Colorado Revised Statutes 2017

TITLE 32

SPECIAL DISTRICTS

SPECIAL DISTRICT ACT

ARTICLE 1

Special District Provisions

Editor's note: This article was numbered as articles 8-10, 16-18, 22, and 26 of chapter 89, C.R.S. 1963. The provisions of this article were repealed and reenacted in 1981, resulting in the addition, relocation, and elimination of sections as well as subject matter. For amendments to this article prior to 1981, consult the Colorado statutory research explanatory note and the table itemizing the replacement volumes and supplements to the original volume of C.R.S. 1973 beginning on page vii in the front of this volume. Former C.R.S. section numbers are shown in editor's notes following those sections that were relocated. For a detailed comparison of this article, see the comparative tables located in the back of the index.

Cross references: For foreclosure proceedings for a special district, see part 11 of article 25 of title 31.

PART 1

GENERAL PROVISIONS

32-1-101. Short title. This article shall be known and may be cited as the "Special District Act".

Source: L. 81: Entire article R&RE, p. 1542, § 1, effective July 1.

32-1-102. Legislative declaration. (1) The general assembly hereby declares that the organization of special districts providing the services and having the purposes, powers, and authority provided in this article will serve a public use and will promote the health, safety, prosperity, security, and general welfare of the inhabitants of such districts and of the people of the state of Colorado.

(2) The general assembly further declares that the procedures contained in part 2 of this article are necessary for the coordinated and orderly creation of special districts and for the logical extension of special district services throughout the state. It is the purpose of part 2 of

this article to prevent unnecessary proliferation and fragmentation of local government and to avoid excessive diffusion of local tax sources.

(3) The general assembly further declares that the purpose of part 5 of this article is to facilitate the elimination of the overlapping of services provided by local governments and the double taxation which may occur because of annexation or otherwise when all or part of the taxable property of an area lies within the boundaries of both a municipality and a special district.

(4) The general assembly further declares that it is the policy of this state to provide for and encourage the consolidation of special districts and to provide the means therefor by simple procedures in order to prevent or reduce duplication, overlapping, and fragmentation of the functions and facilities of special districts; that such consolidation will better serve the people of this state; and that consolidated districts will result in reduced costs and increased efficiency of operation.

(5) The general assembly further declares that the purpose of part 7 of this article is to facilitate dissolution of special districts in order to reduce the proliferation, fragmentation, and overlapping of local governments and to encourage assumption of services by other governmental entities.

Source: L. 81: Entire article R&RE, p. 1542, § 1, effective July 1.

Editor's note: The provisions of this section are similar to provisions of several former sections as they existed prior to 1981. For a detailed comparison, see the comparative tables located in the back of the index.

32-1-103. Definitions. As used in this article, unless the context otherwise requires:

(1) "Ambulance district" means a special district which provides emergency medical services and the transportation of sick, disabled, or injured persons by motor vehicle, aircraft, or other form of transportation to and from facilities providing medical services. For the purpose of this subsection (1), "emergency medical services" means services engaged in providing initial emergency medical assistance, including, but not limited to, the treatment of trauma and burns and respiratory, circulatory, and obstetrical emergencies.

(1.5) "Board" means the board of directors of a special district.

(2) "Court" means the district court in any county in which the petition for organization of the special district was originally filed and which entered the order organizing said district or the district court to which the file pertaining to the special district has been transferred pursuant to section 32-1-303 (1)(b).

(2.5) "Depository institution" means:

(a) A person that is organized or chartered, or is doing business or holds an authorization certificate, under the laws of a state or of the United States which authorize the person to receive deposits, including deposits in savings, shares, certificates, or other deposit accounts, and that is supervised and examined for the protection of depositors by an official or agency of a state or the United States; and

(b) A trust company or other institution that is authorized by federal or state law to exercise fiduciary powers of the type that a national bank is permitted to exercise under the authority of the comptroller of the currency and that is supervised and examined by an official or

agency of a state or the United States. The term does not include an insurance company or other organization primarily engaged in the insurance business.

(3) "Director" means a member of the board.

(4) "Division" means the division of local government in the department of local affairs.

(5) (a) "Eligible elector" means a person who, at the designated time or event, is registered to vote pursuant to the "Uniform Election Code of 1992", articles 1 to 13 of title 1, C.R.S., and:

(I) Who is a resident of the special district or the area to be included in the special district; or

(II) Who, or whose spouse or civil union partner, owns taxable real or personal property situated within the boundaries of the special district or the area to be included in the special district, whether said person resides within the special district or not.

(b) A person who is obligated to pay taxes under a contract to purchase taxable property situated within the boundaries of the special district or the area to be included within the special district shall be considered an owner within the meaning of this subsection (5).

(c) Repealed.

(d) For all elections and petitions that require ownership of real property or land, a mobile home as defined in section 38-12-201.5 (2) or 5-1-301 (29), C.R.S., or a manufactured home as defined in section 42-1-102 (106)(b), C.R.S., shall be deemed sufficient to qualify as ownership of real property or land for the purpose of voting rights and petitions.

(e) In the event that the board, by resolution, ends business personal property taxation by the district pursuant to subsection (8)(b) of section 20 of article X of the state constitution, persons owning such property and spouses or civil union partners of such persons shall not be eligible electors of the district on the basis of ownership of such property.

(6) Repealed.

(6.5) "Financial institution or institutional investor" means any of the following, whether acting for itself or others in a fiduciary capacity:

(a) A depository institution;

(b) An insurance company;

(c) A separate account of an insurance company;

(d) An investment company registered under the federal "Investment Company Act of 1940";

(e) A business development company as defined in the federal "Investment Company Act of 1940";

(f) Any private business development company as defined in the federal "Investment Company Act of 1940";

(g) An employee pension, profit-sharing, or benefit plan if the plan has total assets in excess of five million dollars or its investment decisions are made by a named fiduciary, as defined in the federal "Employee Retirement Income Security Act of 1974", that is a broker-dealer registered under the federal "Securities Exchange Act of 1934", an investment adviser registered or exempt from registration under the federal "Investment Advisers Act of 1940", a depository institution, or an insurance company;

(h) An entity, but not an individual, a substantial part of whose business activities consists of investing, purchasing, selling, or trading in securities of more than one issuer and not

of its own issue and that has total assets in excess of five million dollars as of the end of its last fiscal year; and

(i) A small business investment company licensed by the federal small business administration under the federal "Small Business Investment Act of 1958".

(7) "Fire protection district" means a special district which provides protection against fire by any available means and which may supply ambulance and emergency medical and rescue services.

(7.5) "Forest improvement district" means a special district created pursuant to article 18 of this title that protects communities from wildfires and improves the condition of forests in the district.

(8) "Governing body" means a city council or board of trustees and includes a body or board where the operation and management of service is under the control of a municipal body or board other than a city council or board of trustees.

(8.5) "Health assurance district" means a special district that is created to organize, operate, control, direct, manage, contract for, furnish, or provide, directly or indirectly, health care services to residents of the district and family members of such residents who are in need of such services.

(9) "Health service district" means a special district that may establish, maintain, or operate, directly or indirectly through lease to or from other parties or other arrangement, public hospitals, convalescent centers, nursing care facilities, intermediate care facilities, emergency facilities, community clinics, or other facilities licensed or certified pursuant to section 25-1.5-103 (1)(a), C.R.S., providing health and personal care services and may organize, own, operate, control, direct, manage, contract for, or furnish ambulance service.

(9.3) "Inactive special district" means a special district in a predevelopment stage that has no residents other than those who lived within the district boundaries prior to the formation of the district, no business or commercial ventures or facilities within its boundaries, has not issued any general obligation or revenue debt and does not have any financial obligations outstanding or contracts in effect that require performance by the district during the time the district is inactive, has not imposed a mill levy for tax collection in that fiscal year, anticipates no receipt of revenue and has no planned expenditures, except for statutory compliance, in that fiscal year, has no operation or maintenance responsibility for any facilities, has initially filed a notice of inactive status pursuant to section 32-1-104 (3), and, each year thereafter, has filed a notice of continuing inactive status pursuant to section 32-1-104 (4).

(9.5) "Mental health care service district" means a special district created pursuant to this article to provide, directly or indirectly, mental health care services to residents of the district who are in need of mental health care services and to family members of such residents.

(10) "Metropolitan district" means a special district that provides for the inhabitants thereof any two or more of the following services:

(a) Fire protection;

(b) Mosquito control;

(c) Parks and recreation;

(d) Safety protection;

(e) Sanitation;

(f) Solid waste disposal facilities or collection and transportation of solid waste;

(g) Street improvement;

(h) Television relay and translation;

(i) Transportation;

(j) Water.

(11) "Municipality" means a municipality as defined in section 31-1-101 (6), C.R.S.

(12) "Net effective interest rate" means the net interest cost of securities issued by a public body divided by the sum of the products derived by multiplying the principal amount of the securities maturing on each maturity date by the number of years from their date to their respective maturities. In all cases, net effective interest rate shall be computed without regard to any option of redemption prior to the designated maturity dates of the securities.

(13) "Net interest cost" means the total amount of interest to accrue on securities issued by a public body from their date to their respective maturities, less the amount of any premium above par, or plus the amount of any discount below par, at which said securities are being or have been sold. In all cases net interest cost shall be computed without regard to any option of redemption prior to the designated maturity dates of the securities.

(14) "Park and recreation district" means a special district which provides parks or recreational facilities or programs within said district.

(14.5) "Property owners' list" means the list furnished by the county assessor in accordance with section 1-5-304, C.R.S., showing each property owner within the district, as shown on a deed or contract of record.

(15) "Publication" means printing one time, in one newspaper of general circulation in the special district or proposed special district if there is such a newspaper, and, if not, then in a newspaper in the county in which the special district or proposed special district is located. For a special district with territory within more than one county, if publication cannot be made in one newspaper of general circulation in the special district, then one publication is required in a newspaper in each county in which the special district is located and in which the special district also has fifty or more eligible electors.

(16) "Quorum" means more than one-half of the number of directors serving on the board of a special district.

(17) "Regular special district election" means the election on the Tuesday succeeding the first Monday of May in every even-numbered year, held for the purpose of electing members to the boards of special districts and for submission of other public questions, if any.

(17.5) (Deleted by amendment, L. 92, p. 874, § 105, effective January 1, 1993.)

(18) "Sanitation district" means a special district that provides for storm or sanitary sewers, or both, flood and surface drainage, treatment and disposal works and facilities, or solid waste disposal facilities or waste services, and all necessary or proper equipment and appurtenances incident thereto.

(19) "Secretary" means the secretary of the board.

(19.5) "Solid waste" shall have the same definition as specified in section 30-20-101 (6), C.R.S.

(20) "Special district" means any quasi-municipal corporation and political subdivision organized or acting pursuant to the provisions of this article. "Special district" does not include any entity organized or acting pursuant to the provisions of article 8 of title 29, article 20 of title 30, article 25 of title 31, or articles 41 to 50 of title 37, C.R.S.

(21) "Special election" means any election called by the board for submission of public questions and other matters. The election shall be held on the first Tuesday after the first

Monday in February, May, October, or December, in November of even-numbered years or on the first Tuesday in November of odd-numbered years. Any special district may petition a district court judge who has jurisdiction in such district for permission to hold a special election on a day other than those specified in this subsection (21). The district court judge may grant permission only upon a finding that an election on the days specified would be impossible or impracticable or upon a finding that an unforeseeable emergency would require an election on a day other than those specified.

(22) "Taxable property" means real or personal property subject to general ad valorem taxes. "Taxable property" does not include the ownership of property on which a specific ownership tax is paid pursuant to law.

(23) (a) "Taxpaying elector" means an eligible elector of a special district who, or whose spouse or civil union partner, owns taxable real or personal property within the special district or the area to be included in or excluded from the special district, whether the person resides within the special district or not.

(b) A person who is obligated to pay taxes under a contract to purchase taxable property within the special district shall be considered an owner within the meaning of this subsection (23).

(c) For all elections and petitions that require ownership of real property or land, a mobile home as defined in section 38-12-201.5 (2) or 5-1-301 (29), C.R.S., or a manufactured home as defined in section 42-1-102 (106)(b), C.R.S., shall be deemed sufficient to qualify as ownership of real property or land for the purpose of voting rights and petitions.

(23.2) "Tunnel" means one or more holes under or through the ground, mountains, rock formations, or other natural or man-made material, including roads, railroads, pipelines, and other means of transporting vehicles, people, or goods through any such tunnel, whether located in the tunnel or, to the extent the same connects the tunnel to other similar facilities, located outside the tunnel. "Tunnel" also means any ventilation, drainage, and support facilities, toll collection facilities, administrative facilities, and other facilities necessary or convenient to the acquisition, construction, improvement, equipping, operation, or maintenance of the tunnel or to the operation of the tunnel district, whether located within or without the tunnel.

(23.5) "Tunnel district" means a special district which provides a tunnel.

(24) "Water and sanitation district" means a special district which provides both water district and sanitation district services.

(25) "Water district" means a special district which supplies water for domestic and other public and private purposes by any available means and provides all necessary or proper reservoirs, treatment works and facilities, equipment, and appurtenances incident thereto.

Source: L. 81: Entire article R&RE, p. 1543, § 1, effective July 1. **L. 82:** (5)(d) and (23)(c) added, p. 546, §§ 5, 6, effective April 15. **L. 83:** (1) R&RE and (1.5) added, p. 412, §§ 2, 3, effective June 1. **L. 85:** (20) amended, p. 1097, § 1, effective April 30; (21) amended, p. 1027, § 4, effective July 1; IP(5)(a) and (5)(a)(I) amended and (14.5) and (17.5) added, p. 1083, § 1, effective July 1, 1986. **L. 86:** (5)(c) repealed and (21) amended, pp. 1068, 814, §§ 3, 6, effective July 1. **L. 87:** (23.2) and (23.5) added, p. 1232, § 1, effective May 13; IP(5)(a), (5)(a)(I), (5)(b), and (14.5) amended, p. 333, § 100, effective July 1. **L. 89:** (6) repealed, p. 1135, § 85, effective July 1. **L. 90:** (5)(d) amended, p. 1848, § 46, effective May 31. **L. 91:** (2.5) and (6.5) added, p. 780, § 2, effective June 4. **L. 92:** IP(5)(a), (17), (17.5), (21), and (23)(a) amended, p. 874, § 105,

effective January 1, 1993. **L. 93:** (5)(a)(I) and (21) amended, p. 1438, § 133, effective July 1. **L. 94:** (5)(d) and (23)(c) amended, p. 706, § 10, effective April 19; (14.5) and (15) amended, p. 1194, § 97, effective July 1; (5)(a)(I) amended, p. 1775, § 45, effective January 1, 1995; (5)(d) and (23)(c) amended, p. 2565, § 79, effective January 1, 1995. **L. 96:** (5)(e) added and (9) and (14.5) amended, pp. 1771, 470, §§ 72, 1, 73, effective July 1. **L. 98:** (10) and (18) amended and (19.5) added, p. 1069, § 1, effective June 1. **L. 2001:** (5)(d) and (23)(c) amended, p. 1276, § 42, effective June 5. **L. 2003:** (9) amended, p. 715, § 58, effective July 1. **L. 2005:** (9.5) added, p. 1035, § 1, effective June 2. **L. 2007:** (7.5) added, p. 425, § 1, effective April 9; (8.5) added, p. 1186, § 1, effective July 1. **L. 2009:** (20) amended, (SB 09-292), ch. 369, p. 1979, § 109, effective August 5. **L. 2010:** (9.3) added, (HB 10-1362), ch. 360, p. 1710, § 1, effective August 11. **L. 2014:** (5)(a), (5)(e), and (23)(a) amended, (HB 14-1164), ch. 2, p. 70, § 29, effective February 18.

Editor's note: (1) The provisions of this section are similar to provisions of several former sections as they existed prior to 1981. For a detailed comparison, see the comparative tables located in the back of the index.

(2) Amendments to subsection (5)(d) by Senate Bill 94-092 and Senate Bill 94-001 were harmonized. Amendments to subsection (23)(c) by Senate Bill 94-092 and Senate Bill 94-001 were harmonized.

Cross references: For the legislative declaration in HB 14-1164, see section 1 of chapter 2, Session Laws of Colorado 2014.

32-1-104. Establishment of a special districts file. (1) The division shall promptly establish and maintain on a current basis, as a public record, a file listing by name all special districts, listing the names and addresses of all the members of the boards of the special districts, and recording all changes in the names or boundaries of the special districts. The file shall also list the names of the officers of each special district and a business address, a telephone number, and the name of a contact person for each district. Annually, the division shall compile and maintain a current and revised list of special districts for public inspection. Each special district shall register its business address, its telephone number, and the name of a contact person with the division when certifying the results of a district election pursuant to section 1-11-103, C.R.S.

(2) On or before January 15 of each year, a special district shall file a copy of the notice required pursuant section 32-1-809 (1) with the board of county commissioners, the county assessor, the county treasurer, and the county clerk and recorder of each county in which the special district is located, the governing body of any municipality in which the special district is located, and the division.

(3) (a) The board of directors of an inactive special district may adopt a resolution that describes and affirms its qualifications for its inactive status and may direct that a notice of inactive status be filed with the board of county commissioners and the city council of each county and city that approved its service plan pursuant to section 32-1-204 or 32-1-204.5; the treasurer, assessor, and the clerk and recorder of the county or counties in which the inactive special district is located; the district court having jurisdiction over the formation of the special district; the state auditor; and the division of local government. The notice of inactive status shall be filed on or before December 15 of the year in which the board adopts a resolution of inactive

status. At the time of filing the notice of inactive status, the district shall be in compliance with each of the requirements specified in subsection (5) of this section.

(b) When the board of directors of a district on inactive status determines that the district shall return to active status, the board shall adopt a resolution that declares the district's return to active status and authorizes the filing of a notice of the district's determination to return to active status with the same such entities that received the notice of inactive status under paragraph (a) of this subsection (3). The district's board of directors shall cause the district to be brought into compliance for the remainder of the fiscal year in which the district returns to active status with all legal requirements specified in this section for which the district has otherwise been exempt while on inactive status. The district shall be in compliance with such requirements within ninety days of delivery of notice of the board's determination to return to active status pursuant to this paragraph (b). The notices delivered pursuant to this subsection (3) shall be by certified mail, return receipt requested, except where electronic filing is required by the receiving entity.

(c) The notice of inactive status, notice of continuing inactive status, and notice of return to active status shall be standard forms developed by the division and shall be made available on the division's website.

(d) A special district shall not return to active status until it has filed an information statement under section 32-1-104.8.

(4) The special district shall be on inactive status during the period commencing with the filing of its notice of inactive status pursuant to paragraph (a) of subsection (3) of this section until such time as it has issued a notice of its determination to return to active status pursuant to paragraph (b) of subsection (3) of this section. During the period that a district is on inactive status, it shall not issue any debt, impose a mill levy, or conduct any other official business other than to conduct elections and to undertake procedures necessary to implement the district's intention to return to active status. Inactive special districts shall file with the state auditor and the division on or before December 15 of each year in which the district is on inactive status a notice that it is continuing in such status for the next fiscal year.

(5) Notwithstanding any other provision of law, inactive special districts shall be exempt from compliance with the provisions of subsection (2) of this section; sections 32-1-306, 32-1-809, and 32-1-903; parts 1, 2, and 6 of article 1 of title 29, C.R.S.; and part 1 of article 1 and part 1 of article 5 of title 39, C.R.S.

Source: L. 81: Entire article R&RE, p. 1545, § 1, effective July 1. **L. 85:** Entire section amended, p. 1020, § 5, effective July 1. **L. 92:** (1) amended, p. 875, § 106, effective January 1, 1993. **L. 93:** (1) amended, p. 1790, § 77, effective June 6. **L. 94:** (1) amended, p. 1194, § 98, effective July 1. **L. 2010:** (3), (4), and (5) added, (HB 10-1362), ch. 360, p. 1710, § 2, effective August 11. **L. 2013:** (3)(d) added, (HB 13-1186), ch. 102, p. 325, § 3, effective August 7. **L. 2015:** (1) and (2) amended, (HB 15-1092), ch. 87, p. 250, § 2, effective August 5.

Editor's note: This section is similar to former § 32-1-103 as it existed prior to 1981.

32-1-104.5. Audit and budget requirements - election results - description on state websites. (1) The division shall post on its official website in a form that is readily accessible to the public:

(a) A general description in plain, nontechnical language of the requirements for a special district to have an annual audit of the district's financial statements prepared in accordance with the "Colorado Local Government Audit Law", part 6 of article 1 of title 29, C.R.S., and information about where a copy of the audit report is available for public inspection;

(b) A general description in plain, nontechnical language of the process and requirements for a special district to adopt an annual budget in accordance with the "Local Government Budget Law of Colorado", part 1 of article 1 of title 29, C.R.S., and information about where a copy of the budget is available for public inspection; and

(c) The election results certified to the division pursuant to section 1-11-103 (3), C.R.S.

(2) The secretary of state shall provide a link to the election results posted by the division pursuant to paragraph (c) of subsection (1) of this section on the official website of the department of state.

Source: L. 2009: Entire section added, (SB 09-087), ch. 325, p. 1731, § 1, effective September 1. **L. 2015:** (2) amended and (1)(c) added, (HB 15-1092), ch. 87, p. 251, § 3, effective August 5.

32-1-104.8. Information statement regarding taxes and debt. (1) Every special district shall record a special district public disclosure document and a map of the boundaries of the district with the county clerk and recorder of each county in which the district is located that provides the following information:

(a) The name of the district;

(b) The powers of the district as authorized by section 32-1-1004 and the district's service plan or, as appropriate, the district's statement of purpose as described in section 32-1-208, current as of the time of the filing;

(c) A statement indicating that the district's service plan or, as appropriate, the district's statement of purpose as described in section 32-1-208, which can be amended from time to time, includes a description of the district's powers and authority, and that a copy of the service plan or statement of purpose is available from the division; and

(d) The following statement:

[Name of the district] is authorized by title 32 of the Colorado Revised Statutes to use a number of methods to raise revenues for capital needs and general operations costs. These methods, subject to the limitations imposed by section 20 of article X of the Colorado constitution, include issuing debt, levying taxes, and imposing fees and charges. Information concerning directors, management, meetings, elections, and current taxes are provided annually in the Notice to Electors described in section 32-1-809 (1), Colorado Revised Statutes, which can be found at the district office, on the district's website, on file at the division of local government in the state department of local affairs, or on file at the office of the clerk and recorder of each county in which the special district is located.

(2) Special districts existing as of August 7, 2013, shall record the special district public disclosure document required by subsection (1) of this section on or before December 31, 2014. The disclosure document for any district organized after August 7, 2013, or for any inclusion of additional real property within an existing district, shall be recorded at the same time the decree or order confirming the action is recorded as required by section 32-1-105. The requirement to

record the disclosure document may be enforced by the board of county commissioners or the governing body of any municipality that has approved the service plan of the district in the same manner as the enforcement of information reporting requirements under section 32-1-209. Notwithstanding any other provision of this section, failure to record a disclosure document does not invalidate the organization of, or change the boundaries of, a district or provide a cause of action against the district or any other person, nor does it invalidate or reduce any debt issued at any time by the district, nor does it reduce for any property the mill levy or its responsibility for the proportionate share of the district's outstanding debt.

(3) This section does not apply to any special district while it is on inactive status under section 32-1-104 (4).

(4) Nothing contained in the special district public disclosure document required by this section constitutes the basis for a title defect or creation of an unmarketable title.

(5) Recording a special district public disclosure document and map is subject to the fee payment requirements set forth in section 30-1-103 (1), C.R.S.

Source: L. 2013: Entire section added, (HB 13-1186), ch. 102, p. 324, § 2, effective August 7.

32-1-105. Notice of organization, dissolution, name change, or boundary change. No organization, dissolution, or change in the name or boundaries of any special district shall be effective until the decree or order confirming such action, together with a description of the area concerned, is recorded by the county clerk and recorder of the county in which the organization, dissolution, or change in the name or boundaries took place. The county clerk and recorder shall notify the county assessor of any such action. A certified copy of such notice shall also be filed with the division by the county clerk and recorder.

Source: L. 81: Entire article R&RE, p. 1546, § 1, effective July 1. **L. 2015:** Entire section amended, (HB 15-1092), ch. 87, p. 251, § 4, effective August 5.

Editor's note: (1) This section is similar to former § 32-1-104 as it existed prior to 1981.

(2) This section was amended in House Bill 81-1312. Those amendments were superseded by the repeal and reenactment of the entire article in House Bill 81-1320.

Cross references: For notice required prior to the levy of a tax by a special district, see § 39-1-110.

32-1-106. Repetitioning of elections - time limits. (1) If, after any election for the organization or dissolution of any special district or for the inclusion of territory into a special district pursuant to section 32-1-401 (2) or for the exclusion of property within a municipality from a special district pursuant to section 32-1-502, it appears that the proposal was defeated, no new petition for the organization or dissolution, as the case may be, of such a special district embracing the same or substantially the same area and no new petition for inclusion or exclusion, as the case may be, of territory pursuant to sections 32-1-401 (2) and 32-1-502 shall

be submitted again until the expiration of eight months after the date of the election at which the proposal was defeated.

(2) If, after any election submitting to the electors of any special district the proposition of creating any indebtedness of the special district, it appears that the proposition was defeated, no new proposition for creating such indebtedness of the special district shall be submitted until the expiration of five months after the date of the election at which the proposal was defeated.

Source: L. 81: Entire article R&RE, p. 1546, § 1, effective July 1. **L. 94:** Entire section amended, p. 1195, § 99, effective July 1.

Editor's note: This section is similar to former § 32-1-105 as it existed prior to 1981.

32-1-107. Service area of special districts. (1) A special district may be entirely within or entirely without, or partly within and partly without, one or more municipalities or counties, and a special district may consist of noncontiguous tracts or parcels of property.

(2) Except as provided in subsection (3) of this section, no special district may be organized wholly or partly within an existing special district providing the same service. Nothing in this subsection (2) shall prevent a special district providing different services from organizing wholly or partly within an existing special district. Except as provided in subsection (3) of this section, a metropolitan district may be organized wholly or partly within an existing special district, but a metropolitan district shall not provide the same service as the existing special district.

(3) (a) For purposes of this subsection (3), "overlapping special district" means a new or existing special or metropolitan district located wholly or partly within an existing special or metropolitan district.

(b) An overlapping special district may be authorized to provide the same service as the existing special or metropolitan district that the overlapping special district overlaps or will overlap if:

(I) Where the service plan of such overlapping special district is subject to approval by the board of county commissioners, the board of county commissioners of the county or counties in which the overlapping territory is located approves by resolution the inclusion of such service as part of the service plan of said overlapping special district; and

(II) Where the service plan of such overlapping special district is subject to the approval of the governing body of a municipality, the governing body of any municipality that has adopted a resolution of approval of the overlapping special district pursuant to section 32-1-204.5 (1)(a) or 32-1-204.7 approves by resolution the inclusion of such service as part of the service plan of said overlapping special district; and

(III) The improvements or facilities to be financed, established, or operated by the overlapping special district for the provision of the same service as the existing special or metropolitan district do not duplicate or interfere with any other improvements or facilities already constructed or planned to be constructed within the portion of the existing special or metropolitan district that the overlapping special district overlaps or will overlap; and

(IV) The board of directors of any special district or metropolitan district authorized to provide a service within the boundaries of the overlapping area consents to the overlapping special district providing the same service.

(c) Nothing in this subsection (3) shall be construed to encourage the unnecessary proliferation, duplication, overlapping, or fragmentation of special or metropolitan districts.

Source: L. 81: Entire article R&RE, p. 1546, § 1, effective July 1. **L. 97:** (2) amended and (3) added, p. 1415, § 1, effective June 3. **L. 2003:** (3)(b)(II) amended, p. 1315, § 1, effective August 6.

Editor's note: This section is similar to former § 32-3-103 (1) and (2) as it existed prior to 1981.

32-1-108. Correction of faulty notices. In any case where a notice is provided for in this article, if the court finds for any reason that due notice was not given, the court shall not thereby lose jurisdiction, and the proceeding in question shall not thereby be void or be abated; but the court, in that case, shall order due notice to be given and shall continue the hearing until such time as notice has been properly given, and thereupon it shall proceed as though notice had been properly given in the first instance.

Source: L. 81: Entire article R&RE, p. 1546, § 1, effective July 1.

Editor's note: The provisions of this section are similar to provisions of several former sections as they existed prior to 1981. For a detailed comparison, see the comparative tables located in the back of the index.

32-1-109. Early hearings. All cases in which there arises a question of the validity of the organization of a special district or a question of the validity of any proceeding under this article shall be advanced as a matter of immediate public interest and concern and heard at the earliest practicable moment. The courts shall be open at all times for the purposes of this article.

Source: L. 81: Entire article R&RE, p. 1547, § 1, effective July 1.

Editor's note: The provisions of this section are similar to provisions of several former sections as they existed prior to 1981. For a detailed comparison, see the comparative tables located in the back of the index.

32-1-110. Construction of other laws. If any provisions of this article are inconsistent with the provisions of any other law, the provisions of this article shall be controlling.

Source: L. 81: Entire article R&RE, p. 1547, § 1, effective July 1.

Editor's note: This section is similar to former § 32-4-131 as it existed prior to 1981.

32-1-111. Validation of special districts - bonds. The organization pursuant to law of any special district, by decree of a court of competent jurisdiction entered prior to July 1, 1981, and the obligations incurred by and the bonds of such districts issued prior to July 1, 1981, and the proceedings related thereto, are hereby validated.

Source: L. 81: Entire article R&RE, p. 1547, § 1, effective July 1.

Editor's note: The provisions of this section are similar to provisions of several former sections as they existed prior to 1981. For a detailed comparison, see the comparative tables located in the back of the index.

32-1-112. Validation of boundaries of metropolitan districts. All changes or purported changes to the corporate boundaries of existing metropolitan districts, which changes were initiated prior to March 1, 1981, and are completed prior to July 1, 1981, are hereby validated notwithstanding any lack of power or authority, other than constitutional. Such boundary changes shall be the valid boundaries of the respective districts in accordance with their terms and authorization proceedings. This section shall not operate to validate any boundary change which was determined in any legal proceedings to be illegal, void, or ineffective prior to March 1, 1981, or any boundary change the validity of which is the subject of a legal proceeding instituted prior to March 1, 1981.

Source: L. 81: Entire article R&RE, p. 1547, § 1, effective July 1.

32-1-113. Liberal construction. This article, being necessary to secure the public health, safety, convenience, and welfare, shall be liberally construed to effect its purposes.

Source: L. 81: Entire article R&RE, p. 1547, § 1, effective July 1.

Editor's note: This section is similar to former §§ 32-1-111 and 32-4-130 as they existed prior to 1981.

PART 2

CONTROL ACT

Law reviews: For article, "Metropolitan District Service Plans: An Overview of Municipal Review", see 33 Colo. Law. 63 (April 2004).

32-1-201. Applicability. This part 2 shall be applicable to any petition for the organization of any proposed special district filed in any district court of competent jurisdiction, except where a petition for the organization of a special district confined exclusively within the boundaries of any existing municipality has been approved by a resolution of the governing body of the municipality.

Source: L. 81: Entire article R&RE, p. 1547, § 1, effective July 1.

Editor's note: This section is similar to former § 32-1-203 as it existed prior to 1981.

32-1-202. Filing of service plan required - report of filing - contents - fee. (1) (a) Persons proposing the organization of a special district, except for a special district that is

contained entirely within the boundaries of a municipality and subject to the provisions of section 32-1-204.5, shall submit a service plan to the board of county commissioners of each county that has territory included within the boundaries of the proposed special district prior to filing a petition for the organization of the proposed special district in any district court. The service plan shall be filed with the county clerk and recorder for the board of county commissioners at least ten days prior to a regular meeting of the board of county commissioners, the division, and the state auditor. Within five days after the filing of any service plan, the county clerk and recorder, on behalf of the board of county commissioners, shall report to the division on forms furnished by the division the name and type of the proposed special district for which the service plan has been filed. If required by county policy adopted pursuant to the procedure provided in section 30-28-112, C.R.S., the service plan shall be referred to the planning commission which shall consider and make a recommendation on the service plan to the board of county commissioners within thirty days after the plan was filed with the county clerk and recorder. At the next regular meeting of the board of county commissioners that is held at least ten days after the final planning commission action on the service plan, the board of county commissioners shall set a date within thirty days of the meeting for a public hearing on the service plan of the proposed special district. The board of county commissioners shall provide written notice of the date, time, and location of the hearing to the division. The board of county commissioners may continue the hearing for a period not to exceed thirty days unless the proponents of the special district and the board agree to continue the hearing for a longer period.

(b) Notwithstanding the requirements of paragraph (a) of this subsection (1), the service plan of a proposed health service district or health assurance district shall not be referred to the county planning commission for consideration or recommendations. At the next regular meeting of the board of county commissioners that is held at least ten days after the filing of the service plan with the county clerk and recorder, the board of county commissioners shall set a date within thirty days of such filing for a public hearing on the service plan of the proposed district. The board of county commissioners shall provide written notice of the meeting pursuant to paragraph (a) of this subsection (1).

(2) The service plan shall contain the following:

(a) A description of the proposed services;

(b) A financial plan showing how the proposed services are to be financed, including the proposed operating revenue derived from property taxes for the first budget year of the district, which shall not be materially exceeded except as authorized pursuant to section 32-1-207 or 29-1-302, C.R.S. All proposed indebtedness for the district shall be displayed together with a schedule indicating the year or years in which the debt is scheduled to be issued. The board of directors of the district shall notify the board of county commissioners or the governing body of the municipality of any alteration or revision of the proposed schedule of debt issuance set forth in the financial plan.

(c) A preliminary engineering or architectural survey showing how the proposed services are to be provided;

(d) A map of the proposed special district boundaries and an estimate of the population and valuation for assessment of the proposed special district;

(e) A general description of the facilities to be constructed and the standards of such construction, including a statement of how the facility and service standards of the proposed special district are compatible with facility and service standards of any county within which all

or any portion of the proposed special district is to be located, and of municipalities and special districts which are interested parties pursuant to section 32-1-204 (1);

(f) A general description of the estimated cost of acquiring land, engineering services, legal services, administrative services, initial proposed indebtedness and estimated proposed maximum interest rates and discounts, and other major expenses related to the organization and initial operation of the district;

(g) A description of any arrangement or proposed agreement with any political subdivision for the performance of any services between the proposed special district and such other political subdivision, and, if the form contract to be used is available, it shall be attached to the service plan;

(h) Information, along with other evidence presented at the hearing, satisfactory to establish that each of the criteria set forth in section 32-1-203, if applicable, is met;

(i) Such additional information as the board of county commissioners may require by resolution on which to base its findings pursuant to section 32-1-203;

(j) For a mental health care service district, any additional information required by section 32-17-107 (2) that is not otherwise required by paragraphs (a) to (i) of this subsection (2);

(k) For a health assurance district, any additional information required by section 32-19-106 (2) that is not otherwise required by paragraphs (a) to (i) of this subsection (2).

(2.1) No service plan shall be approved if a petition objecting to the service plan and signed by the owners of taxable real and personal property, which property equals more than fifty percent of the total valuation for assessment of all taxable real and personal property to be included in such district, is filed with the board of county commissioners no later than ten days prior to the hearing under section 32-1-204, unless such property has been excluded by the board of county commissioners under section 32-1-203 (3.5).

(3) Each service plan filed shall be accompanied by a processing fee set by the board of county commissioners not to exceed five hundred dollars, which shall be deposited into the county general fund; except that the board of county commissioners may waive such fee. Such processing fee shall be utilized to reimburse the county for reasonable direct costs related to processing such service plan and the hearing prescribed by section 32-1-204, including the costs of notice, publication, and recording of testimony. If the board of county commissioners determines that special review of the service plan is required, the board may impose an additional fee to reimburse the county for reasonable direct costs related to such special review. If the board imposes such an additional fee, it shall not be less than five hundred dollars, and it shall not exceed one one-hundredth of one percent of the total amount of the debt to be issued by the district as indicated in the service plan or the amended service plan or ten thousand dollars, whichever is less. The board may waive all or any portion of the additional fee.

(4) In the case of a proposed health service district, submission to the board of county commissioners by the petitioners of a license or certificate of compliance or evidence of a pending application for a license or certificate of compliance issued by the department of public health and environment shall constitute compliance with subsection (2) of this section.

Source: L. 81: Entire article R&RE, p. 1547, § 1, effective July 1. **L. 82:** (1) amended, p. 491, § 1, effective February 19. **L. 85:** (1) amended, (2) R&RE, and (4) added, pp. 1098, 1099, §§ 1-3, effective May 3; (2.1) added, p. 1104, § 1, effective July 1. **L. 86:** (2)(b) amended, p.

1030, § 13, effective January 1, 1987. **L. 90:** (3) amended, p. 1452, § 10, effective July 1. **L. 91:** (1), (2)(b), and (3) amended, p. 781, § 3, effective June 4. **L. 94:** (4) amended, p. 2802, § 566, effective July 1. **L. 96:** (4) amended, p. 473, § 8, effective July 1. **L. 2005:** (2)(j) added, p. 1035, § 2, effective June 2. **L. 2007:** (1) amended and (2) (k) added, pp. 1186, 1187, §§ 2, 3, effective July 1.

Editor's note: This section is similar to former § 32-1-204 as it existed prior to 1981.

32-1-203. Action on service plan - criteria. (1) The board of county commissioners of each county which has territory included within the proposed special district, other than a proposed special district which is contained entirely within the boundaries of a municipality, shall constitute the approving authority under this part 2 and shall review any service plan filed by the petitioners of any proposed special district. With reference to the review of any service plan, the board of county commissioners has the following authority:

(a) To approve without condition or modification the service plan submitted;

(b) To disapprove the service plan submitted;

(c) To conditionally approve the service plan subject to the submission of additional information relating to or the modification of the proposed service plan.

(2) The board of county commissioners shall disapprove the service plan unless evidence satisfactory to the board of each of the following is presented:

(a) There is sufficient existing and projected need for organized service in the area to be serviced by the proposed special district.

(b) The existing service in the area to be served by the proposed special district is inadequate for present and projected needs.

(c) The proposed special district is capable of providing economical and sufficient service to the area within its proposed boundaries.

(d) The area to be included in the proposed special district has, or will have, the financial ability to discharge the proposed indebtedness on a reasonable basis.

(2.5) The board of county commissioners may disapprove the service plan if evidence satisfactory to the board of any of the following, at the discretion of the board, is not presented:

(a) Adequate service is not, or will not be, available to the area through the county or other existing municipal or quasi-municipal corporations, including existing special districts, within a reasonable time and on a comparable basis.

(b) The facility and service standards of the proposed special district are compatible with the facility and service standards of each county within which the proposed special district is to be located and each municipality which is an interested party under section 32-1-204 (1).

(c) The proposal is in substantial compliance with a master plan adopted pursuant to section 30-28-106, C.R.S.

(d) The proposal is in compliance with any duly adopted county, regional, or state long-range water quality management plan for the area.

(e) The creation of the proposed special district will be in the best interests of the area proposed to be served.

(3) The board of county commissioners may conditionally approve the service plan of a proposed special district upon satisfactory evidence that it does not comply with one or more of the criteria enumerated in subsection (2) of this section. Final approval shall be contingent upon

modification of the service plan to include such changes or additional information as shall be specifically stated in the findings of the board of county commissioners.

(3.5) (a) The board of county commissioners may exclude territory from a proposed special district prior to approval of the service plan submitted by the petitioners of a proposed special district. The petitioners shall have the burden of proving that the exclusion of the property is not in the best interests of the proposed special district. Any person owning property in the proposed special district who requests that his or her property be excluded from the special district prior to approval of the service plan shall submit the request to the board of county commissioners no later than ten days prior to the hearing held under section 32-1-204, but the board of county commissioners shall not be limited in its action with respect to exclusion of territory based upon the request. Any request for exclusion shall be acted upon before final action of the county commissioners under section 32-1-205.

(b) Notwithstanding the provisions of paragraph (a) of this subsection (3.5), if the service plan submitted by the petitioners of a proposed special district is for a health service district or health assurance district, the board of county commissioners shall not accept or act upon the request of a person owning property in the proposed special district that his or her property be excluded from the special district.

(4) The findings of the board of county commissioners shall be based solely upon the service plan and evidence presented at the hearing by the petitioners, planning commission, and any interested party.

(5) In the case of a proposed health service district, submission to the board of county commissioners by the petitioners of a license or certificate of compliance or evidence of a pending application for a license or certificate of compliance issued by the department of public health and environment shall constitute compliance with subsections (2) and (2.5) of this section.

Source: L. 81: Entire article R&RE, p. 1548, § 1, effective July 1. **L. 85:** (1) amended, (2) R&RE, and (2.5) and (5) added, pp. 1099, 1100, §§ 4, 5, effective May 3; (3.5) added, p. 1104, § 2, effective July 1. **L. 94:** (5) amended, p. 2802, § 567, effective July 1. **L. 96:** (5) amended, p. 473, § 9, effective July 1. **L. 2007:** (3.5) amended, p. 1187, § 4, effective July 1.

Editor's note: The provisions of this section are similar to provisions of several former sections as they existed prior to 1981. For a detailed comparison, see the comparative tables located in the back of the index.

32-1-204. Public hearing on service plan - procedures - decision. (1) The board of county commissioners shall provide written notice of the date, time, and location of the hearing to the petitioners and the governing body of any existing municipality or special district that has levied an ad valorem tax within the next preceding tax year and that has boundaries within a radius of three miles of the proposed special district boundaries, which governmental units shall be interested parties for the purposes of this part 2. The board of county commissioners shall make publication of the date, time, location, and purpose of the hearing, the first of which shall be at least twenty days prior to the hearing date. The board of county commissioners shall include in the notice a general description of the land contained within the boundaries of the proposed special district and information outlining methods and procedures pursuant to section 32-1-203 (3.5) concerning the filing of a petition for exclusion of territory; except that, if the

hearing is to review a service plan for a health service district or health assurance district, the notice shall not include information regarding filing a petition for exclusion of territory. The publications shall constitute constructive notice to the residents and property owners within the proposed special district who shall also be interested parties at the hearing.

(1.5) Not more than thirty days nor less than twenty days prior to the hearing held pursuant to this section, the petitioners for the organization of the special district shall send letter notification of the hearing to the property owners within the proposed special district as listed on the records of the county assessor on the date requested unless the petitioners represent one hundred percent of the property owners. The notification shall indicate that it is a notice of a hearing for the organization of a special district and shall indicate the date, time, location, and purpose of such hearing, a reference to the type of special district, the maximum mill levy, if any, or stating that there is no maximum that may be imposed by the proposed special district, and procedures for the filing of a petition for exclusion pursuant to section 32-1-203 (3.5). Except when no mailing is required, the mailing of the letter notification to all addresses or post office box addresses within the proposed special district shall constitute a good-faith effort to comply with this subsection (1.5), and failure to notify all electors thereby shall not provide grounds for a challenge to the hearing being held.

(2) (a) If there is a county planning commission or a regional planning commission in lieu thereof, the service plan submitted by the petitioners for the organization of the proposed special district shall be delivered by the county clerk and recorder to such planning commission. The county planning commission or regional planning commission shall study such service plan and present its recommendations consistent with this part 2 to the board of county commissioners within thirty days following the filing of the service plan with the county clerk and recorder.

(b) Notwithstanding the provisions of paragraph (a) of this subsection (2), the service plan of a proposed health service district or health assurance district shall not be delivered to the planning commission for study or recommendations unless specifically requested by the petitioners. If the petitioners do not request that the service plan be delivered to the planning commission, the clerk and recorder shall deliver the service plan to the board of county commissioners and the planning commission shall not be required to study the service plan or to present recommendations to the board of county commissioners pursuant to paragraph (a) of this subsection (2).

(3) The hearing held by the board of county commissioners shall be open to the public, and a record of the proceedings shall be made. All interested parties as defined in this section shall be afforded an opportunity to be heard under such rules of procedure as may be established by the board of county commissioners. Any testimony or evidence which in the discretion of the board of county commissioners is relevant to the organization of the proposed special district shall be considered.

(4) Within twenty days after the completion of the hearing, the board of county commissioners shall advise the petitioners for the organization of the proposed special district in writing of its action on the service plan. If the service plan is approved as submitted, a resolution of approval shall be issued to the petitioners. If the service plan is disapproved, the specific detailed reasons for such disapproval shall be set forth in writing. If the service plan is conditionally approved, the changes or modifications to be made in, or additional information relating to, the service plan, together with the reasons for such changes, modifications, or

additional information, shall also be set forth in writing, and the proceeding shall be continued until such changes, modifications, or additional information is incorporated in the service plan. Upon the incorporation of such changes, modifications, or additional information in the service plan of the proposed special district, the board of county commissioners shall issue a resolution of approval to the petitioners.

Source: L. 81: Entire article R&RE, p. 1549, § 1, effective July 1. **L. 85:** (1.5) added, p. 1106, § 1, effective January 1, 1986. **L. 91:** (1), (1.5), and (2) amended, p. 782, § 4, effective June 4. **L. 96:** (1.5) amended, p. 309, § 7, effective April 15. **L. 2007:** (1) and (2) amended, p. 1188, § 5, effective July 1.

Editor's note: This section is similar to former § 32-1-208 as it existed prior to 1981.

32-1-204.5. Approval by municipality. (1) No special district shall be organized if its boundaries are wholly contained within the boundaries of a municipality or municipalities, except upon adoption of a resolution of approval by the governing body of each municipality. The information required and criteria applicable to such approval shall be the information required and criteria set forth in sections 32-1-202 (2) and 32-1-203 (2). With reference to the review of any service plan, the governing body of each municipality has the following authority:

(a) To approve without condition or modification, the service plan submitted;

(b) To disapprove the service plan submitted;

(c) To conditionally approve the service plan subject to the submission of additional information relating to, or the modification of, the proposed service plan or by agreement with the proponents of the proposed service plan.

(2) In the case of a proposed health service district, submission to the governing body of the municipality of a license or certificate of compliance or evidence of a pending application for a license or certificate of compliance issued by the department of public health and environment shall constitute compliance with the requirements of sections 32-1-202 (2) and 32-1-203 (2) and (2.5) as required by subsection (1) of this section.

Source: L. 85: Entire section added, p. 1101, § 6, effective May 3. **L. 94:** (2) amended, p. 2802, § 568, effective July 1. **L. 96:** (2) amended, p. 473, § 10, effective July 1.

32-1-204.7. Approval by an annexing municipality. (1) If a special district that was originally approved by a board of county commissioners becomes wholly contained within the boundaries of a municipality or municipalities by annexation or boundary adjustment, the governing body of the special district may petition the governing body of any such municipality to accept a designation as the approving authority for the special district. The municipality may accept the designation through the adoption of a resolution of approval by the governing body of the municipality.

(2) Upon the adoption of the resolution by the governing body of any municipality pursuant to subsection (1) of this section, all powers and authorities vested in the board of county commissioners pursuant to this article shall be transferred to the governing body of the municipality, which shall constitute the approving authority for the special district for all purposes under this article.

Source: L. 2003: Entire section added, p. 1315, § 2, effective August 6.

32-1-205. Resolution of approval required. (1) A petition for the organization of a special district filed in any district court of competent jurisdiction pursuant to the provisions of section 32-1-301 shall be accompanied by a resolution approving the service plan of the proposed special district by the board of county commissioners of each county where the territory of the proposed special district lies or, where required pursuant to section 32-1-204.5, by a resolution of approval by the governing body of each municipality. If the boundaries of a proposed special district include territory within two or more counties, a resolution approving the service plan for such special district shall be required from the board of county commissioners of each county which has territory included in the proposed special district; but the board of county commissioners of each of the respective counties, in their discretion, may hold a joint hearing on the proposed special district in accordance with section 32-1-204.

(2) Except as provided in section 32-1-206, no petition for the organization of a special district shall be considered by any court in this state without the resolution of approval and the service plan required by this part 2. The approved service plan and the resolution of approval required by this part 2 shall be incorporated by reference in and appended to the order establishing the special district after all other legal procedures for the organization of the proposed special district have been complied with.

Source: L. 81: Entire article R&RE, p. 1550, § 1, effective July 1. **L. 85:** (1) amended, p. 1101, § 7, effective May 3. **L. 91:** (1) amended, p. 783, § 5, effective June 4.

Editor's note: This section is similar to former §§ 32-1-206 and 32-1-209 (1) as they existed prior to 1981.

32-1-206. Judicial review. (1) If the petitioners for the organization of a proposed special district fail to secure such resolution of approval in the first instance or on remand from any board of county commissioners or, where required pursuant to section 32-1-204.5, from the governing body of any municipality, the petitioners may request the court to review such action. If the court determines such action to be arbitrary, capricious, or unreasonable, the court shall remand the matter back to the board of county commissioners or to the governing board of the municipality for further action with specific direction as necessary to avoid the arbitrary, capricious, or unreasonable result. Another public hearing shall be held with notice to interested parties as defined in section 32-1-204 (1).

(2) If the service plan is approved by the board of county commissioners, any interested party as defined in section 32-1-204 (1), if such party had appeared and presented its objections before the board of county commissioners, shall be given notice and have the right to appear and be heard at the hearing on the court petition for the organization of the special district, and the court may dismiss the court petition upon a determination that the decision of the board of county commissioners was arbitrary, capricious, or unreasonable.

Source: L. 81: Entire article R&RE, p. 1550, § 1, effective July 1. **L. 91:** (1) amended, p. 783, § 6, effective June 4.

Editor's note: This section is similar to former § 32-1-209 (1) as it existed prior to 1981.

32-1-207. Compliance - modification - enforcement. (1) Upon final approval by the court for the organization of the special district, the facilities, services, and financial arrangements of the special district shall conform so far as practicable to the approved service plan.

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

(b) Except as otherwise described in paragraph (d) of this subsection (2), a special district shall not furnish domestic water or sanitary sewer service directly to residents and property owners in unincorporated territory located in a county that has not approved the special district's service plan unless the special district notifies the board of county commissioners of the county of its plan to furnish domestic water or sanitary sewer service directly to residents and property owners in the county and receives approval from the board to do so. Within forty-five days of receiving the notification, the board may review the special district's planned action and may, in its own discretion and following notice by the board, require a public hearing prior to giving approval of the planned action, prior to which hearing the governing body of the special district shall provide such information and data as the board reasonably requests. Failure to provide information as requested by the board is grounds for the board to delay the public hearing until the board receives the information. The board shall either approve or deny the proposed action within one hundred twenty days of the public hearing.

(c) Before approving a planned special district action described in paragraph (b) of this subsection (2), the board of county commissioners of a county shall, not less than forty-five days prior to the first meeting of the board at which the approval specified in paragraph (b) of this

subsection (2) may be given, provide public notice in the manner that the county requires of the possible approval within the newly described area to be served. The notice is required to include specific notification that any property owner wishing to have his or her property excluded from the proposed area to be served shall, not later than forty days from the first public notice, request that his or her property be excluded from the proposed area to be served by the special district. The board is not limited in its action with respect to exclusion of territory based on the request. A request for exclusion shall include a legal description of the property subject to the request, and the board shall act upon the request before taking final action on the request for approval pursuant to paragraph (b) of this subsection (2).

(d) The requirements detailed in paragraphs (b) and (c) of this subsection (2) do not apply in the following circumstances:

(I) A special district provides domestic water or sanitary sewer service only to private property owners pursuant to written agreement between the special district and the property owners;

(II) A special district provides domestic water or sanitary sewer service within the boundaries of another governmental entity, including, without limitation, a city, a municipality, or another special district, pursuant to an intergovernmental agreement;

(III) A special district provides any storm drainage or storm sewer services or facilities within the county; or

(IV) Domestic water service and sanitary sewer service is being provided, or a water or sanitary sewer service area extension has been approved by the county into which the service area is to be expanded, within unincorporated territory located in the county as of May 11, 2012.

