

**First Regular Session
Sixty-seventh General Assembly
STATE OF COLORADO**

ENGROSSED

*This Version Includes All Amendments Adopted
on Second Reading in the House of Introduction*

LLS NO. 09-0292.01 Ed DeCecco

SENATE BILL 09-087

SENATE SPONSORSHIP

Carroll M.,

HOUSE SPONSORSHIP

Peniston,

Senate Committees
State, Veterans & Military Affairs
Appropriations

House Committees

A BILL FOR AN ACT

101 **CONCERNING INCREASED ACCOUNTABILITY REQUIREMENTS FOR**
102 **SPECIAL DISTRICTS, AND MAKING AN APPROPRIATION IN**
103 **CONNECTION THEREWITH.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not necessarily reflect any amendments that may be subsequently adopted.)

Requires information about special district audits, budgets, and election results to be posted on the official web site of the division of local government in the department of local affairs (division).

Permits the division to establish a standard form for the annual report that the board of directors of a special district (board) may use when submitting the report.

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.

SENATE
Amended 2nd Reading
March 4, 2009

Requires the board of a metropolitan district to mail a mail-in ballot to each eligible elector on the list of such eligible electors that the board is required to maintain. Requires the board of a metropolitan district to annually provide notice to eligible electors that includes specified information about the special district and its elections.

Permits a specified number of electors of a special district to request the board to prepare an application for a quinquennial finding of reasonable diligence. Requires copies of the application to be mailed to the electors' sole designated recipient and filed with the appropriate board of county commissioners or governing body of a municipality. Permits the board of county commissioners or governing body to make a determination based upon the application.

Requires a seller of residential real property to provide to a purchaser a list of all special districts that are taxing authorities in which the property is located, and establishes a civil penalty for failing to do so.

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

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

5 **32-1-104.5. Audit and budget requirements - election results**
6 **- description on state web sites.** (1) THE DIVISION SHALL POST ON ITS
7 OFFICIAL WEB SITE IN A FORM THAT IS READILY ACCESSIBLE TO THE
8 PUBLIC:

9 (a) A GENERAL DESCRIPTION IN PLAIN, NONTECHNICAL LANGUAGE
10 OF THE REQUIREMENTS FOR A SPECIAL DISTRICT TO HAVE AN ANNUAL
11 AUDIT OF THE DISTRICT'S FINANCIAL STATEMENTS PREPARED IN
12 ACCORDANCE WITH THE "COLORADO LOCAL GOVERNMENT AUDIT LAW",
13 PART 6 OF ARTICLE 1 OF TITLE 29, C.R.S., AND INFORMATION ABOUT
14 WHERE A COPY OF THE AUDIT REPORT IS AVAILABLE FOR PUBLIC
15 INSPECTION; AND

16 (b) A GENERAL DESCRIPTION IN PLAIN, NONTECHNICAL LANGUAGE
17 OF THE PROCESS AND REQUIREMENTS FOR A SPECIAL DISTRICT TO ADOPT

1 AN ANNUAL BUDGET IN ACCORDANCE WITH THE "LOCAL GOVERNMENT
2 BUDGET LAW OF COLORADO", PART 1 OF ARTICLE 1 OF TITLE 29, C.R.S.,
3 AND INFORMATION ABOUT WHERE A COPY OF THE BUDGET IS AVAILABLE
4 FOR PUBLIC INSPECTION.

5 (2) THE DIVISION SHALL NOTIFY THE SECRETARY OF STATE OF THE
6 ELECTION RESULTS CERTIFIED TO THE DIVISION PURSUANT TO SECTION
7 1-11-103 (3), C.R.S., AND THE SECRETARY OF STATE SHALL POST THE
8 SAME ON THE OFFICIAL WEB SITE OF THE DEPARTMENT OF STATE. THE
9 GENERAL ASSEMBLY SHALL APPROPRIATE MONEYS IN THE DEPARTMENT OF
10 STATE CASH FUND CREATED IN SECTION 24-21-104 (3) (b), C.R.S., TO THE
11 SECRETARY OF STATE FOR SUCH PURPOSE.

