

CHAPTER 98

GOVERNMENT - LOCAL

SENATE BILL 02-103

BY SENATOR(S) Evans, Hillman, and Tate;
also REPRESENTATIVE(S) Scott.

AN ACT

CONCERNING IMPROVEMENT DISTRICTS OF LOCAL GENERAL PURPOSE GOVERNMENTS.

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

SECTION 1. 30-20-503 (1) (a), Colorado Revised Statutes, is amended to read:

30-20-503. Definitions. As used in this part 5, unless the context otherwise requires:

(1) (a) (I) (A) An "elector" of a district is a person who, at the designated time or event, is registered to vote in general elections in this state; and

~~(B)~~ (B) Who has been a resident of the district or the area to be included in the district for not less than thirty days; or

~~(C)~~ (C) Who or whose spouse owns taxable real or personal property within the district or the area to be included in the district whether or not said person resides within the district.

(II) WHERE THE OWNER OF TAXABLE REAL OR PERSONAL PROPERTY SPECIFIED IN SUB-SUBPARAGRAPH (C) OF SUBPARAGRAPH (I) OF THIS PARAGRAPH (a) IS NOT A NATURAL PERSON, AN "ELECTOR" OF THE DISTRICT SHALL INCLUDE A NATURAL PERSON DESIGNATED BY SUCH OWNER TO VOTE FOR SUCH PERSON. SUCH DESIGNATION SHALL BE IN WRITING AND FILED WITH THE COUNTY CLERK AND RECORDER. ONLY ONE SUCH PERSON MAY BE DESIGNATED BY AN OWNER.

SECTION 2. 30-20-503 (1) (b), Colorado Revised Statutes, is amended to read:

30-20-503. Definitions. As used in this part 5, unless the context otherwise

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

requires:

(1) (b) A "taxpaying elector" of a district is an elector of a district who or whose spouse owns taxable real or personal property within the district or the area to be included within the district, whether or not said person resides within the district. WHERE THE OWNER OF TAXABLE REAL OR PERSONAL PROPERTY SPECIFIED IN THIS PARAGRAPH (b) IS NOT A NATURAL PERSON, A "TAXPAYING ELECTOR" OF THE DISTRICT SHALL INCLUDE A NATURAL PERSON DESIGNATED BY SUCH OWNER TO VOTE FOR SUCH PERSON. SUCH DESIGNATION SHALL BE IN WRITING AND FILED WITH THE COUNTY CLERK AND RECORDER. ONLY ONE SUCH PERSON MAY BE DESIGNATED BY AN OWNER.

SECTION 3. 30-20-504, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SUBSECTION to read:

30-20-504. Authority of governing body. (3) AT SUCH TIME AS ALL OF THE TERRITORY INCLUDED WITHIN AN EXISTING DISTRICT THAT HAS NO OUTSTANDING INDEBTEDNESS OR BONDS IS ANNEXED OR INCORPORATED INTO A MUNICIPALITY, THE GOVERNING BODY OF THE MUNICIPALITY SHALL EXERCISE ALL DUTIES OF THE GOVERNING BODY OF THE DISTRICT BUT CONTINUE TO ACT UNDER THIS SECTION AS IF IT WERE THE BOARD OF COUNTY COMMISSIONERS. THE PRESIDING OFFICER OF THE GOVERNING BODY OF THE MUNICIPALITY SHALL BE EX OFFICIO THE PRESIDING OFFICER OF THE BOARD, THE CLERK OF THE MUNICIPALITY SHALL BE EX OFFICIO THE SECRETARY OF THE BOARD, AND THE TREASURER OF THE MUNICIPALITY SHALL BE EX OFFICIO THE TREASURER OF THE BOARD AND DISTRICT.

SECTION 4. 30-20-505 (2) (e), Colorado Revised Statutes, is amended to read:

30-20-505. Organization petition - contents. (2) The petition shall set forth:

(e) The names of three ~~electors~~ PERSONS who shall represent the petitioners and who have the power to enter into agreements relating to the organization of the district, which agreements shall be binding on the district, if created;

SECTION 5. 30-20-534, Colorado Revised Statutes, is amended to read:

30-20-534. Limitation of actions. Any legal or equitable action brought with respect to any acts or proceedings of the district, the creation of a district, the authorization ~~or issuance~~ of any bonds, or any other action taken under this part 5 shall commence within thirty days after the performance of such action or else shall be thereafter perpetually barred.

SECTION 6. 30-20-602 (2.7), Colorado Revised Statutes, is amended to read:

30-20-602. Definitions - repeal. As used in this part 6, unless the context otherwise requires:

(2.7) (a) "Elector of the district" means a person who, at the designated time or event, is registered to vote in the general election in this state; and

~~(a)~~ (I) Who has been a resident of the district or the area to be included in the district for not less than thirty days; or

~~(b)~~ (II) Who or whose spouse owns taxable real or personal property within the district or the area to be included in the district whether or not said person resides within the district.

