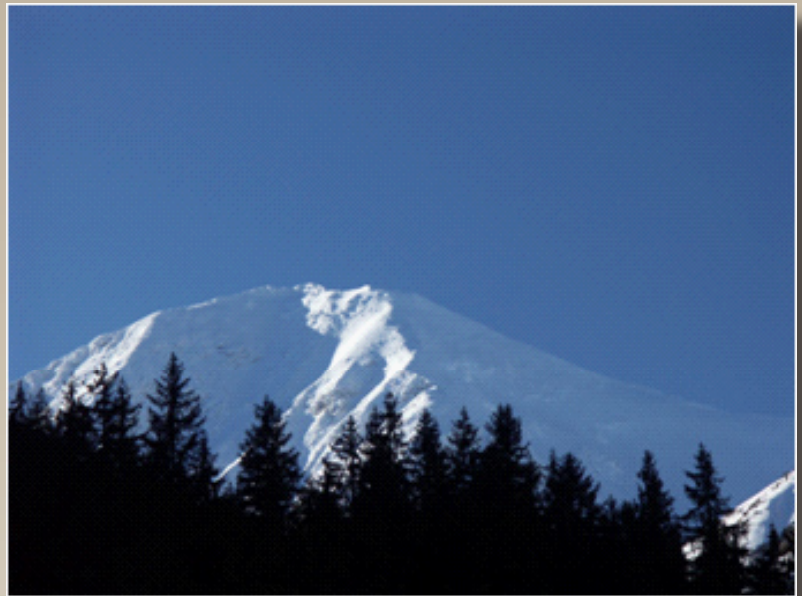


Legislator's Guide to Special Districts



*produced by the
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Special District Association

Members
Colorado General Assembly
Colorado State Capitol
Denver, Colorado 80203



Dear Colorado Legislators:

On behalf of the Special District Association of Colorado, it is my pleasure to present you with this brief description of special districts in Colorado.

I hope it will be a valuable resource when you need information about special districts, either in your consideration of legislative proposals, or in answering constituent inquiries.

Special districts, as units of local government, fill a vital role in providing fire and rescue services, water and wastewater treatment and delivery, parks and recreation amenities, hospitals; libraries and cemeteries, in many of the communities within Colorado. There are currently nearly 1600 such districts, of which more than 1200 are members of the Special District Association.

The Special District Association of Colorado (SDA) was organized to provide better communication, research, legislative input, administrative support and educational conferences for Member Districts. SDA exists to help special districts serve the public in the most efficient and economical manner possible. Member Districts are united to coordinate their interests and welfare through a cooperative effort and to help special district officials fulfill their duties and responsibilities.

SDA has become increasingly important as the membership has grown and the operation of special districts has become more complex. SDA is an effective lobbying and educational organization that strives to serve the needs of special districts.

If you need more information, please contact SDA Executive Director Evan Goulding at (303) 863-1733.

Best wishes in your exciting role in the Colorado General Assembly. We are ready to help in any way possible.

Peter J. Webb
SDA Board President
Board Chair, South Metro Fire Rescue District



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OVERVIEW OF SPECIAL DISTRICTS

Special Districts date back to the early mining camps in Colorado. As the camps grew, the residents sought mechanisms to join together to provide certain essential services such as fire protection and sewer service. Special districts of one form or another have been utilized since that time.

Colorado special districts have been instrumental in providing public infrastructure to meet the growing needs of the state's population in the face of increasing demands on cities and counties to keep up with the ever-increasing needs for urban services.

Although special districts already existed, the legal structure was recognized by an authorizing act of the Colorado General Assembly in 1949 recognizing special districts as a form of local government created to provide certain municipal-type services in unincorporated or rural areas of the state. The General Assembly declared that special local government service districts could be created to provide necessary and desired services within designated boundaries.

In 1981, the General Assembly recodified all the statutory provisions relating to various types of special districts in what is referred to as the Special District Act. The Special District Act constitutes article 1 of Title 32 of the Colorado Revised Statutes, which is the general source of most of the statutory authorization, as well as limitations, upon the formation and operation of special districts.

Special districts organized pursuant to Title 32 are quasi-municipal corporations and political subdivisions of the state of Colorado organized for specific functions. As such, their activities are subject to strict statutory guidelines.

TYPES OF DISTRICTS

Colorado statute authorizes the formation of numerous different types of districts.

The services which a district is authorized to provide, the procedure to form the district, the district's funding sources, and the district's governing body are all determined by the statutory provisions pertaining to the type of district involved.

