

CHAPTER 88

GOVERNMENT - SPECIAL DISTRICTS

HOUSE BILL 04-1212

BY REPRESENTATIVE(S) Mitchell, Berry, Borodkin, Boyd, Briggs, Carroll, Cerbo, Cloer, Coleman, Crane, Decker, Frangas, Hodge, Jahn, Johnson R., Judd, Larson, Madden, Marshall, May M., McGihon, Ragsdale, Rippey, Romanoff, Sinclair, Smith, Spence, Stafford, Vigil, Weddig, White, Wiens, Williams S., Williams T., McFadyen, Merrifield, Miller, Paccione, Stengel, and Tochtrop;

also SENATOR(S) Anderson, Arnold, Entz, Fitz-Gerald, Gordon, Groff, Grossman, Hagedorn, Isgar, Johnson S., Jones, Keller, Kester, Phillips, Reeves, Sandoval, Takis, Taylor, Windels, Hanna, and Veiga.

AN ACT

CONCERNING THE SCIENTIFIC AND CULTURAL FACILITIES DISTRICT, AND, IN CONNECTION THEREWITH, AMENDING THE BALLOT QUESTION CONCERNING THE EXTENSION OF THE DISTRICT THAT WILL BE SUBMITTED TO THE VOTERS AND MODIFYING STATUTORY PROVISIONS CONCERNING THE ADMINISTRATION OF THE DISTRICT.

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

SECTION 1. 32-13-103 (1) and (3), Colorado Revised Statutes, are amended, and the said 32-13-103 is further amended BY THE ADDITION OF A NEW SUBSECTION, to read:

32-13-103. Definitions. As used in this article, unless the context otherwise requires:

(1) ~~"Annual operating income" means operating income from all sources except: Capital construction fund income; designated funds raised for the purchase of specified capital needs; income for endowment corpus; income from charitable foundations and endowments; and any distribution of moneys by a board during the previous year.~~ "ANNUAL OPERATING EXPENSES" MEANS EXPENDITURES FOR ALL PURPOSES EXCEPT CAPITAL CONSTRUCTION, ENDOWMENT, AND PAYMENT OF DEBT PRINCIPAL OR INTEREST.

(1.5) "ANNUAL OPERATING INCOME" MEANS OPERATING INCOME FROM ALL SOURCES, EXCEPT CAPITAL CONSTRUCTION FUND INCOME, DESIGNATED FUNDS RAISED FOR THE PURCHASE OF SPECIFIED CAPITAL NEEDS, INCOME FOR ENDOWMENT CORPUS, AND ANY DISTRIBUTION OF MONEYS BY THE BOARD.

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

(3) "County cultural council" means a council comprised of members appointed by the county commissioners of the county, the city council of the city and county of Denver, or the city council of the city and county of Broomfield who RESIDE WITHIN THE BOUNDARIES OF THE DISTRICT AND proportionately represent the population of the incorporated and unincorporated portions of the county.

SECTION 2. 32-13-104, Colorado Revised Statutes, is amended to read:

32-13-104. Creation of district - area of district. (†) There is hereby created a district to be known and designated as the "Denver Metropolitan Scientific and Cultural Facilities District". The area comprising the district shall consist of ~~the following:~~ ALL OF THE AREA WITHIN THE BOUNDARIES OF THE COUNTIES OF ADAMS, ARAPAHOE, BOULDER, AND JEFFERSON, ALL OF THE AREA WITHIN THE BOUNDARIES OF THE CITY AND COUNTY OF BROOMFIELD AND THE CITY AND COUNTY OF DENVER, AND ALL OF THE AREA WITHIN THE COUNTY OF DOUGLAS; EXCEPT THAT THE AREA WITHIN THE BOUNDARIES OF THE TOWN OF CASTLE ROCK AND THE AREA WITHIN THE BOUNDARIES OF THE TOWN OF LARKSPUR IN THE COUNTY OF DOUGLAS SHALL NOT BE INCLUDED IN THE DISTRICT.

~~(a) That area comprising the regional transportation district, as specified in section 32-9-106; and~~

~~(b) That area comprising the regional transportation district as specified in sections 32-9-106.3, 32-9-106.4, and 32-9-106.6 unless rejected by the eligible electors as provided in said sections. Except as otherwise provided by law, the area shall not include areas included in the regional transportation district pursuant to section 32-9-106.7.~~

SECTION 3. The introductory portions to 32-13-104.5 (1) and (1) (a) and 32-13-104.5 (1) (a) (I) and (1) (b) (I), Colorado Revised Statutes, are amended to read:

32-13-104.5. Additional district area - Douglas county. (1) In addition to the areas described in section 32-13-104, ~~the~~ ALL OR ANY PORTION OF THE area ~~of~~ WITHIN THE BOUNDARIES OF Douglas county that is not included in the Denver metropolitan scientific and cultural facilities district BUT IS CONTIGUOUS WITH THE DISTRICT may be included in the district if the following requirements are met:

(a) A proposal to include the area PROPOSED TO BE INCLUDED IN THE DISTRICT is initiated by any of the following methods:

(I) A petition requesting an election for the purpose of including the area PROPOSED TO BE INCLUDED in the district is signed by at least five percent of the eligible electors of the unincorporated portion of such area and of each portion of such area that is within a municipality; or

(b) An election is held and conducted in accordance with articles 1 to 13 of title 1, C.R.S., and the following requirements:

(I) The election is held at the general ~~election in 1998, 2000, or 2002,~~ or at the

odd-year election ~~in 1999 or 2001~~ PRIOR TO 2017, as determined by intergovernmental agreement of the governing bodies of all municipalities that include portions of the area proposed to be included in the district and the board of county commissioners of Douglas county;

