

First Regular Session
Seventy-fourth General Assembly
STATE OF COLORADO

ENGROSSED

*This Version Includes All Amendments Adopted
on Second Reading in the House of Introduction*

LLS NO. 23-0481.01 Jason Gelender x4330

HOUSE BILL 23-1090

HOUSE SPONSORSHIP

Weissman,

SENATE SPONSORSHIP

(None),

House Committees

Transportation, Housing & Local Government

Senate Committees

A BILL FOR AN ACT

101 CONCERNING A PROHIBITION ON THE PURCHASE OF DEBT ISSUED BY A
102 METROPOLITAN DISTRICT BY ANY ENTITY WITH RESPECT TO
103 WHICH ANY DISTRICT DIRECTOR HAS A CONFLICT OF INTEREST.

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>.)

For any proposed metropolitan district that has any property within its boundaries that is zoned or valued for assessment as residential, **section 1** of the bill prohibits a local government from approving a service plan that permits the purchase of district debt by any entity with respect to which any director of the district has a conflict of interest

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters or bold & italic numbers indicate new material to be added to existing law.
Dashes through the words or numbers indicate deletions from existing law.

HOUSE
Amended 2nd Reading
February 17, 2023

necessitating disclosure under current law. **Section 2** prohibits a member of the board of a metropolitan district that approved the issuance of any debt while the member was serving on the board from acquiring any interest in the debt individually or on behalf of any organization or entity for which the board member is engaged as an employee, counsel, consultant, representative, or agent unless the debt is acquired indirectly through an investment fund and the member has no input into or control over the individual securities that the fund purchases.

Section 3 states that proof of a violation of the prohibition set forth in **section 2** is proof that the violator has breached the actor's fiduciary duty and the public trust.

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

2 **SECTION 1.** In Colorado Revised Statutes, 32-1-202, **amend** (2)
3 introductory portion; and **add** (2)(m) as follows:

4 **32-1-202. Filing of service plan required - report of filing -**
5 **contents - fee.** (2) The service plan ~~shall~~ **MUST** contain the following:

6 (m) FOR A PROPOSED METROPOLITAN DISTRICT THAT HAS
7 PROPERTY WITHIN ITS BOUNDARIES THAT IS ZONED OR VALUED FOR
8 ASSESSMENT AS RESIDENTIAL, OR THAT IS ANTICIPATED TO BE ZONED OR
9 VALUED FOR ASSESSMENT AS RESIDENTIAL, A PROHIBITION ON THE
10 PURCHASE OF DEBT ISSUED BY THE DISTRICT BY AN ENTITY WITH RESPECT
11 TO WHICH A DIRECTOR OF THE DISTRICT HAS A CONFLICT OF INTEREST
12 REQUIRING DISCLOSURE UNDER SECTION 24-18-109.

13 **SECTION 2.** In Colorado Revised Statutes, 32-1-203, **add** (2)(e)
14 as follows:

15 **32-1-203. Action on service plan - criteria.** (2) The board of
16 county commissioners shall disapprove the service plan unless evidence
17 satisfactory to the board of each of the following is presented:

18 (e) FOR A PROPOSED METROPOLITAN DISTRICT THAT HAS PROPERTY
19 WITHIN ITS BOUNDARIES THAT IS ZONED OR VALUED FOR ASSESSMENT AS

1 RESIDENTIAL, OR THAT IS ANTICIPATED TO BE ZONED OR VALUED FOR
2 ASSESSMENT AS RESIDENTIAL, THE SERVICE PLAN PROHIBITS DEBT ISSUED
3 BY THE DISTRICT FROM BEING PURCHASED BY AN ENTITY WITH RESPECT TO
4 WHICH A DIRECTOR OF THE DISTRICT HAS A CONFLICT OF INTEREST
5 REQUIRING DISCLOSURE UNDER SECTION 24-18-109.

6 **SECTION 3.** In Colorado Revised Statutes, 32-1-205, **add** (3) as
7 follows:

8 **32-1-205. Resolution of approval required.** (3) NO COURT IN
9 THIS STATE SHALL CONSIDER A PETITION FOR THE ORGANIZATION OF A
10 METROPOLITAN DISTRICT THAT HAS PROPERTY WITHIN ITS BOUNDARIES
11 THAT IS ZONED OR VALUED FOR ASSESSMENT AS RESIDENTIAL, OR THAT IS
12 ANTICIPATED TO BE ZONED OR VALUED FOR ASSESSMENT AS RESIDENTIAL,
13 UNLESS THE SERVICE PLAN FOR THE DISTRICT PROHIBITS DEBT ISSUED BY
14 THE DISTRICT FROM BEING PURCHASED BY AN ENTITY WITH RESPECT TO
15 WHICH A DIRECTOR OF THE DISTRICT HAS A CONFLICT OF INTEREST
16 REQUIRING DISCLOSURE UNDER SECTION 24-18-109.

17 **SECTION 4.** In Colorado Revised Statutes, 32-1-902, **add** (5) as
18 follows:

19 **32-1-902. Organization of board - compensation - disclosure**
20 **- prohibited transactions.** (5) NOTWITHSTANDING ANY OTHER
21 PROVISION OF LAW, A MEMBER OF THE BOARD OF A METROPOLITAN
22 DISTRICT THAT APPROVED THE ISSUANCE OF ANY DEBT WHILE THE
23 MEMBER WAS SERVING ON THE BOARD SHALL NOT THEREAFTER ACQUIRE
24 ANY INTEREST IN THE DEBT INDIVIDUALLY OR ON BEHALF OF ANY
25 ORGANIZATION OR ENTITY FOR WHICH THE BOARD MEMBER IS ENGAGED AS
26 AN EMPLOYEE, COUNSEL, A CONSULTANT, A REPRESENTATIVE, OR AN
27 AGENT. THE REQUIREMENTS OF THIS SUBSECTION (5) DO NOT APPLY TO

1 DEBT ACQUIRED INDIRECTLY THROUGH AN INVESTMENT FUND IF THE
2 MEMBER HAS NO INPUT INTO OR CONTROL OVER THE INDIVIDUAL
3 SECURITIES THAT THE FUND PURCHASES.

4 **SECTION 5.** In Colorado Revised Statutes, 24-18-109, **add** (2.5)
5 as follows:

6 **24-18-109. Rules of conduct for local government officials and**
7 **employees.** (2.5) PROOF OF THE COMMISSION OF AN ACT PROSCRIBED BY
8 SECTION 32-1-902 (5) BY A PREPONDERANCE OF THE EVIDENCE IS PROOF
9 THAT THE ACTOR HAS BREACHED THE ACTOR'S FIDUCIARY DUTY AND THE
10 PUBLIC TRUST. **HOWEVER, IF AN ACTOR IS PROSECUTED FOR A CRIMINAL**
11 **OFFENSE IN CONNECTION WITH A BREACH OF FIDUCIARY DUTY AND THE**
12 **PUBLIC TRUST, ALL ELEMENTS OF THE CRIMINAL OFFENSE MUST BE PROVED**
13 **BEYOND A REASONABLE DOUBT.**

14 **SECTION 6. Act subject to petition - effective date.** This act
15 takes effect at 12:01 a.m. on the day following the expiration of the
16 ninety-day period after final adjournment of the general assembly; except
17 that, if a referendum petition is filed pursuant to section 1 (3) of article V
18 of the state constitution against this act or an item, section, or part of this
19 act within such period, then the act, item, section, or part will not take
20 effect unless approved by the people at the general election to be held in
21 November 2024 and, in such case, will take effect on the date of the
22 official declaration of the vote thereon by the governor.