

Kenneth J. Marchetti, CPA
Testimony in Support of HB 18-1181

Chairman Foote and members of the committee, thank you for the opportunity to present my input to you today. My name is Ken Marchetti with Marchetti & Weaver, LLC. I am a CPA and our office serves as district accountant, administrator or manager for about 60 special districts throughout the resort region of Colorado with many of our districts located in ski areas and primarily in the Vail area. I am here to support HB 1181 because it will be of great benefit to many of the Districts I represent.

I applaud Representative Liston for bringing this legislation before the Assembly. This has been a much-needed “legislative fix” for special districts in resort areas for many years.

I would like to give several examples where this legislation would be beneficial to districts I serve. One is Cordillera Valley Club Metropolitan District which is just a part of the larger Cordillera area. This District was formed in 2002 and has a provision in their service plan that states whenever an election is to be conducted to raise taxes or incur debt the ballot question will be submitted to both resident voters and in a secondary election to all property owners thus giving non-resident owners a vote. This provision was implemented as a cumbersome work-around to give non-resident owners a vote since the statutes don't directly permit this type of election. Since the implementation of this provision by Cordillera in 2003 this district has conducted three elections under this mechanism. In all three elections both the resident voter election and the election of all property owners passed. But the question has arisen, “What if the resident voters approve a tax increase and the non-resident voters vote it down, have the rights of the resident voters been impinged?” I believe HB 1181 will be a step forward in helping clarify this matter.

Another example is Arrowhead Metropolitan District. About ten years ago Arrowhead was considering the purchase of a skier parking lot at a considerable cost to the community. The governing Board wanted to make sure that the majority of all owners, not just resident owners, supported this purchase (and the related tax increase). So they too conducted two elections, one of the resident voters and a second election of both resident and non-resident voters. In this situation, both elections approved the purchase.

One additional point I would like to make is that some of our smaller districts have a difficult time finding an adequate pool of eligible voters to serve on the governing Board because non-resident owners are ineligible under current law. Those small districts universally agree that it would be beneficial to have a larger pool of owners who are qualified to serve on the governing board.

Ultimately the foundations of democracy lie at the heart of this issue – taxation and representation. The non-resident property owners I hear from consistently believe our current system is taxation without representation. Ironically, even the property owners who are entitled to vote in District elections generally agree that it would be fairer if non-resident owners had the right to vote and to serve on the District's governing board.

Non-resident owners voting in home rule municipal elections is a tried and proven concept and that should be extended to special districts. The Town of Mountain Village near Telluride:

- was incorporated as a home rule town in 1995
- their charter permits owners of real property who are not legal residents of the Town the right to vote
- this was tested in court and the court upheld the right of non-resident owners to vote in 1997

Conceptually HB 1181 provides the same opportunity for special districts to permit non-resident owners to vote in District elections that the Town of Mountain Village's charter provides to their non-resident property owners.

I fully understand the concerns of the County Clerk's Association. Elections are already difficult to conduct and involve a lot of work. I know because my office conducts many elections and we know what the election officials go through to put on an election. That is why I strongly support the opt-in amendment that makes this bill optional for those districts that have the *need* for it but doesn't saddle other districts with its onerous requirements. Then the decision of whether the benefits of HB 1181 outweigh the costs can be made on a district-by-district basis and only those districts that have a real need can avail themselves of the benefits it offers.

In summary, I fully support this legislation with the amendment that it be optional and believe it takes a much-needed step forward.

Thank you for the opportunity to present my input on this important matter.

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