12 **SECTION 2.** 32-1-207 (3) (d), Colorado Revised Statutes, is
13 amended to read:

14 **32-1-207. Compliance - modification - enforcement.**

15 (3) (d) Any special district created on or after July 1, 1991, shall annually
16 file the report specified in paragraph (c) of this subsection (3) with the
17 board of county commissioners or the governing body of the municipality
18 that has adopted a resolution of approval of the special district pursuant
19 to section 32-1-204.5 or 32-1-204.7 for five years after its organization
20 and for succeeding annual periods, if so requested by the board of county
21 commissioners or the governing body of the municipality. The annual
22 report shall also be filed with the division and with the state auditor. The
23 state auditor shall review the annual report and report any apparent
24 decrease in the financial ability of the district to discharge its existing or
25 proposed indebtedness in accordance with the service plan to the division.
26 In such event, the division shall confer with the board of the special
27 district and the board of county commissioners or the governing body of

1 the municipality regarding such condition. THE DIVISION MAY ESTABLISH
2 A STANDARD FORM FOR THE ANNUAL REPORT THAT THE BOARD OF A
3 SPECIAL DISTRICT MAY ELECT TO USE.

4 **SECTION 3.** 32-1-805, Colorado Revised Statutes, is amended
5 BY THE ADDITION OF A NEW SUBSECTION to read:

6 **32-1-805. Time for holding elections - type of election -**
7 **manner of election - notice - permanent mail-in voters.** (5) (a) THE
8 BOARD SHALL MAINTAIN A LIST OF ELIGIBLE ELECTORS OF THE SPECIAL
9 DISTRICT WHO HAVE APPLIED FOR PERMANENT MAIL-IN VOTER STATUS BY
10 FILING A REQUEST WITH THE COUNTY CLERK AND RECORDER OF THE
11 COUNTY IN WHICH THE DISTRICT IS WHOLLY OR PARTIALLY LOCATED OR
12 WITH THE DESIGNATED ELECTION OFFICIAL OF THE DISTRICT IN
13 ACCORDANCE WITH SECTION 1-8-104.5 (1), C.R.S.

14 (b) UPON REQUEST BY THE BOARD, THE CLERK AND RECORDER OF
15 A COUNTY IN WHICH THE SPECIAL DISTRICT IS WHOLLY OR PARTIALLY
16 LOCATED SHALL PROVIDE TO THE BOARD THE NAMES AND ADDRESSES OF
17 ELIGIBLE ELECTORS OF THE COUNTY WHO ARE ALSO ELIGIBLE ELECTORS OF
18 THE SPECIAL DISTRICT AND WHO HAVE APPLIED FOR PERMANENT MAIL-IN
19 VOTER STATUS IN ACCORDANCE WITH SECTION 1-8-104.5 (1), C.R.S.

20 (c) IN AN ELECTION CONDUCTED BY THE BOARD, THE BOARD SHALL
21 MAIL A MAIL-IN BALLOT TO EACH ELIGIBLE ELECTOR ON THE LIST
22 MAINTAINED PURSUANT TO PARAGRAPH (a) OF THIS SUBSECTION (5).

23 (d) THE PROVISIONS OF THIS SUBSECTION (5) SHALL ONLY APPLY
24 TO A METROPOLITAN DISTRICT WITH MORE THAN TWENTY-FIVE THOUSAND
25 DOLLARS OF ANNUAL REVENUE OR A METROPOLITAN DISTRICT THAT HAS
26 TOTAL AUTHORIZED DEBT OF MORE THAN ONE THOUSAND DOLLARS PER
27 ELIGIBLE ELECTOR.

1 **SECTION 4.** Part 8 of article 1 of title 32, Colorado Revised
2 Statutes, is amended BY THE ADDITION OF A NEW SECTION to
3 read:

4 **32-1-809. Notice to electors.** (1) NO LATER THAN JANUARY 15
5 OF EACH YEAR, THE BOARD SHALL PROVIDE NOTICE TO THE ELIGIBLE
6 ELECTORS OF THE SPECIAL DISTRICT IN THE MANNER SET FORTH IN
7 SUBSECTION (2) OF THIS SECTION. THE NOTICE SHALL CONTAIN THE
8 FOLLOWING:

9 (a) THE ADDRESS AND TELEPHONE NUMBER OF THE PRINCIPAL
10 BUSINESS OFFICE OF THE SPECIAL DISTRICT;

11 (b) THE NAME AND BUSINESS TELEPHONE NUMBER OF THE
12 MANAGER OR OTHER PRIMARY CONTACT PERSON OF THE SPECIAL DISTRICT;

