commission for consideration or recommendations. At the next regular meeting of the board of county commissioners that is held at least ten days after the filing of the service plan with the county clerk and recorder, the board of county commissioners shall set a date within thirty days of such filing for a public hearing on the service plan of the proposed district. The board of county commissioners shall provide written notice of the meeting pursuant to paragraph (a) of this subsection (1) SUBSECTION (1)(a) OF THIS SECTION.

(2) The service plan shall contain the following:

(l) FOR AN EARLY CHILDHOOD DEVELOPMENT SERVICE DISTRICT, ANY ADDITIONAL INFORMATION REQUIRED BY SECTION 32-21-105 (2) THAT IS NOT OTHERWISE REQUIRED BY SUBSECTIONS (2)(a) TO (2)(i) OF THIS SECTION.

SECTION 3. In Colorado Revised Statutes, 32-1-203, amend (3.5)(b) as follows:

32-1-203. Action on service plan - criteria. (3.5) (b) Notwithstanding the provisions of paragraph (a) of this subsection (3.5) SUBSECTION (3.5)(a) OF THIS SECTION, if the service plan submitted by the petitioners of a proposed special district is for a health service district, or health assurance district, OR EARLY CHILDHOOD DEVELOPMENT SERVICE DISTRICT, the board of county commissioners
shall not accept or act upon the request of a person owning property in the proposed special district that his or her property be excluded from the special district.

SECTION 4. In Colorado Revised Statutes, 32-1-204, amend (1) and (2)(b) as follows:

32-1-204. Public hearing on service plan - procedures - decision. (1) The board of county commissioners shall provide written notice of the date, time, and location of the hearing to the petitioners and the governing body of any existing municipality or special district that has levied an ad valorem tax within the next preceding tax year and that has boundaries within a radius of three miles of the proposed special district boundaries, which governmental units shall be interested parties for the purposes of this part 2. The board of county commissioners shall make publication of the date, time, location, and purpose of the hearing, the first of which shall be at least twenty days prior to the hearing date. The board of county commissioners shall include in the notice a general description of the land contained within the boundaries of the proposed special district and information outlining methods and procedures pursuant to section 32-1-203 (3.5) concerning the filing of a petition for exclusion of territory; except that, if the hearing is to review a service plan for a health service district, or health assurance district, or EARLY CHILDHOOD DEVELOPMENT SERVICE DISTRICT, the notice shall not include information regarding filing a petition for exclusion of territory. The publications shall constitute constructive notice to the residents and property owners within the proposed special district who shall also be interested parties at the hearing.

(2) (b) Notwithstanding the provisions of paragraph (a) of this
subsection (2) SUBSECTION (2)(a) OF THIS SECTION, the service plan of a
proposed health service district, or health assurance district, OR EARLY
CHILDHOOD DEVELOPMENT SERVICE DISTRICT shall not be delivered to the
planning commission for study or recommendations unless specifically
requested by the petitioners. If the petitioners do not request that the
service plan be delivered to the planning commission, the clerk and
recorder shall deliver the service plan to the board of county
commissioners and the planning commission shall not be required to
study the service plan or to present recommendations to the board of
county commissioners pursuant to paragraph (a) of this subsection (2)
SUBSECTION (2)(a) OF THIS SECTION.

SECTION 5. In Colorado Revised Statutes, 32-1-301, add
(2)(a)(XI) as follows:

32-1-301. Petition for organization. (2) The petition shall set
forth:

(a) The type of service to be provided by the proposed special
district and the name of the proposed special district, consisting of a
chosen name preceding one of the following phrases:

(XI) EARLY CHILDHOOD DEVELOPMENT SERVICE DISTRICT.

SECTION 6. In Colorado Revised Statutes, add article 21 to title
32 as follows:

ARTICLE 21

Early Childhood Development Service Districts

32-21-101. Definitions. AS USED IN THIS ARTICLE 21, UNLESS THE
CONTEXT OTHERWISE REQUIRES:

(1) "COURT" MEANS THE DISTRICT COURT IN ANY COUNTY IN
WHICH THE PETITION FOR ORGANIZATION OF THE DISTRICT WAS
ORIGINALLY FILED AND WHICH ENTERED THE ORDER ORGANIZING SAID
DISTRICT OR THE DISTRICT COURT TO WHICH THE FILE PERTAINING TO THE
DISTRICT HAS BEEN TRANSFERRED PURSUANT TO SECTION 32-1-303 (1)(b).

