

CHAPTER 161

GOVERNMENT - SPECIAL DISTRICTS

SENATE BILL 93-194

BY SENATORS Schroeder and Feeley;
also REPRESENTATIVES Anderson and Hagedorn.

AN ACT

CONCERNING VOTER APPROVAL OF FINANCIAL OBLIGATIONS IN CONNECTION WITH SPECIAL DISTRICT CONSOLIDATIONS.

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

SECTION 1. 32-1-602 (2) (e), Colorado Revised Statutes, as amended, is amended to read:

32-1-602. Procedure for consolidation. (2) Consolidation may be accomplished in the following manner:

(e) At the hearing, if the court finds that the consolidation resolution and the concurring resolutions have been properly filed and that the board of each special district desiring to be consolidated or desiring to have specified services consolidated has proceeded in accordance with this part 6, the court shall enter an order ex parte setting an election within each of the consolidating special districts for the approval of the consolidated district by the eligible electors affected by the consolidation at the next regular special district or special election, which shall be held and conducted pursuant to the provisions of articles 1 to 13 of title 1, C.R.S. The order shall require publication of notice as required by ~~section 1-5-203, C.R.S.~~, SECTION 1-5-207, C.R.S., specifying the name of the consolidated district; the names of the special districts to be consolidated or the name of the district into which specific services are to be consolidated and the names of the special districts presently empowered to provide the services; a summary of any special conditions that may attach to the consolidated district, including any preconsolidation agreements and ~~assumption of debt included therein~~ THE PROVISIONS INCLUDED THEREIN REGARDING THE ASSUMPTION OF DEBT AND THE APPROVAL OF ANY FINANCIAL OBLIGATION, INCLUDING ACCRUED UNFUNDED PENSION LIABILITY, AS DEBT TO REMAIN PAYABLE BY THE

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

TAXPAYERS OF THE CONSOLIDATING SPECIAL DISTRICT WHICH INCURRED THE OBLIGATION OR MAINTAINED THE PENSION PLAN TO WHICH THE ACCRUED UNFUNDED LIABILITY ATTACHES; if the consolidated district may be granted the powers of a metropolitan district, the effect of the change and the services a metropolitan district may provide, including any change in maximum mill levies set forth in section 32-1-1101 (1), or, if the mill levy is unlimited, the fact that there is no mill levy limit ESTABLISHED BY STATUTE; and the area to be included within the consolidated district, which shall be all of the area originally contained within the organization order for each individual special district, together with all areas contained in any inclusions, the consolidated area not to include any area excluded by any special district being so consolidated or by the court pursuant to paragraph (d) of this subsection (2). If two or more districts are to be consolidated and if the consolidated district is to assume metropolitan district powers, the court shall order that the eligible electors vote separately on the question of consolidation and the question of granting the consolidated district the powers of a metropolitan district. If the eligible electors approve consolidation but reject the granting of metropolitan district powers, the consolidated district shall have only those powers granted single-purpose districts providing the same services. If all or part of the outstanding bonded indebtedness of all of the consolidating special districts is to be assumed by the consolidated district, the court shall also order that the eligible electors vote separately on the question of consolidation and the question of assuming the indebtedness at the consolidation election. If the eligible electors approve consolidation but reject the assumption of indebtedness by the consolidated district, the outstanding bonded indebtedness shall remain the obligation of the special district which incurred the bonded indebtedness and shall be paid and discharged by the taxpayers having taxable property within the boundaries of the indebted special district. If a preconsolidation agreement provides that the consolidation shall be contingent upon assumption of debt by the consolidated district, then the consolidation shall not be approved unless the assumption of indebtedness is approved by the eligible electors. IF ANY FINANCIAL OBLIGATION OF ONE OR MORE OF THE CONSOLIDATING DISTRICTS IS TO BE SUBMITTED TO THE ELECTORS FOR APPROVAL AS DEBT, THE COURT SHALL ALSO ORDER THAT THE ELECTORS VOTE SEPARATELY ON THE QUESTION OF CONSOLIDATION AND THE QUESTION OF APPROVAL OF EACH FINANCIAL OBLIGATION AS DEBT, WHICH ISSUE SHALL BE PRESENTED TO THE ELECTORS IN ACCORDANCE WITH THE PROVISIONS OF SECTION 32-1-606.5. IF THE ELECTORS APPROVE CONSOLIDATION BUT DO NOT APPROVE THE TREATMENT OF ONE OR MORE FINANCIAL OBLIGATIONS AS DEBT, THE FINANCIAL OBLIGATIONS NOT SO APPROVED SHALL BE ASSUMED BY THE CONSOLIDATED DISTRICT IN THE SAME MANNER AS OTHER OBLIGATIONS OF CONSOLIDATING DISTRICTS ARE ASSUMED, UNLESS A PRECONSOLIDATION AGREEMENT PROVIDING THAT THE CONSOLIDATION SHALL BE CONTINGENT UPON THE APPROVAL REGARDING TREATMENT OF THE FINANCIAL OBLIGATION AS DEBT, IN WHICH CASE THE CONSOLIDATION SHALL NOT BE APPROVED. The area of the consolidated district after the election shall be the total area of the special districts consolidated existing as of the date of the court order. No appeal shall lie from any orders of the court.

