

CHAPTER 385

GOVERNMENT - SPECIAL DISTRICTS

HOUSE BILL 10-1243

BY REPRESENTATIVE(S) McFadyen, Massey, May, Scanlan, Gerou, Merrifield, Tyler;
also SENATOR(S) Gibbs, Tapia, Williams, Bacon, Boyd, Foster, Newell.

AN ACT

CONCERNING THE POWERS OF A SPECIAL DISTRICT THAT PROVIDES TRANSPORTATION-RELATED SERVICES, AND, IN CONNECTION THEREWITH, AUTHORIZING A SPECIAL DISTRICT THAT PROVIDES SUCH SERVICES TO LEVY A VOTER-APPROVED SALES TAX AND TO JOIN A REGIONAL TRANSPORTATION AUTHORITY.

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

SECTION 1. 30-20-604.5 (1), Colorado Revised Statutes, is amended to read:

30-20-604.5. District sales tax. (1) The board of any county ~~having a population greater than one hundred thousand~~ or of any city that has been authorized to become a city and county pursuant to an amendment to the state constitution that has been approved by the registered electors of the state of Colorado and that subsequently becomes a city and county ~~regardless of population~~, for the purpose of funding all or a portion of the cost of any improvements constructed or transportation services provided pursuant to section 30-20-603 (1) (a), (1) (a.5), and (1) (c), may levy a sales tax throughout the district upon every transaction or other incident with respect to which a sales tax is authorized pursuant to section 29-2-105, C.R.S.; except that such tax may be levied only upon those transactions specified in section 39-26-104 (1) (a), (1) (b), (1) (e), and (1) (f), C.R.S. The board may, in its discretion, levy or continue to levy a sales tax on the sales of low-emitting motor vehicles, power sources, or parts used for converting such power sources as specified in section 39-26-719 (1), C.R.S.

SECTION 2. Part 11 of article 1 of title 32, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SECTION to read:

32-1-1106. Special financial provisions - metropolitan districts that provide street improvement, safety protection, or transportation services. (1) IN

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

ADDITION TO THE POWERS SPECIFIED IN SECTION 32-1-1101, THE BOARD OF A METROPOLITAN DISTRICT ORGANIZED WITH STREET IMPROVEMENT, SAFETY PROTECTION, OR TRANSPORTATION POWERS AS DESCRIBED IN SECTION 32-1-1004 (2) (d), (2) (f), (2) (h), AND (5) HAS THE POWER, FOR AND ON BEHALF OF THE DISTRICT, TO LEVY A UNIFORM SALES TAX, AT A RATE DETERMINED BY THE BOARD, UPON EVERY TRANSACTION OR OTHER INCIDENT WITH RESPECT TO WHICH A SALES TAX IS LEVIED BY THE STATE THAT OCCURS WITHIN ANY AREA OF THE DISTRICT THAT IS NOT ALSO WITHIN THE BOUNDARIES OF AN INCORPORATED MUNICIPALITY SUBJECT TO THE FOLLOWING LIMITATIONS:

(a) THE BOARD MAY LEVY THE TAX ONLY IF THE QUESTION OF LEVYING THE TAX IS SUBMITTED TO AND APPROVED BY A MAJORITY OF THE REGISTERED ELECTORS OF THE PORTION OF THE DISTRICT IN WHICH THE TAX IS TO BE LEVIED VOTING AT A REGULAR DISTRICT ELECTION OR AT A SPECIAL ELECTION HELD ON THE TUESDAY AFTER THE FIRST MONDAY OF NOVEMBER IN AN EVEN-NUMBERED YEAR OR ON THE TUESDAY AFTER THE FIRST MONDAY OF NOVEMBER IN AN ODD-NUMBERED YEAR IN ACCORDANCE WITH THE PROVISIONS OF THIS ARTICLE AND SECTION 20 OF ARTICLE X OF THE STATE CONSTITUTION. THE BALLOT ISSUE SHALL PROVIDE THAT THE TAX TO BE LEVIED SHALL BE IN ADDITION TO ANY OTHER TAXES LEVIED BY THE DISTRICT. THE DISTRICT SHALL PAY ALL COSTS OF THE ELECTION, AND NO DISTRICT MONEYS MAY BE USED TO URGE OR OPPOSE PASSAGE OF THE BALLOT ISSUE SUBMITTED AT THE ELECTION.

(b) THE NET REVENUES OF ANY SALES OR USE TAX LEVIED MAY BE USED ONLY TO FUND ONE OR MORE OF THE FOLLOWING:

(I) SAFETY PROTECTION, AS DESCRIBED IN SECTION 32-1-1004 (2) (d), IN AREAS OF THE DISTRICT IN WHICH THE TAX IS TO BE LEVIED;

(II) STREET IMPROVEMENT, AS DESCRIBED IN SECTION 32-1-1004 (2) (f), IN AREAS OF THE DISTRICT IN WHICH THE TAX IS TO BE LEVIED; OR

(III) TRANSPORTATION, AS DESCRIBED IN, AND LIMITED BY THE PROVISIONS OF, SECTION 32-1-1004 (2) (h) AND (5).