Title 32, Article 1 Special Districts

The **Special District Act** (Title 32, article 1, C.R.S.) contains the legal framework for many types of special districts, including:

- Ambulance Districts
- Fire Protection Districts (may also provide ambulance and emergency medical and rescue services)
- Health Service Districts
- Metropolitan Districts
- Park and Recreation Districts
- Sanitation Districts
- Water Districts
- Water and Sanitation Districts

- Health Assurance Districts
- Mental Health Care Service Districts
- Tunnel Districts
- Forest Improvement Districts

Other common types of districts which are not governed by the Special District Act include:

- Business Improvement Districts¹
- Cemetery Districts²
- Conservation Districts³ (soil)
- Downtown Development Authorities⁴
- Irrigation Districts⁵
- Library Districts⁶
- Local Improvement Districts⁷
- Pest Control Districts⁸
- Public Improvement Districts⁹
- Special Improvement Districts¹⁰
- Water Conservancy Districts¹¹
- Water Conservation Districts¹²

People often confuse these other types of districts with the special districts that are created pursuant to the Special District Act. For example, Special Improvement Districts are formed by municipalities and Local Improvement Districts are formed by counties, usually to provide a particular amenity (e.g., sidewalks or curbs and gutters) in a localized area, and then the costs of the improvements are assessed directly against the benefitted property owners. The Board of County Commissioners or the City/Town Council serves as the governing body of the improvement district, and the district dissolves as soon as any debt issued by the county or municipality on behalf of the district is paid off. These types of improvement districts do not have the political autonomy or ongoing existence that a Title 32 special district has.

Business improvement districts, downtown development authorities, and urban renewal authorities are formed as adjunct entities by municipalities. Cemetery districts, library districts, pest control districts, and weed control districts are formed by counties. Irrigation districts, water conservancy districts, and water conservation districts are formed and governed by landowners. All of these types of districts are governed by specific statutes and procedures distinct from the Special District Act.

¹ Title 31, article 25, part 12, C.R.S.

² Title 30, article 20, part 8, C.R.S.

³ Title 35, article 70, part 1, C.R.S.

⁴ Title 31, article 25, part 8, C.R.S.

⁵ Title 37, article 41, C.R.S.

⁶ Title 24, article 90, part 1, C.R.S.

⁷ Title 30, article 20, part 6, C.R.S.

⁸ Title 35, article 5, C.R.S.

⁹ Title 30, article 20, part 5, C.R.S.

¹⁰ Title 31, article 25, part 5, C.R.S.

¹¹ Title 37, article 45, C.R.S.

¹² Title 37, articles 46-48 and 50, C.R.S.

FORMATION AND GOVERNANCE OF A TITLE 32 SPECIAL DISTRICT

Service Plan Approval

The formation of a special district begins with the development of a service plan. The service plan includes:

- A description of the area to be included within the proposed district. A special district does not need to conform to city or county boundaries. Its boundaries can be drawn to include the area to be developed, served, or which covers a community of interest. It can serve less than a full county or city, or it can overlap a city and county, or more than one city or county.
- A description of the proposed facilities and services to be provided.
- A financial plan including estimated costs of facilities and proposed indebtedness.
- Engineering and architectural information regarding facilities and services, and a description of any intergovernmental agreements by which the district's purposes are to be implemented.

The Service Plan must be submitted for approval by the Board of County Commissioners (BOCC) of each county within which any portion of the district is located, and the City Council of each municipality within which any portion is located.

The BOCC or city council(s) must provide public notice, and hold a public hearing concerning the approval of any service plan.

Following the public hearing, the BOCC or city council(s) can vote to approve the service plan, to request amendments or clarifications to the service plan, or to deny approval of the service plan. The approving entity can require whatever level of detail they wish to be included in the service plan.

District Court Approval

Once the service plan is approved, a petition is filed with the district court in the county in which the district is located. The petition must be signed by not less than thirty percent (30%) or two hundred (200) of the taxpaying electors of the district, whichever is smaller. The petition must include information describing the type of district (e.g., water and sanitation district, fire protection district, metropolitan district, etc.), descriptions of the facilities and services to be provided, estimated costs of the facilities, estimated property taxes to be collected in the first year, and a request for the organization of the district.

The court will review the petition and the service plan for legal sufficiency, and will notice and hold a public hearing on the petition. Those who wish to have their property excluded from the district may request exclusion by the court.

If the court finds that the petition is in compliance with applicable statutes, it orders the question of the organization of the district to be presented to the residents and property owners within the proposed district boundaries for a vote.

Organizational Election

The organizational election includes organization of the district and selection of the initial board of directors of the district. The organizational election may also include authorization of a property tax mill levy and the authorization of bonds. Any election that includes tax or bond authorization must be conducted in conformity with the TABOR Amendment.

If the election passes, the Court will certify the election and issue an order declaring the district be organized as a separate political subdivision of the state.