SECTION 4. 32-13-105 (5) (a), (5) (b) (I), (5) (d) (I), (5) (d) (IV), (5) (e), (7) (a), and (7) (c), Colorado Revised Statutes, are amended, and the said 32-13-105 (5) is further amended BY THE ADDITION OF A NEW PARAGRAPH, to read:

32-13-105. Authorizing elections. (5) (a) For purposes of complying with the provisions of section 20 (4) of article X of the state constitution and upon proper submittal of a valid initiative petition to or upon the adoption of a resolution by the board of the district created in section 32-13-104, the district may submit to the registered electors within the geographical boundaries of the district, at a general election or an election held on the first Tuesday in November of an odd-numbered year, the question of whether the district shall be authorized to continue the levy and collection of the ~~sales and use taxes~~ AGGREGATE ONE-TENTH OF ONE PERCENT SALES AND USE TAX AS specified in paragraph (a) of subsection (4) of this section, AS MODIFIED PURSUANT TO SUBPARAGRAPHS (I), (II), AND (III) OF THIS PARAGRAPH (a), for a period of ~~time not to exceed ten~~ TWELVE years from the date upon which the authority of the district to levy and collect the sales and use taxes is scheduled to expire, AS FOLLOWS:

(I) A UNIFORM SALES AND USE TAX THROUGHOUT SAID GEOGRAPHICAL AREA AT A RATE OF SIX HUNDRED FIFTY-FIVE TEN-THOUSANDTHS OF ONE PERCENT FOR TOTAL ANNUAL REVENUES COLLECTED BY THE DISTRICT UP TO AND INCLUDING THIRTY-EIGHT MILLION DOLLARS AND AT A RATE OF SIXTY-FOUR ONE-THOUSANDTHS OF ONE PERCENT AFTER TOTAL ANNUAL REVENUES COLLECTED BY THE DISTRICT EXCEED THIRTY-EIGHT MILLION DOLLARS, UPON EVERY TRANSACTION OR OTHER INCIDENT WITH RESPECT TO WHICH A SALES AND USE TAX IS LEVIED BY THE STATE, PURSUANT TO THE PROVISIONS OF ARTICLE 26 OF TITLE 39, C.R.S.; EXCEPT THAT SUCH SALES AND USE TAX SHALL BE LEVIED ON PURCHASES OF MACHINERY OR MACHINE TOOLS THAT ARE OTHERWISE EXEMPT PURSUANT TO SECTION 39-26-114(11), C.R.S., TO THE EXTENT SUCH PURCHASES ARE SUBJECT TO A SALES AND USE TAX LEVIED BY THE REGIONAL TRANSPORTATION DISTRICT PURSUANT TO SECTION 29-2-105 (1) (d), C.R.S., TO BE DISTRIBUTED TO THE DENVER MUSEUM OF NATURE AND SCIENCE, THE DENVER ZOOLOGICAL GARDENS, THE DENVER ART MUSEUM, THE DENVER BOTANICAL GARDENS, AND THE DENVER CENTER FOR THE PERFORMING ARTS PURSUANT TO THE PROVISIONS OF SECTION 32-13-107 (3) (a);

(II) A UNIFORM SALES AND USE TAX THROUGHOUT SAID GEOGRAPHICAL AREA AT A RATE OF TWENTY-ONE ONE-THOUSANDTHS OF ONE PERCENT FOR TOTAL ANNUAL REVENUES COLLECTED BY THE DISTRICT UP TO AND INCLUDING THIRTY-EIGHT MILLION DOLLARS AND AT A RATE OF TWENTY-TWO ONE-THOUSANDTHS OF ONE PERCENT AFTER TOTAL ANNUAL REVENUES COLLECTED BY THE DISTRICT EXCEED THIRTY-EIGHT MILLION DOLLARS, UPON EVERY TRANSACTION OR OTHER INCIDENT WITH RESPECT TO WHICH A SALES AND USE TAX IS LEVIED BY THE STATE, PURSUANT TO THE PROVISIONS OF ARTICLE 26 OF TITLE 39, C.R.S.; EXCEPT THAT SUCH SALES AND USE TAX SHALL BE LEVIED ON PURCHASES OF MACHINERY OR MACHINE TOOLS THAT ARE OTHERWISE EXEMPT PURSUANT TO SECTION 39-26-114 (11), C.R.S., TO THE EXTENT SUCH PURCHASES ARE SUBJECT TO A SALES AND USE TAX LEVIED BY THE REGIONAL

TRANSPORTATION DISTRICT PURSUANT TO SECTION 29-2-105 (1) (d), C.R.S., TO BE DISTRIBUTED TO SCIENTIFIC AND CULTURAL FACILITIES PURSUANT TO THE PROVISIONS OF SECTION 32-13-107 (3) (b);

(III) A UNIFORM SALES AND USE TAX THROUGHOUT SAID GEOGRAPHICAL AREA AT A RATE OF ONE HUNDRED THIRTY-FIVE TEN-THOUSANDTHS OF ONE PERCENT FOR TOTAL ANNUAL REVENUES COLLECTED BY THE DISTRICT UP TO AND INCLUDING THIRTY-EIGHT MILLION DOLLARS AND AT A RATE OF FOURTEEN ONE-THOUSANDTHS OF ONE PERCENT AFTER TOTAL ANNUAL REVENUES COLLECTED BY THE DISTRICT EXCEED THIRTY-EIGHT MILLION DOLLARS, UPON EVERY TRANSACTION OR OTHER INCIDENT WITH RESPECT TO WHICH A SALES AND USE TAX IS LEVIED BY THE STATE, PURSUANT TO THE PROVISIONS OF ARTICLE 26 OF TITLE 39, C.R.S.; EXCEPT THAT SUCH SALES AND USE TAX SHALL BE LEVIED ON PURCHASES OF MACHINERY OR MACHINE TOOLS THAT ARE OTHERWISE EXEMPT PURSUANT TO SECTION 39-26-114 (11), C.R.S., TO THE EXTENT SUCH PURCHASES ARE SUBJECT TO A SALES AND USE TAX LEVIED BY THE REGIONAL TRANSPORTATION DISTRICT PURSUANT TO SECTION 29-2-105 (1) (d), C.R.S., TO BE DISTRIBUTED TO SCIENTIFIC AND CULTURAL FACILITIES PURSUANT TO THE PROVISIONS OF SECTION 32-13-107 (3) (c).