(2) "DISTRICT" MEANS AN EARLY CHILDHOOD DEVELOPMENT
SERVICE DISTRICT CREATED PURSUANT TO THIS ARTICLE 21 TO PROVIDE,
DIRECTLY OR INDIRECTLY, EARLY CHILDHOOD DEVELOPMENT SERVICES TO
CHILDREN FROM BIRTH THROUGH EIGHT YEARS OF AGE.

(3) "EARLY CHILDHOOD DEVELOPMENT SERVICES" MEANS
SERVICES PROVIDED TO CHILDREN FROM BIRTH THROUGH EIGHT YEARS OF
AGE, INCLUDING BUT NOT LIMITED TO EARLY CARE AND EDUCATIONAL,
HEALTH, MENTAL HEALTH, AND DEVELOPMENTAL SERVICES, INCLUDING
PREVENTION AND INTERVENTION.

(4) "ELIGIBLE ELECTOR" MEANS A PERSON WHO, AT THE
DESIGNATED TIME OR EVENT, IS REGISTERED TO VOTE PURSUANT TO THE
"UNIFORM ELECTION CODE OF 1992", ARTICLES 1 TO 13 OF TITLE 1, AND
WHO RESIDES WITHIN THE DISTRICT OR PROPOSED DISTRICT.

(5) "INTERESTED PARTY" MEANS A RESIDENT OR ELIGIBLE ELECTOR
OF THE DISTRICT OR A MUNICIPALITY LOCATED IN THE DISTRICT.

32-21-102. Applicability of Special District Act. Except as
otherwise provided in this Article 21, a district created pursuant
to this Article 21 shall be governed by the applicable provisions
of the "Special District Act", article 1 of this title 32; except
that parts 4, 5, 12, 16, 17, and 18 of article 1 of this title 32 do not
apply.

32-21-103. Special districts file - notice of organization or
dissolution. (1) In addition to complying with section 32-1-104 (2),
a district created pursuant to this Article 21 shall provide a
COPY OF THE NOTICE REQUIRED BY SECTION 32-1-809 (1) TO THE DEPARTMENT OF REVENUE.

(2) In addition to complying with section 32-1-105, the county clerk and recorder shall file a certified copy of the decree or order confirming the organization or dissolution of a district created pursuant to this article 21 with the department of revenue.

32-21-104. Service area of district - governmental immunity.

(1) A district may include all of the territory of one or more special districts, municipalities, counties, or other existing taxing entities, as may be proposed. The district shall be a body corporate and politic and a political subdivision of the state.

(2) Each of the directors, officers, and employees of the district is a public employee for purposes of the "Colorado Governmental Immunity Act", article 10 of title 24.

32-21-105. Service plan required - contents - action on plan.

(1) Persons proposing the organization of a district, except for a district that is contained entirely within the boundaries of a municipality and subject to section 32-21-106, shall submit a service plan in accordance with the requirements of section 32-1-202 (1) and shall pay any fee required pursuant to section 32-1-202 (3).

(2) Notwithstanding section 32-1-202 (2), the service plan for the district must contain the following information:

(a) A description of the proposed early childhood development services to be provided and the persons who will be eligible to receive those services;
(b) Quality Assurance Measures;

(c) A Financial plan showing how the proposed services are to be financed, including the proposed operating revenue derived from property taxes and sales and use taxes for the first budget year of the district, which shall not be materially exceeded except as authorized pursuant to Section 32-1-207. All proposed indebtedness for the district must be displayed together with a schedule indicating the year or years in which the debt is scheduled to be issued. The board of directors of the district shall notify the board of county commissioners or the governing body of the municipality, whichever is applicable, of any alteration or revision of the proposed schedule of debt issuance set forth in the financial plan.

