

CHAPTER 166

GOVERNMENT - SPECIAL DISTRICTS

SENATE BILL 97-055

BY SENATORS Lacy, Linkhart, Pascoe, Perlmutter, Phillips, and Rupert;
also REPRESENTATIVES Faatz, Anderson, Saliman, Udall, Veiga, and S. Williams.

AN ACT

CONCERNING THE AUTHORITY OF THE BOARD OF DIRECTORS OF THE REGIONAL TRANSPORTATION DISTRICT TO INCREASE THE RATE OF SALES TAX LEVIED BY SAID DISTRICT UPON APPROVAL OF THE ELIGIBLE ELECTORS OF SAID DISTRICT, AND MAKING AN APPROPRIATION THEREFOR.

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

SECTION 1. 32-9-103 (6.2), Colorado Revised Statutes, as amended, is amended to read:

32-9-103. Definitions. As used in this article, unless the context otherwise requires:

(6.2) "Eligible elector" means a registered elector as defined in section 1-1-104 (35), C.R.S., WHO RESIDES WITHIN THE GEOGRAPHIC BOUNDARIES OF THE DISTRICT.

SECTION 2. 32-9-119 (2), Colorado Revised Statutes, as amended, is amended BY THE ADDITION OF A NEW PARAGRAPH to read:

32-9-119. Additional powers of district. (2) (b.5) (I) TO PROVIDE REVENUE TO DEFRAID THE COST OF CONSTRUCTION AND OPERATION OF A MASS TRANSPORTATION SYSTEM AND ACQUISITION OF CAPITAL EQUIPMENT OR INTERESTS IN REAL PROPERTY NECESSARY FOR SUCH SYSTEM, THE BOARD, FOR AND ON BEHALF OF THE DISTRICT AFTER APPROVAL BY ELIGIBLE ELECTORS AT AN ELECTION HELD PURSUANT TO SECTION 32-9-119.3, SHALL HAVE THE POWER TO INCREASE THE SALES TAX RATE LEVIED PURSUANT TO PARAGRAPH (a) OF THIS SUBSECTION (2) BY FOUR-TENTHS OF ONE PERCENT UPON EVERY TRANSACTION OR OTHER INCIDENT WITH RESPECT TO WHICH A SALES TAX IS LEVIED BY THE STATE, PURSUANT TO THE PROVISIONS OF ARTICLE 26 OF TITLE 39, C.R.S.; EXCEPT THAT SUCH INCREASED SALES TAX RATE

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

SHALL ALSO BE LEVIED UPON PURCHASES OF MACHINERY AND MACHINE TOOLS PURSUANT TO SECTION 29-2-105 (1) (d), C.R.S.

(II) THIS PARAGRAPH (b.5) IS REPEALED, EFFECTIVE AS OF THE EARLIEST OCCURRENCE OF THE FOLLOWING:

(A) IF THE BOARD HAS NOT SUBMITTED THE QUESTION SET FORTH IN SECTION 32-9-119.3 (2) (b) TO THE REGISTERED ELECTORS OF THE DISTRICT ON OR BEFORE DECEMBER 31, 1998; OR

(B) AT SUCH TIME AS A MAJORITY OF THE REGISTERED ELECTORS OF THE DISTRICT VOTE NEGATIVELY ON THE QUESTION SET FORTH IN SECTION 32-9-119.3 (2) (b).

SECTION 3. Article 9 of title 32, Colorado Revised Statutes, as amended, is amended BY THE ADDITION OF A NEW SECTION to read:

32-9-119.3. Elections for sales tax rate increase. (1) ON OR BEFORE DECEMBER 31, 1998, THE BOARD IS AUTHORIZED TO SUBMIT TO THE ELIGIBLE ELECTORS OF THE DISTRICT AT ONE GENERAL ELECTION, OR ELECTION HELD ON THE FIRST TUESDAY IN NOVEMBER OF AN ODD-NUMBERED YEAR, THE QUESTION OF WHETHER THE DISTRICT SHALL BE AUTHORIZED TO INCREASE THE SALES TAX RATE AS SPECIFIED IN SECTION 32-9-119 (2) (b.5). THE QUESTION SHALL BE SUBMITTED PURSUANT TO SUBSECTION (2) OF THIS SECTION.