Governing Body and Procedures

Once formed, a special district is governed by an elected board of directors, in whom rests the authority to manage, control, and supervise all the business and affairs of the special district. The board is comprised of either five or seven members, most typically five. The special district board has autonomous authority for governing the district within the scope of the district's powers, just as the city council has for the governance of a municipality.

The original board members are elected to staggered four-year terms, so that either two or three members of the board come up for election every two years. Special district board elections are held, by statute, on the first Tuesday after the first Monday of May in every even-numbered year.

Special district directors are subject to term limits, and may not serve more than two consecutive four-year terms, unless the voters in the district have voted to lengthen or eliminate term limits for the district.

Special districts are subject to the same requirements as other local governments regarding open records, open meetings, conflicts of interest and other ethical requirements. Each district is subject to Colorado's Local Government Budget Law and Local Government Audit Law, setting forth the requirements of budgeting, accounting and reporting. The district must hold a public hearing before adopting its annual budget, and a copy of the budget must be filed with the Division of Local Government.

Each district is required to have a certified public audit on an annual basis. The audit is to be filed with the State Auditor's Office, the BOCC of the county having jurisdiction over the district's service plan, and a copy on file for access by the public.

Powers Retained by Cities and Counties

Even though a special district may be created to provide the financing mechanism for public infrastructure and services, special districts do not have any "land use" powers, such as planning, zoning, or subdivision approval. This leaves the key land use decisions with the city or county, which can assure that the developments are consistent with land use plans.

SPECIAL DISTRICT ELECTIONS

Election Dates

Regular special district board elections are held on the Tuesday following the first Monday of May in even-numbered years. Special district elections are conducted pursuant to the Uniform Election Code. The regular special district biennial election may be cancelled if there are no more candidates than board seats available.

All tax and debt issues of special districts are subject to the election provisions of the TABOR Amendment, and thus may only be held on the November general election date, the November off-year election date, or the district's biennial board election date, as allowed by TABOR. Except for ballot issue elections (mill levy or debt authorization) which are held as part of a district's organizational election, every ballot issue election must be conducted either as part of a coordinated election or in accordance with the Mail Ballot Election Act.

Qualifications to Vote

An "eligible elector" for purposes of a special district election is a person who is a registered elector in Colorado, and who either (i) resides within the district, or (ii) owns (or whose spouse owns) taxable real or personal property within the district.

Candidates for special district directors must be eligible electors of the district. One of the most difficult aspects of special district elections is finding qualified individuals who are willing to run for the boards. Serving on a sewer district board, for instance, is not always considered to be a glamorous entry into a political career.

GROWTH OF SPECIAL DISTRICTS

Special districts have proven to be increasingly popular tools in providing services to identified geographic areas. In 1995, there were 875 Title 32 special districts. Today there are approximately 1,470 such districts. Nearly all of this phenomenal growth in recent years is accounted for by the formation of new metropolitan districts.

Metropolitan (metro) Districts

A metro district is a type of special district that provides at least two different types of services. So, instead of forming a district for each separate function, a metropolitan district is formed which can provide all the necessary services. For example, the East Valley Metropolitan District provides water, wastewater, and trash collection services.

There have been over 100 new metropolitan districts formed in each of the past three years. In the years between 2000 and 2004, the number of metro districts in the seven-county Denver metropolitan area more than doubled, growing from 191 to 390. Statewide, the number of metro districts increased from 294 to 653 during the same time period. As of 2006, this number has grown to 833 metro districts.

This growth mirrors Colorado's rapid population growth and increased home building within the past decade.

Reasons for organizing a Title 32 special district

(1) A special district provides needed infrastructure and service to a specific area, with the cost being born by the property owners and residents of the area, rather than spread over the entire area of the general purpose government (city or county), as would be required if the city or county provides the infrastructure or service in the area.

(2) Services can be provided to growing areas without impacting the budget or reserves of the city or county.

(3) There may be no other viable alternative for providing and operating the necessary public facilities, due to remoteness or isolation of location.

(4) A special district provides a way of financing the infrastructure up front, with the costs being repaid as development occurs and property values increase.

(5) The district is able to finance infrastructure and public facilities through the use of tax-exempt municipal bonds.

(6) The structure of a Title 32 special district provides greater flexibility and autonomy than would a local assessment district, such as a municipal special improvement district or a county local improvement district.

Broadening the Scope of Special Districts:

Builders and developers have not been the only ones to discover the merits of special districts. During the past three years, special interest groups representing a variety of constituencies have brought forth legislative proposals to add new powers for special districts, including new types of special districts. These have included such things as health assurance districts, mental health care districts, transportation districts, and forest rehabilitation and management districts. Interest has also been expressed in broadening special district powers to include animal control, security services, and water brokering.

Why Now?