SECTION 2. Part 6 of article 1 of title 32, Colorado Revised Statutes, as amended, is amended BY THE ADDITION OF A NEW SECTION to read:

32-1-606.5. Elector approval of financial obligations of consolidating districts. (1) WHENEVER THE BOARD OF A CONSOLIDATING SPECIAL DISTRICT DETERMINES, BY RESOLUTION, THAT THE INTEREST OF THE SPECIAL DISTRICT, THE

RESULTING CONSOLIDATED DISTRICT, AND THE PUBLIC INTEREST REQUIRE THAT THE OBLIGATION TO PAY AND DISCHARGE ANY FINANCIAL OBLIGATION, INCLUDING ACCRUED UNFUNDED PENSION LIABILITY, REMAIN THE OBLIGATION OF THE TAXPAYERS OF SAID CONSOLIDATING SPECIAL DISTRICT, THE BOARD SHALL REQUEST THAT THE COURT ORDER THE SUBMISSION OF THE PROPOSITION OF TREATING THE FINANCIAL OBLIGATION AS GENERAL OBLIGATION INDEBTEDNESS TO THE ELECTORS OF SAID CONSOLIDATING DISTRICT AT THE CONSOLIDATION ELECTION. SUCH REQUEST SHALL BE MADE TO THE COURT AT THE HEARING HELD IN ACCORDANCE WITH SECTION 32-1-602 (2) (e) AND SHALL RECITE, AS TO EACH FINANCIAL OBLIGATION TO BE SUBMITTED AT THE ELECTION:

(a) THE OBJECT AND PURPOSE FOR WHICH THE FINANCIAL OBLIGATION WAS INCURRED OR THE PENSION PLAN TO WHICH THE ACCRUED UNFUNDED LIABILITY ATTACHES;

(b) THE ESTIMATED TOTAL COST OF DISCHARGING THE FINANCIAL OBLIGATION;

(c) THE ESTIMATED TERM OVER WHICH THE FINANCIAL OBLIGATION WILL BE DISCHARGED AND THE ESTIMATED ANNUAL COST;

(d) THE INITIAL MILL LEVY NECESSARY TO PAY THE ANNUAL COST; AND

(e) WHETHER THE CONSOLIDATION IS CONTINGENT UPON APPROVAL OF THE FINANCIAL OBLIGATION AS DEBT.

(2) IF THE COURT FINDS THAT THE BOARD'S REQUEST COMPLIES WITH THE REQUIREMENTS OF SUBSECTION (1) OF THIS SECTION, THE COURT SHALL GRANT THE BOARD'S REQUEST AND INCLUDE IN ITS ORDER ENTERED PURSUANT TO SECTION 32-1-602 (2) (e), THAT THE ELECTORS OF THE CONSOLIDATING SPECIAL DISTRICT VOTE SEPARATELY ON EACH FINANCIAL OBLIGATION PROPOSED TO BE TREATED AS DEBT.

(3) IF APPROVED AS DEBT BY THE ELECTORS AT THE CONSOLIDATION ELECTION, THE FINANCIAL OBLIGATION OF THE CONSOLIDATING SPECIAL DISTRICT, WHICH BECOMES PART OF A CONSOLIDATED DISTRICT, SHALL BE PAID AND DISCHARGED BY THE TAXPAYERS HAVING TAXABLE PROPERTY WITHIN THE BOUNDARIES OF THE CONSOLIDATING SPECIAL DISTRICT WHICH INCURRED THE OBLIGATION OR MAINTAINED THE PENSION PLAN TO WHICH THE ACCRUED UNFUNDED LIABILITY ATTACHES. THE BOARD OF THE CONSOLIDATED DISTRICT SHALL LEVY A GENERAL PROPERTY TAX ANNUALLY, FOR SO LONG AS MAY BE NECESSARY TO RETIRE THE ELECTOR-APPROVED DEBT.

(4) NOTHING IN THIS SECTION SHALL PREVENT A CONSOLIDATED DISTRICT FROM BEING BOUND BY PRECONSOLIDATION AGREEMENTS WHICH HAVE BEEN ENTERED INTO BETWEEN OR AMONG CONSOLIDATING DISTRICTS AND WHICH HAVE BECOME PART OF THE TERMS AND CONDITIONS OF CONSOLIDATION AS SET FORTH IN THE COURT ORDER UNDER SECTION 32-1-603 (4), INCLUDING THE ASSUMPTION OF ANY OR ALL OF THE FINANCIAL OBLIGATIONS OF THE CONSOLIDATING SPECIAL DISTRICTS BY THE CONSOLIDATED SPECIAL DISTRICT.

SECTION 3. 32-1-607 (2) and (4), Colorado Revised Statutes, as amended, are

amended to read:

32-1-607. Powers. (2) The consolidated district, upon order of the court as provided in section 32-1-603 (4), shall immediately become the owner of and entitled to receive, hold, sue for, and collect all moneys, funds, taxes, levies, assessments, fees, and charges and all property and assets of any kind or nature owned, leased, or claimed by or due to any of the special districts so consolidated. The obligations of the special districts, other than bonded indebtedness AND ELECTOR-APPROVED DEBT, shall be assumed by the consolidated district and paid by ~~such~~ THE consolidated district. Inclusions and exclusions of lands to and from the consolidated district shall be governed by the provisions of parts 4 and 5 of this article.

(4) A consolidated district, upon order of the court as provided in section 32-1-603 (4), shall immediately become the owner of and entitled to receive, hold, sue for, and collect all moneys, funds, levies, assessments, fees, and charges and all properties and assets of any kind or nature owned, leased, or claimed by or due to any of the special districts so consolidated for the services consolidated, subject to the terms of a preconsolidation agreement, contract, or bond covenant affecting ~~such~~ THE conveyance. The obligations of the special districts for the services consolidated, other than bonded indebtedness AND ELECTOR-APPROVED DEBT, shall be assumed by the consolidated district and paid by ~~such~~ THE district. Inclusions and exclusions of lands to and from the consolidated district shall be governed by the provisions of parts 4 and 5 of this article.

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.

Approved: April 30, 1993