(b) WHERE THE OWNER OF TAXABLE REAL OR PERSONAL PROPERTY SPECIFIED IN SUBPARAGRAPH (II) OF PARAGRAPH (a) OF THIS SUBSECTION (2.7) IS NOT A NATURAL PERSON, AN "ELECTOR OF THE DISTRICT" SHALL INCLUDE A NATURAL PERSON DESIGNATED BY SUCH OWNER TO VOTE FOR SUCH PERSON. SUCH DESIGNATION SHALL BE IN WRITING AND FILED WITH THE COUNTY CLERK AND RECORDER. ONLY ONE SUCH PERSON MAY BE DESIGNATED BY AN OWNER.

SECTION 7. 30-20-603 (1) (a), Colorado Revised Statutes, is amended to read:

30-20-603. Improvements authorized - how instituted - conditions. (1) (a) A DISTRICT MAY BE FORMED IN ACCORDANCE WITH THE REQUIREMENTS OF THIS PART 6 FOR THE PURPOSE OF CONSTRUCTING, INSTALLING, OR ACQUIRING ANY PUBLIC IMPROVEMENT SO LONG AS THE COUNTY THAT FORMS THE DISTRICT IS AUTHORIZED TO PROVIDE SUCH IMPROVEMENT UNDER THE COUNTY'S HOME RULE CHARTER, IF ANY, OR THE LAWS OF THIS STATE. PUBLIC IMPROVEMENTS SHALL NOT INCLUDE ANY FACILITY IDENTIFIED IN SECTION 30-20-101 (8) OR (9). NO SUCH DISTRICT SHALL PROVIDE THE SAME IMPROVEMENT AS AN EXISTING SPECIAL DISTRICT WITHIN THE TERRITORY OF SUCH EXISTING SPECIAL DISTRICT UNLESS THE EXISTING SPECIAL DISTRICT CONSENTS. The improvements authorized by this part 6 may consist, WITHOUT LIMITATION, of constructing, grading, paving, pouring, curbing, guttering, lining, or otherwise improving the whole or any part of any street or providing street lighting or drainage facilities in the unincorporated area of a county or wholly or partly within the boundaries of any municipality within the county if such municipality consents by ordinance to such improvements. If improvements within a municipality are so included in a county improvement district by municipal consent, the county shall have full authority to construct or acquire such improvements, to assess property within such municipality benefited by such improvements, and to enforce and collect such assessments, in the manner provided in this part 6. The improvements authorized by this part 6 may include, WITHOUT LIMITATION, the construction of sidewalks adjacent to any such streets or maintenance roads adjacent to any such drainage facilities. Prior to the establishment of any improvement district for the purpose of providing street lighting, arrangements, by contract or otherwise, must be established under which the owners of property included within such district shall be responsible for the maintenance and operation of such street lighting improvement. The costs of maintenance and operation of such street lighting improvements shall not be paid from the county general fund. Drainage facilities shall not be provided in any area which is within an existing drainage district organized or created pursuant to law without the approval of such district.

SECTION 8. 30-20-615, Colorado Revised Statutes, is amended to read:

30-20-615. Penalty for default - payment of balance. Failure to pay any installment, whether of principal or interest, when due shall cause the whole of the unpaid principal to become due and collectible immediately, and the whole amount of the unpaid principal and accrued interest shall thereafter draw interest at the rate established pursuant to section 5-12-106 (2) and (3), C.R.S., until the day of sale; but, at any time prior to the day of sale, the owner may pay the amount of all unpaid

installments, with interest at the penalty rate set by the assessing resolution, and all costs of collection accrued and shall thereupon be restored to the right thereafter to pay in installments in the same manner as if default had not been suffered. The owner of any property not in default as to any installment or payment may, at any time, pay the whole of the unpaid principal with the interest accruing to the maturity of the next installment of interest or principal; EXCEPT THAT ANY OWNER WHO PAYS THE WHOLE OF THE UNPAID BALANCE PURSUANT TO THIS SECTION MAY BE ASSESSED A PREPAYMENT PREMIUM NOT TO EXCEED THREE PERCENT OF THE UNPAID PRINCIPAL, THE AMOUNT OF WHICH PREMIUM SHALL BE SPECIFIED IN THE RESOLUTION IMPOSING THE ASSESSMENT.

