

SENATE JOURNAL
 Seventieth General Assembly
STATE OF COLORADO
 Second Regular Session

29th Legislative Day Wednesday, February 10, 2016

Prayer By the chaplain, Pastor Vern Rempel, Beloved Community Mennonite Church, Littleton. 11
 Call to Order By the President at 9:00 a.m. 13

On motion of Majority Leader Scheffel, and with a two-thirds majority of those elected to the Senate having voted in the affirmative, Senate Rule 1 (b) was suspended to allow a person other than a Senator to lead the Pledge of Allegiance. 18

Pledge By Brennan Hart. 25
 Roll Call Present--35 27
 Quorum The President announced a quorum present. 29

Reading of Journal On motion of Senator Cooke, reading of the Journal of Tuesday, February 9, 2016, was dispensed with, and the Journal was approved as corrected by the Secretary. 31

COMMITTEE OF REFERENCE REPORTS

Finance After consideration on the merits, the Committee recommends that **HB16-1044** be referred to the Committee of the Whole with favorable recommendation. 39
 Finance After consideration on the merits, the Committee recommends that **SB16-072** be referred to the Committee on Appropriations with favorable recommendation. 43
 Finance After consideration on the merits, the Committee recommends that **SB16-036** be amended as follows, and as so amended, be referred to the Committee on Appropriations with favorable recommendation. 47

Amend printed bill, page 2, strike lines 2 through 14 and substitute:

"SECTION 1. In Colorado Revised Statutes, amend 39-21-105 as follows:

39-21-105. Appeals. (1) The taxpayer may appeal the final determination of the executive director issued pursuant to section 39-21-103, 39-21-104, or 39-21-104.5 within thirty days after the mailing of such determination. JURISDICTION TO HEAR AND DETERMINE SUCH APPEALS IS IN THE DISTRICT COURTS OF THIS STATE.

(2) (a) Venue shall be IS in the district court of the county wherein WHERE the taxpayer resides or has his OR HER principal place of business. If the taxpayer has neither a residence nor a principal place of business within the state, venue shall be IS in the DENVER district court. in and for the city and county of Denver.

(b) Jurisdiction to hear and determine appeals is conferred upon the district courts of this state. Trial may be had or any order made in

~~term or in vacation.~~ The district court shall try the case de novo, reviewing all questions of law and fact, such review being conducted in accordance with the Colorado rules of civil procedure. The taxpayer shall present his OR HER case in the same manner as the plaintiff in other civil actions and the normal rules of evidence shall apply. The taxpayer ~~shall have~~ HAS the burden of proof with respect to the issues raised in the WRITTEN notice of appeal DESCRIBED IN SUBSECTION (3) OF THIS SECTION except as to the issue of whether the taxpayer has been guilty of fraud with intent to evade tax. The burden of proof ~~shall be upon~~ IS ON the executive director of the department of revenue or his OR HER delegate to show that a petitioner is liable as a transferee of property of a taxpayer but not to show that the taxpayer was liable for the tax. The district court may affirm, modify, or reverse the determination of the executive director and may enter judgment on its findings.

(3) ~~Appeal to the district court shall be taken~~ A TAXPAYER APPEALS A FINAL DETERMINATION OF THE EXECUTIVE DIRECTOR by filing, with the clerk of the district court of the proper county, a copy of the notice of final determination received by the taxpayer, together with a written notice stating that the taxpayer appeals to the district court and alleging the pertinent facts upon which such appeal is grounded.

(4) (a) Within fifteen days after filing ~~the notice of~~ AN appeal TO THE DISTRICT COURT FROM A DECISION PURSUANT TO SECTION 39-21-104.5, the taxpayer shall file with the district court a surety bond in twice the amount of the taxes, interest, and other charges stated AS DUE in the final determination by the executive director which are contested on appeal. The taxpayer may, at his OR HER option, satisfy the surety bond requirement by DEPOSIT IN a savings account or deposit ACCOUNT HELD in, or PURCHASE a certificate of deposit issued by, a state or national bank or by a state or federal savings and loan association, in accordance with the provisions of section 11-35-101 (1), C.R.S., AN AMOUNT equal to twice the amount of the taxes, interest, and other charges stated AS DUE in the final determination by the executive director.

