

CHAPTER 71

ELECTIONS

SENATE BILL 03-139

BY SENATOR(S) Andrews and Lambom;
also REPRESENTATIVE(S) Lundberg, Cadman, Crane, Mitchell, Paccione, Schultheis, and Stafford.

AN ACT

CONCERNING THE PROCEDURE FOR CONTESTING THE RESULT OF AN ELECTION APPROVING THE CREATION OF A FINANCIAL OBLIGATION WHEN CERTAIN INFORMATION IS WITHHELD FROM THE VOTERS.

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

SECTION 1. Part 9 of article 7 of title 1, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SECTION to read:

1-7-908. Additional notice - election to create financial obligation. (1) (a) A DISTRICT SUBMITTING A BALLOT ISSUE CONCERNING THE CREATION OF ANY DEBT OR OTHER FINANCIAL OBLIGATION AT AN ELECTION IN THE DISTRICT SHALL POST NOTICE OF THE FOLLOWING INFORMATION ON THE DISTRICT'S WEBSITE OR, IF THE DISTRICT DOES NOT MAINTAIN A WEBSITE, AT THE DISTRICT'S CHIEF ADMINISTRATIVE OFFICE NO LATER THAN TWENTY DAYS BEFORE THE ELECTION:

(I) THE DISTRICT'S ENDING GENERAL FUND BALANCE FOR THE LAST FOUR FISCAL YEARS AND THE PROJECTED ENDING GENERAL FUND BALANCE FOR THE CURRENT FISCAL YEAR;

(II) A STATEMENT OF THE TOTAL REVENUES IN AND EXPENDITURES FROM THE DISTRICT'S GENERAL FUND FOR THE LAST FOUR FISCAL YEARS AND THE PROJECTED TOTAL REVENUES IN AND EXPENDITURES FROM THE GENERAL FUND FOR THE CURRENT FISCAL YEAR;

(III) THE AMOUNT OF ANY DEBT OR OTHER FINANCIAL OBLIGATION INCURRED BY THE DISTRICT FOR EACH OF THE LAST FOUR FISCAL YEARS FOR CASH FLOW PURPOSES THAT HAS A TERM OF NOT MORE THAN ONE YEAR AND THE AMOUNT OF ANY SUCH FINANCIAL OBLIGATION PROJECTED FOR THE CURRENT FISCAL YEAR;

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

(IV) A STATEMENT AS TO WHETHER THE DISTRICT'S EMERGENCY RESERVE REQUIRED BY SECTION 20 (5) OF ARTICLE X OF THE STATE CONSTITUTION HAS BEEN FULLY FUNDED BY CASH OR INVESTMENTS FOR THE CURRENT FISCAL YEAR AND EACH OF THE LAST FOUR FISCAL YEARS AND AN IDENTIFICATION OF THE FUNDS OR ACCOUNTS IN WHICH THE RESERVE IS CURRENTLY HELD. IF THE RESERVE HAS NOT BEEN FULLY FUNDED, THE NOTICE SHALL INCLUDE A STATEMENT OF THE REASONS THE RESERVE HAS NOT BEEN FULLY FUNDED.

(V) THE LOCATION OR LOCATIONS AT WHICH ANY PERSON MAY REVIEW THE DISTRICT'S AUDITED FINANCIAL STATEMENTS FOR THE LAST FOUR FISCAL YEARS, ANY MANAGEMENT LETTERS THAT HAVE BEEN MADE PUBLIC AND HAVE BEEN PROVIDED TO THE DISTRICT BY ITS AUDITORS IN CONNECTION WITH THE PREPARATION OF ITS AUDITS FOR THE LAST FOUR FISCAL YEARS, AND THE DISTRICT'S BUDGET FOR THE CURRENT FISCAL YEAR.

(b) IF THE DEBT OR OTHER FINANCIAL OBLIGATION FOR WHICH THE DISTRICT IS SEEKING VOTER APPROVAL IS TO BE PAID FROM A REVENUE SOURCE THAT IS ACCOUNTED FOR IN A FUND OTHER THAN THE DISTRICT'S GENERAL FUND, THE INFORMATION REQUIRED BY SUBPARAGRAPHS (I) AND (II) OF PARAGRAPH (a) OF THIS SUBSECTION (1) SHALL ALSO BE MADE AVAILABLE FOR SUCH OTHER FUND.

(c) THE INFORMATION REQUIRED BY SUBPARAGRAPHS (I), (II), (III), AND (IV) OF PARAGRAPH (a) OF THIS SUBSECTION (1) SHALL BE BASED UPON AUDITED FIGURES. IF NO AUDITED FIGURES ARE AVAILABLE, THE INFORMATION SHALL BE BASED UPON ESTIMATED FIGURES.

(2) THE NOTICE REQUIRED BY THIS SECTION SHALL BE IN ADDITION TO AND SHALL NOT SUBSTITUTE, REPLACE, OR BE COMBINED WITH ANY OTHER NOTICE REQUIRED BY LAW.

(3) FOR PURPOSES OF THIS SECTION, "DISTRICT" SHALL HAVE THE SAME MEANING AS SET FORTH IN SECTION 20 (2) (b) OF ARTICLE X OF THE STATE CONSTITUTION.