(2) (a) ON OR BEFORE DECEMBER 31, 1998, THE DISTRICT SHALL SUBMIT THE QUESTION SET FORTH IN PARAGRAPH (b) OF THIS SUBSECTION (2) TO THE ELIGIBLE ELECTORS OF THE DISTRICT:

(I) AFTER BEING PRESENTED WITH A PETITION REQUESTING THE SUBMITTAL OF THE QUESTION OF A SALES TAX RATE INCREASE, SIGNED BY ELIGIBLE ELECTORS OF THE DISTRICT, IN AN AMOUNT EQUAL TO AT LEAST FIVE PERCENT OF THE TOTAL NUMBER OF VOTES CAST WITHIN THE GEOGRAPHIC BOUNDARIES OF THE DISTRICT FOR ALL CANDIDATES FOR THE OFFICE OF SECRETARY OF STATE AT THE PREVIOUS GENERAL ELECTION AND AFTER VERIFICATION OF THE SIGNATURES ON THE PETITION BY THE SECRETARY OF STATE IN ACCORDANCE WITH THIS SECTION; OR

(II) AFTER THE ADOPTION OF A RESOLUTION BY THE BOARD.

(b) (I) EXCEPT AS OTHERWISE PROVIDED IN SUBPARAGRAPH (II) OF THIS PARAGRAPH (b), AT THE ELECTION, THE QUESTION APPEARING ON THE BALLOT SHALL BE AS FOLLOWS:

"SHALL REGIONAL TRANSPORTATION DISTRICT TAXES BE INCREASED (FIRST, OR IF PHASED IN, FINAL, FULL FISCAL YEAR DOLLAR INCREASE) ANNUALLY, AND BY WHATEVER ADDITIONAL AMOUNTS ARE RAISED ANNUALLY THEREAFTER, BY INCREASING THE SALES TAX RATE BY FOUR-TENTHS OF ONE PERCENT, FROM THE CURRENT SIX-TENTHS OF ONE PERCENT TO ONE PERCENT, COMMENCING JANUARY 1, (YEAR), AND SHALL THE REGIONAL TRANSPORTATION DISTRICT DEBT BE INCREASED (PRINCIPAL AMOUNT), WITH A REPAYMENT COST OF (MAXIMUM TOTAL

DISTRICT COST), WITH ALL PROCEEDS OF SAID BONDS AND ALL REVENUES GENERATED BY SAID TAX INCREASE THAT REMAIN AFTER REPAYMENT OF BOND OBLIGATIONS TO BE USED AND SPENT FOR THE CONSTRUCTION AND OPERATION OF A FIXED GUIDEWAY MASS TRANSIT SYSTEM, THE CONSTRUCTION OF ADDITIONAL PARK-N-RIDE LOTS, THE EXPANSION AND IMPROVEMENT OF EXISTING PARK-N-RIDE LOTS, AND INCREASED BUS SERVICE, INCLUDING THE USE OF SMALLER BUSES AND VANS AND ALTERNATIVE FUEL VEHICLES AS APPROPRIATE, AS SPECIFIED IN THE "GUIDE THE RIDE" PLAN ADOPTED BY THE BOARD OF DIRECTORS OF THE DISTRICT ON OR BEFORE JULY 1, 1997, AND WITH SUCH REVENUES RAISED BY THE SALES TAX RATE INCREASE BEING EXEMPT FROM THE REVENUE AND SPENDING RESTRICTIONS CONTAINED IN SECTION 20 OF ARTICLE X OF THE COLORADO CONSTITUTION?"

(II) THE BALLOT QUESTION SPECIFIED IN SUBPARAGRAPH (I) OF THIS PARAGRAPH (b) MAY BE MODIFIED BY THE PROPONENTS OF AN INITIATIVE PETITION OR THE BOARD, AS APPLICABLE, ONLY TO THE EXTENT NECESSARY TO CONFORM TO THE REQUIREMENTS OF ANY FINAL DECISION OF A DISTRICT OR APPELLATE COURT REGARDING THE LEGAL REQUIREMENTS FOR BALLOT QUESTIONS AND TITLES.

