

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

PREAMENDED

*This Unofficial Version Includes Committee
Amendments Not Yet Adopted on Second Reading*

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

Local Government
Appropriations

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
3rd Reading Unamended
March 5, 2009

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.** 32-1-306, Colorado Revised Statutes, is amended
5 to read:

6 **32-1-306. Filing decree.** Within thirty days after the special
7 district has been declared organized by the court, the special district shall
8 transmit to the county clerk and recorder in each of the counties in which
9 the special district or a part thereof extends certified copies of the
10 findings and the order of the court organizing said special district. The
11 same shall be recorded by the county clerk and recorder in each county as
12 provided in section 32-1-105. A copy of the approved service plan of the
13 district shall be delivered to each such county clerk and recorder, who
14 shall retain the service plan as a public record for public inspection. In
15 addition, a copy of the service plan, together with a copy of the court's
16 findings and order, shall be filed with the division as provided in section
17 32-1-105, and a map of the special district shall be filed with the county
18 assessor in each county in which the special district or a part thereof
19 extends and with the division according to the standards of the division.
20 ON OR BEFORE JANUARY 1, 2010, A SPECIAL DISTRICT SHALL FILE A
21 CURRENT, ACCURATE MAP OF ITS BOUNDARIES WITH THE COUNTY CLERK
22 AND RECORDER IN EACH OF THE COUNTIES IN WHICH THE SPECIAL DISTRICT
23 OR A PART THEREOF EXTENDS. ~~Thereafter, the~~ A special district shall
24 maintain a current, accurate map of its boundaries and shall provide for
25 such map to be on file with the county assessor, THE CLERK AND
26 RECORDER, and the division on or before January 1 of each year.

27 **SECTION 4.** 32-1-805, Colorado Revised Statutes, is amended

1 BY THE ADDITION OF A NEW SUBSECTION to read:

2 **32-1-805. Time for holding elections - type of election -**
3 **manner of election - notice - permanent mail-in voters.** (5) (a) AT
4 LEAST SIXTY DAYS PRIOR TO A METROPOLITAN DISTRICT ELECTION, A
5 DESIGNATED ELECTION OFFICIAL OF THE METROPOLITAN DISTRICT SHALL
6 REQUEST A CLERK AND RECORDER OF A COUNTY IN WHICH THE
7 METROPOLITAN DISTRICT IS WHOLLY OR PARTIALLY LOCATED TO PROVIDE
8 THE DESIGNATED ELECTION OFFICIAL WITH A LIST OF THE NAMES AND
9 ADDRESSES OF REGISTERED ELECTORS OF THE COUNTY WHO ARE ALSO
10 REGISTERED ELECTORS OF THE METROPOLITAN DISTRICT AND WHO HAVE
11 APPLIED TO THE COUNTY CLERK AND RECORDER FOR PERMANENT MAIL-IN
12 VOTER STATUS IN ACCORDANCE WITH SECTION 1-8-104.5 (1), C.R.S.
13 ALONG WITH THE REQUEST, THE DESIGNATED ELECTION OFFICIAL SHALL
14 CERTIFY THAT THE METROPOLITAN DISTRICT HAS PROVIDED THE COUNTY
15 CLERK AND RECORDER WITH A CURRENT, ACCURATE MAP OF ITS
16 BOUNDARIES IN ACCORDANCE WITH SECTION 32-1-306. AFTER RECEIPT OF
17 THE REQUEST, THE CLERK AND RECORDER SHALL PROVIDE THE
18 DESIGNATED ELECTION OFFICIAL WITH SUCH LIST OF THE NAMES AND
19 ADDRESSES OF REGISTERED ELECTORS; EXCEPT THAT, IF THE DESIGNATED
20 ELECTION OFFICIAL HAS NOT CERTIFIED THAT THE SPECIAL DISTRICT HAS
21 PROVIDED THE COUNTY CLERK AND RECORDER WITH A CURRENT,
22 ACCURATE MAP OF ITS BOUNDARIES, THE CLERK AND RECORDER SHALL
23 PROVIDE TO THE DESIGNATED ELECTION OFFICIAL THE NAMES AND
24 ADDRESSES OF ALL REGISTERED ELECTORS OF THE COUNTY WHO HAVE
25 APPLIED FOR PERMANENT MAIL-IN VOTER STATUS IN ACCORDANCE WITH
26 SECTION 1-8-104.5 (1), C.R.S. IF, WITHIN TEN DAYS OF RECEIVING THE
27 LIST OF THE NAMES AND ADDRESSES OF REGISTERED ELECTORS PURSUANT

1 TO THIS PARAGRAPH (a), A DESIGNATED ELECTION OFFICIAL NOTIFIES THE
2 COUNTY CLERK AND RECORDER OF ANY PROBLEMS WITH THE LIST, THE
3 COUNTY CLERK AND RECORDER MAY PROVIDE THE DESIGNATED ELECTION
4 OFFICIAL WITH A CORRECTED LIST.