(3) (a) Any material departure from the service plan as originally approved or, if the same has been modified, from the service plan as modified, which constitutes a material modification thereof as set forth in subsection (2) of this section, may be enjoined by the court approving the organization of such special district upon its own motion, upon the motion of the board of county commissioners or governing body of a municipality from which a resolution of approval is required by this part 2, or upon the motion of any interested party as defined in section 32-1-204 (1).

(b) No action may be brought to enjoin the construction of any facility, the issuance of bonds or other financial obligations, the levy of taxes, the imposition of rates, fees, tolls and charges, or any other proposed activity of the special district unless such action is commenced within forty-five days after the special district has published notice of its intention to undertake such activity. Such notice shall describe the activity proposed to be undertaken by the special district and provide that any action to enjoin such activity as a material departure from the service plan must be brought within forty-five days from publication of the notice. The notice shall be published one time in a newspaper of general circulation in the district. The district shall also provide notice to the district court. On or before the date of publication of the notice, the district shall also mail notice to the board of county commissioners or governing body of a municipality from which a resolution is required by this part 2.

(c) A board of county commissioners may request any special district located wholly or partially within the county's unincorporated area, and the governing body of any municipality may request any special district located wholly or partially within the municipality's boundaries, to file, not more than once a year, a special district annual report. The annual report shall be filed with the board of county commissioners, any municipality in which the special district is wholly

or partially located, the division, and the state auditor, and such report shall be deposited with the county clerk and recorder for public inspection, and a copy of the report shall be made available by the special district to any interested party pursuant to section 32-1-204 (1). If a special district files an annual report pursuant to this paragraph (c), such report shall include but shall not be limited to information on the progress of the special district in the implementation of the service plan. The board of county commissioners or the governing body of the municipality may review the annual reports in a regularly scheduled public meeting, and such review shall be included as an agenda item in the public notice for such meeting.

(d) Any special district created on or after July 1, 1991, shall annually file the report specified in paragraph (c) of this subsection (3) with 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 for five years after its organization and for succeeding annual periods, if so requested by the board of county commissioners or the governing body of the municipality. The annual report shall also be filed with the division and with the state auditor. The state auditor shall review the annual report and report any apparent decrease in the financial ability of the district to discharge its existing or proposed indebtedness in accordance with the service plan to the division. In such event, the division shall confer with the board of the special district and the board of county commissioners or the governing body of the municipality regarding such condition. The division may establish a standard form for the annual report that the board of a special district may elect to use.

(4) In the case of a health service district, a change in service by the district shall not be deemed material unless the change affects the license or certificate of compliance issued by the department of public health and environment. A health service district shall be exempt from paragraphs (b) and (c) of subsection (3) of this section.

Source: L. 81: Entire article R&RE, p. 1551, § 1, effective July 1. **L. 85:** (3) amended and (4) added, p. 1102, §§ 8, 9, effective May 3. **L. 90:** (2) amended, p. 1452, § 11, effective July 1. **L. 91:** (2) and (3)(c) amended and (3)(d) added, p. 784, § 7, effective June 4. **L. 94:** (4) amended, p. 2803, § 569, effective July 1. **L. 96:** (4) amended, p. 473, § 11, effective July 1. **L. 2003:** (2) and (3)(d) amended, p. 1316, § 3, effective August 6. **L. 2009:** (3)(d) amended, (SB 09-087), ch. 325, p. 1732, § 2, effective September 1. **L. 2012:** (2) amended, (HB 12-1239), ch. 175, p. 628, § 1, effective May 11.

Editor's note: This section is similar to former § 32-1-209 as it existed prior to 1981. For a detailed comparison, see the table located in the back of the index.

32-1-208. Statement of purposes - districts without service plans. (1) On or before July 1, 1986, any special district which does not have a service plan approved pursuant to this part 2 shall file a statement of purposes in the form set forth in subsection (2) of this section with the board of county commissioners of each county and governing body of each municipality which has territory included within the boundaries of the special district and with the division. The statement of purposes shall be accepted by such board of county commissioners and by such governing body of each municipality without any requirement for hearing thereon. The following documents shall be deemed to be the statement of purposes required by this section for any special district which does not have a service plan approved pursuant to this part 2 because it

was at the time of organization confined exclusively within the boundaries of a municipality, and no new statement of purposes need be filed by the special district except as required by subsection (3) of this section:

(a) The petition for organization;

(b) The resolution or ordinance of the governing body of the municipality approving the special district;

(c) Any agreements between the municipality and the district; and

(d) Any plans filed with the municipality describing the services to be provided by the special district.

(2) The statement of purposes required under this section shall describe the purposes for which the special district was organized, the services and facilities provided or to be provided by the special district, and the areas served or to be served by the special district.

(3) Any statement of purposes filed by a special district pursuant to this section shall be subject to the requirements of and may be modified in the manner provided in section 32-1-207. The board shall notify the board of county commissioners or the governing body of any municipality in which the special district is wholly or partially located of any proposed increase in the indebtedness of the district.

(4) The provisions of this section shall not apply to health service districts.

Source: L. 85: Entire section added, p. 1103, § 10, effective May 3. **L. 91:** (3) amended, p. 786, § 8, effective June 4. **L. 96:** (4) amended, p. 474, § 12, effective July 1.

32-1-209. Submission of information. If a special district fails either to file a special district annual report pursuant to section 32-1-207 (3)(c) or to provide any information required to be submitted pursuant to section 32-1-104 (2) within nine months of the date of the request for such information, the board of county commissioners of any county or the governing body of any municipality in which the special district is located, after notice to the affected special district, may notify any county treasurer holding moneys of the special district and authorize the county treasurer to prohibit release of any such moneys until the special district complies with such requirements.

Source: L. 91: Entire section added, p. 786, § 9, effective June 4.

PART 3

ORGANIZATION

32-1-301. Petition for organization. (1) After approval of the service plan pursuant to section 32-1-205 or 32-1-206 or after approval of the petition by the governing body of a municipality pursuant to section 32-1-205, the persons proposing the organization of a special district may file a petition for organization in the district court vested with jurisdiction of the county in which all or part of the real property in the proposed special district is situated. The petition shall be signed by not less than thirty percent or two hundred of the taxpaying electors of the proposed special district, whichever number is smaller. Notwithstanding any other provision of law, only those signatures obtained after the approval of the service plan pursuant to section

32-1-205 or 32-1-206 or after approval of the petition by the governing body of a municipality pursuant to section 32-1-205 shall be considered by the district court in making the evidentiary finding concerning the required number of taxpaying electors of the proposed special district that is required by section 32-1-305 (1).

(2) The petition shall set forth:

(a) The type of service to be provided by the proposed special district and the name of the proposed special district, consisting of a chosen name preceding one of the following phrases:

(I) Ambulance district;

(I.1) Fire protection district;

(II) Health service district;

(III) Metropolitan district;

(IV) Park and recreation district;

(V) Sanitation district;

(VI) Water and sanitation district;

(VII) Water district;

(VIII) Tunnel district;

(IX) Mental health care service district;

(X) Health assurance district.

(b) A general description of the facilities and improvements, if any, to be constructed, installed, or purchased for the special district;

(c) A statement as to whether the proposed special district lies wholly or partly within another special district or municipality;

(d) The estimated cost of the proposed facilities and improvements;

(d.1) The estimated property tax revenues for the district's first budget year;

(e) A general description of the boundaries of the special district or the territory to be included therein, with such certainty as to enable a property owner to determine whether or not his property is within the special district;

(f) If selected by the petitioners, a general description of the boundaries of director districts which shall have, as nearly as possible, the same number of eligible electors, which shall be as contiguous and compact as possible, and which shall be represented on the board by a director who is an eligible elector within the boundaries of the respective director district;

(g) A request for the organization of the special district;

(h) A request for the submission to the electors of the special district at the organizational election of any questions permitted to be submitted at such election pursuant to section 32-1-803.5.

(3) The petition shall be accompanied by a resolution approving the service plan as provided in section 32-1-205, unless the service plan has been approved by the court as provided in section 32-1-206 or unless such special district is confined exclusively within the boundaries of any existing municipality, and the governing body of the municipality has approved the petition for organization by resolution which shall be attached to the petition.

Source: L. 81: Entire article R&RE, p. 1551, § 1, effective July 1. **L. 83:** (2)(a)(I) R&RE and (2)(a)(I.1) added, p. 412, §§ 4, 5, effective June 1. **L. 85:** (1) amended, p. 1108, § 1, effective March 1; (2)(f) amended, p. 1083, § 2, effective July 1, 1986. **L. 86:** (2)(d.1) added, p.

1030, § 14, effective January 1, 1987. **L. 87:** (2)(a)(VIII) added, p. 1232, § 2, effective May 13. **L. 91:** (1) amended, p. 786, § 10, effective June 4. **L. 92:** (2)(f) amended, p. 875, § 107, effective January 1, 1993. **L. 93:** (2)(h) added, p. 1439, § 134, effective July 1. **L. 96:** (2)(a)(II) amended, p. 470, § 2, effective July 1. **L. 2005:** (2)(a)(IX) added, p. 1035, § 3, effective June 2. **L. 2007:** (2)(a)(X) added, p. 1189, § 6, effective July 1. **L. 2017:** (1) amended, (HB 17-1065), ch. 73, p. 232, § 3, effective August 9.

Editor's note: (1) The provisions of this section are similar to provisions of several former sections as they existed prior to 1981. For a detailed comparison, see the comparative tables located in the back of the index.

(2) Section 5 of chapter 73 (HB 17-1065), Session Laws of Colorado 2017, provides that the act changing this section applies to court petitions for the organization of special districts that are filed on or after August 9, 2017.

32-1-302. Bond of petitioners. At the time of filing the petition or at any time subsequent thereto, and prior to the time of hearing on said petition, a bond shall be filed, with security approved by the court, or a cash deposit made sufficient to pay all expenses connected with the proceedings in case the organization of the special district is not effected. If at any time during the proceeding the court is satisfied that the bond first executed or the amount of cash deposited is insufficient in amount, it may require the execution of an additional bond or the deposit of additional cash within a time to be fixed, not less than ten days distant, and upon failure of the petitioner to execute or deposit the same, the petition shall be dismissed.

Source: L. 81: Entire article R&RE, p. 1552, § 1, effective July 1.

Editor's note: The provisions of this section are similar to provisions of several former sections as they existed prior to 1981. For a detailed comparison, see the comparative tables located in the back of the index.

32-1-303. Court jurisdiction - transfer of file - judge not disqualified. (1) (a) The district court sitting in or for any county in this state is vested with the jurisdiction to organize special districts which may be entirely within or partly within and partly without the judicial district in which said court is located. The court in and for the county in which the petition for the organization of a special district has been filed, for all purposes of this part 3 except as otherwise provided, shall thereafter maintain and have original and exclusive jurisdiction, coextensive with the boundaries of the special district and of the property proposed to be included in said special district or affected by said special district, without regard to the usual limits of its jurisdiction.

(b) If any special district by any reason whatsoever subsequently becomes situated entirely without a judicial district, the court on its motion or upon motion of the board shall transfer the entire file pertaining to the special district to the district court of the judicial district in which the major portion of the special district is then located, and said district court then shall have full jurisdiction over the special district in accordance with this article as if the proceedings had originally been filed there.

(2) No judge of the court wherein such petition is filed shall be disqualified to perform any duty imposed by this part 3 by reason of ownership of property within any proposed special district.

Source: L. 81: Entire article R&RE, p. 1552, § 1, effective July 1.

Editor's note: The provisions of this section are similar to provisions of several former sections as they existed prior to 1981. For a detailed comparison, see the comparative tables located in the back of the index.

32-1-304. Notice of court hearing. Except as otherwise provided in section 32-1-304.5, immediately after the filing of a petition, the court wherein the petition is filed, by order, shall fix a place and time, not less than twenty-one days nor more than forty-two days after the petition is filed, for hearing thereon. The clerk of the court shall cause notice by publication to be made of the pendency of the petition, the purposes and boundaries of the special district, and the time and place of hearing thereon. The clerk of the court shall also forthwith cause a copy of the notice to be sent by United States first-class mail or by electronic service using the e-filing system of the judicial department to the board of county commissioners of each of the several counties and to each party entitled to notice pursuant to section 32-1-206 (2). The notice must include a general description of the land contained within the boundaries of the proposed special district and information explaining methods and procedures for the filing of a petition for exclusion of territory pursuant to section 32-1-305 (3).

Source: L. 81: Entire article R&RE, p. 1553, § 1, effective July 1. **L. 91:** Entire section amended, p. 786, § 11, effective June 4. **L. 2007:** Entire section amended, p. 1189, § 7, effective July 1. **L. 2017:** Entire section amended, (HB 17-1142), ch. 66, p. 208, § 1, effective September 1.

Editor's note: (1) The provisions of this section are similar to provisions of several former sections as they existed prior to 1981. For a detailed comparison, see the comparative tables located in the back of the index.

(2) Section 6 of chapter 66 (HB 17-1142), Session Laws of Colorado 2017, provides that the act changing this section applies to petitions filed on or after September 1, 2017.

Cross references: For requirements for notice by publication, see part 1 of article 70 of title 24.

32-1-304.5. Court hearing not required - health service district - health assurance district. (1) If the petition for organization filed with the court pursuant to section 32-1-301 is for a health service district or health assurance district, the court shall not hold a hearing or provide notice pursuant to section 32-1-304. In lieu of holding a hearing, the court shall review the petition for a health service district or health assurance district and the additional information submitted to the court pursuant to section 32-1-301. In addition, the court shall review the findings of the board of county commissioners pursuant to section 32-1-205 or the findings of the court pursuant to section 32-1-206, as applicable.

(2) The court shall complete the review of information required pursuant to subsection (1) of this section within thirty calendar days of receipt of the petition for a health service district or health assurance district. Within such period, the court shall determine whether the persons proposing the petition have complied with all of the statutory requirements for proposing a special district and that the required number of taxpaying electors of the proposed special district have signed the petition.

(3) If the court finds that the petition has not been signed and presented in conformity with this part 3, the court shall either dismiss said proceedings and adjudge the costs against the signers of the petition in the proportion it deems just and equitable or allow the petitioners an opportunity to correct any technical defects in the petition and refile the petition with the court. No appeal or other remedy shall lie from an order dismissing said proceedings. Nothing in this subsection (3) shall be construed to prevent the filing of a subsequent petition for similar improvements or for a similar special district, and the right to renew such proceedings is hereby expressly granted and authorized.

(4) The court shall not accept or act upon petitions filed by an owner of any real property within a proposed health service district or health assurance district stating reasons why the property should not be included therein and requesting that the property be excluded therefrom.

(5) If the court concludes that a petition for the organization of a health service district or health assurance district has been signed and presented in conformity with this part 3 and that the allegations of the petition are true, the court, by order duly entered of record, shall direct that the question of the organization of the special district be submitted at an election to be held for that purpose in accordance with the provisions of articles 1 to 13 of title 1, C.R.S. In such event, the provisions of section 32-1-305 (5), (6), and (7) shall apply to the election.

Source: L. 2007: Entire section added, p. 1189, § 8, effective July 1.

32-1-305. Court hearing - election - declaration of organization. (1) Except as otherwise provided in section 32-1-304.5, on the day fixed for the hearing provided in section 32-1-304 or at an adjournment thereof, the court shall first ascertain, from such evidence which may be adduced, that the required number of taxpaying electors of the proposed special district have signed the petition. Notwithstanding any other provision of law, only those signatures obtained after the approval of the service plan pursuant to section 32-1-205 or 32-1-206 or after approval of the petition by the governing body of a municipality pursuant to section 32-1-205 shall be considered by the district court in making the evidentiary finding that the required number of taxpaying electors of the proposed special district have signed the petition in accordance with this subsection (1).

(2) Except as otherwise provided in section 32-1-304.5, upon said hearing, if the court finds that the petition has not been signed and presented in conformity with this part 3, it shall dismiss said proceedings and adjudge the costs against the signers of the petition in the proportion it deems just and equitable. No appeal or other remedy shall lie from an order dismissing said proceedings. Nothing in this subsection (2) shall be construed to prevent the filing of a subsequent petition for similar improvements or for a similar special district, and the right so to renew such proceedings is hereby expressly granted and authorized.

(3) Except as otherwise provided in section 32-1-304.5, anytime after the filing of the petition for the organization of a special district but no later than ten days before the day fixed

for the hearing thereon, the owner of any real property within the proposed special district may file a petition with the court stating reasons why said property should not be included therein and requesting that said real property be excluded therefrom. The petition shall be duly verified and shall describe the property sought to be excluded. The court shall hear the petition and all objections thereto at the time of the hearing on the petition for organization and shall determine whether, in the best public interest, the property should be excluded or included in the proposed special district. The court shall exclude property located in any home rule municipality in respect to which a petition for exclusion has been filed by the municipality.

(4) Except as otherwise provided in section 32-1-304.5, upon the hearing, if it appears that a petition for the organization of a special district has been signed and presented in conformity with this part 3 and that the allegations of the petition are true, the court, by order duly entered of record, shall direct that the question of the organization of the special district be submitted at an election to be held for that purpose in accordance with articles 1 to 13.5 of title 1, C.R.S.

(5) At such election the voter shall vote for or against the organization of the special district and for five electors of the district who shall constitute the board of the special district, if organized.

(6) If a majority of the votes cast at said election are in favor of the organization and the court determines the election was held in accordance with articles 1 to 13.5 of title 1, C.R.S., the court shall declare the special district organized and give the special district the corporate name designated in the petition, by which it shall thereafter be known in all proceedings, and designate the first board elected. Thereupon the special district shall be a quasi-municipal corporation and a political subdivision of the state of Colorado with all the powers thereof.

(7) If an order is entered declaring the special district organized, such order shall be deemed final, and no appeal or other remedy shall lie therefrom. The entry of such order shall finally and conclusively establish the regular organization of the special district against all persons except the state of Colorado in an action in the nature of quo warranto commenced by the attorney general within thirty-five days after entry of such order declaring such special district organized and not otherwise. The organization of said special district shall not be directly or collaterally questioned in any suit, action, or proceeding except as expressly authorized in this subsection (7).

Source: L. 81: Entire article R&RE, p. 1553, § 1, effective July 1. **L. 92:** (4) amended, p. 876, § 108, effective January 1, 1993. **L. 94:** (6) amended, p. 1642, § 65, effective May 31. **L. 2007:** (1), (2), (3), and (4) amended, p. 1190, § 9, effective July 1. **L. 2012:** (7) amended, (SB 12-175), ch. 208, p. 881, § 146, effective July 1. **L. 2016:** (4) and (6) amended, (SB 16-189), ch. 210, p. 783, § 81, effective June 6. **L. 2017:** (1) amended, (HB 17-1065), ch. 73, p. 232, § 4, effective August 9.

Editor's note: (1) The provisions of this section are similar to provisions of several former sections as they existed prior to 1981. For a detailed comparison, see the comparative tables located in the back of the index.

(2) Section 5 of chapter 73 (HB 17-1065), Session Laws of Colorado 2017, provides that the act changing this section applies to court petitions for the organization of special districts that are filed on or after August 9, 2017.

32-1-305.5. Organizational election - new special district - first directors. (1) In the order authorizing the election, the court shall name either the clerk and recorder of the county in which the district is to be or another eligible elector of the state as the designated election official responsible for the conducting of the election.

(2) At the election, the eligible electors shall vote for or against the organization of the special district and for the members of the board who will serve if the special district is organized. The terms of office of the first directors shall be as follows:

(a) In the case of a five-member board, two directors shall serve until they or their successors are elected and qualified at the next regular special district election occurring in any year following that in which the special district was organized, and three shall serve until they or their successors are elected and qualified at the second regular special district election after organization.

(b) In the case of a seven-member board, three directors shall serve until they or their successors are elected and qualified at the next regular special district election occurring in any year following that in which the special district was organized, and four shall serve until they or their successors are elected and qualified at the second regular special district election after organization.

(3) The basic term of office for directors, after the original terms provided in subsection (2) of this section, shall be four years.

(4) A nomination for director to serve for either term may be made by self-nomination and acceptance form or letter, as provided in section 1-13.5-303, C.R.S., with the time and manner of filing such form or letter as directed in the order of the district court authorizing the election.

(5) If, after the results of the election are certified, the court finds that a majority of the votes cast at the election are in favor of organization, the court shall proceed with the order establishing the special district and shall issue certificates of election for the directors elected.

Source: L. 92: Entire section added, p. 876, § 109, effective January 1, 1993. **L. 99:** (4) amended, p. 448, § 1, effective August 4. **L. 2014:** (1) and (4) amended, (HB 14-1164), ch. 2, p. 70, § 30, effective February 18.

Cross references: For the legislative declaration in HB 14-1164, see section 1 of chapter 2, Session Laws of Colorado 2014.

32-1-306. Filing decree. Within thirty days after the special district has been declared organized by the court, the special district shall transmit to the county clerk and recorder in each of the counties in which the special district or a part thereof extends certified copies of the findings and the order of the court organizing said special district. The same shall be recorded by the county clerk and recorder in each county as provided in section 32-1-105. A copy of the approved service plan of the district shall be delivered to each such county clerk and recorder, who shall retain the service plan as a public record for public inspection. In addition, a copy of the service plan, together with a copy of the court's findings and order, shall be filed with the division as provided in section 32-1-105, and a map of the special district shall be filed with the county assessor in each county in which the special district or a part thereof extends and with the division according to the standards of the division. On or before January 1, 2010, a special

district shall file a current, accurate map of its boundaries with the county clerk and recorder in each of the counties in which the special district or a part thereof extends. A special district shall maintain a current, accurate map of its boundaries and shall provide for such map to be on file with the county assessor, the clerk and recorder, and the division on or before January 1 of each year.

Source: L. 81: Entire article R&RE, p. 1554, § 1, effective July 1. **L. 85:** Entire section amended, p. 1020, § 6, effective July 1. **L. 2009:** Entire section amended, (SB 09-087), ch. 325, p. 1732, § 3, effective September 1.

Editor's note: The provisions of this section are similar to provisions of several former sections as they existed prior to 1981. For a detailed comparison, see the comparative tables located in the back of the index.

Cross references: For provisions concerning public records, see article 72 of title 24.

32-1-307. Park and recreation districts - metropolitan districts providing parks and recreational facilities or programs - exclusion proviso. (1) Any provision of this part 3 to the contrary notwithstanding, no tract of land of forty acres or more used primarily and zoned for agricultural uses shall be included in any park and recreation district or in any metropolitan district providing parks or recreational facilities and programs organized under this part 3 without the written consent of the owners thereof. No personal property which is situated upon real estate not included in such district shall be included within any park and recreation or metropolitan district. If, contrary to the provisions of this section, any such tract, parcel, or personal property is included in any park and recreation or metropolitan district, the owners thereof, on petition to the court, shall be entitled to have such property excluded from such district free and clear of any contract, obligation, lien, or charge to which it may be liable as a part of such district.

(2) If the use or zoning of any tract of land of forty acres or more lying within the boundaries of any park and recreation district or any metropolitan district providing parks or recreational facilities and programs organized under the provisions of this part 3 has been or is changed from agricultural use or zoning to any other use or zoning designation, such lands and the personal property thereon shall no longer be excluded from said district and shall be subject to all obligations, liens, or charges of such district on and after January 1 of the year following such change in use or zoning.

(3) When there is a change of use or zoning to any other use or zoning designation and the assessor of the county in which such lands are located is notified of a change, he shall give notification of such change to the secretary of the district. The district shall mail a notice of such action to the owner of the property at the address shown for such owner in the records of the county assessor's office.

(4) The district shall petition the appropriate district court for an order including the subject lands within the district, and the court, upon examining the proof of change of such use or zoning and finding that it complies with this section, shall enter an order including said lands within the district. The district shall have a certified copy of said order recorded by the county clerk and recorder and shall file a copy with the county assessor.

Source: L. 81: Entire article R&RE, p. 1554, § 1, effective July 1. **L. 2017:** (1) and (2) amended, (HB 17-1065), ch. 73, p. 231, § 1, effective August 9.

Editor's note: (1) This section is similar to former § 32-2-108 as it existed prior to 1981.

(2) Section 5 of chapter 73 (HB 17-1065), Session Laws of Colorado 2017, provides that the act changing this section applies to court petitions for the organization of special districts that are filed on or after August 9, 2017.

32-1-308. Applicability of article to existing districts and validation - districts being organized. (1) The provisions of this article which become effective July 1, 1981, shall apply to all special districts existing on June 30, 1981, or organized thereafter; except that any such existing district need not obtain a name change to conform to this article and that any district may continue to operate for the purpose or purposes for which it was organized.

(2) Any proceedings for the organization of a special district which were commenced prior to July 1, 1981, may continue pursuant to the laws in effect at the time such organization was commenced until the district court has declared the district organized. Thereafter, the special district shall be subject to the provisions of this article. Any such organizational proceedings which are dismissed by the board of county commissioners or by the district court and which are recommenced after July 1, 1981, shall be governed by the provisions of this article.

Source: L. 81: Entire article R&RE, p. 1555, § 1, effective July 1.

PART 4

INCLUSION OF TERRITORY

32-1-401. Inclusion of territory - procedure. (1) (a) The boundaries of a special district may be altered by the inclusion of additional real property by the fee owner or owners of one hundred percent of any real property capable of being served with facilities of the special district filing with the board a petition in writing requesting that such property be included in the special district. The petition shall set forth a legal description of the property, shall state that assent to the inclusion of such property in the special district is given by the fee owner or owners thereof, and shall be acknowledged by the fee owner or owners in the same manner as required for conveyance of land.

(b) The board shall hear the petition at a public meeting after publication of notice of the filing of such petition, the place, time, and date of such meeting, the names and addresses of the petitioners, and notice that all persons interested shall appear at such time and place and show cause in writing why the petition should not be granted. The board may continue such hearing to a subsequent meeting. There shall be no withdrawal from a petition after publication of notice by the board without the consent of the board. The failure of any municipality or county which may be able to provide service to the real property therein described or of any person in the existing special district to file a written objection shall be taken as an assent to the inclusion of the area described in the notice.

(c) (I) The board shall grant or deny the petition, in whole or in part, with or without conditions, and the action of the board shall be final and conclusive, except as provided in subparagraph (II) of this paragraph (c). If a municipality or county has filed a written objection to such inclusion, the board shall not grant the petition as to any of the real property to which adequate service is, or will be, available from such municipality or county within a reasonable time and on a comparable basis. If a petition is granted as to all or any of the real property therein described, the board shall make an order to that effect and file the same with the clerk of the court, and the court shall thereupon order the property to be included in the special district.

(II) A municipality or county which has filed a written objection to such inclusion and which can provide adequate service to the real property described in the petition within a reasonable time and on a comparable basis may bring an action in the court, commenced within thirty days after entry of the order of the board, to determine whether the action of the board granting the inclusion was arbitrary, capricious, or unreasonable.

(2) (a) In addition to the procedure specified in subsection (1) of this section, the boundaries of a special district may be altered by the inclusion of additional real property by:

(I) Not less than twenty percent or two hundred, whichever number is smaller, of the taxpaying electors of an area which contains twenty-five thousand or more square feet of land filing a petition with the board in writing requesting that such area be included within the special district; but no single tract or parcel of property constituting more than fifty percent of the total area to be included may be included in any special district without the consent of the owner thereof; the petition shall set forth a legal and a general description of the area to be included and shall be acknowledged in the same manner as required for conveyance of land; or

(II) The board adopting a resolution proposing the inclusion of a specifically described area; but no single tract or parcel of property constituting more than fifty percent of the total area to be included may be included in any special district without the consent of the owner thereof.

(b) The board shall hear the petition or resolution at a public meeting after publication of notice of the filing of such petition or adoption of such resolution, the place, time, and date of such meeting, the names and addresses of the petitioners, if applicable, the description of the area proposed for inclusion, and notice that all persons interested and a municipality or county which may be able to provide service to the real property therein described shall appear at the time and place stated and show cause in writing why the petition should not be granted or the resolution not finally adopted. The board may continue such hearing to a subsequent meeting. There shall be no withdrawal from a petition after publication of notice by the board without the consent of the board. The failure of any person in the existing special district to file a written objection shall be taken as an assent on his part to the inclusion of the area described in the notice.

(c) The board shall grant or deny the petition or finally adopt the resolution, in whole or in part, with or without conditions, and the action of the board shall be final and conclusive, except as provided in paragraph (d) of this subsection (2). If a municipality or county has filed a written objection to such inclusion, the board shall not grant the petition as to any of the real property to which adequate service is, or will be, available from such municipality or county within a reasonable time and on a comparable basis.

(d) If the petition is granted or the resolution finally adopted, the board shall make an order to that effect and file the same with the clerk of the court. A municipality or county which has filed a written objection to the inclusion and which can provide adequate service to the real

property described in the petition within a reasonable time and on a comparable basis may bring an action in the court, commenced within thirty days after entry of the order of the board, to determine whether the action of the board granting the inclusion was arbitrary, capricious, or unreasonable. The court shall direct that the question of inclusion of the area within the special district be submitted to the eligible electors of the area to be included and shall order the secretary to give published notice, as provided in part 2 of article 5 and article 13.5 of title 1, C.R.S., of the time and place of the election and of the question to be submitted, together with a summary of any conditions attached to the proposed inclusion. The election shall be held within the area sought to be included and shall be held and conducted, and the results thereof determined, in the manner provided in articles 1 to 13.5 of title 1, C.R.S. The ballot shall be prepared by the designated election official and shall contain the following words:

"Shall the following described area become a part of the ..... district upon the following conditions, if any?

(Insert description of area)
(Insert accurate summary of conditions)

For inclusion .....
Against inclusion ....."

(e) If a majority of the votes cast at the election are in favor of inclusion and the court determines the election was held in accordance with articles 1 to 13.5 of title 1, C.R.S., the court shall enter an order including any conditions so prescribed and making the area a part of the special district. The validity of the inclusion may not be questioned directly or indirectly in any suit, action, or proceeding, except as provided in article 11 of title 1, C.R.S.

(f) Nothing in this part 4 shall permit the inclusion in a district of any property which could not be included in the district at the time of its organization without the written consent of the owners thereof, unless the owners of such property shall consent in writing to the inclusion of such property in the district as prayed for in said petition or unless such property is no longer excludable pursuant to the provisions of section 32-1-307 (2).

(g) Nothing in this part 4 shall permit the inclusion in a special district of any property if a petition objecting to the inclusion and signed by the owners of taxable real and personal property, which property equals more than fifty percent of the total valuation for assessment of all taxable real and personal property to be included, is filed with the board no later than ten days prior to the public meeting held under paragraph (b) of this subsection (2).

(3) Not more than thirty days nor less than twenty days prior to a meeting of the board held pursuant to paragraph (b) of subsection (1) of this section or paragraph (b) of subsection (2) of this section, the secretary of the special district shall send letter notification of the meeting to the property owners within the area proposed to be included within the special district as listed on the records of the county assessor on the date requested unless the petitioners represent one hundred percent of the property owners. The notification shall indicate that it is a notice of a meeting for consideration of the inclusion of real property within a special district and shall indicate the date, time, location, and purpose of the meeting, a reference to the type of special district proposed for inclusion, the maximum mill levy, if any, or stating that there is no maximum that may be imposed if the proposed area is included within the special district, and

procedures for the filing of a petition for exclusion pursuant to section 32-1-203 (3.5). Except as provided in this subsection (3), the mailing of the letter notification to all addresses or post office box addresses within the area proposed to be included within the special district shall constitute a good-faith effort to comply with this section, and failure to notify all electors thereby shall not provide grounds for a challenge to the meeting being held.

(4) Nothing in this part 4 shall be construed to permit the inclusion in a special district of any real property located in a city and county unless the governing body of such city and county has adopted a resolution of approval authorizing such inclusion pursuant to section 32-1-204.5 or waives its right to require such resolution in its sole discretion. Any resolution of approval so adopted or waiver so given shall be appended to any petition filed pursuant to paragraph (a) of subsection (1) of this section or subparagraph (I) of paragraph (a) of subsection (2) of this section.

Source: L. 81: Entire article R&RE, p. 1555, § 1, effective July 1. **L. 85:** (2)(a)(I) amended, p. 1108, § 2, effective March 1; (2)(g) added, p. 1105, § 3, effective July 1; (3) added, p. 1106, § 2, effective January 1, 1986. **L. 91:** (3) amended, p. 787, § 12, effective June 4. **L. 92:** (2)(d) and (2)(e) amended, p. 877, § 110, effective January 1, 1993. **L. 93:** (3) amended, p. 1790, § 78, effective June 6. **L. 96:** (3) amended, p. 309, § 8, effective April 15. **L. 97:** (4) added, p. 322, § 1, effective April 14. **L. 2016:** (2)(d) and (2)(e) amended, (SB 16-189), ch. 210, p. 784, § 82, effective June 6.

Editor's note: The provisions of this section are similar to provisions of several former sections as they existed prior to 1981. For a detailed comparison, see the comparative tables located in the back of the index.

32-1-401.5. Fire protection districts - inclusion of personalty. (1) An owner of taxable personal property, situate on real property excluded from a fire protection district, capable of being served with facilities of the special district may file with the board a petition in writing requesting that such property be included in the special district. The petition shall set forth an accurate description of the taxable personal property owned by the petitioner to be included and shall state that assent to the inclusion of such property in the special district is given by the signer, being the owner of such property. The petition shall be acknowledged in the same manner as required for conveyance of land.

(2) The board shall hear the petition at a public meeting after publication of notice of the filing of such petition, the place, time, and date of such meeting, the names and addresses of the petitioners, and that all persons interested shall appear at such time and place and show cause in writing why the petition should not be granted. The board may continue such hearing to a subsequent meeting. There shall be no withdrawal from a petition after consideration by the board, nor shall further objections be filed except in case of fraud or misrepresentation.

(3) The board shall grant or deny the petition, in whole or in part, with or without conditions, and the action of the board shall be final and conclusive. If the petition is granted as to all or any of the property therein described, the board shall make an order to that effect and file the same with the clerk of the court, and the court shall thereupon order the property to be included in the special district.

Source: L. 82: Entire section added, p. 493, § 1, effective March 17.

32-1-402. Effect of inclusion order. (1) The following shall be applicable to any proceeding for inclusion accomplished pursuant to this part 4:

(a) Nothing in this part 4 shall affect the validity of any area or property included or excluded from a special district by virtue of prior laws.

(b) After the date of its inclusion in a special district, such property shall be subject to all of the taxes and charges imposed by the special district and shall be liable for its proportionate share of existing bonded indebtedness of the special district; but it shall not be liable for any taxes or charges levied or assessed prior to its inclusion in the special district, nor shall its entry into the special district be made subject to or contingent upon the payment or assumption of any tax, rate, fee, toll, or charge, other than the taxes, rates, fees, tolls, and charges which are uniformly made, assessed, or levied for the entire special district, without the prior consent of the fee owners or approval of the electors of the area to be included.

(c) In any special district, the included property shall be liable for its proportionate share of annual operation and maintenance charges and the cost of facilities of the special district and taxes, rates, fees, tolls, or charges shall be certified and levied or assessed therefor. Nothing in this section shall prevent an agreement between a board and the owners of property sought to be included in a special district with respect to the fees, charges, terms, and conditions on which such property may be included.

(d) The change of boundaries of the special district shall not impair nor affect its organization, nor shall it affect, impair, or discharge any contract, obligation, lien, or charge on which it might be liable or chargeable had such change of boundaries not been made.

(e) The court order of any inclusion of territory accomplished pursuant to this part 4 shall be filed in accordance with the provisions of section 32-1-105.

(f) The special district's facility and service standards which are applied within the included area shall be compatible with the facility and service standards of adjacent municipalities.

Source: L. 81: Entire article R&RE, p. 1558, § 1, effective July 1.

Editor's note: The provisions of this section are similar to provisions of several former sections as they existed prior to 1981. For a detailed comparison, see the comparative tables located in the back of the index.

PART 5

EXCLUSION OF TERRITORY

32-1-501. Exclusion of property by fee owners or board - procedure. (1) The boundaries of a special district, except health service districts, may be altered by the exclusion of real property by the fee owner or owners of one hundred percent of any real property situate in the special district filing with the board a petition requesting that such real property of the fee owner or owners be excluded and taken from the special district. The petition shall set forth a legal description of the property, shall state that assent to the exclusion of the property from the

special district is given by the fee owner or owners thereof, and shall be acknowledged by the fee owner or owners in the same manner as required for conveyance of land. The petition shall be accompanied by a deposit of money sufficient to pay all costs of the exclusion proceedings.

(1.5) (a) In addition to the procedure specified in subsection (1) of this section, the board, through adoption of a resolution, may alter the boundaries of a fire protection district through the exclusion of real property from the district if the property to be excluded will be provided with the same service by another fire protection district or by a county fire improvement district and the board or governing body of that district has agreed by resolution to include the property into the district immediately after the effective date of the exclusion order.

(b) (I) Not more than forty-five days nor less than thirty days prior to a meeting of the board to consider final adoption of a resolution proposing property to be excluded, the secretary of the fire protection district shall send letter notification to the fee owner or owners of one hundred percent of all proposed real property to be excluded from the district as listed on the records of the county assessor on the date requested.

(II) The letter notification shall indicate that it is a notice of a meeting required to be held pursuant to subsection (2) of this section concerning the exclusion of the property from the district, shall indicate the date, time, and location of the meeting, and shall contain both a reference to the fire protection district or county fire improvement district proposed for inclusion and the current mill levy of the district, if any.

(III) The mailing of the letter notification to all addresses or post office box addresses within the area proposed to be excluded from the district shall constitute a good-faith effort to comply with this section, and failure to so notify all fee owners shall not provide grounds for a challenge to the meeting being held.

(2) The board shall hear the petition or resolution at a public meeting after publication of notice of the filing of the petition or preliminary adoption of the resolution, the place, time, and date of the meeting, the names and addresses of the petitioners, if applicable, a general description of the area proposed for exclusion, and notice that all persons interested shall appear at the designated time and place and show cause in writing why the petition should not be granted or the resolution should not be finally adopted. The board may continue the hearing to a subsequent meeting. There shall be no withdrawal from a petition after publication of notice by the board without the consent of the board. The failure of any person in the existing special district to file a written objection shall be taken as an assent on his or her part to the exclusion of the area described in the notice.

(3) The board shall take into consideration and make a finding regarding all of the following factors when determining whether to grant or deny the petition or to finally adopt the resolution or any portion thereof:

(a) The best interests of all of the following:

(I) The property to be excluded;

(II) The special district from which the exclusion is proposed;

(III) The county or counties in which the special district is located;

(b) The relative cost and benefit to the property to be excluded from the provision of the special district's services;

(c) The ability of the special district to provide economical and sufficient service to both the property to be excluded and all of the properties within the special district's boundaries;

(d) Whether the special district is able to provide services at a reasonable cost compared with the cost that would be imposed by other entities in the surrounding area to provide similar services in the surrounding area or by the fire protection district or county fire improvement district that has agreed to include the property to be excluded from the special district;

(e) The effect of denying the petition on employment and other economic conditions in the special district and surrounding area;

(f) The economic impact on the region and on the special district, surrounding area, and state as a whole if the petition is denied or the resolution is finally adopted;

(g) Whether an economically feasible alternative service may be available; and

(h) The additional cost to be levied on other property within the special district if the exclusion is granted.

(4) (a) (I) Except as provided in subparagraph (II) of this paragraph (a) and if the board, after considering all of the factors set forth in subsection (3) of this section, determines that the property described in the petition or resolution or some portion thereof should be excluded from the special district, it shall order that the petition be granted or that the resolution be finally adopted, in whole or in part.

(II) (A) If the property to be excluded from the special district will be served by a special district not yet organized, the board shall not order that the petition be granted or that the resolution be finally adopted until the special district has been organized pursuant to part 3 of this article.

(B) If the property to be excluded from the special district will be served by a fire protection district or county fire improvement district as provided in subsection (1.5) of this section, the board shall not order that the petition be granted or that the resolution be finally adopted until the fire protection district or county fire improvement district has adopted a resolution agreeing to include the property in the district immediately after the effective date of the exclusion order and has filed the resolution with the court.

(C) Notwithstanding any other provision of this article to the contrary, the property to be excluded may be included within the boundaries of the proposed special district.

(b) Upon granting the petition or finally adopting the resolution, the board shall file a certified copy of the order of the board excluding the property from the district with the clerk of the court, and, except as provided in paragraph (c) of this subsection (4), the court shall order the property to be excluded from the special district and, if applicable, included into the fire protection district or county fire improvement district that has previously agreed to include the property as provided in subsection (1.5) of this section.

(c) (I) If the property to be excluded from the special district will be served by a fire protection district or county fire improvement district that has previously agreed to include the property as provided in subsection (1.5) of this section and that has a higher mill levy than the special district and after the certified copy of the order of the board excluding the property from the district is filed with the clerk of the court, the court shall direct the question of excluding the area from the special district and including it in the fire protection district or county fire improvement district with a higher mill levy to the eligible electors of the area sought to be excluded. The court shall order the secretary to give published notice, as provided in part 2 of article 5 and article 13.5 of title 1, C.R.S., of the time and place of the election and of the question to be submitted, together with a summary of any conditions attached to the proposed exclusion. The election shall be held within the area sought to be excluded and shall be held and

conducted, and the results thereof determined, in the manner provided in articles 1 to 13.5 of title 1, C.R.S. The ballot shall be prepared by the designated election official and shall contain the following words:

"Shall the following described area be excluded from the _____ district, which has a current mill levy of _____, and become a part of the _____ district, which has a current mill levy of _____, and upon the following conditions, if any?

(Insert general description of area)
(Insert accurate summary of conditions)

For exclusion from _____ district and inclusion
in _____ district _____
Against exclusion from _____ district _____"

(II) If a majority of the votes cast at the election pursuant to subparagraph (I) of this paragraph (c) are in favor of exclusion to become a part of another district and the court determines the election was held in accordance with articles 1 to 13.5 of title 1, C.R.S., the court shall enter an order with any conditions so prescribed excluding the area from the special district and including it in the fire protection district or county fire improvement district with a higher mill levy. The validity of the exclusion to become a part of another district may not be questioned directly or indirectly in any suit, action, or proceeding, except as provided in article 11 of title 1, C.R.S.

(d) The order of exclusion entered pursuant to paragraph (b) or (c) of this subsection (4) shall recite in the findings a description of any bonded indebtedness in existence immediately preceding the effective date of the order for which the excluded property is liable and the date that the bonded indebtedness is then scheduled to be retired. After July 1, 1993, failure of the order for exclusion to recite the existence and scheduled retirement date of the indebtedness, when due to error or omission by the special district, shall not constitute grounds for correction of the omission of a levy on the excluded property from the assessment roll pursuant to section 39-5-125, C.R.S.

(5) (a) If the board, after considering all of the factors set forth in subsection (3) of this section, determines that the property described in the petition or resolution should not be excluded from the special district, it shall order that the petition be denied or that the resolution be rescinded.

(b) (I) Any petition that is denied or resolution that is finally adopted may be appealed to the board of county commissioners of the county in which the special district's petition for organization was filed for review of the board's decision. The appeal shall be taken no later than thirty days after the decision.

(II) Upon appeal, the board shall consider the factors set forth in subsection (3) of this section and shall make a determination whether to exclude the properties mentioned in the petition or resolution based on the record developed at the hearing before the special district board.

(c) (I) Any decision of the board of county commissioners may be appealed for review to the district court of the county which has jurisdiction of the special district pursuant to section 32-1-303 within thirty days of such board's decision.

(II) On appeal, the court shall review the record developed at the hearing before the special district board and, after considering all of the factors set forth in subsection (3) of this section, shall make a determination whether to exclude the properties mentioned in the petition or resolution.

Source: L. 81: Entire article R&RE, p. 1558, § 1, effective July 1. **L. 88:** (3) R&RE and (4) and (5) added, pp. 1149, 1150, §§ 1, 2, effective June 11. **L. 93:** (4)(b) amended, p. 83, § 1, effective March 29. **L. 94:** (1.5) added and (2), IP(3), (3)(a)(I), (3)(a)(II), (3)(b) to (3)(d), (3)(f), (4), (5)(a), (5)(b), and (5)(c)(II) amended, p. 1347, § 1, effective July 1. **L. 96:** (1) amended, p. 474, § 13, effective July 1. **L. 2016:** (4)(c) amended, (SB 16-189), ch. 210, p. 784, § 83, effective June 6.

Editor's note: (1) This section is similar to former § 32-2-122 as it existed prior to 1981.

(2) Section 2 of chapter 237, Session Laws of Colorado 1994, provides that, prior to the inclusion of any property into a fire district with a higher tax rate, an election pursuant to § 20 of article X of the Colorado constitution shall be held.

32-1-502. Exclusion of property within municipality - procedure. (1) (a) The governing body of any municipality wherein territory within a special district is located, the board of any special district with territory within the boundaries of any municipality, or fifty percent of the fee owners of real property in an area of any municipality in which territory within a special district is located may petition the court for exclusion of the territory described in the petition from the special district. Within ten days after the filing of any petition for exclusion, the governing body of the municipality and the board shall be notified of the exclusion proceedings. The taxpaying electors shall be notified of the exclusion proceedings by publication. The governing body of the municipality, the board, and the taxpaying electors, as a class, shall be parties to the exclusion proceedings.

(b) The provisions of this section shall not apply to health service districts.

(c) The provisions of this section shall not apply in the event that the territory described in the petition for exclusion constitutes the entire territory of the special district.

(2) Subject to the provisions of subsection (5) of this section, the court shall hold a hearing on the petition and order the territory described in the petition or any portion thereof excluded from the special district if the following conditions are met:

(a) The governing body of the municipality agrees, by resolution, to provide the service provided by the special district to the area described in the petition on and after the effective date of the exclusion order.

(b) The service to be provided by the municipality will be the service provided by the special district in the territory described in the petition for exclusion.

(c) The governing body of the municipality and the board shall each submit a plan for the disposition of assets and continuation of services to all areas of the district. Said plans shall include, if applicable, provisions for the maintenance and continuity of facilities to be utilized by the territories both within and without the municipal boundaries and of services to all territories served or previously served by the special district. If the municipality and the special district agree upon a single plan and enter into a contract incorporating its provisions, the court shall

review such contract, and if it finds the contract to be fair and equitable, the court shall approve the contract and incorporate its provisions into its exclusion order. The court's review of the provisions of the contract shall include, but not be limited to, consideration of the amount of the special district's outstanding bonds, the discharge by the municipality or the territory excluded from the special district of that portion of the special district's indebtedness incurred to serve the territory proposed for exclusion, the fair market value and source of special district facilities located within the territory proposed for exclusion, the facilities to be transferred which are necessary to serve the territory proposed for exclusion, the adequacy of the facilities retained by the special district to serve the remaining territory of the special district, the availability of the facilities transferred to the municipality for use, in whole or in part, in the remaining territory of the special district, the effect which the transfer of the facilities and assumption of indebtedness will have upon the service provided by the special district in territory which is not part of the exclusion, and the extent to which the exclusion reduces the services or facilities or increases the costs to users in the remaining territory of the special district.

(d) If the municipality and the special district are unable to agree upon a single plan, the court shall review the plans of the municipality and the special district and direct each to carry out so much of their respective plans in which there is no disagreement and make such other provisions as the court finds fair and equitable, and shall make such allocation of facilities, impose such responsibilities for the discharge of indebtedness of the special district, and impose such other conditions and obligations on the special district and the municipality which the court finds necessary to permit the exclusion of territory from the special district and the transfer of facilities which are necessary to serve the territory excluded without impairing the quality of service nor imposing an additional burden or expense on the remaining territory of the special district. For the purpose of making such determination, the criteria set forth in this paragraph (d) and paragraphs (b) and (c) of this subsection (2) shall be considered. The respective portions of the plans to be performed, the transfer of facilities, and the requirements for the discharge of indebtedness of the special district and other conditions and obligations imposed by the court shall be specifically set forth in the order excluding territory from the special district.

(3) (a) The following additional requirements shall be met before any court orders the exclusion of any area from any water, sanitation, or water and sanitation district or any metropolitan district providing water or sanitation services or both:

(I) Such district's outstanding bonds shall not exceed ten percent of the valuation for assessment of the taxable property in the remaining territory of the special district, or, as an alternative, the municipality or the territory excluded from the special district shall discharge that portion of the special district's indebtedness incurred to serve the territory proposed for exclusion or the municipality shall have entered into a contract to purchase the entire system or systems of such district at a price at least sufficient to pay in full all of the outstanding indebtedness of such district and all of the interest thereon.

(II) Provision shall be made that all areas of such district receive the service or services for which such district was organized in substantial compliance and fulfillment of the service plan of the district, if one exists, or in accordance with the petition for organization of such district if no service plan was originally adopted and approved pursuant to part 2 of this article.

(b) If an election in a water, sanitation, or water and sanitation district or a metropolitan district providing water or sanitation services or both has been held pursuant to subsection (7) of this section and the majority of votes cast favor the municipality providing the service, the

municipality and such district shall enter into a contract for the municipality to assume full responsibility for the operation and maintenance of the entire system or systems of such district and to integrate said system or systems with those of the municipality to the largest extent possible. The terms and conditions of service and the rates to be charged by the municipality for said service under the contract shall be uniform with the terms, conditions, and rates for similar service provided by said municipality to other users within the municipality.

(4) If no election has been held pursuant to subsection (5) of this section, the following additional requirement shall be met before any court orders the exclusion of any area from any fire protection district: The quality of service including, but not limited to, the fire insurance costs for the improvements within the excluded area will not be adversely affected by such exclusion.

(5) (a) After the filing of a petition for exclusion under subsection (1) of this section, ten percent or one hundred of the eligible electors of the special district territory proposed for exclusion, whichever number is less, may petition the court for a special election to be held within the special district territory proposed for exclusion on the question of exclusion of the territory described in the petition for exclusion. If a petition for a special election is filed with the court and complies with this subsection (5), the court shall order a special election to be held only after it finds the conditions of paragraphs (a), (c), and (d) of subsection (2) and, if applicable, of subsection (3) or (4) of this section are met. The election shall be held and conducted, and the results thereof determined, in the manner provided in articles 1 to 13.5 of title 1, C.R.S. The special district shall bear the costs of the election.

(b) If a majority of the electors voting at such election approve the question of exclusion, the court shall order the territory excluded from the special district in accordance with its findings on the conditions specified in subsection (2) and, if applicable, of subsection (3) or (4) of this section. If a majority of those voting do not approve the question, the court shall conclusively terminate the exclusion proceeding.

(6) Any order for exclusion of territory from a special district shall become effective on January 1 next following the date the order is entered by the court. The order for exclusion shall recite in the findings a description of any bonded indebtedness in existence immediately preceding the effective date of the order for which the excluded property is liable and the date that such bonded indebtedness is then scheduled to be retired. After July 1, 1993, failure of the order for exclusion to recite the existence and scheduled retirement date of such indebtedness, when due to error or omission by the special district, shall not constitute grounds for correction of the omission of a levy on the excluded property from the assessment roll pursuant to section 39-5-125, C.R.S.

(7) (a) After any exclusion of territory under this section, the court may order an election of the electors of the portion of the special district remaining to determine whether they desire the municipality to provide the service provided by the special district if either of the following conditions exists:

(I) More than fifty percent of the territory within the special district as it existed prior to such exclusion has been excluded; or

(II) The valuation for assessment of the area of the excluded territory is greater than the valuation for assessment of the area of the remaining territory in the special district.

(b) If a majority of the electors voting at such election approve the question requiring the municipality to provide such service, the court shall request the governing body of the

municipality and the board to enter into a contract which will govern the providing of the service. The terms and conditions of the contract shall be reviewed and approved by the court, but in no event shall the terms, rates, and conditions be less equitable than for services supplied by a municipality to any other users within the municipality. The court's review of the contract or, if the municipality and the special district after good faith negotiations are unable to agree upon a contract, the court's order shall be in accordance with the criteria set forth in paragraphs (b), (c), and (d) of subsection (2) of this section. The special district shall continue in existence for the purpose of fulfilling any obligation imposed upon it by the contract with the municipality or otherwise.