13 (c) THE NAMES OF THE MEMBERS OF THE BOARD, INDICATING EACH
14 MEMBER WHOSE OFFICE WILL BE ON THE BALLOT AT THE NEXT REGULAR
15 SPECIAL DISTRICT ELECTION;

16 (d) THE TIMES AND PLACES DESIGNATED FOR REGULARLY
17 SCHEDULED MEETINGS OF THE BOARD DURING THE YEAR AND THE PLACE
18 WHERE NOTICE OF BOARD MEETINGS IS POSTED PURSUANT TO SECTION
19 24-6-402 (2) (c), C.R.S.;

20 (e) THE CURRENT MILL LEVY OF THE SPECIAL DISTRICT AND THE
21 TOTAL AD VALOREM TAX REVENUE RECEIVED BY THE DISTRICT DURING
22 THE LAST YEAR;

23 (f) THE DATE OF THE NEXT REGULAR SPECIAL DISTRICT ELECTION
24 AT WHICH MEMBERS OF THE BOARD WILL BE ELECTED;

25 (g) INFORMATION ON THE PROCEDURE AND TIME FOR AN ELIGIBLE
26 ELECTOR OF THE SPECIAL DISTRICT TO SUBMIT A SELF-NOMINATION FORM
27 FOR ELECTION TO THE BOARD PURSUANT TO SECTION 32-1-804.3;

1 (h) A STATEMENT THAT AN APPLICATION TO REQUEST PERMANENT
2 MAIL-IN VOTER STATUS CAN BE OBTAINED FROM THE COUNTY CLERK AND
3 RECORDER, OR ON-LINE FROM THE OFFICE OF THE SECRETARY OF STATE,
4 AND CAN BE RETURNED EITHER TO THE DISTRICT OFFICE OR TO THE
5 COUNTY CLERK AND RECORDER OF THE COUNTY OR COUNTIES IN WHICH
6 THE DISTRICT IS WHOLLY OR PARTIALLY LOCATED; AND

7 (i) THE ADDRESS OF ANY WEB SITE ON WHICH THE SPECIAL
8 DISTRICT'S ELECTION RESULTS WILL BE POSTED.

9 (2) THE NOTICE REQUIRED BY SUBSECTION (1) OF THIS SECTION
10 SHALL BE MADE IN ONE OR MORE OF THE FOLLOWING WAYS:

11 (a) MAILING THE NOTICE SEPARATELY TO EACH HOUSEHOLD
12 WHERE ONE OR MORE ELIGIBLE ELECTORS OF THE SPECIAL DISTRICT
13 RESIDES;

14 (b) INCLUDING THE NOTICE AS A PROMINENT PART OF A
15 NEWSLETTER, ANNUAL REPORT, BILLING INSERT, BILLING STATEMENT,
16 LETTER, VOTER INFORMATION CARD OR OTHER NOTICE OF ELECTION, OR
17 OTHER INFORMATIONAL MAILING SENT BY THE SPECIAL DISTRICT TO THE
18 ELIGIBLE ELECTORS OF THE SPECIAL DISTRICT;

19 (c) POSTING THE INFORMATION ON THE OFFICIAL WEB SITE OF THE
20 SPECIAL DISTRICT IF THERE IS A LINK TO THE DISTRICT'S WEB SITE ON THE
21 OFFICIAL WEB SITE OF THE DIVISION; OR

22 (d) FOR ANY DISTRICT THAT IS A MEMBER OF A STATEWIDE
23 ASSOCIATION OF SPECIAL DISTRICTS FORMED PURSUANT TO SECTION
24 29-1-401, C.R.S., BY MAILING OR ELECTRONICALLY TRANSMITTING THE
25 NOTICE TO THE STATEWIDE ASSOCIATION OF SPECIAL DISTRICTS, WHICH
26 ASSOCIATION SHALL POST THE NOTICE ON A PUBLICLY ACCESSIBLE
27 SECTION OF THE ASSOCIATION'S WEB SITE.