SECTION 9. 30-20-619 (1), Colorado Revised Statutes, is amended, and the said 30-20-619 is further amended BY THE ADDITION OF A NEW SUBSECTION, to read:

30-20-619. Issuing bonds - property specially benefited. (1) For the purpose of paying all or such portion of the cost of any improvement constructed or acquired under the provisions of this part 6 as may be assessed against the property specially benefited and not paid by the sales tax authorized by section 30-20-604.5 or by the county, special assessment bonds of the county may be issued, of such date, ~~and~~ in such form, AND ON SUCH TERMS, INCLUDING, WITHOUT LIMITATION, PROVISIONS FOR THEIR SALE, PAYMENT, AND REDEMPTION, as may be prescribed by the board, bearing the name of the street or district improved and payable in a sufficient period of years after date to cover the period of payment provided, ~~but subject to call as provided in section 30-20-621~~, and in convenient denominations. All such bonds shall be issued upon estimates approved by the board, and the county treasurer shall preserve a record of the same in a suitable book kept for that purpose. All such bonds shall be subscribed by the chairman of the board, countersigned by the county treasurer, with the county seal thereto affixed, and attested by the county clerk and recorder. Such bonds shall be payable out of the moneys collected on account of the assessments made for said improvements. All moneys collected from such assessments for any improvement shall be applied to the payment of the bonds issued, until payment in full is made of all the bonds, both principal and interest. The bonds may be sold, under such terms and conditions as are established by the board, in such amounts as will be sufficient to pay for the cost of the improvements.

(7) NOTWITHSTANDING ANY OTHER PROVISION OF THIS PART 6, BONDS ISSUED IN ACCORDANCE WITH THE REQUIREMENTS OF THIS SECTION MAY BE PAYABLE FROM THE ASSESSMENTS LEVIED IN ONE OR MORE IMPROVEMENT DISTRICTS.

SECTION 10. Part 6 of article 20 of title 30, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SECTION to read:

30-20-619.5. Issuing refunding bonds. (1) THE BOARD MAY ISSUE ONE OR MORE SERIES OF BONDS TO REFUND ALL OR ANY PORTION OF THE OUTSTANDING BONDS ISSUED BY ONE OR MORE IMPROVEMENT DISTRICTS PURSUANT TO SECTION 30-20-619. ANY SUCH BONDS SHALL BE ISSUED IN ACCORDANCE WITH THE PROVISIONS OF ARTICLE 56 OF TITLE 11, C.R.S. IN SUCH CASE, FOR PURPOSES OF COMPLYING WITH THE REQUIREMENTS OF ARTICLE 56 OF TITLE 11, C.R.S., ANY BONDS ISSUED TO REFUND ALL OR ANY PORTION OF THE OUTSTANDING BONDS OF ONE OR MORE IMPROVEMENT DISTRICTS SHALL BE DEEMED TO BE REVENUE BONDS, THE REFUNDED

BONDS SHALL BE DEEMED TO BE REVENUE OBLIGATIONS, AND THE ASSESSMENTS SHALL BE DEEMED TO BE REVENUE.

(2) ANY BONDS ISSUED PURSUANT TO THIS SECTION MAY REFUND ALL OR ANY PORTION OF THE OUTSTANDING BONDS OF ONE OR MORE IMPROVEMENT DISTRICTS AND MAY BE SECURED BY A COMBINATION OF ASSESSMENTS LEVIED ON ALL OR A SPECIFICALLY IDENTIFIED PORTION OF THE ASSESSED PROPERTY LOCATED WITHIN SUCH DISTRICTS.

(3) TWO OR MORE SERIES OF BONDS MAY BE ISSUED TO REFUND THE OUTSTANDING BONDS OF ONE OR MORE DISTRICTS, AND EACH SERIES MAY BE SECURED BY ASSESSMENTS LEVIED ON DIFFERENT PORTIONS OF THE ASSESSED PROPERTY LOCATED WITHIN THE DISTRICTS THAT HAVE OUTSTANDING BONDS.

(4) EXCEPT AS OTHERWISE PROVIDED IN SUBSECTION (5) OR (6) OF THIS SECTION, IN CONNECTION WITH THE ISSUANCE OF REFUNDING BONDS PURSUANT TO THIS SECTION, THE BOARD MAY AMEND THE RESOLUTION IMPOSING THE ASSESSMENT TO MODIFY ALL OR ANY PORTION OF THE FOLLOWING TERMS DESCRIBING THE ASSESSMENT AS SPECIFIED IN THE RESOLUTION:

(a) THE RATE OF INTEREST THE BOARD CHARGES ON UNPAID INSTALLMENTS;

(b) ANY PENALTY FOR PREPAYMENT OF AN ASSESSMENT;

(c) THE PRINCIPAL BALANCE DUE AND OWING ON THE ASSESSMENT;

(d) THE DATES UPON WHICH UNPAID ASSESSMENTS ARE DUE;

(e) THE NUMBER OF YEARS OVER WHICH UNPAID ASSESSMENTS ARE DUE; OR

(f) ANY OTHER TERM SPECIFIED IN THE RESOLUTION AS NECESSARY TO MAKE THE RESOLUTION CONFORM TO THE REQUIREMENTS OF THIS SECTION.