(b) Such resolution or the summary for such petition shall include, but shall not be limited to, the following statements:

(I) That the district would continue to levy and collect the ~~sales and use taxes~~ AGGREGATE ONE-TENTH OF ONE PERCENT SALES AND USE TAX specified in paragraph (a) of subsection (4) of this section, AS MODIFIED PURSUANT TO SUBPARAGRAPHS (I), (II), AND (III) OF PARAGRAPH (a) OF THIS SUBSECTION (5), for a period of ~~time not to exceed ten~~ TWELVE years from the date upon which the authority of the district to levy and collect the sales and use taxes is scheduled to expire; and

(d) (I) Except as otherwise provided in subparagraph (III) of this paragraph (d), at the election, the question appearing on the ballot shall be as follows:

"SHALL THERE BE AN EXTENSION UNTIL ~~(MONTH, DAY, AND YEAR)~~ JUNE 30, 2018, OF THE AGGREGATE 0.1 PERCENT SALES AND USE TAXES CURRENTLY LEVIED AND COLLECTED BY THE DENVER METROPOLITAN SCIENTIFIC AND CULTURAL FACILITIES DISTRICT WHICH THAT ARE SCHEDULED TO EXPIRE ON ~~(MONTH, DAY, AND YEAR)~~ AND WHICH PROVIDE A MAXIMUM AMOUNT OF ~~(DOLLAR AMOUNT OF DISTRICT'S FISCAL YEAR SPENDING LIMIT FOR CURRENT FISCAL YEAR)~~ IN ~~(CURRENT FISCAL YEAR)~~ AND A MAXIMUM AMOUNT OF ~~(DOLLAR AMOUNT OF DISTRICT'S FISCAL YEAR SPENDING LIMIT FOR CURRENT FISCAL YEAR)~~ AS ADJUSTED FOR INFLATION AND LOCAL GROWTH FOR EACH FISCAL YEAR AFTER THE ~~CURRENT FISCAL YEAR~~ JUNE 30, 2006, FOR ASSISTING SCIENTIFIC AND CULTURAL FACILITIES WITHIN THE DISTRICT WHILE AUTHORIZING THE DISTRICT TO CONTINUE TO COLLECT, RETAIN, AND SPEND ALL REVENUE GENERATED BY SUCH TAX IN EXCESS OF THE LIMITATION PROVIDED IN ARTICLE X OF SECTION 20 OF THE COLORADO CONSTITUTION AND WHILE MODIFYING THE RATES OF THE THREE INDIVIDUAL SALES AND USE TAXES COLLECTED BY THE DISTRICT AS FOLLOWS: INCREASING THE .059 PERCENT SALES AND USE TAX TO .0655 PERCENT; DECREASING THE .028 PERCENT SALES AND USE TAX TO .021 PERCENT; AND INCREASING THE .013

PERCENT SALES AND USE TAX TO .0135 PERCENT; EXCEPT THAT, FOR TOTAL ANNUAL REVENUES COLLECTED BY THE DISTRICT THAT EXCEED THIRTY-EIGHT MILLION DOLLARS, INCREASING THE .059 PERCENT SALES AND USE TAX TO .064 PERCENT; DECREASING THE .028 PERCENT SALES AND USE TAX TO .022 PERCENT; AND INCREASING THE .013 PERCENT SALES AND USE TAX TO .014 PERCENT?"

(IV) If at any election a majority of the registered electors within the geographical boundaries of the district voting on the question vote affirmatively on the question authorizing the district to continue the levy and collection of the sales and use taxes specified in paragraph (a) of subsection (4) of this section, AS MODIFIED PURSUANT TO SUBPARAGRAPHS (I), (II), AND (III) OF PARAGRAPH (a) OF THIS SUBSECTION (5), until the date specified in the question, then such sales and use taxes shall continue to be levied, collected, and distributed as provided for in this article until said date.

~~(e) The provisions of this subsection (5) shall be applicable only if prior voter approval has been obtained to levy and collect the sales and use taxes specified in paragraph (a) of subsection (4) of this section.~~

(f) ALL OF THE ELECTORS WITHIN THE AREA OF THE BOUNDARIES OF THE COUNTIES OF ADAMS, ARAPAHOE, BOULDER, AND JEFFERSON, ALL OF THE ELECTORS WITHIN THE BOUNDARIES OF THE CITY AND COUNTY OF BROOMFIELD AND THE CITY AND COUNTY OF DENVER, AND ALL OF THE ELECTORS WITHIN DOUGLAS COUNTY EXCLUDING THE ELECTORS WITHIN THE BOUNDARIES OF THE TOWN OF CASTLE ROCK OR THE TOWN OF LARKSPUR, SHALL BE ELIGIBLE ELECTORS FOR THE PURPOSE OF THE ELECTION TO BE HELD PURSUANT TO THIS SUBSECTION (5).