- 1 (3) A SPECIAL DISTRICT SHALL:
- 2 (a) FILE A COPY OF THE NOTICE REQUIRED BY SUBSECTION (1) OF
- 3 THIS SECTION WITH THE CLERK AND RECORDER OF EACH COUNTY IN WHICH
- 4 THE SPECIAL DISTRICT IS LOCATED AND WITH THE DIVISION; AND
- 5 (b) MAKE A COPY OF THE NOTICE REQUIRED BY SUBSECTION (1) OF
- 6 THIS SECTION AVAILABLE FOR PUBLIC INSPECTION AT THE PRINCIPAL
- 7 BUSINESS OFFICE OF THE SPECIAL DISTRICT.
- 8 (4) SPECIAL DISTRICTS WITH OVERLAPPING BOUNDARIES MAY
- 9 COMBINE THE NOTICES MAILED PURSUANT TO PARAGRAPH (a) OF
- 10 SUBSECTION (2) OF THIS SECTION, SO LONG AS THE INFORMATION
- 11 REGARDING EACH DISTRICT IS SEPARATELY DISPLAYED AND IDENTIFIED.
- 12 (5) THE PROVISIONS OF THIS SECTION SHALL NOT APPLY TO A
- 13 SPECIAL DISTRICT WITH LESS THAN FIVE THOUSAND DOLLARS OF ANNUAL
- 14 REVENUE WHO HAVE TOTAL AUTHORIZED DEBT OF ONE THOUSAND
- 15 DOLLARS OR LESS PER ELIGIBLE ELECTOR.

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17 SECTION 5. 38-35.7-101 (1), Colorado Revised Statutes, is ==

18 amended to read:

19 **38-35.7-101. Disclosure - special taxing districts - general**

20 **obligation indebtedness.** (1) Every contract for the purchase and sale

21 of residential real property shall contain a disclosure statement in

22 bold-faced type which is clearly legible and in substantially the following

23 form:

24 **SPECIAL TAXING DISTRICTS MAY BE SUBJECT**

25 **TO GENERAL OBLIGATION INDEBTEDNESS**

26 **THAT IS PAID BY REVENUES PRODUCED FROM**

27 **ANNUAL TAX LEVIES ON THE TAXABLE**

1 PROPERTY WITHIN SUCH DISTRICTS.
2 PROPERTY OWNERS IN SUCH DISTRICTS MAY
3 BE PLACED AT RISK FOR INCREASED MILL
4 LEVIES AND EXCESSIVE TAX BURDENS TO
5 SUPPORT THE SERVICING OF SUCH DEBT
6 WHERE CIRCUMSTANCES ARISE RESULTING IN
7 THE INABILITY OF SUCH A DISTRICT TO
8 DISCHARGE SUCH INDEBTEDNESS WITHOUT
9 SUCH AN INCREASE IN MILL LEVIES.
10 PURCHASERS SHOULD INVESTIGATE THE DEBT
11 FINANCING REQUIREMENTS OF THE
12 AUTHORIZED GENERAL OBLIGATION
13 INDEBTEDNESS OF SUCH DISTRICTS, EXISTING
14 MILL LEVIES OF SUCH DISTRICT SERVICING
15 SUCH INDEBTEDNESS, AND THE POTENTIAL
16 FOR AN INCREASE IN SUCH MILL LEVIES
17 BUYERS SHOULD INVESTIGATE THE SPECIAL
18 TAXING DISTRICTS IN WHICH THE PROPERTY
19 IS LOCATED BY CONTACTING THE COUNTY
20 TREASURER, BY REVIEWING THE CERTIFICATE
21 OF TAXES DUE FOR THE PROPERTY, AND BY
22 OBTAINING FURTHER INFORMATION FROM
23 THE BOARD OF COUNTY COMMISSIONERS, THE
24 COUNTY CLERK AND RECORDER, OR THE
25 COUNTY ASSESSOR.

26 SECTION 6. Appropriation. (1) In addition to any other
27 appropriation, there is hereby appropriated, out of any moneys in the

1 department of state cash fund created in section 24-21-104 (3) (b),
2 Colorado Revised Statutes, not otherwise appropriated, to the department
3 of state, for the fiscal year beginning July 1, 2009, the sum of thirteen
4 thousand six hundred seventy-five dollars (\$13,675) and 0.2 FTE, or so
5 much thereof as may be necessary, for the implementation of this act.

6 **SECTION 7. Act subject to petition - effective date.** This act
7 shall take effect at 12:01 a.m. on the day following the expiration of the
8 ninety-day period after final adjournment of the general assembly that is
9 allowed for submitting a referendum petition pursuant to article V,
10 section 1 (3) of the state constitution, (August 4, 2009, if adjournment
11 sine die is on May 6, 2009); except that, if a referendum petition is filed
12 against this act or an item, section, or part of this act within such period,
13 then the act, item, section, or part, if approved by the people, shall take
14 effect on the date of the official declaration of the vote thereon by
15 proclamation of the governor.