

**Second Regular Session
Sixty-eighth General Assembly
STATE OF COLORADO**

PREAMENDED

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

LLS NO. 12-0708.01 Jason Gelender x4330

HOUSE BILL 12-1239

HOUSE SPONSORSHIP

Vaad,

SENATE SPONSORSHIP

Carroll,

House Committees
Local Government

Senate Committees

A BILL FOR AN ACT

101 **CONCERNING REQUIRED COUNTY APPROVAL FOR THE EXPANSION OF**
102 **SPECIAL DISTRICT DOMESTIC WATER OR SANITARY SERVICE**
103 **INTO A COUNTY THAT HAS NOT PREVIOUSLY APPROVED THE**
104 **SPECIAL DISTRICT'S SERVICE PLAN.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://www.leg.state.co.us/billsummaries>.)

Currently, only a person who owns property within the territory or proposed expanded territory of a special district is eligible to vote in a

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.

special district election. **Section 1** of the bill allows a person who owns property within the service area or proposed expanded service area of a special district to vote in a special district election. **Section 2** modifies the process by which a special district expands its service area by:

- ! Allowing a special district to expand its service area into a new county only with the approval of the board of county commissioners of the county and specifying the process by which a special district may obtain such approval; and
- ! Prohibiting a board of county commissioners from approving a special district's expanded service plan that includes property of a property owner who has not consented to the inclusion of his or her property in the expanded service area.

In lieu of the existing requirement that the lesser of 30% or 200 of the taxpaying electors of a proposed special district sign the petition for organization of the district, **section 3** requires a petition for organization of a special district that is a metropolitan district to be signed by the lesser of 90% or 200 of the taxpaying electors of the proposed metropolitan district.

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

SECTION 1. In Colorado Revised Statutes, 32-1-207, **amend** (2) as follows:

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

(2) (a) After the organization of a special district pursuant to the provisions of this part 2 and part 3 of this article, material modifications of the service plan as originally approved may be made by the governing body of such special district only by petition to and approval by the board of county commissioners or the governing body of the municipality that has adopted a resolution of approval of the special district pursuant to section 32-1-204.5 or 32-1-204.7 in substantially the same manner as is provided for the approval of an original service plan; but the processing fee for such modification procedure shall not exceed two hundred fifty dollars. Such approval of modifications shall be required only with regard

1 to changes of a basic or essential nature, including but not limited to the
2 following: Any addition to the types of services provided by the special
3 district; a decrease in the level of services; a decrease in the financial
4 ability of the district to discharge the existing or proposed indebtedness;
5 or a decrease in the existing or projected need for organized service in the
6 area. Approval for modification shall not be required for changes
7 necessary only for the execution of the original service plan or for
8 changes in the boundary of the special district; except that the inclusion
9 of property that is located in a county or municipality with no other
10 territory within the special district may constitute a material modification
11 of the service plan or the statement of purposes of the special district as
12 set forth in section 32-1-208. In the event that a special district changes
13 its boundaries to include territory located in a county or municipality with
14 no other territory within the special district, the special district shall notify
15 the board of county commissioners of such county or the governing body
16 of the municipality of such inclusion. The board of county commissioners
17 or the governing body of the municipality may review such inclusion and,
18 if it determines that the inclusion constitutes a material modification, may
19 require the governing body of such special district to file a modification
20 of its service plan in accordance with the provisions of this subsection (2).

21 (b) A SPECIAL DISTRICT SHALL NOT FURNISH DOMESTIC WATER OR
22 SANITARY SEWER SERVICE DIRECTLY TO RESIDENTS AND PROPERTY
23 OWNERS IN UNINCORPORATED TERRITORY LOCATED IN A COUNTY THAT
24 HAS NOT APPROVED THE SPECIAL DISTRICT'S SERVICE PLAN AND THAT HAS
25 NO OTHER TERRITORY RECEIVING DOMESTIC WATER AND SANITARY SEWER
26 SERVICE DIRECTLY TO RESIDENTS AND PROPERTY OWNERS IN THE COUNTY
27 FROM THE SPECIAL DISTRICT UNLESS THE SPECIAL DISTRICT NOTIFIES THE