5 (b) IN AN ELECTION CONDUCTED BY THE BOARD, THE DESIGNATED
6 ELECTION OFFICIAL SHALL MAIL A MAIL-IN BALLOT TO EACH ELIGIBLE
7 ELECTOR ON THE LIST PROVIDED TO THE DESIGNATED ELECTION OFFICIAL
8 PURSUANT TO PARAGRAPH (a) OF THIS SUBSECTION (5).

9 (c) THE PROVISIONS OF THIS SUBSECTION (5) SHALL ONLY APPLY
10 TO A METROPOLITAN DISTRICT WITH MORE THAN TWENTY-FIVE THOUSAND
11 DOLLARS OF ANNUAL REVENUE OR A METROPOLITAN DISTRICT THAT HAS
12 TOTAL AUTHORIZED DEBT OF MORE THAN ONE THOUSAND DOLLARS PER
13 ELIGIBLE ELECTOR.

14 **SECTION 5.** Part 8 of article 1 of title 32, Colorado Revised
15 Statutes, is amended BY THE ADDITION OF A NEW SECTION to
16 read:

17 **32-1-809. Notice to electors.** (1) NO MORE THAN SIXTY DAYS
18 PRIOR TO AND NOT LATER THAN JANUARY 15 OF EACH YEAR, THE BOARD
19 SHALL PROVIDE NOTICE TO THE ELIGIBLE ELECTORS OF THE SPECIAL
20 DISTRICT IN THE MANNER SET FORTH IN SUBSECTION (2) OF THIS SECTION.

21 THE NOTICE SHALL CONTAIN THE FOLLOWING:

22 (a) THE ADDRESS AND TELEPHONE NUMBER OF THE PRINCIPAL
23 BUSINESS OFFICE OF THE SPECIAL DISTRICT;

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

26 (c) THE NAMES OF THE MEMBERS OF THE BOARD, INDICATING EACH
27 MEMBER WHOSE OFFICE WILL BE ON THE BALLOT AT THE NEXT REGULAR

1 SPECIAL DISTRICT ELECTION;

2 (d) THE TIMES AND PLACES DESIGNATED FOR REGULARLY
3 SCHEDULED MEETINGS OF THE BOARD DURING THE YEAR AND THE PLACE
4 WHERE NOTICE OF BOARD MEETINGS IS POSTED PURSUANT TO SECTION
5 24-6-402 (2) (c), C.R.S.;

6 (e) THE CURRENT MILL LEVY OF THE SPECIAL DISTRICT AND THE
7 TOTAL AD VALOREM TAX REVENUE RECEIVED BY THE DISTRICT DURING
8 THE LAST YEAR;

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

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

14 (h) A STATEMENT THAT AN APPLICATION TO REQUEST PERMANENT
15 MAIL-IN VOTER STATUS CAN BE OBTAINED FROM THE COUNTY CLERK AND
16 RECORDER, OR ON-LINE FROM THE OFFICE OF THE SECRETARY OF STATE,
17 AND CAN BE RETURNED [REDACTED] TO THE COUNTY CLERK AND RECORDER OF
18 THE COUNTY OR COUNTIES IN WHICH THE DISTRICT IS WHOLLY OR
19 PARTIALLY LOCATED; AND

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

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

24 (a) MAILING THE NOTICE SEPARATELY TO EACH HOUSEHOLD
25 WHERE ONE OR MORE ELIGIBLE ELECTORS OF THE SPECIAL DISTRICT
26 RESIDES;

27 (b) INCLUDING THE NOTICE AS A PROMINENT PART OF A

1 NEWSLETTER, ANNUAL REPORT, BILLING INSERT, BILLING STATEMENT,
2 LETTER, VOTER INFORMATION CARD OR OTHER NOTICE OF ELECTION, OR
3 OTHER INFORMATIONAL MAILING SENT BY THE SPECIAL DISTRICT TO THE
4 ELIGIBLE ELECTORS OF THE SPECIAL DISTRICT; ==

