

## CHAPTER 74

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**GOVERNMENT - SPECIAL DISTRICTS**


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**HOUSE BILL 09-1072**

BY REPRESENTATIVE(S) Middleton, Acree, Labuda, Merrifield, Priola, Roberts, Ryden, Scanlan, Schafer S., Todd;  
also SENATOR(S) Hudak, Carroll M., Foster, Schwartz, Williams.

**AN ACT****CONCERNING MODIFICATIONS TO STATUTORY PROVISIONS ADDRESSING THE GOVERNANCE OF LIBRARY DISTRICTS.**

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

**SECTION 1.** 24-90-103 (4.5), (5), (6), and (15), Colorado Revised Statutes, are amended to read:

**24-90-103. Definitions.** As used in this article, unless the context otherwise requires:

(4.5) "Legal service area" means the geographic area for which a public library has been established to offer services and from which, or on behalf of which, the library derives income. A "legal service area" shall be defined in terms of geographic units for which official population estimates can be obtained or derived annually from ~~either the United States census bureau or the Colorado state data center.~~ LEGAL SERVICE AREA POPULATION ESTIMATES SHALL BE COLLECTED AND REPORTED ACCORDING TO GUIDELINES DEVELOPED BY THE STATE LIBRARY. "Legal service area" includes any areas served under contract for which the library is the primary provider of library services and for which the library receives funds to serve.

(5) "Legislative body" means the body authorized to determine the amount of taxes to be levied in a governmental unit or in a library district or that undertakes other action on behalf of the governmental unit or library district as specified in this article. GOVERNING BODIES TO WHICH THE TERM LEGISLATIVE BODY MAY APPLY INCLUDE BUT ARE NOT LIMITED TO A BOARD OF COUNTY COMMISSIONERS, A CITY COUNCIL, A TOWN BOARD OF TRUSTEES, OR A LIBRARY BOARD OF TRUSTEES AS THE CONTEXT REQUIRES.

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

(6) "Library district" means a public library established ~~and maintained~~ AS ITS OWN TAXING AUTHORITY by one or more governmental units or parts thereof. A library district shall be a political subdivision of the state.

(15) "Registered elector" OR "ELECTOR" means a person who is registered to vote at general elections in this state.

**SECTION 2.** 24-90-105 (1), Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW PARAGRAPH to read:

**24-90-105. Powers and duties of state librarian.** (1) The state librarian has the following powers and duties with respect to the state library:

(m) TO SERVE AS THE REPOSITORY OF THE BYLAWS AND THE LEGAL SERVICE AREA MAPS OF ALL LIBRARY DISTRICTS WITHIN THE STATE.

**SECTION 3.** 24-90-106.5, Colorado Revised Statutes, is amended to read:

**24-90-106.5. Establishment or removal of a municipal library in an existing county library or library district.** If a municipality is ~~included~~ in the LEGAL service area of an existing county library or library district, public library service shall not be refused or discontinued other than as provided in this article. The municipality may establish its own municipal library only by choosing to do so by means of financial support that does not affect the financial support previously established for the county library or library district; except that the municipality and the county library or library district may, by mutual written agreement, permit a financing method for a municipal library that does affect the financial support previously established for the county library or library district. If establishment of the municipal library is to be funded by any amount of tax levy not previously established by resolution or ordinance nor previously approved by the electors of the municipality, the electors must approve that levy before the municipality can establish the library.

**SECTION 4.** 24-90-107 (2) (a), (2) (e), and (3) (h), Colorado Revised Statutes, are amended to read:

**24-90-107. Method of establishment.** (2) If establishment of a municipal, county, or joint library or a library district is to be by resolution or ordinance, the following procedures shall be followed:

(a) A public ~~hearings~~ HEARING following notice shall be held by ~~those~~ ANY governmental ~~units~~ UNIT forming the public library. Such notice shall set forth the matters to be included in the resolution or ordinance and shall fix a date for the hearing ~~which~~ THAT shall be not less than thirty nor more than sixty days after the date of first publication of such notice.

(e) Upon establishment of a joint library or library district, and after appointment of the library board of trustees, a written agreement between the legislative body of each participating governmental unit and the library board of trustees shall be effected within ninety days, WHICH TIME FRAME MAY BE EXTENDED BY MUTUAL

AGREEMENT OF THE PARTIES, and shall set forth fully the rights, obligations, and responsibilities, financial and otherwise, of all parties to the agreement, INCLUDING PROVISIONS CONCERNING:

(I) THE TRANSITION FROM THE LIBRARY TO A LIBRARY DISTRICT, SUCH AS OWNERSHIP OF THE LIBRARY'S REAL AND PERSONAL PROPERTY, PERSONNEL, AND THE PROVISION OF ADMINISTRATIVE SERVICES DURING THE TRANSITION;

(II) THE METHOD OF TRUSTEE SELECTION; AND

(III) SUCH OTHER NECESSARY TERMS AND CONDITIONS AS MAY BE DETERMINED BY THE PARTIES.