1 BOARD OF COUNTY COMMISSIONERS OF THE COUNTY OF ITS PLAN TO
2 FURNISH DOMESTIC WATER OR SANITARY SEWER SERVICE DIRECTLY TO
3 RESIDENTS AND PROPERTY OWNERS IN THE COUNTY, AND RECEIVES
4 APPROVAL FROM THE BOARD TO DO SO. WITHIN FORTY-FIVE DAYS OF
5 RECEIVING THE NOTIFICATION, THE BOARD MAY REVIEW THE SPECIAL
6 DISTRICT'S PLANNED ACTION AND MAY, IN ITS OWN DISCRETION AND
7 FOLLOWING NOTICE BY THE BOARD, REQUIRE A PUBLIC HEARING PRIOR TO
8 GIVING APPROVAL OF THE PLANNED ACTION, AT WHICH HEARING THE
9 GOVERNING BODY OF THE SPECIAL DISTRICT SHALL PROVIDE SUCH
10 INFORMATION AND DATA AS THE BOARD REASONABLY REQUESTS.

11 (c) BEFORE APPROVING A PLANNED SPECIAL DISTRICT ACTION
12 DESCRIBED IN PARAGRAPH (b) OF THIS SUBSECTION (2), THE BOARD OF
13 COUNTY COMMISSIONERS OF A COUNTY SHALL, NOT LESS THAN
14 FORTY-FIVE DAYS PRIOR TO THE FIRST MEETING OF THE BOARD AT WHICH
15 THE APPROVAL SPECIFIED IN PARAGRAPH (b) OF THIS SECTION MAY BE
16 GIVEN, PROVIDE PUBLIC NOTICE IN THE MANNER THAT THE COUNTY
17 REQUIRES OF THE POSSIBLE APPROVAL WITHIN THE NEWLY DESCRIBED
18 AREA TO BE SERVED. THE NOTICE IS REQUIRED TO INCLUDE SPECIFIC
19 NOTIFICATION THAT ANY PROPERTY OWNER WISHING TO HAVE HIS OR HER
20 PROPERTY EXCLUDED FROM THE PROPOSED AREA TO BE SERVED SHALL,
21 NOT LATER THAN FORTY DAYS FROM THE FIRST PUBLIC NOTICE, REQUEST
22 THAT HIS OR HER PROPERTY BE EXCLUDED FROM THE PROPOSED AREA TO
23 BE SERVED BY THE SPECIAL DISTRICT. THE BOARD IS NOT LIMITED IN ITS
24 ACTION WITH RESPECT TO EXCLUSION OF TERRITORY BASED ON THE
25 REQUEST. A REQUEST FOR EXCLUSION SHALL INCLUDE A LEGAL
26 DESCRIPTION OF THE PROPERTY SUBJECT TO THE REQUEST, AND THE
27 BOARD SHALL ACT UPON THE REQUEST BEFORE TAKING FINAL ACTION ON

1 THE REQUEST FOR APPROVAL PURSUANT TO PARAGRAPH (b) OF THIS
2 SUBSECTION (2).

3 (d) THE REQUIREMENTS DETAILED IN PARAGRAPHS (b) AND (c) OF
4 THIS SUBSECTION (2) DO NOT APPLY WHEN:

5 (I) A SPECIAL DISTRICT PROVIDES DOMESTIC WATER OR SANITARY
6 SEWER SERVICE ONLY TO PRIVATE PROPERTY OWNERS PURSUANT TO
7 WRITTEN AGREEMENT BETWEEN THE SPECIAL DISTRICT AND THE PROPERTY
8 OWNERS, OR THE PREDECESSOR-IN-INTEREST OF THE PROPERTY OWNERS;

9 (II) A SPECIAL DISTRICT PROVIDES DOMESTIC WATER OR SANITARY
10 SEWER SERVICE WITHIN THE BOUNDARIES OF ANOTHER GOVERNMENTAL
11 ENTITY, INCLUDING, WITHOUT LIMITATION, A CITY, A MUNICIPALITY, OR
12 ANOTHER SPECIAL DISTRICT; OR

13 (III) A SPECIAL DISTRICT PROVIDES ANY STORM DRAINAGE OR
14 STORM SEWER SERVICES OR FACILITIES WITHIN THE COUNTY.

15 **SECTION 2. Safety clause.** The general assembly hereby finds,
16 determines, and declares that this act is necessary for the immediate
17 preservation of the public peace, health, and safety.