(7) (a) The provisions of article 40 of title 1, C.R.S., regarding the following subject matter shall apply to petitions ~~which~~ THAT may be submitted pursuant to subsection (4), (5), ~~or (6)~~ OR (10) 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 ~~which~~ THAT may be submitted pursuant to subsection (4), (5), ~~or (6)~~ OR (10) of this section.

(c) Notice of any question to be submitted to the registered electors within the geographical boundaries of the district upon the adoption of a resolution by the board of the district pursuant to subsection (4), (5), ~~or (6)~~ OR (10) of this section and at which election such question shall be submitted shall be filed in the office of the secretary of state prior to fifty-five days before such election.

SECTION 5. 32-13-105, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SUBSECTION to read:

32-13-105. Authorizing elections. (10) (a) FOR PURPOSES OF COMPLYING WITH THE PROVISIONS OF SECTION 20 (4) OF ARTICLE X OF THE STATE CONSTITUTION AND UPON PROPER SUBMITTAL OF A VALID INITIATIVE PETITION TO OR UPON THE ADOPTION

OF A RESOLUTION BY THE BOARD, THE DISTRICT MAY SUBMIT TO THE REGISTERED ELECTORS WITHIN THE GEOGRAPHICAL BOUNDARIES OF THE DISTRICT, AT A GENERAL ELECTION OR AN ELECTION HELD ON THE FIRST TUESDAY IN NOVEMBER OF AN ODD-NUMBERED YEAR, THE QUESTION OF WHETHER THE DISTRICT SHALL BE AUTHORIZED TO CONTINUE THE LEVY AND COLLECTION OF THE AGGREGATE ONE-TENTH OF ONE PERCENT SALES AND USE TAX AS SPECIFIED IN PARAGRAPH (a) OF SUBSECTION (5) OF THIS SECTION FOR A PERIOD NOT TO EXCEED TWELVE YEARS FROM THE DATE UPON WHICH THE AUTHORITY OF THE DISTRICT TO LEVY AND COLLECT THE SALES AND USE TAXES IS SCHEDULED TO EXPIRE.

(b) A RESOLUTION OR THE SUMMARY FOR A PETITION PURSUANT TO PARAGRAPH (a) OF THIS SUBSECTION (10) SHALL INCLUDE, BUT SHALL NOT BE LIMITED TO, THE FOLLOWING STATEMENTS:

(I) THAT THE DISTRICT WOULD CONTINUE TO LEVY AND COLLECT THE AGGREGATE ONE-TENTH OF ONE PERCENT SALES AND USE TAX AS SPECIFIED IN PARAGRAPH (a) OF SUBSECTION (5) OF THIS SECTION FOR A PERIOD NOT TO EXCEED TWELVE YEARS FROM THE DATE UPON WHICH THE AUTHORITY OF THE DISTRICT TO LEVY AND COLLECT THE SALES AND USE TAXES IS SCHEDULED TO EXPIRE; AND

(II) THE MONTH, DAY, AND YEAR ON WHICH THE AUTHORITY OF THE DISTRICT TO LEVY AND COLLECT THE SALES AND USE TAXES SHALL EXPIRE.

(c) THE DISTRICT MAY SUBMIT THE QUESTION SET FORTH IN PARAGRAPH (a) OF THIS SUBSECTION (10) TO THE REGISTERED ELECTORS OF THE DISTRICT:

(I) AFTER BEING PRESENTED WITH A PETITION REQUESTING THE SUBMITTAL OF THE QUESTION THAT IS SIGNED BY REGISTERED ELECTORS WITHIN THE GEOGRAPHICAL BOUNDARIES OF THE DISTRICT IN AN AMOUNT EQUAL TO AT LEAST FIVE PERCENT OF THE TOTAL NUMBER OF VOTES CAST WITHIN THE GEOGRAPHICAL 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 IN ACCORDANCE WITH SUBSECTION (7) OF THIS SECTION; OR

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

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

"SHALL THERE BE AN EXTENSION UNTIL (MONTH, DAY, AND YEAR) OF THE AGGREGATE 0.1 PERCENT SALES AND USE TAXES CURRENTLY LEVIED AND COLLECTED BY THE DENVER METROPOLITAN SCIENTIFIC AND CULTURAL FACILITIES DISTRICT THAT ARE SCHEDULED TO EXPIRE ON (MONTH, DAY, AND YEAR) FOR ASSISTING SCIENTIFIC AND CULTURAL FACILITIES WITHIN THE DISTRICT, WHILE AUTHORIZING THE DISTRICT TO CONTINUE TO COLLECT, RETAIN, AND SPEND ALL REVENUE GENERATED BY SUCH TAX IN EXCESS OF THE LIMITATION PROVIDED IN ARTICLE X OF SECTION 20 OF THE COLORADO CONSTITUTION?"

(II) EXCEPT AS OTHERWISE PROVIDED IN SUBPARAGRAPH (III) OF THIS PARAGRAPH (d), THE BALLOT TITLE SHALL BE A STATEMENT OF THE LANGUAGE INCLUDED IN THE QUESTION SET FORTH IN SUBPARAGRAPH (I) OF THIS PARAGRAPH (d); EXCEPT THAT THE WORDS "SHALL THERE BE" SHALL NOT BE INCLUDED IN THE STATEMENT, AND THE STATEMENT SHALL END WITH A PERIOD INSTEAD OF A QUESTION MARK.

(III) THE BALLOT QUESTION SPECIFIED IN SUBPARAGRAPH (I) OF THIS PARAGRAPH (d) AND THE BALLOT TITLE SPECIFIED IN SUBPARAGRAPH (II) OF THIS PARAGRAPH (d) 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.