SECTION 2. 1-11-201, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SUBSECTION to read:

1-11-201. Causes of contest. (4) IN ADDITION TO THE GROUNDS SET FORTH IN SUBSECTION (3) OF THIS SECTION, THE RESULT OF ANY ELECTION TO DETERMINE A BALLOT ISSUE THAT INCLUDES APPROVAL OF THE CREATION OF ANY DEBT OR OTHER FINANCIAL OBLIGATION MAY BE CONTESTED IF THE NOTICE REQUIRED BY SECTION 1-7-908 IS NOT PROVIDED IN ACCORDANCE WITH THAT SECTION OR CONTAINS ANY MATERIAL MISSTATEMENT OF THE INFORMATION REQUIRED TO BE SET FORTH IN THE NOTICE.

SECTION 3. Part 2 of article 11 of title 1, Colorado Revised Statutes, is amended BY THE ADDITION OF THE FOLLOWING NEW SECTIONS to read:

1-11-212.5. Contests concerning bond elections. EXCEPT AS OTHERWISE PROVIDED IN THIS PART 2, THE RESULT OF AN ELECTION ON A BALLOT ISSUE SEEKING APPROVAL TO CREATE ANY DEBT OR OTHER FINANCIAL OBLIGATION MAY BE

CONTESTED BASED ON THE GROUNDS SET FORTH IN SECTION 1-11-201 (4) IN THE MANNER PROVIDED BY THIS PART 2 FOR CONTESTING THE RESULT OF ANY OTHER ELECTION.

1-11-216.5. Judgment in election contests - creation of financial obligation.

THE DISTRICT COURT SHALL PRONOUNCE JUDGMENT ON WHETHER THE APPROVAL OF A BALLOT ISSUE TO CREATE ANY DEBT OR OTHER FINANCIAL OBLIGATION SHOULD BE SET ASIDE BASED ON THE GROUNDS SET FORTH IN SECTION 1-11-201 (4).

SECTION 4. 1-11-217 (2), Colorado Revised Statutes, is amended to read:

1-11-217. Costs of election contest. (2) A judgment against the contestor pursuant to the provisions of sections 1-11-211 and 1-11-212, concerning the determination of a ballot issue, OR PURSUANT TO SECTION 1-11-212.5, CONCERNING THE DETERMINATION OF A BALLOT ISSUE THAT INCLUDES APPROVAL OF THE CREATION OF ANY DEBT OR OTHER FINANCIAL OBLIGATION, shall provide that the contestor is liable for all fees incurred in the contested election by all contestees, including reasonable costs and attorneys fees, but a judgment for costs and fees shall be awarded in favor of the state or a political subdivision only if the suit is ruled frivolous, as provided in article 17 of title 13, C.R.S.

SECTION 5. 1-11-218, Colorado Revised Statutes, is amended to read:

1-11-218. Violations by the governing body. (1) If the results of any county or nonpartisan election are disallowed as the result of a proceeding held pursuant to sections 1-11-211 and 1-11-212, the elector who instituted the proceedings may commence a civil action to recover costs and reasonable attorney fees from the governing body.

(2) IF THE RESULT OF ANY ELECTION APPROVING THE CREATION OF ANY DEBT OR OTHER FINANCIAL OBLIGATION IS SET ASIDE AS THE RESULT OF A PROCEEDING HELD PURSUANT TO THIS PART 2, THE ELECTOR WHO INSTITUTED THE PROCEEDING MAY COMMENCE A CIVIL ACTION TO RECOVER COSTS AND REASONABLE ATTORNEY FEES FROM THE GOVERNING BODY.

SECTION 6. 31-10-501.5, Colorado Revised Statutes, is amended to read:

31-10-501.5. Ballot issue notice. (1) Any ballot issue notice, as defined in section 1-1-104 (2.5), C.R.S., relating to a municipal ballot issue, as defined in section 1-1-104 (2.3), C.R.S., shall be prepared and distributed in a manner consistent with part 9 of article 7 of title 1, C.R.S.

(2) IN ADDITION TO THE REQUIREMENTS SET FORTH IN SUBSECTION (1) OF THIS SECTION, A MUNICIPALITY SUBMITTING A BALLOT ISSUE CONCERNING THE CREATION OF ANY DEBT OR OTHER FINANCIAL OBLIGATION AT AN ELECTION IN THE MUNICIPALITY SHALL POST NOTICE IN ACCORDANCE WITH THE REQUIREMENTS OF SECTION 1-7-908, C.R.S.

SECTION 7. 31-10-1308, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SUBSECTION to read:

31-10-1308. Ballot questions and ballot issues - how contested. (3) THE RESULT OF AN ELECTION ON ANY BALLOT ISSUE, AS DEFINED IN SECTION 1-1-104(2.3), C.R.S., APPROVING THE CREATION OF ANY DEBT OR OTHER FINANCIAL OBLIGATION MAY BE CONTESTED IN THE MANNER PROVIDED BY THIS PART 13. THE GROUNDS FOR SUCH CONTEST SHALL BE THOSE GROUNDS SET FORTH IN SECTIONS 1-11-201 (4) AND 31-10-1301 (1) (b), (1) (c), AND (1) (d), C.R.S. THE CONTESTEE SHALL BE THE MUNICIPALITY FOR WHICH THE BALLOT ISSUE WAS DECIDED.

SECTION 8. Effective date - applicability. (1) 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.

(2) The provisions of this act shall apply to any election seeking approval to create any debt or other financial obligation held on or after the applicable effective date of this act.

Approved: March 25, 2003