(c) Any election held pursuant to this subsection (7) shall be held and conducted, and the results thereof determined, in the manner provided in articles 1 to 13 of title 1, C.R.S.

Source: L. 81: Entire article R&RE, p. 1559, § 1, effective July 1. **L. 85:** (2)(a) and (2)(b) amended, p. 1110, § 1, effective April 24. **L. 92:** (5)(a) and (7)(c) amended, p. 877, § 111, effective January 1, 1993. **L. 93:** (6) amended, p. 83, § 2, effective March 29. **L. 96:** (1)(b) amended, p. 474, § 14, effective July 1. **L. 2016:** (5)(a) amended, (SB 16-189), ch. 210, p. 785, § 84, effective June 6.

Editor's note: The provisions of this section are similar to provisions of several former sections as they existed prior to 1981. For a detailed comparison, see the comparative tables located in the back of the index.

32-1-503. Effect of exclusion order. (1) Territory excluded from a special district pursuant to the provisions of this part 5 shall not be subject to any property tax levied by the board for the operating costs of the special district. For the purpose of retiring the special district's outstanding indebtedness and the interest thereon existing at the effective date of the exclusion order, the special district shall remain intact, and the excluded territory shall be obligated to the same extent as all other property within the special district but only for that proportion of such outstanding indebtedness and the interest thereon existing immediately prior to the effective date of the exclusion order. The board shall levy annually a property tax on all such excluded and remaining property sufficient, together with other funds and revenues of the special district, to pay such outstanding indebtedness and the interest thereon. The board is also empowered to establish, maintain, enforce, and, from time to time, modify such service charges, tap fees, and other rates, fees, tolls, and charges, upon residents or users in the area of the special district as it existed prior to the exclusion, as may in the discretion of the board be necessary to supplement the proceeds of said tax levies in the payment of the outstanding indebtedness and the interest thereon. In no event shall excluded territory of a special district become obligated for the payment of any bonded indebtedness created after the date of the court's exclusion order.

(2) The change of boundaries of the special district shall not impair nor affect its organization, nor shall it affect, impair, or discharge any contract, obligation, lien, or charge on which it might be liable or chargeable had such change of boundaries not been made.

(3) Notice of the court order of any exclusion accomplished pursuant to this part 5 shall be given in accordance with the provisions of section 32-1-105.

Source: L. 81: Entire article R&RE, p. 1562, § 1, effective July 1.

Editor's note: This section is similar to former § 32-1-308 as it existed prior to 1981.

PART 6

CONSOLIDATION

Law reviews: For article, "Consolidation of Fire Protection Districts: A Case Study", see 24 Colo. Law. 813 (1995).

32-1-601. Definitions. As used in this part 6, unless the context otherwise requires:

(1) "Concurring resolution" means a resolution passed in accordance with this part 6 by the board of any special district for the purpose of accepting the consolidation resolution.

(2) "Consolidated district" means a quasi-municipal corporation of this state resulting from the consolidation of two or more special districts; or resulting from the consolidation of one or more of the services of two or more special districts, one of which is not a metropolitan district, which consolidation of services may include the consolidation of all services of a special district with only specified services of one or more special districts; or resulting from the consolidation of one or more of the services of two or more metropolitan districts and may include the consolidation of all services of a metropolitan district with only specified services of another metropolitan district. If a district which provides a single service or water and sanitation services consolidates its service or services with another single service district, no new separate district may be formed.

(3) "Consolidation resolution" means a resolution passed in accordance with this part 6 by a board of any special district for the purpose of initiating the consolidation of two or more such special districts into a single and consolidated district, the consolidation of one or more of the services of two or more special districts, one of which is not a metropolitan district, or the consolidation of one or more of the services of two or more metropolitan districts.

Source: L. 81: Entire article R&RE, p. 1563, § 1, effective July 1. **L. 85:** (2) and (3) amended, p. 1111, § 1, effective July 1.

Editor's note: This section is similar to former § 32-1-112 (2) to (4) as it existed prior to 1981.

32-1-602. Procedure for consolidation. (1) (a) Two or more special districts may be consolidated into a single consolidated district, and such consolidation may occur between or among such districts whether or not they were originally organized for the same purpose and whether or not such districts are contiguous.

(b) Two or more special districts may consolidate one or more of their services whether or not they were originally organized for the same purpose and whether or not such districts are contiguous.

(2) Consolidation may be accomplished in the following manner:

(a) The board of any special district shall pass a consolidation resolution declaring that such district and any specified special district or districts are so situated that all such districts may operate or that one or more specified services of each of the districts may be operated

effectively and economically as a consolidated district and that the public health, safety, prosperity, and general welfare of the inhabitants of the special district initiating the consolidation will be better served by the consolidation of such districts or services. The resolution shall also state the proposed name of the proposed consolidated district, the special districts or services to be included within the proposed consolidated district, whether the board of the consolidated district will have five or seven directors, any special conditions that may attach to the consolidated district, and the time limit within which the included special districts must approve the consolidation resolution in order to be included within the proposed consolidated district. Such time limit shall be not later than six months after the date of such resolution.

(b) After receipt of such consolidation resolution and prior to the time limit fixed in the consolidation resolution, the board of each of the special districts named in the resolution proposing the consolidation, other than the special district initiating the proposed consolidation, shall pass a resolution either concurring in the consolidation or rejecting the same and shall send a copy of such resolution to the special district initiating the consolidation.

(c) Each special district desiring to be included or have its service or services included within the consolidated district shall file the concurring resolution with the initiating special district. If one or more special districts sought to be included in the initiating resolution file concurring resolutions stating that such consolidated district will promote the public health, safety, prosperity, and general welfare of the inhabitants within the concurring special districts, the initiating special district, within thirty days after the date of the receipt of all concurring resolutions, shall file with the board of county commissioners of each county having territory within one or more of the districts and in the court wherein the organization petition of the initiating special district was filed a copy of such consolidation resolution and the concurring resolutions of the other special districts seeking consolidation of the districts or the specified services. Any proposed consolidated district which is subject to the provisions of part 2 of this article pursuant to section 32-1-607 (6) shall first obtain approval of the service plan in accordance with the provisions of part 2 of this article. Any special district rejecting the consolidation resolution shall not thereafter be included in any consolidation proceedings then pending.

(d) When the consolidation resolution and one or more concurring resolutions are filed in court, the court shall fix a date, not less than thirty days nor more than forty days after the date of filing, within which time a hearing shall be held to determine the legality of the proposed consolidation. Notice of the filing of the resolutions and of the date fixed for hearing objections to the proposed consolidation shall be given by publication, and written notice shall be provided to the governing body of any municipality entitled to notice pursuant to section 32-1-607 (6). No pleadings shall be filed by any special district involved, but any eligible elector of, the fee owner of any real property situated within, or any county or municipality having territory within any of the special districts involved in the proposed consolidation which desires to oppose the consolidation or the inclusion of property or territory in a consolidated district shall file a written and verified petition in the court five days prior to the hearing date and serve copies thereof upon each of the special districts desiring consolidation. The petition shall set forth clearly and concisely the objections of the petitioner, which objections shall be limited to the failure of any initiating district or concurring district to comply with this part 6, or, in a consolidation of services proceeding, duplication of service to the petitioner's property or territory by an existing

municipality or special district not part of the proposed consolidated district or the provision of new and unwanted service to the petitioner's property by the proposed consolidated district. The court shall hear the petition and all objections to it at the time of the hearing on the consolidation resolution and the concurring resolutions and shall determine whether, in the general public interest and subject to the requirements of section 32-1-503, the property should be excluded or included in the proposed consolidated district.

(e) At the hearing, if the court finds that the consolidation resolution and the concurring resolutions have been properly filed and that the board of each special district desiring to be consolidated or desiring to have specified services consolidated has proceeded in accordance with this part 6, the court shall enter an order ex parte setting an election within each of the consolidating special districts for the approval of the consolidated district by the eligible electors affected by the consolidation at the next regular special district or special election, which shall be held and conducted pursuant to articles 1 to 13.5 of title 1, C.R.S. The order shall require publication of notice as required by section 1-13.5-510, C.R.S., specifying the name of the consolidated district; the names of the special districts to be consolidated or the name of the district into which specific services are to be consolidated and the names of the special districts presently empowered to provide the services; a summary of any special conditions that may attach to the consolidated district, including any preconsolidation agreements and the provisions included therein regarding the assumption of debt and the approval of any financial obligation, including accrued unfunded pension liability, as debt to remain payable by the taxpayers of the consolidating special district which incurred the obligation or maintained the pension plan to which the accrued unfunded liability attaches; if the consolidated district may be granted the powers of a metropolitan district, the effect of the change and the services a metropolitan district may provide, including any change in maximum mill levies set forth in section 32-1-1101 (1), or, if the mill levy is unlimited, the fact that there is no mill levy limit established by statute; and the area to be included within the consolidated district, which shall be all of the area originally contained within the organization order for each individual special district, together with all areas contained in any inclusions, the consolidated area not to include any area excluded by any special district being so consolidated or by the court pursuant to paragraph (d) of this subsection (2). If two or more districts are to be consolidated and if the consolidated district is to assume metropolitan district powers, the court shall order that the eligible electors vote separately on the question of consolidation and the question of granting the consolidated district the powers of a metropolitan district. If the eligible electors approve consolidation but reject the granting of metropolitan district powers, the consolidated district shall have only those powers granted single-purpose districts providing the same services. If all or part of the outstanding bonded indebtedness of all of the consolidating special districts is to be assumed by the consolidated district, the court shall also order that the eligible electors vote separately on the question of consolidation and the question of assuming the indebtedness at the consolidation election. If the eligible electors approve consolidation but reject the assumption of indebtedness by the consolidated district, the outstanding bonded indebtedness shall remain the obligation of the special district which incurred the bonded indebtedness and shall be paid and discharged by the taxpayers having taxable property within the boundaries of the indebted special district. If a preconsolidation agreement provides that the consolidation shall be contingent upon assumption of debt by the consolidated district, then the consolidation shall not be approved unless the assumption of indebtedness is approved by the eligible electors. If any financial obligation of

one or more of the consolidating districts is to be submitted to the electors for approval as debt, the court shall also order that the electors vote separately on the question of consolidation and the question of approval of each financial obligation as debt, which issue shall be presented to the electors in accordance with the provisions of section 32-1-606.5. If the electors approve consolidation but do not approve the treatment of one or more financial obligations as debt, the financial obligations not so approved shall be assumed by the consolidated district in the same manner as other obligations of consolidating districts are assumed, unless a preconsolidation agreement providing that the consolidation shall be contingent upon the approval regarding treatment of the financial obligation as debt, in which case the consolidation shall not be approved. The area of the consolidated district after the election shall be the total area of the special districts consolidated existing as of the date of the court order. No appeal shall lie from any orders of the court.

(f) Approval by a majority of the eligible electors voting in the election within each of the consolidating special districts concerning the consolidation of the special districts or specified services shall be deemed to conclusively establish the consolidated district against all persons except the state of Colorado which, within thirty-five days after the election, may contest the consolidation or the election in an action in the nature of a writ of quo warranto. Otherwise, the consolidation of the districts or services and the organization of the consolidated district shall not directly or indirectly be questioned in any action or proceeding.

(3) Any proceeding for consolidation undertaken pursuant to this section which is not approved shall not operate as a bar to any subsequently proposed consolidation of one or more of the special districts or services named in the consolidation resolution with any other special district or with each other. The provisions of section 32-1-106 shall not apply to any subsequently proposed consolidation.

Source: L. 81: Entire article R&RE, p. 1563, § 1, effective July 1. **L. 85:** (1), (2)(a), (2)(c) to (2)(f), and (3) amended, p. 1112, § 2, effective July 1. **L. 92:** (2)(d) to (2)(f) amended, p. 878, § 112, effective January 1, 1993. **L. 93:** (2)(e) amended, p. 562, § 1, effective April 30. **L. 2012:** (2)(f) amended, (SB 12-175), ch. 208, p. 881, § 147, effective July 1. **L. 2016:** (2)(e) amended, (SB 16-189), ch. 210, p. 786, § 85, effective June 6.

Editor's note: This section is similar to former § 32-1-113 as it existed prior to 1981.

32-1-602.5. Consolidation and review by administrative action. Whenever the division finds, upon its own investigation or upon the receipt of information from any source, that the consolidation, restructuring of services, or other changes in the operations of one or more special districts would be in the best interests of the residents of the special districts or will improve the quality of services or lower the costs of services, the division may review the operations and performance of such special districts and issue recommendations. The division may require one or more special district boards to hold a public meeting to discuss the operations and performance of such special districts. If such public meeting involves two special district boards and both boards agree that consolidation is appropriate, they shall commence consolidation procedures pursuant to section 32-1-602. If the public meeting involves three or more special district boards, a majority of such boards must approve consolidation before consolidation procedures are commenced.

Source: L. 91: Entire section added, p. 787, § 13, effective June 4.

32-1-603. Procedure after consolidation election. (1) After the election approving the consolidated district, the members of the board of each of the special districts consolidated or having services consolidated into the consolidated district shall constitute the organizational board of the consolidated district, regardless of the number of directors thereof. This organizational board shall remain as the board of the consolidated district until such time as the first board of the consolidated district is selected as provided in this section.

(2) The organizational board, within six months after the date of the consolidation election, shall:

(a) (I) If the board of the consolidated district is to have five directors, determine the terms of the directors of the first board as provided in paragraph (b) of this subsection (2); or

(II) If the board of the consolidated district is to have seven directors, divide the consolidated district into seven director districts, each of which shall have, as nearly as possible, the same number of eligible electors and which shall be as contiguous and compact as possible, and determine the terms of the directors of the first board as provided in paragraph (b) of this subsection (2). In making the division, the board shall consider existing or potential developments within the proposed director districts which when completed would, in the reasonably near future, increase or decrease the number of eligible electors within the director district. The organizational board shall then select from its members a representative of each director district, and, if possible, the representatives shall be eligible electors within the boundaries of the director district which they are selected to represent. Thereafter, directors shall be eligible electors of the director district which they represent.

(b) Determine the terms of the directors of the first board of the consolidated district. In making the determination, the organizational board shall fix the terms of the first board as follows: The terms of two directors, if there are five directors, or three directors, if there are seven directors, of the first board having the fewest years to serve on the board to which they were originally elected shall expire at the first regular special district election after the date of order of the court as provided in subsection (4) of this section; and the terms of the remaining three directors, if there are five directors, or the remaining four directors, if there are seven directors, having the greatest number of years to serve on the board to which they were originally elected shall expire at the second regular special district election. If the terms of the directors so selected to the first board of the consolidated district expire on the same date, the terms of the directors shall be determined by the organizational board. The terms shall be determined, however, so that two or three directors, as applicable, shall have terms expiring in two years and three or four directors, as applicable, shall have terms expiring in four years. Thereafter, each board member shall have a term of four years.

(c) Determine the amount of bond for each director of the consolidated district, which amount shall not be less than one thousand dollars per director and may be an individual, schedule or blanket bond at the expense of the consolidated district, and fix the amount of the treasurer's bond in an amount not less than five thousand dollars, which bonds are conditioned upon the faithful performance of their duties.

(3) After making such determinations, the organizational board shall promptly file in the court having jurisdiction as provided in section 32-1-602 (2)(c) a petition stating the name of the consolidated district, the name and address of each member of the first board of the consolidated

district, the term of each member thereof, the amount of the surety bonds fixed in accordance with this section, and a description of the director districts, if any, of the consolidated district. Such petition shall also have attached to it photocopies or duplicates of the bonds duly certified by the insurance or surety company issuing the bonds, the originals of which bonds shall be retained in the files of the consolidated district.

(4) The court, upon the filing of such petition, if satisfied that the allegations therein are true, shall enter an order ex parte stating the name of the consolidated district, the name and address of each member of the first board of the consolidated district, a description of the director districts, if any, of the consolidated district, a description of the total consolidated district, any conditions that may attach to the consolidated district if services are consolidated, a description of the specified services to be provided by such district, and the term of office of each member of the board of the consolidated district, and, at the same time, the court shall approve or disapprove the bond or bonds attached to the petition. This order shall be forthwith recorded in the office of the county clerk and recorder in each county wherein the consolidated district is organized, and notice of such action shall be given in accordance with the provisions of section 32-1-105.

(5) The members of the first board named in the order of court as provided in subsection (4) of this section, upon taking the oath of office, shall constitute the board of the consolidated district. The board shall elect one of its members as chairman of the board and president of the consolidated district, one of its members as treasurer of the board and the consolidated district, and a secretary of the board and the consolidated district who may be a member of the board. The secretary and the treasurer may be one person, but, if such is the case, he shall be a member of the board.

Source: L. 81: Entire article R&RE, p. 1565, § 1, effective July 1. **L. 85:** (1) and (4) amended, p. 1115, § 3, effective July 1; (2)(a)(II), (3), and (4) amended, p. 1084, § 3, effective July 1, 1986. **L. 92:** (2)(a) and (2)(b) amended, p. 880, § 113, effective January 1, 1993.

Editor's note: (1) This section is similar to former § 32-1-114 as it existed prior to 1981.

(2) Amendments to subsection (4) by House Bill 85-1009 and House Bill 85-1062 were harmonized.

32-1-604. Advisory board members. The members of the organizational board of the consolidated district not selected to act as the members of the first board of the consolidated district may act, however, as advisory members to the first board until such time as the terms of office for which they were originally elected would have expired. Advisory members may be compensated equally with compensation paid to the board of the consolidated district for each meeting attended. Advisory board members may not act as officers of nor bind the consolidated district and shall have no vote on any matters before the board of the consolidated district, but they may be employed by the board of the consolidated district in any capacity.

Source: L. 81: Entire article R&RE, p. 1566, § 1, effective July 1.

Editor's note: This section is similar to former § 32-1-115 as it existed prior to 1981.

32-1-605. Special election provisions for consolidated districts. (1) The first election of the consolidated district shall be the next regular special district election. Except as otherwise provided in this part 6, nominations and elections for the consolidated district shall be governed by articles 4 and 13.5 of title 1, C.R.S.

(2) (a) For those consolidated districts having seven directors on the board, beginning with the first regular special district election and continuing with each regular special district election thereafter, members of the consolidated board shall be eligible electors of the director district which they represent. Nominations for a director shall be signed by eligible electors from the director district which the director to be elected is to represent.

(b) After the first regular special district election of directors to the board in such consolidated districts, the board of the consolidated district, at least ninety days prior to any subsequent regular special district election, shall determine the boundaries of each director district pursuant to section 32-1-603 (2) and shall not make any change until after the regular special district election has been held. Upon making any change in the boundaries of any director district, the board, within ninety days prior to a regular special district election, shall file a resolution changing the boundaries with the clerk of the court having jurisdiction and shall give notice by one publication within the consolidated district.

Source: L. 81: Entire article R&RE, p. 1566, § 1, effective July 1. **L. 85:** (1)(b) amended, p. 1084, § 4, effective July 1, 1986. **L. 92:** Entire section amended, p. 880, § 114, effective January 1, 1993. **L. 2016:** (1) amended, (SB 16-189), ch. 210, p. 787, § 86, effective June 6.

Editor's note: (1) This section is similar to former § 32-1-116 as it existed prior to 1981.

(2) Changes were made in numbering in 1994 to conform to C.R.S. format.

32-1-606. Bonded indebtedness of consolidated districts. (1) Except as otherwise provided in subsection (3) of this section and approved by the eligible electors pursuant to section 32-1-602 (2)(e), all of the outstanding bonded indebtedness of any special district which becomes part of a consolidated district or which has all of its services completely consolidated shall be paid and discharged by the taxpayers having taxable property within the boundaries of the special district which incurred the bonded indebtedness. The board of the consolidated district shall levy a general property tax annually, for so long as may be necessary to pay the bonded indebtedness according to its terms, upon the properties lying within the boundaries of the special district which incurred the bonded indebtedness as the boundaries existed when the special district became a part of the consolidated district. The levying of the tax shall not prevent the board of the consolidated district from imposing special rates, tolls, or charges for services and facilities afforded within the boundaries of the indebted special district or made available to the properties lying within the indebted special district.

(2) Except as otherwise provided in subsection (3) of this section and approved by the eligible electors pursuant to section 32-1-602 (2)(e), all of the outstanding bonded indebtedness of any special district which consolidates less than all of its services into a consolidated district shall remain the obligation of the special district which incurred the bonded indebtedness and shall be paid and discharged by the taxpayers having taxable property within the boundaries of

the indebted special district. The board of the special district which incurred the bonded indebtedness shall levy a general property tax annually, for so long as may be necessary to pay the bonded indebtedness according to its terms, upon the properties lying within the boundaries of the indebted special district. The levying of the tax shall not prevent the board of the consolidated district from imposing special rates, tolls, or charges for services and facilities afforded within the boundaries of the indebted special district or made available to the properties lying within the indebted special district.

(3) Nothing in this section shall prevent a consolidated district from being bound by preconsolidation agreements which have been entered into between or among consolidating districts and which have become part of the terms and conditions of consolidation as set forth in the court order under section 32-1-603 (4), including the assumption of all or part of the outstanding bonded indebtedness of all of the consolidating special districts by the consolidated special district.

Source: L. 81: Entire article R&RE, p. 1567, § 1, effective July 1. **L. 85:** Entire section amended, p. 1115, § 4, effective July 1. **L. 92:** (1) and (2) amended, p. 881, § 115, effective January 1, 1993.

Editor's note: This section is similar to former § 32-1-117 as it existed prior to 1981.

32-1-606.5. Elector approval of financial obligations of consolidating districts. (1) Whenever the board of a consolidating special district determines, by resolution, that the interest of the special district, the resulting consolidated district, and the public interest require that the obligation to pay and discharge any financial obligation, including accrued unfunded pension liability, remain the obligation of the taxpayers of said consolidating special district, the board shall request that the court order the submission of the proposition of treating the financial obligation as general obligation indebtedness to the electors of said consolidating district at the consolidation election. Such request shall be made to the court at the hearing held in accordance with section 32-1-602 (2)(e) and shall recite, as to each financial obligation to be submitted at the election:

(a) The object and purpose for which the financial obligation was incurred or the pension plan to which the accrued unfunded liability attaches;

(b) The estimated total cost of discharging the financial obligation;

(c) The estimated term over which the financial obligation will be discharged and the estimated annual cost;

(d) The initial mill levy necessary to pay the annual cost; and

(e) Whether the consolidation is contingent upon approval of the financial obligation as debt.

(2) If the court finds that the board's request complies with the requirements of subsection (1) of this section, the court shall grant the board's request and include in its order entered pursuant to section 32-1-602 (2)(e), that the electors of the consolidating special district vote separately on each financial obligation proposed to be treated as debt.

(3) If approved as debt by the electors at the consolidation election, the financial obligation of the consolidating special district, which becomes part of a consolidated district, shall be paid and discharged by the taxpayers having taxable property within the boundaries of

the consolidating special district which incurred the obligation or maintained the pension plan to which the accrued unfunded liability attaches. The board of the consolidated district shall levy a general property tax annually for so long as may be necessary to retire the elector-approved debt.

(4) Nothing in this section shall prevent a consolidated district from being bound by preconsolidation agreements which have been entered into between or among consolidating districts and which have become part of the terms and conditions of consolidation as set forth in the court order under section 32-1-603 (4) including the assumption of any or all of the financial obligations of the consolidating special districts by the consolidated special district.

Source: L. 93: Entire section added, p. 563, § 2, effective April 30.

32-1-607. Powers. (1) Subject to the provisions of section 32-1-602 (2)(e), a consolidated district has all of the rights, powers, and authorities which were granted by statute to each of the special districts which are consolidated and may have the rights, powers, and authorities granted to a metropolitan district. Any consolidated district which embraces any special district is not limited in its exercise of the rights, powers, and authorities granted in this section because the full extent of the purposes and powers to be exercised by the consolidated district was not stated or was stated otherwise in any organization petition, court order, or ballot of any one or more of the special districts so consolidated, but a consolidated district established on or after July 1, 1985, is limited in its exercise of the rights, powers, and authorities granted or validated in this section to the extent the purposes and powers to be exercised by the consolidated district are stated in the consolidation resolution or subsequently approved by a vote of the eligible electors of the consolidated district.

(2) The consolidated district, upon order of the court as provided in section 32-1-603 (4), shall immediately become the owner of and entitled to receive, hold, sue for, and collect all moneys, funds, taxes, levies, assessments, fees, and charges and all property and assets of any kind or nature owned, leased, or claimed by or due to any of the special districts so consolidated. The obligations of the special districts, other than bonded indebtedness and elector-approved debt, shall be assumed by the consolidated district and paid by the consolidated district. Inclusions and exclusions of lands to and from the consolidated district shall be governed by the provisions of parts 4 and 5 of this article.

(3) In the case of a district into which services are consolidated, the district shall have all of the rights, powers, and authorities which are granted by statute for each of the consolidated services. Unless all of the rights, powers, and authorities of a metropolitan district are granted pursuant to section 32-1-602 (2)(e), if the consolidated district is authorized to provide two or more of the services specified in section 32-1-1004 (2), the consolidated district shall have only those rights, powers, and authorities granted and shall be subject to the limitations applicable to other single-purpose special districts providing a similar service. Any consolidated district which embraces any special district is not limited in its exercise of the rights, powers, and authorities granted in this section because the full extent of the purposes and powers to be exercised by the consolidated district was not stated or was stated otherwise in any organization petition, court order, or ballot of any one or more of the special districts so consolidated, but the consolidated district is limited in its exercise of the rights, powers, and authorities granted or validated in this section to the extent the purposes and powers to be exercised are stated in the consolidated resolution or subsequently approved by a vote of the eligible electors of the consolidated district.

(4) A consolidated district, upon order of the court as provided in section 32-1-603 (4), shall immediately become the owner of and entitled to receive, hold, sue for, and collect all moneys, funds, levies, assessments, fees, and charges and all properties and assets of any kind or nature owned, leased, or claimed by or due to any of the special districts so consolidated for the services consolidated, subject to the terms of a preconsolidation agreement, contract, or bond covenant affecting the conveyance. The obligations of the special districts for the services consolidated, other than bonded indebtedness and elector-approved debt, shall be assumed by the consolidated district and paid by the district. Inclusions and exclusions of lands to and from the consolidated district shall be governed by the provisions of parts 4 and 5 of this article.

(5) Except as provided in this part 6, any special district which consolidates less than all of its services into a consolidated district may remain in existence and not be affected by the consolidation proceeding or may, on motion of the board after notice to the court and after providing for the payment of any outstanding indebtedness, be dissolved. If the special district remains in existence, such special district shall no longer possess the power to provide the services so consolidated. If such special district is authorized to provide only a single remaining service, it shall have only those rights, powers, and authorities granted and shall be subject to the limitations applicable to other single-purpose special districts providing a similar service.

(6) No consolidation proceeding under this part 6 is subject to the provisions of part 2 of this article; except that any consolidation proceeding under this part 6 that will result in the creation of a consolidated district that will provide new or different services within the boundaries of any existing municipality as compared to the services that are either being provided or that are authorized to be provided to the municipality by one or more of the consolidating special districts as of the commencement of the consolidation proceedings subjects the proposed consolidated district to the provisions of part 2 of this article. In such event, the provisions of part 2 of this article relating to the organization of a proposed special district must be complied with by the special district initiating the consolidation after adoption of the consolidation resolution and concurring resolutions but prior to filing such resolutions with the court as specified in section 32-1-602 (2)(c); except that the provisions of section 32-1-203 (2)(b) are not applicable when existing service is being provided by a consolidating special district. Any such municipality is an interested party and entitled to notice of the proceedings for all of the purposes provided in part 2 of this article and in this part 6. If the board of either the initiating special district or a concurring special district disapproves the final action taken on such service plan, the consolidation proceeding must be terminated.

Source: L. 81: Entire article R&RE, p. 1567, § 1, effective July 1. **L. 85:** (1) amended and (3) to (6) added, p. 1116, § 5, effective July 1. **L. 92:** (1) and (3) amended, p. 882, § 116, effective January 1, 1993. **L. 93:** (2) and (4) amended, p. 565, § 3, effective April 30. **L. 2013:** (6) amended, (HB 13-1302), ch. 317, p. 1733, § 1, effective August 7.

Editor's note: This section is similar to former § 32-1-118 as it existed prior to 1981.

32-1-608. Subsequent consolidations. Any consolidated district may initiate proceedings for the consolidation of one consolidated district with another special district, whether or not a consolidated district, as provided in section 32-1-602. Such proceedings shall

proceed in accordance with this part 6 without regard to the fact that the districts have been previously consolidated.

Source: L. 81: Entire article R&RE, p. 1567, § 1, effective July 1.

Editor's note: This section is similar to former § 32-1-120 as it existed prior to 1981.

PART 7

DISSOLUTION

32-1-701. Initiation - petition - procedure. (1) Whenever the majority of all the members of the board of a special district deems it to be in the best interests of such district that it be dissolved, the board shall file a petition for dissolution with the court.

(2) (a) The board, promptly and in good faith, shall also take the necessary steps to dissolve the special district whenever the lesser of five percent of the eligible electors or two hundred fifty eligible electors or, in case of special districts larger than twenty-five thousand persons, three percent of the eligible electors of the district or the division file an application with the board to dissolve the special district pursuant to the provisions of this part 7. In that case the board shall file a petition for dissolution with the court within sixty days after the date of filing of the application by the eligible electors. The petition for dissolution shall request an election and shall include a report on the steps which have been taken to comply with the requirements of section 32-1-702. The board, at the time it files a petition for dissolution pursuant to this subsection (2), may request that the proceedings under sections 32-1-703 and 32-1-704 be continued until further progress has been made in complying with the requirements of section 32-1-702.

(b) No application to dissolve a special district shall be circulated until it has been approved as following as nearly practicable the requirements of section 31-11-106, C.R.S., for municipal petitions. The application shall be submitted to the secretary of the board of directors of the special district. The secretary shall approve the application as to form or notify the person who submitted the application of any deficiencies in the form of the application by the close of the fifteenth business day following the submission of such application. The secretary shall mail written notice of the approval or deficiencies to the person who submitted the application within two days after the date the action is taken.

(c) Any signature that is affixed to an application to dissolve a special district prior to the date that the written approval notice is mailed pursuant to paragraph (b) of this subsection (2) shall be invalid.

(d) No application to dissolve a special district filed by the eligible electors in accordance with paragraph (a) of this subsection (2) shall be accepted by the board of directors of such district more than ninety days after the date that the written approval notice is mailed pursuant to paragraph (b) of this subsection (2).

(3) If at least eighty-five percent of the territory encompassed by a special district lies within the corporate limits of a municipality, the governing body of such municipality may file an application with the board to dissolve the special district, and the board, promptly and in good

faith, shall take the necessary steps to dissolve such district in accordance with the procedures specified in subsection (2) of this section.

(4) If the territory encompassed by a special district lies wholly within the boundaries of a regional service authority and if such service authority provides the same service as that provided by the special district, the board of directors of any such service authority may file an application with the board to dissolve the special district, and the board, promptly and in good faith, shall take the necessary steps to dissolve such district in accordance with the procedures specified in subsection (2) of this section.

(5) If the territory encompassed by a special district lies within the boundaries of two or more regional service authorities and if such service authorities provide the same service as that provided by the special district, the two or more service authorities may file jointly an application with the board to dissolve the special district, and the board, promptly and in good faith, shall take the necessary steps to dissolve such district in accordance with the procedures specified in subsection (2) of this section. The application shall include the consent of such service authorities to assume the responsibilities for providing the service in their respective jurisdictions or the consent of one regional service authority to provide the service on a contractual basis.

(6) Any application filed with the board to dissolve a special district under subsection (2), (3), (4), or (5) of this section shall be accompanied by a cash bond in the amount of three hundred dollars to cover the expenses connected with the proceedings if the dissolution is not effected.

Source: L. 81: Entire article R&RE, p. 1568, § 1, effective July 1. **L. 87:** (2) amended, p. 1236, § 1, effective May 8. **L. 91:** (2) amended, p. 788, § 14, effective June 4. **L. 92:** (2) amended, p. 882, § 117, effective January 1, 1993. **L. 99:** (2) amended, p. 448, § 2, effective August 4.

Editor's note: This section is similar to former § 32-1-603 as it existed prior to 1981.

32-1-702. Requirements for dissolution petition. (1) A petition for dissolution shall generally describe the territory embraced in the special district, shall have a map showing the special district, a current financial statement of the special district, and a plan for final disposition of the assets of the special district and for payment of the financial obligations of the special district, shall state whether or not the services of the special district are to be continued and, if so, by what means, and shall state whether the existing board or a portion thereof shall continue in office, subject to court appointment to fill vacancies. Said petition may provide for the regional service authority board or the governing body of the municipality to act as the board in accordance with the provisions of section 32-1-707.

(2) The special district's current financial statement shall be accompanied by adequate evidence of compliance with the requirements of subsection (3) of this section.

(3) The petition for dissolution shall provide for one of the following:

(a) A certificate that the special district has no financial obligations or outstanding bonds;

(b) A plan for dissolution stating that there are financial obligations or outstanding bonds but that the special district will not continue in existence and specifically providing that funds or

securities meeting the investment requirements established in part 6 of article 75 of title 24, C.R.S., will be placed in escrow, prior to dissolution, in a state or national bank within this state having trust powers and which is a member of the federal deposit insurance corporation and stating that such funds or securities will be sufficient for the payment of the financial obligations and outstanding bonds and all expenses relating thereto, including charges of any escrow agent;

(c) A plan for dissolution stating that there are financial obligations or outstanding bonds and specifically providing that the special district will continue in existence to such extent as is necessary to adequately provide for the payment of such financial obligations and outstanding bonds.

(4) The petition for dissolution shall also provide for one of the following:

(a) A statement that the services of the special district will not be continued within such district;

(b) (I) A plan for dissolution specifically providing that services are to be continued within the special district by one or more regional service authorities, municipalities, counties, intergovernmental authorities formed and operated under part 2 of article 1 of title 29, C.R.S., or other special districts, or any combination thereof, and incorporating an agreement with such regional service authority, municipality, county, intergovernmental authority, or other special district, or any combination thereof, under which responsibility for all services presently provided by the special district will be assumed by such entity. Such agreement shall provide for the operation and maintenance of the system or facilities of the special district by the regional service authority, municipality, county, intergovernmental authority, or other special district, provisions for service, rates, and charges, and, if applicable, provisions concerning acquisition of the special district's system or facilities, consolidation or inclusion of territory, and procedures for contract modification, employee rights, and retirement benefits. Such agreement may include provisions for certification of levies by the special district continuing in existence under paragraph (c) of subsection (3) of this section, the contracting regional service authority, municipality, county, intergovernmental authority, or other special district providing the services. Any agreement concerning fire protection districts entered into pursuant to this subsection (4) shall include provisions for the continuation of paid employees' rights pursuant to section 32-1-1002 (2) and the retirement benefits of paid firefighters as provided in parts 2 and 4 of article 30.5 and article 31 of title 31, C.R.S., and the retirement benefits of volunteer firefighters under part 11 of article 30 of title 31, C.R.S.

(II) If a portion of a special district is located within the boundaries of a municipality and a dissolution proceeding has been initiated by the special district, the board shall hold a public hearing for residents in the unincorporated area of the special district to express their views concerning the provision of services to the unincorporated portions of the special district at the time of negotiation of the agreement or any modification thereof.

(5) Any plan for dissolution shall include adequate provision for continuance of existing services, and the financing thereof, to all areas of the special district being dissolved if such services are essential for the health, welfare, and safety of those residents of the special district being dissolved.

Source: L. 81: Entire article R&RE, p. 1569, § 1, effective July 1. **L. 89:** (3)(b) amended, p. 1116, § 31, effective July 1. **L. 91:** (4)(b)(I) amended, p. 796, § 1, effective April

10. **L. 95:** (4)(b)(I) amended, p. 1385, § 18, effective June 5. **L. 96:** (4)(b)(I) amended, p. 942, § 8, effective May 23.

Editor's note: This section is similar to former § 32-1-604 as it existed prior to 1981.

Cross references: For the legislative declaration contained in the 1995 act amending subsection (4)(b)(I), see section 1 of chapter 254, Session Laws of Colorado 1995.

32-1-703. Notice of filing petition. (1) Upon filing of the petition for dissolution by the board with the court, the court shall give notice by publication reciting the fact that a petition for dissolution has been filed and reciting the applicable financial provision set forth under section 32-1-702 (3) and the applicable service provision set forth under section 32-1-702 (4).

(2) Such notice shall specify the time and place of a hearing, to be held within fifty days after filing of said petition, and shall provide that any interested party may appear and be heard on the sufficiency of the petition for dissolution or on the adequacy of the applicable financial and service provisions.

(3) The court shall also forthwith cause a copy of said notice to be mailed to the board of county commissioners of each county having territory within the special district and to the governing body of each municipality having territory located within a radius of three miles of the special district boundaries.

Source: L. 81: Entire article R&RE, p. 1570, § 1, effective July 1.

Editor's note: This section is similar to former §§ 32-1-605 and 32-3-125 as they existed prior to 1981.

32-1-704. Conditions necessary for dissolution - permissible provisions - hearings - court powers. (1) Prior to the court hearing on the petition for dissolution, the governing body of any municipality, county, intergovernmental authority formed and operated under part 2 of article 1 of title 29, C.R.S., other special district, or regional service authority which is a party to an agreement to render services and which is assuming the responsibility to provide those services in the special district to be dissolved shall submit to the jurisdiction of the court by a written entry of appearance.

(2) Hearings may be continued by the court on the petition for dissolution as necessary to complete the proceedings authorized by this part 7. No petition shall be declared void on account of alleged defects, but the court may at any time permit the petition to be amended to conform to the facts by correcting any errors in the description of the territory or in any other particular.

(3) (a) Subject to the provisions of paragraphs (b) and (c) of this subsection (3), if the court finds that the special district has no financial obligations or outstanding bonds or that the special district's financial obligations and outstanding bonds will be adequately provided for prior to dissolution by means of escrow funds or securities meeting the investment requirements established in part 6 of article 75 of title 24, C.R.S., to secure payment thereof, that the petition for dissolution meets the requirements of this part 7, and that an adequate plan exists for

continuation of services, if required, the court shall order an election in the special district on the question of dissolution.

(b) Subject to the provisions of paragraph (c) of this subsection (3), the court shall enter an order dissolving the special district pursuant to section 32-1-707 without an election if the special district lies wholly within the corporate limits of the municipality, if the special district has no financial obligations or outstanding bonds, and if the special district board and the governing body of the municipality consent to the dissolution.

(c) If, at the court hearing on the petition for dissolution, the lesser of ten percent or one hundred of the eligible electors of the special district petition the court for a special election to be held on the question of dissolution of the special district, the court shall order an election in the special district on the question of dissolution.

(4) (a) If the court finds the special district has financial obligations or outstanding bonds and no escrow plan, the court shall determine whether the plan for dissolution, as submitted, adequately provides for payment of the financial obligations and outstanding bonds of the special district.

(b) If the court determines that the plan for dissolution adequately provides for the payment of the financial obligations and outstanding bonds of the special district, that the petition for dissolution meets the requirements of this part 7, and that an adequate plan exists for continuance of services, if required, the court shall order an election to be held in the special district on the question of dissolution.

(c) If, at any time after the filing of a petition for dissolution under section 32-1-701, the court determines that no agreement can be reached concerning the plan for dissolution under section 32-1-702 (4)(b) or that any other requirements of this part 7 cannot be met, and that the board has acted in good faith, it shall dismiss the dissolution proceedings. If, however, the special district is entirely within the municipality and the parties are unable to reach an agreement, the court may impose a plan for dissolution under section 32-1-702 at the request of either the municipality or the special district and shall order an election to be held in the special district on the question of dissolution.

Source: L. 81: Entire article R&RE, p. 1570, § 1, effective July 1. **L. 89:** (3)(a) amended, p. 1117, § 32, effective July 1. **L. 91:** (1) amended, p. 797, § 2, effective April 10. **L. 92:** (3)(c) amended, p. 883, § 118, effective January 1, 1993.

Editor's note: This section is similar to former § 32-1-606 as it existed prior to 1981.

32-1-705. Election notice. When an election is ordered by the court, the court shall give notice pursuant to section 1-13.5-510, C.R.S.

Source: L. 81: Entire article R&RE, p. 1571, § 1, effective July 1. **L. 92:** Entire section amended, p. 883, § 119, effective January 1, 1993. **L. 93:** Entire section amended, p. 1439, § 135, effective July 1. **L. 2016:** Entire section amended, (SB 16-189), ch. 210, p. 787, § 87, effective June 6.

Editor's note: This section is similar to former § 32-1-607 as it existed prior to 1981.

32-1-706. Conduct of election. It is the duty of the secretary to administer the election, subject to court supervision. The election shall be conducted pursuant to articles 1 to 13.5 of title 1, C.R.S.

Source: L. 81: Entire article R&RE, p. 1571, § 1, effective July 1. **L. 92:** Entire section amended, p. 883, § 120, effective January 1, 1993. **L. 2016:** Entire section amended, (SB 16-189), ch. 210, p. 787, § 88, effective June 6.

Editor's note: This section is similar to former § 32-1-608 as it existed prior to 1981.

32-1-707. Order of dissolution - conditions attached. (1) (a) If a majority of the eligible electors voting at the election approve the question of dissolution, the judge shall enter an order dissolving the special district for all purposes or for all purposes except those reserved in the plan, as the case may be.

(b) The order of dissolution shall:

(I) State that there are no financial obligations or outstanding bonds or that any such financial obligations or outstanding bonds are adequately secured by escrow funds or securities meeting the investment requirements established in part 6 of article 75 of title 24, C.R.S.;

(II) If the special district has financial obligations or outstanding bonds, incorporate the applicable financial provisions of the findings of the court accepting the plan for dissolution entered into pursuant to section 32-1-704 (4);

(III) Incorporate the applicable service provisions of the findings of the court accepting the plan for dissolution entered into pursuant to section 32-1-704 (3) or (4).

(2) (a) Whenever the special district will continue in existence pursuant to the provisions of section 32-1-702 (3)(c), the court may provide that all or certain directors of the board of the special district being dissolved remain in office to perform duties pursuant to subsections (3) and (4) of this section. The remaining directors of the board shall not be subject to election. Any vacancies on the board shall be filled by appointment by the court.

(b) If a portion of the special district being dissolved lies outside the contracting regional service authority, municipality, county, intergovernmental authority formed and operated under part 2 of article 1 of title 29, C.R.S., or other special district providing the services, the court, from time to time, shall appoint directors to the board so that proportionate representation is provided, taking into account the size, population, and valuation for assessment within and without the regional service authority, municipality, county, intergovernmental authority, or other special district.

(c) If the special district being dissolved lies entirely within the corporate limits of a municipality and such municipality is providing the same services within the area of the special district being dissolved, the court shall order that the governing body of such municipality shall serve as the board of the special district to perform the duties specified in this section.

(3) If the special district is to continue in existence for the purpose of the payment of financial obligations or outstanding bonds, the order of dissolution shall provide that:

(a) The board shall be responsible for setting rates, tolls, fees, or charges and certifying to the board of county commissioners the amount of revenue to be raised by the annual mill levy of the special district necessary for payment of the special district's financial obligations and outstanding bonds; and

(b) The contracting regional service authority, municipality, county, intergovernmental authority formed and operated under part 2 of article 1 of title 29, C.R.S., or other special district providing the services shall be responsible for fixing the rates, tolls, fees, or charges needed to finance the services being provided pursuant to the provisions of section 32-1-702 (4)(b).

(4) (a) In any case in which an agreement has been made for continuation of services within the special district pursuant to the provisions of section 32-1-702 (4)(b), the court may authorize the board to continue in existence for the purpose of assuring the performance of any condition of such agreement, including negotiations relating to any future modifications of the agreement, procedures for which are provided in the original agreement for services.

(b) The court's order may in such case specify that its jurisdiction over the dissolution continues for the purpose of considering any future modifications of the agreement or other questions concerned with performance of the agreement.

(5) A certified copy of the order of dissolution shall be filed with the county clerk and recorder of the county or counties in which the special district is located and with the division by the clerk of the court. The costs of such filing shall be paid with remaining funds of the district. If there are no remaining funds of the district, the division may claim the exemption from payment of recording fees imposed in section 30-1-103, C.R.S., at the time the copy of the order is filed for recording.

(6) The order of dissolution shall be final and conclusive against all persons; except that an action may be instituted by the state of Colorado in the nature of quo warranto commenced within thirty-five days after the order of dissolution. The dissolution of said district shall not be directly or collaterally questioned in any suit, action, or proceeding except as expressly authorized in this subsection (6).

Source: L. 81: Entire article R&RE, p. 1572, § 1, effective July 1. **L. 89:** (1)(b)(I) amended, p. 1117, § 33, effective July 1. **L. 91:** (2)(b) and (3)(b) amended, p. 797, § 3, effective April 10. **L. 92:** (1)(a) and (2)(a) amended, p. 883, § 121, effective January 1, 1993. **L. 2012:** (6) amended, (SB 12-175), ch. 208, p. 882, § 148, effective July 1. **L. 2014:** (5) amended, (HB 14-1073), ch. 30, p. 177, § 5, effective July 1.

Editor's note: This section is similar to former §§ 32-1-609 and 32-1-611 as they existed prior to 1981.

32-1-708. Disposition of remaining funds - unpaid tax or levies. (1) If services are to be continued within the special district, all funds remaining in the treasury of such special district in excess of all financial obligations and outstanding bonds shall be utilized, upon completion of the requirements for dissolution, to reduce the rates, tolls, fees, and charges fixed by the contracting municipality, county, intergovernmental authority formed and operated under part 2 of article 1 of title 29, C.R.S., other special district, or regional service authority to finance the services continued in the special district. If services are not to be continued within the special district, such funds shall be divided among the municipalities and counties in which the special district is located, pro rata, as the valuation for assessment of taxable property in the parts of the special district lying in each municipality and unincorporated portions of each county bears to the total valuation for assessment of the taxable property of the special district as determined by the respective county assessors for the preceding tax year.

(2) All outstanding and unpaid tax sales and levies of a dissolved special district shall be valid and remain a lien against the property against which they are assessed or levied until paid, subject, however, to the limitations of liens of tax certificates and of certificates of purchase provided by general law. The board of county commissioners has the same power to enforce the collection of all outstanding tax sales of the special district as the special district would have had if it had not been dissolved. Taxes paid or collected after dissolution shall be distributed in the same manner as provided in subsection (1) of this section.

Source: L. 81: Entire article R&RE, p. 1573, § 1, effective July 1. **L. 91:** (1) amended, p. 797, § 4, effective April 10.

Editor's note: This section is similar to former § 32-1-612 as it existed prior to 1981.

32-1-709. Dissolution of health service district - limitation. Any health service district organized pursuant to part 3 of this article may be dissolved in the manner provided in this part 7, but no such health service district shall be dissolved within a one-year period from the date of the entry of an order declaring said district organized or one year from the date of final determination of any petition to set aside such order, whichever date is later.

Source: L. 81: Entire article R&RE, p. 1574, § 1, effective July 1. **L. 96:** Entire section amended, p. 474, § 15, effective July 1.

Editor's note: This section is similar to former § 32-5-215 as it existed prior to 1981.

32-1-710. Dissolution by administrative action. (1) The division shall notify a special district by certified mail of the division's intent to certify the district dissolved if:

(a) (I) Except as provided in section 32-1-905 (2.5), the district has failed to hold or properly cancel an election pursuant to this article;

(II) The district has failed to adopt a budget, pursuant to section 29-1-108, C.R.S., for two consecutive years;

(III) The district has failed to comply with part 6 of article 1 of title 29, C.R.S., for two consecutive years; or

(IV) The district has not provided or attempted to provide any of the services or facilities for which the district was organized for two consecutive years; and

(b) The district has no outstanding financial obligations.

(2) (a) The division may declare the special district dissolved if, within thirty days of the notice provided pursuant to subsection (1) of this section, the district has failed to demonstrate to the division that the district has performed such statutory or service responsibility or will proceed to perform such responsibilities within a time period agreed to by the division and the district.

(b) If the district has failed to hold or properly cancel an election, no board has been appointed pursuant to section 32-1-905 (2.5), and there will be no interruption of services being provided by the district, it shall be presumed that the district has failed to demonstrate to the division that it has performed its statutory or service responsibility or will proceed to perform such responsibilities.

(3) Following the division's declaration of dissolution, the division shall submit the declaration to the court for certification of the district's dissolution. The court shall make a determination on the division's declaration within thirty days after the declaration has been submitted and shall order the disposition of the assets, if any, of the district in accordance with section 32-1-708. In the event that the court determines that the district is not inactive, it may terminate the dissolution proceeding. The division shall give notice that it has applied to the court for certification of the declaration of dissolution to the following parties: The county clerk and recorder, the board of county commissioners, and the assessor of each county in which the district is located; the governing body of any municipality in which the special district is located; and the special district.

Source: L. 85: Entire section added, p. 1021, § 7, effective July 1. **L. 87:** (1)(a)(I) and (2) amended, p. 1237, § 1, effective May 16. **L. 90:** (1)(a)(II) amended, p. 1436, § 4, effective January 1, 1991.

PART 8

ELECTIONS

Editor's note: This article was repealed and reenacted in 1981, and this part 8 was subsequently repealed and reenacted in 1992, resulting in the addition, relocation, and elimination of sections as well as subject matter. For amendments to this part 8 prior to 1992, consult the Colorado statutory research explanatory note and the table itemizing the replacement volumes and supplements to the original volume of C.R.S. 1973 beginning on page vii in the front of this volume and the editor's note following the article heading. Former C.R.S. section numbers prior to 1992 are shown in editor's notes following those sections that were relocated.

32-1-801. Legislative declaration - applicability. It is hereby declared that the orderly conduct of elections of special districts will serve a public use and will promote the health, safety, security, and general welfare of the people of the state of Colorado. Therefore, all elections shall be held pursuant to articles 1 to 13.5 of title 1, C.R.S., unless otherwise provided.

Source: L. 92: Entire part R&RE, p. 884, § 122, effective January 1, 1993. **L. 2016:** Entire section amended, (SB 16-189), ch. 210, p. 787, § 89, effective June 6.

Editor's note: This section is similar to former § 32-1-801 as it existed prior to 1992.

32-1-802. Acts and elections conducted pursuant to provisions which refer to qualified electors. Any elections, and any acts relating thereto, carried out under this part 8, which were conducted prior to July 1, 1987, pursuant to provisions which referred to a qualified elector rather than an eligible elector and which were valid when conducted, shall be deemed and held to be legal and valid in all respects.

Source: L. 92: Entire part R&RE, p. 884, § 122, effective January 1, 1993.

Editor's note: This section is similar to former § 32-1-801.5 as it existed prior to 1992.

32-1-803. Acts and elections conducted pursuant to provisions which refer to registered electors. Any elections and any acts relating to those elections, carried out under this part 8 which were conducted prior to July 1, 1992, and which were valid when conducted, shall be held to be legal and valid in all respects.

Source: L. 92: Entire part R&RE, p. 884, § 122, effective January 1, 1993.

Editor's note: This section is similar to former § 32-1-801.5 as it existed prior to 1992.

32-1-803.5. Organizational election - new special district. At any election for the organization of a new special district, the court shall also order the submission of the proposition of issuing general obligation bonds or creating other general obligation indebtedness or any question or questions necessary to implement section 20 of article X of the state constitution as applied to the new special district, if the petition filed pursuant to section 32-1-301 requests that such questions be submitted at the organizational election. The order of the court shall make the determinations required by section 32-1-1101 (2) and (3)(a) and require the designated election official appointed by the court pursuant to section 32-1-305.5 (1) to conduct the election in accordance with section 20 of article X of the state constitution.

Source: L. 93: Entire section added, p. 1439, § 136, effective July 1. **L. 2014:** Entire section amended, (HB 14-1164), ch. 2, p. 71, § 31, effective February 18.