(IV) IF AT ANY ELECTION A MAJORITY OF THE REGISTERED ELECTORS WITHIN THE GEOGRAPHICAL BOUNDARIES OF THE DISTRICT VOTING ON THE QUESTION VOTE AFFIRMATIVELY ON THE QUESTION AUTHORIZING THE DISTRICT TO CONTINUE THE LEVY AND COLLECTION OF THE SALES AND USE TAXES SPECIFIED IN PARAGRAPH (a) OF SUBSECTION (5) OF THIS SECTION UNTIL THE DATE SPECIFIED IN THE QUESTION, THEN SUCH SALES AND USE TAXES SHALL CONTINUE TO BE LEVIED, COLLECTED, AND DISTRIBUTED AS PROVIDED FOR IN THIS ARTICLE UNTIL SAID DATE.

(e) THE PROVISIONS OF THIS SUBSECTION (10) SHALL BE APPLICABLE ONLY IF PRIOR VOTER APPROVAL HAS BEEN OBTAINED TO LEVY AND COLLECT THE SALES AND USE TAXES SPECIFIED IN PARAGRAPH (a) OF SUBSECTION (5) OF THIS SECTION.

SECTION 6. 32-13-106 (1), Colorado Revised Statutes, is amended to read:

32-13-106. Board of directors - powers and duties. (1) The district created in section 32-13-104 shall be governed by a board of ~~ten~~ directors, to be appointed as follows:

(a) One director each shall be appointed by the boards of county commissioners of ~~the five counties~~ EACH COUNTY in the district, one director shall be appointed by the city council of the city and county of Denver, one director shall be appointed by the city council of the city and county of Broomfield; and

(b) IF AN ODD NUMBER OF DIRECTORS IS APPOINTED PURSUANT TO PARAGRAPH (a) OF THIS SUBSECTION (1), FOUR DIRECTORS SHALL BE APPOINTED BY THE GOVERNOR, AND IF AN EVEN NUMBER OF DIRECTORS IS APPOINTED PURSUANT TO PARAGRAPH (a) OF THIS SUBSECTION (1), three directors shall be appointed by the governor; EXCEPT THAT THE TOTAL NUMBER OF DIRECTORS APPOINTED PURSUANT TO THIS SUBSECTION (1) SHALL NOT EXCEED ELEVEN. IN THE EVENT THAT A NEW COUNTY OR CITY AND COUNTY ELECTS A DIRECTOR PURSUANT TO PARAGRAPH (a) OF THIS SUBSECTION (1) THAT WOULD CAUSE THE NUMBER OF DIRECTORS TO EXCEED ELEVEN, THE LONGEST-SERVING DIRECTOR APPOINTED BY THE GOVERNOR SHALL BECOME AN EX OFFICIO DIRECTOR OF THE BOARD AND SHALL NO LONGER HAVE THE AUTHORITY TO VOTE IN ANY BOARD ACTION PURSUANT TO SUBSECTION (3) OF THIS SECTION. THE DIRECTORS APPOINTED BY THE GOVERNOR SHALL BE INDIVIDUALS who represent different segments of society, including, but not limited to, business, education, government, ACCOUNTING, and foundation management.

(c) A director appointed pursuant to this subsection (1) shall be appointed to serve for a term of three years, but no director shall serve more than two succeeding terms. Any such director may be removed at any time during his or her term by the appointing authority. The board ~~of directors~~ shall be appointed prior to the submission to the registered electors of the district of the question specified in section 32-13-105.

SECTION 7. 32-13-106 (2), Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW PARAGRAPH to read:

32-13-106. Board of directors - powers and duties. (2) The board shall have the following powers and duties:

(k) TO DETERMINE THE ELIGIBILITY OF ORGANIZATIONS THAT APPLY TO THE DISTRICT FOR THE MONEYS THAT THE BOARD DISTRIBUTES PURSUANT TO SECTION 32-13-107 (3) (b) AND (3) (c). IN DETERMINING SUCH ELIGIBILITY, THE BOARD MAY TAKE INTO CONSIDERATION THE APPLICANT'S FINANCIAL AND ORGANIZATIONAL CAPACITY TO EXPEND TAX DOLLARS TO SERVE THE PUBLIC AND ACHIEVE THE MISSION OF THE ORGANIZATION.

SECTION 8. 32-13-107 (3) (a), the introductory portion to 32-13-107 (3) (b), 32-13-107 (3) (b) (I), (3) (b) (III), and (3) (b.5), the introductory portions to 32-13-107 (3) (c) and (3) (c) (I), and 32-13-107 (3) (c) (I) (A) and (3) (c) (III), Colorado Revised Statutes, are amended, and the said 32-13-107 (3) (c) (I) is further amended BY THE ADDITION OF A NEW SUB-SUBPARAGRAPH, to read:

32-13-107. Sales and use tax imposed - collection - administration of tax - use. (3) The proceeds of such sales and use tax collections shall be used by the board to assist scientific and cultural facilities within the district. After deducting costs, not exceeding three-fourths of one percent of the sales and use tax revenues annually collected, which are incurred by the district for the administration of such moneys, distributions by the board to scientific and cultural facilities shall be made as follows:

(a) Upon voter approval of the levy and collection of the sales and use tax specified in ~~section 32-13-105 (1) (a) or 32-13-105 (4) (a) (f)~~ SECTION 32-13-105 (1) (a), (4) (a) (I), OR (5) (a) (I), as applicable, the sales and use tax revenues levied and collected by the district shall be distributed annually by the board as follows:

(I) Except as otherwise provided in subparagraph (II) of this paragraph (a), ~~ninety~~ NINETY-FIVE percent of said sales and use tax revenues shall be distributed FOR ANNUAL OPERATING EXPENSES as follows:

(A) ~~Thirty-three~~ TWENTY-FIVE percent shall be distributed to the Denver museum of ~~natural history~~ NATURE AND SCIENCE.

