

Second Regular Session
Seventy-third General Assembly
STATE OF COLORADO

REENGROSSED

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

LLS NO. 22-0581.01 Bob Lackner x4350

HOUSE BILL 22-1363

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A BILL FOR AN ACT

101 **CONCERNING MEASURES TO INCREASE THE ACCOUNTABILITY OF**
102 **SPECIAL DISTRICTS TO TAXPAYERS.**

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://leg.colorado.gov>.)

The bill makes the following modifications to statutory provisions governing special districts to increase the accountability of special districts to taxpayers:

- If a separate legal entity established by contract includes one or more special districts, requires the separate legal entity to file with the division of local government in the

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

HOUSE
3rd Reading Unamended
May 2, 2022

HOUSE
Amended 2nd Reading
April 29, 2022

department of local affairs certain financial information pertaining to the special district. In such circumstances, the directors of the special district are also required to comply with oath and bond requirements for directors of special districts.

- Expands existing requirements on the information a metropolitan district must include on its public website to include information that is required by the service plan of the metropolitan district, by an ordinance or resolution adopted by the board of commissioners of a county, or by the governing body of a municipality, as applicable;
- Expands the applicability of statutory provisions governing the approval and oversight of special districts to specify that these provisions do not apply when a special district that was originally approved at any time thereafter becomes wholly included within the boundaries of one or more municipalities;
- Specifies information to be included in the financial plan that a new district submits along with its service plan;
- Removes an existing cap on the amount of the fee that a special district must pay the board of county commissioners for processing review of a service plan;
- For any proposed special district that has any property within its boundaries that is zoned or valued for assessment as residential, enumerates certain acts that are disallowed for any service plan required to be filed by the district. A local government acting on a service plan is prohibited from approving a service plan for a special district that permits any of these same acts.
- Clarifies requirements affecting the oversight by a municipality that is wholly contained within the boundaries of the municipality, especially in connection with an annexing municipality;
- Expands the circumstances under which material modifications of a special district's service plan are approved by the county or municipality, as applicable, to include the situation when the special district after initial approval of the plan becomes wholly included within the boundaries of a newly annexed municipality;
- Specifies that approval is also required for any action or omission of a special district that is materially inconsistent with the district's service plan. Expands the list of examples of acts or omissions necessitating approval.
- Authorizes a board of county commissioners for a district that lies entirely within the territorial boundaries of a

county or the governing body of a municipality for a district that lies entirely within the boundaries of a municipality to impose a fee to offset the costs incurred by the county or municipality, as applicable, in reviewing the operations of the district and the district's compliance with its service plan. The fee is not payable more than once annually.

- Prohibits a member of the board of a district that approved the issuance of any debt while the member was serving on the board from thereafter acquiring any interest in the debt individually or on behalf of any organization or entity for which the board member is engaged as an employee, counsel, consultant, representative, or agent;
- Requires all meetings of a board of a special district that are held solely at physical locations to be held at physical locations that are within the boundaries of the district or that are within the boundaries of any county in which the district is located, in whole or in part, without exceptions or the possibility of a waiver;
- Clarifies that the powers of the board of directors of any metropolitan district are limited by the district's service plan;
- On and after September 1, 2022, prohibits a metropolitan district from entering into any new contract or agreement as of that date to furnish covenant enforcement and design review services. On and after September 1, 2022, the bill prohibits a metropolitan district from renewing any existing agreement entered into prior to that date to furnish covenant enforcement and design review services. Upon the expiration of the agreement, the master association or similar entity contracting with the metropolitan district is required to assume covenant enforcement and design review services.
- Under current law, under specified circumstances, the board of county commissioners or the governing body of the municipality that has adopted a resolution of approval of the special district may require the board of the special district to file an application for a finding of reasonable diligence every 5 years. The bill makes this an annual requirement.
- Makes proof of the commission of such act by a preponderance of the evidence proof that the director has breached the director's fiduciary duty and the public trust.

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

2 [REDACTED]

3 **SECTION 1.** In Colorado Revised Statutes, **add** 32-1-203.5 as
4 follows:

5 **32-1-203.5. Metropolitan district - residential housing -**
6 **additional limitations on and approval of service plan.**

7 (1) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, FOR ANY
8 PROPOSED METROPOLITAN DISTRICT THAT HAS ANY PROPERTY WITHIN ITS
9 BOUNDARIES THAT IS ZONED OR VALUED FOR ASSESSMENT AS
10 RESIDENTIAL, NONE OF THE FOLLOWING ACTS ARE ALLOWED UNDER ANY
11 SERVICE PLAN A METROPOLITAN DISTRICT IS REQUIRED TO FILE UNDER
12 SECTION 32-1-204. A LOCAL GOVERNMENT ACTING ON A SERVICE PLAN
13 PURSUANT TO SECTION 32-1-203 SHALL NOT APPROVE A SERVICE PLAN FOR
14 A METROPOLITAN DISTRICT THAT PERMITS THE PURCHASE OF DISTRICT
15 DEBT BY ANY ENTITY WITH RESPECT TO WHICH ANY DIRECTOR OF THE
16 DISTRICT HAS A CONFLICT OF INTEREST NECESSITATING DISCLOSURE
17 UNDER SECTION 24-18-109.