Editor's note: This provision was added by House Bill 93-1255, chapter 258, Session Laws of Colorado 1993, as section 32-1-802 (6) but was renumbered on revision to give proper effect and location.

Cross references: For the legislative declaration in HB 14-1164, see section 1 of chapter 2, Session Laws of Colorado 2014.

32-1-804. Board to conduct elections - combined election - time for special election. (1) After a special district is organized and the first board is elected, the board shall govern the conduct of all subsequent regular and special elections of the special district and shall render all interpretations and make all decisions as to controversies or other matters arising in the conduct of the elections. The board in its discretion, but no more frequently than every four years, may reestablish the boundaries of director districts created pursuant to section 32-1-301 (2)(f) so that the director districts have, as nearly as possible, the same number of eligible electors.

(2) All powers and authority granted to the board by this part 8 for the conduct of regular or special elections may be exercised in the absence of the board by the secretary or by an assistant secretary appointed by the board. The person named by the board who is responsible for the conducting of the election shall be the designated election official.

Source: L. 92: Entire part R&RE, p. 884, § 122, effective January 1, 1993.

Editor's note: This section is similar to former § 32-1-803 as it existed prior to 1992.

32-1-804.1. Call for nominations. (Repealed)

Source: L. 99: Entire section added, p. 449, § 3, effective August 4. **L. 2014:** Entire section repealed, (HB 14-1164), ch. 2, p. 77, § 51, effective February 18.

Cross references: For the legislative declaration in HB 14-1164, see section 1 of chapter 2, Session Laws of Colorado 2014.

32-1-804.3. Candidates for director - self-nomination and acceptance form. (Repealed)

Source: L. 99: Entire section added, p. 449, § 3, effective August 4. **L. 2011:** (4) amended, (HB 11-1124), ch. 105, p. 328, § 1, effective April 13. **L. 2014:** Entire section repealed, (HB 14-1164), ch. 2, p. 77, § 51, effective February 18.

Cross references: For the legislative declaration in HB 14-1164, see section 1 of chapter 2, Session Laws of Colorado 2014.

32-1-805. Time for holding elections - type of election - manner of election - notice. (Repealed)

Source: L. 92: Entire part R&RE, p. 885, § 122, effective January 1, 1993. **L. 94:** (2) amended, p. 1195, § 100, effective July 1. **L. 95:** (2) amended, p. 859, § 109, effective July 1. **L. 2007:** (2) amended, p. 922, § 2, effective May 17; (1) amended and (4) added, p. 1191, § 10, effective July 1. **L. 2009:** (5) added, (SB 09-087), ch. 325, p. 1732, § 4, effective September 1. **L. 2011:** (5)(b) amended and (5)(b.5) and (5)(b.7) added, (SB 11-057), ch. 123, p. 385, § 1, effective April 20. **L. 2013:** (5)(a) repealed and (5)(b) amended, (HB 13-1303), ch. 185, pp. 752, 751, §§ 138, 133, effective May 10. **L. 2014:** Entire section repealed, (HB 14-1164), ch. 2, p. 77, § 51, effective February 18.

Editor's note: This section was similar to former § 32-1-803 as it existed prior to 1992.

Cross references: For the legislative declaration in HB 14-1164, see section 1 of chapter 2, Session Laws of Colorado 2014.

32-1-805.5. Ranked voting methods. (1) Notwithstanding any provision of this article to the contrary, a special district may use a ranked voting method, as defined in section 1-1-104 (34.4), C.R.S., to conduct a regular election to elect directors of the special district in accordance with section 1-7-1003, C.R.S., and the rules adopted by the secretary of state pursuant to section 1-7-1004 (1), C.R.S.

(2) A special district conducting an election using a ranked voting method may adapt the requirements of the "Uniform Election Code of 1992", articles 1 to 13 of title 1, C.R.S., including requirements concerning the form of the ballot, the method of marking the ballot, the

procedure for counting ballots, and the form of the election judges' certificate, as necessary for compatibility with the ranked voting method.

Source: L. 2008: Entire section added, p. 1253, § 5, effective August 5.

32-1-806. Persons entitled to vote at special district elections. (1) No person shall be permitted to vote in any election unless that person is an eligible elector as defined in section 32-1-103 (5)(a).

(2) Any person desiring to vote at any election as an eligible elector pursuant to section 32-1-103 (5)(a)(II) shall sign a self-affirmation that the person is an elector of the special district. The self-affirming oath or affirmation must be on a form that contains in substance the following:

"I, (printed name), who reside at (address), am an elector of this (name of special district) district and desire to vote at this election. I do solemnly swear (or affirm) that I am registered to vote in the state of Colorado and qualified to vote in this special district election as:

_____ A resident of the district or area to be included in the district; or
_____ The owner of taxable real or personal property situated within the boundaries of the special district or area to be included within the special district; or
_____ A person who is obligated to pay taxes under a contract to purchase taxable property in the special district or the area to be included within the special district; or
_____ The spouse or civil union partner of (name of spouse or civil union partner) who is the owner of taxable real or personal property situated within the boundaries of the special district or area to be included within the special district.

I have not voted previously at this election.

Date _____
Signature of elector _____."

(3) For electors who vote at any election by mail ballot, the affidavit on the envelope of the ballot as required by title 1, C.R.S., may be substituted for the self-affirming oath or affirmation required by subsection (2) of this section.

(4) A person who completes the self-affirming oath or affirmation required by subsection (2) of this section shall be permitted to vote, unless such person's right to vote is challenged.

Source: L. 92: Entire part R&RE, p. 885, § 122, effective January 1, 1993. **L. 93:** Entire section amended, p. 1439, § 137, effective July 1. **L. 94:** (2) amended, p. 1195, § 101, effective July 1. **L. 95:** (3) added, p. 859, § 110, effective July 1. **L. 96:** Entire section amended, p. 1772, § 74, effective July 1. **L. 2007:** (3) amended, p. 1798, § 72, effective June 1. **L. 2014:** (3) amended, (HB 14-1164), ch. 2, p. 75, § 46, effective February 18. **L. 2016:** (2) amended, (SB 16-142), ch. 173, p. 592, § 79, effective May 18.

Editor's note: This section is similar to former § 32-1-804 as it existed prior to 1992.

Cross references: (1) For the requirement of registration before voting in a primary, general, or congressional vacancy election, see § 1-2-201.

(2) For the legislative declaration in HB 14-1164, see section 1 of chapter 2, Session Laws of Colorado 2014.

32-1-807. Nonapplicability of criminal penalties. Election offenses and penalties prescribed by parts 2 and 3 of article 13 of title 1, C.R.S., do not apply to elections authorized under this title.

Source: L. 92: Entire part R&RE, p. 885, § 122, effective January 1, 1993.

Editor's note: This section is similar to former § 32-1-833 as it existed prior to 1992.

32-1-808. Transfer of property title to qualify electors - limitations - validation. (1) (a) No person shall knowingly take or place title to taxable property in the name of another or enter into a contract to purchase or sell taxable property for the purpose of attempting to qualify such person as an eligible elector at any special district election. Any ballot cast in violation of this subsection (1) as determined in an election contest conducted pursuant to article 13.5 of title 1, C.R.S., shall be void.

(b) No person shall aid or assist any person in doing any of the acts described in paragraph (a) of this subsection (1).

(2) (a) A person may take or place title to taxable property in the name of another or enter into a contract to purchase or sell taxable property for the purpose of attempting to qualify such person as an eligible elector for any special district election under the following circumstances:

(I) A vacancy exists on the board of the special district and, within ten days of the publication of notice of such vacancy, no otherwise qualified eligible elector files a letter of interest in filling such position with the board;

(II) In any organizational election at which there are more than ten eligible electors, on or after the second day before the filing deadline for self-nomination and acceptance forms or letters pursuant to section 32-1-305.5 (4), the number of otherwise qualified eligible electors who have filed such self-nomination and acceptance forms or letters is less than the number of special district director offices to be voted upon at such election;

(III) There are less than eleven eligible electors as of any date before an organizational election; or

(IV) On or after the day after the filing deadline for self-nomination and acceptance forms or letters pursuant to section 1-13.5-303, C.R.S., before any regular special district election, the number of otherwise qualified eligible electors who have filed self-nomination and acceptance forms or letters pursuant to section 1-13.5-303, C.R.S., is less than the number of special district director offices to be voted upon at the election.

(b) (I) Notwithstanding any other provision of law, no person shall place title to taxable property in the name of another or enter into a contract to sell taxable property for the purpose of attempting to qualify more than the number of persons who are necessary to be eligible electors in order to:

(A) Fill a vacancy on a board except as permitted by the provisions of subparagraph (I) of paragraph (a) of this subsection (2); or

(B) Become a candidate for director in a special district election except as permitted by the provisions of subparagraphs (II), (III), and (IV) of paragraph (a) of this subsection (2).

(II) The incidental qualification of the spouse of a person as an eligible elector pursuant to section 32-1-103 (5)(a)(II) shall not constitute a qualification of more than the number of persons necessary to be eligible electors under subparagraph (I) of this paragraph (b).

(3) It shall not constitute a violation of subsection (1) of this section for a person to take or place title to taxable property in the name of another or to enter into a contract to purchase or sell taxable property in substitution of property acquired in accordance with subsection (2) of this section.

(4) Any person who is an eligible elector as of July 1, 2006, or who has been qualified as an eligible elector under this section shall remain qualified as an eligible elector until such time as such person ceases to meet the qualifications set forth in section 32-1-103 (5).

(5) Any person elected to a board whose qualification as an eligible elector is not challenged and overturned in accordance with the requirements specified in article 13.5 of title 1, C.R.S., shall not be subject to further challenge based upon qualification as a property owner under this section.

(6) (a) Notwithstanding any provision of law to the contrary:

(I) The qualification of any person appointed or elected to a board prior to April 21, 2016, is hereby validated, ratified, and confirmed and may not be challenged, except as provided in this subsection (6), unless a contest was initiated prior to April 21, 2016.

(II) The qualification of any person appointed or elected to a board on May 3, 2016, is hereby validated, ratified, and confirmed and may not be challenged, except as provided in this subsection (6), unless a contest was initiated within the time period specified in section 1-11-213 or 1-13.5-1403, C.R.S., as applicable.

(b) Except where a contest to the qualifications of a person to serve on a board has been timely initiated as described in this subsection (6), this subsection (6) validates, ratifies, and confirms the qualifications of any person appointed or elected to a board prior to May 3, 2016, notwithstanding any defects and irregularities in such qualifications. All actions undertaken by any board member who may not have been qualified to serve on the board when appointed or elected on or before May 3, 2016, shall be considered as actions of a de facto officer and director and as valid and effective.

(c) Nothing in this subsection (6) is intended to limit challenges by legal proceedings in the nature of quo warranto to the continuing service of persons appointed or elected to a board who may no longer be eligible to serve in accordance with section 32-1-905 together with challenges to the actions of such board taken after initiation of those legal proceedings.

Source: L. 2006: Entire section added, p. 135, § 1, effective March 29. **L. 2014:** (2)(a)(IV) amended, (HB 14-1164), ch. 2, p. 75, § 47, effective February 18. **L. 2016:** (5) amended and (6) added, (SB 16-211), ch. 174, p. 596, § 3, effective May 18; (1)(a) and (5) amended, (SB 16-189), ch. 210, p. 787, § 90, effective June 6.

Editor's note: Amendments to subsection (5) by SB 16-189 and SB 16-211 were harmonized.

Cross references: (1) For the legislative declaration in HB 14-1164, see section 1 of chapter 2, Session Laws of Colorado 2014.

(2) For the legislative declaration in SB 16-211, see section 1 of chapter 174, Session Laws of Colorado 2016.

32-1-809. Notice to electors. (1) No more than sixty days prior to and not later than January 15 of each year, the board shall provide notice to the eligible electors of the special district in the manner set forth in subsection (2) of this section. The notice shall contain the following:

(a) The address and telephone number of the principal business office of the special district;

(b) The name and business telephone number of the manager or other primary contact person of the special district;

(c) The names of and contact information for the members of the board, the name of the board chair, and the name of each member whose office will be on the ballot at the next regular special district election;

(d) The times and places designated for regularly scheduled meetings of the board during the year and the place where notice of board meetings is posted pursuant to section 24-6-402 (2)(c), C.R.S.;

(e) The current mill levy of the special district and the total ad valorem tax revenue received by the district during the last year;

(f) The date of the next regular special district election at which members of the board will be elected;

(g) Information on the procedure and time for an eligible elector of the special district to submit a self-nomination form for election to the board pursuant to section 1-13.5-303, C.R.S.;

(h) Repealed.

(i) The address of any website on which the special district's election results will be posted; and

(j) Information on the procedure for an eligible elector to apply for a permanent absentee voter status as described in section 1-13.5-1003, C.R.S., with the special district.

(2) The notice required by subsection (1) of this section shall be made in one or more of the following ways:

(a) Mailing the notice separately to each household where one or more eligible electors of the special district resides;

(b) Including the notice as a prominent part of a newsletter, annual report, billing insert, billing statement, letter, voter information card or other notice of election, or other informational mailing sent by the special district to the eligible electors of the special district;

(c) Posting the information on the official website of the special district if there is a link to the district's website on the official website of the division;

(d) For any district that is a member of a statewide association of special districts formed pursuant to section 29-1-401, C.R.S., by mailing or electronically transmitting the notice to the statewide association of special districts, which association shall post the notice on a publicly accessible section of the association's website; or

(e) For a special district with less than one thousand eligible electors that is wholly located within a county with a population of less than thirty thousand, posting the notice in at

least three public places within the limits of the special district and, in addition, posting a notice in the office of the county clerk and recorder of the county in which the special district is located. Such notices shall remain posted until the Tuesday succeeding the first Monday of the following May.

(3) A special district shall make a copy of the notice required by subsection (1) of this section available for public inspection at the principal business office of the special district.

(4) Special districts with overlapping boundaries may combine the notices mailed pursuant to paragraph (a) of subsection (2) of this section, so long as the information regarding each district is separately displayed and identified.

Source: L. 2009: Entire section added, (SB 09-087), ch. 325, p. 1733, § 5, effective September 1. **L. 2013:** (1)(h) repealed, (HB 13-1303), ch. 185, p. 752, § 138, effective May 10. **L. 2014:** (1)(g) amended and (1)(j) added, (HB 14-1164), ch. 2, p. 71, § 32, effective February 18. **L. 2015:** (1)(c) and (3) amended, (HB 15-1092), ch. 87, p. 251, § 5, effective August 5.

Cross references: (1) In 2013, subsection (1)(h) was repealed by the "Voter Access and Modernized Elections Act". For the short title and the legislative declaration, see sections 1 and 2 of chapter 185, Session Laws of Colorado 2013.

(2) For the legislative declaration in HB 14-1164, see section 1 of chapter 2, Session Laws of Colorado 2014.

PART 9

DIRECTORS - ORGANIZATION OF BOARD

32-1-901. Oath and bond of directors. (1) Each director, within thirty days after his or her election or appointment to fill a vacancy, except for good cause shown, shall appear before an officer authorized to administer oaths and take an oath that he or she will faithfully perform the duties of his or her office as required by law and will support the constitution of the United States, the constitution of the state of Colorado, and the laws made pursuant thereto. When an election is cancelled in whole or in part pursuant to section 1-13.5-513, C.R.S., each director who was declared elected shall take the oath required by this subsection (1) within thirty days after the date of the regular election, except for good cause shown. The oath may be administered by the county clerk and recorder, by the clerk of the court, by any person authorized to administer oaths in this state, or by the chairman of the board and shall be filed with the clerk of the court and with the division.

(2) At the time of filing said oath, there shall also be filed for each director an individual, schedule, or blanket surety bond at the expense of the special district, in an amount determined by the board of not less than one thousand dollars each, conditioned upon the faithful performance of his duties as director.

(3) If any director fails to take the oath or furnish the requisite bond within the period allowed, except for good cause shown, his office shall be deemed vacant, and the vacancy thus created shall be filled in the same manner as other vacancies in the office of director.

Source: L. 81: Entire article R&RE, p. 1586, § 1, effective July 1. **L. 2001:** (1) amended, p. 1004, § 15, effective August 8. **L. 2016:** (1) amended, (SB 16-189), ch. 210, p. 788, § 91, effective June 6.

Editor's note: This section is similar to former § 32-1-846 as it existed prior to 1981.

32-1-902. Organization of board - compensation - disclosure. (1) After taking oath and filing bonds, the board shall elect one of its members as chairman of the board and president of the special district, one of its members as a treasurer of the board and special district, and a secretary who may be a member of the board. The secretary and the treasurer may be one person, but, if such is the case, he or she shall be a member of the board. The board shall adopt a seal, and the secretary shall keep in a visual text format that may be transmitted electronically a record of all its proceedings, minutes of all meetings, certificates, contracts, bonds given by employees, and all corporate acts, which shall be open to inspection of all electors, as well as to all other interested parties.

(2) The treasurer shall keep strict and accurate accounts of all money received by and disbursed for and on behalf of the special district in permanent records. He shall file with the clerk of the court, at the expense of the special district, a corporate fidelity bond in an amount determined by the board of not less than five thousand dollars, conditioned on the faithful performance of the duties of his office.

(3) (a) (I) For directors serving a term of office commencing prior to January 1, 2018, each director may receive as compensation for the director's service a sum not in excess of one thousand six hundred dollars per annum, payable not to exceed one hundred dollars per meeting attended.

(II) For directors serving a term of office commencing on or after January 1, 2018, each director may receive as compensation for the director's service a sum not in excess of two thousand four hundred dollars per annum, payable not to exceed one hundred dollars per meeting attended.

(b) No director shall receive compensation as an employee of the special district, other than that provided in this section, and any director shall disqualify himself or herself from voting on any issue in which the director has a conflict of interest unless the director has disclosed such conflict of interest in compliance with section 18-8-308, C.R.S. Reimbursement of actual expenses for directors shall not be considered compensation. No director receiving workers' compensation benefits awarded in the line of duty as a volunteer firefighter or pension payments to retired firefighters shall be allowed to vote on issues involving the director's disability or pension payments.

(4) If a director of any special district owns undeveloped land which constitutes at least twenty percent of the territory included in the special district, such director shall disclose such fact in accordance with section 18-8-308, C.R.S., before each meeting of the board, and the fact of such disclosure shall be entered in the minutes of such meeting. For the purposes of this subsection (4), "undeveloped land" means real property which has not been subdivided or which has no improvements constructed on it, excluding real property dedicated for park, recreation, or open space purposes.

Source: L. 81: Entire article R&RE, p. 1586, § 1, effective July 1. **L. 84:** (3) amended, p. 845, § 1, effective July 1. **L. 90:** (3) amended, p. 572, § 64, effective July 1. **L. 91:** (4) added, p. 788, § 16, effective June 4. **L. 96:** (3) amended, p. 548, § 1, effective April 24. **L. 2005:** (3)(a) amended, p. 386, § 1, effective July 1. **L. 2009:** (1) amended, (HB 09-1118), ch. 130, p. 562, § 9, effective August 5. **L. 2017:** (3)(a) amended, (HB 17-1297), ch. 364, p. 1905, § 1, effective August 9.

Editor's note: The provisions of this section are similar to provisions of several former sections as they existed prior to 1981. For a detailed comparison, see the comparative tables located in the back of the index.

32-1-902.5. Increasing the number of board members. (1) (a) A special district having a five-member board may increase the number of board members to seven by the adoption of a resolution by the board and the approval of the resolution as specified in subsection (1)(b) of this section. The board shall consider the resolution at a public meeting after publication of notice regarding the place, time, and date of the meeting and of the proposed increase in the number of board members. Public input must be allowed at the meeting.

(b) Upon adopting a resolution pursuant to subsection (1)(a) of this section, the board shall file a certified copy of the resolution with the board of county commissioners or governing body of the municipality that approved the service plan of the special district pursuant to section 32-1-204.5, 32-1-204.7, or 32-1-205. If, no later than forty-five days after the filing of the certified copy of the resolution, neither the board of county commissioners nor the governing body of the municipality has notified the board that it considers the plan to increase the number of board members to seven to be a material modification of the district's approved service plan, the board shall file the resolution with the clerk of the court, and the court shall enter an ex parte order establishing the number of the board members. The board shall record a certified copy of the order in the office of the county clerk and recorder in each county where the special district is organized and shall file a recorded certified copy of the order with the division.

(2) (a) If a special district increases the number of board members to seven as allowed in subsection (1) of this section, the additional directors shall serve as follows:

(I) One person is elected at the next regular special district election following the date of official recording of the certified copy of the order described in subsection (1)(b) of this section, or a special election called for the purpose of electing additional directors, to serve an original term expiring at the next regular special district election thereafter; and

(II) One person is elected at the next regular special district election following the date of official recording of the certified copy of the order described in subsection (1)(b) of this section, or a special election called for the purpose of electing additional directors, to serve an original term expiring at the second regular special district election thereafter.

(b) After the original terms set forth in subsection (2)(a) of this section, the additional directors shall serve four-year terms.

(3) If a special district increases to a seven-member board as allowed in this section, the special district is not allowed to reduce to a five-member board.

Source: L. 2017: Entire section added, (HB 17-1198), ch. 119, p. 419, § 1, effective August 9.

32-1-903. Meetings. (1) The board shall meet regularly at a time and in a place to be designated by the board. Special meetings may be held as often as the needs of the special district require, upon notice to each director. Special meetings include study sessions at which a quorum of the board is in attendance and notice of the meetings has been given in accordance with subsection (2) of this section or section 24-6-402 (2)(c), and at which information is presented but no official action can be taken by the board. All special and regular meetings of the board shall be held at locations which are within the boundaries of the district or which are within the boundaries of any county in which the district is located, in whole or in part, or in any county so long as the meeting location does not exceed twenty miles from the district boundaries. The provisions of this subsection (1) governing the location of meetings may be waived only if the following criteria are met:

(a) The proposed change of location of a meeting of the board appears on the agenda of a regular or special meeting of the board; and

(b) A resolution is adopted by the board stating the reason for which a meeting of the board is to be held in a location other than under the provisions of this subsection (1) and further stating the date, time, and place of such meeting.

(2) Notice of time and place designated for all regular meetings shall be posted in at least three public places within the limits of the special district, and, in addition, one such notice shall be posted in the office of the county clerk and recorder in the county or counties in which the special district is located. Such notices shall remain posted and shall be changed in the event that the time or place of such regular meetings is changed. Special meetings may be called by any director by informing the other directors of the date, time, and place of such special meeting, and the purpose for which it is called, and by posting notice as provided in this section at least seventy-two hours prior to said meeting. All official business of the board shall be conducted only during said regular or special meetings at which a quorum is present, and all said meetings shall be open to the public.

(3) The notice posted pursuant to subsection (2) of this section for any regular or special meeting at which the board intends to make a final determination to issue or refund general obligation indebtedness, to consolidate the special district with another special district, to dissolve the special district, to file a plan for the adjustment of debt under federal bankruptcy law, or to enter into a private contract with a director, or not to make a scheduled bond payment, shall set forth such proposed action.

Source: L. 81: Entire article R&RE, p. 1587, § 1, effective July 1. **L. 90:** (1) amended, p. 1496, § 4, effective April 10. **L. 91:** (3) added, p. 789, § 17, effective June 4. **L. 2009:** (2) amended, (SB 09-087), ch. 325, p. 1735, § 6, effective September 1. **L. 2017:** IP(1) amended, (HB 17-1297), ch. 364, p. 1905, § 2, effective August 9.

Editor's note: The provisions of this section are similar to provisions of several former sections as they existed prior to 1981. For a detailed comparison, see the comparative tables located in the back of the index.

32-1-904. Office. The office of the special district shall be at some fixed place to be determined by the board.

Source: L. 81: Entire article R&RE, p. 1587, § 1, effective July 1.

Editor's note: This section is similar to former § 32-4-207 (1) as it existed prior to 1981.

32-1-905. Vacancies. (1) A director's office shall be deemed to be vacant upon the occurrence of any one of the following events prior to the expiration of the term of office:

(a) If for any reason a properly qualified person is not elected to a director's office by the electors as required at a regular election;

(b) If a person who was duly elected or appointed fails, neglects, or refuses to subscribe to an oath of office or to furnish the bond in accordance with the provisions of section 32-1-901;

(c) If a person who was duly elected or appointed submits a written resignation to the board;

(d) If the person who was duly elected or appointed ceases to be qualified for the office to which he was elected;

(e) If a person who was duly elected or appointed is convicted of a felony;

(f) If a court of competent jurisdiction voids the election or appointment or removes the person duly elected or appointed for any cause whatsoever, but only after his right to appeal has been waived or otherwise exhausted;

(g) If the person who was duly elected or appointed fails to attend three consecutive regular meetings of the board without the board having entered upon its minutes an approval for an additional absence or absences; except that such additional absence or absences shall be excused for temporary mental or physical disability or illness;

(h) If the person who was duly elected or appointed dies during his term of office.

(2) (a) Any vacancy on the board shall be filled by appointment by the remaining director or directors, the appointee to serve until the next regular election, at which time, the vacancy shall be filled by election for any remaining unexpired portion of the term. If, within sixty days of the occurrence of any vacancy, the board fails, neglects, or refuses to appoint a director from the pool of any duly qualified, willing candidates, the board of county commissioners of the county which approved the organizational petition may appoint a director to fill such vacancy. The remaining director or directors shall not lose their authority to make an appointment to fill any vacancy unless and until the board of county commissioners which approved the organizational petition has actually made an appointment to fill that vacancy.

(b) No board of county commissioners shall make an appointment pursuant to paragraph (a) of this subsection (2) unless it provides thirty days' notice of its intention to make such appointment to the remaining members of the board and the vacancy remains open at the time the board of county commissioners makes its appointment. If the organizational petition was approved by more than one board of county commissioners, then the appointment shall be made by the boards of the county commissioners which approved the petition, sitting jointly. Such an appointment shall be made at an open public meeting.

(2.5) If there are no duly elected directors and if the failure to appoint a new board will result in the interruption of services that are being provided by the district, then the board of county commissioners of the county or counties which approved the organizational petition may appoint all directors from the pool of duly qualified, willing candidates. The board appointed pursuant to this subsection (2.5) shall call for nominations for a special election within six months after their appointment, which special election is to be held in accordance with the

provisions of section 32-1-305.5 and articles 1 to 13.5 of title 1, C.R.S.; except that the question of the organization shall not be presented at the election. In the event a district is wholly within the boundaries of a municipality, the governing body of the municipality may appoint directors.

(3) All appointments shall be evidenced by an appropriate entry in the minutes of the meeting, and the board shall cause a notice of appointment to be delivered to the person so appointed. A duplicate of each notice of appointment, together with the mailing address of the person so appointed, shall be forwarded to the division.

Source: L. 81: Entire article R&RE, p. 1587, § 1, effective July 1. **L. 87:** (2.5) added, p. 1237, § 2, effective May 16. **L. 92:** (2) and (2.5) amended, p. 970, § 12, effective June 1; (2.5) amended, p. 885, § 123, effective January 1, 1993. **L. 2015:** (2.5) amended, (HB 15-1092), ch. 87, p. 252, § 6, effective August 5. **L. 2016:** (2.5) amended, (SB 16-189), ch. 210, p. 788, § 92, effective June 6.

Editor's note: This section is similar to former § 32-1-849 as it existed prior to 1981.

32-1-906. Directors subject to recall - applicability of laws. (1) (a) Any director elected to the board of any special district who has actually held office for at least six months may be recalled from office by the eligible electors of the special district. A petition signed by the lesser of three hundred eligible electors or forty percent of the eligible electors demanding the recall of any director named in the petition shall be filed in the court.

(b) In case of specific conflict between this part 9 and part 5 of article 4 of title 31, C.R.S., with respect to a recall, this part 9 controls.

(b.5) The recall of a special district director is governed by the procedures set forth in part 5 of article 4 of title 31, C.R.S.; except that:

(I) The term "registered elector" must be replaced by "eligible elector"; "municipality" must be replaced by "local government"; and "municipal clerk" or "clerk" must be replaced by "designated election official, or if none is designated, then the secretary of the local government";

(II) The second paragraph of the warning contained in section 31-4-502 (1)(a)(II), C.R.S., shall not be used for a local government recall election;

(III) The number of signatures required by section 31-4-502 (1)(d), C.R.S., applies to a local government recall election only if a different number is not specified by this article or by title 1, C.R.S.; and

(IV) The words "who resides within the municipality" in 31-4-503 (3)(b), C.R.S., do not apply.

(2) to (5) (Deleted by amendment, L. 92, p. 886, § 124, effective January 1, 1993.)

Source: L. 81: Entire article R&RE, p. 1588, § 1, effective July 1. **L. 88:** (5) added, p. 296, § 11, effective May 29. **L. 92:** Entire section amended, p. 886, § 124, effective January 1, 1993. **L. 2014:** (1) amended, (SB 14-158), ch. 170, p. 623, § 15, effective May 9. **L. 2016:** (1)(a) amended and (1)(b.5) added, (HB 16-1442), ch. 313, p. 1270, § 18, effective August 10.

Editor's note: This section is similar to former § 32-1-847 as it existed prior to 1981.

Cross references: For the legislative declaration in SB 14-158, see section 1 of chapter 170, Session Laws of Colorado 2014.

32-1-907. Recall election - resignation. (1) If a director subject to a recall petition offers a resignation, it shall be accepted, and the vacancy caused by the resignation, or from any other cause, shall be filled as provided by section 32-1-905 (2). If the director does not resign within five days after the sufficiency of the recall petition has been sustained, the board shall order that a recall election be held pursuant to part 5 of article 4 of title 31, C.R.S.

(2) (Deleted by amendment, L. 92, p. 887, § 125, effective January 1, 1993.)

Source: L. 81: Entire article R&RE, p. 1589, § 1, effective July 1. **L. 92:** Entire section amended, p. 887, § 125, effective January 1, 1993. **L. 2014:** (1) amended, (SB 14-158), ch. 170, p. 623, § 16, effective May 9.

Editor's note: This section is similar to former § 32-1-848 as it existed prior to 1981.

Cross references: For the legislative declaration in SB 14-158, see section 1 of chapter 170, Session Laws of Colorado 2014.

PART 10

GENERAL POWERS

32-1-1001. Common powers - definitions. (1) For and on behalf of the special district the board has the following powers:

(a) To have perpetual existence;

(b) To have and use a corporate seal;

(c) To sue and be sued and to be a party to suits, actions, and proceedings;

(d) (I) To enter into contracts and agreements affecting the affairs of the special district except as otherwise provided in this part 10, including contracts with the United States and any of its agencies or instrumentalities. Except in cases in which a special district will receive aid from a governmental agency or purchase through the state purchasing program, a notice shall be published for bids on all construction contracts for work or material, or both, involving an expense of sixty thousand dollars or more of public moneys. The special district may reject any and all bids, and, if it appears that the special district can perform the work or secure material for less than the lowest bid, it may proceed to do so.

(II) No contract for work or material including a contract for services, regardless of the amount, shall be entered into between the special district and a member of the board or between the special district and the owner of twenty-five percent or more of the territory within the special district unless a notice has been published for bids and such member or owner submits the lowest responsible and responsive bid.

(e) To borrow money and incur indebtedness and evidence the same by certificates, notes, or debentures, and to issue bonds, including revenue bonds, in accordance with the provisions of part 11 of this article, and to invest any moneys of the special district in accordance with part 6 of article 75 of title 24, C.R.S.;

(f) To acquire, dispose of, and encumber real and personal property including, without limitation, rights and interests in property, leases, and easements necessary to the functions or the operation of the special district; except that the board shall not pay more than fair market value and reasonable settlement costs for any interest in real property and shall not pay for any interest in real property which must otherwise be dedicated for public use or the special district's use in accordance with any governmental ordinance, regulation, or law;

(g) To refund any bonded indebtedness as provided in part 13 of this article or article 54 or 56 of title 11, C.R.S.;

(h) To have the management, control, and supervision of all the business and affairs of the special district as defined in this article and all construction, installation, operation, and maintenance of special district improvements;

(i) To appoint, hire, and retain agents, employees, engineers, and attorneys;

(j) (I) To fix and from time to time to increase or decrease fees, rates, tolls, penalties, or charges for services, programs, or facilities furnished by the special district; except that fire protection districts may only fix fees and charges as provided in section 32-1-1002 (1)(e). The board may pledge such revenue for the payment of any indebtedness of the special district. Until paid, all such fees, rates, tolls, penalties, or charges shall constitute a perpetual lien on and against the property served, and any such lien may be foreclosed in the same manner as provided by the laws of this state for the foreclosure of mechanics' liens.

(II) Notwithstanding any other provision to the contrary, the board may waive or amortize all or part of the tap fees and connection fees or extend the time period for paying all or part of such fees for property within the district in order to facilitate the construction, ownership, and operation of affordable housing on such property, as such affordable housing is defined by resolution adopted by the board. However, the board shall have the authority to condition such waiver, amortization, or extension upon the recordation against the property of a deed restriction, lien, or other lawful instrument requiring the payment of such fees in the event that the property's use as affordable housing is discontinued or no longer meets the definition of affordable housing as established by the board.

(k) To furnish services and facilities without the boundaries of the special district and to establish fees, rates, tolls, penalties, or charges for such services and facilities;

(l) To accept, on behalf of the special district, real or personal property for the use of the special district and to accept gifts and conveyances made to the special district upon such terms or conditions as the board may approve;

(m) To adopt, amend, and enforce bylaws and rules and regulations not in conflict with the constitution and laws of this state for carrying on the business, objects, and affairs of the board and of the special district;

(n) To have and exercise all rights and powers necessary or incidental to or implied from the specific powers granted to special districts by this article. Such specific powers shall not be considered as a limitation upon any power necessary or appropriate to carry out the purposes and intent of this article.

(o) To authorize the use of electronic records or signatures and adopt rules, standards, policies, and procedures for use of electronic records or signatures pursuant to article 71.3 of title 24, C.R.S.

(2) (a) The governing body of any special district furnishing domestic water or sanitary sewer services directly to residents and property owners within or outside the district may fix or

increase fees, rates, tolls, penalties, or charges for domestic water or sanitary sewer services only after consideration of the action at a public meeting held at least thirty days after providing notice stating that the action is being considered and stating the date, time, and place of the meeting at which the action is being considered. Notice must be provided to the customers receiving the domestic water or sanitary sewer services of the district in one or more of the following ways:

(I) Mailing the notice separately to each customer of the service on the billing rolls of the district;

(II) Including the notice as a prominent part of a newsletter, annual report, billing insert, billing statement, letter, or other notice of action, or other informational mailing sent by the special district to the customers of the district;

(III) Posting the information on the official website of the special district if there is a link to the district's website on the official website of the division; or

(IV) For any district that is a member of a statewide association of special districts formed pursuant to section 29-1-401, C.R.S., by mailing or electronically transmitting the notice to the statewide association of special districts, which association shall post the notice on a publicly accessible section of the association's website.

(b) The power to fix or increase fees, rates, tolls, penalties, or charges for domestic water or sanitary sewer services is a legislative power of the district board and is not changed by the provisions of this section.

(c) No action to fix or increase fees, rates, tolls, penalties, or charges for domestic water or sanitary sewer services may be invalidated on the grounds that a person did not receive the notice required by this section if the district acted in good faith in providing the notice. Good faith is presumed if the district provided the notice in one or more of the ways listed in paragraph (a) of this subsection (2).

Source: L. 81: Entire article R&RE, p. 1589, § 1, effective July 1. **L. 89:** (1)(e) amended, p. 1117, § 34, effective July 1. **L. 91:** (1)(d) and (1)(f) amended, p. 789, § 18, effective June 4. **L. 99:** (1)(o) added, p. 1348, § 8, effective July 1; (1)(j) amended, p. 555, § 1, effective August 4. **L. 2002:** (1)(o) amended, p. 858, § 9, effective May 30. **L. 2006:** (1)(d)(I) amended, p. 345, § 1, effective August 7. **L. 2013:** (2) added, (HB 13-1186), ch. 102, p. 323, § 1, effective August 7.

Editor's note: The provisions of this section are similar to provisions of several former sections as they existed prior to 1981. For a detailed comparison, see the comparative tables located in the back of the index.

Cross references: For foreclosure of mechanics' liens, as provided in subsection (1)(j), see article 22 of title 38; for composition or adjustment of indebtedness, see part 14 of this article.

32-1-1002. Fire protection districts - additional powers and duties. (1) In addition to the powers specified in section 32-1-1001, the board of any fire protection district has the following powers for and on behalf of the district:

(a) To acquire, dispose of, or encumber fire stations, fire protection and fire fighting equipment, and any interest therein, including leases and easements;

(b) To have and exercise the power of eminent domain and dominant eminent domain and, in the manner provided by article 1 of title 38, C.R.S., to take any property necessary to the exercise of the powers granted, both within and without the special district;

(c) To undertake and to operate as a part of the duties of the fire protection district an ambulance service, an emergency medical service, a rescue unit, and a diving and grappling service;

(d) To adopt and enforce fire codes, as the board deems necessary, but no such code shall apply within any municipality or the unincorporated portion of any county unless the governing body of the municipality or county, as the case may be, adopts a resolution stating that the code or specific portions thereof shall be applicable within the fire protection district's boundaries; except that nothing in this subsection (1)(d) shall be construed to affect any fire codes existing on June 30, 1981, that have been adopted by the governing body of a municipality or county. Notwithstanding any other provision of this section, no fire protection district shall prohibit the sale of permissible fireworks, as defined in section 24-33.5-2001 (11), within its jurisdiction.

(d.5) To receive and spend an impact fee or other similar development charge imposed pursuant to the provisions described in section 29-20-104.5, C.R.S.;

(e) To fix and from time to time increase or decrease fees and charges as follows, and the board may pledge such revenue for the payment of any indebtedness of the district:

(I) For ambulance or emergency medical services and extrication, rescue, or safety services provided in furtherance of ambulance or emergency medical services. "Extrication, rescue, or safety services" includes but is not limited to any:

(A) Services provided prior to the arrival of an ambulance;

(B) Rescue or extrication of trapped or injured parties at the scene of a motor vehicle accident; and

(C) Lane safety or blocking provided by district equipment.

(II) For requested or mandated inspections if a fire code is in existence on June 30, 1981, as specified in paragraph (d) of this subsection (1) or has been adopted thereafter pursuant to said paragraph (d);

(III) For requested inspections if a fire code has been adopted by the board of the fire protection district, whether or not the code has been adopted by a municipality or county pursuant to paragraph (d) of this subsection (1);

(f) In areas of the special district where the county or municipality has rejected the adoption of a fire code submitted by the fire protection district, to compel the owners of premises, whenever necessary for the protection of public safety, to install fire escapes, fire installations, fireproofing, automatic or other fire alarm apparatus, fire extinguishing equipment, and other safety devices. This paragraph (f) shall not apply when a valid ordinance providing for fire safety standards, pursuant to section 30-15-401.5, C.R.S., is in effect.

(g) To create and maintain a paid firefighters' pension fund, under the provisions of parts 2 and 4 of article 30.5 of title 31, C.R.S., subject to the provisions of article 31 of said title, and a volunteer firefighter pension fund under part 11 of article 30 of title 31, C.R.S.;

(h) To establish, in its discretion, a system of civil service in the fire protection district to cover its paid employees who are directly employed by the fire protection district as full-time paid firefighters in accordance with the provisions of subsection (2) of this section.

(2) (a) A fire protection district's civil service system shall not cover employees of a fire department that renders fire protection service to the fire protection district under contract. The question of establishing a system of civil service shall be submitted at any regular special district election or special election of the fire protection district and shall not become effective unless approved as required for authorization of indebtedness. In establishing a system of civil service, the board may provide for the exclusion of supervisory and administrative personnel from the system. The board shall appropriate such funds as are necessary for the regular special district election or special election from the general funds of the fire protection district, and the election shall be held and conducted as provided in articles 1 to 13.5 of title 1, C.R.S.

(b) (I) (A) Except as provided in sub-subparagraph (B) of this subparagraph (I), the board of any fire protection district establishing a system of civil service for its paid employees may appoint three electors residing in the district to serve as a civil service committee, referred to in this subsection (2) as the "committee". Of those initially appointed, one member of the committee shall be appointed for a term of two years, one for four years, and one for six years; thereafter, each member shall be appointed for a term of six years.

(B) When two or more fire protection districts having established civil service systems consolidate into a single consolidated district pursuant to section 32-1-602, the civil service committee of each of the consolidating districts shall dissolve, and the board of directors of the consolidated district shall appoint at least three but no more than nine members to serve on the civil service committee of the consolidated district. Of those initially appointed, three of the members of the civil service committee of the consolidated district shall serve staggered terms pursuant to sub-subparagraph (A) of this subparagraph (I), and the board shall appoint any other member for a term of six years. Thereafter, each member shall be appointed for a term of six years.

(C) Any member may be appointed to succeed himself or herself. No paid firefighter employed by the fire protection district may be a member of the committee. The members of the committee shall serve without compensation but shall be reimbursed for actual and necessary expenses incurred in the discharge of their duties.

(D) The board of directors of any fire protection district consolidated prior to July 1, 1996, may expand, by appointment, the membership of its established civil service committee to no more than nine members pursuant to sub-subparagraph (B) of this subparagraph (I). The board shall appoint such members for a term of six years.

(II) The committee shall elect from among its members a president. The secretary of the board shall serve as the secretary of the committee but shall have no vote on the committee. The secretary shall keep a record of the minutes of all proceedings of the committee in a bound book separate and apart from the records of the board. The secretary is the only member of the board who may be a member of the committee.

(III) Any member of the committee may be discharged by the board for cause, but only after affording the member the right to a public hearing at which the member may be represented by counsel. Vacancies in office on the committee shall be filled according to the provisions of section 1-12-207, C.R.S.

(IV) The attorney for the board shall act as legal advisor to the committee, but at all hearings before the committee involving a firefighter, such firefighter may be represented by counsel.

(c) The committee shall:

(I) Establish standards for employment and termination of employment, including minimum conditions of employment for applicants for appointment and promotion, which shall assure that such applicants shall be of good moral character and physically, mentally, and emotionally capable of performing arduous duties, eighteen years of age or older, graduates of a high school or the equivalent thereof, citizens of the United States, and residents of the state of Colorado. In establishing standards concerning a person's character, the committee shall be governed by the provisions of section 24-5-101, C.R.S.

(II) Recruit applicants for employment; formulate and hold competitive examinations, or cause the same to be done, in order to determine the relative qualifications of persons seeking employment in any class or position as a firefighter; and formulate and hold promotional examinations for firefighters within the fire department of the fire protection district, or cause the same to be done;

(III) Certify to the board, as a result of such examinations, lists of qualified applicants for the various classes of positions who successfully completed such examinations;

(IV) Determine that any examination held pursuant to subparagraph (II) or (III) of this paragraph (c) is practical and consists only of subjects which will fairly determine the capacity of persons examined to perform duties of the position sought, including, but not limited to, tests of physical fitness and manual skill;

(V) When a vacant position is to be filled, certify to the board, upon written request of the board, the names of the three persons highest on the eligible list for that position or the applicable classification; but if less than three persons are on such list, then all the names shall be certified to the board. If there are no such lists, the committee shall authorize provisional or temporary appointment lists for such position or applicable classification.

(d) The committee, from time to time, may make, amend, and repeal bylaws and rules and regulations necessary to administer the provisions of this subsection (2).

(e) Disciplinary action against any firefighter may be instituted by the chief of the fire protection district, and a hearing thereon, after reasonable notice, shall be afforded to the firefighter concerned, at which hearing the firefighter may be represented by counsel of his or her choice at his or her expense. Such hearings shall be conducted in the same manner, insofar as possible, as provided in section 24-4-105, C.R.S. Any firefighter aggrieved by the decision of the board may obtain review thereof by appeal to the committee, and on such review the firefighter may be represented by counsel of his or her choice at his or her expense.

(f) The committee shall hear all complaints involving alleged injustice, wrongful discharge, and other violations of the rules and regulations of the committee and shall hear all appeals from decisions of the board on disciplinary actions pursuant to paragraph (e) of this subsection (2). All such hearings shall be conducted in the same manner, insofar as possible, as provided in section 24-4-105, C.R.S. The decision of the committee shall be final and shall not be set aside except by the committee or by a court of competent jurisdiction. Judicial review of any decision of the committee may be had in the same manner as prescribed in section 24-4-106, C.R.S.

(g) The board, if requested by the committee, may contract with any municipal or state agency for the purpose of conducting examinations for original appointment or for promotion, or for any other purpose in connection with the selection or administration of personnel.

(h) The firefighters of any fire protection district in good standing at the time of the establishment of said civil service system shall continue in their employment and rank, shall be automatically included in the civil service system, and shall be promoted or discharged in accordance with the provisions of the civil service rules and regulations; except that the office of fire chief shall be excluded from such civil service system. The board shall make provision for tenure of the fire chief, and the committee shall implement the same by appropriate rules and regulations.

(i) Any fire protection district which has established a system of civil service for its paid employees pursuant to this section shall not terminate the system unless the question of termination is submitted at an election. The election shall be conducted pursuant to articles 1 to 13.5 of title 1, C.R.S.

(j) The board shall appropriate annually, by resolution, to the committee sufficient funds to administer the provisions of this subsection (2).

(k) If any county assumes countywide responsibility for fire protection or any board of county commissioners becomes the board of a fire protection district and adopts a countywide merit, civil service, or career service system, any civil service system established under the provision of this subsection (2) shall be dissolved and merged with such countywide system, including all employees' benefits, rights, liabilities, and duties accrued or incurred under this subsection (2), and the same shall be continued following such merger.

(3) (a) The chief of the fire department in each fire protection district in the state of Colorado, by virtue of such office so held by him or her, shall have authority over the supervision of all fires within the district; except that responsibility for coordinating fire suppression efforts in case of any prairie, forest, or wildland fire that exceeds the capabilities of the district to control or extinguish shall be transferred to the county sheriff in accordance with section 30-10-513, C.R.S., subject to the duties and obligations imposed by this subsection (3) and subject to the provisions of the community wildfire protection plan prepared by the county in accordance with section 30-15-401.7, C.R.S. The chief shall be vested with such other express authority as is contained in this subsection (3), including commanding the fire department of such district.

(b) The chief of the fire department in each fire protection district shall:

(I) Enforce all laws of this state and ordinances and resolutions of the appropriate political subdivisions relating to the prevention of fires and the suppression of arson;

(II) (A) Inspect, or cause to be inspected by members or officers of his department, as often as he shall deem necessary, all buildings, premises, and public places, except the interior of any private dwelling, for the purpose of ascertaining and causing to be corrected any condition liable to cause fire or for the purpose of obtaining information relative to the violation of the various provisions of this subsection (3). Any individual conducting such inspection shall carry on his person properly authorized fire department identification which shall be shown, on request, to the owner, lessee, agent, or occupant of any structure prior to the inspection of the same.

(B) The chief of any such fire department or fire department members designated by the chief have the authority to enter into all structures and upon all premises within their respective

jurisdictions at reasonable times during business hours or such times as such structures or premises are open for the purpose of examination in conformity with the duties imposed by this subsection (3), and it is unlawful for any person to interfere with the chief of any such fire department, or any member of such fire department designated by the chief to conduct an inspection, in the discharge of his duties or to hinder or prevent him from entering into or upon or from inspecting any buildings, establishments, enclosures, or premises in the discharge of his duties.

(III) Include, as part of the inspections required by subparagraph (II) of this paragraph (b), all of the following:

(A) An inspection of all buildings and enclosures to see that proper receptacles for ashes are provided, to cause all rubbish or other inflammable material to be properly removed or disposed of, and to make such suggestions and issue such orders to the owners or occupants of buildings as, in the opinion of such inspecting officer, will render the same safe from fire;

(B) An inspection of the surroundings of boilers and other heating apparatus in any building to ascertain whether all woodwork is properly protected and that no rubbish or combustible material is allowed to accumulate;

(C) An inspection of fire escapes and stairways to cause the removal of all obstructions therefrom and of all places where explosives or inflammable compounds are sold or stored;

(D) An inspection of the construction, placing, repair, and control of all fire escapes, standpipes, pressure tanks, fire doors, fire shutters, fire lines, fire hose, sprinkling systems, exit lights, and exit signs and a review of the installation and testing of fire equipment in all buildings and places requiring such equipment and of the provisions for means of escape or protection against loss of life and property from fire in such buildings and places;

(IV) Enforce, within his respective jurisdiction, all laws of this state and ordinances and resolutions of any appropriate political subdivision pertaining to the keeping, storage, use, manufacture, sale, handling, transportation, or other disposition of highly inflammable materials and rubbish, gunpowder, dynamite, crude petroleum or any of its products, explosive or inflammable liquids or compounds, tablets, torpedoes, or any explosives of a like nature, or any other explosive, including fireworks and firecrackers, and such chief may prescribe the materials and construction of receptacles to be used for the storage of any of said items; but authorization for enforcement of the provisions of this subsection (3) does not extend to the production, transportation, or storage of inflammable liquids as regulated by articles 20 and 20.5 of title 8 and title 34, C.R.S.;

(V) Investigate or cause to be investigated the cause, origin, and circumstance of every fire occurring within his jurisdiction by which property is destroyed or damaged and, so far as is possible, determine whether the fire was the result of carelessness or design. Such investigation shall begin immediately upon the occurrence of the fire, and if, after such investigation, the chief is of the opinion that the facts in relation to such fire indicate that a crime has been committed, he shall present the facts of such investigation and the testimony taken from any person involved, together with any other data in his possession, to the district attorney of the proper county, with his request that the district attorney institute such criminal proceedings as the investigation, testimony, or data may warrant. It is the duty of the district attorney upon such request to assist in such further investigation as may be required.

(c) Whenever any chief, or any designated member of a fire department, finds, through inspection procedures as outlined in subparagraph (II) or (III) of paragraph (b) of this subsection

(3), any building or other structure which, for want of repair of or lack of or insufficient fire escapes, automatic or other fire alarm apparatus, or fire extinguishing equipment as may be required by law or for reasons of age, dilapidated condition, or any other cause, is especially liable to fire or is hazardous to the safety of the occupants thereof and which is so situated as to endanger other property, and whenever such officer finds in any building combustible or explosive matter or inflammable conditions, dangerous to the safety of such building or its occupants, the chief shall order the same to be removed or remedied, and such order shall forthwith be complied with by the owner, lessee, agent, or occupant of such premises or buildings. Any such owner, lessee, agent, or occupant who feels himself aggrieved by any such order may file, within five days after the making of any such order, a petition with the district court of the county in which such premises or building is located, requesting a review of such order, and it is the duty of such court to hear the same at the first convenient day and to make such order in the premises as justice may require, and such decision shall be final.

(d) Any owner, lessee, agent, or occupant of any building or premises maintaining any condition likely to cause fire or to constitute an additional fire hazard or any condition which impedes or prevents the egress of persons from such building or premises in violation of the provisions of this subsection (3) shall be deemed to be maintaining a fire hazard. Any person who violates any provision of this subsection (3) is guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of not less than fifty dollars nor more than two hundred fifty dollars. Each day in which such a violation occurs shall constitute a separate violation of this subsection (3).

(4) (a) Within any fire protection district organized under the provisions of this article, it is unlawful for any person:

(I) To willfully or maliciously give, make, or cause to be given or made a false alarm of fire, whether by the use of a fire alarm box, telephone call, or otherwise;

(II) To willfully or maliciously disconnect, cut, or sever any wire of the fire alarm telegraph or in any manner tamper with any part of such communication apparatus;

(III) To aid, abet, knowingly permit, or participate in the commission of any act prohibited by this paragraph (a).

(b) Any person who violates any provision of this subsection (4) is guilty of a misdemeanor and, upon conviction thereof, shall be punished for each offense by a fine of not more than three hundred dollars, or by imprisonment in the county jail for not more than ninety days, or by both such fine and imprisonment.

