

CHAPTER 111

GOVERNMENT - SPECIAL DISTRICTS

HOUSE BILL 07-1168

BY REPRESENTATIVE(S) White, Buescher, Curry, Jahn, Kerr J., Levy, Liston, Madden, Merrifield, Romanoff, Rose, Frangas, King, Labuda, Roberts, and Todd;
also SENATOR(S) Fitz-Gerald, Bacon, Boyd, Gordon, Groff, Hagedorn, Harvey, Isgar, Keller, Kester, Morse, Penry, Romer, Schwartz, Shaffer, Tapia, Taylor, Tochtrop, Tupa, Veiga, Ward, Wiens, Williams, and Windels.

AN ACT**CONCERNING FOREST IMPROVEMENT DISTRICTS.**

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

SECTION 1. 32-1-103, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SUBSECTION to read:

32-1-103. Definitions. As used in this article, unless the context otherwise requires:

(7.5) "FOREST IMPROVEMENT DISTRICT" MEANS A SPECIAL DISTRICT CREATED PURSUANT TO ARTICLE 18 OF THIS TITLE THAT PROTECTS COMMUNITIES FROM WILDFIRES AND IMPROVES THE CONDITION OF FORESTS IN THE DISTRICT.

SECTION 2. Title 32, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW ARTICLE to read:

ARTICLE 18
Forest Improvement Districts

32-18-101. Short title. THIS ARTICLE SHALL BE KNOWN AND MAY BE CITED AS THE "FOREST IMPROVEMENT DISTRICT ACT".

32-18-102. Definitions. AS USED IN THIS ARTICLE, UNLESS THE CONTEXT OTHERWISE REQUIRES:

(1) "BOARD" MEANS THE BOARD OF DIRECTORS OF A FOREST IMPROVEMENT

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

DISTRICT.

(2) "DIRECTOR" MEANS A MEMBER OF THE BOARD OF DIRECTORS OF A FOREST IMPROVEMENT DISTRICT.

(3) "DISTRICT" MEANS A FOREST IMPROVEMENT DISTRICT CREATED PURSUANT TO THIS ARTICLE.

(4) "ELIGIBLE ELECTOR" HAS THE SAME MEANING AS SET FORTH IN SECTION 32-1-103 (5) (a).

32-18-103. Creation. (1) A FOREST IMPROVEMENT DISTRICT MAY BE CREATED IN THE FOLLOWING MANNER:

(a) THE GOVERNING BODY OF A MUNICIPALITY OR COUNTY MAY ENACT AN ORDINANCE OR RESOLUTION PROPOSING THE CREATION OF A FOREST IMPROVEMENT DISTRICT. THE ORDINANCE OR RESOLUTION SHALL SET FORTH THE NAMES OF THE MUNICIPALITIES OR COUNTIES TO BE IN THE PROPOSED DISTRICT AND THE PROPOSED NAME OF THE DISTRICT.

(b) THE GOVERNING BODY OF A MUNICIPALITY OR COUNTY THAT IS NAMED IN THE ORDINANCE OR RESOLUTION PROPOSING THE CREATION OF A FOREST IMPROVEMENT DISTRICT MAY ENACT AN ORDINANCE OR RESOLUTION PROPOSING TO JOIN THE DISTRICT, SETTING FORTH THE NAMES OF THE SAME MUNICIPALITIES AND COUNTIES.

(c) THE CLERK OF A GOVERNING BODY THAT ENACTS AN ORDINANCE OR RESOLUTION PURSUANT TO PARAGRAPH (a) OR (b) OF THIS SUBSECTION (1) SHALL TRANSMIT A CERTIFIED COPY TO THE GOVERNING BODY OF EACH OTHER MUNICIPALITY OR COUNTY NAMED IN THE ORIGINAL ORDINANCE TO BE A PART OF THE PROPOSED DISTRICT.