(5) BEFORE THE BOARD MAY AMEND THE RESOLUTION IMPOSING THE ASSESSMENT TO INCREASE THE AMOUNT OF PRINCIPAL AND INTEREST DUE AND OWING UNDER THE ASSESSMENT, THE NUMBER OF YEARS OVER WHICH UNPAID ASSESSMENTS ARE DUE, OR THE AMOUNT OF ANY UNPAID ASSESSMENTS, THE BOARD SHALL:

(a) OBTAIN CONSENT IN WRITING TO THE AMENDMENT TO THE RESOLUTION FROM THE OWNER OF EACH TRACT OF LAND THAT WOULD BE AFFECTED BY THE AMENDMENT; OR

(b) (I) SET A PLACE AND TIME, NOT LESS THAN TWENTY DAYS NOR MORE THAN FORTY DAYS AFTER THE DATE OF SUCH SETTING, FOR A HEARING ON THE PROPOSED AMENDMENT.

(II) THEREUPON, THE CLERK OF THE BOARD SHALL CAUSE NOTICE BY PUBLICATION TO BE MADE OF THE PENDENCY OF THE PROPOSED AMENDMENT, A SUMMARY OF THE TERMS OF SUCH AMENDMENT AS DESCRIBED IN SUBSECTION (4) OF THIS SECTION, AND OF THE TIME AND PLACE OF THE HEARING ON THE PROPOSED AMENDMENT.

(III) ALL COMPLAINTS AND OBJECTIONS MADE IN WRITING CONCERNING THE PROPOSED AMENDMENT BY THE OWNERS OF ANY PROPERTY IN THE DISTRICT SHALL BE HEARD AND DETERMINED BY THE BOARD BEFORE FINAL ACTION IS TAKEN. IF THE OWNERS OF THE TRACTS UPON WHICH MORE THAN ONE-HALF OF THE AFFECTED ASSESSMENTS, MEASURED BY THE UNPAID ASSESSMENT BALANCE, SUBMIT WRITTEN PROTESTS TO THE AMENDMENT TO THE BOARD ON OR BEFORE THE DATE SPECIFIED IN THE NOTICE, THE BOARD SHALL NOT ADOPT THE PROPOSED AMENDMENT. ANY PROPOSED AMENDMENT MAY BE MODIFIED, CONFIRMED, OR RESCINDED PRIOR TO PASSAGE OF THE RESOLUTION AUTHORIZED UNDER SUBSECTION (4) OF THIS SECTION.

(6) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, IN ORDER EITHER TO ISSUE REFUNDING BONDS OR TO AMEND A RESOLUTION OF THE BOARD IMPOSING AN ASSESSMENT PURSUANT TO THIS SECTION, THE BOARD SHALL MAKE WRITTEN FINDINGS THAT:

(a) THE OBLIGATION OF THE COUNTY SHALL NOT BE MATERIALLY OR ADVERSELY IMPAIRED WITH RESPECT TO ANY OUTSTANDING BOND SECURED BY THE ASSESSMENTS; AND

(b) THE PRINCIPAL BALANCE OF ANY ASSESSMENT SHALL NOT INCREASE TO AN AMOUNT SUCH THAT THE AGGREGATE AMOUNT THAT IS ASSESSED AGAINST ANY ONE PARTICULAR TRACT OF LAND EXCEEDS THE MAXIMUM BENEFIT TO THE TRACT THAT IS ESTIMATED TO RESULT FROM THE PROJECT THAT IS FINANCED BY THE ASSESSMENT AND REFUNDING OF THE OUTSTANDING BONDS.

SECTION 11. 30-20-627, Colorado Revised Statutes, is amended to read:

30-20-627. Local improvements completed - dissolution. At the time that the local improvements specified in the preliminary order referred to in section 30-20-603 (5) and specified in the resolution authorizing the improvements have been completed and any debt incurred or bonds issued have been paid, the board shall take all steps necessary to dissolve the district and, upon completion of such steps, shall declare, by resolution, that the district is dissolved. UPON DISSOLUTION, ANY MONEYS REMAINING TO THE CREDIT OF SUCH DISTRICT THAT HAVE NOT BEEN TRANSFERRED TO A SPECIAL SURPLUS AND DEFICIENCY FUND AS PERMITTED IN SECTION 30-20-619 (3) MAY BE USED FOR ANY COUNTY PURPOSE AS DETERMINED BY THE BOARD, INCLUDING, WITHOUT LIMITATION, THE REIMBURSEMENT TO THE COUNTY OF ANY COUNTY MONEYS SPENT TO PROVIDE ANY PORTION OF THE COSTS OF THE LOCAL IMPROVEMENTS COMPLETED WITHIN THE DISSOLVED DISTRICT.