(d) A map of the proposed district boundaries;

(e) If the district plans to construct facilities, a general description of the facilities to be constructed and the standards of such construction, including a statement of how the facility and service standards of the proposed district are compatible with facility and service standards of any county or municipality within which all or any portion of the proposed district is to be located;

(f) If applicable, a general description of the estimated cost of acquiring or leasing land or facilities; the estimated costs of acquiring engineering, legal, and administrative services; the initial proposed indebtedness and estimated proposed maximum interest rates and discounts; and other major expenses related to the organization and initial operation of
THE DISTRICT;

(g) A DESCRIPTION OF ANY ARRANGEMENT OR PROPOSED AGREEMENT WITH ANY POLITICAL SUBDIVISION FOR THE PERFORMANCE OF ANY SERVICES BETWEEN THE PROPOSED DISTRICT AND SUCH OTHER POLITICAL SUBDIVISION, AND, IF THE FORM CONTRACT TO BE USED IS AVAILABLE, IT SHALL BE ATTACHED TO THE SERVICE PLAN;

(h) INFORMATION, ALONG WITH OTHER EVIDENCE PRESENTED AT THE HEARING, SATISFACTORY TO ESTABLISH THAT EACH OF THE CRITERIA SET FORTH IN SECTION 32-1-203, IF APPLICABLE, IS MET; AND

(i) SUCH ADDITIONAL INFORMATION AS THE BOARD OF COUNTY COMMISSIONERS OR THE GOVERNING BODY OF THE MUNICIPALITY, WHICHERVER IS APPLICABLE, MAY REQUIRE ON WHICH TO BASE ITS FINDINGS PURSUANT TO SECTION 32-1-203.

(3) EXCEPT AS PROVIDED IN SECTION 32-21-106, THE BOARD OF COUNTY COMMISSIONERS OF EACH COUNTY THAT HAS TERRITORY INCLUDED WITHIN THE PROPOSED DISTRICT SHALL CONSTITUTE THE APPROVING AUTHORITY FOR THE PROPOSED DISTRICT AND SHALL REVIEW ANY SERVICE PLAN FILED BY THE PETITIONERS OF A PROPOSED DISTRICT IN ACCORDANCE WITH SECTION 32-1-203; EXCEPT THAT SECTION 32-1-203 (3.5)(a) DOES NOT APPLY TO A DISTRICT PROPOSED PURSUANT TO THIS ARTICLE 21.

32-21-106. Approval by municipality. IF THE BOUNDARIES OF A DISTRICT PROPOSED PURSUANT TO THIS ARTICLE 21 ARE WHOLLY CONTAINED WITHIN THE BOUNDARIES OF A MUNICIPALITY, THE PERSONS PROPOSING THE ORGANIZATION OF THE DISTRICT SHALL COMPLY WITH SECTION 32-1-204.5; EXCEPT THAT THE SERVICE PLAN SUBMITTED TO EACH GOVERNING BODY OF EACH MUNICIPALITY MUST CONTAIN THE
INFORMATION REQUIRED BY SECTION 32-21-105 (2). THE GOVERNING BODY SHALL HAVE THE AUTHORITY SET FORTH IN SECTION 32-1-204.5 WITH REGARD TO THE REVIEW OF THE SERVICE PLAN.


(2) SECTION 32-1-204 (2)(a) DOES NOT APPLY TO A DISTRICT PROPOSED PURSUANT TO THIS ARTICLE 21.

(3) THE BOARD OF COUNTY COMMISSIONERS OF THE COUNTY IN WHICH THE DISTRICT WILL BE LOCATED OR THE GOVERNING BODY OF THE MUNICIPALITY IN WHICH THE DISTRICT WILL BE LOCATED, WHICHEVER IS APPLICABLE, SHALL CONDUCT THE HEARING PURSUANT TO SECTION 32-1-204 (3) AND MAKE ITS DECISION IN ACCORDANCE WITH THE REQUIREMENTS OF SECTION 32-1-204 (3) AND (4). THE DECISION OF THE BOARD OR GOVERNING BODY, WHICHEVER IS APPLICABLE, IS SUBJECT TO JUDICIAL REVIEW IN ACCORDANCE WITH SECTION 32-1-206; EXCEPT THAT, FOR PURPOSES OF JUDICIAL REVIEW, "INTERESTED PARTY" HAS THE SAME
MEANING AS SET FORTH IN SECTION 32-21-101 (5).