(d) THE GOVERNING BODY OF A MUNICIPALITY OR COUNTY THAT ENACTS AN ORDINANCE OR RESOLUTION PURSUANT TO PARAGRAPH (a) OR (b) OF THIS SUBSECTION (1) SHALL SUBMIT THE QUESTION OF THE CREATION OF A FOREST IMPROVEMENT DISTRICT INCLUDING THE ENTIRE TERRITORY OF THE MUNICIPALITY OR COUNTY TO THE ELIGIBLE ELECTORS OF THE MUNICIPALITY OR COUNTY AT A GENERAL OR SPECIAL ELECTION CONDUCTED IN ACCORDANCE WITH THE "UNIFORM ELECTION CODE OF 1992", ARTICLES 1 TO 13 OF TITLE 1, C.R.S. THE DISTRICT SHALL BE DEEMED CREATED IF A MAJORITY OF THE VOTES CAST IN THE ELECTION HELD IN ANY MUNICIPALITY OR COUNTY NAMED IN THE ORDINANCE OR RESOLUTION PROPOSING THE DISTRICT ARE IN FAVOR OF THE CREATION OF THE DISTRICT. THE TERRITORY OF THE DISTRICT SHALL COMPRISE THE COMBINED TERRITORY OF ALL MUNICIPALITIES AND COUNTIES IN WHICH THE ELIGIBLE ELECTORS APPROVE THE CREATION OF THE DISTRICT.

32-18-104. Board of directors - appointment - removal. (1) THE ORDINANCE OR RESOLUTION PROPOSING THE CREATION OF A FOREST IMPROVEMENT DISTRICT SHALL SPECIFY THE NUMBER OF DIRECTORS OF THE DISTRICT. A DISTRICT SHALL HAVE NO FEWER THAN SEVEN DIRECTORS. THE GOVERNING BODY OF EACH COUNTY OR MUNICIPALITY IN THE DISTRICT SHALL HAVE THE POWER TO APPOINT AND REMOVE AT LEAST ONE DIRECTOR. THE BOARD SHALL INCLUDE ONE DIRECTOR

REPRESENTING THE COLORADO STATE FOREST SERVICE, WHO SHALL BE APPOINTED AND MAY BE REMOVED BY THE STATE FORESTER. THE BOARD SHALL INCLUDE AT LEAST ONE REPRESENTATIVE OF AN ENVIRONMENTAL PROTECTION ORGANIZATION, ONE REPRESENTATIVE OF A CONSERVATION DISTRICT CREATED PURSUANT TO ARTICLE 70 OF TITLE 35, C.R.S., ANY PART OF WHICH IS WITHIN THE PROPOSED FOREST IMPROVEMENT DISTRICT, ONE REPRESENTATIVE OF A WATER CONSERVANCY DISTRICT CREATED PURSUANT TO ARTICLE 45 OF TITLE 37, C.R.S., ANY PART OF WHICH IS WITHIN THE PROPOSED FOREST IMPROVEMENT DISTRICT, AND ONE REPRESENTATIVE OF A FEDERAL LAND MANAGEMENT AGENCY, TO BE APPOINTED AND REMOVED IN THE MANNER PRESCRIBED BY THE ORDINANCE OR RESOLUTION PROPOSING THE CREATION OF THE DISTRICT.

(2) A DIRECTOR APPOINTED TO THE BOARD SHALL SERVE FOR A TERM OF FIVE YEARS UNLESS REMOVED PURSUANT TO SUBSECTION (1) OF THIS SECTION. A DIRECTOR MAY BE APPOINTED TO ADDITIONAL TERMS WITHOUT LIMITATION.

32-18-105. Board of directors - powers and duties. (1) IN ADDITION TO THE POWERS SPECIFIED IN SECTION 32-1-1001, THE BOARD HAS THE FOLLOWING POWERS FOR AND ON BEHALF OF THE DISTRICT:

(a) TO REVIEW ANY REPORTS AND STUDIES MADE AND TO OBTAIN ANY ADDITIONAL REPORTS AND STUDIES IT DEEMS NECESSARY PERTAINING TO THE COST AND IMPLEMENTATION OF FOREST IMPROVEMENT PROJECTS;

(b) TO RECEIVE AND ACCEPT FROM ANY SOURCE AID OR CONTRIBUTIONS OF MONEY, PROPERTY, LABOR, OR OTHER THINGS OF VALUE TO BE HELD, USED, AND APPLIED TO CARRY OUT THE PURPOSES OF THIS ARTICLE SUBJECT TO THE CONDITIONS UPON WHICH THE GRANTS OR CONTRIBUTIONS ARE MADE.