SECTION 12. 31-25-501 (1.7), Colorado Revised Statutes, is amended to read:

31-25-501. Definitions. As used in this part 5, unless the context otherwise requires:

(1.7) (a) "Elector of the district" means a person who, at the designated time or event is registered to vote in the general election in this state; and

~~(a)~~ (I) Who has been a resident of the district or the area to be included in the district for not less than thirty days; or

(b) (II) Who or whose spouse owns taxable real or personal property within the district or the area to be included in the district whether or not said person resides within the district.

(b) WHERE THE OWNER OF TAXABLE REAL OR PERSONAL PROPERTY SPECIFIED IN SUBPARAGRAPH (II) OF PARAGRAPH (a) THIS SUBSECTION (1.7) IS NOT A NATURAL PERSON, AN "ELECTOR OF THE DISTRICT" SHALL INCLUDE A NATURAL PERSON DESIGNATED BY SUCH OWNER TO VOTE FOR SUCH PERSON. SUCH DESIGNATION SHALL BE IN WRITING AND FILED WITH THE CLERK OF THE MUNICIPALITY. ONLY ONE SUCH PERSON MAY BE DESIGNATED BY AN OWNER.

SECTION 13. 31-25-502, Colorado Revised Statutes, is amended to read:

31-25-502. Powers to make local improvements. A DISTRICT MAY BE FORMED IN ACCORDANCE WITH THE REQUIREMENTS OF THIS PART 5 FOR THE PURPOSE OF CONSTRUCTING, INSTALLING, OR ACQUIRING ANY PUBLIC IMPROVEMENT SO LONG AS THE MUNICIPALITY THAT FORMS THE DISTRICT IS AUTHORIZED TO PROVIDE SUCH IMPROVEMENT UNDER THE MUNICIPALITY'S HOME RULE CHARTER OR ORDINANCE PASSED PURSUANT TO SUCH CHARTER, IF ANY, OR THE LAWS OF THIS STATE. PUBLIC IMPROVEMENTS SHALL NOT INCLUDE ANY FACILITY IDENTIFIED IN SECTION 30-20-101 (8) OR (9), C.R.S. It is lawful for any municipality to construct any of the local improvements mentioned in this part 5 and to assess the cost thereof, wholly or in part, upon the property especially benefited by such improvements. The improvements shall be authorized by ordinance duly adopted and shall be constructed under the direction of the municipal engineer or other officer having similar duties or under the direction of the governing body in accordance with plans and specifications adopted by the governing body.

SECTION 14. The introductory portion to 31-25-503 (1), Colorado Revised Statutes, is amended to read:

31-25-503. What improvements may be made - conditions. (1) A district may be created within the boundaries of a municipality and may also include any property in the unincorporated area of the county within which the municipality is situated if such county consents by resolution to such district and the construction or acquisition of improvements therein. In addition, such district may also include any property in another municipality within such county if such municipality consents by ordinance to such district and the construction or acquisition of the improvements therein. If a district includes property within a county by county consent or within another municipality by municipal consent, the municipality shall have full authority to construct or acquire improvements, to assess property within the county or such municipality benefited by such improvements, and to enforce and collect such assessments in the manner provided in this part 5; ~~The improvements authorized in this part 5 may consist of grading, paving, curbing, guttering, parking, or otherwise improving the whole or any part of any street, alley, or streets and alleys or any one or more of said improvements, including the reconstruction, replacement, renewal, or extension of the same. In case of grading only, or grading and curbing only, the improvements may include the necessary crosswalks. Thereafter, under the conditions prescribed in this section, such further grading may be done as may be necessary in paving, repaving, or otherwise improving the same area. Such improvements may also consist of any local improvement and renewals or extensions~~

~~thereof which benefit the land abutting on such improvements, such as sidewalks, water mains, heating and cooling mains for the distribution of heat and cooling obtained from geothermal resources, solar or wind energy, hydroelectric or renewable biomass resources, including waste and cogenerated heat, or the necessary construction and appliances for the installation of a system of artificial lighting. Such improvements may also consist of the construction of sewers, sewage disposal works, and renewals or extensions thereof and such other public works as may be considered necessary and authorized by the governing body; but:~~

SECTION 15. 31-25-530, Colorado Revised Statutes, is amended to read:

31-25-530. Penalty for default - payment of balance. Failure to pay any installment, whether of principal or interest, when due shall cause the whole of the unpaid principal to become due and collectible immediately, and the whole amount of the unpaid principal and accrued interest shall thereafter draw interest at the rate established pursuant to section 5-12-106 (2) and (3), C.R.S., until the day of sale; but, at any time prior to the day of sale, the owner may pay the amount of all unpaid installments, with interest at the penalty rate set by the assessing ordinance, and all penalties and costs of collection accrued and shall thereupon be restored to the right thereafter to pay in installments in the same manner as if default had not been suffered. The owner of any property not in default as to any installment or payment may, at any time, pay the whole of the unpaid principal with the interest accruing to the maturity of the next installment of interest or principal; EXCEPT THAT ANY OWNER WHO PAYS THE WHOLE OF THE UNPAID BALANCE PURSUANT TO THIS SECTION MAY BE ASSESSED A PREPAYMENT PREMIUM NOT TO EXCEED THREE PERCENT OF THE UNPAID PRINCIPAL, THE AMOUNT OF WHICH PREMIUM SHALL BE SPECIFIED IN THE ORDINANCE IMPOSING THE ASSESSMENT.

SECTION 16. 31-25-534 (1), Colorado Revised Statutes, is amended, and the said 31-25-534 is further amended BY THE ADDITION OF A NEW SUBSECTION, to read:

31-25-534. Issuing bonds - property specially benefited. (1) For the purpose of paying all or such portion of the cost of any improvement constructed under the provisions of this part 5 as may be assessed against the property specially benefited, special assessment bonds of the municipality may be issued, of such date, ~~and~~ in such form, AND ON SUCH TERMS, INCLUDING, WITHOUT LIMITATION, PROVISIONS FOR THEIR SALE, PAYMENT, AND REDEMPTION, as may be prescribed by the governing body, bearing the name of the street, alley, or district improved and payable in a sufficient period of years after date to cover the period of payment provided, but subject to call as provided in section 31-25-536, and in convenient denominations. All such bonds shall be issued upon estimates approved by the governing body, and the municipal treasurer shall preserve a record of the same in a suitable book kept for that purpose. All such bonds shall be subscribed by the mayor, countersigned by the municipal treasurer, with the corporate seal thereto affixed, and attested by the clerk. Such bonds shall be payable out of the moneys collected on account of the assessments made for said improvements. Whenever three-fourths of the bonds for an improvement constructed under the provisions of this part 5 have been paid and cancelled and for any reason the remaining assessments are not paid in time to pay the remaining bonds for the district and the interest due thereon, the municipality shall pay, if so provided in the ordinance authorizing issuance of the bonds, the bonds

when due and the interest due thereon and reimburse itself by collecting the unpaid assessments due the district. All moneys collected from such assessments for any improvement shall be applied to the payment of the bonds issued until payment in full is made of all the bonds, both principal and interest. The bonds may be used in payment of the cost of the improvement as specified; or the governing body, upon advertisement published at least once in a newspaper of general circulation in such municipality and in such other newspapers as may be designated by the governing body, may sell a sufficient number of said bonds to pay such cost in cash for the best bid submitted in accordance with the terms of the notice of sale. All bids may be rejected at the discretion of the governing body. In addition, the bonds may be sold on such terms and conditions at a private sale if determined by the governing body to be in the best interests of the municipality.

(5) NOTWITHSTANDING ANY OTHER PROVISION OF THIS PART 5, BONDS ISSUED IN ACCORDANCE WITH THE REQUIREMENTS OF THIS SECTION MAY BE PAYABLE FROM THE ASSESSMENTS LEVIED IN ONE OR MORE IMPROVEMENT DISTRICTS.

SECTION 17. Part 5 of article 25 of title 31, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SECTION to read:

31-25-534.5. Issuing refunding bonds. (1) THE GOVERNING BODY OF A MUNICIPALITY MAY ISSUE ONE OR MORE SERIES OF BONDS TO REFUND ALL OR ANY PORTION OF THE OUTSTANDING BONDS ISSUED BY ONE OR MORE IMPROVEMENT DISTRICTS PURSUANT TO SECTION 31-25-534. ANY SUCH BONDS SHALL BE ISSUED IN ACCORDANCE WITH THE PROVISIONS OF ARTICLE 56 OF TITLE 11, C.R.S. IN SUCH CASE, FOR PURPOSES OF COMPLYING WITH THE REQUIREMENTS OF ARTICLE 56 OF TITLE 11, C.R.S., ANY BONDS ISSUED TO REFUND ALL OR ANY PORTION OF THE OUTSTANDING BONDS OF ONE OR MORE IMPROVEMENT DISTRICTS SHALL BE DEEMED TO BE REVENUE BONDS, THE REFUNDED BONDS SHALL BE DEEMED TO BE REVENUE OBLIGATIONS, AND THE ASSESSMENTS SHALL BE DEEMED TO BE REVENUE.

(2) ANY BONDS ISSUED PURSUANT TO THIS SECTION MAY REFUND ALL OR ANY PORTION OF THE OUTSTANDING BONDS OF ONE OR MORE IMPROVEMENT DISTRICTS AND MAY BE SECURED BY A COMBINATION OF ASSESSMENTS LEVIED ON ALL OR A SPECIFICALLY IDENTIFIED PORTION OF THE ASSESSED PROPERTY LOCATED WITHIN SUCH DISTRICTS.