(B) ~~Twenty-six~~ TWENTY AND EIGHTY-THREE ONE HUNDREDTHS percent shall be distributed to the Denver art museum.

(C) ~~Twenty-six~~ TWENTY-FOUR AND TWENTY-FOUR ONE HUNDREDTHS percent shall be distributed to the Denver zoological gardens.

(D) ~~Fifteen~~ ELEVEN AND SEVENTY-FIVE ONE HUNDREDTHS percent shall be distributed to the Denver botanical gardens.

(E) EIGHTEEN AND EIGHTEEN ONE HUNDREDTHS PERCENT SHALL BE DISTRIBUTED TO THE DENVER CENTER FOR THE PERFORMING ARTS.

(II) After the first five years said sales and use tax is levied and collected, up to ~~ten~~ FIVE percent of said sales and use tax revenues specified in subparagraph (I) of this paragraph (a) may be distributed by the board to the Denver museum of ~~natural history~~ NATURE AND SCIENCE, the Denver art museum, the Denver zoological gardens, ~~and~~ the Denver botanical gardens, AND THE DENVER CENTER FOR THE PERFORMING ARTS pursuant to a formula adopted by the board. Such formula shall be binding on the board and may only be modified every five years thereafter.

(III) ~~(A)~~ Up to five percent of said sales and use tax revenues may be distributed by the board to the Denver museum of ~~natural history~~ NATURE AND SCIENCE, the Denver art museum, the Denver zoological gardens, ~~and~~ the Denver botanical gardens, AND THE DENVER CENTER FOR THE PERFORMING ARTS in such amounts as the board may determine appropriate based upon one or more of the following factors: Regional impact, accessibility, quality, need, ENHANCED OR INNOVATIVE PROGRAMS, and collaboration with the Denver museum of ~~natural history~~ NATURE AND SCIENCE, the Denver art museum, the Denver zoological gardens, ~~or~~ the Denver botanical gardens, OR THE DENVER CENTER FOR THE PERFORMING ARTS or with scientific and cultural facilities ~~which~~ THAT qualify to receive moneys pursuant to subparagraph (I) of paragraph (b) or subparagraph (I) of paragraph (c) of this subsection (3).

~~(B) Up to five percent of said sales and use tax revenues may be distributed by the board to the Denver museum of natural history, the Denver art museum, the Denver zoological gardens, and the Denver botanical gardens for enhanced or innovative programs, and any distribution made pursuant to this sub-subparagraph (B) shall be based upon the formula set forth in subparagraph (I) of this paragraph (a).~~

(IV) (Deleted by amendment, L. 94, p. 481, § 2, effective January 1, 1996.)

(V) Any moneys not distributed pursuant to the provisions of subparagraph (III) of this paragraph (a) shall be ~~placed by the board in an interest-bearing account with a federally insured bank or savings and loan association located in the state of Colorado. Such moneys shall remain in such account until the board, in its discretion, determines to distribute such moneys~~ DISTRIBUTED at the same time and in the same manner as other moneys are annually distributed pursuant to the provisions of ~~subparagraph (H)~~ SUBPARAGRAPH (I) of this paragraph (a).

(b) Upon voter approval of the levy and collection of the sales and use tax specified in ~~section 32-13-105 (1) (b) or 32-13-105 (4) (a) (H)~~ SECTION 32-13-105 (1) (b), (4) (a) (II), OR (5) (a) (II), as applicable, the sales and use tax revenues levied and collected by the district shall be distributed annually by the board FOR ANNUAL OPERATING EXPENSES as follows:

(I) ~~Ninety~~ NINETY-FIVE percent of said sales and use tax revenues shall be distributed to scientific and cultural facilities within the district ~~which~~ THAT are not receiving moneys pursuant to paragraph (a) of this subsection (3) and ~~which~~ THAT

meet the following criteria:

(A) Any such facility shall be a nonprofit organization ~~which~~ THAT HAS A DETERMINATION LETTER IN EFFECT FROM THE INTERNAL REVENUE SERVICE CONFIRMING THAT THE ORGANIZATION meets the requirements of ~~section 501 (c)~~ SECTION 501 (c) (3) of the federal "Internal Revenue Code of 1986", as amended, whose primary purpose is to provide for the enlightenment and entertainment of the public through the production, presentation, exhibition, advancement, or preservation of art, music, theater, dance, zoology, botany, or natural history or shall be an agency of local government ~~which~~ THAT has such primary purpose.

(B) Any such facility shall have its principal office within the district, shall conduct the majority of its activities within the state of Colorado, and shall principally benefit the residents of the district.

(C) ~~Any~~ FOR ANY FACILITY THAT APPLIES TO RECEIVE DISTRICT MONEYS PRIOR TO JULY 1, 2006, such facility shall have had an annual operating income of more than seven hundred thousand dollars for the previous year AS ADJUSTED FOR THE ANNUAL CHANGE IN THE CONSUMER PRICE INDEX AS SPECIFIED IN THIS SUB-SUBPARAGRAPH (C). FOR ANY FACILITY THAT APPLIES TO RECEIVE DISTRICT MONEYS ON OR AFTER JULY 1, 2006, SUCH FACILITY SHALL HAVE HAD AN ANNUAL OPERATING INCOME OF MORE THAN ONE MILLION TWO HUNDRED FIFTY THOUSAND DOLLARS FOR THE PREVIOUS YEAR AS ADJUSTED FOR THE ANNUAL CHANGE IN THE CONSUMER PRICE INDEX AS SPECIFIED IN THIS SUB-SUBPARAGRAPH (C); EXCEPT THAT ANY FACILITY THAT QUALIFIED TO RECEIVED A DISTRIBUTION PURSUANT TO THIS PARAGRAPH (b) ON OR BEFORE JUNE 30, 2006, SHALL BE SUBJECT TO THE ONE MILLION TWO HUNDRED FIFTY THOUSAND DOLLAR THRESHOLD AS ADJUSTED FOR THE ANNUAL CHANGE IN THE CONSUMER PRICE INDEX AS SPECIFIED IN THIS SUB-SUBPARAGRAPH (C), AS OF JULY 1, 2009. For distributions made pursuant to this paragraph (b) in 1996 and in each year thereafter, the board shall annually adjust the amount specified in this sub-subparagraph (C), AS APPLICABLE, in accordance with the annual percentage change in the consumer price index for the previous year for the ~~Denver-Boulder~~ DENVER-BOULDER-GREELEY consolidated metropolitan statistical area for all urban consumers, all goods, as published by the United States department of labor, bureau of labor statistics.