(c) The provisions of paragraphs (a) and (b) of this subsection (4) shall not limit the power of municipalities to enact ordinances covering the same or similar subject matter, but no person acquitted of, convicted of, or pleading guilty to a violation of a municipal ordinance shall be charged or tried in a state court for the same or a similar offense, and no person acquitted of, convicted of, or pleading guilty to a violation of paragraph (a) of this subsection (4) in a state court shall be charged or tried in a municipal court for the same or a similar offense.

(5) The district attorney in the judicial district in which the special district was organized shall prosecute any violation under subsection (3) or (4) of this section.

Source: L. 81: Entire article R&RE, p. 1591, § 1, effective July 1. **L. 85:** (1)(d) and (1)(f) amended, p. 1062, § 2, effective July 1. **L. 92:** (2)(a), (2)(b)(III), and (2)(i) amended, p. 887, § 126, effective January 1, 1993. **L. 95:** (1)(g) amended, p. 1386, § 19, effective June 5;

(3)(b)(IV) amended, p. 420, § 10, effective July 1. **L. 96:** (2)(b)(I) amended, p. 247, § 1, effective April 8; (1)(d) amended, p. 283, § 3, effective April 11; (1)(g) amended, p. 943, § 9, effective May 23. **L. 97:** (1)(h), (2)(b)(IV), (2)(c)(II), (2)(e), and (2)(h) amended, p. 1027, § 59, effective August 6. **L. 2009:** (3)(a) amended, (SB 09-020), ch. 189, p. 830, § 6, effective April 30; (1)(e)(I) amended, (HB 09-1041), ch. 415, p. 2291, § 1, effective August 5; (3)(a) amended, (SB 09-001), ch. 30, p. 128, § 6, effective August 5. **L. 2010:** (1)(e)(I)(B) amended, (HB 10-1095), ch. 23, p. 96, § 1, effective August 11. **L. 2016:** (1)(d.5) added, (HB 16-1088), ch. 259, p. 1061, § 4, effective June 8; (2)(a) and (2)(i) amended, (SB 16-189), ch. 210, p. 788, § 93, effective June 6. **L. 2017:** IP(1) and (1)(d) amended, (SB 17-222), ch. 245, p. 1028, § 7, effective August 9.

Editor's note: (1) The provisions of this section are similar to provisions of several former sections as they existed prior to 1981. For a detailed comparison, see the comparative tables located in the back of the index.

(2) Amendments to subsection (3)(a) by Senate Bill 09-001 and Senate Bill 09-020 were harmonized.

Cross references: (1) For provisions in title 34 concerning storage of flammable liquids as referred to in subsection (3)(b)(IV), see article 64 of said title concerning underground storage of natural gas.

(2) For the legislative declaration contained in the 1995 act amending subsection (1)(g), see section 1 of chapter 254, Session Laws of Colorado 1995.

(3) For the short title ("Public Safety Fairness Act") in HB 16-1088, see section 1 of chapter 259, Session Laws of Colorado 2016.

32-1-1003. Health service districts - additional powers. (1) In addition to the powers specified in section 32-1-1001, the board of any health service district has any or all of the following powers for and on behalf of such district:

(a) To establish, maintain, or operate, directly or indirectly through lease to or from other parties or other arrangement, public hospitals, convalescent centers, nursing care facilities, intermediate care facilities, emergency facilities, community clinics, or other facilities providing health and personal care services, including but not limited to facilities licensed or certified pursuant to section 25-1.5-103 (1)(a), C.R.S., and to organize, own, operate, control, direct, manage, contract for, or furnish ambulance service in said district;

(b) To organize, own, operate, control, direct, manage, contract for, or furnish ambulance service;

(c) To draw warrants against health service district funds held by the county treasurer for the purposes set forth in paragraphs (a) and (b) of this subsection (1);

(d) To contract with or work cooperatively and in conjunction with a health assurance district or other existing health care provider or service to provide health care services to the residents of such district; and

(e) To seek approval from the eligible electors in the health service district to collect, retain, and spend all revenue generated by any tax approved by the eligible electors in excess of the limitation provided in section 20 of article X of the state constitution.

(2) The board of county commissioners of any county or the governing body of any municipality within the health service district may transfer any real and personal property, whether or not theretofore used by the county or municipality for hospital purposes, to any newly organized health service district if such real and personal property is located in the newly organized district.

(3) A hospital district established prior to July 1, 1996, may continue to use and operate under the name it is using on June 30, 1996, or it may rename itself as otherwise provided by law and in accordance with this section. Nothing in this section shall be construed to limit the powers under prior law of a hospital district established prior to July 1, 1996.

(4) Nothing in this section or section 32-1-103 (9) shall be construed to limit any or all of the common powers of a special district as set forth in 32-1-1001 as it applies to a hospital district that was established prior to July 1, 1996, or a health service district established on or after July 1, 1996.

(5) Any health service district that is created pursuant to this article shall have the power, upon approval by the eligible electors of the district, to levy and collect a uniform sales tax throughout the entire geographic area of the district upon every transaction or other incident with respect to which a sales tax is levied by the state pursuant to the provisions of article 26 of title 39, C.R.S., excluding the sale of cigarettes, subject to the following provisions:

(a) For purposes of this subsection (5), "eligible elector" shall have the same meaning as set forth in section 32-19-102 (3).

(b) For purposes of complying with the provisions of section 32-1-301 (2)(d.1), the petition for organization shall set forth the estimated sales tax revenues for the health service district's first budget year if the district will seek approval from the eligible electors of the district to levy a sales tax in its first budget year.

(c) Any sales tax authorized pursuant to this subsection (5) shall be levied and collected as provided in section 32-19-112.

Source: L. 81: Entire article R&RE, p. 1597, § 1, effective July 1. **L. 96:** Entire section amended, p. 471, § 3, effective July 1. **L. 2003:** (1)(a) amended, p. 715, § 59, effective July 1. **L. 2007:** (1)(a) amended and (1)(d), (1)(e), and (5) added, pp. 1191, 1192, §§ 11, 12, effective July 1. **L. 2009:** IP(5) amended, (HB 09-1342), ch. 354, p. 1847, § 4, effective July 1.

Editor's note: The provisions of this section are similar to provisions of several former sections as they existed prior to 1981. For a detailed comparison, see the comparative tables located in the back of the index.

32-1-1003.5. Health assurance districts - additional powers - legislative declaration - definitions. (1) The general assembly hereby finds, determines, and declares that access to health care services is an increasing problem in Colorado and that some Coloradans do not have access to a primary care provider. It is the intent of the general assembly to ease the strain on Coloradan's health care needs by allowing a special district to be created to provide health care services. It is the intention of the general assembly to review the success of such efforts as authorized by subsection (2) of this section to determine the effectiveness of the program.

(2) In addition to the powers specified in section 32-1-1001, the board of any health assurance district has any or all of the following powers for and on behalf of such district:

(a) To organize, operate, control, direct, manage, contract for, furnish, or provide, directly or indirectly, health care services to residents of the health assurance district who are in need of such services;

(b) To draw warrants against health assurance district funds held by the county treasurer for the purposes set forth in paragraph (a) of this subsection (2);

(c) To contract with or work cooperatively and in conjunction with a health service district or other existing health care provider or service to provide health care services to the residents of such district; and

(d) To seek approval from the eligible electors in the health assurance district to collect, retain, and spend all revenue generated by any tax approved by the eligible electors in excess of the limitation provided in section 20 of article X of the state constitution.

(3) The board of county commissioners of any county or the governing body of any municipality within the health assurance district may transfer any real and personal property, whether or not theretofore used by the county or municipality for hospital purposes, to any newly organized health assurance district if such real and personal property is located in the newly organized district.

(4) (Deleted by amendment, L. 2007, p. 1192, § 13, effective July 1, 2007.)

(5) Any health assurance district that is created pursuant to this article shall have the power, upon approval by the eligible electors of the district, to levy and collect a uniform sales tax throughout the entire geographic area of the district upon every transaction or other incident with respect to which a sales tax is levied by the state pursuant to the provisions of article 26 of title 39, C.R.S., excluding the sale of cigarettes, subject to the following provisions:

(a) For purposes of this subsection (5), "eligible elector" shall have the same meaning as set forth in section 32-19-102 (3).

(b) For purposes of complying with the provisions of section 32-1-301 (2)(d.1), the petition for organization shall set forth the estimated sales tax revenues for the health assurance district's first budget year if the district will seek approval from the eligible electors of the district to levy a sales tax in its first budget year.

(c) Any sales tax authorized pursuant to this subsection (5) shall be levied and collected as provided in section 32-19-112.

Source: L. 2001: Entire section added, p. 1164, § 14, effective June 5. **L. 2007:** (1), (2)(a), and (4) amended and (2)(c), (2)(d), and (5) added, pp. 1192, 1193, §§ 13, 14, effective July 1. **L. 2009:** IP(5) amended, (HB 09-1342), ch. 354, p. 1847, § 5, effective July 1.

Cross references: For the legislative declaration contained in the 2001 act enacting this section, see section 1 of chapter 300, Session Laws of Colorado 2001.

32-1-1004. Metropolitan districts - additional powers and duties. (1) In addition to the powers specified in section 32-1-1001, the board of any metropolitan district has the following powers for and on behalf of such district:

(a) To enter into contracts with public utilities, cooperative electric associations, and municipalities for the purpose of furnishing street lighting service;

(b) To erect and maintain, in providing safety protection services, traffic and safety controls and devices on streets and highways and at railroad crossings and to enter into

agreements with the county or counties in which a metropolitan district is situate or with adjoining counties, the department of transportation, or railroad companies for the erection of such safety controls and devices and for the construction of underpasses or overpasses at railroad crossings;

(c) To finance line extension charges for new telephone construction for the purpose of furnishing telephone service exclusively in districts which have no property zoned or valued for assessment as residential;

(d) To finance payment of incremental directional drilling costs for oil and gas wells drilled within the greater Wattenberg area, as that term is defined in section 24-65.5-102, C.R.S.

(2) A metropolitan district shall provide two or more of the following services:

(a) Fire protection as specified in section 32-1-103 (7);

(b) Elimination and control of mosquitoes;

(c) Parks or recreational facilities or programs as specified in section 32-1-103 (14);

(d) Safety protection through traffic and safety controls and devices on streets and highways and at railroad crossings;

(e) Sanitation services as specified in section 32-1-103 (18);

(f) Street improvement through the construction and installation of curbs, gutters, culverts, and other drainage facilities and sidewalks, bridges, parking facilities, paving, lighting, grading, landscaping, and other street improvements;

(g) Establishment and maintenance of television relay and translator facilities;

(h) Transportation as specified in subsection (5) of this section;

(i) Water and sanitation services as specified in section 32-1-103 (18), (24), and (25);

(j) Water as specified in section 32-1-103 (25);

(k) Solid waste disposal facilities or collection and transportation of solid waste as specified in section 32-1-1006 (6) and (7).

(3) Any metropolitan district providing services specified in paragraph (a), (c), (e), (i), or (j) of subsection (2) of this section shall have all the duties, powers, and authority granted to a fire protection, park and recreation, sanitation, water and sanitation, or water district by this article, except as provided in subsection (4) of this section.

(4) A metropolitan district may have and exercise the power of eminent domain and dominant eminent domain and, in the manner provided by article 1 of title 38, C.R.S., may take any property necessary to the exercise of the powers granted, both within and without the special district, only for the purposes of fire protection, sanitation, street improvements, television relay and translator facilities, water, or water and sanitation, except for the acquisition of water rights, and, within the boundaries of the district, if the district is providing park and recreation services, only for the purpose of easements and rights-of-way for access to park and recreational facilities operated by the special district and only where no other access to such facilities exists or can be acquired by other means.

(5) The board of a metropolitan district has the power to establish, maintain, and operate a system to transport the public by bus, rail, or any other means of conveyance, or any combination thereof, and may contract pursuant to the provisions of part 2 of article 1 of title 29, C.R.S. The board of a metropolitan district may not establish, maintain, or operate such a system of transportation in a county, city, city and county, or any other political subdivision of the state empowered to provide a system of transportation except pursuant to a contract entered into pursuant to the provisions of part 2 of article 1 of title 29, C.R.S. The board of a metropolitan

district not originally organized as having the power granted in this subsection (5) may exercise its power upon compliance with the provisions of part 2 of this article. Notwithstanding any other provision of this subsection (5), the board of a metropolitan district shall not exercise the power under this subsection (5) until approved by the district court in compliance with the provisions of part 2 of this article and unless authorized, at a regular special district election or a special election held and conducted pursuant to articles 1 to 13.5 of title 1, C.R.S., by a majority of the eligible electors of the district voting on the question of whether the board should exercise such power. The board of a metropolitan district which exercises the power granted in this subsection (5) shall provide transportation services only in the county or counties within which the boundaries of the metropolitan district lie.

(6) Notwithstanding anything in this article or any other law to the contrary:

(a) A metropolitan district may be formed within any part of the area within the regional transportation district, as described in section 32-9-106.1, for the single service of financing a system to transport the public by bus, guideway, or any other means of conveyance, or any combination thereof.

(b) A district created pursuant to paragraph (a) of this subsection (6) may be formed wholly or partly within an existing special district which provides or is authorized to provide the service of mass transportation if the improvements or facilities to be financed by such a district do not duplicate or interfere with any other improvements or facilities already constructed or planned to be constructed within the limits of the existing special district.

(c) The intergovernmental contract required by subsection (5) of this section shall not be required for such a district except where the county, city, or city and county or any other political subdivision of the state within which a system of transportation is to be financed is actually operating a system of transportation.

(d) Except as specifically modified by this subsection (6), all other provisions of this article shall apply to such a district.

(e) In accordance with section 32-1-307 (1), no tract of land of forty acres or more used primarily and zoned for agricultural uses shall be included in any metropolitan district providing parks or recreational facilities and programs that is organized under this article 1 without the written consent of the owners.

(7) The board of a metropolitan district has the power to furnish security services for any area within the special district. Such power may be exercised only after the district has provided written notification to, consulted with, and obtained the written consent of all local law enforcement agencies having jurisdiction within the area and any applicable master association or similar body having authority in its charter or declaration to furnish security services in the area. Any local law enforcement agency having jurisdiction within the area and any applicable master association or similar body having authority in its charter or declaration to furnish security services in the area may subsequently withdraw its consent after consultation with and providing written notice of the withdrawal to the board.

(8) (a) The board of a metropolitan district has the power to furnish covenant enforcement and design review services within the district if:

(I) The governing body of the applicable master association or similar body and the metropolitan district have entered into a contract to define the duties and responsibilities of each of the contracting parties, including the covenants that may be enforced by the district, and the covenant enforcement services of the district do not exceed the enforcement powers granted by

the declaration, rules and regulations, or any similar document containing the covenants to be enforced; or

(II) The declaration, rules and regulations, or any similar document containing the covenants to be enforced for the area within the metropolitan district name the metropolitan district as the enforcement or design review entity.

(b) The board of a metropolitan district shall have the power to furnish covenant enforcement and design review services pursuant to this subsection (8) only if the revenues used to furnish such services are derived from the area in which the service is furnished.

(c) Nothing in this subsection (8) shall be construed to authorize a metropolitan district to enforce any covenant that has been determined to be unenforceable as a matter of law.

(9) Except as limited by the service plan of the district, the board of a metropolitan district has the power to provide activities in support of business recruitment, management, and development within the district. A metropolitan district meeting the qualifications of this subsection (9) shall neither have nor exercise the power of eminent domain or dominant eminent domain for the purposes set forth in this subsection (9).

(10) (a) In addition to the excise tax imposed pursuant to article 28.8 of title 39, a metropolitan district with boundaries entirely within the unincorporated area of a county is authorized to levy, collect, and enforce a metropolitan district excise tax on the first sale or transfer of unprocessed retail marijuana by a retail marijuana cultivation facility. Such excise tax must be calculated based on the average market rate of the unprocessed retail marijuana. The tax shall be imposed at the time when the retail marijuana cultivation facility first sells or transfers unprocessed retail marijuana from the retail marijuana cultivation facility to a retail marijuana product manufacturing facility, a retail marijuana store, or another retail marijuana cultivation facility.

(b) If the boundaries of a metropolitan district are within a county that imposes an additional excise tax on the first sale or transfer of unprocessed retail marijuana by a retail marijuana cultivation facility pursuant to section 29-2-114, the excise tax rate imposed by the metropolitan district pursuant to this subsection (10) shall not exceed such tax rate imposed by the county. In no event shall the tax rate imposed pursuant to this subsection (10) exceed five percent of the average market rate, as determined by the department of revenue pursuant to section 39-28.8-101 (1), of the unprocessed retail marijuana.

(c) No excise tax shall be levied pursuant to the provisions of paragraph (a) of this subsection (10) until the proposal has been referred to and approved by the eligible electors of the metropolitan district. Any proposal for the levy of an excise tax in accordance with paragraph (a) of this subsection (10) may be submitted to the eligible electors of the district at a regular special district election, on the date of the state general election, or on the first Tuesday in November of an odd-numbered year, and any election on the proposal must be conducted in accordance with the "Uniform Election Code of 1992", articles 1 to 13 of title 1, C.R.S.

(d) Any retail marijuana excise tax imposed by a metropolitan district pursuant to this subsection (10) shall not be collected, administered, or enforced by the department of revenue, but shall instead be collected, administered, and enforced by the metropolitan district imposing the tax or through an intergovernmental agreement with the county in which the metropolitan district is located.

Source: L. 81: Entire article R&RE, p. 1597, § 1, effective July 1. **L. 82:** (6) added, p. 501, § 7, effective April 15. **L. 87:** (1)(c) added, p. 1239, § 1, effective April 22. **L. 91:** (1)(b) amended, p. 1070, § 45, effective July 1. **L. 92:** (5) amended, p. 888, § 127, effective January 1, 1993. **L. 98:** (2)(k) added, p. 1070, § 2, effective June 1. **L. 2004:** (7) and (8) added, p. 1065, § 1, effective May 21. **L. 2007:** (6)(a) amended, p. 834, § 3, effective May 14; (1)(d) added, p. 2122, § 9, effective August 3; (9) added, p. 938, § 1, effective August 3. **L. 2008:** (1)(d) amended, p. 1082, § 3, effective August 5. **L. 2015:** (10) added, (HB 15-1367), ch. 271, p. 1080, § 19, effective June 4. **L. 2016:** (9) amended, (HB 16-1011), ch. 110, p. 314, § 1, effective April 15; (5) amended, (SB 16-189), ch. 210, p. 789, § 94, effective June 6. **L. 2017:** (6)(e) added, (HB 17-1065), ch. 73, p. 232, § 2, effective August 9; (10)(a) and (10)(b) amended, (SB 17-192), ch. 299, p.1641, § 6, effective August 9.

Editor's note: (1) The provisions of this section are similar to provisions of several former sections as they existed prior to 1981. For a detailed comparison, see the comparative tables located in the back of the index.

(2) Section 5 of chapter 73 (HB 17-1065), Session Laws of Colorado 2017, provides that the act changing this section applies to court petitions for the organization of special districts that are filed on or after August 9, 2017.

Cross references: For the legislative declaration in HB 15-1367, see section 1 of chapter 271, Session Laws of Colorado 2015.

32-1-1005. Park and recreation districts - additional powers - limitations. (1) In addition to the powers specified in section 32-1-1001, the board of any park and recreation district has the following powers for and on behalf of such district:

(a) To operate a system of television relay and translator facilities and to use, acquire, equip, and maintain land, buildings, and other recreational facilities therefor;

(b) To use the power granted in section 32-1-1001 (1)(f) for the establishment of recreational facilities, including leases, easements, and other interests in land for the preservation or conservation of sites, scenes, open space, and vistas of recreational, scientific, historic, aesthetic, or other public interest. "Interests in land", as used in this paragraph (b), means any rights and interests in land less than the full fee interest, including but not limited to future interests, easements, covenants, and contractual rights. Every such interest in land, held pursuant to this paragraph (b), when recorded shall be deemed to run with the land to which it pertains for the benefit of the park and recreation district and may be protected and enforced by such district in any court of general jurisdiction by any proceeding known at law or in equity.

(c) To have and exercise the power of eminent domain and, in the manner provided by article 1 of title 38, C.R.S., to take any property necessary to the exercise of the powers granted, both within and without the special district, only for the purposes of television relay and translator facilities, and, within the boundaries of the district, only for the purpose of easements and rights-of-way for access to park and recreational facilities operated by the special district and only where no other access to such facilities exists or can be acquired by other means.

(2) (a) No district shall construct, own, or operate any bowling alley, roller skating rink, batting cage, golf course on which the game is played on an artificial surface, or an amusement park which has water recreation as its central theme, unless the board of such district receives

approval for such project from the board of county commissioners of each county which has territory included in the district. The board of county commissioners shall disapprove the facility or service unless evidence satisfactory to the board of each of the following is presented:

(I) The facility or service is not adequately provided in the district by private providers;

(II) There is sufficient existing and projected need for the facility or service within the district;

(III) The existing facilities or services in the district are inadequate for present and projected needs;

(IV) The district has or will have the financial ability to discharge any proposed indebtedness on a reasonable basis; and

(V) The facility or service will be in the best interests of the district and of the residents of the district.

(b) In addition to any existing notice requirements, notice of the hearing of the board of county commissioners on the proposal of the district to construct, own, or operate a facility or to provide a service pursuant to this subsection (2) shall be sent by the district to all providers of the same or similar type of facility or service located within two miles of the proposed facility or service no later than ten days prior to such hearing. The notice required by this paragraph (b) will be deemed to have been sent to all required providers if said notice has been sent by first-class mail, postage prepaid, to all such providers listed in a current classified telephone directory and to all such providers whose names are provided to the district by the appropriate trade association.

Source: L. 81: Entire article R&RE, p. 1599, § 1, effective July 1. **L. 89:** (2) added, p. 1313, § 2, effective April 18.

Editor's note: The provisions of this section are similar to provisions of several former sections as they existed prior to 1981. For a detailed comparison, see the comparative tables located in the back of the index.

Cross references: For the legislative declaration contained in the 1989 act enacting subsection (2), see section 1 of chapter 287, Session Laws of Colorado 1989.

32-1-1006. Sanitation, water and sanitation, or water districts - additional powers - special provisions. (1) In addition to the powers specified in section 32-1-1001, the board of any sanitation, water and sanitation, or water district has the following powers for and on behalf of such district:

(a) (I) To compel the owner of premises located within the boundaries of any such district, whenever necessary for the protection of public health, to connect such owner's premises, in accordance with the state plumbing code, to the sewer, water and sewer, or water lines, as applicable, of such district within twenty days after written notice is sent by registered mail, if such sewer or water line is within four hundred feet of such premises. If such connection is not begun within twenty days, the board may thereafter connect the premises to the sewer, water and sewer, or water system, as applicable, of such district and shall have a perpetual lien on and against the premises for the cost of making the connection, and any such lien may be

foreclosed in the same manner as provided by the laws of this state for the foreclosure of mechanics' liens.

(II) Nothing in subparagraph (I) of this paragraph (a) authorizes the board of any sanitation, water and sanitation, or water district to compel any connection with the sewer, water and sewer, or water lines, as applicable, of such district, by any owner of premises located outside of such district who utilizes private or nongovernmental persons, services, systems, or facilities including an on-site wastewater treatment system, for the provision of sewer, water and sewer, or water lines to such premises.

(b) (I) To divide such district into areas according to the water or sanitation services furnished or to be furnished therein. The board has the power to fix different rates, fees, tolls, or charges and different rates of levy for tax purposes against all of the taxable property within the several areas of such district according to the services and facilities furnished or to be furnished therein within a reasonable time. In addition, if the board finds it infeasible, impracticable, or undesirable for the good of the entire district to extend water or sewer lines and facilities to any part of such district, the board may designate by resolution such area not to be served with water or sanitation service, but such area designated not to be served shall be at least ten acres in extent.

(II) If the board divides a special district into areas according to the facilities and services furnished or to be furnished, to determine the amount of money necessary to be raised by taxation within each such area, taking into consideration other sources of revenue within the area, and to fix a levy which, when levied upon every dollar of the valuation for assessment of taxable property within such area of the special district, will supply funds for the payments of the costs of acquiring, operating, and maintaining the services or facilities furnished in such area and will pay promptly, when due, the principal or interest on bonds or other obligations issued and its pro rata share of the general operating expenses of the district.

(c) (I) To establish, construct, operate, and maintain works and facilities across or along any public street or highway, and in, upon, or over any vacant public lands, which public lands are the property of the state of Colorado, and across any stream of water or watercourse. The board of county commissioners of any county in which any public streets or highways are situated which are to be cut into or excavated in the construction or maintenance of any such facilities has authority to adopt by resolution such rules as it deems necessary in regard to any such excavations and may require the payment of reasonable fees by such district as may be fixed by the board of county commissioners to insure proper restoration of such streets or highways.

(II) When such fee is paid, it is the responsibility of the board of county commissioners to promptly restore such street or highway to its former state. If the fee is not fixed and paid, such district shall promptly restore any such street or highway to its former state of usefulness as nearly as may be and shall not use the same in such manner as to completely or unnecessarily impair the usefulness thereof.

(III) This grant of authority is not and shall not be construed as a limitation upon the existing powers of any municipality to regulate works and facilities in public streets or highways.

(d) To assess reasonable penalties for delinquency in the payment of rates, fees, tolls, or charges or for any violations of the rules and regulations of the special district together with interest on delinquencies from any date due at not more than one percent per month or fraction

thereof, and to shut off or discontinue water or sanitation service for such delinquencies and delinquencies in the payment of taxes or for any violation of the rules and regulations of the special district, and to provide for the connection with and the disconnection from the facilities of such district;

(e) To acquire water rights and construct and operate lines and facilities within and without the district;

(f) To have and exercise the power of eminent domain and dominant eminent domain and, in the manner provided by article 1 of title 38, C.R.S., to take any property necessary to the exercise of the powers granted, both within and without the special district, except for the acquisition of water rights;

(g) To fix and from time to time to increase or decrease tap fees. The board may pledge such revenue for the payment of any indebtedness of the special district.

(h) (I) To assess availability of service or facilities charges subject to the following provisions:

(A) No fee, rate, toll, or charge for connection to or use of services or facilities of such district shall be considered an availability of service or facilities charge.

(B) Any availability of service or facilities charges shall be made only when a notice, stating that such availability of service or facilities charges are being considered and stating the date, time, and place of the meeting at which they are to be considered, has been mailed by first-class United States mail, postage prepaid, to each taxpaying elector of such district at his last-known address, as disclosed by the tax records of the county or counties within which such district is located.

(C) Availability of service or facilities charges shall be assessed solely for the purpose of paying principal of and interest on any outstanding indebtedness or bonds of such district and shall not be used to pay any operation or maintenance expenses of, nor capital improvements within or for, such district.

(D) Availability of service or facilities charges shall be assessed only where water, sewer, or both water and sewer lines are installed and ready for connection within one hundred feet of any property line of the residential lot or residential lot equivalent to be assessed, but to one or both of which line or lines the particular lot or lot equivalent to be assessed is not connected.

(E) Availability of service or facilities charges shall be a percentage, not to exceed fifty percent, of the fees, rates, tolls, or charges for use of services or facilities of such district, said percentage to be determined by the board. If the fees, rates, tolls, or charges for the use of services or facilities vary dependent upon quantities of usage, the availability of service or facilities charges shall be a percentage, not to exceed fifty percent, of the average usage derived by dividing the total usage quantity for such district for the last preceding fiscal year by the total number of users in such district, said percentage to be determined by the board. In addition the aggregate amount of revenue budgeted and expected to be derived from availability of service or facilities charges shall not exceed the total amount of principal of and interest on the outstanding indebtedness or bonds of such district for such service currently budgeted for and to mature or accrue during the annual period within which such availability of service or facilities charges are payable, less the amount budgeted and expected to be produced during such period by the mill levy allocable to such service then being budgeted for and levied and assessed by such district.

(II) Notwithstanding the provisions of this paragraph (h), any metropolitan district providing water or sanitation or water and sanitation services which, prior to July 1, 1981, has imposed an availability of service charge pursuant to section 31-35-402 (1)(f), C.R.S., and has pledged such availability of service charges to the payment of outstanding bonds may continue such charge until such bonds are retired.

(1.5) (a) No water and sanitation district or water district shall furnish water service or water supply to any property located outside of the district's boundaries if such property is within the legal boundaries of another special district that has been organized with the power to furnish water facilities or water services, unless:

(I) In compliance with the provisions of this title and with the consent of the special district within whose boundaries such property is located, such property is included within the boundaries of the district seeking to provide water service or water supply; or

(II) After April 15, 1996, in lieu of inclusion pursuant to subparagraph (I) of this paragraph (a), the special district within whose boundaries such property is located gives consent to the provision of such water service or water supply.

(b) In the absence of such inclusion or consent, no water and sanitation district or water district shall have any right or power, however derived, to provide water service or water supply to any property outside of that district's boundaries and within the boundaries of another special district that has been organized with the power to furnish water facilities or water services.

(c) As used in this subsection (1.5), "water facilities" has the same meaning as in section 31-35-401 (7), C.R.S.

(2) (a) A special district organized for water or sanitation or for water and sanitation purposes, upon the filing of a resolution of the board with the court and after an election held pursuant to paragraph (b) of this subsection (2), may become a water and sanitation or metropolitan district, respectively, possessing all the rights, powers, and authority of such a district if there is not then pending a petition for the organization of a water and sanitation or metropolitan district, partially or wholly within the water or sanitation or water and sanitation district, and if a metropolitan district does not already exist wholly or partly within the boundaries of the sanitation or water or water and sanitation district.

(b) (I) After a hearing on the resolution, the court shall direct that the question of conversion of the special district be submitted to the eligible electors of the special district and shall appoint the secretary as the designated election official responsible for the calling and conducting of the election according to the provisions of articles 1 to 13.5 of title 1, C.R.S.

(II) If a majority of the votes cast at the election are in favor of conversion and the court determines the election was held in accordance with articles 1 to 13.5 of title 1, C.R.S., the court shall enter an order including any conditions so prescribed and converting the special district.

(3) Taxpaying electors of any area of five acres or more within or without a special district furnishing sanitation or water services or facilities or sanitation and water services or facilities or any area regardless of size immediately contiguous to such district may agree among themselves for the construction of water or sanitation facilities or water and sanitation facilities within such area, and the board of such district has the authority to enter into a contract with such taxpaying electors to allow any portion of revenue derived from water or sanitation charges and fees from such area or from special charges assessed against users of such sanitation or water facilities to be applied on the payment of the cost of the construction of such water or sanitation facilities. Such payment shall be made without interest and upon such terms as the

parties may agree upon, but payment shall not extend over fifteen years. Such contracts shall not be included within the dollar limitation of debts provided by this article and shall not require approval of the electors of the special district.

(4) Any dispute involving a special district furnishing sanitation or water services or facilities or sanitation and water services or facilities and any customer of such district in which physical damage to the property of the customer in the amount of ten thousand dollars or less is alleged to have been caused by the actions of such special district may be submitted with the consent of the district and the customer to alternative dispute resolution procedures pursuant to the "Dispute Resolution Act", part 3 of article 22 of title 13, C.R.S., if such procedures are available in the judicial district where a complaint in such dispute would be filed. Notwithstanding any other provision of law to the contrary, once a party to such dispute has properly submitted the dispute to alternative dispute resolution procedures pursuant to this section, neither party shall remove the dispute from the alternative dispute resolution forum without the consent of the other party.

(5) The governing body of each special district providing water or sanitation services which implements an industrial wastewater pretreatment program pursuant to the federal act, as defined in section 25-8-103 (8), C.R.S., may seek such relief and impose such penalties as are required by such federal act and its implementing regulations for such programs.

(6) The board of a sanitation district or water and sanitation district with a resident elector population of two thousand five hundred or less that is located in whole or in part within a county with a population of twenty-five thousand or less, as determined by the 1996 population estimates prepared by the division, may provide collection and transportation of solid waste for and on behalf of the district, including but not limited to the financing thereof. If the board decides to provide collection and transportation of solid waste, the board shall request proposals to provide such services within a designated area of the district by publishing notice and awarding a contract in accordance with the procedures specified in section 30-15-401 (7.5)(c) and (7.7), C.R.S. The board shall not award a contract that exceeds three years in duration.

(7) The board of any sanitation district or water and sanitation district may provide solid waste disposal facilities, including but not limited to the financing thereof, for and on behalf of such district. Any service or facility pursuant to this subsection (7) shall be subject to part 1 of article 20 of title 30, C.R.S.

(8) (a) A water district or a water and sanitation district may provide park and recreation improvements and services in connection with a water reservoir owned by the district and adjacent land if such improvements and services are not already being provided by another entity with respect to the reservoir and adjacent land.

(b) Once the board of a water district or a water and sanitation district adopts a resolution to provide improvements and services pursuant to this subsection (8), no other entity may provide park and recreation improvements and services with respect to the reservoir and adjacent land without the consent of the board.

(c) The district may exercise any powers that a park and recreation district has in connection with the provision of park and recreation improvements and services, including imposing rates, fees, and charges in connection with the improvements and services. The district may use any district revenues to provide the improvements and services. The provision of improvements and services pursuant to this subsection (8) is not a material modification of the service plan of the district.

Source: L. 81: Entire article R&RE, p. 1599, § 1, effective July 1. **L. 83:** (1)(h)(I)(B) amended, p. 1279, § 1, effective May 25; (2) amended, p. 1280, § 1, effective May 26. **L. 89:** (4) added, p. 1315, § 1, effective March 15. **L. 90:** (5) added, p. 1346, § 8, effective July 1. **L. 92:** (2)(b) amended, p. 888, § 128, effective January 1, 1993. **L. 94:** (1)(a) amended, p. 593, § 1, effective April 7. **L. 96:** (1.5) added, p. 309, § 6, effective April 15. **L. 98:** (6) and (7) added, p. 1070, § 3, effective June 1. **L. 2005:** (8) added, p. 151, § 1, effective April 5. **L. 2012:** (1)(a)(II) amended, (HB 12-1126), ch. 137, p. 499, § 8, effective August 8. **L. 2016:** (2)(b) amended, (SB 16-189), ch. 210, p. 789, § 95, effective June 6.

Editor's note: The provisions of this section are similar to provisions of several former sections as they existed prior to 1981. For a detailed comparison, see the comparative tables located in the back of the index.

Cross references: For foreclosure of mechanics' liens, as provided in subsection (1)(a), see article 22 of title 38.

32-1-1007. Ambulance districts - additional powers - special provisions. (1) In addition to the powers specified in section 32-1-1001, the board of any ambulance district, unless provided in section 32-1-1002 (1)(c) or 32-1-1003 (1)(b), has the following powers for and on behalf of such district:

(a) To own, maintain, and operate ambulances and other vehicles and equipment necessary for the provision of emergency medical services in said district;

(b) To provide emergency medical services by employees of the district, to provide a voluntary ambulance service, and to make contracts with individuals, partnerships, associations, or corporations or with other political subdivisions of the state or any combination thereof. For the purpose of this paragraph (b), "voluntary ambulance service" means an ambulance service which is operating not for pecuniary profit or financial gain and no part of the assets or income of which is distributable to, or enures to the benefit of, its members, directors, or officers.

(2) An ambulance district may be composed of only one county of the state or a portion thereof or two or more contiguous counties of the state or portions thereof, and the district shall consist of contiguous territory within such county or counties. No ambulance district shall be established in any area in which there is a fire protection district or a health service district that is providing an ambulance service or in any municipality that is providing an ambulance service.

Source: L. 83: Entire section added, p. 412, § 6, effective June 1. **L. 96:** (2) amended, p. 474, § 16, effective July 1.

32-1-1008. Tunnel districts - additional powers - special provisions. (1) In addition to the powers specified in section 32-1-1001, the board of any tunnel district has the following powers for and on behalf of such district:

(a) To acquire, construct, improve, equip, operate, maintain, and finance one or more tunnel projects;

(b) To enter into contracts and agreements concerning the affairs of the tunnel district, including contracts with the United States, the state, any political subdivision of the state, any agency or instrumentality of any of the foregoing, and any private person, without taking bids

therefor or otherwise awarding the same on a competitive basis, if in the opinion of the board, it is in the best interests of the tunnel district to so proceed;

(c) To exercise the power of eminent domain and, in the manner provided by article 1 of title 38, C.R.S., to take any property necessary to the exercise of the powers granted, both within and without the tunnel district, for the purposes of the acquisition, construction, improvement, equipping, operation, or maintenance, or any combination thereof, of one or more tunnels.

Source: L. 87: Entire section added, p. 1232, § 3, effective May 13.

32-1-1009. Regional tourism projects. (1) In addition to the powers specified in this part 10, and notwithstanding any limitation on the powers of a metropolitan district otherwise specified in this part 10 or in the metropolitan district's service plan, any metropolitan district designated as an approved financing entity pursuant to part 3 of article 46 of title 24, C.R.S., shall have all the powers necessary or convenient to carry out and effect its authority as a financing entity pursuant to part 3 of article 46 of title 24, C.R.S., including but not limited to the power to receive state sales tax increment revenue and to disburse and otherwise utilize such revenue for all lawful purposes pursuant to part 3 of article 4 of title 24, C.R.S. Such lawful purposes shall include but need not be limited to the financing of eligible costs and the design, construction, maintenance, and operation of eligible improvements as defined in section 24-46-303 (5), C.R.S., or otherwise incorporated into the Colorado economic development commission's conditions of approval pursuant to part 3 of article 46 of title 24, C.R.S.

(2) Notwithstanding any provision of section 32-1-207 or of the metropolitan district's service plan, authorization to receive state sales tax increment revenue pursuant to part 3 of article 46 of title 24, C.R.S., shall not be considered a material modification to the plan and corresponding changes to the plan may be made by the governing body to incorporate the use of state sales tax increment revenue of the metropolitan district without the requirement of petition to or approval by the board of county commissioners or the governing body of the municipality, as applicable.

(3) Any metropolitan district receiving state sales tax increment revenue, whether pursuant to designation as a financing entity pursuant to part 3 of article 46 of title 24, C.R.S., or pursuant to a contract entered into with any such entity, shall not use the state sales tax increment revenue to acquire property through the exercise of eminent domain.

Source: L. 2009: Entire section added, (SB 09-173), ch. 434, p. 2419, § 4, effective June 4.

PART 11

FINANCIAL POWERS

Cross references: For the constitutional provision that establishes limitations on spending, the imposition of taxes, and the incurring of debt, see section 20 of article X of the Colorado constitution.

32-1-1101. Common financial powers. (1) For and on behalf of the special district, the board has the following powers:

(a) To levy and collect ad valorem taxes on and against all taxable property within the special district, which shall not be limited except as provided in section 39-10-111 (11), C.R.S., and in part 3 of article 1 of title 29, C.R.S. Any election on the question of an increased levy pursuant to section 29-1-302, C.R.S., shall be conducted as a special election in accordance with articles 1 to 13.5 of title 1, C.R.S.

(b) To levy taxes and collect revenue, whenever any indebtedness has been incurred by a special district, for the purpose of creating one or more reserve funds in such amounts as the board may determine, which may be used to meet the obligations of the special district for bond interest repayment and for maintenance and operating charges and depreciation and to provide extensions of and replacements and improvements to the facilities and property of the special district;

(c) To issue negotiable coupon bonds of the special district. Bonds shall bear interest at a rate or rates such that the net effective interest rate of the issue of bonds does not exceed the maximum net effective interest rate authorized, payable semiannually, and shall be due and payable serially, either annually or semiannually, commencing not later than three years and extending not more than twenty years from date. The form and terms of said bonds, including provisions for their payment and redemption, shall be determined by the board. If the board so determines, such bonds may be redeemable prior to maturity upon payment of a premium, not exceeding three percent of the principal thereof. Said bonds shall be executed in the name of and on behalf of the district and signed by the president with the seal of the district affixed thereto and attested by the secretary. Said bonds shall be in such denominations as the board shall determine, and the bonds and coupons thereto attached shall be payable to bearer. Interest coupons shall bear the original or facsimile signature of the president.

(d) To issue revenue bonds authorized by action of the board without the approval of the eligible electors of the special district. The revenue bonds shall be issued in the manner provided in part 4 of article 35 of title 31, C.R.S., for the issuance of revenue bonds by municipalities; except that the revenue bonds may be sold in one or more series at par or below or above par at public or private sale, in such manner and for such price as the board, in its discretion, shall determine. The revenue bonds and interest coupons, if any, appurtenant thereto shall never constitute the debt or indebtedness of the special district within the meaning of any provision or limitation of the laws of Colorado or the state constitution and shall not constitute nor give rise to a pecuniary liability of the special district or charge against its general credit or taxing powers. The revenue bonds and the income therefrom are exempt from taxation, except inheritance, estate, and transfer taxes.

(e) In addition to any other means provided by law, to elect, by resolution, at a public meeting held after receipt of notice by the affected parties, including the property owner, to have certain delinquent fees, rates, tolls, penalties, charges, or assessments made or levied solely for water, sewer, or water and sewer services, certified to the treasurer of the county to be collected and paid over by the treasurer of the county in the same manner as taxes are authorized to be collected and paid over pursuant to section 39-10-107, C.R.S. The governing body of said special district shall pay to the county in which the affected property of the special district is located, at least once a year, an amount which shall be just and reasonable compensation for the extra labor imposed by this paragraph (e) and an amount for the special district's proportion of

the expense of advertising the sale of lands for said delinquent fees, rates, tolls, penalties, charges, or assessments in each year, said amounts to be certified to the governing body of the special district by the county treasurer. Any such fee, rate, toll, penalty, charge, or assessment shall total at least one hundred fifty dollars per account and shall be at least six months delinquent. The treasurer of the county is also authorized to charge and retain a penalty at the rate of thirty percent, or thirty dollars, whichever is greater, on the delinquent sum due and owing to defray the costs of collection.

(f) (I) To divide the special district into one or more areas consistent with the services, programs, and facilities to be furnished therein. However, any facility operated by the special district within such area may be used by any resident of the special district for the same fee charged to persons residing within such area. Whenever the board divides the special district into one or more areas pursuant to this subparagraph (I), the board shall provide notification of such action to the board of county commissioners of each county that has territory included within the district and the governing body of any municipality that has adopted a resolution of approval of the district pursuant to section 32-1-204.5 or 32-1-204.7. Each board of county commissioners and municipal governing body that is entitled to such notification may elect, within thirty days after such notification, to treat the action as a material modification of the district service plan in accordance with section 32-1-207 (2).

(II) Any area created pursuant to this paragraph (f) shall be a subdistrict of the special district. The name of a subdistrict established on or after August 5, 2015, must include the name of the special district that established the subdistrict. A subdistrict shall be an independent quasi-municipal corporation, shall act pursuant to the provisions of this article, and shall possess all of the rights, privileges, and immunities of the special district. The subdistrict shall be subject to the service plan of the special district. The general assembly hereby finds and declares that any such division of the special district into one or more subdistricts shall provide for the fair and equitable taxation within the territorial limits of the authority levying the tax in conformity with the requirements of section 3 of article X of the state constitution.

(III) The board of the special district shall constitute ex officio the board of directors of the subdistrict. The presiding officer of the board shall be ex officio the presiding officer of the subdistrict, the secretary of the board shall be ex officio the secretary of the subdistrict, and the treasurer of the board shall be ex officio the treasurer of the subdistrict. For the purposes of complying with the requirements of subsection (6) of this section and article 59 of title 11, C.R.S., the debt of the subdistrict shall be treated separately from the debt of the special district and shall not be treated as debt of the special district. The total debt of the special district and all subdistricts shall not exceed any debt limits specified in the service plan of the special district.

(g) To establish special improvement districts within the boundaries of a special district and levy special assessments on property specially benefited by such improvements as specified in section 32-1-1101.7.

(1.5) (a) The board shall make any determination specified in paragraph (f) of subsection (1) of this section by resolution adopted at a regular or special meeting of the board after publication of notice of the purpose of the public meeting and the place, time, and date of such meeting.

(b) No resolution dividing the special district into one or more areas shall be adopted by the board pursuant to paragraph (a) of this subsection (1.5) if a petition objecting to such division is signed by the owners of taxable real and personal property, which property equals more than

fifty percent of the total valuation for assessment of all taxable real and personal property within the proposed area boundaries, and is filed with the special district no later than five days prior to the public meeting. However, the board may change the geographical boundaries of such area at the public meeting.

(c) Except as otherwise provided in this paragraph (c), no single parcel of land having a valuation for assessment constituting twenty-five percent or more of the total valuation of assessment of all real property within the boundaries of an area in a special district shall be included in such area without the written consent of the owner or owners of such real property. No single parcel of land owned by a corporate entity and having a valuation for assessment constituting five percent or more of the total valuation of assessment of all real property within the boundaries of an area in a special district shall be included in such area without the written consent of the owner of such real property. If, contrary to the provisions of this paragraph (c), such parcel of real property is included within the boundaries of such area, the owner or owners of such real property shall be entitled to petition the board to have such real property excluded from the area boundaries free and clear of any contract, obligation, debt, lien, or charge for which the owner or owners may otherwise be liable due to the inclusion of such real property in the area.

(d) If taxes are to be levied or debt is to be created within an area of the special district, the board shall submit a ballot issue approving such taxes or debt to the eligible electors within such area at a regular special district election or at a special election held on the Tuesday after the first Monday of November in an even-numbered year or the first Tuesday of November in an odd-numbered year conducted in accordance with the provisions of this article and section 20 of article X of the state constitution. In addition to any other matters, the ballot issue shall provide that the tax to be levied for services, programs, and facilities within such area is in addition to any other taxes imposed by the special district.

(e) Nothing in this subsection (1.5) or paragraph (f) of subsection (1) of this section shall repeal or affect any other law or any part thereof as it is the intent of the general assembly that this subsection (1.5) and paragraph (f) of subsection (1) of this section shall provide a separate but not an exclusive method of accomplishing the objectives of the general assembly.

(f) Nothing in this subsection (1.5) or in paragraph (f) of subsection (1) of this section shall impose any requirement contained in House Bill 02-1465, as enacted at the second regular session of the sixty-third general assembly, upon any area that was in existence prior to October 1, 2002; except that a district may, by resolution, elect to apply any of said requirements to such area.

(2) Whenever the board determines, by resolution, that the interest of the special district and the public interest or necessity demand the acquisition, construction, installation, or completion of any works or other improvements or facilities or the making of any contract with the United States or other persons or corporations to carry out the objects or purposes of such district, requiring the creation of a general obligation indebtedness exceeding one and one-half percent of the valuation for assessment of the taxable property in the special district, the board shall order the submission of the proposition of issuing general obligation bonds or creating other general obligation indebtedness, except the issuing of revenue bonds, at an election held for that purpose. The resolution shall also fix the date upon which the election will be held. The election shall be held and conducted as provided in articles 1 to 13.5 of title 1, C.R.S. Any election may be held separately or may be held jointly or concurrently with any other election

authorized by this article. If the issuance of general obligation bonds is approved at an election held pursuant to this subsection (2), the board shall be authorized to issue such bonds for a period not to exceed the later of five years following the date of the election or, subject to the provisions of section 32-1-1101.5, for a period not to exceed twenty years following the date of the election if the issuance of such bonds is in material compliance with the financial plan set forth in the service plan, as that plan is amended from time to time, or in material compliance with the statement of purposes of the special district. After the specified period has expired, the board shall not be authorized to issue bonds which were authorized but not issued after the initial election unless the issuance is approved at a subsequent election; except that nothing in this subsection (2) shall be construed as limiting the board's power to issue refunding bonds in accordance with statutory requirements.

(3) (a) The declaration of public interest or necessity required and the provision for the holding of such an election may be included within the same resolution, which resolution, in addition to such declaration of public interest or necessity, shall recite:

(I) The objects and purposes for which the indebtedness is proposed to be incurred;

(II) The estimated cost of the works or improvements, as the case may be;

(III) How much, if any, of said estimated cost is to be defrayed out of any state or federal grant;

(IV) The amount of principal of the indebtedness to be incurred therefor; and

(V) The maximum net effective interest rate to be paid on such indebtedness.

(b) Whenever the board determines that the district should incur indebtedness in an amount which does not require approval by the eligible electors of the special district under subsection (2) of this section, the board shall establish the maximum net effective interest rate prior to the time the debt is incurred or contracted.

(4) If any proposition is approved at an election provided for in subsection (2) of this section, the board shall thereupon be authorized to incur such indebtedness or obligations, enter into such contract, or issue and sell such bonds of the special district, as the case may be, all for the purposes and objects provided for in the proposition submitted and in the resolution therefor, in the amount so provided, at a price or prices and a rate or rates of interest such that the maximum net effective interest rate recited in such resolution is not exceeded. Except as provided in section 32-1-106 (2), submission of the proposition of incurring such obligation or bonded or other indebtedness at such an election shall not prevent or prohibit submission of the same or other propositions at subsequent elections called for such purpose.

(5) Whenever any special district organized pursuant to this article has moneys on hand which are not then needed in the conduct of its affairs, the special district may deposit such moneys in any state bank, national bank, or state or federal savings and loan association in Colorado in accordance with state law. For the purpose of making such deposits, the board may appoint, by written resolution, one or more persons to act as custodians of the special district's moneys, and such persons shall give surety bonds in such amount and form and for such purposes as the board may require. Subject to the requirements of part 7 of article 75 of title 24, C.R.S., the special district's moneys may be pooled for investment with the moneys of other local government entities.

(6) (a) The total principal amount of general obligation debt of a special district issued pursuant to subsection (2) of this section, which debt is issued on or after July 1, 1991, shall not at the time of issuance exceed the greater of two million dollars or fifty percent of the valuation

for assessment of the taxable property in the special district, as certified by the assessor, except for debt which is:

(I) Rated in one of the four highest investment grade rating categories by one or more nationally recognized organizations which regularly rate such obligations;

(II) Determined by the board of any special district in which infrastructure is in place to be necessary to construct or otherwise provide additional improvements specifically ordered by a federal or state regulatory agency to bring the district into compliance with applicable federal or state laws or regulations for the protection of the public health or the environment if the proceeds raised as a result of such issue are limited solely to the direct and indirect costs of the construction or improvements mandated and are used solely for those purposes;

(III) Secured as to the payment of the principal and interest on the debt by a letter of credit, line of credit, or other credit enhancement, any of which must be irrevocable and unconditional, issued by a depository institution:

(A) With a net worth of not less than ten million dollars in excess of the obligation created by the issuance of the letter of credit, line of credit, or other credit enhancement;

(B) With the minimum regulatory capital as defined by the primary regulator of such depository institution to meet such obligation; and

(C) Where the obligation does not exceed ten percent of the total capital and surplus of the depository institution, as those terms are defined by the primary regulator of such depository institution; or

(IV) Issued to financial institutions or institutional investors.

(b) Nothing in this title shall prohibit a special district from issuing general obligation debt or other obligations which are either payable from a limited debt service mill levy, which mill levy shall not exceed fifty mills, or which are refundings or restructurings of outstanding obligations, or which are obligations issued pursuant to part 14 of this article.

Source: L. 81: Entire article R&RE, p. 1602, § 1, effective July 1. **L. 83:** (5) amended, p. 1010, § 4, effective March 29. **L. 86:** (1)(a)(II) repealed, p. 1069, § 2, effective March 26; (1)(a) amended, p. 1027, § 7, effective January 1, 1987. **L. 89:** (1)(e) added, p. 1316, § 1, effective April 23. **L. 91:** (2) amended and (6) added, p. 790, § 19, effective June 4. **L. 92:** (1)(a), (1)(d), (2), and (3)(b) amended, p. 889, § 129, effective January 1, 1993. **L. 94:** (2) amended, p. 1196, § 102, effective July 1. **L. 95:** (1)(a) amended, p. 128, § 1, effective April 7. **L. 2000:** (1)(f) and (1.5) added, pp. 456, 457, §§ 1, 2, effective August 2. **L. 2002:** (1)(f)(II) and (1)(f)(III) R&RE, (1.5)(b) and (1.5)(d) amended, and (1.5)(f) added, pp. 1730, 1731, §§ 1, 2, effective October 1. **L. 2003:** (1)(f)(I) amended, p. 1317, § 4, effective August 6. **L. 2009:** (1)(g) added, (HB 09-1005), ch. 81, p. 298, § 1, effective April 2. **L. 2015:** (1)(f)(II) amended, (HB 15-1092), ch. 87, p. 252, § 7, effective August 5. **L. 2016:** (1)(a) and (2) amended, (SB 16-189), ch. 210, p. 789, § 96, effective June 6.