18 [REDACTED]

19 **SECTION 2.** In Colorado Revised Statutes, 32-1-902, **add** (5) as
20 follows:

21 **32-1-902. Organization of board - compensation - disclosure**
22 **- prohibited transactions.** (5) NOTWITHSTANDING ANY OTHER

23 PROVISION OF LAW, A MEMBER OF THE BOARD OF A DISTRICT THAT
24 APPROVED THE ISSUANCE OF ANY DEBT WHILE THE MEMBER WAS SERVING
25 ON THE BOARD SHALL NOT THEREAFTER ACQUIRE ANY INTEREST IN THE
26 DEBT INDIVIDUALLY OR ON BEHALF OF ANY ORGANIZATION OR ENTITY FOR
27 WHICH THE BOARD MEMBER IS ENGAGED AS AN EMPLOYEE, COUNSEL,

1 CONSULTANT, REPRESENTATIVE, OR AGENT. THE REQUIREMENTS OF THIS
2 SUBSECTION (5) DO NOT APPLY TO DEBT ACQUIRED INDIRECTLY THROUGH
3 AN INVESTMENT FUND IF THE MEMBER HAS NO INPUT INTO OR CONTROL
4 OVER THE INDIVIDUAL SECURITIES THAT THE FUND PURCHASES.

5 [REDACTED]

6 **SECTION 3.** In Colorado Revised Statutes, 32-1-1107, add (7)
7 as follows:

8 **32-1-1101. Common financial powers.** (7) (a) PRIOR TO ISSUING
9 DEBT TO A DIRECTOR OF A METROPOLITAN DISTRICT OR TO AN ENTITY
10 WITH RESPECT TO WHICH A DIRECTOR OF A METROPOLITAN DISTRICT MUST
11 MAKE DISCLOSURE UNDER SECTION 24-18-109, THE BOARD OF THE
12 METROPOLITAN DISTRICT MUST RECEIVE A STATEMENT OF A REGISTERED
13 MUNICIPAL ADVISOR CERTIFYING THAT THE INTEREST RATE OF THE DEBT
14 DOES NOT EXCEED THE LESSER OF:

15 (I) THE INTEREST RATE ALLOWED UNDER SUBSECTION (7)(b) OF
16 THIS SECTION; OR

17 (II) THE CURRENT MARKET INTEREST RATE FOR THE DEBT BASED
18 ON CRITERIA DETERMINED BY THE MUNICIPAL ADVISOR, INCLUDING THE
19 RESTRUCTURE OF THE DEBT, THE MATURITIES, REDEMPTION PROVISIONS,
20 THE REVENUES PLEDGED FOR REPAYMENT, AND OTHER TERMS OF THE
21 DEBT, CONSIDERING THE FINANCIAL CIRCUMSTANCES OF THE
22 METROPOLITAN DISTRICT.

23 (b) THE INTEREST RATE ON DEBT ISSUED BY A METROPOLITAN
24 DISTRICT TO A DIRECTOR OF A METROPOLITAN DISTRICT OR TO AN ENTITY
25 WITH RESPECT TO WHICH A DIRECTOR OF A METROPOLITAN DISTRICT MUST
26 MAKE DISCLOSURE UNDER SECTION 24-18-109 MUST NOT EXCEED THE
27 MUNICIPAL MARKET DATA "AAA" GENERAL OBLIGATION, THIRTY-YEAR

1 CONSTANT MATURITY, OR SUCCESSOR INDEX IF REPLACED, PLUS FOUR
2 HUNDRED POINTS, AS OF THE SEVENTH BUSINESS DAY PRIOR TO THE DATE
3 OF ISSUANCE OF THAT DEBT AND MUST HAVE A MAXIMUM FINAL MATURITY
4 OF NOT MORE THAN FORTY YEARS FROM THE DATE OF ISSUANCE.

5 (c) AS USED IN THIS SUBSECTION (7), "REGISTERED MUNICIPAL
6 ADVISOR" MEANS A "MUNICIPAL ADVISOR", AS THAT TERM IS DEFINED IN
7 SECTION 15b OF THE FEDERAL "SECURITIES EXCHANGE ACT OF 1934,"
8 THAT IS REGISTERED WITH THE SECURITIES AND EXCHANGE COMMISSION
9 UNDER SECTION 15b OF THE FEDERAL "SECURITIES EXCHANGE ACT OF
10 1934".

11 (d) THIS SUBSECTION (7) ONLY APPLIES TO METROPOLITAN
12 DISTRICTS CREATED ON OR AFTER JANUARY 1, 2023.

13 **SECTION 4.** In Colorado Revised Statutes, 24-18-109, **add** (2.5)
14 as follows:

15 **24-18-109. Rules of conduct for local government officials and**
16 **employees.** (2.5) PROOF OF THE COMMISSION OF AN ACT PROSCRIBED BY
17 SECTION 32-1-902 (5) BY A PREPONDERANCE OF THE EVIDENCE IS PROOF
18 THAT THE ACTOR HAS BREACHED THE ACTOR'S FIDUCIARY DUTY AND THE
19 PUBLIC TRUST.

20 **SECTION 5. Act subject to petition - effective date -**
21 **applicability.** (1) This act takes effect at 12:01 a.m. on the day following
22 the expiration of the ninety-day period after final adjournment of the
23 general assembly; except that, if a referendum petition is filed pursuant
24 to section 1 (3) of article V of the state constitution against this act or an
25 item, section, or part of this act within such period, then the act, item,
26 section, or part will not take effect unless approved by the people at the
27 general election to be held in November 2022 and, in such case, will take

1 effect on the date of the official declaration of the vote thereon by the
2 governor.

3 (2) This act applies to acts undertaken on or after the applicable
4 effective date of this act.