

CHAPTER 173

GOVERNMENT - SPECIAL DISTRICTS

HOUSE BILL 03-1207

BY REPRESENTATIVE(S) Briggs, Johnson R., and Weddig;
also SENATOR(S) Entz and Kester.

AN ACT

CONCERNING A MODIFICATION TO THE STATUTORY PROVISIONS REGARDING SPECIAL DISTRICTS TO ALLOW A MUNICIPALITY TO AGREE TO BE THE APPROVING AUTHORITY OF A SPECIAL DISTRICT THAT WAS ORIGINALLY APPROVED BY A BOARD OF COUNTY COMMISSIONERS BUT HAS SINCE BECOME WHOLLY CONTAINED WITHIN THE BOUNDARIES OF THE MUNICIPALITY BY ANNEXATION.

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

SECTION 1. 32-1-107 (3) (b) (II), Colorado Revised Statutes, is amended to read:

32-1-107. Service area of special districts. (3) (b) An overlapping special district may be authorized to provide the same service as the existing special or metropolitan district that the overlapping special district overlaps or will overlap if:

(II) Where the service plan of such overlapping special district is subject to the approval of the governing body of a municipality, the governing body of any municipality that has adopted a resolution of approval of the overlapping special district pursuant to ~~section 32-1-204.5 (1) (a)~~ SECTION 32-1-204.5 (1) (a) OR 32-1-204.7 approves by resolution the inclusion of such service as part of the service plan of said overlapping special district; and

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

32-1-204.7. Approval by an annexing municipality. (1) IF A SPECIAL DISTRICT THAT WAS ORIGINALLY APPROVED BY A BOARD OF COUNTY COMMISSIONERS BECOMES WHOLLY CONTAINED WITHIN THE BOUNDARIES OF A MUNICIPALITY OR MUNICIPALITIES BY ANNEXATION OR BOUNDARY ADJUSTMENT, THE GOVERNING BODY OF THE SPECIAL DISTRICT MAY PETITION THE GOVERNING BODY OF ANY SUCH MUNICIPALITY TO

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

ACCEPT A DESIGNATION AS THE APPROVING AUTHORITY FOR THE SPECIAL DISTRICT. THE MUNICIPALITY MAY ACCEPT THE DESIGNATION THROUGH THE ADOPTION OF A RESOLUTION OF APPROVAL BY THE GOVERNING BODY OF THE MUNICIPALITY.

(2) UPON THE ADOPTION OF THE RESOLUTION BY THE GOVERNING BODY OF ANY MUNICIPALITY PURSUANT TO SUBSECTION (1) OF THIS SECTION, ALL POWERS AND AUTHORITIES VESTED IN THE BOARD OF COUNTY COMMISSIONERS PURSUANT TO THIS ARTICLE SHALL BE TRANSFERRED TO THE GOVERNING BODY OF THE MUNICIPALITY, WHICH SHALL CONSTITUTE THE APPROVING AUTHORITY FOR THE SPECIAL DISTRICT FOR ALL PURPOSES UNDER THIS ARTICLE.

SECTION 3. 32-1-207 (2) and (3) (d), Colorado Revised Statutes, are amended to read:

32-1-207. Compliance - modification - enforcement. (2) After the organization of a special district pursuant to the provisions of this part 2 and part 3 of this article, material modifications of the service plan as originally approved may be made by the governing body of such special district only by petition to and approval by the board of county commissioners or the governing body of the municipality ~~which~~ THAT has adopted a resolution of approval of the special district pursuant to ~~section 32-1-204.5~~ SECTION 32-1-204.5 OR 32-1-204.7 in substantially the same manner as is provided for the approval of an original service plan; but the processing fee for such modification procedure shall not exceed two hundred fifty dollars. Such approval of modifications shall be required only with regard to changes of a basic or essential nature, including but not limited to the following: Any addition to the types of services provided by the special district; a decrease in the level of services; a decrease in the financial ability of the district to discharge the existing or proposed indebtedness; or a decrease in the existing or projected need for organized service in the area. Approval for modification shall not be required for changes necessary only for the execution of the original service plan or for changes in the boundary of the special district; except that the inclusion of property ~~which~~ THAT is located in a county or municipality with no other territory within the special district may constitute a material modification of the service plan or the statement of purposes of the special district as set forth in section 32-1-208. In the event that a special district changes its boundaries to include territory located in a county or municipality with no other territory within the special district, the special district shall notify the board of county commissioners of such county or the governing body of the municipality of such inclusion. The board of county commissioners or the governing body of the municipality may review such inclusion and, if it determines that the inclusion constitutes a material modification, may require the governing body of such special district to file a modification of its service plan in accordance with the provisions of this subsection (2).

(3) (d) Any special district created on or after July 1, 1991, shall annually file the report specified in paragraph (c) of this subsection (3) with the board of county commissioners or the governing body of the municipality ~~which~~ THAT has adopted a resolution of approval of the special district pursuant to ~~section 32-1-204.5~~ SECTION 32-1-204.5 OR 32-1-204.7 for five years after its organization and for succeeding annual periods, if so requested by the board of county commissioners or the governing body of the municipality. The annual report shall also be filed with the division and with the state auditor. The state auditor shall review the annual report and report any

apparent decrease in the financial ability of the district to discharge its existing or proposed indebtedness in accordance with the service plan to the division. In such event, the division shall confer with the board of the special district and the board of county commissioners or the governing body of the municipality regarding such condition.