Editor's note: The provisions of this section are similar to provisions of several former sections as they existed prior to 1981. For a detailed comparison, see the comparative tables located in the back of the index.

32-1-1101.5. Special district debt - quinquennial findings of reasonable diligence. (1) The results of special district ballot issue elections to incur general obligation indebtedness

shall be certified by the special district by certified mail to the board of county commissioners of each county in which the special district is located or to the governing body of a municipality that has adopted a resolution of approval of the special district pursuant to section 32-1-204.5 or 32-1-204.7 within forty-five days after the election. For all special districts with authorized but unissued general obligation debt approved before July 1, 1995, the results of the election at which such approval was given and a statement of the principal amount of any general obligation debt that has been issued pursuant to such authorization shall be so certified by the special district on or before January 1, 1996. If for any reason certification required by this subsection (1) is not made, the special district shall certify such election results by certified mail no later than thirty days before issuing any general obligation debt to the board of county commissioners or the governing body of such municipality. The special district shall file a copy of any certification made under this subsection (1) with the division of securities created by section 11-51-701, C.R.S., within the applicable time period prescribed in this subsection (1). Whenever a special district incurs general obligation debt, the special district shall submit a copy of the notice required by section 32-1-1604 to the board of county commissioners of each county in which the district is located or the governing body of such municipality within thirty days after incurring the debt.

(1.5) In every fifth calendar year after the calendar year in which a special district's ballot issue to incur general obligation indebtedness was approved by its electors, 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 may require the board of such special district to file an application for a quinquennial finding of reasonable diligence. If the board of county commissioners or the governing body of such municipality requires such filing, it shall notify the special district in writing to file an application within sixty days after receipt of the notice. The application shall set forth the amount of the special district's authorized and unissued general obligation debt, any current or anticipated plan to issue such debt, a copy of the district's last audit or application for exemption from audit, and any other information required by the board of county commissioners or the governing body of such municipality relevant to making the determinations under subsection (2) of this section. If required by the board of county commissioners or the governing body of such municipality, subsequent applications shall be filed within sixty days after receipt of such notice but no more frequently than every five years after the prior notice until all of the general obligation debt that was authorized by the election has been issued or abandoned. If a special district is wholly or partially located in a municipality that has not adopted a resolution of approval of such special district pursuant to section 32-1-204.5 or 32-1-204.7, the board of the special district shall file a copy of any such application with the governing body of such municipality, and such municipality may submit comments thereon prior to the determination made under subsection (2) of this section.

(2) (a) Within thirty days after submittal of any application required under subsection (1.5) of this section, 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 shall accept such application without further action or shall conduct a public hearing within the next thirty days, with no less than ten days prior notice to the district, to consider whether the service plan and financial plan of the district are adequate to meet the debt financing requirements of the authorized and unissued general obligation debt based upon

present conditions within the district. Within thirty days after such hearing, the board of county commissioners or the governing body of the municipality shall:

(I) Determine that the implementation of the service plan or financial plan will result in the timely and reasonable discharge of the special district's general obligation debt. If the board of county commissioners or the governing body of the municipality makes such a finding, it shall grant a continuation of the authority for the board of the special district to issue any remaining authorized general obligation debt.

(II) Determine that the implementation of the service plan or financial plan will not result in the timely and reasonable discharge of the special district's general obligation debt and that such implementation will place property owners at risk for excessive tax burdens to support the servicing of such debt. If the board of county commissioners or the governing body of the municipality makes such a finding, it shall deny a continuation of the authority of the board of the special district to issue any remaining authorized general obligation debt.

(III) Determine that the implementation of the service plan or financial plan will not result in the timely and reasonable discharge of general obligation debt and require the board of the special district to submit amendments or modifications to such plans as a precondition to a finding of reasonable diligence; except that nothing in this section shall be construed as limiting the board's power to issue refunding bonds in accordance with statutory requirements.

(b) The board of county commissioners or the governing body of such municipality shall have all available legal remedies to enforce its determination under paragraph (a) of this subsection (2).

(3) The provisions of this section shall apply to all authorized but unissued general obligation debt for each special district organized under this title. All such authorized but unissued debt shall be valid until the board of county commissioners or the governing body of the municipality has made the determination to deny the continuation of such authority pursuant to subsection (2) of this section.

(4) Any determination made pursuant to this section is subject to judicial review by a district court. If the court finds the determination is arbitrary, capricious, or unreasonable, the court shall remand the matter to the board of county commissioners or to the governing body of the municipality to hold another hearing with no less than ten days prior notice to the district and for any other further action consistent with the court's direction to avoid the arbitrary, capricious, or unreasonable determination.

(5) Any action to enforce this section except an action brought under subsection (4) of this section shall be initiated only by the board of county commissioners or the governing body of a municipality that has adopted a resolution of approval of the special district pursuant to section 32-1-204.5 or 32-1-204.7 and before any bonds are issued as authorized by law.

(6) Any determination made under this section before July 1, 1995, is hereby validated, unless decided otherwise in a legal proceeding instituted to challenge the determination. Any application for a quinquennial finding of reasonable diligence filed by a special district that is pending on July 1, 1995, and any subsequent application filed by a special district on or after July 1, 1995, is subject to this section.

Source: L. 91: Entire section added, p. 792, § 20, effective June 4. **L. 92:** (3) amended, p. 970, § 13, effective June 1. **L. 95:** Entire section amended, p. 124, § 1, effective July 1. **L. 96:**

(1) amended, p. 1772, § 75, effective July 1. **L. 2003:** (1), (1.5), IP(2)(a), and (5) amended, p. 1317, § 5, effective August 6.

32-1-1101.7. Establishment of special improvement districts within the boundaries of a special district. (1) A special district may establish a special improvement district within the boundaries of the special district to finance all or part of the costs of any improvements that the special district is authorized to finance if the power to levy assessments is authorized in the special district's service plan or statement of purposes or approved in writing by the county or municipality that approved the special district's service plan or accepted the special district's statement of purposes. The name of a special improvement district established on or after August 5, 2015, must include the name of the special district that established the special improvement district.

(2) If a special improvement district is established within the boundaries of a special district, assessments shall be levied on a frontage, area, zone, or other equitable basis and only:

(a) With the written consent of one hundred percent of the owners of the property to be assessed; or

(b) Upon approval of a majority of the eligible electors, as defined in section 32-1-103 (5), within the special improvement district voting thereon.

(3) The method of creating a special improvement district, making the improvements specified for the special improvement district, and the levying and collecting of assessments for the costs of the improvements specified for the special improvement district shall be as provided in part 5 of article 25 of title 31, C.R.S., as amended, subject to the following:

(a) The special district shall have all the rights, powers, and duties of the municipality as set forth in parts 5 and 11 of article 25 of title 31, C.R.S.

(b) The board shall perform the duties of the governing body as set forth in part 5 of article 25 of title 31, C.R.S.

(c) The chairman and president of the special district shall perform the duties of the mayor as set forth in part 5 of article 25 of title 31, C.R.S.

(d) The secretary of the special district shall perform the duties of the municipal clerk as set forth in part 5 of article 25 of title 31, C.R.S.

(e) The board shall appoint a person to perform the duties of the municipal treasurer as set forth in part 5 of article 25 of title 31, C.R.S.

(f) All actions by the board pursuant to the provisions of part 5 of article 25 of title 31, C.R.S., shall be by resolution, notwithstanding any reference in said part 5 to action by ordinance.

(g) Any bonds payable from the assessments shall be approved by a majority of the eligible electors, as defined in section 32-1-103 (5), voting on the question of issuing such bonds. The board may determine by resolution whether the eligible electors voting on the question shall be:

(I) The eligible electors of the special district; or

(II) The eligible electors of the special improvement district.

Source: L. 2009: Entire section added, (HB 09-1005), ch. 81, p. 298, § 2, effective April 2. **L. 2015:** (1) amended, (HB 15-1092), ch. 87, p. 252, § 8, effective August 5.

32-1-1102. Special financial provisions - fire protection districts. (Repealed)

Source: L. 81: Entire article R&RE, p. 1604, § 1, effective July 1. **L. 86:** Entire section repealed, p. 1027, § 8, effective January 1, 1987.

32-1-1103. Special financial provisions - health service districts. (1) In addition to the powers specified in section 32-1-1101, the board of any health service district has the following powers for and on behalf of such district:

(a) (I) Repealed.

(II) To levy, in health service districts with a valuation for assessment on real and personal property of fifteen million dollars or less contracting bonded indebtedness not to exceed three percent of the total valuation for assessment within the health service district to be fully paid within a twenty-year period from the date of incurring the indebtedness, on all taxable property within such district without limitations as to rate or amount for purposes of retiring the indebtedness created in accordance with the provisions of section 32-1-1101 (2);

(III) To levy, in health service districts with a valuation for assessment on real and personal property of over fifteen million dollars contracting bonded indebtedness not to exceed five percent of the total valuation for assessment within the health service district to be fully paid within a twenty-year period from the date of incurring the indebtedness, on all taxable property within such district without limitations as to rate or amount for purposes of retiring the indebtedness created in accordance with the provisions of section 32-1-1101 (2);

(IV) To levy, in health service districts with a population of twenty thousand or less with a valuation for assessment on real and personal property of over fifteen million dollars contracting bonded indebtedness not to exceed twenty percent of the total valuation for assessment within the health service district to be fully paid within a twenty-year period from the date of incurring the indebtedness, on all taxable property within such district without limitations as to rate or amount for purposes of retiring the indebtedness created in accordance with the provisions of section 32-1-1101 (2);

(b) To issue without an election, pursuant to an authorizing resolution and subject to the provisions and contractual limitations in resolutions authorizing outstanding bonds and other securities of the health service district, securities to defray, in whole or in part, the cost of a project in the manner provided in and subject to the limitations imposed by subsection (3) of this section.

(2) Notwithstanding any other provisions of this article, all moneys belonging to or collected on behalf of the health service district shall be deposited, in the discretion of the board, with either the treasurer of the county in which the greatest percentage of the valuation for assessment of the taxable property of the district is located or in a depository enumerated in section 24-75-603, C.R.S., to the account of the health service district. All expenditures therefrom of the moneys shall be made upon warrants or checks duly drawn on said account and signed by the president and secretary-treasurer of the health service district. The board may invest any moneys of the district not required to meet the immediate expenses of the district in securities meeting the investment requirements established in part 6 of article 75 of title 24, C.R.S.

(3) (a) (I) The project for which securities are issued pursuant to paragraph (b) of subsection (1) of this section may be the acquisition, by purchase, construction, or otherwise, the

improvement, or the equipment, or any combination thereof, for the purposes set forth in section 32-1-1003 (1)(a) or any other building, structure, or land necessary or desirable for use in connection with the operations of a health service district.

(II) The cost of the project may include, in the board's discretion, all incidental costs pertaining to the project and the financing thereof, including, without limitation, contingencies and the capitalization, with proceeds of securities, of operation and maintenance expenses appertaining to facilities to be acquired and interest on the securities for any period not exceeding the period estimated by the board to effect the project plus one year, of any discount on the securities, and of any reserves for payment of principal of and interest on the securities.

(b) The board may issue interim securities, which may be designated "bonds", "notes", or "warrants", evidencing any emergency loans, construction loans, and other temporary loans not exceeding three years, in supplementation of long-term financing, such interim securities to be funded with the proceeds of long-term securities, net pledged revenues, or further interim securities, or any combination thereof, as the board may determine.

(c) (I) Except to the extent inconsistent with the provisions of this section, any securities issued pursuant to this section for any project shall be issued in the form and manner and with the effect provided in sections 11-54-111 and 11-54-112, C.R.S., for public securities issued under the "Refunding Revenue Securities Law".

(II) The authorizing resolution, trust indenture, or other instrument appertaining thereto may contain any of the covenants, and the board may do such acts and things, as are permitted in section 11-54-113, C.R.S.

(III) Revenue obligations issued to refund revenue bonds of a health service district and to refund securities issued under this section may be issued under the "Refunding Revenue Securities Law".

(d) The securities shall be payable and collectible, as to principal, interest, and any prior redemption premium, solely out of net pledged revenues, and the holder thereof may not look to any general or other fund for the payment of such securities except the net revenues pledged therefor. The securities shall not constitute an indebtedness or a debt within the meaning of any constitutional or statutory provision or limitation, if any provision or limitation appertains thereto. The securities shall not be considered or held to be general obligations of the health service district but shall constitute its special obligations, and the full faith and credit of the health service district shall not be pledged for their payment. The payment shall not be secured by an encumbrance, mortgage, or other pledge of property of the health service district, except for its pledged revenues. No property of the health service district, subject to said exception, shall be liable to be forfeited or taken in payment of securities.

(e) A resolution providing for the issuance of bonds or other securities under this section or an indenture or other proceedings appertaining thereto may provide that the securities contain a recital that they are issued pursuant to this section, which recital shall be conclusive evidence of their validity and the regularity of their issuance.

(f) The determination of the board that the limitations imposed under this subsection (3) upon the issuance of securities under this section have been met shall be conclusive in the absence of fraud or arbitrary and gross abuse of discretion, regardless of whether the authorizing resolution or the securities thereby authorized contain a recital as authorized by paragraph (e) of this subsection (3).

(g) Nothing in this section or in any other law shall be deemed to impair the existing obligations of contract embodied in outstanding bonds validly issued under the statutes in force at the times of their issue prior to July 1, 1971.

(h) Bonds and other securities issued under the provisions of this section, their transfer, and the income therefrom shall forever remain free and exempt from taxation by this state or any political subdivision thereof.

(i) (I) This section, without reference to other statutes of this state, except as otherwise expressly provided in this section, constitutes full authority for the exercise of the incidental powers granted in this section concerning the borrowing of money to defray wholly or in part the cost of any project and the issuance of securities to evidence such loans.

(II) The powers conferred by this section are in addition and supplemental to and not in substitution for, and the limitations imposed by this section shall not affect, the powers conferred by any other law.

(III) Nothing in this section shall be construed as preventing the exercise of any power granted to the board or to a health service district acting by and through its board or any officer, agent, or employee thereof by any other law.

Source: L. 81: Entire article R&RE, p. 1605, § 1, effective July 1. **L. 86:** (1)(a)(I) amended, p. 1069, § 1, effective March 26; (1)(a)(I) repealed, pp. 1027, 1030, §§ 8, 16, effective January 1, 1987. **L. 89:** (2) amended, p. 1134, § 82, effective July 1. **L. 91:** (1)(a)(IV) added, p. 793, § 21, effective June 4. **L. 96:** IP(1), (1)(a)(II), (1)(a)(III), (1)(a)(IV), (1)(b), (2), (3)(a)(I), (3)(c)(III), (3)(d), and (3)(i)(III) amended, p. 475, § 17, effective July 1.

Editor's note: The provisions of this section are similar to provisions of several former sections as they existed prior to 1981. For a detailed comparison, see the comparative tables located in the back of the index.

Cross references: For the "Refunding Revenue Securities Law", see article 54 of title 11.

32-1-1104. Special financial provisions - park and recreation districts. (Repealed)

Source: L. 81: Entire article R&RE, p. 1607, § 1, effective July 1. **L. 86:** Entire section repealed, p. 1027, § 8, effective January 1, 1987.

32-1-1105. Special financial provisions - tunnel districts. (1) In addition to the powers specified in section 32-1-1101, the board of any tunnel district has the following powers for and on behalf of such district:

(a) To fix and from time to time increase or decrease tolls or other charges for the use of any tunnel and to pledge the same for the payment of principal of and interest and any prior redemption premium on any securities or other obligations of the tunnel district issued in connection with the acquisition, construction, improvement, equipping, operation, maintenance, or financing of a tunnel located in whole or in part within such tunnel district;

(b) To issue without an election, pursuant to an authorizing resolution and subject to the provisions and contractual limitations and resolutions authorizing outstanding bonds and other

securities of the tunnel district, securities to defray, in whole or in part, the costs of one or more tunnel projects in the manner provided in and subject to the limitations imposed by subsection (2) of this section;

(c) To invest or deposit moneys belonging to or collected by and on behalf of the tunnel district in accordance with the requirements established in part 6 of article 75 of title 24, C.R.S. In addition, a tunnel district may direct a corporate trustee which holds funds of the tunnel district to invest or deposit such funds in investments or deposits other than those specified by said part 6 if the board determines by resolution that such investments or deposits meet the standard established in section 15-1-304, C.R.S., if the income is at least comparable to income available on investments or deposits specified by said part 6, and if such investments will assist the tunnel district in the acquisition, construction, improvement, equipping, operation, maintenance, or financing of a tunnel.

(2) (a) (I) The tunnel project for which securities are issued pursuant to paragraph (b) of subsection (1) of this section may be the acquisition, construction, improvement, equipping, operation, or maintenance, or any combination thereof, of any land, tunnel, building, structure, equipment, or other property necessary or desirable for use in connection with the operations of a tunnel district.

(II) The cost of the project may include, in the board's discretion, all incidental costs pertaining to the project and the financing thereof, including, without limitation, contingencies and the capitalization, with proceeds of securities, of operation and maintenance expenses appertaining to the tunnel project and interest on the securities for any period not exceeding the period estimated by the board to effect the acquisition, construction, improvement, or equipping of the tunnel project plus one year, of any discount on the securities, and of any reserves for payment of principal of and interest on the securities.

(b) The board may issue interim securities, which may be designated "bonds", "notes", or "warrants", evidencing any emergency loans, any acquisition, construction, improvement, equipping, operation, or maintenance loans, and any other temporary loans not exceeding three years in supplementation of long-term financing, such interim securities to be funded with the proceeds of long-term securities, net pledged revenues, or further interim securities, or any combination thereof, as the board may determine.

(c) (I) Except to the extent inconsistent with the provisions of this section, any securities issued pursuant to this section for any tunnel project shall be issued in the form and manner and with the effect provided in sections 11-54-111 and 11-54-112, C.R.S., for public securities issued under the "Refunding Revenue Securities Law", article 54 of title 11, C.R.S.

(II) The authorizing resolution, trust indenture, or other instrument appertaining thereto may contain any of the covenants, and the board may do such acts and things, as are permitted in section 11-54-113, C.R.S.

(III) Revenue obligations issued to refund revenue bonds of a tunnel district and to refund securities issued under this section may be issued under the "Refunding Revenue Securities Law", article 54 of title 11, C.R.S.

(d) The securities shall be payable and collectible, as to principal, interest, and any prior redemption premium, solely out of net pledged revenues, and the holder thereof may not look to any general or other fund for such payment of such securities except the net revenues pledged therefor. The securities shall not constitute an indebtedness or a debt within the meaning of any constitutional or statutory provision or limitation if any such provision or limitation appertains

thereto. The securities shall not be considered or held to be general obligations of the tunnel district but shall constitute its special obligations, and the full faith and credit of the tunnel district shall not be pledged for their payment. Such payment shall not be secured by an encumbrance, a mortgage, or any other pledge of property of the tunnel district, except for its pledged revenues. No property of the tunnel district, subject to said exception, shall be liable to be forfeited or taken in payment of securities.

(e) A resolution providing for the issuance of bonds or other securities under this section or an indenture or other proceedings appertaining thereto may provide that the securities contain a recital that they are issued pursuant to this section, which recital shall be conclusive evidence of their validity and the regularity of their issuance.

(f) The determination of the board that the limitations imposed under this subsection (2) upon the issuance of securities under this section have been met shall be conclusive in the absence of fraud or arbitrary and gross abuse of discretion, regardless of whether the authorizing resolution or the securities thereby authorized contain a recital as authorized by paragraph (e) of this subsection (2).

(g) Bonds and other securities issued under the provisions of this section, their transfer, and the income therefrom shall forever remain free and exempt from taxation by this state or any political subdivision thereof.

(h) (I) Except as otherwise expressly provided in this section, this section, without reference to other statutes of this state, constitutes full authority for the exercise of the incidental powers granted in this section concerning the borrowing of money to defray, in whole or in part, the cost of any tunnel project and the issuance of securities to evidence such loans.

(II) The powers conferred by this section are in addition and supplemental to and not in substitution for, and the limitations imposed by this section shall not affect, the powers conferred by any other law.

(III) Nothing in this section shall be construed as preventing the exercise of any power granted to the board or to a tunnel district acting by and through its board or any officer, agent, or employee thereof by any other law.

(3) The state hereby pledges and agrees with the holders of any bonds or other obligations issued by any tunnel district that the state will not limit, alter, restrict, or impair the rights vested in the tunnel district to fulfill the terms of any agreements made with the holders of bonds or other securities authorized and issued pursuant to the provisions of this section. The state further agrees that it will not in any way impair the rights or remedies of the holders of any bonds or securities of the tunnel district until such bonds or securities have been paid or until adequate provision for payment thereof has been made. The tunnel district may include this provision and undertaking of the state in such bonds or other securities.

Source: L. 87: Entire section added, p. 1233, § 4, effective May 13. **L. 89:** (1)(c) amended, p. 1117, § 35, effective July 1.

Editor's note: Subsection (3) was originally numbered as subsection (5) by chapter 242, Session Laws of Colorado 1987, p. 1233, but was renumbered on revision.

32-1-1106. Special financial provisions - metropolitan districts that provide street improvement, safety protection, or transportation services. (1) In addition to the powers

specified in section 32-1-1101, the board of a metropolitan district organized with street improvement, safety protection, or transportation powers as described in section 32-1-1004 (2)(d), (2)(f), (2)(h), and (5) has the power, for and on behalf of the district, to levy a uniform sales tax, at a rate determined by the board, upon every transaction or other incident with respect to which a sales tax is levied by the state that occurs within any area of the district that is not also within the boundaries of an incorporated municipality subject to the following limitations:

(a) The board may levy the tax only if the question of levying the tax is submitted to and approved by a majority of the registered electors of the portion of the district in which the tax is to be levied voting at a regular district election or at a special election held on the Tuesday after the first Monday of November in an even-numbered year or on the first Tuesday of November in an odd-numbered year in accordance with this article and section 20 of article X of the state constitution. The ballot issue shall provide that the tax to be levied shall be in addition to any other taxes levied by the district. The district shall pay all costs of the election, and no district moneys may be used to urge or oppose passage of the ballot issue submitted at the election.

(b) The net revenues of any sales or use tax levied may be used only to fund one or more of the following:

(I) Safety protection, as described in section 32-1-1004 (2)(d), in areas of the district in which the tax is to be levied;

(II) Street improvement, as described in section 32-1-1004 (2)(f), in areas of the district in which the tax is to be levied; or

(III) Transportation, as described in, and limited by the provisions of, section 32-1-1004 (2)(h) and (5).

(2) (a) The collection, administration, and enforcement of any sales tax levied by a metropolitan district pursuant to subsection (1) of this section shall be performed by the executive director of the department of revenue in the same manner as that for the collection, administration, and enforcement of the state sales tax levied pursuant to article 26 of title 39, C.R.S., including, without limitation, the retention by a vendor of the percentage of the amount remitted to cover the vendor's expense in the collection and remittance of the sales tax as provided in section 39-26-105, C.R.S. The executive director shall make monthly distributions of sales tax collections to the district. The district shall pay the net incremental cost incurred by the department in the administration and collection of the sales tax.

(b) (I) A qualified purchaser may provide a direct payment permit number issued pursuant to section 39-26-103.5, C.R.S., to a vendor or retailer that is liable and responsible for collecting and remitting any sales tax levied on a sale made to the qualified purchaser pursuant to the provisions of this article. A vendor or retailer that has received a direct payment permit number in good faith from a qualified purchaser shall not be liable or responsible for collection and remittance of any sales tax levied on a sale that is paid for directly from the qualified purchaser's funds and not the personal funds of an individual.

(II) A qualified purchaser that provides a direct payment permit number to a vendor or retailer shall be liable and responsible for the amount of sales tax levied on a sale made to the qualified purchaser pursuant to the provisions of this article in the same manner as liability would be levied on a qualified purchaser for state sales tax pursuant to section 39-26-105 (3), C.R.S.

(3) Revenues raised by a metropolitan district through the levy of a sales tax pursuant to subsection (1) of this section shall be in addition to and shall not be used to supplant any state

funding that the district or any county, municipality, regional transportation authority, or other governmental entity that has transportation-related powers and that includes territory located within the district would otherwise be entitled to receive from the state or any other local government, including, but not limited to, any existing or budgeted department of transportation funding of any portion of the state highway system within the territory of the authority.

Source: L. 2010: Entire section added, (HB 10-1243), ch. 385, p. 1802, § 2, effective August 11. **L. 2012:** (1)(a) amended, (HB 12-1292), ch. 181, p. 689, § 42, effective May 17.

PART 12

LEVY AND COLLECTION OF TAXES

Cross references: For the constitutional provision that establishes limitations on spending, the imposition of taxes, and the incurring of debt, see § 20 of article X of the Colorado constitution.

32-1-1201. Procedure. (1) Except as provided in subsection (2) of this section, the board shall determine in each year the amount of money necessary to be raised by taxation, taking into consideration other sources of revenue of the special district, and shall fix a rate of levy which, when levied upon every dollar of valuation for assessment of taxable property within the special district and together with other revenues, will raise the amount required by the special district annually to supply funds for paying expenses of organization and the costs of constructing, operating, and maintaining the facilities and improvements of the special district and to pay in full, promptly, when due, all interest on and principal of bonds and other obligations of the special district. In the event of accruing defaults or deficiencies, an additional levy may be made as provided in subsection (2) of this section.

(2) The board, in certifying annual levies, shall take into account the maturing indebtedness for the ensuing year as provided in its contracts, maturing bonds and interest on bonds, and deficiencies and defaults of prior years and shall make ample provision for the payment thereof. If the moneys produced from such levies, together with other revenues of the special district, are not sufficient to pay punctually the annual installments on its contracts or bonds, and interest thereon, and to pay defaults and deficiencies, the board shall make such additional levies of taxes as may be necessary for such purposes, and, notwithstanding any limitation provided in part 11 of this article, such taxes shall be made and continue to be levied until the indebtedness of the district is fully paid.

(3) In accordance with the schedule prescribed by section 39-5-128, C.R.S., the board shall certify to the board of county commissioners of each county within the special district, or having a portion of its territory within the district, the rate so fixed in order that, at the time and in the manner required by law for the levying of taxes, such board of county commissioners shall levy such tax upon the valuation for assessment of all taxable property within the special district. When necessary, a special district shall, with respect to an increased mill levy, comply with the requirements of part 3 of article 1 of title 29, C.R.S.

Source: L. 81: Entire article R&RE, p. 1607, § 1, effective July 1.

Editor's note: The provisions of this section are similar to provisions of several former sections as they existed prior to 1981. For a detailed comparison, see the comparative tables located in the back of the index.

32-1-1202. County officers to levy and collect - lien. It is the duty of the body having authority to levy taxes within each county to levy the taxes provided by section 32-1-1201 (1) and (2). It is the duty of all officials charged with the duty of collecting taxes to collect such taxes at the time and in the form and manner and with like interest and penalties as other taxes are collected and when collected to pay the same to the special district ordering the levy and collection. The payment of such collections shall be made monthly to the treasurer of the special district or paid into the depository thereof to the credit of the special district. All taxes levied under this part 12, together with interest thereon and penalties for default in payment thereof, and all costs of collecting the same shall constitute, until paid, a perpetual lien on and against the property taxed, and such lien shall be on a parity with the tax lien of other general taxes.

Source: L. 81: Entire article R&RE, p. 1608, § 1, effective July 1.

Editor's note: The provisions of this section are similar to provisions of several former sections as they existed prior to 1981. For a detailed comparison, see the comparative tables located in the back of the index.

32-1-1203. Sale for delinquencies. If the taxes levied are not paid, delinquent real property shall be sold at the regular tax sale for the payment of said taxes, interest, and penalties in the manner provided by the statutes of this state for selling real property for the nonpayment of general taxes. If there are no bids at said tax sale for the property so offered, said property shall be struck off to the county, and the county shall account to the special district in the same manner as provided by law for accounting for school, town, and city taxes. Delinquent personal property shall be distrained and sold as provided by law.

Source: L. 81: Entire article R&RE, p. 1608, § 1, effective July 1.

Editor's note: The provisions of this section are similar to provisions of several former sections as they existed prior to 1981. For a detailed comparison, see the comparative tables located in the back of the index.

Cross references: For distraint and sale of personal property, see § 39-10-111; for the sale of tax liens, see article 11 of title 39.

32-1-1204. Liability of property included or excluded from district. All real property included within, or excluded from, a special district shall thereafter be subject to the levy of taxes for the payment of its proportionate share of any indebtedness of the district outstanding at the time of inclusion or exclusion as provided in parts 4 and 5 of this article.

Source: L. 81: Entire article R&RE, p. 1608, § 1, effective July 1.

Editor's note: This section is similar to former § 32-2-123 as it existed prior to 1981.

PART 13

SPECIAL DISTRICT REFUNDING

32-1-1301. Legislative declaration - applicability. It is hereby declared that the orderly refunding of any general obligation bonds and any other lawful general obligation indebtedness incurred by any special district, when advantageous to the special district or persons within the special district, will serve a public use and will promote the health, safety, security, and general welfare of the inhabitants thereof and of the people of this state. It is hereby further declared to be the intent of this general assembly that any bonds issued pursuant to this part 13 are not to be considered as additional debt incurred by the special district. It is the intent of this part 13 to provide for a uniform mechanism for refunding for special districts.

Source: L. 81: Entire article R&RE, p. 1608, § 1, effective July 1.

Editor's note: This section is similar to former § 32-1-901 as it existed prior to 1981.

32-1-1302. Refunding bonds. (1) Any general obligation bonds issued and any other lawful general obligation indebtedness incurred by any special district may be refunded without an election of the special district issuing or incurring the same, or any successor thereof, in the name of the special district which issued or incurred the indebtedness being refunded, subject to provisions concerning their payment and to any other contractual limitations in the proceedings authorizing their issuance or otherwise appertaining thereto.

(2) Said refunding may be accomplished by the issuance of bonds to refund, pay, and discharge all or any part of such outstanding indebtedness, including part of a single issue of general obligation bonds and including any interest thereon in arrears or about to become due, and for the purpose of:

(a) Avoiding or terminating any default in the payment of interest on or principal of, or both principal of and interest on, said indebtedness;

(b) Reducing interest costs or effecting other economies;

(c) Modifying or eliminating restrictive contractual limitations relating to the incurring of additional indebtedness or to any system or facility, or improvement thereto; or

(d) Any combination of the foregoing purposes.

(3) Refunding bonds may be delivered in exchange for the outstanding bonds refunded or may be sold as provided in this part 13 for an original issue of bonds.

(4) Any revenue bonds issued or any other obligation pledging solely the revenue of the special district incurred by any special district may be refunded in the manner provided by section 31-35-412, C.R.S., or article 54 or 56 of title 11, C.R.S.

Source: L. 81: Entire article R&RE, p. 1609, § 1, effective July 1.

Editor's note: This section is similar to former § 32-1-902 as it existed prior to 1981.

32-1-1303. Limitations upon issuance. (1) No general obligation bond or other general obligation indebtedness may be refunded unless the holder thereof voluntarily surrenders the same for exchange or payment or the said indebtedness either matures or is callable for prior redemption under its terms within ten years from the date of issuance of the refunding bonds, and provision shall have been made in said refunding for paying the bonds or other indebtedness being refunded within said period of time.

(2) The refunding bonds may mature at one time or from time to time but not exceeding thirty years from the date of issuance of the refunding bonds. The interest rates on such refunding bonds shall be determined by the board.

(3) The principal amount of the refunding bonds may exceed the principal amount of the refunded bonds or other indebtedness being refunded if the aggregate principal and interest costs of the refunding bonds do not exceed such unaccrued cost of the indebtedness refunded except:

(a) To the extent any interest on the indebtedness refunded in arrears or about to become due is capitalized with the proceeds of said refunding bonds; or

(b) To the extent necessary to capitalize and pay, with the proceeds of said refunding bonds, the following:

(I) All costs and expenses of said refunding procedures;

(II) The amounts of the prior redemption premiums, if any, on the indebtedness being refunded; and

(III) Any interest in arrears or about to become due and payable.

(4) The principal amount of the refunding bonds may also be less than or the same as the principal amount of the indebtedness being refunded so long as provision is duly and sufficiently made for the payment of the refunded bonds.

Source: L. 81: Entire article R&RE, p. 1609, § 1, effective July 1.

Editor's note: This section is similar to former § 32-1-903 as it existed prior to 1981.

32-1-1304. Use of proceeds of refunding bonds. The proceeds of general obligation refunding bonds shall either be immediately applied to the retirement of the indebtedness being refunded or be placed in escrow in any state or national bank within this state which is a member of the federal deposit insurance corporation and which has trust powers to be applied to the payment of the indebtedness being refunded upon presentation therefor; but, to the extent any incidental expenses have been capitalized, such refunding bond proceeds may be used to defray such expenses, and any accrued interest on the refunding bonds may be applied to the payment of the interest thereon and the principal thereof, or both interest and principal, or may be deposited in a reserve therefor, as the board may determine. Any such escrow shall not necessarily be limited to proceeds of refunding bonds but may include other moneys available for its purpose. Any proceeds in escrow, pending such use, may be invested or reinvested in securities meeting the investment requirements established in part 6 of article 75 of title 24, C.R.S. Such proceeds and investments in escrow, together with any interest to be derived from any such investment, shall be in an amount at all times sufficient as to principal, interest, any prior redemption premium due, and any charges of the escrow agent payable therefrom to pay the indebtedness being refunded as the same becomes due at their respective maturities or due at any designated prior redemption dates in connection with which the board shall exercise a prior

redemption option. Any purchaser of any refunding bond issued under this part 13 shall in no manner be responsible for the application of the proceeds thereof by the special district or any of its officers, agents, or employees.

Source: L. 81: Entire article R&RE, p. 1610, § 1, effective July 1. **L. 89:** Entire section amended, p. 1134, § 83, effective July 1.

Editor's note: This section is similar to former § 32-1-904 as it existed prior to 1981.

32-1-1305. Combination of refunding and other bonds. General obligation bonds for refunding and general obligation bonds for any other purpose authorized in this article may be issued separately or issued in combination in one or more series by any special district.

Source: L. 81: Entire article R&RE, p. 1610, § 1, effective July 1.

Editor's note: This section is similar to former § 32-1-905 as it existed prior to 1981.

32-1-1306. Board's determination final. The determination of the board that the limitations under this part 13 imposed upon the issuance of refunding bonds have been met shall be conclusive in the absence of fraud or arbitrary and gross abuse of discretion.

Source: L. 81: Entire article R&RE, p. 1610, § 1, effective July 1.

Editor's note: This section is similar to former § 32-1-906 as it existed prior to 1981.

32-1-1307. Construction of part 13. (1) The powers conferred by this part 13 are in addition and supplemental to, and not in substitution for, and the limitations imposed by this part 13 shall not affect the powers conferred by any other law. Bonds may be issued under this part 13 without regard to the provisions of any other law. Insofar as the provisions of this part 13 are inconsistent with the provisions of any other law, the provisions of this part 13 shall be controlling.

(2) This part 13 shall be liberally construed in order to accomplish its purposes.

Source: L. 81: Entire article R&RE, p. 1610, § 1, effective July 1.

Editor's note: This section is similar to former §§ 32-1-907 and 32-1-908 as they existed prior to 1981.

PART 14

COMPOSITION OR ADJUSTMENT OF INDEBTEDNESS OF LOCAL TAXING DISTRICTS

32-1-1401. Legislative declaration. The general assembly hereby declares this part 14 to be necessary in order to provide for the orderly and equitable payment of the obligations of local taxing districts organized under the provisions of this article, which payment may be effected by a plan of adjustment of the debts of such taxing districts under the federal bankruptcy law. The general assembly further declares that the necessity of such taxing districts availing themselves of the provisions of the federal bankruptcy law results from unanticipated economic and fiscal conditions affecting such taxing districts, rendering such taxing districts unable to discharge their indebtedness as the same becomes due and imposing a severe hardship on the taxpayers therein to the detriment not only of the credit of such taxing districts and that of all political subdivisions of the state of Colorado but also of the creditors of such taxing districts.

Source: L. 90: Entire part added, p. 1508, § 1, effective May 24.

32-1-1402. Definitions. As used in this part 14, unless the context otherwise requires:

(1) "Federal bankruptcy law" means chapter 9 of title 11, U.S.C., as the same may be from time to time amended, or any act of congress relating to the adjustment or composition of indebtedness of municipalities enacted pursuant to article I, section 8, clause 4, of the United States constitution concerning uniform laws on the subject of bankruptcy.

(2) "Insolvent taxing district" means a taxing district which is able to show to the United States bankruptcy court in and for the district of Colorado that it has been unsuccessful with other existing alternatives to bankruptcy and which would be unable to discharge its obligations as they become due by means of a mill levy of not less than one hundred mills to be imposed by:

(a) The taxing district; or

(b) Any other taxing district pursuant to a contract which pledges the revenues of such contract to the payment of such obligations.

(3) "Plan" means a plan for the adjustment of the debtor's debts under federal bankruptcy law filed by an insolvent taxing district.

(4) "Taxing district" means a special district which is organized or acting under the provisions of this article.

Source: L. 90: Entire part added, p. 1508, § 1, effective May 24.

32-1-1403. Petition. Any insolvent taxing district is hereby authorized to file a petition authorized by federal bankruptcy law and to take any and all action necessary or proper to carry out the plan filed with said petition, or any modification of such plan thereafter accepted in writing by said district, if such original or modified plan is approved pursuant to federal bankruptcy law.

Source: L. 90: Entire part added, p. 1509, § 1, effective May 24.

32-1-1403.5. Notice and hearing by board. The board shall file a petition under section 32-1-1403 only at a regular or special meeting after publication of notice and postcard or letter notification to property owners within the district and to the division of local government in the department of local affairs of the place, time, and date of such meeting and such proposed action. Postcard or letter notification shall be mailed to property owners within the special district, as

listed on the records of the county assessor on the date requested, not less than ten days prior to such meeting.

Source: L. 91: Entire section added, p. 794, § 22, effective June 4.

32-1-1404. Powers. The plan may include provisions for the modification of the existing contracts of the taxing district as evidenced by its bonds or otherwise. Such plan may adapt or alter the procedures provided by the statutes of Colorado for the levy, certification, and collection of general taxes to conform to the provisions of the court approved plan of adjustment, in accordance with federal bankruptcy law; except that nothing in this part 14 shall be construed to impair the rights of persons who have purchased property at tax sale. If the court approved plan provides for the issuance of new obligations of such taxing district for delivery to the creditors of the taxing district in exchange for outstanding obligations of such taxing district, such new obligations may be issued on the terms or conditions found in the plan of adjustment, regardless of any contrary state statute. Nothing in this part 14 shall impair the claims which creditors may have against persons who are not subject to jurisdiction of the court pursuant to chapter 9 of title 11, U.S.C. Any such plan proposed may provide for payments to creditors on terms and conditions which differ from the original contract if the present value of the total payments under the provisions of the plan do not exceed the present value of the total payments under the original contract.

Source: L. 90: Entire part added, p. 1509, § 1, effective May 24.

32-1-1405. Powers not limited by this part 14. The enumeration of powers in this part 14 shall not exclude powers not mentioned and elsewhere conferred which may be necessary for or incidental to the accomplishment of the purposes of this part 14 and the consummation of a plan approved as provided in this part 14.

Source: L. 90: Entire part added, p. 1509, § 1, effective May 24.

32-1-1406. Validation of bankruptcy filings and approvals. The filing of a petition or a plan under the federal bankruptcy law by an insolvent taxing district prior to May 24, 1990, the approval of the plan of an insolvent taxing district prior to May 24, 1990, and any proceedings related to any such filing or approval are hereby validated.

Source: L. 90: Entire part added, p. 1509, § 1, effective May 24.

32-1-1407. Repeal of part. (Repealed)

Source: L. 90: Entire part added, p. 1510, § 1, effective May 24. **L. 93:** Entire section repealed, p. 225, § 1, effective March 31.

PART 15

RELIEF OF RESIDENTIAL TAXPAYERS FROM

LIEN OF SPECIAL DISTRICT TAXES FOR
GENERAL OBLIGATION INDEBTEDNESS

32-1-1501 to 32-1-1505. (Repealed)

Source: L. 92: Entire part repealed, p. 993, § 1, effective July 1.

Editor's note: This part 15 was added in 1991 and was not amended prior to its repeal in 1992. For the text of this part 15 prior to 1992, consult the Colorado statutory research explanatory note and the table itemizing the replacement volumes and supplements to the original volume of C.R.S. 1973 beginning on page vii in the front of this volume.

PART 16

CERTIFICATION AND NOTICE
OF SPECIAL DISTRICT TAXES FOR
GENERAL OBLIGATION INDEBTEDNESS

32-1-1601. Legislative declaration. The general assembly hereby finds and declares that special districts are political subdivisions and instrumentalities of the state of Colorado and local governments thereof. The general assembly further finds that defaults in payment of general obligation debts and the possibility of further defaults by some special districts have resulted in a general loss of confidence by investors in bonds and undertakings of all types issued or to be issued by local governments of the state and have imposed severe hardship on investors in general obligation bonds of special districts and upon owners of residential real property within such districts. The general assembly further finds that this part 16 is necessary to protect the credit reputation of local governments of this state, to restore confidence of investors in local government obligations, and to protect owners of residential real property within special districts.

Source: L. 92: Entire part added, p. 993, § 2, effective July 1.

32-1-1602. Definitions. As used in this part 16, unless the context otherwise requires:

(1) "General obligation debt" means an obligation of a special district created by a resolution of the special district authorizing the issuance of bonds or a contract, the obligations of which are backed by a pledge of the full faith and credit of the special district and a covenant to impose mill levies without limit to retire the bonds or fund the contractual obligation.

(2) "Special district" shall have the same meaning as provided in section 32-1-103 (20).

Source: L. 92: Entire part added, p. 994, § 2, effective July 1.

32-1-1603. Separate mill levies - certification to county commissioners. After July 1, 1992, special districts which levy taxes for payment of general obligation debt shall certify separate mill levies to the board of county commissioners, one each for funding requirements of each such debt in accordance with the relevant contracts or bond resolutions which identifies

each bond issue by series, date, coupon rate, and maturity and each contract by title, date, principal amount, and maturity and one for the remainder of the budget of said district.

Source: L. 92: Entire part added, p. 994, § 2, effective July 1.

32-1-1604. Recording. Whenever a special district authorizes or incurs a general obligation debt, a notice of such action and a description of such debt in a form prescribed by the director of the division of local government in the department of local affairs shall be recorded by the special district with the county clerk and recorder in each county in which the district is located. The recording shall be done within thirty days after authorizing or incurring the debt.

Source: L. 92: Entire part added, p. 994, § 2, effective July 1.

32-1-1605. Limitations on actions - prior law. Any claim for relief under section 32-1-1504, as it existed prior to July 1, 1992, shall be commenced on or before January 1, 1993, and not thereafter.

Source: L. 92: Entire part added, p. 994, § 2, effective July 1.

PART 17

PROPERTY TAX REDUCTION AGREEMENT

32-1-1701. Legislative declaration. The general assembly hereby finds and declares that the health, safety, and welfare of the people of this state are dependent upon the attraction of new private enterprise as well as the retention and expansion of existing private enterprise; that incentives are often necessary in order to attract private enterprise; and that providing incentives stimulates economic development in the state and results in the creation and maintenance of new jobs.

Source: L. 2005: Entire part added, p. 106, § 1, effective August 8.

32-1-1702. New business facilities - expanded or existing business facilities - incentives - limitations - authority to exceed revenue-raising limitation. (1) Notwithstanding any law to the contrary, a special district may negotiate for an incentive payment or credit with a taxpayer who establishes a new business facility, as defined in section 39-30-105 (7)(e), C.R.S., in the special district. In no instance shall any negotiation result in an annual incentive payment or credit that is greater than the amount of taxes levied by the special district upon the taxable business personal property located at or within the new business facility and used in connection with the operation of the new business facility for the current property tax year. The term of any agreement made prior to August 6, 2014, pursuant to the provisions of this subsection (1) shall not exceed ten years, including the term of any original agreement being renewed. The term of any agreement made on or after August 6, 2014, pursuant to this subsection (1) shall not exceed thirty-five years, which does not include the term of any prior agreement.

(1.5) (a) Notwithstanding any law to the contrary, a special district may negotiate an incentive payment or credit for a taxpayer that has an existing business facility located in the special district if, based on verifiable documentation, the special district is satisfied that there is a substantial risk that the taxpayer will relocate the facility out of state.

(b) The documentation required pursuant to paragraph (a) of this subsection (1.5) must include information that the taxpayer could reasonably and efficiently relocate the facility out of state and that at least one other state is being considered for the relocation. In order to be eligible for a payment or credit under this subsection (1.5), a taxpayer must identify the specific reasons why the taxpayer is considering leaving the state.

(c) A special district shall not give an annual incentive payment or credit under this subsection (1.5) that is greater than the amount of the taxes levied by the special district upon the taxable personal property located at or within the existing business facility and used in connection with the operation of the existing business facility for the current property tax year. The term of an agreement made prior to August 6, 2014, pursuant to this subsection (1.5) shall not exceed ten years, and this limit includes any renewals of the original agreement. The term of an agreement made on or after August 6, 2014, pursuant to this subsection (1.5) shall not exceed thirty-five years, and this limit does not include the term of any prior agreement. A special district shall not give an annual incentive payment or credit under this subsection (1.5), unless the board of the special district approves the payment or credit at a public hearing.

(2) Notwithstanding any law to the contrary, a special district may negotiate for an incentive payment or credit with a taxpayer who expands a facility, as defined in section 39-30-105 (7)(c), C.R.S., the expansion of which constitutes a new business facility, as defined in section 39-30-105 (7)(e), C.R.S., and that is located in the special district. In no instance shall any negotiation result in an annual incentive payment or credit that is greater than the amount of the taxes levied by the special district upon the taxable business personal property directly attributable to the expansion located at or within the expanded facility and used in connection with the operation of the expanded facility for the current property tax year. The term of any agreement made prior to August 6, 2014, pursuant to the provisions of this subsection (2) shall not exceed ten years, including the term of any original agreement being renewed. The term of any agreement made on or after August 6, 2014, pursuant to this subsection (2) shall not exceed thirty-five years, which does not include the term of any prior agreement.

(3) A special district shall not enter into an agreement pursuant to the provisions of this section unless, prior to or simultaneous with the execution of the agreement, the taxpayer also enters into an agreement with a municipality or county pursuant to section 30-11-123, 31-15-903, or 39-30-107.5, C.R.S.

(4) A special district that negotiates an agreement pursuant to the provisions of this section shall inform any municipality and county in which a new business facility would be located, or an existing or expanded business facility is located, whichever is applicable, of such negotiations.

Source: L. 2005: Entire part added, p. 106, § 1, effective August 8. **L. 2007:** (1) and (2) amended, p. 351, § 6, effective August 3. **L. 2012:** (1) and (2) amended, (HB 12-1029), ch. 61, p. 221, § 5, effective August 8. **L. 2013:** (1.5) added and (4) amended, (HB 13-1206), ch. 374, p. 2205, § 3, effective August 7. **L. 2014:** (1), (1.5)(c), and (2) amended, (SB 14-183), ch. 196, p. 722, § 3, effective August 6.

Cross references: In 2012, subsections (1) and (2) were amended by the "Save Colorado Jobs Act". For the short title and the legislative declaration, see sections 1 and 2 of chapter 61, Session Laws of Colorado 2012.

PART 18

PUBLIC IMPROVEMENTS - SPECIAL DISTRICT CONTRACTS

32-1-1801. Short title. This part 18 shall be known and may be cited as the "Integrated Delivery Method for Special District Public Improvements Act".

Source: L. 2007: Entire part added, p. 1818, § 4, effective August 3.

32-1-1802. Legislative declaration. (1) The general assembly hereby finds and declares that:

(a) It is the policy of the state of Colorado to encourage public contracting procedures that encourage competition, openness, and impartiality to the maximum extent possible.

(b) Competition exists not only in the costs of goods and services, but in the technical competence of the providers and suppliers in their ability to make timely completion and delivery and in the quality and performance of their products and services.

(c) Timely and effective completion of public projects can be achieved through a variety of methods when procuring goods and services for public projects.

(d) In enacting this part 18, the general assembly intends to establish for special districts and agencies of special districts an optional alternative public project delivery method.

Source: L. 2007: Entire part added, p. 1818, § 4, effective August 3.

32-1-1803. Definitions. As used in this part 18, unless the context otherwise requires:

(1) "Agency" means any special district organized under this title or any other political subdivision that such district may create pursuant to state law that is a budgetary unit exercising construction contracting authority or discretion.

(2) "Contract" means any agreement for designing, building, altering, repairing, improving, demolishing, operating, maintaining, or financing a public project.

(3) "Cost-reimbursement contract" means a contract under which a participating entity is reimbursed for costs that are allowable and allocable in accordance with the contract terms and provisions of this part 18.

(4) "Integrated project delivery" or "IPD" means a project delivery method in which there is a contractual agreement between an agency and a single participating entity for the design, construction, alteration, operation, repair, improvement, demolition, maintenance, or financing, or any combination of these services, for a public project.

(5) "IPD contract" means a contract using an integrated project delivery method.

(6) "Participating entity" means a partnership, corporation, joint venture, unincorporated association, or other legal entity that provides appropriately licensed planning, architectural, engineering, development, construction, operating, or maintenance services as needed in connection with an IPD contract.

(7) "Public project" means any lands, buildings, structures, works, machinery, equipment, or facilities suitable for and intended for use as public property for public purposes or suitable for and intended for use in the promotion of the public health, public welfare, or public education, to the extent the boundaries of an agency and a school district are coterminous, or for the conservation of natural resources, including the planning of any such lands, buildings, improvements, structures, works, machinery, equipment, or facilities. "Public project" shall also include existing lands, buildings, improvements, structures, works, and facilities, as well as improvements, renovations, or additions to any such lands, buildings, improvements, structures, works, or facilities, and any operation or maintenance programs for the operation and upkeep of such projects.

(8) "Public purposes" includes, but is not limited to, the supplying of public water services and facilities, public sewer services and facilities, and lands, buildings, structures, improvements, equipment, and any other services or facilities authorized under this article or for public education to the extent the boundaries of the agency and the school district are coterminous.

Source: L. 2007: Entire part added, p. 1819, § 4, effective August 3.

32-1-1804. Integrated project delivery contracts - authorization - effect of other laws. (1) Notwithstanding any other provision of law, and without limiting or modifying any alternative for public contracting by an agency authorized by any other provision of law, any agency may award an IPD contract for a public project under the provisions of this part 18 upon the determination by such agency that integrated project delivery represents a timely or cost-effective alternative for a public project.

(2) Nothing in this part 18 shall be construed as exempting any agency or participating entity from applicable federal, state, or local laws, regulations, or ordinances governing labor relations, professional licensing, public contracting, or other related laws, except to the extent that an exemption is created under such legal authority or is granted by necessary implication from such legal authority. Notwithstanding any other provision of law, the requirements of section 32-1-1001 (1)(d)(I) shall not apply to any agency awarding an IPD contract pursuant to this part 18. Notwithstanding any other provision of law, the definitions contained in section 7-45-102, C.R.S., shall not apply to a project undertaken pursuant to this title.

Source: L. 2007: Entire part added, p. 1820, § 4, effective August 3.