(2) (a) THE COLLECTION, ADMINISTRATION, AND ENFORCEMENT OF ANY SALES TAX LEVIED BY A METROPOLITAN DISTRICT PURSUANT TO SUBSECTION (1) OF THIS SECTION SHALL BE PERFORMED BY THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OF REVENUE IN THE SAME MANNER AS THAT FOR THE COLLECTION, ADMINISTRATION, AND ENFORCEMENT OF THE STATE SALES TAX LEVIED 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 MAKE MONTHLY DISTRIBUTIONS OF SALES TAX COLLECTIONS TO THE DISTRICT. THE DISTRICT SHALL PAY THE NET INCREMENTAL COST INCURRED BY THE DEPARTMENT IN THE ADMINISTRATION AND COLLECTION OF THE SALES TAX.

(b) (I) A QUALIFIED PURCHASER MAY PROVIDE A DIRECT PAYMENT PERMIT NUMBER ISSUED PURSUANT TO SECTION 39-26-103.5, C.R.S., TO A VENDOR OR RETAILER THAT IS LIABLE AND RESPONSIBLE FOR COLLECTING AND REMITTING ANY

SALES TAX LEVIED ON A SALE MADE TO THE QUALIFIED PURCHASER PURSUANT TO THE PROVISIONS OF THIS ARTICLE. 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 LEVIED ON A SALE THAT IS PAID FOR DIRECTLY FROM THE QUALIFIED PURCHASER'S FUNDS AND NOT THE PERSONAL FUNDS OF AN 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 A SALE MADE TO THE QUALIFIED PURCHASER PURSUANT TO THE PROVISIONS OF THIS ARTICLE IN THE SAME MANNER AS LIABILITY WOULD BE LEVIED ON A QUALIFIED PURCHASER FOR STATE SALES TAX PURSUANT TO SECTION 39-26-105 (3), C.R.S.

(3) REVENUES RAISED BY A METROPOLITAN DISTRICT THROUGH THE LEVY OF A SALES TAX PURSUANT TO SUBSECTION (1) OF THIS SECTION SHALL BE IN ADDITION TO AND SHALL NOT BE USED TO SUPPLANT ANY STATE FUNDING THAT THE DISTRICT OR ANY COUNTY, MUNICIPALITY, REGIONAL TRANSPORTATION AUTHORITY, OR OTHER GOVERNMENTAL ENTITY THAT HAS TRANSPORTATION-RELATED POWERS AND THAT INCLUDES TERRITORY LOCATED WITHIN THE DISTRICT WOULD OTHERWISE BE ENTITLED TO RECEIVE FROM THE STATE OR ANY OTHER LOCAL GOVERNMENT, INCLUDING, BUT NOT LIMITED TO, ANY EXISTING OR BUDGETED DEPARTMENT OF TRANSPORTATION FUNDING OF ANY PORTION OF THE STATE HIGHWAY SYSTEM WITHIN THE TERRITORY OF THE AUTHORITY.

SECTION 3. 43-4-602 (4), Colorado Revised Statutes, is amended, and the said 43-4-602 is further amended BY THE ADDITION OF A NEW SUBSECTION, to read:

43-4-602. Definitions. As used in this part 6, unless the context otherwise requires:

(4) "Combination" means any two or more municipalities, two or more counties, or one or more municipalities and one or more counties. In addition, "combination" may include:

(a) ONE OR MORE SPECIAL DISTRICTS ORGANIZED WITH STREET IMPROVEMENT, SAFETY PROTECTION, OR TRANSPORTATION POWERS UNDER AND AS DEFINED IN ARTICLE 1 OF TITLE 32, C.R.S., AND ONE OR MORE MUNICIPALITIES, COUNTIES, OR COUNTIES AND MUNICIPALITIES.

(b) The state to the extent authorized by section 43-4-603 (5).

(16.7) "SPECIAL DISTRICT" HAS THE SAME MEANING AS PROVIDED IN SECTION 32-1-103 (20), C.R.S.

SECTION 4. 43-4-603 (3), Colorado Revised Statutes, is amended to read:

43-4-603. Creation of authorities. (3) No municipality, ~~or~~ county, OR SPECIAL DISTRICT shall enter into a contract establishing an authority without holding at least two public hearings thereon in addition to other requirements imposed by law for

public notice. The municipality, ~~or~~ county, OR SPECIAL DISTRICT shall give notice of the time, place, and purpose of the public hearing by publication in a newspaper of general circulation in the municipality, ~~or~~ county, OR SPECIAL DISTRICT, as the case may be, at least ten days prior to the date of the public hearing.

SECTION 5. 43-4-611 (2), Colorado Revised Statutes, is amended to read:

43-4-611. Powers of governmental units. (2) To assist in the financing, construction, operation, or maintenance of a regional transportation system, any county, ~~or~~ municipality, OR SPECIAL DISTRICT that is a member of a combination may, by contract, pledge to the authority all or a portion of the revenues it receives from the highway users tax fund or from any other legally available funds. The authority shall apply revenues that it receives pursuant to the pledge to the financing, construction, operation, or maintenance of any regional transportation system. The authority may refuse to accept any revenues that would cause a member of the combination to exceed its allowable fiscal year spending under section 20 of article X of the state constitution and that could result in a refund of excess revenues under said section 20.

SECTION 6. 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 (August 11, 2010, if adjournment sine die is on May 12, 2010); except that, if a referendum petition is filed pursuant to section 1 (3) of article V of the state constitution against this act or an item, section, or part of this act within such period, then the act, item, section, or part shall not take effect unless approved by the people at the general election to be held in November 2010 and shall take effect on the date of the official declaration of the vote thereon by the governor.

Approved: June 8, 2010