(3) TWO OR MORE SERIES OF BONDS MAY BE ISSUED TO REFUND THE OUTSTANDING BONDS OF ONE OR MORE DISTRICTS, AND EACH SERIES MAY BE SECURED BY ASSESSMENTS LEVIED ON DIFFERENT PORTIONS OF THE ASSESSED PROPERTY LOCATED WITHIN THE DISTRICTS THAT HAVE OUTSTANDING BONDS.

(4) EXCEPT AS OTHERWISE PROVIDED IN SUBSECTION (5) OR (6) OF THIS SECTION, IN CONNECTION WITH THE ISSUANCE OF REFUNDING BONDS PURSUANT TO THIS SECTION, THE GOVERNING BODY MAY AMEND THE ORDINANCE IMPOSING THE ASSESSMENT TO MODIFY ALL OR ANY PORTION OF THE FOLLOWING TERMS DESCRIBING THE ASSESSMENT AS SPECIFIED IN THE ORDINANCE:

(a) THE RATE OF INTEREST THE GOVERNING BODY CHARGES ON UNPAID INSTALLMENTS;

- (b) ANY PENALTY FOR PREPAYMENT OF AN ASSESSMENT;
- (c) THE PRINCIPAL BALANCE DUE AND OWING ON THE ASSESSMENT;
- (d) THE DATES UPON WHICH UNPAID ASSESSMENTS ARE DUE;
- (e) THE NUMBER OF YEARS OVER WHICH UNPAID ASSESSMENTS ARE DUE; OR
- (f) ANY OTHER TERM SPECIFIED IN THE ORDINANCE AS NECESSARY TO MAKE THE ORDINANCE CONFORM TO THE REQUIREMENTS OF THIS SECTION.

(5) BEFORE THE GOVERNING BODY MAY AMEND THE ORDINANCE IMPOSING THE ASSESSMENT TO INCREASE THE AMOUNT OF PRINCIPAL AND INTEREST DUE AND OWING UNDER THE ASSESSMENT, THE NUMBER OF YEARS OVER WHICH UNPAID ASSESSMENTS ARE DUE, OR THE AMOUNT OF ANY UNPAID ASSESSMENTS, THE GOVERNING BODY SHALL:

(a) OBTAIN CONSENT IN WRITING TO THE AMENDMENT TO THE ORDINANCE FROM THE OWNER OF EACH TRACT OF LAND THAT WOULD BE AFFECTED BY THE AMENDMENT; OR

(b) (I) SET A PLACE AND TIME, NOT LESS THAN TWENTY DAYS NOR MORE THAN FORTY DAYS AFTER THE DATE OF SUCH SETTING, FOR A HEARING ON THE PROPOSED AMENDMENT.

(II) THEREUPON, THE CLERK OF THE GOVERNING BODY SHALL CAUSE NOTICE BY PUBLICATION TO BE MADE OF THE PENDENCY OF THE PROPOSED AMENDMENT, A SUMMARY OF THE TERMS OF SUCH AMENDMENT AS DESCRIBED IN SUBSECTION (4) OF THIS SECTION, AND OF THE TIME AND PLACE OF THE HEARING ON THE PROPOSED AMENDMENT.

(III) ALL COMPLAINTS AND OBJECTIONS MADE IN WRITING CONCERNING THE PROPOSED AMENDMENT BY THE OWNERS OF ANY PROPERTY IN THE DISTRICT SHALL BE HEARD AND DETERMINED BY THE GOVERNING BODY BEFORE FINAL ACTION IS TAKEN. IF THE OWNERS OF THE TRACTS UPON WHICH MORE THAN ONE-HALF OF THE AFFECTED ASSESSMENTS, MEASURED BY THE UNPAID ASSESSMENT BALANCE, SUBMIT WRITTEN PROTESTS TO THE AMENDMENT TO THE GOVERNING BODY ON OR BEFORE THE DATE SPECIFIED IN THE NOTICE, THE GOVERNING BODY SHALL NOT ADOPT THE PROPOSED AMENDMENT. ANY PROPOSED AMENDMENT MAY BE MODIFIED, CONFIRMED, OR RESCINDED PRIOR TO PASSAGE OF THE ORDINANCE AUTHORIZED UNDER SUBSECTION (4) OF THIS SECTION.