(3) If establishment of a county or municipal library or a library district is by petition of registered electors, the following procedures shall be followed:

(h) Upon establishment of a library district, and after appointment of the library board of trustees, a written agreement between the legislative body of each participating governmental unit and the library board of trustees shall be effected within ninety days, WHICH TIME FRAME MAY BE EXTENDED BY MUTUAL AGREEMENT OF THE PARTIES, and shall set forth fully the rights, obligations, and responsibilities, financial and otherwise, of all parties to the agreement, INCLUDING PROVISIONS CONCERNING:

(I) THE TRANSITION FROM THE LIBRARY TO A LIBRARY DISTRICT, SUCH AS OWNERSHIP OF THE LIBRARY'S REAL AND PERSONAL PROPERTY, PERSONNEL, AND THE PROVISION OF ADMINISTRATIVE SERVICES DURING THE TRANSITION;

(II) THE METHOD OF TRUSTEE SELECTION; AND

(III) SUCH OTHER NECESSARY TERMS AND CONDITIONS AS MAY BE DETERMINED BY THE PARTIES.

**SECTION 5.** 24-90-108 (2) (c), Colorado Revised Statutes, is amended to read:

**24-90-108. Board of trustees of public libraries.** (2) (c) ~~In library districts, the legislative body of each participating governmental unit shall appoint two of its members to a committee that shall appoint the initial board of trustees.~~ In a library district established by only one governmental unit, the legislative body of the governmental unit shall decide the number of ITS members to be appointed to the committee formed to appoint the initial board of trustees in accordance with the requirements of this paragraph (c). IN A LIBRARY DISTRICT ESTABLISHED BY MORE THAN ONE GOVERNMENTAL UNIT, THE LEGISLATIVE BODY OF EACH PARTICIPATING GOVERNMENTAL UNIT SHALL APPOINT TWO OF ITS MEMBERS TO A COMMITTEE THAT SHALL APPOINT THE INITIAL BOARD OF TRUSTEES. Thereafter, any such legislative body OR BODIES may either continue such a committee or delegate to the board of trustees of the library district the authority to recommend new trustees. Trustee appointments shall be ratified by a two-thirds majority of the legislative body; except that the failure of a legislative body to act within sixty days upon a recommendation shall be considered a ratification of such appointment.

**SECTION 6.** 24-90-109 (1) (a), (1) (b), (1) (c), (1) (d), (1) (m), (1) (o), (1) (q), (2), and (4), Colorado Revised Statutes, are amended, and the said 24-90-109 (1) is further amended BY THE ADDITION OF A NEW PARAGRAPH, to read:

**24-90-109. Powers and duties of board of trustees.** (1) The board of trustees shall:

(a) Adopt such bylaws, rules, and regulations for its own guidance and POLICIES for the ~~government~~ GOVERNANCE of the library as it deems expedient. The bylaws shall include, but not be limited to, provisions for the definition of good cause to be applied in the removal of a trustee pursuant to section 24-90-108 (5); designation of those officers to be appointed or elected and the manner of such appointment or election; rules and regulations for the conducting of meetings; rules for public participation in meetings; and procedures for amending the bylaws. The bylaws of a library district shall further provide for the length and number of terms of board members. A copy of the bylaws shall be filed with the legislative body of each participating governmental unit AND THE STATE LIBRARY IN ACCORDANCE WITH SECTION 24-90-105 (1) (m).

(b) Have ~~supervision, care, and~~ custody of all property of the library, including rooms or buildings constructed, leased, or set apart therefor;

(c) Employ a ~~librarian~~ DIRECTOR and, upon the ~~librarian's~~ DIRECTOR'S recommendation, employ such other employees as may be necessary. ~~prescribe their duties, and fix their compensation;~~ THE DUTIES OF THE DIRECTOR SHALL INCLUDE, BUT NOT BE LIMITED TO:

(I) IMPLEMENTING THE POLICIES ADOPTED BY THE BOARD OF TRUSTEES PURSUANT TO PARAGRAPH (a) OF SUBSECTION (1) OF THIS SECTION;

(II) RECOMMENDING INDIVIDUALS FOR EMPLOYMENT BY THE BOARD OF TRUSTEES; AND

(III) PERFORMING ALL OTHER ACTS NECESSARY FOR THE ORDERLY AND EFFICIENT MANAGEMENT AND CONTROL OF THE LIBRARY.