(c) TO DEVELOP REPORTING AND REVIEW REQUIREMENTS GOVERNING THE RECEIPT AND EXPENDITURES OF MONEYS RECEIVED BY THE DISTRICT; AND

(d) TO REVIEW AND TAKE ACTION ON A LANDOWNER'S APPLICATION TO CLAIM THE REIMBURSEMENT AUTHORIZED BY SECTION 32-18-109.

(2) IN EXERCISING ITS POWER UNDER THIS ARTICLE TO ENTER INTO CONTRACTS ON BEHALF OF THE DISTRICT, THE BOARD SHALL:

(a) TO THE EXTENT POSSIBLE, USE COMPETITIVE BIDDING IN ACCORDANCE WITH ARTICLE 103 OF TITLE 24, C.R.S.; AND

(b) GIVE DUE CONSIDERATION TO PERSONS AND BUSINESSES THAT ARE AUTHORIZED TO TRANSACT BUSINESS IN COLORADO.

32-18-106. Financial powers. (1) IN ADDITION TO THE GENERAL FINANCIAL POWERS SPECIFIED IN SECTION 32-1-1101, THE BOARD HAS THE POWER, FOR AND ON BEHALF OF THE DISTRICT, TO:

(a) LEVY AND COLLECT A SALES TAX IN ACCORDANCE WITH SECTION 32-18-107, SUBJECT TO THE REQUIREMENTS OF SECTION 20 OF ARTICLE X OF THE STATE CONSTITUTION; AND

(b) PLEDGE SALES TAX REVENUES OR ANY PORTION THEREOF FOR THE PAYMENT OF ANY INDEBTEDNESS OF THE DISTRICT.

(2) THE ORDINANCE OR RESOLUTION PROPOSING THE CREATION OF A FOREST IMPROVEMENT DISTRICT MAY SPECIFY A LIMIT ON THE AMOUNT OF REVENUE THAT A DISTRICT MAY RECEIVE.

32-18-107. Sales tax - collection - administration. (1) UPON THE APPROVAL OF THE ELIGIBLE ELECTORS IN THE DISTRICT AT AN ELECTION HELD IN ACCORDANCE WITH SECTION 20 OF ARTICLE X OF THE STATE CONSTITUTION AND PART 8 OF ARTICLE 1 OF THIS TITLE, THE DISTRICT SHALL HAVE THE POWER TO LEVY A UNIFORM SALES TAX THROUGHOUT THE ENTIRE GEOGRAPHICAL AREA OF THE DISTRICT UPON EVERY TRANSACTION OR OTHER INCIDENT WITH RESPECT TO WHICH A SALES TAX IS LEVIED BY THE STATE PURSUANT TO THE PROVISIONS OF ARTICLE 26 OF TITLE 39, C.R.S. A SALES TAX LEVIED BY A DISTRICT SHALL TAKE EFFECT ON EITHER JANUARY 1 OR JULY 1 OF THE YEAR SPECIFIED IN THE BALLOT ISSUE SUBMITTED TO THE ELIGIBLE ELECTORS OF THE DISTRICT.