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

8 (d) FOR ANY DISTRICT THAT IS A MEMBER OF A STATEWIDE
9 ASSOCIATION OF SPECIAL DISTRICTS FORMED PURSUANT TO SECTION
10 29-1-401, C.R.S., BY MAILING OR ELECTRONICALLY TRANSMITTING THE
11 NOTICE TO THE STATEWIDE ASSOCIATION OF SPECIAL DISTRICTS, WHICH
12 ASSOCIATION SHALL POST THE NOTICE ON A PUBLICLY ACCESSIBLE
13 SECTION OF THE ASSOCIATION'S WEB SITE; OR

14 (e) FOR A SPECIAL DISTRICT WITH LESS THAN ONE THOUSAND
15 ELIGIBLE ELECTORS THAT IS WHOLLY LOCATED WITHIN A COUNTY WITH A
16 POPULATION OF LESS THAN THIRTY THOUSAND, POSTING THE NOTICE IN AT
17 LEAST THREE PUBLIC PLACES WITHIN THE LIMITS OF THE SPECIAL DISTRICT
18 AND, IN ADDITION, POSTING A NOTICE IN THE OFFICE OF THE COUNTY
19 CLERK AND RECORDER OF THE COUNTY IN WHICH THE SPECIAL DISTRICT IS
20 LOCATED. SUCH NOTICES SHALL REMAIN POSTED UNTIL THE TUESDAY
21 SUCCEEDING THE FIRST MONDAY OF THE FOLLOWING MAY.

22 (3) A SPECIAL DISTRICT SHALL:

23 (a) FILE A COPY OF THE NOTICE REQUIRED BY SUBSECTION (1) OF
24 THIS SECTION WITH THE CLERK AND RECORDER OF EACH COUNTY IN WHICH
25 THE SPECIAL DISTRICT IS LOCATED AND WITH THE DIVISION; AND

26 (b) MAKE A COPY OF THE NOTICE REQUIRED BY SUBSECTION (1) OF
27 THIS SECTION AVAILABLE FOR PUBLIC INSPECTION AT THE PRINCIPAL

1 BUSINESS OFFICE OF THE SPECIAL DISTRICT.

2 (4) SPECIAL DISTRICTS WITH OVERLAPPING BOUNDARIES MAY
3 COMBINE THE NOTICES MAILED PURSUANT TO PARAGRAPH (a) OF
4 SUBSECTION (2) OF THIS SECTION, SO LONG AS THE INFORMATION
5 REGARDING EACH DISTRICT IS SEPARATELY DISPLAYED AND IDENTIFIED.

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8 **SECTION 6.** 32-1-903 (2), Colorado Revised Statutes, is
9 amended to read:

10 **32-1-903. Meetings.** (2) Notice of time and place designated for
11 all regular meetings shall be posted in at least three public places within
12 the limits of the special district, and, in addition, one such notice shall be
13 posted in the office of the county clerk and recorder in the county or
14 counties in which the special district is located. Such notices shall remain
15 posted and shall be changed in the event that the time or place of such
16 regular meetings is changed. Special meetings may be called by any
17 director by informing the other directors of the date, time, and place of
18 such special meeting, and the purpose for which it is called, and by
19 posting notice as provided in this section at least ~~three days~~ SEVENTY-TWO
20 HOURS prior to said meeting. All official business of the board shall be
21 conducted only during said regular or special meetings at which a quorum
22 is present, and all said meetings shall be open to the public.

23 **SECTION 7.** 38-35.7-101 (1), Colorado Revised Statutes, is amended to read:

24 **38-35.7-101. Disclosure - special taxing districts - general**
25 **obligation indebtedness.** (1) Every contract for the purchase and sale
26 of residential real property shall contain a disclosure statement in
27

1 bold-faced type which is clearly legible and in substantially the following
2 form:

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

1 **OBTAINING FURTHER INFORMATION FROM**
2 **THE BOARD OF COUNTY COMMISSIONERS, THE**
3 **COUNTY CLERK AND RECORDER, OR THE**
4 **COUNTY ASSESSOR.**

5 **SECTION 8. Appropriation.** In addition to any other
6 appropriation, there is hereby appropriated, out of any moneys in the
7 department of state cash fund created in section 24-21-104 (3) (b),
8 Colorado Revised Statutes, not otherwise appropriated, to the department
9 of state, for the fiscal year beginning July 1, 2009, the sum of seven
10 thousand five dollars (\$7,005), or so much thereof as may be necessary,
11 for the implementation of this act.

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