(b) (5) ~~The~~ ANY taxpayer may, at his OR HER option, deposit the disputed amount with the executive director of the department of revenue ~~in lieu of posting a surety bond~~ WITHIN FIFTEEN DAYS AFTER FILING AN APPEAL TO THE DISTRICT COURT. If such amount is so deposited, no further interest ~~shall accrue~~ ACCRUES on the deficiency contested during the pendency of the action. At the conclusion of the action, after appeal to the supreme court or the court of appeals or after the time for such appeal has expired, the funds deposited ~~shall~~ MUST be, at the direction of the court, either retained by the executive director and applied against the deficiency or returned in whole or in part to the taxpayer with interest at the rate imposed under section 39-21-110.5. ~~No~~ THE TAXPAYER DOES NOT NEED TO MAKE A claim for refund of amounts deposited with the executive director of the department of revenue ~~need be made by the taxpayer~~ in order for such amounts to be repaid in accordance with the direction of the court.

(5) (6) Upon filing of the WRITTEN notice of appeal DESCRIBED IN SUBSECTION (3) OF THIS SECTION, the executive director of the department of revenue ~~shall be~~ IS deemed to be a party to ~~such~~ THE appeal, and the clerk of the district court shall docket the cause as a civil action. The appellant shall cause summons to be issued and cause the same to be served upon the executive director, in accordance with the manner provided by law in civil cases. Notice of the date of trial ~~shall~~ MUST be mailed to the taxpayer and to the executive director, at least twenty days ~~prior thereto~~ BEFORE THE DATE OF THE TRIAL.

(6) (7) The final decision made in ~~such~~ AN appeal ~~shall~~ OF AN EXECUTIVE DIRECTOR'S FINAL DETERMINATION MUST be entered as a judgment, as in other civil cases, against the taxpayer or against the executive director as the case may be.

(7) (8) (a) The decision of the district court ~~shall be~~ IS reviewable by the supreme court or the court of appeals as is otherwise provided by law; EXCEPT THAT C.R.C.P. 62 (d) AND C.R.C.P. 121 SECTION 1-23 SHALL NOT APPLY. EXCEPT AS PROVIDED IN PARAGRAPH (b) OF THIS SUBSECTION (8), IF THE TAXPAYER WISHES TO SEEK REVIEW OF A DISTRICT COURT RULING THAT IS ADVERSE TO THE TAXPAYER IN PART OR IN WHOLE, NO LATER THAN FIFTEEN DAYS AFTER THE RULING THE TAXPAYER SHALL:

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(I) FILE WITH THE DISTRICT COURT A SURETY BOND IN TWICE THE AMOUNT OF THE TAXES, INTEREST, AND OTHER CHARGES STATED AS DUE IN THE DISTRICT COURT RULING, WHICH ARE CONTESTED ON APPEAL;

(II) DEPOSIT IN A SAVINGS ACCOUNT OR DEPOSIT ACCOUNT HELD IN, OR PURCHASE A CERTIFICATE OF DEPOSIT ISSUED BY, A STATE OR NATIONAL BANK OR BY A STATE OR FEDERAL SAVINGS AND LOAN ASSOCIATION, IN ACCORDANCE WITH THE PROVISIONS OF SECTION 11-35-101 (1), C.R.S., AN AMOUNT EQUAL TO TWICE THE AMOUNT OF THE TAXES, INTEREST, AND OTHER CHARGES STATED IN THE DISTRICT COURT RULING; OR

(III) DEPOSIT THE AMOUNT STATED AS DUE IN THE DISTRICT COURT RULING WITH THE EXECUTIVE DIRECTOR.

(b) IF THE TAXPAYER HAS POSTED A BOND, MADE A DEPOSIT, OR DEPOSITED THE DISPUTED AMOUNT WITH THE EXECUTIVE DIRECTOR AS SPECIFIED IN SUBSECTIONS (4) AND (5) OF THIS SECTION, SUCH PREVIOUS PAYMENT OR POSTING IS CONTINUED IN EFFECT AND NO FURTHER PAYMENT OR POSTING MAY BE REQUIRED.