(3) THE PROVISIONS OF ARTICLE 40 OF TITLE 1, C.R.S., REGARDING THE FOLLOWING SUBJECT MATTER LISTED IN THIS SUBSECTION (3) SHALL APPLY TO PETITIONS THAT MAY BE SUBMITTED PURSUANT TO SUBSECTION (2) OF THIS SECTION: FORM REQUIREMENTS AND APPROVAL; CIRCULATION OF PETITIONS; ELECTOR INFORMATION AND SIGNATURES ON PETITIONS; AFFIDAVITS AND REQUIREMENTS OF CIRCULATORS OF PETITIONS; AND VERIFICATION OF SIGNATURES, INCLUDING BUT NOT LIMITED TO CURE OF AN INSUFFICIENCY OF SIGNATURES AND PROTESTS REGARDING SUFFICIENCY STATEMENTS AND PROCEDURES FOR HEARINGS OR FURTHER APPEALS REGARDING SUCH PROTESTS. THE PROVISIONS OF ARTICLE 40 OF TITLE 1, C.R.S., REGARDING REVIEW AND COMMENT, THE SETTING OF A BALLOT TITLE, INCLUDING BUT NOT LIMITED TO THE DUTIES OF THE TITLE BOARD, REHEARINGS AND APPEALS, AND THE NUMBER OF SIGNATURES REQUIRED SHALL NOT APPLY TO PETITIONS THAT MAY BE SUBMITTED PURSUANT TO SUBSECTION (2) OF THIS SECTION.

(4) (a) ANY PETITION SHALL BE FILED WITH THE SECRETARY OF STATE AT LEAST NINETY DAYS BEFORE THE GENERAL ELECTION OR THE ELECTION HELD ON THE FIRST TUESDAY IN NOVEMBER IN AN ODD-NUMBERED YEAR, WHICHEVER IS APPLICABLE, AT WHICH IT SHALL BE VOTED UPON. NOTICE OF ANY QUESTION TO BE SUBMITTED TO THE ELIGIBLE ELECTORS OF THE DISTRICT AFTER VERIFICATION OF THE SIGNATURES ON ANY PETITION FILED WITH THE SECRETARY OF STATE SHALL BE FILED BY THE BOARD IN THE OFFICE OF THE SECRETARY OF STATE PRIOR TO FIFTY-FIVE DAYS BEFORE SUCH ELECTION.

(b) NOTICE OF ANY QUESTION TO BE SUBMITTED TO THE ELIGIBLE ELECTORS OF THE DISTRICT UPON THE ADOPTION OF A RESOLUTION BY THE BOARD OF THE DISTRICT PURSUANT TO SUBSECTION (2) OF THIS SECTION SHALL BE FILED IN THE OFFICE OF THE SECRETARY OF STATE PRIOR TO FIFTY-FIVE DAYS BEFORE SUCH ELECTION.

(c) EXCEPT AS PROVIDED IN SECTION 1-45-117 (1) (a) (II) AND (1) (b), C.R.S., NO

AGENCY, DEPARTMENT, BOARD, DIVISION, BUREAU, COMMISSION, OR COUNCIL OF THE STATE OR ANY POLITICAL SUBDIVISION THEREOF SHALL EXPEND ANY PUBLIC MONEYS FROM ANY SOURCE, OR MAKE ANY CONTRIBUTIONS, TO URGE ELECTORS TO VOTE IN FAVOR OF OR AGAINST ANY BALLOT QUESTION AUTHORIZED BY THIS SECTION.

(5) UPON APPROVAL BY THE ELIGIBLE ELECTORS OF THE INCREASE IN THE RATE OF SALES TAX LEVIED BY THE DISTRICT PURSUANT TO THIS SECTION, THE DISTRICT SHALL REIMBURSE THE DEPARTMENT OF REVENUE FOR THE COSTS INCURRED IN MAILING NOTICES OF SUCH SALES TAX RATE INCREASE TO ALL VENDORS IN THE DISTRICT THAT COLLECT AND REMIT SUCH TAX.