(4) Upon final approval by the court for the organization of a district pursuant to this article 21, the district shall conform as much as possible to the approved service plan, and any material modifications to the plan must be approved in accordance with section 32-1-207 (2). Any material departure from the plan may be enjoined in accordance with section 32-1-207 (3); except that, for purposes of enforcement of the plan, "interested party" has the same meaning as set forth in section 32-21-101 (5).

32-21-108. Organization. (1) Except as provided in this section, the organization of a district pursuant to this article 21 is governed by part 3 of article 1 of this title 32.

(2) For purposes of complying with section 32-1-301 (1), a petition for the organization of a district proposed pursuant to this article 21 must be signed by not less than thirty percent or two hundred eligible electors of the proposed district, whichever number is smaller.

(3) For purposes of complying with section 32-1-301 (2)(d.1), the petition for organization must set forth the estimated property tax and sales and use tax revenues for the district's first budget year.

(4) For purposes of complying with section 32-1-304, when the court with whom a petition for organization of a district proposed pursuant to this article 21 has been filed sets a hearing date, the clerk of court shall publish notice of the hearing and mail the required notice to the appropriate board of county...
COMMISSIONERS OR GOVERNING BODY OF THE MUNICIPALITY, BUT THE
CLERK OF COURT SHALL NOT BE REQUIRED TO MAIL NOTICE OF THE
HEARING TO ALL INTERESTED PARTIES. THE NOTICE MUST NOT INCLUDE
INFORMATION EXPLAINING THE METHODS AND PROCEDURES FOR THE
FILING OF A PETITION FOR EXCLUSION OF TERRITORY PURSUANT TO
SECTION 32-1-305 (3).

(5) FOR PURPOSES OF COMPLYING WITH SECTION 32-1-305 (1), THE
COURT SHALL DETERMINE WHETHER THE REQUIRED NUMBER OF ELIGIBLE
ELECTORS OF THE PROPOSED DISTRICT HAVE SIGNED THE PETITION.

(6) SECTION 32-1-305 (3) DOES NOT APPLY TO A DISTRICT
PROPOSED UNDER THIS ARTICLE 21. THE COURT SHALL NOT ACCEPT OR ACT
UPON PETITIONS FILED BY AN OWNER OF ANY REAL PROPERTY WITHIN A
DISTRICT PROPOSED UNDER THIS ARTICLE 21 STATING REASONS WHY THE
PROPERTY SHOULD NOT BE INCLUDED THEREIN AND REQUESTING THAT THE
PROPERTY BE EXCLUDED THEREFROM.

(7) IN ADDITION TO COMPLYING WITH THE FILING REQUIREMENTS
IN SECTION 32-1-306, THE DISTRICT SHALL FILE A CERTIFIED COPY OF THE
FINDINGS AND ORDER OF THE COURT ORGANIZING THE DISTRICT WITH THE
DEPARTMENT OF REVENUE.

32-21-109. Persons entitled to vote at district elections.

NOTWITHSTANDING SECTION 32-1-806, ANY PERSON WHO IS AN ELIGIBLE
ELECTOR IS ELIGIBLE TO VOTE IN AN ORGANIZATIONAL ELECTION OR ANY
ELECTION CONDUCTED BY THE BOARD OF DIRECTORS FOR A DISTRICT
ORGANIZED UNDER THIS ARTICLE 21.

32-21-110. Financial powers. ANY DISTRICT CREATED PURSUANT
TO THIS ARTICLE 21 SHALL HAVE ALL OF THE FINANCIAL POWERS
DESCRIBED IN SECTION 32-1-1101; EXCEPT THAT THE LEVY AND
COLLECTION OF AD VALOREM TAXES IS SUBJECT TO SECTION 32-21-114.

THE DISTRICT SHALL ALSO HAVE THE POWER, UPON VOTER APPROVAL, TO
LEVY AND COLLECT A UNIFORM SALES AND USE TAX THROUGHOUT THE
ENTIRE GEOGRAPHICAL AREA OF THE DISTRICT UPON EVERY TRANSACTION
OR OTHER INCIDENT WITH RESPECT TO WHICH A SALES AND USE TAX IS
LEVIED BY THE STATE PURSUANT TO ARTICLE 26 OF TITLE 39; EXCEPT THAT
SUCH SALES AND USE TAX SHALL NOT BE LEVIED ON THE SALE OF
CIGARETTES. ANY SALES AND USE TAX AUTHORIZED PURSUANT TO THIS
SECTION SHALL BE LEVIED AND COLLECTED AS PROVIDED IN SECTION
32-21-111.