SECTION 4. 32-1-1101 (1) (f) (I), Colorado Revised Statutes, is amended to read:

32-1-1101. Common financial powers. (1) For and on behalf of the special district, the board has the following powers:

(f) (I) To divide the special district into one or more areas consistent with the services, programs, and facilities to be furnished therein. However, any facility operated by the special district within such area may be used by any resident of the special district for the same fee charged to persons residing within such area. Whenever the board divides the special district into one or more areas pursuant to this subparagraph (I), the board shall provide notification of such action to the board of county commissioners of each county that has territory included within the district and the governing body of any municipality that has adopted a resolution of approval of the district pursuant to ~~section 32-1-204.5~~ SECTION 32-1-204.5 OR 32-1-204.7. Each board of county commissioners and municipal governing body that is entitled to such notification may elect, within thirty days after such notification, to treat the action as a material modification of the district service plan in accordance with section 32-1-207 (2).

SECTION 5. 32-1-1101.5 (1) and (1.5), the introductory portion to 32-1-1101.5 (2) (a), and 32-1-1101.5 (5), Colorado Revised Statutes, are amended to read:

32-1-1101.5. Special district debt - quinquennial findings of reasonable diligence. (1) The results of special district ballot issue elections to incur general obligation indebtedness shall be certified by the special district by certified mail to the board of county commissioners of each county in which the special district is located or to the governing body of a municipality that has adopted a resolution of approval of the special district pursuant to ~~section 32-1-204.5~~ SECTION 32-1-204.5 OR 32-1-204.7 within forty-five days after the election. For all special districts with authorized but unissued general obligation debt approved before July 1, 1995, the results of the election at which such approval was given and a statement of the principal amount of any general obligation debt that has been issued pursuant to such authorization shall be so certified by the special district on or before January 1, 1996. If for any reason certification required by this subsection (1) is not made, the special district shall certify such election results by certified mail no later than thirty days before issuing any general obligation debt to the board of county commissioners or the governing body of such municipality. The special district shall file a copy of any certification made under this subsection (1) with the division of securities created by section 11-51-701, C.R.S., within the applicable time period prescribed in this subsection (1). Whenever a special district incurs general obligation debt, the special district shall submit a copy of the notice required by section 32-1-1604 to the board of county commissioners of each county in which the district is located or the governing body of such municipality within thirty days after incurring the debt.

(1.5) In every fifth calendar year after the calendar year in which a special district's ballot issue to incur general obligation indebtedness was approved by its electors, the board of county commissioners or the governing body of the municipality that has adopted a resolution of approval of the special district pursuant to ~~section 32-1-204.5~~ SECTION 32-1-204.5 OR 32-1-204.7 may require the board of such special district to file an application for a quinquennial finding of reasonable diligence. If the board of county commissioners or the governing body of such municipality requires such filing, it shall notify the special district in writing to file an application within sixty days after receipt of the notice. The application shall set forth the amount of the special district's authorized and unissued general obligation debt, any current or anticipated plan to issue such debt, a copy of the district's last audit or application for exemption from audit, and any other information required by the board of county commissioners or the governing body of such municipality relevant to making the determinations under subsection (2) of this section. If required by the board of county commissioners or the governing body of such municipality, subsequent applications shall be filed within sixty days after receipt of such notice but no more frequently than every five years after the prior notice until all of the general obligation debt that was authorized by the election has been issued or abandoned. If a special district is wholly or partially located in a municipality that has not adopted a resolution of approval of such special district pursuant to ~~section 32-1-204.5~~ SECTION 32-1-204.5 OR 32-1-204.7, the board of the special district shall file a copy of any such application with the governing body of such municipality, and such municipality may submit comments thereon prior to the determination made under subsection (2) of this section.

(2) (a) Within thirty days after submittal of any application required under subsection (1.5) of this section, the board of county commissioners or the governing body of the municipality that has adopted a resolution of approval of the special district pursuant to ~~section 32-1-204.5~~ SECTION 32-1-204.5 OR 32-1-204.7 shall accept such application without further action or shall conduct a public hearing within the next thirty days, with no less than ten days prior notice to the district, to consider whether the service plan and financial plan of the district are adequate to meet the debt financing requirements of the authorized and unissued general obligation debt based upon present conditions within the district. Within thirty days after such hearing, the board of county commissioners or the governing body of the municipality shall:

(5) Any action to enforce this section except an action brought under subsection (4) of this section shall be initiated only by the board of county commissioners or the governing body of a municipality that has adopted a resolution of approval of the special district pursuant to ~~section 32-1-204.5~~ SECTION 32-1-204.5 OR 32-1-204.7 and before any bonds are issued as authorized by law.

SECTION 6. 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 22, 2003