32-1-1805. Integrated project delivery contracting process - prequalification of participating entities - apprentice training. (1) An agency may prequalify participating entities for an IPD contract by publication of notice of its request for qualifications prior to the date set forth in the notice. A request for qualifications may contain the following elements and such additional information as may be requested by the agency:

(a) A general description of the proposed public project;

(b) Relevant budget considerations;

(c) Requirements of the participating entity, including:

(I) If the participating entity is a partnership, limited partnership, limited liability company, joint venture, or other association, a listing of all of the partners, general partners,

members, joint venturers, or association members known at the time of submission of qualifications;

(II) Evidence that the participating entity, or the constituent entities or members thereof, has completed or has demonstrated the experience, competency, capability, and capacity, financial and otherwise, to complete projects of similar size, scope, or complexity;

(III) Evidence that the proposed personnel of the participating entity have sufficient experience and training to completely manage and complete the proposed public project; and

(IV) Evidence of all applicable licenses, registrations, and credentials required to provide the proposed services for the public project, including but not limited to information on any revocation or suspension of any such license, registration, or credential.

(d) The criteria for prequalification.

(2) From the participating entities responding to the request for qualifications, the agency shall prepare and announce a short list of participating entities that it determines to be most qualified to receive a request for proposal.

(3) Where an apprentice training program certified by the office of apprenticeship located in the employment and training administration in the United States department of labor exists in a county in which all or any portion of the special district is located, or a comparable program for the training of apprentices is available in such county:

(a) Each participating entity shall demonstrate to the agency that it has access to either the certified program or a comparable alternative; and

(b) Each participating entity shall demonstrate that each of its subcontractors, at any tier, selected to perform work under a contract with a value of two hundred fifty thousand dollars or more has access to either the certified program or a comparable alternative.

Source: L. 2007: Entire part added, p. 1820, § 4, effective August 3.

32-1-1806. Requests for proposals - evaluation and award of integrated project delivery contracts. (1) An agency shall prepare and, where it has not published a notice of request for qualifications pursuant to section 32-1-1805 (1), publish a notice of request for proposals for each IPD contract that may contain the following elements and such other elements as may be requested by the agency:

(a) The procedures to be followed for submitting proposals;

(b) The criteria for evaluation of a proposal, which criteria may provide for selection of a proposal on a basis other than solely the lowest costs estimates submitted;

(c) The procedures for making awards;

(d) Required performance standards as defined by the participating entity;

(e) A description of the drawings, specifications, or other submittals to be provided with the proposal, with guidance as to the form and the acceptable level of completion of the drawings, specifications, or submittals;

(f) Relevant budget considerations or, for an IPD contract that includes operation or maintenance services, the life-cycle cost analysis for the contract;

(g) The proposed project scheduling; and

(h) The stipend, if any, to be paid to participating entities responding to the request for proposals who appear on the agency's short list pursuant to section 32-1-1805 (2) but whose proposals are not selected for award of the IPD contract.

(2) After obtaining and evaluating proposals according to the criteria and procedures set forth in the request for proposals in accordance with the requirements of subsection (1) of this section, an agency may accept the proposal that, in its estimation, represents the best value to the agency. Acceptance of a proposal shall be by written notice to the participating entity that submitted the accepted proposal.

(3) With respect to performance under each IPD contract, the participating entity shall comply with all laws applicable to public projects.

(4) Notwithstanding any other provision of law, a participating entity selected for award of an IPD contract is not required to be licensed or registered to provide professional services as defined in section 24-30-1402 (6), C.R.S., if the person or firm actually performing any such professional services on behalf of the participating entity is appropriately licensed or registered and if the participating entity otherwise complies with applicable state licensing laws and requirements related to such professional services.

Source: L. 2007: Entire part added, p. 1821, § 4, effective August 3.

32-1-1807. Supplemental provisions. The governing body of an agency may establish supplemental provisions that are designed to implement the provisions of this part 18.

Source: L. 2007: Entire part added, p. 1822, § 4, effective August 3.

MULTIPURPOSE DISTRICTS

ARTICLE 2

Metropolitan Recreation Districts

32-2-101 to 32-2-134. (Repealed)

Source: L. 81: Entire article repealed, p. 1628, § 42, effective July 1.

Editor's note: This article was numbered as article 12 of chapter 89, C.R.S. 1963. For amendments to this article prior to its repeal in 1981, consult the Colorado statutory research explanatory note and the table itemizing the replacement volumes and supplements to the original volume of C.R.S. 1973 beginning on page vii in the front of this volume.

ARTICLE 3

Metropolitan Districts (1947 Act)

32-3-101 to 32-3-133. (Repealed)

Source: L. 81: Entire article repealed, p. 1628, § 42, effective July 1.

Editor's note: This article was numbered as article 3 of chapter 89, C.R.S. 1963. For amendments to this article prior to its repeal in 1981, consult the Colorado statutory research explanatory note and the table itemizing the replacement volumes and supplements to the original volume of C.R.S. 1973 beginning on page vii in the front of this volume.

WATER AND SANITATION DISTRICTS

ARTICLE 4

Water and Sanitation Districts

PART 1

WATER AND SANITATION DISTRICTS

32-4-101 to 32-4-140. (Repealed)

Source: L. 81: Entire part repealed, p. 1628, § 42, effective July 1.

Editor's note: This part 1 was numbered as article 5 of chapter 89, C.R.S. 1963. For amendments to this part 1 prior to its repeal in 1981, consult the Colorado statutory research explanatory note and the table itemizing the replacement volumes and supplements to the original volume of C.R.S. 1973 beginning on page vii in the front of this volume.

PART 2

DOMESTIC WATERWORKS DISTRICT: UNINCORPORATED TERRITORY (1913 ACT)

32-4-201 to 32-4-231. (Repealed)

Source: L. 81: Entire part repealed, p. 1628, § 42, effective July 1.

Editor's note: This part 2 was numbered as article 1 of chapter 89, C.R.S. 1963. For amendments to this part 2 prior to its repeal in 1981, consult the Colorado statutory research explanatory note and the table itemizing the replacement volumes and supplements to the original volume of C.R.S. 1973 beginning on page vii in the front of this volume.

PART 3

DOMESTIC WATERWORKS DISTRICT - CITIES OF 10,000 OR MORE

32-4-301 to 32-4-341. (Repealed)

Source: L. 81: Entire part repealed, p. 1628, § 42, effective July 1.

Editor's note: This part 3 was numbered as article 7 of chapter 89, C.R.S. 1963. For amendments to this part 3 prior to its repeal in 1981, consult the Colorado statutory research explanatory note and the table itemizing the replacement volumes and supplements to the original volume of C.R.S. 1973 beginning on page vii in the front of this volume.

PART 4

METROPOLITAN WATER DISTRICTS

32-4-401. Legislative declaration. (1) It is hereby declared that to provide for the conservation of all water resources of the state of Colorado and for the greatest beneficial use of all waters, surface and subsurface, within this state, the organization of metropolitan water districts and the construction of works as defined in this part 4 by such districts are a public use and will:

(a) Be essentially for the public benefit and advantage of the people of the state of Colorado;

(b) Indirectly benefit all industries of the state;

(c) Indirectly benefit the state of Colorado in the increase of its taxable property valuation;

(d) Directly benefit municipalities by providing adequate supplies of water for domestic use;

(e) Directly benefit lands to be irrigated from works to be constructed;

(f) Directly benefit lands under irrigation by stabilizing the flow of water in streams and by increasing flow and return of water to such streams; and

(g) Promote the comfort, safety, and welfare of the people of the state of Colorado.

(2) It is therefore declared to be the policy of the state of Colorado:

(a) To investigate, acquire, control, and apply to beneficial use waters, surface and subsurface, originating in this state; and to provide for the direct and supplemental use of such waters for domestic, manufacturing, irrigation, power, and other beneficial uses;

(b) To obtain from waters, surface and subsurface, originating in Colorado the highest duty for domestic uses and irrigation of lands in Colorado within the terms of interstate compacts;

(c) To cooperate with the United States under the federal reclamation laws and with other agencies of the United States government for the construction and financing of works in the state of Colorado as defined in this part 4 and for the operation and maintenance thereof; and

(d) To promote the greater prosperity and general welfare of the people of the state of Colorado by encouraging the organization of metropolitan water districts as provided in this part 4.

Source: L. 55: p. 578, § 1. **CRS 53:** § 89-13-1. **C.R.S. 1963:** § 89-13-1.

32-4-402. Definitions. As used in this part 4, unless the context otherwise requires:

(1) "District" means a metropolitan water district organized under this part 4 either as originally organized or as changed from time to time.

(1.5) "Eligible elector" has the meaning specified in section 32-1-103 (5).

(2) "Governing body" means the city council of a city, the board of trustees of an incorporated town, or the board of directors of a water and sanitation district, or any organization by law authorized to obligate itself for the purposes contemplated by this part 4.

(3) "Municipality" means city, incorporated town, or water or water and sanitation districts; but in no event shall the word "municipality" include or refer to a city with a population in excess of three hundred thousand. The population of municipalities or unincorporated areas shall be determined by the latest federal census or state census or a local census directed by a city or a metropolitan water district.

(4) "Ordinance" means a resolution in the case of water and sanitation districts.

(5) "Publication" has the meaning specified in section 32-1-103 (15).

(6) (a) "Taxpaying elector" means "taxpaying elector" as defined in section 32-1-103 (23).

(b) (Deleted by amendment, L. 92, p. 890, § 130, effective January 1, 1993.)

Source: L. 55: p. 579, § 2. **CRS 53:** § 89-13-2. **C.R.S. 1963:** § 89-13-2. **L. 70:** p. 279, § 72. **L. 77:** (1.5) added and (5) and (6) R&RE, p. 1502, §§ 48, 49, effective July 15. **L. 81:** (1.5) and (5) amended, p. 1623, § 22, effective July 1, 1981. **L. 92:** (1.5) and (6) amended, p. 890, § 130, effective January 1, 1993.

32-4-403. Purpose, boundaries, and powers. Metropolitan water districts may be organized under this part 4 for any one or more of the purposes set out in section 32-4-401 and may be formed of any two or more municipalities, if such municipalities are located in the same county or in adjacent or nearby counties. Unincorporated territory may become a part of a district as provided for in this part 4. When so organized, each such district shall be a governmental subdivision of the state of Colorado and a quasi-municipal corporation with such powers as are expressly granted in this part 4, together with such powers as are reasonably implied therefrom and necessary and proper to carry out the purpose of such district.

Source: L. 55: p. 580, § 3. **CRS 53:** § 89-13-3. **C.R.S. 1963:** § 89-13-3.

32-4-404. Organization. (1) A metropolitan water district shall be organized in the following manner:

(a) The governing body of any municipality may enact an ordinance of a municipal corporation, and if other government subdivision a resolution, declaring that the public convenience and necessity require the organization of a metropolitan water district, which ordinance or resolution shall set forth the names of the municipalities to be in the proposed district and the name of the proposed district and boundary lines thereof, which boundaries shall be effective only for the six-month period under section 32-4-408 (5), and shall in no way limit future boundaries of the district as provided in this part 4.

(b) Within ninety days after receipt of a copy of such ordinance from the initiating governing body, the governing body of any municipality which is named in the ordinance

providing for the proposed district desiring to become a part of the district shall enact a similar ordinance, setting forth the same municipalities, name, and boundary.

(c) Before final reading and enactment of such an ordinance, the governing body of each such municipality shall hold a public hearing thereon, notice of which shall be given by publication in at least one newspaper of general circulation within such city at least five days before the hearing. Each governing body in determining whether to enact the ordinance and become a part of the proposed district shall consider the existing water supply of said municipality and its adequacy or inadequacy for the present and future needs of such municipality and future additions thereto. Determination as to need by the governing body shall be final and conclusive.

(d) The clerk of each governing body, upon the taking effect of such ordinance, shall forthwith transmit a certified copy thereof to the governing body of each other municipality named in the original ordinance to be a part of the proposed district and to the division of local government in the department of local affairs.

(e) The director of the division of local government, upon a receipt of a copy of such ordinance from the governing body of each municipality named in the original ordinance to be a part of the proposed district, shall forthwith issue a certificate reciting that the district named in the ordinance has been duly organized according to the laws of the state of Colorado and setting forth the names of the municipalities which have certified an ordinance to his office as above provided. The organization of any district shall be deemed effective upon the date of issuance of such certificate, and the validity of the organization of any such district shall be incontestable in any suit or proceeding which has not been commenced within three months from such date. The director of said division shall forthwith transmit to the governing body of each municipality which has certified an adopting ordinance as provided in this section a copy of such certificate, and the clerk of each such governing body shall forthwith record such copy in the offices of the clerk and recorder of the county or counties in which the municipality is wholly or partly located. But, in no event shall the organization of any metropolitan water district be deemed effective nor shall the director of said division issue a certificate as above provided unless more than one-half of the municipalities named in the initiating ordinance have certified an ordinance to the director of said division as provided in paragraph (d) of this subsection (1).

(f) Only such municipalities as do enact an ordinance to become a part of the district shall be joined therein.

Source: L. 55: p. 581, § 4. **CRS 53:** § 89-13-4. **C.R.S. 1963:** § 89-13-4. **L. 76:** (1)(d) and (1)(e) amended, p. 598, § 12, effective July 1.

32-4-405. Board of directors. (1) All powers, privileges, and duties vested in or imposed upon any district incorporated under this part 4 shall be exercised and performed by and through a board of directors; but the exercise of any executive, administrative, and ministerial powers may be by said board of directors delegated and redelegated to any of the offices created or by the board of directors acting under this part 4.

(2) The board of directors shall consist of one member from each municipality which is within the boundaries of the district for each twenty-five thousand of population in the municipality, plus one member for each additional twenty-five thousand of population, or fraction thereof, from any municipality or unincorporated territory, which population shall be

based upon the latest census. A board member from a municipality shall be appointed by the governing body of the municipality. A board member from unincorporated territory shall be appointed by the board of county commissioners of the county in which the unincorporated territory is located, but not more than one board member shall be appointed for each twenty-five thousand or fraction thereof of population within the unincorporated territory within the district in any one county. Board members shall be eligible electors residing within the district and within the municipality or unincorporated territory from which they are appointed.

(3) The term of each member shall be two years, except that the terms of the members of the first board of directors shall be adjusted so that the terms of one-half the members shall expire one year after their appointment. At the first meeting of the board of directors of a newly formed district, the directors shall determine by lot which shall serve for one year terms and which shall serve for two year terms. At the expiration of a director's term a new appointment shall be made by the appropriate governing body and any member may be appointed to succeed himself.

(4) A change of residence of a member of the board of directors to a place outside the area which the member represents shall automatically create a vacancy on the board of directors as to that area. Vacancies which may occur on the board of directors through death or resignation of one of the members or for any other reason shall be filled in the same manner as original members.

(4.5) Each member of the board may receive as compensation for his services a sum not to exceed nine hundred sixty dollars per annum, payable at a rate not to exceed thirty-five dollars per meeting.

(5) The board of directors has the following powers:

(a) To fix the time and place at which its regular meetings shall be held; to provide for the calling and holding of special meetings; and to organize, adopt bylaws and rules for procedure, and select a chairman and pro tem chairman. Notice of the time and place designated for all regular meetings shall be posted in at least three public places within the limits of the district, and, in addition, one such notice shall be posted in the county courthouse in the county or counties in which the district is located. Such notices shall remain posted and shall be changed in the event that the time or place of such regular meetings is changed. Special meetings may be called by any officer or member of the board by informing the other members of the date, time, and place of such special meeting, and the purpose for which it is called, and by posting as provided in this section at least three days previous to said meeting. All business of the board shall be conducted only during said regular or special meetings, and all said meetings shall be open to the public. All special and regular meetings of the board shall be held at locations which are within the boundaries of the district or which are within the boundaries of any county in which the district is located, in whole or in part, or in any county so long as the meeting location does not exceed twenty miles from the district boundaries. The provisions of this paragraph (a) governing the location of meetings may be waived only if the following criteria are met:

(I) The proposed change of location of a meeting of the board appears on the agenda of a regular or special meeting of the board; and

(II) A resolution is adopted by the board stating the reason for which a meeting of the board is to be held in a location other than under the provisions of this paragraph (a) and further stating the date, time, and place of such meeting.

(b) To make and pass resolutions and orders not repugnant to the constitution of the United States or of the state of Colorado, or to the provisions of this part 4, necessary for the government and management of the affairs of the district for the execution of the powers vested in the district and for carrying into effect the provisions of this part 4. On all resolutions the roll shall be called and the ayes and noes recorded. Resolutions and orders may be adopted by viva voce vote but on demand of any member the roll shall be called. No resolution shall be adopted unless it has been introduced and discussed at a meeting previous to the time of such adoption.

(c) All resolutions, as soon as may be after their passage, shall be recorded in a book kept for that purpose and be authenticated by the signature of the presiding officer of the board of directors and the clerk. All resolutions shall be published in the official newspaper within ten days of date of passage and adoption and shall become effective upon the date of publication.

(d) No business shall be transacted unless a quorum of two-thirds of the total membership of a board of directors is present at a regular or special meeting; except that concerning all questions involving inclusion or exclusion of territories, or authorizing any expenditures in excess of ten thousand dollars, a majority vote of the entire membership shall be required.

(e) To fix the location of the principal place of business of the district and the location of all offices and departments maintained under this part 4;

(f) To prescribe by resolution a system of business administration and to create all necessary offices, and to establish and reestablish the powers and duties and compensation of all officers and employees and to require and fix the amount of all official bonds necessary for the protection of the funds and property of the district;

(g) To delegate and redelegate, by resolution, to officers of the district, power to employ clerical, legal, and engineering assistance and labor, and under such conditions and restrictions as shall be fixed by the directors, power to bind the district by contract;

(h) To prescribe a method of auditing and allowing or rejecting claims and demands and a method for the letting of contracts on a fair and competitive basis for the construction of works, structures, or equipment, or the performance or furnishing of labor, materials, or supplies as required for the carrying out of any of the purposes of this part 4; but in cases where the amount involved is ten thousand dollars or more, the board of directors shall provide for the letting of contract to the lowest responsible bidder, after publication in the official newspaper of notices inviting bids, subject to the right of said board to reject any and all proposals;

(i) To constitute and appoint an official newspaper to be used for the official publications of the district, but nothing in this part 4 shall prevent the board from directing publication in additional newspapers where public necessity may so require.

(6) Whenever the board of directors of the district is required by the provisions of this part 4 to determine the validity of a petition for inclusion and exclusion, the determination of such board shall be final and conclusive.

Source: L. 55: p. 582, § 5. **CRS 53:** § 89-13-5. **L. 61:** p. 518, § 5. **L. 63:** p. 690, § 5. **C.R.S. 1963:** § 89-13-5. **L. 70:** p. 279, § 73. **L. 77:** (4.5) added, p. 1502, § 50, effective July 15. **L. 90:** (5)(a) amended, p. 1497, § 5, effective July 1. **L. 92:** (2) and (4) amended, p. 891, § 131, effective January 1, 1993.

32-4-406. Powers of districts. (1) Any district has the following powers:

(a) To have perpetual existence;

(b) To have and use a corporate seal;

(c) To sue and be sued and be a party to suits, actions, and proceedings;

(d) To enter into contracts and agreements affecting the affairs of the district, including but not limited to contracts with the United States and the state of Colorado and any of their agencies or instrumentalities;

(e) To borrow money and incur indebtedness and to issue bonds and other evidence of the indebtedness; but no indebtedness shall be created in excess of the revenue which may reasonably be expected to be available to the district for the repayment thereof in the fiscal year in which the indebtedness is to be created without first submitting, at an election held for that purpose, the proposition of creating the indebtedness. Any election may be held separately or may be held jointly or concurrently with any primary or general election held under the laws of the state of Colorado. The resolution calling the election shall recite the objects and purposes for which the indebtedness is proposed to be incurred, the amount of principal of the indebtedness, the maximum net effective interest rate to be paid on such indebtedness, and the terms of repayment. The resolution shall also designate the date upon which such election shall be held and the form of the ballot. The election shall be held and conducted as provided in articles 1 to 13 of title 1, C.R.S.

(f) To purchase, trade, exchange, acquire, buy, sell, and otherwise dispose of and encumber real and personal property, water, water rights, water works and plants, and any interest therein, including leases and easements;

(g) To refund any bonded indebtedness of the district without an election. The terms and conditions of refunding bonds shall be substantially the same as those of an original issue of bonds.

(h) In addition to all other means of providing revenue, as provided in this part 4, to levy and collect ad valorem taxes on and against all taxable property within the district. The board of directors, in each year, shall determine the amount of money necessary to be raised by taxation, taking into consideration other sources of revenue of the district, and shall fix a rate of levy which shall not exceed six mills which, when levied upon every dollar of the valuation for assessment of taxable property within the district and with other revenue, will raise the amount required by the district annually to supply funds for the constructing, operating, and maintaining of the works and equipment of the district and promptly to pay in full, when due, all interest on and principal of bonds and other obligations of the district, and in event of accruing defaults or deficiencies an additional levy may be made. The board of directors, in accordance with the schedule prescribed by section 39-5-128, C.R.S., shall certify to the board of county commissioners of each county wherein the district has any territory the rate so fixed, with directions that, at the time and in the manner required by law for levying taxes for other purposes, such board of county commissioners shall levy such tax upon the valuation for assessment of all taxable property within the district, in addition to such other taxes as may be levied by such board of county commissioners.

(i) To hire and retain agents, employees, engineers, and attorneys;

(j) To have and exercise the power of eminent domain and, in the manner provided by law for the condemnation of private property for public use, to take any property necessary to exercise the powers granted in this part 4, either within or without the district. In exercising the

power of eminent domain, the procedure established and prescribed in articles 1 to 7 of title 38, C.R.S., shall be followed.

(k) To construct and maintain works and establish and maintain facilities within or without the district, across or along any public street or highway, or in, upon, under, or over any vacant public lands, which public lands are the property of the state of Colorado, or across any stream of water or watercourse; except that the district shall promptly restore any such street or highway to its former state of usefulness as nearly as may be, and shall not use the same in such manner as to completely or unnecessarily impair the usefulness thereof;

(l) To fix and, from time to time, increase or decrease water rates and to pledge such revenue for the payment of any indebtedness of the district;

(m) To sell developed water subject to conditions determined by the board for domestic, municipal, irrigation, and industrial uses at a rate to be determined as fair and reasonable in accordance with recognized and established principles of rate determination;

(n) To appropriate revenues for the purpose of carrying on investigations and searches for the determination of potential sources of water, surface and subsurface;

(o) To invest any surplus money in the district treasury, including such money in any sinking fund established for the purpose of retiring bonds, not required for the immediate necessities of the district in securities meeting the investment requirements established in part 6 of article 75 of title 24, C.R.S., and such investment may be made by direct purchase of any such securities at the original sale of the same or by the subsequent purchase of such securities. Any securities thus purchased and held may, from time to time, be sold and the proceeds reinvested in securities, as provided in this section. Sales of any securities thus purchased and held shall, from time to time, be made in season so that the proceeds may be applied to the purposes for which the money with which the securities were originally purchased was placed in the treasury of the district.

(p) To manufacture and sell electrical power to public and private corporations, as incidental to the foregoing purposes;

(q) To deposit moneys of the district not then needed in the conduct of district affairs in any depository authorized in section 24-75-603, C.R.S. For the purpose of making such deposits, the board of directors may appoint, by written resolution, one or more persons to act as custodians of the moneys of the district. Such persons shall give surety bonds in such amounts and form and for such purposes as the board requires.

Source: L. 55: p. 584, § 6. **CRS 53:** § 89-13-6. **C.R.S. 1963:** § 89-13-6. **L. 77:** (1)(e) and (1)(h) amended, p. 1503, § 51, effective July 15. **L. 79:** (1)(q) added, p. 1624, § 34, effective June 8. **L. 89:** (1)(o) amended, p. 1118, § 36, effective July 1. **L. 92:** (1)(e) amended, p. 891, § 132, effective January 1, 1993.

32-4-407. Inclusion of territory. The boundaries of any district organized under the provisions of this part 4 may be changed in the manner prescribed in this part 4, but the change of boundaries of the district shall not impair or affect its organization or its rights in or to property, or any of its rights or privileges whatsoever; nor shall it affect or impair or discharge any contract obligation, lien, or charge for or upon which it might be liable or chargeable had such change of boundaries not been made. The incorporated areas of cities, towns, water districts, and unincorporated areas lying within the boundaries of any district organized under

this part 4, as established by the original ordinances of initiating municipalities and from time to time by action of the board of directors, may be added to the district.

Source: L. 55: p. 587 (Art. II). **CRS 53:** § 89-13-7. **C.R.S. 1963:** § 89-13-7.

32-4-408. Unincorporated territory. (1) Territory shall be eligible for inclusion in a district, as provided for in this part 4, if such territory is not embraced within a municipality and is within the area encompassed by the district at the time of its organization, or is a territory which may feasibly become a part of the district, as determined by the board of directors.

(2) Proceedings for inclusion in a district of territory eligible, as defined in subsection (1) of this section, may be initiated by a written petition presented to the board of directors of the district to which it is proposed to join. The petition must meet the following requirements:

(a) It shall be signed by the owners of more than fifty percent of the area of such territory proposed to be included.

(b) It shall be signed by more than fifty percent of the owners of the area proposed to be included, whether the owners are residents or nonresidents of such area.

(c) The circulator of each petition, which may consist of one or more sheets, shall sign an affidavit attesting that each signature is the signature of the person whose name it purports to be.

(d) Each signature shall be accompanied by the resident address of the signer, the date of signature, and a description of the property owned by the signer.

(e) It shall contain the verified statement of petitioners:

(I) That the proposed area is eligible for inclusion, as provided in this section; as to the number of owners of the entire area proposed to be included; and that the petition complies with the requirements contained in this section; and

(II) A request for inclusion into the district.

(f) No petition shall be valid for the purposes of this part 4 if any signature on the petition is dated more than one hundred eighty days prior to the date of the filing of the petition.

(g) No person signing the petition shall be permitted to withdraw his or her signature from the petition.

(h) The petition shall be accompanied by four copies of a map or plat of the territory showing, with reasonable certainty, the territory to be included, the boundaries thereof, and its relationship to the then boundaries of the district, together with a certified statement of current ownership of all property proposed to be included, which certified statement is to be prepared by a licensed and bonded abstract company.

(3) If the board of directors of said district finds that the petition and the documents attached thereto meet the requirements of this section, the inclusion of such territory to such district shall be accomplished as follows:

(a) By accepting said petition and approving the inclusion of said territory;

(b) By causing to be published in the official newspaper of the district a notice of the filing of said petition, its acceptance and approval by the board of directors, and a notice of the time and place of a public hearing at which all interested persons may be heard on the proposition of including such territory in the district, such public hearing to be held not less than twenty days nor more than forty days from the date of first publication;

(c) The board of directors shall hold a public hearing at the time and place stated in the notice. In determining whether the territory shall be included in the district, the board of directors shall consider the needs and requirements of the territory proposed to be included, together with the needs and requirements of the district.

(d) If the board of directors determines to include said territory, it shall cause a resolution to be passed, and the inclusion of territory shall be completed and effective on the effective date of the inclusion resolution for all purposes except that of general taxation, in which respect it shall not become effective until on or after January first next ensuing.

(e) The board of directors shall cause a certified copy of said resolution to be forthwith transmitted to the division of local government in the department of local affairs and shall cause to be recorded a certified copy of such inclusion resolution in the office of the clerk and recorder of the county wherein such included territory is located.

(4) (a) Proceedings for inclusion in a metropolitan water district of territory eligible, as defined above, may be initiated by a written petition presented to the board of directors of the metropolitan water district to which it is proposed to join, together with a cash deposit sufficient to defray all costs of inclusion proceedings, including the election. The petition must be signed by not less than fifty taxpaying electors of the territory proposed to be included.

(b) The board of directors may then accept the petition and, by resolution, approve the inclusion of the territory in the district. The board will then transmit to the district court of the county in which the area is located, or to the district court of either of the counties if the area is located in more than one county, the original petition, a certified copy of its resolution accepting and approving the inclusion, and the cash deposit to guarantee costs.

(c) Repealed.

(d) Upon presentation of the resolution, the court shall examine it, and, if the court finds that the requirements of this section have been substantially complied with, the court shall forthwith call an election of the electors of the territory proposed to be included, to be held at some convenient place within the territory, which shall be held and conducted as provided in articles 1 to 13 of title 1, C.R.S.

(e) The notice of election shall specify the time and place of the election, shall contain a description of the boundaries of the territory proposed to be included, and shall state that the description and a map or plat thereof are on file in the office of the board of directors of the district, and shall meet the requirements for notice in section 1-5-203, C.R.S.

(f) and (g) Repealed.

(h) The court shall allow each commissioner a reasonable compensation for his services as such.

(i) If such inclusion is not approved at said election, the court shall enter its order and decree that such territory shall not be included within the area of the district. If such inclusion is approved at said election, the court by an order shall decree that such territory shall be included in the district, and certified copies of such order and decree shall be transmitted to the said district, to the office of the clerk and recorder in which said territory is located, and to the division of local government, and such inclusion shall be complete on the effective date of the court's order and decree for all purposes except that of general taxation, in which respect it shall not become effective until on and after January 1 next ensuing.

(j) All costs and expenses connected with such inclusion proceedings and including the commissioners' fees and all election expenses shall be paid by the petitioners initiating the inclusion proceedings.

(5) Any unincorporated area lying within the proposed water district, as originally organized, may file its petition for inclusion with the board of directors of said district and, if said petition is filed within six months from the date of organization of said district, such petition shall be granted. Upon receipt of such petition the board of directors shall follow procedures set forth in paragraphs (c), (d), and (e) of subsection (3) of this section.

Source: L. 55: p. 587, § 1. **CRS 53:** § 89-13-8. **C.R.S. 1963:** § 89-13-8. **L. 70:** p. 280, § 75. **L. 71:** p. 961, § 4. **L. 76:** (3)(e) and (4)(i) amended, p. 598, § 13, effective July 1. **L. 77:** (4)(c), (4)(f), and (4)(g) repealed and (4)(d) and (4)(e) amended, pp. 1516, 1503, §§ 88, 52, effective July 15. **L. 92:** (2), (4)(a), (4)(b), (4)(d), and (4)(e) amended, p. 891, § 133, effective January 1, 1993.

32-4-409. Inclusion of incorporated areas. (1) The municipalities as defined in this part 4 shall be eligible for inclusion in a metropolitan water district if such municipality is contiguous to the area encompassed by the district or is a territory which may feasibly become a part of the district as determined by the board of directors.

(2) The governing body of such municipality shall, before finally enacting an ordinance declaring that the public convenience and necessity, require the inclusion of a part or all of the territory within the boundaries of such municipality into such metropolitan water district. Said resolution or ordinance shall set forth boundaries of the territory proposed to be included, except that:

(a) The governing body of such municipality, before finally adopting such resolution or enacting such ordinance, shall cause a notice of public hearing to be published, which public hearing shall be held not less than twenty days nor more than forty days from the date of first publication, and shall state the time and place of such hearing, and that the matter of inclusion in a metropolitan water district will be considered.

(b) The governing body shall hold a public hearing at the time and place stated in the notice. In determining whether the territory shall be included in the district, the governing body shall consider the present and future needs and requirements of the municipality proposed to be included. Upon the effective date of such ordinance or resolution, the clerk of the governing body of such municipality shall forthwith transmit a certified copy thereof to the board of directors of such district and to the division of local government in the department of local affairs.

(3) Within sixty days after receipt of a copy of such resolution, the board of directors of such district may enact a similar resolution setting forth the same boundaries and upon the effective date of said resolution shall cause a certified copy thereof to be transmitted to the division of local government and to the clerk of the governing body of such municipality. The director of said division, upon receipt of a copy of a resolution of the board of directors of such district, shall forthwith issue a certificate reciting that the territory described in such resolution has been duly added to the district according to the laws of the state of Colorado. The inclusion of such territory shall be deemed effective upon the date of issuance of such certificate, and the validity of such inclusion shall be incontestable in any suit or proceeding which shall not have

been commenced within three months from such date. The director of said division shall forthwith transmit to the governing body of such municipality and to the board of directors of such district a copy of such certificate, and the clerk of such governing body shall forthwith record such copy in the office of the clerk and recorder of the county in which such municipality is located.

Source: L. 55: p. 591, § 2. **CRS 53:** § 89-13-9. **C.R.S. 1963:** § 89-13-9. **L. 76:** (2)(b) and (3) amended, p. 599, § 14, effective July 1.

32-4-410. Exclusion of unincorporated areas. (1) The owner in fee of any lands constituting a portion of the district may file with the board a petition praying that such lands be excluded and taken from said district.

(2) Such petition shall meet the following requirements:

(a) Shall be signed by the owners of more than sixty percent of the area of such territory proposed to be excluded;

(b) Shall be signed by more than sixty percent of the owners of the area proposed to be excluded, whether such owners are residents or nonresidents of such area.

(3) Such petition shall be accompanied by a deposit of money sufficient to pay all costs of the exclusion proceedings, together with a certified statement of current ownership of all property proposed to be included, said certificate to be prepared by an attorney, a title insurance company, or title insurance agent authorized to do business in this state.

Source: L. 55: p. 592, § 1. **CRS 53:** § 89-13-10. **C.R.S. 1963:** § 89-13-10. **L. 83:** (3) amended, p. 512, § 2, effective May 16.

32-4-411. Exclusion election. Upon receipt of the petition, the board of directors shall certify, by proper resolution, the petition to the district court of the county in which the territory is located, and the district court shall thereupon proceed to the appointment of a designated election official to hold an election, as provided in section 32-4-408 (4). On the effective date of the ordinance or resolution, the clerk of the governing body of the municipality shall forthwith transmit a certified copy thereof to the board of directors of the district and to the division of local government in the department of local affairs.

Source: L. 55: p. 593, § 2. **CRS 53:** § 89-13-11. **C.R.S. 1963:** § 89-13-11. **L. 76:** Entire section amended, p. 599, § 15, effective July 1. **L. 92:** Entire section amended, p. 2180, § 46, effective June 2; entire section amended, p. 893, § 134, effective January 1, 1993.

Editor's note: Amendments to this section by House Bill 92-1359 and House Bill 92-1333 were harmonized.

32-4-412. Exclusion of incorporated areas. (1) The governing body of any municipality, which is partly or wholly within the boundaries of the district, may adopt a resolution or enact an ordinance declaring that the public convenience and necessity require the exclusion of the territory within the boundaries of the municipality from the district, which resolution or ordinance shall set forth the boundaries of the territory proposed to be excluded.

(2) If the district has an outstanding bonded indebtedness, the governing body of the municipality, before finally adopting the resolution or enacting the ordinance, shall submit to the electors of the territory proposed to be excluded from the district, at an election held for that purpose, the proposition of excluding the territory from the district. Any election may be held separately or may be held jointly or concurrently with any primary, general, or regular election held under the laws of the state of Colorado. The election shall be held and conducted as provided in articles 1 to 13 of title 1, C.R.S., with the governing body of the municipality following the procedures and performing the functions of the board of directors of the district pursuant to the provisions of articles 1 to 13 of title 1, C.R.S. The resolution or ordinance calling the election shall recite the objects and purposes for which the indebtedness of the district was incurred, the remaining amount of principal of the indebtedness, and the terms of repayment. The resolution or ordinance shall also designate the date upon which the election shall be held. The form of the ballot shall be as follows: "For Exclusion" and "Against Exclusion". After the results have been surveyed, the clerk of the municipality shall certify the results to the governing body of the municipality who shall certify the results to the board of directors of the district.

(3) In the event that the district has no outstanding indebtedness, the governing body of the municipality, before finally adopting the resolution or enacting the ordinance, shall hold a public hearing thereon, notice of which shall be given by publication in at least one newspaper of general circulation within the municipality or county.

(4) Within sixty days after receipt of a copy of the resolution or certification of survey of votes showing that the exclusion has been approved, the board of directors of the district may enact a resolution setting forth the same boundaries and, upon the taking effect of its resolution, shall forthwith transmit a certified copy of the resolution to the division of local government in the department of local affairs.

(5) The director of the division of local government, upon receipt of a copy of the resolution of the board of directors of the district, shall forthwith issue a certificate reciting that the territory described in the resolution has been duly excluded from the district named, according to the laws of the state of Colorado. The exclusion of the territory shall be deemed effective upon the date of issuance of the certificate, and the validity of the exclusion shall be incontestable in any suit or proceeding which has not been commenced within three months from that date. The division shall forthwith transmit to the governing body of such municipality and to the board of directors of the district a copy of the certificate, and the clerk of the governing body shall forthwith record the copy in the office of the clerk and recorder of the county in which the municipality is located.

Source: L. 55: p. 593, § 1. **CRS 53:** § 89-13-12. **C.R.S. 1963:** § 89-13-12. **L. 70:** p. 281, § 76. **L. 71:** p. 961, § 5. **L. 76:** (4) and (5) amended, p. 600, § 16, effective July 1. **L. 77:** (2) amended, p. 1504, § 53, effective July 15. **L. 92:** Entire section amended, p. 893, § 135, effective January 1, 1993.

32-4-413. Liability of property included. Property situated within the boundaries of territory added to a metropolitan water district shall be subject to all taxes levied by such district after the inclusion of such territory, and shall be subject to all the bonded indebtedness of such district whether incurred by the district prior to or subsequent to such inclusion.

Source: L. 55: p. 594, § 1. **CRS 53:** § 89-13-13. **C.R.S. 1963:** § 89-13-13.

32-4-414. Liability of property excluded. Property situated within the boundaries of territory excluded from a metropolitan water district shall remain subject to that portion of all taxes levied by such district necessary for the payment of principal and interest of any bonded indebtedness of the district outstanding at the time of such exclusion.

Source: L. 55: p. 595, § 2. **CRS 53:** § 89-13-14. **C.R.S. 1963:** § 89-13-14.

32-4-415. Budget law. The provisions of the local government budget law shall apply to metropolitan water districts.

Source: L. 55: p. 595, § 1. **CRS 53:** § 89-13-15. **C.R.S. 1963:** § 89-13-15.

32-4-416. Dissolution of district. Any metropolitan water district may be dissolved in the manner provided in part 7 of article 1 of this title; except that the question of dissolution or the plan for dissolution shall be submitted to the eligible electors of the district. The election shall be held and conducted as provided in articles 1 to 13 of title 1, C.R.S.

Source: L. 70: p. 312, § 10. **C.R.S. 1963:** § 89-13-16. **L. 77:** Entire section amended, p. 1504, § 54, effective July 15. **L. 81:** Entire section amended, p. 1623, § 23, effective July 1. **L. 92:** Entire section amended, p. 894, § 136, effective January 1, 1993.

PART 5

METROPOLITAN SEWAGE DISPOSAL DISTRICTS

32-4-501. Legislative declaration. It is declared that the organization of metropolitan sewage disposal districts having the purposes and powers provided in this article will serve a public use and will promote the public health, safety, and general welfare.

Source: L. 60: p. 162, § 1. **CRS 53:** § 89-15-1. **C.R.S. 1963:** § 89-15-1.

32-4-502. Definitions. As used in this part 5, unless the context otherwise requires:

(1) "Acquisition" or "acquire" means the purchase, construction, reconstruction, lease, gift, transfer, assignment, option to purchase, grant from the federal government, from any public body, or from any person, endowment, bequest, devise, installation, condemnation, other contract, or other acquirement, or any combination thereof, of facilities, other property, any project, or an interest therein authorized in this part 5.

(2) "Board of directors" or "board" means the board of directors of a metropolitan sewage disposal district.

(3) "Clerk" means that official of a municipality or a district who performs duties ordinarily performed by a city clerk, town clerk, or a secretary of a corporation.

(4) "Compensating reservoir" means the structures, facilities, and appurtenances for the impounding, transportation, and release of water for the replenishment or replacement in periods

of drought or at other necessary times of all or a part of waters in or bordering the state diverted into any sewer, sewer system, intercepting sewer, or sewage disposal system appertaining to a district.

(5) "Condemnation" or "condemn" means the acquisition by the exercise of the power of eminent domain of property for any facilities, other property, project, or an interest therein, authorized in this part 5. A district may exercise in the state the power of eminent domain, either within or without the district, and in the manner provided by law for the condemnation of private property for public use may take any property necessary to carry out any of the objects or purposes hereof, whether such property is already devoted to the same use by any municipality or other public body or otherwise, and may condemn any existing works or improvements used in the district. The power of eminent domain vested in the board shall include the power to condemn, in the name of the district, either the fee simple or any lesser estate or interest in any real property which the board by resolution determines is necessary for carrying out the purposes of this part 5. A district shall not abandon any condemnation proceedings subsequent to the date upon which it has taken possession of the property being acquired. In the event the construction of any sewage disposal system or project authorized in this part 5, or any part thereof, makes necessary the removal and relocation of any public utilities, whether on private or public right-of-way, the district shall reimburse the owner of such public utility facility for the expense of such removal and relocation, including the cost of any necessary land or rights in land.

(6) "Cost" or "cost of any project", or words of similar import mean in addition to the usual connotations thereof, the cost of acquisition or improvement and equipment of all or any part of a sewage disposal system and of all or any property, rights, easements, privileges, agreements, and franchises deemed by the district to be necessary or useful and convenient therefor or in connection therewith, including interest or discount on bonds, cost of issuance of bonds, engineering and inspection costs, and legal expenses, cost of financial, professional, and other estimates and advice, contingencies, any administrative, operating, and other expenses of the district prior to and during such acquisition or improvement and equipment, and additionally during a period of not exceeding one year after the completion thereof, as may be estimated and determined by the board in any resolution authorizing the issuance of any securities or other instrument appertaining thereto or in any contract with any municipality, or otherwise, and all such other expenses as may be necessary or incident to the financing, acquisition, improvement, equipment, and completion of said sewage disposal system or part thereof and the placing of the same in operation, and also such provision or reserves for working capital, operation, maintenance, or replacement expenses or for payment or security of principal of or interest on any securities during or after such acquisition or improvement and equipment as the district may determine, and also reimbursements to the district or any municipality or person of any moneys theretofore expended for the purposes of the district or to any municipality or other public body or the federal government of any moneys theretofore expended for or in connection with sanitation facilities.

(7) "Disposal" or "dispose" means the sale, destruction, razing, loan, lease, gift, grant, transfer, assignment, mortgage, option to sell, other contract, or other disposition, or any combination thereof, of facilities, other property, any project, or an interest therein authorized in this part 5.

(8) "District" means a metropolitan sewage disposal district formed under the provisions of this part 5 or as changed from time to time. A district formed under this part 5 shall not be considered a political subdivision for the purposes of section 8-3-104 (12), C.R.S.

(9) "Engineer" means any engineer regularly employed by the district or any competent engineer or firm or association of engineers employed by the district in connection with any facility, property, project, or power authorized in this part 5.

(10) "Equipment" or "equip" means the furnishing of all necessary or desirable, related or appurtenant, machinery and other facilities, or any combination thereof, appertaining to any property, project, or interest therein authorized in this part 5.

(11) "Executive" means the chief executive elected official of a municipality as defined in subsection (19) of this section by whatever name he may be designated.

(12) "Federal government" means the United States, or any agency, instrumentality, or corporation thereof.

(13) "Governing body" means the city council of a city or of a city and county, the board of trustees of an incorporated town, the board of directors of a sanitation district or of a water and sanitation district, or the governing body of any other municipality by law authorized to impose the obligations contemplated by this part 5, regardless of how the governing body may be designated.

(14) "Herein", "hereby", "hereunder", "hereof", "hereto", "hereinabove", "hereinbefore", and "hereinafter" refer to this metropolitan sewage disposal district law and not solely to the particular portion thereof in which such word is used.

(15) "Improvement" or "improve" means the extension, betterment, alteration, reconstruction, replacement, repair, or other improvement, or any combination thereof, of facilities, other property, any project, or an interest therein authorized in this part 5.

(16) "Industrial wastes" means liquid or other wastes resulting from any process of industry, manufacture, trade, or business or from the development of any natural resource.

(17) "Intercepting sewer" is considered as only such sewer and appurtenances thereto as may be necessary to intercept and transport the outfalls from the sewer systems of the municipalities included within the boundaries of the district.

(18) "Metropolitan sewage disposal district" means a district organized under this part 5 either as originally organized or as changed from time to time.

(19) "Municipality" means a city, a city and county, an incorporated town, a sanitation district, or a water and sanitation district, and any other political subdivision or public entity created under the laws of the state of Colorado having specific boundaries within which it is authorized to provide sewer service for the area within its boundaries, other than a metropolitan sewage disposal district.

(20) "Ordinance" means the formal action taken by a "governing body", as defined in subsection (13) of this section, whether it is in the form of an ordinance, resolution, or other form.

(21) "Person" means any individual, association, corporation, or the federal government, or any public body other than a municipality, and excluding a district.

(22) "Pollution" or "pollute" means the condition of water resulting from the introduction therein of substances of a kind and in quantities rendering it detrimental or immediately or potentially dangerous to the public health, or unfit for public or commercial use.

(23) "Project" means any public structure, facility, or undertaking or sewage disposal system which a district is authorized in this part 5 to acquire, improve, equip, maintain, and operate. A project may consist of all kinds of personal and real property. Any project of a district shall appertain to a sewage disposal system as defined in subsection (31) of this section and authorized by this part 5.

(24) "Property" means real property and personal property.

(25) "Public body" means the state of Colorado, or any agency, instrumentality, or corporation thereof, or any county, municipality, or other city or town, or other type of quasi-municipal district, or any other political subdivision of the state, excluding a metropolitan sewage disposal district and excluding the federal government.

(26) "Publication" means three consecutive weekly publications in at least one newspaper having general circulation in the district. It shall not be necessary that an advertisement be made on the same day of the week in each of the three weeks, but not less than fourteen days, excluding the day of first publication but including the day of the last publication, shall intervene between the first publication and the last publication, and publication shall be complete on the date of the last publication.

(27) "Real property" means:

(a) Land, including land under water;

(b) Buildings, structures, fixtures, and improvements on land;

(c) Any property appurtenant to or used in connection with land;

(d) Water and water rights appertaining to any project;

(e) Every estate, interest, privilege, easement, franchise, and right in land, legal or equitable, including, without limiting the generality of the foregoing, rights-of-way, terms for years, and liens, charges or encumbrances by way of judgment, mortgage, or otherwise, and the indebtedness secured by such liens.

(28) "Securities" means any bonds, interim receipts or certificates, warrants, debentures, notes, or other obligations of a district or any public body appertaining to any project, or interest therein, authorized in this part 5, or otherwise.

(29) "Service charges" are the rents, rates, fees, tolls, or other charges for direct or indirect connection with, or the use or services of, a sewage disposal system or sewer system, as more specifically provided in section 32-4-522 and elsewhere in this part 5.

(30) "Sewage" means the water-carried wastes created in and carried, or to be carried, away from residences, hotels, apartments, schools, hospitals, industrial establishments, or any other public or private building, together with such surface or groundwater and industrial wastes as are present.

(31) "Sewage disposal system" includes any one or all or any combination of the following: Any sewage treatment plant, sewage treatment works, sewage disposal facilities, connections and outfalls, intercepting sewers, outfall sewers, force mains, conduits, pipelines, water lines, pumping and ventilating plants or stations, compensating reservoirs, other plants, structures, facilities, equipment, and appurtenances useful or convenient for the interception, transportation, treatment, purification, or disposal of sewage, liquid wastes, solid wastes, night soil, and industrial wastes, and all necessary lands, interest in lands, easements, and water rights.

(31.5) "Sewer connection" means any physical connection to a sewage disposal system or sewer system, whether direct or indirect, of a residence building, dwelling, dwelling unit, or

other building, including individual units of multiple unit dwellings such as condominiums, townhouses, multiplexes, and apartment buildings.

(32) "Sewer system" means a system provided by a municipality to provide sewer service to its inhabitants to the point of its connection with a sewage disposal system as defined in subsection (31) of this section which intercepts, receives, transports, treats, and disposes of the outfalls from such sewer systems.

(32.5) "Single-family equivalent" means the capacity of sewer service or water service required for a single-family household. For a multiple unit dwelling, each single-family household within such a dwelling shall be considered as having one single-family equivalent.

(33) "State" means the state of Colorado, or any agency, instrumentality, or corporation thereof.

(34) "Taxation" or "tax" means general ad valorem taxes.

(35) "Taxpaying elector" and "eligible elector" of a district have the meanings, respectively, as specified in section 32-1-103; except that, to qualify as a taxpaying elector or as an eligible elector for the purposes of this part 5, a person must also be a resident of a municipality, as defined in subsection (19) of this section.

Source: L. 60: p. 162, § 12. **CRS 53:** § 89-15-2. **L. 62:** pp. 180, 182, §§ 1, 2. **C.R.S. 1963:** § 89-15-2. **L. 70:** p. 286, § 84. **L. 81:** (31.5) and (32.5) added, p. 1637, § 1, effective May 18; (35) amended, p. 1624, § 24, effective July 1. **L. 92:** (35) amended, p. 894, § 137, effective January 1, 1993.

32-4-503. Liberal construction. This part 5 being necessary to secure and preserve the public health, safety, and general welfare, the rule of strict construction shall have no application to this part 5, but it shall be liberally construed to effect the purposes and objects for which this part 5 is intended.

Source: L. 60: p. 179, § 18. **CRS 53:** § 89-15-18. **L. 62:** p. 199, § 12. **C.R.S. 1963:** § 89-15-18.

32-4-504. Sufficiency of part 5. (1) This part 5, without reference to other statutes of the state, shall constitute full authority for the exercise of powers granted in this part 5, including but not limited to the authorization and issuance of securities under this part 5. No other act or law with regard to the authorization or issuance of securities that provides for an election requires an approval, or in any way impedes or restricts the carrying out of the acts in this part 5 authorized to be done, shall be construed as applying to any proceedings taken under this part 5 or acts done pursuant hereto, except for laws to which reference is made in this part 5 specifically or by necessary implication. The provisions of no other law, either general or local, except as provided in this part 5, shall apply to doing of the things in this part 5 authorized to be done, and no board, agency, bureau, commission, or official, other than the board of directors of a metropolitan sewage disposal district or the governing body of a municipality, has any authority or jurisdiction over the doing of any of the acts in this part 5 authorized to be done.

(2) No notice, consent, or approval by any public body or officer thereof shall be required as a prerequisite to the sale or issuance of any securities or the making of any contract or the exercise of any other power under this part 5, except as provided in this part 5. The powers

conferred by this part 5 shall be in addition and supplemental to and not in substitution for, and the limitations imposed by this part 5 shall not affect the powers conferred by, any other law.

(3) Nothing in this part 5 shall repeal or affect any other law or part thereof, except to the extent that this part 5 is inconsistent with any other law, it being intended that this part 5 shall provide a separate method of accomplishing its objectives, and not an exclusive one; and this part 5 shall not be construed as repealing, amending, or changing any such other law except to the extent of such inconsistency.

Source: L. 60: p. 179, § 19. **CRS 53:** § 89-15-19. **L. 62:** p. 199, § 13. **C.R.S. 1963:** § 89-15-19.

32-4-505. Limitation on scope of part 5. Nothing in this part 5 shall be construed as affecting in any manner the operation, improvement, or enlargement, or any combination thereof, of a privately owned sewage disposal system which exists outside the boundaries of a municipality as they existed on or after February 21, 1962.

Source: L. 62: p. 220, § 14. **C.R.S. 1963:** § 89-15-38.

32-4-506. Purpose, boundaries, and powers. (1) Metropolitan sewage disposal districts may be organized under this part 5 for the purpose of acquiring, by construction or otherwise, owning, holding, and operating a sewage disposal system to intercept, receive, transport, treat, and dispose of the outfalls of sewer systems of municipalities. A district may be composed of territory included within the corporate boundaries of any two or more municipalities, which need not be contiguous and which need not be located in the same county. When so organized each such district shall be a governmental subdivision of the state of Colorado with such powers as are expressly granted in this part 5 together with such powers as are reasonably implied therefrom and necessary or proper to carry out the objects and purposes of such district.

(2) It is the purpose of this part 5 that the municipalities within a district shall retain full power to provide sewer service to its inhabitants and to authorize a district to intercept, receive, transport, treat, and dispose of the outfalls from the sewer systems of the municipalities within the district.