(6) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, IN ORDER EITHER TO ISSUE REFUNDING BONDS OR TO AMEND AN ORDINANCE OF THE GOVERNING BODY IMPOSING AN ASSESSMENT PURSUANT TO THIS SECTION, THE GOVERNING BODY SHALL MAKE WRITTEN FINDINGS THAT:

(a) THE OBLIGATION OF THE MUNICIPALITY SHALL NOT BE MATERIALLY OR ADVERSELY IMPAIRED WITH RESPECT TO ANY OUTSTANDING BOND SECURED BY THE ASSESSMENTS; AND

(b) THE PRINCIPAL BALANCE OF ANY ASSESSMENT SHALL NOT INCREASE TO AN AMOUNT SUCH THAT THE AGGREGATE AMOUNT THAT IS ASSESSED AGAINST ANY ONE PARTICULAR TRACT OF LAND EXCEEDS THE MAXIMUM BENEFIT TO THE TRACT THAT IS ESTIMATED TO RESULT FROM THE PROJECT THAT IS FINANCED BY THE ASSESSMENT AND REFUNDING OF THE OUTSTANDING BONDS.

SECTION 18. 31-25-602 (2), Colorado Revised Statutes, is amended to read:

31-25-602. Definitions. As used in this part 6, unless the context otherwise requires:

(2) (a) "Elector of a district" means a person who, at the designated time or event, is qualified to register to vote in general elections in this state and:

~~(a)~~ (I) Has been a resident of the district or of the area to be included in the district for not less than thirty days; or

~~(b)~~ (II) Owns, or whose spouse owns, taxable real or personal property within the district or within the area to be included within the district, whether the person resides within the district or not.

(b) WHERE THE OWNER OF TAXABLE REAL OR PERSONAL PROPERTY SPECIFIED IN SUBPARAGRAPH (II) OF PARAGRAPH (a) OF THIS SUBSECTION (2) IS NOT A NATURAL PERSON, AN "ELECTOR OF A DISTRICT" SHALL INCLUDE A NATURAL PERSON DESIGNATED BY SUCH OWNER TO VOTE FOR SUCH PERSON. SUCH DESIGNATION SHALL BE IN WRITING AND FILED WITH THE CLERK OF THE MUNICIPALITY. ONLY ONE SUCH PERSON MAY BE DESIGNATED BY AN OWNER.

SECTION 19. 31-25-604 (2) (e), Colorado Revised Statutes, is amended to read:

31-25-604. Organization petition - contents. (2) The petition shall set forth:

(e) The names of three ~~electors~~ PERSONS of the district who shall represent the petitioners and who have the power to enter into agreements relating to the organization of the district, which agreements shall be binding on the district, if created;

SECTION 20. 31-25-620 (1), Colorado Revised Statutes, is amended to read:

31-25-620. Board can issue bonds - form. (1) To carry out the purposes of this part 6, the board is hereby authorized PURSUANT TO A DULY ADOPTED ORDINANCE to issue bonds of the district. Such bonds shall bear interest at a rate such that the net effective interest rate of the issue of bonds does not exceed the maximum net effective interest rate authorized, payable at such times as determined by the board, and shall be due and payable in installments at such times as determined by the board extending not more than twenty years from date of issuance. The form and terms of said bonds, including provisions for their sale, payment, and redemption, shall be determined by the board. To the extent required by section 20 of article X of the Colorado constitution, such bonds shall not be issued unless first approved at an election held for that purpose in accordance with articles 1 to 13 of title 1, C.R.S., or article 10 of this title. If the board so determines, such bonds may be redeemable

prior to maturity, with or without payment of a premium, but no premium shall exceed three percent of the principal thereof. The bonds shall be executed in the name of and on behalf of the district and signed by the presiding officer of the board with the seal of the district affixed thereto and attested by the secretary of the board. Such bonds shall be in such denominations as the board shall determine. Interest coupons, if any, shall bear the original or facsimile signature of the presiding officer of the board. Under no circumstances shall any of said bonds be held to be an indebtedness, obligation, or liability of the municipalities or counties in which the district is located, and bonds issued pursuant to the provisions of this part 6 shall contain a statement to that effect.

SECTION 21. 31-25-633, Colorado Revised Statutes, is amended to read:

31-25-633. Limitation of actions. Any legal or equitable action brought with respect to any acts or proceedings of the district, the creation of a district, the authorization ~~or issuance~~ of any bonds, or any other action taken under this part 6 shall be commenced within thirty days after the performance of such action or else shall be thereafter perpetually barred.

SECTION 22. Repeal. 30-20-621 and 31-25-536, Colorado Revised Statutes, are repealed.

SECTION 23. Effective date. This act shall take effect at 12:01 a.m. on the day following the expiration of the ninety-day period after final adjournment of the general assembly that is allowed for submitting a referendum petition pursuant to article V, section 1 (3) of the state constitution; except that, if a referendum petition is filed against this act or an item, section, or part of this act within such period, then the act, item, section, or part, if approved by the people, shall take effect on the date of the official declaration of the vote thereon by proclamation of the governor.

Approved: April 15, 2002