(d) Submit annually a budget as required by law and certify to the legislative body of the governmental unit ~~which~~ OR UNITS THAT the library serves the ~~sums~~ AMOUNT OF THE MILL LEVY necessary to maintain and operate the library during the ensuing year;

(m) ~~Authorize~~ ADOPT A POLICY FOR the purchase of library materials and equipment on the recommendation of the librarian;

(o) ~~Do all other acts necessary for the orderly and efficient management and control of the library;~~

(p.5) MAINTAIN A CURRENT, ACCURATE MAP OF THE LEGAL SERVICE AREA AND PROVIDE FOR SUCH MAP TO BE ON FILE WITH THE STATE LIBRARY;

(q) Receive the true and correct copies of all school district collective bargaining

agreements submitted pursuant to the "Colorado School Collective Bargaining Agreement Sunshine Act", section 22-32-109.4, C.R.S., and create a AN ELECTRONIC OR PHYSICAL repository for all of said current collective bargaining agreements at the library that is available to the public for inspection during regular business hours in a convenient and identified location.

(2) At the close of each calendar year, the board of trustees of every public library shall make a report to the legislative body ~~or bodies of the appropriate governmental unit or units~~ OF THE TOWN OR CITY, IN THE CASE OF A MUNICIPAL LIBRARY OR LIBRARY DISTRICT FORMED BY A MUNICIPALITY, OR THE BOARD OF COUNTY COMMISSIONERS OF EACH COUNTY HAVING TERRITORY WITHIN THE LEGAL SERVICE AREA, IN THE CASE OF A COUNTY LIBRARY OR LIBRARY DISTRICT, showing the condition of its trust during the year, the sums of money expended, and the purposes of the expenditures and such other statistics and information as the board of trustees deems to be of public interest.

(4) In addition to the powers and duties of a board of trustees specified in subsection (1) of this section, the board of trustees of a school district supported public library, municipal library, county library, or a library district shall have the authority to request of the board of education in the case of a school district supported public library, the legislative body of the city or town in the case of a municipal library, or the board of county commissioners in the case of a county library or library district that an election be held to alter the maximum tax levied to support the school district supported public library, municipal library, county library, or library district pursuant to section 24-90-112 (1) (b) (III), IN WHICH CASE SUCH BOARD OF EDUCATION, LEGISLATIVE BODY, OR BOARD OF COUNTY COMMISSIONERS SHALL CAUSE THE VOTE TO BE HELD. For purposes of this subsection (4), "school district supported public library" means any library solely established and maintained by a school district for which such school district began levying a tax before the enactment of the "Colorado Library Law" on July 1, 1979. For all other purposes under this article, a school district supported public library shall be deemed a public library.

**SECTION 7.** 24-90-112 (1) (b) (III), (2) (a), and (2) (c), Colorado Revised Statutes, are amended to read:

**24-90-112. Tax support - elections.** (1) (b) (III) Notwithstanding the authorization contained in paragraph (a) of this subsection (1) and in addition to the provisions of subparagraph (I) of this paragraph (b), upon request of the board of trustees of the municipal or county library or the library district, or upon resolution of the legislative body of the city or town by its own initiative in the case of a municipal library, of the board of education of the school district by its own initiative in the case of a school district supported public library, or of the board of county commissioners by its own initiative in the case of a county library or library district, the legislative body of the city or town, the board of education of the school district, or the board of county commissioners shall ~~submit~~ CAUSE TO BE SUBMITTED to a vote of the registered electors residing within the library's legal service area a proposition containing the desired maximum tax levy specified in the request or resolution.

(2) (a) The treasurer of the governmental unit in which such library is located or,

if a library district has been established embracing parts or all of more than one county, the treasurer of the county containing the largest valuation for assessment of property for tax purposes of the said district shall be the custodian of all moneys for the library, whether derived from taxation, gift, sale of library property, or otherwise. All moneys generated for library purposes shall be credited to a special fund in the office of said treasurer to be known as the public library fund. The fund, together with all interest income ~~which~~ THAT accrues thereon on and after July 1, 1991, shall be used only for library purposes. ~~and shall be expended only upon warrants signed by the president of the board of trustees or his designee.~~

(c) If requested by the board of trustees, the treasurer designated as custodian of the library's money pursuant to paragraph (a) of this subsection (2) may transfer moneys into the custody of the board, but the board shall carry a ~~bond~~ INSURANCE for such purpose, make monthly accountings to said treasurer, and cause an annual audit to be performed and submitted to said treasurer with respect to the board's management of said moneys.

**SECTION 8. 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: April 2, 2009