(c) UPON THE TAXPAYER FULFILLING THE APPEAL REQUIREMENTS SPECIFIED IN PARAGRAPH (a) OF THIS SUBSECTION (8), COLLECTION ON THE JUDGMENT IS STAYED DURING THE PENDENCY OF THE ACTION.

(d) IF THE TAXPAYER DEPOSITS THE AMOUNT STATED AS DUE IN THE DISTRICT COURT RULING WITH THE EXECUTIVE DIRECTOR AS SPECIFIED IN SUBPARAGRAPH (III) OF PARAGRAPH (a) OF THIS SUBSECTION (8), NO FURTHER INTEREST SHALL ACCRUE ON THE AMOUNT DEPOSITED DURING THE PENDENCY OF THE ACTION. AT THE CONCLUSION OF THE ACTION, AFTER APPEAL TO THE SUPREME COURT OR AFTER THE TIME FOR SUCH APPEAL HAS EXPIRED, THE FUNDS DEPOSITED MUST BE, AT THE DIRECTION OF THE COURT, EITHER RETAINED BY THE EXECUTIVE DIRECTOR AND APPLIED AGAINST THE DEFICIENCY OR RETURNED IN WHOLE OR IN PART TO THE TAXPAYER WITH INTEREST AT THE RATE IMPOSED UNDER SECTION 39-21-110.5. THE TAXPAYER DOES NOT NEED TO MAKE A CLAIM FOR REFUND OF AMOUNTS DEPOSITED WITH THE EXECUTIVE DIRECTOR IN ORDER FOR SUCH AMOUNTS TO BE REPAYED IN ACCORDANCE WITH THE DIRECTION OF THE COURT."

Strike page 3.

Page 4, strike lines 1 through 8.

Page 5, line 15, strike "(3) (b) and (3) (c)" and substitute "(3) (b), (3) (c), and (8) (d)".

Page 5, lines 24 and 25, strike "OR THE EXECUTIVE DIRECTOR".

Page 6, line 15, strike "be paid REQUIRED TO" and substitute "be paid".

Page 6, after line 19 insert:

"(8) (d) An appeal pursuant to this subsection (8) shall MUST be conducted in the same manner as provided in section 39-21-105, C.R.S.; except that venue shall be IS in the district court of the county wherein WHERE the local government whose decision is being appealed is located, AND ANY DEPOSIT MADE PURSUANT TO SECTION 39-21-105 (4), (5), OR (8) (a) (III), C.R.S., MUST BE MADE WITH THE LOCAL GOVERNMENT WHOSE DECISION IS BEING APPEALED."

Page 6, strike lines 22 through 24 and substitute:

"SECTION 6. Act subject to petition - effective date. This act takes effect at 12:01 a.m. on the day following the expiration of the ninety-day period after final adjournment of the general assembly (August 10, 2016, if adjournment sine die is on May 11, 2016); except that, if a referendum petition is filed pursuant to section 1 (3) of article V of the state constitution against this act or an item, section, or part of this act within such period, then the act, item, section, or part will not take effect unless approved by the people at the general election to be

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held in November 2016 and, in such case, will take effect on the date of the official declaration of the vote thereon by the governor."

Trans-
portation

After consideration on the merits, the Committee recommends that **HB16-1018** be referred to the Committee of the Whole with favorable recommendation and with a recommendation that it be placed on the Consent Calendar.

Local
Government

After consideration on the merits, the Committee recommends that **SB16-081** be amended as follows, and as so amended, be referred to the Committee on Appropriations with favorable recommendation.

Amend printed bill, page 7, line 20, strike "JULY" and substitute "JUNE".

Page 7, line 23, strike "PROGRAM." and substitute "PROGRAM, INCLUDING THE DIRECT AND INDIRECT COSTS OF ADMINISTERING THE GRANT PROGRAM."

Page 8, line 14, strike "JULY" and substitute "JUNE".

Page 8, strike line 18 and substitute "DOLLARS FROM THE INTEREST IN THE TRUST FUND, AND, TO THE EXTENT THAT THE INTEREST IS INSUFFICIENT TO COVER THE AMOUNT, FROM THE PRINCIPAL IN THE TRUST FUND, TO THE".

