

Written Statement To
Colorado General Assembly - House of Representatives
Committee on State, Veterans and Military Affairs
In Support of HB 18-1181
April 5, 2018

Introduction

Thank you for allowing me to provide comments on Bill 18-1181. My name is Stephen Daniels. I am resident of the Eagle-Vail Metropolitan District, a special purpose district providing recreational amenities to our community of 3,500 residents in Eagle County, Colorado. While I am now a resident of Eagle-Vail, for many years I was an out of state property owner.

Simple Explanations Lead to Sound Policies.

The issue at hand with this bill is whether or not people should be taxed without representation. The reason to change this policy is simple. If any government intends to tax income, wealth or assets, citizens should be permitted to vote regarding those decisions or the people making those decisions. Providing voting rights to all special district voters is more important and significant due to the resort communities that bring investment and jobs to this state.

The founding of the United States and The Revolutionary War was triggered by the lack of voting rights. The King of England denied representation to Colonials in the English Parliament even when they were forced to pay taxes. On July 4, 1776, the Continental Congress formally adopted the Declaration of Independence:

"The history of the present King of Great Britain is a history of repeated injuries and usurpations, all having in direct object the establishment of an absolute Tyranny over these States. To prove this, let Facts be submitted to a candid world."

The list of complaints included:

"For imposing Taxes on us without our Consent.."

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Special Districts are Significant and Increasing in Number

According to the 2012 Census of Governments, there are 90,000 units of local government (i.e. counties, municipalities, school districts, townships and special districts) in the U.S., of which 38,000 are Special Districts. In Colorado there are 2,900 units of local government, of which 2,400 are Special Districts. Per the 2012 report:

"Every five years since 1952, the Census Bureau has completed a comprehensive count of all local governments in the country. The most dramatic changes have been the decline in independent school districts and the notable increase in special districts."

Per the National Conference of State Legislatures -

"Nine states allow non-resident voting in certain special district elections. New Mexico and Delaware have provisions allowing non-residents to vote in special district elections in addition to municipal elections."

Others may be better informed to describe the reasons for Special Districts in Colorado. Nevertheless, special districts have unique voting issues related to the underlying purposes. The existence of Special Districts minimize the electoral influence of property owners in resort areas that attract investment and jobs to Colorado from out of state.

Corporate World Discourages Disparate Voting Rights

*There are many compelling reasons why institutional investors strongly oppose dual-class stock structures that separate voting rights from cash-flow rights. In addition to the immediate deprivation of investors' voting rights, there is ample evidence that giving select shareholders control, that is far out of line with their ownership stakes, reduces company value. Such structures reduce oversight by, and accountability to, the actual majority owners of the company. They hamper the ability of boards of directors to execute their fiduciary duties to shareholders. And they can incentivize managers to act in their own interests, instead of acting in the interest of the company's owners..... Academic studies also reveal that dual-class structures underperform the market and have weaker corporate governance structures. For instance, a 2012 study funded by the Investor Responsibility Research Center Institute, and conducted by Institutional Shareholder Services Inc., found that controlled firms with multi-class capital structures not only underperform financially, but also have more material weaknesses in accounting controls and are riskier in terms of volatility. **Harvard Law School Forum on Corporate Governance - May 17, 2017 -***

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About Eagle-Vail Metropolitan District

The Eagle-Vail Metropolitan District has more than 1,500 homes and 2,500 registered voters. It is equal-distant between the Vail Ski Resort and Beaver Creek Ski Resort. As home to two world class ski resorts, Eagle County attracts visitors and investors from all over the United States and the world. These visitors buy residences, buy goods and services and creates jobs which benefit all of Colorado.

Unfortunately, due to voting restrictions, we have a “closed to voting sign”
at the entry point to our Special Districts.

The Eagle Vail Metro District taxpayers have faced several important political decisions over the last ten years (see list at end). These included two bond referendums, for a combined tax obligations of near \$30 million, two sales tax referenda, and several highly contested director elections. Two of these elections will be decided this May. With a near fifty percent turnout in the 2016 sales tax election, our community is increasingly engaged and concerned in political decisions. *(The 50% turnout does not count the potential voters that are denied voting rights as out of state property owners.)*

Denying Voting Rights to Any Group is Simply Not Fair.

If an Eagle-Vail property owners lives in Chicago, New York, Dallas or Miami they do not have the right to vote on issues affecting their property. Like other special districts in Colorado, Eagle-Vail has a number of properties owned by out of state taxpayers. Under current law, they are denied the right to vote regarding tax increases or directors. This inequity is more pronounced in resort areas where a large percentage of properties are are purchased by non-residents (50% of Eagle-Vail properties are owned by non-residents.) The inequity for non-resident property owners is less in special districts with with mostly permanent residents.

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There are Two Objections to the Effects of HB 11-1181
That Have Little Merit.

1. Passage of 1181 will create an unreasonable burden on Special Districts and DEOs (Designated Election Officials)
2. Second home “buyers” should have expected to not get to vote.

It is a counter-intuitive to suggest that DEOs who oversee elections do not have the time to count the votes of taxpayers paying for their services. The adverse effect on DEOs is also exaggerated. With available technology and the modest proportion of likely out of state voters, the actual effort required would be manageable.

While a second home buyer may expect to not vote, they also may not have anticipated arbitrary local decisions. These decisions may harm their properties or tax burden, Being able to participate in voting provides a means to protect their property for adverse decisions or a “tyranny of a minority.”

HB 18-1181 May Protect all Property Owners from the “Tyranny of the Minority”.

Let me cite an example: Some permanent residents In Eagle-Vail mention in private conversations that they “don’t care what second homeowners think”. This bias may have contributed to a small motivated group of about 50 full-time residents that proposed a \$20 million bond referendum. The bonds were needed to build poorly justified replacement facilities. The small group was successful in placing the referendum on the ballot. Professional fees of \$200,000 were incurred before the vote was taken (*representing a full 20% of annual general tax levy*). ***The proposal was defeated by 61% of the voters opposed to the referendum.***

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All property owners should be able to vote on important or controversial matters. A portion of property owners should not have a disproportionate influence. While democracy worked in one case in Eagle-Vail, non-residents were excluded from the electoral process. Including non-resident voters in elections would impair the influence of rogue minority groups.

HB 18-1181 - First Step in The Right Direction.

HB 18-1181 should receive consideration and be enacted. There are three improvements that would make the bill better. For districts that elect to follow HB 18-1181:

1. Out of state property owners voters should be permitted to vote **in all** district elections;
2. Out of state property owners voters should be permitted **to serve on the Board** in a voting capacity, not just in an ex-officio capacity; and,
3. Voters that can establish their ownership in real estate, through a non-person entity (i.e. trust or LLC), should **also** be permitted to vote in Special District elections.

Please consider and pass this bill for consideration to the House and Senate.

Electoral & Political Decisions Before Eagle-Vail Metro District
Which May be of Concern to Voters and Property Owners

- \$7.5 million bond issue - 2009
- \$20 million bond issue - 2015
- Sales tax proposal - 2016
- Sales tax proposal - 2018
- Directors Election - every two years
- Deferred maintenance - over \$20 million
- Other matters before Board
 - Open Seat
 - Gun Restrictions
 - Age of Community
 - Possible sale/development of recreational lands
- High health costs, high housing costs and low wages
- Shortage of affordable housing