32-21-111. Sales and use tax imposed - collection -
administration of tax. (1) (a) UPON THE APPROVAL OF THE ELIGIBLE
ELECTORS IN THE DISTRICT AT AN ELECTION HELD IN ACCORDANCE WITH
SECTION 20 OF ARTICLE X OF THE STATE CONSTITUTION AND PART 8 OF
ARTICLE 1 OF THIS TITLE 32, THE DISTRICT SHALL HAVE THE POWER TO
LEVY A UNIFORM SALES AND USE TAX THROUGHOUT THE ENTIRE
GEOGRAPHICAL AREA OF THE DISTRICT UPON EVERY TRANSACTION OR
OTHER INCIDENT WITH RESPECT TO WHICH A SALES AND USE TAX IS
LEVIED BY THE STATE PURSUANT TO ARTICLE 26 OF TITLE 39; EXCEPT THAT SUCH
SALES AND USE TAX SHALL NOT BE LEVIED ON THE SALE OF CIGARETTES.
A TAX LEVIED BY A DISTRICT IN ACCORDANCE WITH THIS SECTION SHALL
TAKE EFFECT ON EITHER JANUARY 1 OR JULY 1 OF THE YEAR SPECIFIED IN
THE BALLOT ISSUE SUBMITTED TO THE ELIGIBLE ELECTORS OF THE
DISTRICT.

(b) THE SALES AND USE TAX IMPOSED PURSUANT TO SUBSECTION
(1)(a) OF THIS SECTION IS IN ADDITION TO ANY OTHER SALES AND USE TAX
IMPOSED PURSUANT TO LAW.
(2) (a) The collection, administration, and enforcement of the sales and use tax shall be performed by the executive director of the department of revenue in the same manner as the collection, administration, and enforcement of the state sales and use tax imposed pursuant to article 26 of title 39 including, without limitation, the retention by a vendor of the percentage of the amount remitted to cover the vendor's expense in the collection and remittance of the sales and use tax as provided in section 39-26-105. The executive director shall make monthly distributions of sales and use tax collections to the district. The district shall pay the net incremental cost incurred by the department in the administration and collection of the sales and use tax.

(b) (I) A qualified purchaser may provide a direct payment permit number issued pursuant to section 39-26-103.5 to a vendor or retailer that is liable and responsible for collecting and remitting any sales tax levied on a sale made to the qualified purchaser pursuant to this article 21. A vendor or retailer that has received a direct payment permit number in good faith from a qualified purchaser shall not be liable or responsible for collection and remittance of a sales tax imposed on a sale that is paid for directly from the qualified purchaser's funds and not the personal funds of an individual.

(II) A qualified purchaser that provides a direct payment permit number to a vendor or retailer shall be liable and responsible for the amount of sales tax levied on a sale made to the qualified purchaser pursuant to this article 21 in the same
MANNER AS LIABILITY WOULD BE IMPOSED ON A QUALIFIED PURCHASER FOR STATE SALES TAX PURSUANT TO SECTION 39-26-105.

32-21-112. District revenues. Any revenues raised or generated by the district shall be in addition to and shall not be used to replace any funding the counties in the district would otherwise be entitled to receive from the state or federal government.

32-21-113. Cooperation between districts or other existing providers permitted. A district organized under this article 21 has the authority to contract with or work cooperatively and in conjunction with another district or other public or private provider of early childhood development services to provide services and facilities to the residents of such districts.

32-21-114. Levy and collection of ad valorem taxes. A district created pursuant to this article 21 has the power, upon approval by the eligible electors of the district, to levy and collect ad valorem taxes on and against all taxable property within the district. A tax levied by a district in accordance with this section shall take effect on either January 1 or July 1 of the year specified in the ballot issue submitted to the eligible electors of the district.

SECTION 7. Act subject to petition - effective date. 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 2, 2019, if adjournment sine die is on May 3, 2019); 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 2020 and, in such case, will take effect on the date of the
official declaration of the vote thereon by the governor.