Page 8, line 22, after "C.R.S." add "THE MONEY TRANSMITTED TO THE RURAL ECONOMIC EMERGENCY ASSISTANCE GRANT FUND PURSUANT TO THIS PARAGRAPH (a.5) CONSTITUTES FISCAL YEAR SPENDING FOR PURPOSES OF SECTION 20 OF ARTICLE X OF THE STATE CONSTITUTION."

Local
Government

After consideration on the merits, the Committee recommends that **SB16-063** be amended as follows, and as so amended, be referred to the Committee of the Whole with favorable recommendation and with a recommendation that it be placed on the Consent Calendar.

Amend printed bill, page 2, line 5, strike "**liability.** (1) ANY COUNTY OR MUNICIPALITY" and substitute "**liability - definitions.** (1) ANY COUNTY, MUNICIPALITY, OR DESIGNATED SPECIAL DISTRICT".

Page 2, line 6, strike "COUNTY OR MUNICIPALITY" and substitute "COUNTY, MUNICIPALITY, OR SPECIAL DISTRICT".

Page 3, line 1, strike "COUNTY OR MUNICIPALITY" and substitute "COUNTY, MUNICIPALITY, OR DESIGNATED SPECIAL DISTRICT".

Page 3, after line 7 insert:

"(4) AS USED IN THIS SECTION, "DESIGNATED SPECIAL DISTRICT" MEANS A FIRE PROTECTION DISTRICT, FIRE PROTECTION AUTHORITY, AMBULANCE DISTRICT, OR HEALTH SERVICE DISTRICT."

Page 3, line 26, strike "COUNTY OR MUNICIPALITY" and substitute "COUNTY, MUNICIPALITY, FIRE PROTECTION DISTRICT, OR FIRE PROTECTION AUTHORITY".

Page 4, lines 3 and 4, strike "COUNTY OR MUNICIPALITY" and substitute "COUNTY, MUNICIPALITY, FIRE PROTECTION DISTRICT, OR FIRE PROTECTION AUTHORITY".

Page 4, strike lines 5 through 11.

Re-number succeeding section accordingly.

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SENATE SERVICES REPORT

Correctly Engrossed: SB16-006, 041, 055, and 068.

**THIRD READING OF BILLS -- FINAL PASSAGE --
CONSENT CALENDAR**

On third reading, the title of the following bill was publicly read, the reading at length having been dispensed with by unanimous consent:

SB16-055 by Senator(s) Grantham, Donovan, Crowder, Sonnenberg; also Representative(s) Moreno-- Concerning the conduct of elections to choose the board of directors of a cooperative electric association.

The question being "Shall the bill pass?", the roll call was taken with the following result:

YES	35	NO	0	EXCUSED	0	ABSENT	0
Aguilar	Y	Heath	Y	Lambert	Y	Scott	Y
Baumgardner	Y	Hill	Y	Lundberg	Y	Sonnenberg	Y
Carroll	Y	Hodge	Y	Marble	Y	Steadman	Y
Cooke	Y	Holbert	Y	Martinez Humenik	Y	Tate	Y
Crowder	Y	Jahn	Y	Merrifield	Y	Todd	Y
Donovan	Y	Johnston	Y	Neville T.	Y	Ulibarri	Y
Garcia	Y	Jones	Y	Newell	Y	Woods	Y
Grantham	Y	Kefalas	Y	Roberts	Y	President	Y
Guzman	Y	Kerr	Y	Scheffel	Y		

A majority of all members elected to the Senate having voted in the affirmative, the bill was **passed**.

Co-sponsor(s) added: Baumgardner, Cadman, Cooke, Hodge, Holbert, Lambert, Lundberg, Marble, Martinez Humenik, Neville T., Roberts, Scheffel, Scott, Tate, and Woods.

THIRD READING OF BILLS -- FINAL PASSAGE

On third reading, the titles of the following bills were publicly read, the reading at length having been dispensed with by unanimous consent:

SB16-006 by Senator(s) Martinez Humenik, Lundberg, Roberts, Tate; also Representative(s) Sias, Landgraf--Concerning the use of qualified insurance brokers to enroll eligible participants in health benefit plans through the Colorado health benefit exchange.