Population is growing so dramatically in many areas of Colorado that city and county resources are being stretched, and cities and counties are working with special districts as a means of installing the infrastructure to support the growth. For many years cities and counties were suspicious of special districts, feeling that special districts fragmented service delivery and allowed for uncontrolled growth beyond the reach of a city's land use planning controls.

Now, partially due to TABOR restrictions, and the realization that the city or county still holds the cards in land use decisions, they are becoming much more willing to work with special districts. In rapidly growing areas, many cities are forming relationships with developers and the special districts that are being formed. Cities and counties are becoming more aggressive, but also more realistic in adopting development standards for special districts that mesh with the standards of the city or county.

The Wave of the Future:

In the E-470 Corridor of Adams and Arapahoe Counties, city and county land use approvals have already been given for developments that will total in excess of 50,000 new homes at build-out, and nearly all will be served by metro districts that have been, or are being, formed in this wave of district formation.

Even more startling is the realization that this is just the beginning. Population forecasts provided by the Demography Office of the Division of Local Government point to staggering population growth in the next thirty years. Total population statewide in 2005 was 4,722,460 (more or less), and is projected to grow to 6,787,307 by 2025, and to 7,798,000 in 2035. This increase of over 3.1 million people represents the need for approximately 1,228,000 additional dwelling units during that time.

Weld County has been tabbed as one of the fastest growing counties in the United States. In 2005, the population of Weld County was 228,729. By 2025, it is projected to grow to 419,741, and to 551,288 by 2035. At a generous estimate of one dwelling unit per 2.5 people, this indicates the need for an additional 220,500 new homes in Weld County.

Adams and Arapahoe Counties will see similar growth. Douglas County, which has already gone through an explosion of epic proportions, will likely double by 2035, bringing the need for an additional 108,000 new homes.

Mesa County is projected to grow from 130,000 to nearly 250,000 by 2035, necessitating an additional 48,000 homes. This projection, however, was made before the advent of the current explosion of oil and natural gas drilling, which if sustained could dramatically increase this projection.

Growth Without Straining Our Infrastructure:

Much of the future development will occur within cities, either as infill, or as cities annex property and provide the service infrastructure to support the development. There may be some new municipal incorporations, and existing cities will reap major population growth. Even so, it is likely that the metro district model, either in unincorporated areas, or as adjuncts to city facilities within cities, will be a continuing model of growth, both in number and in size.

As a means of financing, metro districts have unique advantages, and are proving to be remarkably advantageous to developers, and the savings reaped through tax-exempt financing and stretching out infrastructure costs, result in dramatic cost savings and benefits to homebuyers and property owners.

NUMBER OF ACTIVE DISTRICTS (by type): 2000-2008

Title 32, Special Districts: comparison 2000–2008

<u>Type of District</u>	<u>2000</u>	<u>2005</u>	<u>2008</u>
Ambulance Districts	9	10	10
Fire Protection Districts	241	249	253
Health Service (Hospital) Districts	33	34	36
Metropolitan Districts	294	673	1062
Park and Recreation Districts	46	52	53
Sanitation Districts	79	79	74
Water Districts	75	76	77
Water and Sanitation Districts	123	129	126
Health Assurance Districts	First authorized in 2001	0	0
Mental Health Care Service Districts		First authorized in 2005	0
Forest Improvement Districts		First authorized in 2007	0

Other common types of districts authorized elsewhere than Title 32

<u>Type of District</u>	<u>2005</u>	<u>2008</u>
Business Improvement Districts	27	36
Cemetery Districts	81	81
Conservation Districts (soil)	77	77
Downtown Development Authorities	7	9
Irrigation Districts	16	16
Library Districts	48	51
Local Improvement Districts	36	49
Pest Control Districts	16	17
Public Improvement Districts	34	48
Special Improvement Districts	34	42
Urban Renewal Authorities	34	43
Water Conservancy Districts	52	53

THE SPECIAL DISTRICT ASSOCIATION OF COLORADO (SDA)

SDA Board of Directors

An eleven-member Board of Directors elected by Member Districts governs the Association, establishes Association policy and provides direction to the SDA staff. All Board Members of the Association must also be on the Board of a special district, and not more than two SDA Board Members may be from any one type of district. Furthermore, at least one SDA Director must come from each of the five geographical areas of Colorado.

Peter J. Webb, President
South Metro Fire Rescue

Mark Whitney, Vice President
Hyland Hills Park and Recreation District

H.E. "Cap" Proal, Secretary
Security Water & Sanitation Districts

John McCaulley, Treasurer
Western Eagle County Metro Rec. District

John Ballagh
Clifton Water District

James S. Borland
Ft. Collins-Loveland Water District

James P. Collins
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Jack B. DeLange
San Juan Water Conservancy District

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