

CHAPTER 251

GOVERNMENT - SPECIAL DISTRICTS

HOUSE BILL 09-1217

BY REPRESENTATIVE(S) Murray, Gardner B., Gerou, Kerr J., Labuda, Liston, Marostica, Massey, McNulty, Priola, May, Nikkel, Waller, Carroll T.;
also SENATOR(S) Scheffel.

AN ACT

CONCERNING THE CREATION OF LOCAL IMPROVEMENT DISTRICTS FOR THE PURPOSE OF IMPROVING PUBLIC UTILITIES.

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

SECTION 1. 30-20-603 (1) (a), Colorado Revised Statutes, is amended, and the said 30-20-603 (1) is further amended BY THE ADDITION OF THE FOLLOWING NEW PARAGRAPHS, to read:

30-20-603. Improvements and funding 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, OR FUNDING, IN WHOLE OR IN PART, any public improvement, so long as the county that forms the district is authorized to provide such improvement OR PROVIDE FOR SUCH FUNDING under the county's home rule charter, if any, or the laws of this state. Public improvements OR THE FUNDING THEREOF 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, OR SERVICE IMPROVEMENTS, 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

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

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. THE TERM "SERVICE" AS USED IN THIS PARAGRAPH (a) INCLUDES THE SERVICES PROVIDED BY A PUBLIC UTILITY AS DEFINED IN SECTION 40-1-103, C.R.S., AS WELL AS ADVANCED SERVICE AS DEFINED IN SECTION 29-27-102 (1), C.R.S., CABLE TELEVISION SERVICE AS DEFINED IN SECTION 29-27-102 (2), C.R.S., TELECOMMUNICATIONS SERVICE AS DEFINED IN SECTION 40-15-102 (29), C.R.S., GEOTHERMAL HEAT SUPPLIERS AS DEFINED IN SECTION 40-40-103, C.R.S., AND INFORMATION SERVICE AS DEFINED IN 47 U.S.C. SEC. 153 (20), OR ANY SUCCESSOR SECTION.

(f) ANY DISTRICT FORMED PURSUANT TO THIS PART 6 AND THE COUNTY THAT FORMS THE DISTRICT SHALL IMPLEMENT THE FUNDING AUTHORIZED BY THIS PART 6 FOR SERVICE IMPROVEMENTS AS DEFINED IN PARAGRAPH (a) OF THIS SUBSECTION (1) IN A NONDISCRIMINATORY AND TECHNOLOGICALLY AND COMPETITIVELY NEUTRAL MANNER.

(g) ANY PUBLIC UTILITY OR TELECOMMUNICATIONS SERVICE IMPROVEMENT FUNDED BY A DISTRICT ESTABLISHED PURSUANT TO THIS PART 6 SHALL BE CONSTRUCTED ONLY BY OR IN AGREEMENT WITH A PUBLIC UTILITY OR TELECOMMUNICATIONS SERVICE PROVIDER DULY AUTHORIZED BY THE PUBLIC UTILITIES COMMISSION, AS APPLICABLE, TO PROVIDE SERVICE, FACILITIES, PLANT OR SYSTEMS IN THE AREA IN WHICH THE PUBLIC UTILITY OR TELECOMMUNICATIONS SERVICE IMPROVEMENT IS TO BE CONSTRUCTED AND SHALL BE OWNED, OPERATED, AND MAINTAINED BY SUCH PUBLIC UTILITY OR TELECOMMUNICATIONS SERVICE PROVIDER. ALL OTHER SERVICE IMPROVEMENTS AS DEFINED IN PARAGRAPH (a) OF THIS SUBSECTION (1) FUNDED PURSUANT TO THIS PART 6 SHALL BE CONSTRUCTED BY OR IN AGREEMENT WITH THE SERVICE PROVIDER AND OWNED AND OPERATED BY THE SERVICE PROVIDER. NO DISTRICT FORMED PURSUANT TO THIS PART 6, NOR THE COUNTY THAT FORMS THE DISTRICT, SHALL USE THE AUTHORITY SET FORTH HEREIN TO PROVIDE, DIRECTLY OR INDIRECTLY, ANY SERVICES AS DEFINED IN PARAGRAPH (a) OF THIS SUBSECTION (1). NO DISTRICT FORMED PURSUANT TO THIS PART 6, NOR THE COUNTY THAT FORMS THE DISTRICT, SHALL HAVE ANY RIGHT, TITLE, OR INTEREST IN ANY SERVICE IMPROVEMENT AS DEFINED IN PARAGRAPH (a) OF THIS SUBSECTION (1) FUNDED BY A DISTRICT ESTABLISHED PURSUANT TO THIS PART 6.

(h) NOTHING IN THIS PART 6 SHALL EXTEND, DIMINISH, OR OTHERWISE ALTER THE JURISDICTION OF THE PUBLIC UTILITIES COMMISSION CREATED IN SECTION 40-2-101, C.R.S.

SECTION 2. Act subject to petition - 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, (August 5, 2009, if adjournment sine die is on May 6, 2009); 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: May 14, 2009