(2) (a) THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OF REVENUE SHALL COLLECT, ADMINISTER, AND ENFORCE THE SALES TAX AUTHORIZED BY THIS SECTION IN THE SAME MANNER AS THE STATE SALES TAX IMPOSED PURSUANT TO ARTICLE 26 OF TITLE 39, C.R.S., INCLUDING, WITHOUT LIMITATION, THE RETENTION BY A VENDOR OF THE PERCENTAGE OF THE AMOUNT REMITTED TO COVER THE VENDOR'S EXPENSE IN THE COLLECTION AND REMITTANCE OF THE SALES TAX AS PROVIDED IN SECTION 39-26-105, C.R.S. THE EXECUTIVE DIRECTOR SHALL DISTRIBUTE SALES TAX COLLECTIONS TO THE DISTRICT MONTHLY. THE DISTRICT SHALL PAY THE NET INCREMENTAL COST INCURRED BY THE DEPARTMENT OF REVENUE IN THE ADMINISTRATION AND COLLECTION OF THE SALES TAX.

(b) (I) A QUALIFIED PURCHASER, AS DEFINED IN SECTION 39-26-102 (7.5), C.R.S., MAY PROVIDE A DIRECT PAYMENT PERMIT NUMBER ISSUED PURSUANT TO SECTION 39-26-103.5, C.R.S., TO ANY VENDOR OR RETAILER THAT IS LIABLE AND RESPONSIBLE FOR COLLECTING AND REMITTING ANY SALES TAX LEVIED ON ANY SALE MADE TO THE QUALIFIED PURCHASER PURSUANT TO THIS SECTION. A VENDOR OR RETAILER THAT HAS RECEIVED A DIRECT PAYMENT PERMIT NUMBER IN GOOD FAITH FROM A QUALIFIED PURCHASER SHALL NOT BE LIABLE OR RESPONSIBLE FOR COLLECTION AND REMITTANCE OF ANY SALES TAX IMPOSED ON THE SALE THAT IS PAID FOR DIRECTLY FROM THE QUALIFIED PURCHASER'S FUNDS AND NOT THE PERSONAL FUNDS OF ANY INDIVIDUAL.

(II) A QUALIFIED PURCHASER THAT PROVIDES A DIRECT PAYMENT PERMIT NUMBER TO A VENDOR OR RETAILER SHALL BE LIABLE AND RESPONSIBLE FOR THE AMOUNT OF SALES TAX LEVIED ON ANY SALE MADE TO THE QUALIFIED PURCHASER PURSUANT TO THE PROVISIONS OF THIS ARTICLE IN THE SAME MANNER AS LIABILITY WOULD BE IMPOSED ON A QUALIFIED PURCHASER FOR STATE SALES TAX PURSUANT TO SECTION 39-26-105 (3), C.R.S.

(3) A SALES TAX LEVIED IN ACCORDANCE WITH THIS SECTION IS IN ADDITION TO ANY OTHER SALES OR USE TAX IMPOSED PURSUANT TO LAW AND IS EXEMPT FROM THE LIMITATION IMPOSED BY SECTION 29-2-108, C.R.S.

32-18-108. Use of revenue. (1) THE BOARD MAY USE THE REVENUE RECEIVED PURSUANT TO SECTION 32-18-106 TO:

(a) PLAN AND IMPLEMENT FOREST IMPROVEMENT PROJECTS IN WILD LAND-URBAN INTERFACE AREAS, INCLUDING PROJECTS TO REDUCE HAZARDOUS FUELS AND PROTECT COMMUNITIES, IN COOPERATION WITH THE STATE FOREST SERVICE, THE DIVISION OF PARKS AND OUTDOOR RECREATION IN THE DEPARTMENT OF NATURAL RESOURCES, CONSERVATION DISTRICTS CREATED PURSUANT TO ARTICLE 70 OF TITLE 35, C.R.S., THE UNITED STATES FOREST SERVICE, AND THE FEDERAL BUREAU OF LAND MANAGEMENT AND OTHER AGENCIES IN THE UNITED STATES DEPARTMENT OF THE INTERIOR;

(b) ESTABLISH FINANCIAL INCENTIVES FOR PRIVATE LANDOWNERS TO MITIGATE WILDFIRE RISKS ON THEIR PROPERTY, INCLUDING REIMBURSEMENT OF EXPENSES PURSUANT TO SECTION 32-18-109;