(6) IF, AT ANY ELECTION SPECIFIED IN SUBSECTION (2) OF THIS SECTION, A MAJORITY OF ELIGIBLE ELECTORS OF THE DISTRICT VOTING ON THE QUESTION VOTE AFFIRMATIVELY ON THE QUESTION OF INCREASING THE RATE OF THE SALES TAX LEVIED BY THE DISTRICT, THE BOARD SHALL LEVY THE SALES TAX AT THE RATE APPROVED BY THE ELIGIBLE ELECTORS COMMENCING ON JANUARY 1 OF THE YEAR IMMEDIATELY SUBSEQUENT TO THE ELECTION. IF A MAJORITY OF THE ELIGIBLE ELECTORS OF THE DISTRICT VOTING ON THE QUESTION DO NOT VOTE AFFIRMATIVELY ON THE QUESTION, THE RATE OF THE SALES TAX LEVIED BY THE DISTRICT SHALL NOT CHANGE.

(7) (a) IF, AT ANY ELECTION SPECIFIED IN SUBSECTION (2) OF THIS SECTION, A MAJORITY OF THE ELIGIBLE ELECTORS OF THE DISTRICT VOTING ON THE QUESTION VOTE AFFIRMATIVELY ON THE QUESTION OF INCREASING THE RATE OF SALES TAX AS SPECIFIED IN SUBSECTION (2) OF THIS SECTION, THEN SUCH SALES TAX SHALL BE LEVIED AND COLLECTED AS PROVIDED FOR IN SECTION 32-9-119 (2) (c).

(b) THE RATE OF SALES TAX LEVIED BY THE DISTRICT SHALL BE REDUCED BY TWO-TENTHS OF ONE PERCENT FOR A TOTAL SALES TAX OF EIGHT-TENTHS OF ONE PERCENT AT SUCH TIME AS THE CONSTRUCTION OF THE IMPROVEMENTS SPECIFIED IN THE "GUIDE THE RIDE" PLAN ADOPTED BY THE BOARD OF DIRECTORS OF THE DISTRICT ON OR BEFORE JULY 1, 1997, ARE COMPLETED AND ALL BONDS TO BE REPAID BY SUCH INCREASED TAX RATE ARE REPAID.

(8) NOTHING IN THIS SECTION SHALL BE CONSTRUED TO ALLOW AN INITIATIVE PETITION OR BOARD REFERRED MEASURE AS AUTHORIZED IN THIS SECTION TO PROPOSE A QUESTION TO THE ELIGIBLE ELECTORS OF THE DISTRICT TO APPROVE A CHANGE IN THE AGGREGATE DISTRICT SALES TAX RATE TO EXCEED ONE PERCENT.

(9) THIS SECTION IS REPEALED, EFFECTIVE AS OF THE EARLIEST OCCURRENCE OF THE FOLLOWING:

(a) IF THE BOARD HAS NOT SUBMITTED THE QUESTION SET FORTH IN PARAGRAPH (b) OF SUBSECTION (2) OF THIS SECTION TO THE REGISTERED ELECTORS OF THE DISTRICT ON OR BEFORE DECEMBER 31, 1998; OR

(b) AT SUCH TIME AS A MAJORITY OF THE REGISTERED ELECTORS OF THE DISTRICT VOTE NEGATIVELY ON THE QUESTION SET FORTH IN PARAGRAPH (b) OF SUBSECTION (2) OF THIS SECTION.

(10) IN THE EVENT THAT ANY TAX INCREASE FOR THE CONSTRUCTION OF THE

ELEMENTS OF THE "GUIDE THE RIDE" PLAN ADOPTED BY THE BOARD ON OR BEFORE JULY 1, 1997, IS APPROVED BY A MAJORITY OF THE ELIGIBLE ELECTORS OF THE DISTRICT, THE AFFIRMATIVE VOTE OF A TWO-THIRDS MAJORITY OF THE BOARD SHALL NOT BE REQUIRED PURSUANT TO SECTION 32-9-107.7 (1) FOR THE CONSTRUCTION OF THE FIXED GUIDEWAY CORRIDORS AUTHORIZED BY THIS SECTION.

SECTION 4. Appropriation. In addition to any other appropriation, there is hereby appropriated, to the department of revenue, for the fiscal year beginning July 1, 1997, the sum of twenty-three thousand nine hundred four dollars (\$23,904), or so much thereof as may be necessary, for the implementation of this act. Such sum shall be from moneys received from the regional transportation district pursuant to section 32-9-119.3 (5), Colorado Revised Statutes. Such funds shall be expended only if the board of directors of the regional transportation district increases the rate of the sales tax of the district pursuant to the provisions of this act.

SECTION 5. 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: May 20, 1997