(D) ~~Any~~ FOR ANY FACILITY THAT APPLIES TO RECEIVE DISTRICT MONEYS PRIOR TO JULY 1, 2006, such facility shall have been in existence, ~~and~~ operating, AND PROVIDING SERVICE TO THE PUBLIC for at least two years prior to such distribution. FOR ANY FACILITY THAT APPLIES TO RECEIVE DISTRICT MONEYS FOR THE FIRST TIME ON OR AFTER JULY 1, 2006, SUCH FACILITY SHALL HAVE BEEN IN EXISTENCE, OPERATING, AND PROVIDING SERVICE TO THE PUBLIC FOR AT LEAST FIVE YEARS PRIOR TO THE DISTRIBUTION. FOR ANY FACILITY THAT APPLIES TO RECEIVE DISTRICT MONEYS ON OR AFTER JULY 1, 2006, THAT HAS HAD A RECOMMENCEMENT AFTER BANKRUPTCY OR NONCONSENSUAL REORGANIZATION, SUCH FACILITY SHALL HAVE BEEN OPERATING AND PROVIDING SERVICE TO THE PUBLIC FOR AT LEAST FIVE YEARS FROM THE ORIGINAL DATE OF RECOMMENCEMENT. For purposes of this sub-subparagraph (D), "operating" means engaged in some form of activity ~~which~~ THAT is in furtherance of the advancement and preservation of art, music, theater, dance, zoology, botany, or natural history, including but not limited to activities relating to production, exhibition, and presentation.

(III) ~~(A)~~ Up to five percent of said sales and use tax revenues may be distributed by the board to the scientific and cultural facilities ~~which~~ THAT qualify to receive moneys pursuant to the provisions of subparagraph (I) of this paragraph (b) in such amounts as the board determines appropriate based upon one or more of the following factors: Regional impact, accessibility, quality, need, ENHANCED OR INNOVATIVE PROGRAMS, and collaboration with the Denver museum of ~~natural history~~ NATURE AND SCIENCE, the Denver art museum, the Denver zoological gardens, ~~or~~ the Denver botanical gardens, OR THE DENVER CENTER FOR THE PERFORMING ARTS or with scientific and cultural facilities ~~which~~ THAT qualify to receive moneys pursuant to subparagraph (I) of THIS paragraph (b) or subparagraph (I) of paragraph (c) of this subsection (3).

~~(B) Up to five percent of said sales and use tax revenues may be distributed by the board to the scientific and cultural facilities which qualify to receive moneys pursuant to the provisions of subparagraph (I) of this paragraph (b) for enhanced or innovative programs, and any distribution made pursuant to this sub-subparagraph (B) shall be based upon the formula specified in subparagraph (II) of this paragraph (b).~~

(b.5) (I) PRIOR TO JULY 1, 2006, notwithstanding any ~~law to the contrary~~ no OTHER PROVISION, A scientific and cultural facility ~~which~~ THAT qualifies to receive moneys pursuant to the provisions of subparagraph (I) of paragraph (b) of this subsection (3) shall NOT receive in any given year more than thirty-three percent of the total amount of sales and use tax revenues distributed pursuant to paragraph (b) of this subsection (3) in such year. If the amount of moneys received by any scientific and cultural facility in any given year exceeds the allowable amount, the scientific and cultural facility shall refund to the district the amount of moneys in excess of the allowable amount.

(II) ON AND AFTER JULY 1, 2006, NOTWITHSTANDING ANY OTHER PROVISION, A SCIENTIFIC AND CULTURAL FACILITY THAT QUALIFIES TO RECEIVE MONEYS PURSUANT TO THE PROVISIONS OF SUBPARAGRAPH (I) OF PARAGRAPH (b) OF THIS SUBSECTION (3) FOR THE FIRST TIME PRIOR TO JULY 1, 2006, SHALL NOT RECEIVE IN ANY GIVEN YEAR MORE THAN TWENTY-FIVE PERCENT OF THE TOTAL AMOUNT OF SALES AND USE TAX REVENUES DISTRIBUTED PURSUANT TO PARAGRAPH (b) OF THIS SUBSECTION (3) IN SUCH YEAR. IF THE AMOUNT OF MONEYS RECEIVED BY ANY SCIENTIFIC AND CULTURAL FACILITY IN ANY GIVEN YEAR EXCEEDS THE ALLOWABLE AMOUNT, THE SCIENTIFIC AND CULTURAL FACILITY SHALL REFUND TO THE DISTRICT THE AMOUNT OF MONEYS IN EXCESS OF THE ALLOWABLE AMOUNT.