The question being "Shall the bill pass?", the roll call was taken with the following result:

YES	22	NO	13	EXCUSED	0	ABSENT	0
Aguilar	N	Heath	N	Lambert	Y	Scott	Y
Baumgardner	Y	Hill	Y	Lundberg	Y	Sonnenberg	Y
Carroll	N	Hodge	Y	Marble	Y	Steadman	N
Cooke	Y	Holbert	Y	Martinez Humenik	Y	Tate	Y
Crowder	Y	Jahn	Y	Merrifield	N	Todd	Y
Donovan	N	Johnston	N	Neville T.	Y	Ulibarri	N
Garcia	Y	Jones	N	Newell	N	Woods	Y
Grantham	Y	Kefalas	N	Roberts	Y	President	Y
Guzman	N	Kerr	N	Scheffel	Y		

A majority of all members elected to the Senate having voted in the affirmative, the bill was **passed**.

Co-sponsor(s) added: Cadman, Cooke, Grantham, Lambert, Marble, Scheffel, and Woods.

SB16-041 by Senator(s) Baumgardner; also Representative(s) Pabon--Concerning data collected by the division of criminal justice in the department of public safety concerning the study of marijuana implementation.

The question being "Shall the bill pass?", the roll call was taken with the following result:

YES	22	NO	13	EXCUSED	0	ABSENT	0
Aguilar	N	Heath	N	Lambert	Y	Scott	Y
Baumgardner	Y	Hill	Y	Lundberg	Y	Sonnenberg	Y
Carroll	N	Hodge	Y	Marble	Y	Steadman	N
Cooke	Y	Holbert	Y	Martinez Humenik	Y	Tate	Y
Crowder	Y	Jahn	Y	Merrifield	N	Todd	N
Donovan	N	Johnston	N	Neville T.	Y	Ulibarri	N
Garcia	Y	Jones	N	Newell	Y	Woods	Y
Grantham	Y	Kefalas	N	Roberts	Y	President	Y
Guzman	N	Kerr	N	Scheffel	Y		

A majority of all members elected to the Senate having voted in the affirmative, the bill was **passed**.

Co-sponsor(s) added: Cadman, Crowder, Lambert, and Scheffel.

SB16-068 by Senator(s) Donovan, Marble, Cadman, Johnston; also Representative(s) Esgar and Willett--Concerning wearing fluorescent pink garments to hunt big game.

The question being "Shall the bill pass?", the roll call was taken with the following result:

YES	30	NO	5	EXCUSED	0	ABSENT	0
Aguilar	Y	Heath	Y	Lambert	N	Scott	Y
Baumgardner	Y	Hill	Y	Lundberg	Y	Sonnenberg	N
Carroll	Y	Hodge	Y	Marble	Y	Steadman	Y
Cooke	N	Holbert	Y	Martinez Humenik	Y	Tate	Y
Crowder	Y	Jahn	Y	Merrifield	Y	Todd	Y
Donovan	Y	Johnston	Y	Neville T.	N	Ulibarri	Y
Garcia	Y	Jones	Y	Newell	Y	Woods	Y
Grantham	Y	Kefalas	Y	Roberts	N	President	Y
Guzman	Y	Kerr	Y	Scheffel	Y		

A majority of all members elected to the Senate having voted in the affirmative, the bill was **passed**.

Co-sponsor(s) added: Crowder, Garcia, Guzman, Hill, Holbert, Kerr, Merrifield, Newell, Tate, Todd, Ulibarri, and Woods.

TRIBUTES

Honoring:

- Corporal Gil Landrini -- By Senator Leroy Garcia.
- Advancement Via Individual Determination -- By Senator Nancy Todd.
- Lester and Alta Denton -- By Senator Leroy Garcia.
- Gene and Alice Muniz -- By Senator Leroy Garcia.
- Louis and Viola Resendez -- By Senator Leroy Garcia.
- Joe and Lucy Rodriguez -- By Senator Leroy Garcia.
- Angelo and Angelita Vasquez -- By Senator Leroy Garcia.
- Jerry S. Chang -- By President Bill L. Cadman and Speaker Dickey Lee Hullinghorst.



On motion of Majority Leader Scheffel, the Senate adjourned until 9:00 a.m., Thursday, February 11, 2016.

Approved:

Bill L. Cadman
President of the Senate

Attest:

Effie Ameen
Secretary of the Senate

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