(c) ESTABLISH INCENTIVES FOR LOCAL WOOD PRODUCTS INDUSTRIES TO IMPROVE THE USE OF OR ADD VALUE TO SMALL-DIAMETER OR BEETLE-INFESTED TREES;

(d) MATCH STATE AND FEDERAL GRANTS FOR BIOHEATING CONVERSION AND INFRASTRUCTURE SUPPORT FOR BIOMASS COLLECTION AND DELIVERY; AND

(e) ASSIST THE STATE FOREST SERVICE IN ENSURING THAT ALL COMMUNITIES AT RISK OF WILDFIRE WITHIN THE DISTRICT HAVE ADOPTED A COMMUNITY WILDFIRE PROTECTION PLAN AND ARE USING APPROPRIATE PLANNING, EDUCATION, AND OUTREACH TOOLS.

32-18-109. Wildfire mitigation measures - private land - reimbursement.

(1) A LANDOWNER WHO PERFORMS WILDFIRE MITIGATION MEASURES ON HIS OR HER LAND IN A DISTRICT IN ANY YEAR MAY REQUEST REIMBURSEMENT FROM THE DISTRICT, IN AN AMOUNT NOT TO EXCEED FIFTY PERCENT OF THE LANDOWNER'S DIRECT COSTS OF PERFORMING THE WILDFIRE MITIGATION MEASURES IN THAT YEAR OR TEN THOUSAND DOLLARS, WHICHEVER IS LESS.

(2) A LANDOWNER WHO PERFORMS WILDFIRE MITIGATION MEASURES ON HIS OR HER LAND MAY REQUEST REIMBURSEMENT FROM A DISTRICT IN ACCORDANCE WITH THIS SECTION IF THE WILDFIRE MITIGATION MEASURES ARE:

(a) PERFORMED WITHIN THE BOUNDARIES OF THE DISTRICT;

(b) PERFORMED IN A WILD LAND-URBAN INTERFACE AREA;

(c) AUTHORIZED BY A COMMUNITY WILDFIRE PROTECTION PLAN ADOPTED BY A LOCAL GOVERNMENT WITHIN THE DISTRICT; AND

(d) APPROVED BY THE BOARD.

(3) A LANDOWNER WHO INTENDS TO REQUEST REIMBURSEMENT FROM A DISTRICT AS AUTHORIZED BY THIS SECTION SHALL FILE AN APPLICATION WITH THE BOARD IN THE FORM PRESCRIBED BY THE BOARD. IF THE BOARD DETERMINES THAT THE WILDFIRE MITIGATION MEASURES PERFORMED BY THE LANDOWNER MEET THE

REQUIREMENTS OF THIS SECTION, THE BOARD MAY REIMBURSE THE LANDOWNER IN AN AMOUNT DETERMINED BY THE BOARD IN ITS DISCRETION; EXCEPT THAT THE AMOUNT OF REIMBURSEMENT PAID TO A LANDOWNER IN ANY YEAR SHALL NOT EXCEED FIFTY PERCENT OF THE LANDOWNER'S DIRECT COSTS OF PERFORMING THE WILDFIRE MITIGATION MEASURES IN THAT YEAR OR TEN THOUSAND DOLLARS, WHICHEVER IS LESS.

SECTION 3. 29-2-108 (3), Colorado Revised Statutes, is amended to read:

29-2-108. Limitation on amount. (3) A tax imposed pursuant to ~~section 24-90-110.7 (3) (f), 29-1-204.5 (3) (f.1), 29-2-103.7, 29-2-103.9, 30-11-107.5, 30-11-107.7, or 37-50-110~~ SECTION 24-90-110.7 (3) (f), 29-1-204.5 (3) (f.1), 29-2-103.7, 29-2-103.9, 30-11-107.5, 30-11-107.7, 32-18-107, OR 37-50-110, C.R.S., and the additional tax authorized by section 30-20-604.5, C.R.S., if imposed, shall be exempt from the six and ninety one-hundredths percent limitation imposed by subsection (1) of this section.

SECTION 4. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Approved: April 9, 2007