(III) ON AND AFTER JULY 1, 2006, NOTWITHSTANDING ANY OTHER PROVISION, A SCIENTIFIC AND CULTURAL FACILITY THAT QUALIFIES TO RECEIVE MONEYS PURSUANT TO THE PROVISIONS OF SUBPARAGRAPH (I) OF PARAGRAPH (b) OF THIS SUBSECTION (3) FOR THE FIRST TIME ON OR AFTER JULY 1, 2006, SHALL NOT RECEIVE MORE THAN FIFTEEN PERCENT OF THE TOTAL AMOUNT OF SALES AND USE TAX REVENUES DISTRIBUTED PURSUANT TO PARAGRAPH (b) OF THIS SUBSECTION (3) IN THE FIRST YEAR OF DISTRIBUTION, TWENTY PERCENT OF SUCH TOTAL AMOUNT IN THE SECOND YEAR OF DISTRIBUTION, AND TWENTY-FIVE PERCENT OF SUCH TOTAL AMOUNT IN THE THIRD AND ANY SUBSEQUENT YEAR OF DISTRIBUTION. IF THE AMOUNT OF MONEYS RECEIVED BY ANY SCIENTIFIC AND CULTURAL FACILITY IN ANY GIVEN YEAR EXCEEDS THE ALLOWABLE AMOUNT, THE SCIENTIFIC AND CULTURAL FACILITY SHALL REFUND TO THE DISTRICT THE AMOUNT OF MONEYS IN EXCESS OF THE ALLOWABLE AMOUNT.

(c) Upon voter approval of the levy and collection of the sales and use tax specified in ~~section 32-13-105 (1)(c) or 32-13-105 (4) (a) (III)~~ SECTION 32-13-105 (1)(c), (4) (a) (III), OR (5) (a) (III), as applicable, the sales and use tax revenues levied and collected by the district shall be distributed annually by the board FOR ANNUAL OPERATING EXPENSES as follows:

(I) ~~Ninety~~ NINETY-FIVE percent of said sales and use tax revenues collected in each county comprising the district ~~pursuant to the provisions of section 32-13-105 (1)(c)~~, shall be distributed by the board to scientific and cultural facilities within such county pursuant to the provisions of the plan submitted by each county cultural council as specified in subparagraph (II) of this paragraph (c). Said moneys shall be distributed to scientific and cultural facilities within the district which are not receiving moneys pursuant to paragraph (a) of this subsection (3) and which meet the following criteria:

(A) Any such facility shall be a nonprofit organization ~~which~~ THAT HAS A DETERMINATION LETTER IN EFFECT FROM THE INTERNAL REVENUE SERVICE CONFIRMING THAT THE ORGANIZATION meets the requirements of ~~section 501 (c)~~ SECTION 501 (c) (3) of the federal "Internal Revenue Code of 1986", as amended, whose primary purpose is to provide for the enlightenment and entertainment of the public through the production, presentation, exhibition, advancement, or preservation of art, music, theater, dance, zoology, botany, or natural history or shall be an agency of local government ~~which~~ THAT has such primary purpose.

(C) ANY SUCH FACILITY THAT APPLIES TO RECEIVE DISTRICT MONEYS FOR THE FIRST TIME ON OR AFTER JULY 1, 2006, SHALL HAVE BEEN IN EXISTENCE, OPERATING, AND PROVIDING SERVICE TO THE PUBLIC FOR AT LEAST THREE YEARS PRIOR TO SUCH DISTRIBUTION. FOR ANY FACILITY THAT APPLIES TO RECEIVE DISTRICT MONEYS ON OR AFTER JULY 1, 2006, THAT HAS HAD A RECOMMENCEMENT AFTER BANKRUPTCY OR NONCONSENSUAL REORGANIZATION, SUCH FACILITY SHALL BE OPERATING AND PROVIDING SERVICE TO THE PUBLIC FOR AT LEAST THREE YEARS FROM THE ORIGINAL DATE OF RECOMMENCEMENT. FOR PURPOSES OF THIS SUB-SUBPARAGRAPH (C), "OPERATING" MEANS ENGAGED IN SOME FORM OF ACTIVITY THAT IS IN FURTHERANCE OF THE ADVANCEMENT AND PRESERVATION OF ART, MUSIC, THEATER, DANCE, ZOOLOGY, BOTANY, OR NATURAL HISTORY, INCLUDING BUT NOT LIMITED TO ACTIVITIES RELATING TO PRODUCTION, EXHIBITION, AND PRESENTATION.

(III) Up to ~~ten~~ FIVE percent of said sales and use tax revenues collected in each county comprising the district ~~pursuant to the provisions of section 32-13-105 (1)(c)~~ may be distributed by the board to the scientific and cultural facilities ~~which~~ THAT qualify to receive moneys pursuant to subparagraph (I) of this paragraph (c) as the board may determine appropriate based upon one or more of the following factors: Accessibility, quality, need, enhanced or innovative programs, and collaboration with the Denver museum of ~~natural history~~ NATURE AND SCIENCE, the Denver art museum, the Denver zoological gardens, ~~or~~ the Denver botanical gardens, OR THE DENVER CENTER FOR THE PERFORMING ARTS or with scientific and cultural facilities ~~which~~ THAT qualify to receive moneys pursuant to subparagraph (I) of paragraph (b) OF THIS SUBSECTION (3) or subparagraph (I) of THIS paragraph (c). ~~of this subsection (3)~~. Any distribution made pursuant to this subparagraph (III) shall be based upon the provisions of the plan submitted by each county cultural council as required by subparagraph (II) of this paragraph (c).

SECTION 9. Effective date. Sections 1, 2, 3, 6, 7, and 8 of this act shall take effect July 1, 2006. The remainder of 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 (August 4, 2004, if adjournment sine die is on May 5, 2004); 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 6, 2004