Source: L. 60: p. 164, § 3. **CRS 53:** § 89-15-3. **C.R.S. 1963:** § 89-15-3.

32-4-507. Powers of public bodies. (1) The governing body of any municipality or other public body, upon its behalf and in its name, for the purpose of aiding and cooperating in any project authorized in this part 5, upon the terms and with or without consideration and with or without an election, as the governing body determines, has power under this part 5:

(a) To sell, lease, loan, donate, grant, convey, assign, transfer, and otherwise dispose to the district of sewers, sewage facilities, and sewer improvements, or any combination thereof;

(b) To make available for temporary use or otherwise dispose of to the district any machinery, equipment, facilities, and other property, and any agents, employees, persons with professional training, and any other persons, to effect the purposes of this part 5. Any such property owned and persons in the employ of any public body while engaged in performing for

the district any service, activity, or undertaking authorized in this part 5, pursuant to contract or otherwise, shall have all the powers, privileges, immunities, rights, and duties of, and shall be deemed to be engaged in the service and employment of, such public body, notwithstanding such service, activity, or undertaking is being performed in or for a district.

(c) To enter into any agreement or joint agreement between or among the federal government, the district, and any other public body, or any combination thereof, which is mutually agreed thereby, notwithstanding any law to the contrary, respecting action or proceedings appertaining to any power granted in this part 5, and the use or joint use of any facilities, project, or other property authorized in this part 5;

(d) To sell, lease, loan, donate, grant, convey, assign, transfer, or pay over to a district any facilities or any project authorized in this part 5, or any part thereof, or any interest in real or personal property, or any funds available for acquisition, improvement, or equipment purposes, including the proceeds of any securities issued for acquisition, improvement, or equipment purposes which may be used by the district in the acquisition, improvement, equipment, maintenance, or operation of any facilities or project authorized in this part 5;

(e) To transfer, grant, convey, or assign and set over to a district any contracts which have been awarded by the public body for the acquisition, improvement, or equipment of any project not begun, or if begun, not completed;

(f) To budget and appropriate, and each municipality or other public body is required and directed to budget and appropriate, from time to time, general ad valorem tax proceeds, service charges, and other revenues legally available therefor to pay all obligations arising from the exercise of any powers granted in this part 5 as such obligations accrue and become due, including, without limiting the generality of the foregoing, service charges fixed by the district;

(g) To prescribe and enforce reasonable rules and regulations, not in conflict with any such rule or regulation of the district, for the availability of service from, the connection with, the use of, and the disconnection from the sewer system of the public body or other sanitation or sewer facilities thereof;

(h) To provide for an agency, by any agreement authorized in this part 5, to administer or execute that or any collateral agreement, which agency may be one of the parties to the agreement, or a commission or board constituted pursuant to the agreement;

(i) To provide that any such agency shall possess the common power specified in the agreement, and may exercise it in the manner or according to the method provided in the agreement. Such power is subject to the restrictions upon the manner of exercising the power of any one of the contracting parties, which party shall be designated by the agreement.

(j) To continue any agreement authorized in this part 5 until rescinded or terminated, which agreement may provide for the method by which it may be rescinded or terminated by any party.

(2) All of the powers, privileges, immunities, and rights, exemptions from laws, ordinances, and rules and all pension, relief, disability, workers' compensation, and other benefits which apply to the activity of officers, agents, or employees of any such district or public body when performing their respective functions within the territorial limits of their respective public agencies shall apply to them to the same degree and extent while engaged in the performance of any of their functions and duties extraterritorially under this part 5.

Source: L. 62: p. 200, § 14. **C.R.S. 1963:** § 89-15-20. **L. 90:** (2) amended, p. 572, § 65, effective July 1. **L. 93:** (1)(c) and (1)(j) amended, p. 21, § 1, effective March 4.

32-4-508. Organization. (1) A district shall be organized in the following manner:

(a) The governing body of any municipality may enact an ordinance declaring that the public health, safety, and general welfare require the organization of a district, which ordinance shall set forth, among other things, the following:

(I) The name of the proposed district;

(II) The municipalities proposed to be included in the proposed district;

(III) The municipalities which shall be required to take action to be included within the district before the district becomes organized. This requirement may be met by designating by name those municipalities which are required to take action to be included within the district before the district shall be organized or by designating alternative groups of municipalities which are required to take action to be included within the district before the district shall be organized, or by designating a percentage of those municipalities named which shall be required to take action to be included within the district before the district shall be organized.

(IV) The time limit within which action must be taken by the municipalities so named to be included within the district, which time shall not exceed six months from the final adoption of the initiating ordinance.

(b) Upon the final adoption of an initiating ordinance, the clerk of the governing body shall mail a certified copy thereof to each municipality named therein and to the division of local government in the department of local affairs.

(c) After receipt of a copy of such ordinance from the initiating governing body, the governing body of any municipality, which is named in the ordinance proposing the district, and which desires to include such municipality within the district, may enact an ordinance setting forth:

(I) A copy of the initiating ordinance;

(II) That such a district will serve a public use and will promote the public health, safety, and general welfare;

(III) That the municipality shall be included in said district if and when the same is organized as set forth in the initiating ordinance.

(d) Before final adoption of any ordinance under paragraphs (a) to (c) of this subsection (1), the governing body of each such municipality shall hold a public hearing thereon, notice of which shall be given by publication, which publication shall be complete at least ten days before the hearing.

(e) The clerk of each governing body, upon the final adoption of such ordinance, shall forthwith transmit a certified copy thereof to the governing body of every other municipality named in the initiating ordinance, including the municipality which adopted the initiating ordinance, and to the division of local government.

(f) (I) The division of local government, upon receipt of a certified copy of such ordinance from the clerk of the governing body of each of those municipalities which satisfy the requirements for organization as set forth in the initiating ordinance, shall forthwith issue a certificate reciting that the district named in the ordinance has been duly organized according to the laws of the state of Colorado, and setting forth the names of the municipalities which are included within the district. The organization of any district shall be deemed effective upon the

date of issuance of such certificate, and the validity of the organization of any such district shall be incontestable in any suit or proceeding which shall not be commenced within three months from such date.

(II) The division of local government shall forthwith transmit to the governing body of each municipality which has certified an adopting ordinance three copies of such certificate, and the clerk of each such governing body shall forthwith record a copy in the offices of the clerk and recorder of the county or counties in which the municipality is wholly or partly located and shall forthwith file a copy of said certificate in the office of the county assessor and county treasurer of each county in which said municipality is located. Additional copies of such certificate shall be issued by said division upon request.

(g) Only such municipalities as enact an ordinance to become a part of the district shall be joined therein. No district shall be deemed to have been organized unless those municipalities which are required by the initiating ordinance to take action to be included within the district take such action within the limit of time specified in the initiating ordinance.

Source: L. 60: p. 164, § 4. **CRS 53:** § 89-15-4. **C.R.S. 1963:** § 89-15-4. **L. 76:** (1)(b), (1)(e), and (1)(f) amended, p. 600, § 17, effective July 1.

32-4-509. Board of directors. (1) All powers, rights, privileges, and duties vested in or imposed upon any district organized under this part 5 shall be exercised and performed by and through a board of directors; but the exercise of any executive, administrative, and ministerial powers may be, by said board of directors, delegated and redelegated to officials and employees of the district; and the board of directors is authorized to create an executive committee of the board of directors and to delegate to such committee all of such power and authority to act on behalf of the district as the district board may determine by resolution or in the bylaws of the district.

(2) (a) The members of the board from each municipality shall be appointed by the executive of each such municipality with the approval of the governing body of such municipality. In districts having eleven or more member municipalities, the board shall consist of one member from each municipality included within the district for each seventy-five thousand of population, or fraction thereof, in such municipality, plus one member for each additional seventy-five thousand of population, or fraction thereof, in any such municipality; except that no municipality shall be entitled to more than one-half of the total membership or representation upon the board; and further except that any municipality that has fifty percent or more of the total population of the district shall have one-half of the total membership or representation on the board. In districts having ten or less member municipalities, the board shall consist of one member from each municipality included within the district, plus two additional members for any municipality having fifty percent of the total district population, plus one additional member for any municipality having eighty percent of the total district population.

(b) In determining population for the purpose of apportioning and reapportioning representation on the board of directors of the district, the population of a city or of a city and county or of an incorporated town shall be the latest estimate made by the division of planning.

(c) For the purpose of apportioning or reapportioning representation on the board of directors, the population of a sanitation district, water and sanitation district, or other political subdivision shall be determined by the governing body thereof by multiplying by 2.8 either the

number of single-family equivalent water taps or the number of single-family equivalent sewer connections within the said water and sanitation district or other political subdivision or by multiplying by 2.8 the number of single-family equivalent sewer connections within the said sanitation district.

(d) The representation on the board shall be reapportioned every four years after the creation of a district in the month in which the division of local government in the department of local affairs issued a certificate of organization in the year of the district's organization upon the basis set forth in this subsection (2).

(e) After a district is organized, the inclusion thereafter of additional municipalities within the district shall entitle the included municipalities to representation on the board of directors of the district on the same basis as other municipalities. Should the addition of such membership to the board result in a municipality which has fifty percent or more of the population of the district having less than fifty percent of the total membership or representation on the board of directors, that municipality's representation shall be increased simultaneously so that it shall have one-half of the total membership or representation on said board. This paragraph (e) shall not apply to districts having, after the addition of such municipality, ten or less municipalities.

(3) Board members shall be qualified electors who are qualified to vote at general elections in this state and who reside within the district and within the municipality from which they are appointed. The term of each member shall be two years; except that the terms of the members of the first board of directors shall be adjusted so that the terms of one-half of the members shall expire one year thereafter. In each calendar year any term of office then terminating shall expire as soon as the incumbent's successor has been appointed and qualifies after the last day of the month next following the month in which the division of local government issued a certificate of organization in the year of the district's organization. At the first meeting of the board of a newly formed district, the directors shall determine by lot who shall serve for one-year terms and who shall serve for two-year terms. At the expiration of a director's term a new appointment shall be made by the appropriate executive, with the approval of the governing body, and any member may be appointed to succeed himself. The executive, at his discretion, may remove from office any member of the board representing his municipality and appoint a successor with the approval of the governing body.

(4) A change of residence of a member of a board of directors to a place outside the area which he represents shall constitute an automatic resignation and shall create a vacancy on the board. Vacancies which occur on the board through death or resignation or by change of residence or for any other reason shall be filled in the same manner as original appointments.

(5) Upon the creation of a district the executive of each municipality within the district shall appoint, with the approval of the governing body, the members of the board of directors of said district to which such municipality is entitled and the directors so appointed by the executive of the municipality which adopted the initiating ordinance shall fix a time and place for the first meeting of the members of the board of directors and shall cause each director to be given written notice thereof at least five days prior thereto.

(6) All special and regular meetings of the board shall be open to the public. Such meetings shall be held at locations which are within the boundaries of the district or which are within the boundaries of any county in which the district is located, in whole or in part, or in any county so long as the meeting location does not exceed twenty miles from the district

boundaries. The provisions of this subsection (6) governing the location of meetings may be waived only if the following criteria are met:

(a) The proposed change of location of a meeting of the board appears on the agenda of a regular or special meeting of the board; and

(b) A resolution is adopted by the board stating the reason for which a meeting of the board is to be held in a location other than under the provisions of this subsection (6) and further stating the date, time, and place of such meeting.

(7) The board of directors has the following powers:

(a) To fix the time and place, or places, at which its regular meetings shall be held and shall provide for the calling and holding of special meetings; to adopt bylaws and rules for procedure; to select one of its members as chairman of the board and district, and another member as pro tem chairman of the board and district; and to choose a secretary and a treasurer of the board and district, each of which positions may be filled by a person who is a member of the board and both of which may be filled by one person;

(b) To make and pass resolutions and orders not repugnant to the provisions of this part 5, necessary or proper for the government and management of the affairs of the district, for the execution of the powers vested in the district, and for carrying into effect the provisions of this part 5. On all resolutions and orders the roll shall be called and the ayes and noes recorded. All resolutions and orders, as soon as may be after their passage, shall be recorded in a book kept for that purpose and be authenticated by the signature of the presiding officer of the board of directors and the secretary. Every legislative act of the board or its executive committee of a general or permanent nature shall be by resolution. The book of resolutions and orders shall be a public record.

(c) Business of the board shall be transacted at a regular or special meeting at which a quorum consisting of one-half of the total membership of the board of directors is present. Any action of the board shall require the affirmative vote of the majority of the directors present and voting, except when a weighted vote is conducted in accordance with the bylaws of the district, applicable resolutions of the board, or other laws or rules governing the procedures of the board. Questions involving inclusion or exclusion of territories or authorizing any expenditures in excess of fifty thousand dollars shall require the approval of a majority of the entire membership of the board. A majority of the entire membership of the board may authorize by resolution any project authorized in this part 5 and also thereby authorize expenditures from time to time appertaining to such project in excess of fifty thousand dollars approved by an affirmative vote of the majority of the directors present and voting at any subsequent meeting. A smaller number of directors than a quorum may adjourn from time to time and may compel the attendance of absent members in such manner and under such penalties as the board may provide.

(d) To fix the location of the principal place of business of the district and the location of all offices and departments maintained under this part 5;

(e) To prescribe by resolution a system of business administration and to create all necessary offices, and to establish and reestablish the powers and duties and compensation of all officers and employees and to require and fix the amount of all official bonds necessary for the protection of the funds and property of the district;

(f) To prescribe a method of auditing and allowing or rejecting claims and demands and a method for the letting of contracts on a fair and competitive basis for the construction of

works, structures, or equipment, or the performance or furnishing of labor, materials, or supplies as required for the carrying out of any of the purposes of this part 5;

(g) To designate and appoint an official newspaper within each county in which the district or any portion thereof is situated to be used for the official publications of the district; but nothing contained in this subsection (7) shall prevent the board from directing publication in additional newspapers where public necessity may so require. Any official newspaper so designated and appointed shall be one which is published within the district.

(h) To appoint, by written resolution, one or more persons to act as custodians of moneys of the district for purposes of depositing such moneys as set forth in section 32-4-510 (1)(p). Such persons shall deposit, or cause to be deposited, all or part of such moneys in such depositories as shall be designated by the board and shall give surety bonds in such amounts and form and for such purposes as the board requires.

(8) Each member of the board shall receive as compensation for his or her service a sum not in excess of three thousand dollars per annum, payable at a rate not to exceed seventy-five dollars for each regular or special meeting of the board or committee of the board attended by the member. No member of the board shall receive any compensation as an agent, employee, engineer, or attorney of the district.

(9) No member of the board, nor officer, employee, or agent of a district shall be interested in any contract or transaction with the district except in his official representative capacity or as provided in his contract of employment with the district. Neither the holding of any office or employment in the government of any municipality or other public body of the federal government, nor the owning of any property within the state shall be deemed a disqualification for membership on the board or membership in or employment by a district, nor a disqualification for compensation for services as a member of the board or as an officer, employee, or agent of the district, except as provided in subsection (8) of this section.

Source: L. 60: p. 166, § 5. **CRS 53:** § 89-15-5. **L. 62:** p. 185, § 3. **C.R.S. 1963:** § 89-15-5. **L. 65:** p. 880, § 1. **L. 70:** p. 286, § 85. **L. 71:** pp. 975, 976, §§ 1, 2, 3. **L. 76:** (2)(d) and (3) amended, p. 601, § 18, effective July 1. **L. 77:** (8) R&RE, p. 1505, § 55, effective July 15; (8) R&RE, p. 1521, § 1, effective January 1, 1978. **L. 79:** (7)(h) added, p. 1624, § 35, effective June 8. **L. 81:** (2)(a), (2)(c), and (8) amended, p. 1637, § 2, effective May 8; (2)(e) amended, p. 1637, § 2, effective May 18. **L. 90:** (6) amended, p. 1498, § 6, effective July 1. **L. 2007:** (2)(a), (2)(d), and (8) amended, p. 160, § 1, effective March 22. **L. 2010:** (7)(c) amended, (SB 10-053), ch. 22, p. 94, § 1, effective August 11.

32-4-510. Powers of the district. (1) Any district has the following powers:

(a) To have powers, privileges, immunities, rights, liabilities, no-rights, disabilities, and duties appertaining to a public body politic and corporate constituting a quasi-municipal district and political subdivision of the state established as an instrumentality exercising public and essential governmental and proprietary functions to provide for the public health, safety, and general welfare; and to have perpetual existence and succession;

(b) To adopt, have, and use a corporate seal, and to alter the same at pleasure;

(c) To sue and to be sued;

(d) To enter into contracts and agreements including but not limited to contracts with the federal government and the state;

(e) To borrow money and to issue securities evidencing any loan to or amount due by the district, to provide for and secure the payment of any securities and the rights of the holders thereof, and to purchase, hold, and dispose of securities, as provided in this part 5;

(f) To purchase, trade, exchange, lease, buy, sell, encumber, and otherwise acquire and dispose of real and personal property and interests therein, including water and water rights;

(g) To refund any bonded indebtedness of the district without an election;

(h) In addition to all other means of providing revenue as provided in this section, during the first five years of the district's existence, to levy general ad valorem taxes on all taxable property within the district; but the total tax levy for the five-year period shall not exceed an aggregate total of three-fourths of one mill. When the district, within said period of five years, has levied taxes to the total of three-fourths of one mill, or when the district has been organized for a full five-year period, whichever occurs first, the district shall have no further power to levy general ad valorem taxes. Nothing in this part 5 shall be construed as preventing the collection of the proceeds in full of any tax levies authorized in this part 5, including but not limited to any delinquencies, as provided in this paragraph (h) and paragraph (m) of this subsection (1), and in section 32-4-511. The board, if it desires to levy in any year all or any portion of the mill levy tax authorized in this paragraph (h), shall, in accordance with the schedule prescribed by section 39-5-128, C.R.S., certify to the body having authority to levy taxes within each county wherein the district has any territory the rate so fixed, in order that, at the time and in the manner required by law for the levying of taxes, such body having authority to levy taxes shall levy such tax upon the valuation for assessment of all taxable property within the district. The levy and collection of taxes shall be as provided in section 32-4-511.

(i) To hire and retain officers, agents, employees, engineers, attorneys, and any other persons, permanent or temporary, necessary or desirable to effect the purposes hereof, to defray any expenses incurred thereby in connection with the district, and to acquire office space, equipment, services, supplies, fire and extended coverage insurance, use and occupancy insurance, workers' compensation insurance, property damage insurance, public liability insurance for the district and its officers, agents, and employees, and other types of insurance, as the board may determine. No provision in this part 5 authorizing the acquisition of insurance shall be construed as waiving any immunity of the district or any director, officer, or agent thereof, and otherwise existing under the laws of the state.

(j) To condemn property for public use;

(k) To acquire, hold, operate, maintain, equip, improve, and dispose of a sewage disposal system and appurtenant works or any interest therein, wholly within the district, or partially within and partially without the district, and wholly within, wholly without, or partially within and partially without any public body all or any part of the area of which is situated within the district; to acquire and, subject to mortgages, deeds of trust, or other liens, or otherwise, to hold, operate, maintain, equip, improve, and dispose of property of every kind appertaining to any such sewage disposal system and any improvements thereto, and necessary or convenient to the full exercise of any power provided in this part 5; to pay or otherwise defray the cost of any project; to pay or otherwise defray and to contract so to pay or defray, without an election, the principal of, any interest on, and any other charges appertaining to any securities or other obligations of any municipality or person incurred in connection with any such property so acquired by the district; and to establish and maintain facilities within or without the district, across or along any public street, highway, bridge, viaduct, or other public right-of-way, or in,

upon, under, or over any vacant public lands, which public lands are the property of the state, or across any stream of water or watercourse, without first obtaining a franchise from the municipality, county, or other public body having jurisdiction over the same, but the district shall cooperate with any public body having such jurisdiction, shall promptly restore any such street, highway, bridge, viaduct, or other public right-of-way to its former state of usefulness as nearly as may be, and shall not use the same in such manner as to impair completely or unnecessarily the usefulness thereof;

(l) To fix and from time to time increase or decrease rates and charges to municipalities within the district for the services provided by the district, including the power to fix and determine minimum charges and charges for availability of service; to pledge such revenue for the payment of any securities of the district; and to enforce the collection of such rates and charges by civil action or by any other means provided by law;

(m) To enforce the collection of rates and charges made by the district to any municipality which fails to pay any such rates and charges within ninety days after said rates and charges become due and payable, in addition to the foregoing powers and not in limitation thereof, by an action in the nature of mandamus or other suit, action, or proceeding at law or in equity to compel the levy without limitation as to rate or amount by the governing body of the municipality and the collection of general ad valorem taxes on and against all taxable property within the municipality sufficient in amount to pay such delinquent rates and charges, together with the expenses of collection, including but not necessarily limited to reasonable penalties for delinquencies, interest on the amount due from any date due at a rate of not exceeding one percent per month, or fraction thereof, court costs, reasonable attorneys' fees, and any other costs of collection. Nothing in this part 5 shall be so construed as to prevent the governing body of any municipality from levying such taxes sufficient for the payment of such rates and charges as the same become due and payable, nor from applying therefor any other funds that may be in the treasury of the municipality and available for that purpose, whether derived from any rates and charges imposed for the use of or otherwise in connection with its sewer system or sewer facilities, or from any other source, and upon such payments being made, the general ad valorem tax levy provided in this part 5 may thereupon to that extent be diminished. Except to that extent, there shall be levied without limitation of rate or amount by the governing body of each municipality, in addition to all other taxes, direct annual general ad valorem taxes on all taxable property within the municipality sufficient in amount to pay said rates and charges of the district promptly as the same respectively become due. The levy and collection of taxes shall be as provided in section 32-4-511.

(n) To sell and otherwise dispose of any by-products resulting from the operation and activities of the district;

(o) To appropriate revenues for the purpose of carrying on investigations and research in the treatment and disposal of sewage and industrial wastes;

(p) To deposit any moneys of the district in any banking institution within or without the state or in any depository authorized in section 24-75-603, C.R.S., and to invest any surplus money in the district treasury, including such money in any sinking fund established for the purpose of retiring any securities of the district, not required for the immediate necessities of the district in securities meeting the investment requirements established in part 6 of article 75 of title 24, C.R.S., and such investment may be made by direct purchase of any such securities at the original sale of the same or by the subsequent purchase of such securities. Any securities thus

purchased and held may be sold, from time to time, and the proceeds reinvested in securities, as provided in this paragraph (p). Sales of any securities thus purchased and held shall be made, from time to time, in season so that the proceeds may be applied to the purposes for which the money with which the securities were originally purchased was placed in the treasury of the district.

(q) To accept contributions or loans from the federal government for the purpose of financing the planning, construction, maintenance, and operation of any enterprise in which the district is authorized to engage, and to enter into contracts and cooperate with, and accept cooperation from, the federal government in the planning, construction, maintenance, and operation, and in financing the planning, construction, maintenance, and operation, of any such enterprise in accordance with any legislation which congress may adopt, under which aid, assistance, and cooperation may be furnished by the federal government in the planning, construction, maintenance, and operation, or in financing the planning, construction, maintenance, and operation, of any such enterprise, including, without limiting the generality of the foregoing, costs of engineering, architectural, and economic investigations and studies, surveys, designs, plans, working drawings, specifications, procedures, and other action preliminary to the acquisition, improvement, or equipment of any project; and to do all things necessary in order to avail itself of such aid, assistance, and cooperation under any federal legislation enacted;

(r) (I) To enter, without an election, into joint operating or service contracts and agreements, acquisition, improvement, or disposal contracts or other arrangements with any municipality or person concerning sewage facilities, sewers, sewer systems, intercepting sewers, project or sewage disposal systems, and any water and water rights appertaining thereto, whether acquired by the district or by any public body or other person, and to accept grants and contributions from any public body or other person in connection therewith; and when determined by the board to be in the public interest and necessary for the protection of the public health, to enter into and perform, without an election, contracts and agreements with any municipality or person for the provision and operation by the district of sewage facilities, sewers, sewer systems, intercepting sewers, and a project or sewage disposal system to abate or reduce the pollution of waters or other nuisance caused by discharges of sewage, liquid wastes, solid wastes, night soil, and industrial wastes by the municipality or person, and for the payment periodically by the municipality or person to the district of amounts at least sufficient, in the determination of the board, to compensate the district for the cost of providing, operating, and maintaining the sewage facilities, sewers, sewer system, intercepting sewers, project, or sewage disposal system serving such municipality or person.

(II) Subject to the rights and privileges of the holder or holders of any bonds or other securities of the district, any such joint operating or service contract between the district and ten or more municipalities may be amended, from time to time, by written agreement, duly authorized and signed by representatives of two-thirds of the parties thereto. This subparagraph (II) shall apply to any existing as well as any future joint operating or service contract entered into with such municipalities.

(s) To enter into and perform, without an election, contracts and agreements with any municipality or person for or concerning the planning, construction, lease, or other acquisition, operation, maintenance, improvement, equipment, disposal, and the financing of any project;

(t) To enter upon any land, to make surveys, borings, soundings, and examinations for the purposes of the district, in order to locate the necessary works of any project and any roadways and other rights-of-way appertaining to any project authorized in this part 5; to acquire all property necessary for the acquisition or improvement of said works, including lands for compensating reservoirs, and all necessary appurtenances;

(u) To carry on technical and other investigations of all kinds, make measurements, collect data, and make analyses, studies, and inspections pertaining to water supply, water rights, control of floods, and use of water, sewage facilities, and any project, both within and without the district;

(v) To have the right to provide from revenues or other available funds an adequate fund for the improvement of a sewage disposal system or of any parts of the works and properties of the district;

(w) To prescribe and enforce reasonable rules and regulations for the availability of service from, the connection with, the use of, and the disconnection from a sewage disposal system, any other facilities, project, or other property of the district authorized in this part 5, and the operation of a sewage disposal system and any sewer system;

(x) To make and keep records in connection with any project or otherwise concerning the district;

(y) To arbitrate any differences arising in connection with any project or otherwise concerning the district;

(z) To have the management, control, and supervision of all the business and affairs appertaining to any project authorized in this part 5, or otherwise concerning the district, and of the acquisition, improvement, equipment, operation, and maintenance of any such project;

(aa) To prescribe the duties of officers, agents, employees, and other persons, and fix their compensation, but the compensation of employees and officers shall be established at prevailing rates of pay for equivalent work;

(bb) To enter into contracts of indemnity and guaranty, in such form as may be approved by the board, relating to or connected with the performance of any contract or agreement which the district is empowered to enter into under the provisions of this part 5 or of any other law of the state;

(cc) To provide, by any contract, without an election:

(I) For the joint use of personnel, equipment, and facilities of any district and public bodies, including sewer systems, sewage disposal plants, and public buildings constructed by or under the supervision of the board of a district or the governing body of the public body concerned, upon such terms and agreements, and within such areas within the district, as may be determined, for the promotion and protection of health, comfort, safety, life, welfare, and property of the inhabitants of the district and public bodies;

(II) For the joint employment of clerks, stenographers, and other employees appertaining to any sewer system or sewage disposal system, or both, now existing or hereafter established in any district, upon such terms and conditions as may be determined for the equitable apportionment of the expenses therefrom resulting;

(dd) To obtain financial statements, appraisals, economic feasibility reports, and valuations of any type appertaining to any project or any property pertaining thereto;

(ee) To adopt any resolution authorizing a project or the issuance of securities, or both, or otherwise appertaining thereto, or otherwise concerning the district;

(ff) To make and execute a mortgage, deed of trust, indenture, or other trust instrument appertaining to a project or to any securities authorized in this part 5, or to both, except as provided in paragraph (gg) of this subsection (1) and in section 32-4-524 (8);

(gg) To make all contracts, execute all instruments, and do all things necessary or convenient in the exercise of the powers granted in this part 5, or in the performance of the district's covenants or duties, or in order to secure the payment of its securities, if no encumbrance, mortgage, or other pledge of property, excluding any money, of the district is created thereby, and if no property, excluding money, of the district is liable to be forfeited or taken in payment of said securities;

(hh) To have and exercise all rights and powers necessary or incidental to or implied from the specific powers granted in this part 5. Such specific powers shall not be considered as a limitation upon any power necessary or appropriate to carry out the purposes and intent of this part 5.

(ii) To exercise all or any part or combination of the powers granted in this part 5.

Source: L. 60: p. 169, § 6. **CRS 53:** § 89-15-6. **L. 62:** pp. 188, 192, §§ 4, 5. **C.R.S. 1963:** § 89-15-6. **L. 67:** p. 535, § 8. **L. 71:** p. 1214, § 10. **L. 77:** (1)(h) amended, p. 1505, § 56, effective July 15. **L. 79:** (1)(p) amended, p. 1624, § 36, effective June 8. **L. 81:** (1)(r) amended, p. 1638, § 3, effective May 8. **L. 89:** (1)(p) amended, p. 1118, § 37, effective July 1. **L. 90:** (1)(i) amended, p. 572, § 66, effective July 1. **L. 93:** (1)(k), (1)(r)(I), (1)(s), and IP(1)(cc) amended, p. 21, § 2, effective March 4.

32-4-511. Levy and collection of taxes. (1) It is the duty of the body having authority to levy taxes within each county to levy the taxes provided in this part 5. It is the duty of all officials charged with the duty of collecting taxes to collect such taxes at the time and in the form and manner and with like interest and penalties as other general ad valorem taxes are collected and when collected to pay the same to the district or municipality ordering its levy and collection. The payment of such collection shall be made monthly to the treasurer of the district or municipality levying the tax and be paid into the depository thereof to the credit of such district or municipality. All general ad valorem taxes levied under this part 5, together with interest thereon and penalties for default in payment thereof, and all costs of collecting the same, shall constitute, until paid, a perpetual lien on and against the property taxed, and such lien shall be on a parity with the tax lien of other general ad valorem taxes.

(2) If the general ad valorem taxes levied are not paid, then delinquent real property shall be sold at the regular tax sale for the payment of said taxes, interest, and penalties, in the manner provided by the statutes of the state of Colorado for selling real property for the nonpayment of general taxes. If there are no bids at said tax sale for the property so offered, said property shall be struck off to the county, and the county shall account to the district or municipality to which the tax is due in the same manner as provided by law for accounting for school, town, and city taxes. Delinquent personal property shall be distrained and sold as provided by law.

Source: L. 60: p. 173, § 7. **CRS 53:** § 89-15-7. **L. 62:** p. 194, § 6. **C.R.S. 1963:** § 89-15-7.

32-4-512. Boundary changes - liability of property. The boundaries of any district organized under this part 5 may be changed in the manner provided for in this part 5, but the change of boundaries of the district shall not impair or affect its organization, nor shall it affect, impair, or discharge any contract, obligation, lien, or charge on which the district might be liable or chargeable had such change of boundaries not been made.

Source: L. 60: p. 173, § 8. **CRS 53:** § 89-15-8. **C.R.S. 1963:** § 89-15-8.

32-4-513. Inclusion of territory. (1) Any municipality shall be eligible for inclusion in a district with the consent of such municipality and the consent of the district, upon such terms and conditions as may be determined by the board of directors of the district and upon determination by the board that such municipality may feasibly be served by the facilities of the district.

(2) (a) The governing body of a municipality desiring to include such municipality within the boundaries of the district shall submit to the district a request that the district determine the feasibility of serving the municipality through the district's facilities and the terms and conditions upon which the municipality may be included within the district.

(b) Upon receipt of such a request the board of directors of the district shall cause an investigation to be made within a reasonable time to determine whether or not the municipality may feasibly be served by the facilities of the district and the terms and conditions upon which the municipality may be included within the district. Upon such determination, if it is determined that it is feasible to serve the municipality through the district's facilities, the board by resolution shall set the terms and conditions upon which the municipality may be included within the district and shall give notice thereof to the municipality. If the board determines that the municipality cannot feasibly be served through the district's facilities or otherwise determines that the municipality should not be included within the boundaries of the district, the board of directors of the district shall pass a resolution so stating and notify the municipality of the action of the board.

(3) (a) The governing body of the municipality, if it desires to include the municipality within the district upon the terms and conditions set forth by the board of directors of the district, shall adopt an ordinance declaring that the public health, safety, and general welfare require the inclusion of said municipality within the district and that the governing body desires to have said municipality included therein upon the terms and conditions prescribed by the board of directors of the district, but the governing body of such municipality shall, before final adoption of said ordinance, hold a public hearing thereon, notice of which shall be given by publication in at least one newspaper of general circulation within such municipality, which publication shall be complete at least ten days before the hearing. Upon the final adoption of said ordinance the clerk of the governing body of such municipality shall forthwith transmit a certified copy thereof to the board of directors of the district and to the division of local government in the department of local affairs.

(b) After receipt of a copy of such ordinance the board of directors of the district may pass and adopt a resolution including said municipality within the boundaries of the district and shall cause a certified copy thereof to be transmitted to the division of local government and a certified copy to the clerk of the governing body of the municipality. The director of said division, upon receipt of a certified copy of the resolution of the board of directors of the district,

shall forthwith issue a certificate reciting that the municipality described in such resolution has been duly included within the boundaries of the district according to the laws of the state of Colorado. The inclusion of such territory shall be deemed effective upon the date of the issuance of such certificate, and the validity of such inclusion shall be incontestable in any suit or proceeding which has not been commenced within three months from such date. The said division shall forthwith transmit to the governing body of such municipality and to the board of directors of the district three copies of such certificate, and the clerk of such governing body shall forthwith record a copy in the office of the clerk and recorder of each county in which such municipality is located and file a copy thereof with the county assessor and county treasurer of said county in which the municipality is located. The said division shall issue additional copies of the certificate upon request.

(4) The foregoing provisions for inclusion of territory within the district shall be applicable in those cases where the municipality and the district take action to include only a portion of a municipality within the district, but in such instances the ordinance of the municipality, the resolution of the board of directors of the district, and the certificate of inclusion issued by the director of the division of local government shall specifically describe the area of the municipality which is included within the district.

Source: L. 60: p. 174, § 9. **CRS 53:** § 89-15-9. **C.R.S. 1963:** § 89-15-9. **L. 76:** (3) and (4) amended, p. 601, § 19, effective July 1.

32-4-514. Annexation and consolidation of territory by municipalities. (1) All territory which may be annexed to a municipality after its inclusion within the boundaries of the district and the entire consolidated territory resulting from a consolidation of a municipality included within the district with a municipality not so included shall, without further action by the municipality or the board of directors of the district, become a part of and included within the boundaries of the district; but if it is infeasible for any part of the annexed or consolidated territory to be served by the district's facilities, the municipality may, prior to or within ninety days after such annexation or consolidation is completed, petition the board of directors of the district for an exclusion of the territory which cannot feasibly be served.

(2) Upon receipt of such a petition, the board of directors shall consider the same, and, if it determines that the territory petitioned to be excluded cannot feasibly be served by the facilities of the district, the board by resolution may exclude the same from the boundaries of the district, and such exclusion shall be retroactive to the date of annexation or consolidation. A certified copy of the resolution excluding the territory shall be forthwith transmitted to the division of local government in the department of local affairs, and three certified copies shall be forthwith transmitted to the clerk of the municipality, and the clerk of the municipality shall cause a certified copy of the resolution to be recorded in the county or counties in which the municipality is located and a copy thereof delivered to the office of the county assessor and county treasurer of each county in which the excluded territory is located. Additional certified copies of such resolution shall be issued by the secretary of the district upon request.

Source: L. 60: p. 175, § 10. **CRS 53:** § 89-15-10. **L. 62:** p. 195, § 7. **C.R.S. 1963:** § 89-15-10. **L. 76:** (2) amended, p. 602, § 20, effective July 1.

32-4-515. Exclusion of territory. (1) Should the governing body of any municipality which is included within the district determine by ordinance, adopted after a public hearing called and held as provided in section 32-4-508 (1)(d), that said municipality or any portion thereof cannot feasibly be served by the district's facilities, such municipality may file with the district a certified copy of such ordinance and request that said municipality or a designated portion thereof be excluded from the district.

(2) Upon receipt of such ordinance the board of directors of the district shall cause an investigation to be made to determine whether or not the municipality or the designated portion thereof can feasibly be served by the district's facilities.

(3) (a) Upon completion of said investigation, and in any event not later than ninety days from the filing of the ordinance with the district, the board of directors of the district shall by resolution determine that the area sought to be excluded can or cannot be feasibly served by the district's facilities. If the board of directors of the district determines that the area can feasibly be served by the district's facilities, the exclusion sought shall be denied.

(b) If the board of directors of the district determines that the area sought to be excluded cannot feasibly be served by the district's facilities, the board of directors of the district shall adopt a resolution excluding the area from the district, and a certified copy of such resolution shall forthwith be filed with the director of the division of local government in the department of local affairs, who shall forthwith issue a certificate of exclusion describing the territory so excluded and shall transmit to the clerk of the municipality three certified copies of such certificate of exclusion, and the clerk of the municipality shall forthwith record a copy of such certificate in the office of the county clerk and recorder of each county in which the municipality may be located and shall deliver a copy to the county assessor and the county treasurer of each county in which the municipality is located; but, so long as any securities of the district are outstanding, no exclusion of territory shall be made which will reduce the revenue of the district, nor shall any exclusion of territory reduce the district's minimum charges and charges for availability of service.

Source: L. 60: p. 176, § 11. **CRS 53:** § 89-15-11. **L. 62:** p. 196, § 8. **C.R.S. 1963:** § 89-15-11. **L. 76:** (3)(b) amended, p. 603, § 21, effective July 1.

32-4-516. Service of areas outside the boundaries of the district. Any municipality included within the district may discharge into the district's facilities sewage and industrial wastes received by its system from areas not within the corporate limits of the municipality, but in that case the sewage and industrial wastes so received from outside the district boundaries and discharged into the district's facilities shall be considered, for the purposes of this part 5, as being sewage and industrial waste of that municipality.

Source: L. 60: p. 177, § 12. **CRS 53:** § 89-15-12. **C.R.S. 1963:** § 89-15-12.

32-4-517. Dissolution of districts. (1) Any metropolitan sewage disposal district formed under this part 5 which has no indebtedness, securities, or other obligations outstanding or which has made full provision for their payment, may be dissolved by vote of a majority of the electors voting at an election to be held for the purpose of voting upon the dissolution of the

district and which election shall be held in the manner provided for the holding of elections as set forth in section 32-4-518.

(2) An election submitting the proposition of dissolution of the district may be initiated by a resolution of the board of directors adopted by three-fourths of all of the members of the board of directors of such district calling an election for that purpose, or by the filing with the clerk of the district resolutions requesting such an election, passed and adopted by the governing bodies of three-fourths of all of the municipalities included within the boundaries of the district.

(3) In the event the vote is for dissolution, the board of directors of the district shall proceed to terminate the affairs of the district and any funds remaining in the district treasury, after all obligations of the district have been discharged and the costs of terminating the district's affairs have been paid, shall be divided among the municipalities included within the district in proportion to the population of each such municipality, as determined by the latest estimate made by the director of the division of planning.

Source: L. 60: p. 177, § 13. **CRS 53:** § 89-15-13. **L. 62:** p. 196, § 9. **C.R.S. 1963:** § 89-15-13. **L. 70:** p. 286, § 86. **L. 71:** p. 962, § 6.

32-4-518. Elections. (1) (a) Wherever in this part 5 an election is permitted or required, the election may be held separately or may be coordinated with any primary or general election held under the laws of the state of Colorado. The elections shall be held and conducted as provided in articles 1 to 13 of title 1, C.R.S. The board of directors shall call the election by resolution adopted pursuant to section 1-5-203, C.R.S.

(b) The board, in the case of any election not to be coordinated with a primary or general election, shall appoint a designated election official responsible for assuring that the election is held according to the provisions of articles 1 to 13 of title 1, C.R.S.

(c) (Deleted by amendment, L. 92, p. 895, § 138, effective January 1, 1993.)

(d) If the election is coordinated with a primary or general election, it shall be held according to the provisions of section 1-7-116, C.R.S.

(2) to (4) (Deleted by amendment, L. 92, p. 895, § 138, effective January 1, 1993.)

Source: L. 60: p. 178, § 14. **CRS 53:** § 89-15-14. **L. 62:** p. 196, § 10. **C.R.S. 1963:** § 89-15-14. **L. 70:** p. 287, § 87. **L. 77:** (3) amended, p. 1505, § 57, effective July 15. **L. 81:** (1)(a) amended, p. 1624, § 25, effective July 1. **L. 82:** (1)(c) amended, p. 495, § 1, effective February 19. **L. 92:** Entire section amended, p. 895, § 138, effective January 1, 1993. **L. 93:** (1)(a), (1)(b), and (1)(d) amended, p. 1440, § 139, effective July 1.

32-4-519. Authorization. In addition to powers elsewhere conferred by law on municipalities, municipalities participating in the organization of a district and municipalities included within a district under this part 5 have every power necessary, requisite, or proper to effectuate the purposes of this part 5, including, without limitation, the power to acquire and operate a sewer system as defined in section 32-4-502 (32), and to impose, collect, and enforce rates for services rendered or made available by or through such system.

Source: L. 60: p. 178, § 15. **CRS 53:** § 89-15-15. **C.R.S. 1963:** § 89-15-15.

32-4-520. Correction of faulty notices. In any case where a notice is provided for in this part 5, if the board, governing body, or court having jurisdiction of the matter finds for any reason that due notice was not given, the board, governing body, or court shall not thereby lose jurisdiction, and the proceeding in question shall not thereby be void or be abated, but the board, governing body, or court shall order due notice to be given, and shall continue the hearing until such time as notice shall be properly given, and thereupon shall proceed as though notice had been properly given in the first instance.

Source: L. 60: p. 178, § 16. **CRS 53:** § 89-15-16. **L. 62:** p. 199, § 11. **C.R.S. 1963:** § 89-15-16.

32-4-521. Early hearings. All cases in which there may arise a question of validity of the organization of a district, or a question of the validity of any proceeding under this part 5, shall be advanced as a matter of immediate public interest and concern, and heard at the earliest practicable moment. The courts shall be open at all times for the purpose of this part 5.

Source: L. 60: p. 179, § 17. **CRS 53:** § 89-15-17. **C.R.S. 1963:** § 89-15-17.

32-4-522. Rates and service charges. (1) (a) Every district and municipality fixing and collecting rates or charges, or both, as provided in section 32-4-510 (1)(l) and elsewhere in this part 5, or otherwise, is, in supplementation of such powers, authorized to fix and collect rents, rates, fees, tolls, and other charges, in this part 5 sometimes referred to as "service charges", for direct or indirect connection with, or the use or services of, a sewage disposal system or sewer system, respectively, including, without limiting the generality of the foregoing, minimum charges and charges for the availability of service.

(b) Such service charges may be charged to and collected in advance or otherwise by a district from any municipality within the district and by any municipality from any person contracting for such connection or use or services or from the owner or occupant, or both of them, of any real property which directly or indirectly is or has been or will be connected with the sewer system or from which or on which originates or has originated sewage or other wastes which directly or indirectly have entered or may enter the sewage disposal system and sewer system, and the municipality or owner, or occupant, of any such real property shall be liable for and shall pay such service charges to the district or municipality fixing the service charges at the time when and place where such service charges are due and payable.

(c) Such service charges of any district may accrue from any date on which its board reasonably estimates, in any resolution authorizing the issuance of any securities or other instrument appertaining thereto or in any contract with any municipality, that any sewage disposal system or project being acquired or improved and equipped will be available for service or use.

(2) (a) Such rents, rates, fees, tolls, and other charges, being in the nature of use or service charges, shall, as nearly as the district or municipality fixing the service charges shall deem practicable and equitable, be reasonable, and shall be uniform throughout the district or municipality for the same type, class, and amount of use or service of the sewage disposal system or sewer system, and may be based or computed either: On measurements of sewage flow devices duly provided and maintained by the district or by the municipality or any user as

approved by the district or municipality fixing such charges, and analyses of sewage samples procured and made by or in a manner approved by the district; or on the consumption of water in or on or in connection with the municipality or real property, making due allowance for commercial use of water and infiltration of groundwater and discharge of surface run-off to the sewer system; or on the number and kind of water outlets on or in connection with the municipality or real property, or on the number and kind of plumbing or sewage fixtures or facilities in or on or in connection with the municipality or real property; or on the number of persons residing or working in or on or otherwise connected or identified with the municipality or real property, or on the capacity of the improvements in or on or connected with the municipality or real property; or upon the availability of service or readiness to serve by the system; or on any other factors determining the type, class, and amount of use or service of the sewage disposal system or sewer system; or on any combination of any such factors, and may give weight to the characteristics of the sewage and other wastes and any other special matter affecting the cost of treatment and disposal thereof, including chlorine demand, biochemical oxygen demand, concentration of solids, and chemical composition.

(b) Reasonable penalties may be fixed for any delinquencies, including, without limiting the generality of the foregoing, interest on delinquent service charges from any date due at a rate of not exceeding one percent per month, or fraction thereof, reasonable attorneys' fees, and other costs of collection.

(3) The district or municipality fixing the service charges shall prescribe and, from time to time, when necessary revise a schedule of such service charges, which shall comply with the terms of any contract of the district or municipality fixing the service charges, and in any event shall be such that the revenues from the service charges of the district or municipality will at all times be adequate, except to the extent that the proceeds of any general ad valorem tax or other moneys are available and used, after an allowance is made for delinquencies accrued and reasonably estimated to accrue by the board or governing body fixing the service charges, for the payment of such service charges, whether resulting from any delinquency of any municipality, other public body, or other person, or from any other cause:

(a) To pay all expenses of operation and maintenance of the sewage disposal system or sewer system, including reserves, insurance, and improvements;

(b) To pay punctually the principal of and interest on any securities payable from revenues of the sewage disposal system or sewer system and issued or to be issued by the district or municipality fixing the service charges;

(c) To maintain such reserves or sinking funds therefor; and

(d) For the payment of any expenses incidental to any sewage disposal system or sewer system or any project authorized in this part 5, any contingencies, acquisitions, improvements, and equipment, and any other cost, as may be required by the terms of any contract of, or as may be deemed necessary or desirable by, the district or municipality fixing the service charges.

(4) Said schedule shall thus be prescribed and from time to time revised by the district or municipality. A public hearing thereon may be, but is not required to be, held by the district or municipality at least seven days after such published notice is given, as the district or municipality may determine to be reasonable. The district or municipality shall fix and determine the times when and the places where such service charges shall be due and payable and may require that such service charges shall be paid in advance for a period of not more than one year. A copy of such schedule of service charges in effect shall at all times be kept on file at

the principal office of the district or municipality fixing the service charges and shall at all reasonable times be open to public inspection.

(5) The legislature has determined and declared that the obligations arising from time to time of any municipality or person to pay service charges fixed in connection with any sewage disposal system or sewer system shall constitute general obligations of the municipality or person charged with their payment; but as such obligations accrue for current services and benefits from and use of any such system, the obligations shall not constitute an indebtedness of the municipality or other public body within the meaning of any constitutional, charter, or statutory limitation or other provision restricting the incurrence of any debt.

(6) No board, agency, bureau, commission, or official, other than the board of the district or the governing body of the municipality fixing the service charges, has authority to fix, prescribe, levy, modify, supervise, or regulate the making of service charges, nor to prescribe, supervise, or regulate the performance of services appertaining to a sewage disposal system or sewer system, as authorized in this part 5; but this subsection (6) shall not be construed to be a limitation on the contracting powers of the board of any district or the governing body of any municipality within the district.

Source: L. 62: p. 202, § 14. **C.R.S. 1963:** § 89-15-21.

32-4-523. Form of borrowing. (1) Upon the conditions and under the circumstances set forth in this part 5, a district, to carry out the purposes of this part 5, from time to time may borrow money to defray the cost of any project, or any part thereof, as the board may determine, and issue the following securities to evidence such borrowing: Debentures, warrants, bonds, interim receipts, temporary certificates, temporary bonds, and notes.

(2) A district is authorized to borrow money without an election in anticipation of taxes or other revenues, or both, and to issue debentures to evidence the amount so borrowed.

(3) A district is authorized to defray the cost of any services, supplies, equipment, or other materials furnished to or for the benefit of the district by the issuance of warrants to evidence the amount due therefor, without an election, in anticipation of taxes or other revenues, or both.

(4) Debentures and warrants may mature at such time or times not exceeding five years from the date of their issuance as the board may determine. They shall not be extended or funded except by the issuance of bonds or notes in compliance with subsection (5) or (7) of this section.

(5) A district is authorized to borrow money in anticipation of taxes or other revenues, or both, and to issue bonds to evidence the amount so borrowed. With the exception of a district that qualifies as an enterprise in accordance with section 20 (2)(d) of article X of the state constitution, no bonded indebtedness shall be created by a district, without first submitting a proposition of issuing such bonds, and the maximum net effective interest rate at which such bonds may be issued, to the electors of the district and being approved, at an election held for that purpose, in accordance with section 32-4-518. Bonds so authorized may be issued in one series or more and may mature at such time or times not exceeding forty years from their issuance as the board may determine.

(6) A district is authorized to issue interim receipts or temporary certificates or temporary bonds, pending preparation of definitive bonds and exchangeable for the definitive

bonds when prepared, as the board may determine. Each holder of any such temporary security shall have all the rights and remedies which he would have as a holder of the definitive bonds.

(7) A district is authorized to borrow money and to issue notes evidencing "construction" or short-term loans for the acquisition or improvement and equipment of a sewage disposal system or any project in supplementation of long-term financing and the issuance of bonds, as provided in section 32-4-535 and elsewhere in this part 5.

(8) Nothing in this part 5 shall be construed as creating or authorizing the creation of an indebtedness on the part of any municipality included in the district.

Source: L. 62: p. 205, § 14. **C.R.S. 1963:** § 89-15-22. **L. 70:** p. 287, § 88. **L. 81:** (4) amended, p. 1639, § 4, effective May 8. **L. 2002:** (5) amended, p. 46, § 1, effective August 7.

32-4-524. Payment of securities. (1) All securities issued by the district shall be authorized by resolution.

(2) The district may pledge its full faith and credit for the payment of any securities authorized in this part 5, the interest thereon, any prior redemption premiums, and any charges appertaining thereto. Such securities may constitute the direct and general or special obligations of the district. Their payment may be secured by a specific pledge of tax proceeds and other revenues of the district, in this part 5 sometimes referred to as "revenues" of the district, as the board may determine.

(3) The board, in connection with such additionally secured securities, in the resolution authorizing their issuance or other instrument appertaining thereto may pledge all or a portion of such revenues, subject to any prior pledges, as additional security for such payment of said securities, and at its option may deposit such revenues in a fund created to pay the securities or created to secure additionally their payment.

(4) Any such revenues pledged directly or as additional security for the payment of securities of any one issue or series which revenues are not exclusively pledged therefor, may subsequently be pledged directly or as additional security for the payment of the securities of one or more issues or series subsequently authorized.

(5) All securities of the same issue or series shall, subject to the prior and superior rights of outstanding securities, claims, and other obligations, have a prior, paramount, and superior lien on the revenues pledged for the payment of the securities over and ahead of any lien there against subsequently incurred of any other securities; but, the resolution authorizing, or other instrument appertaining to, the issuance of any securities may provide for the subsequent authorization of bonds or other securities, the lien for the payment of which on such revenues is on a parity with the lien thereon of the subject securities upon such conditions and subject to such limitations as said resolution or other instrument may provide.

(6) All securities of the same issue or series shall be equally and ratably secured without priority by reason of number, date of maturity, date of securities, of sale, of execution, or of delivery, by a lien on said revenues in accordance with the provisions of this part 5 and the resolution authorizing, or other instrument appertaining to, said securities, except to the extent such resolution or other instrument shall otherwise specifically provide.

(7) Each such security issued under this part 5 shall recite in substance that said security and the interest thereon are payable solely from the revenues or other moneys pledged to the

payment thereof. Securities specifically pledging the full faith and credit of the district for their payment shall so state.

(8) The payment of securities shall not be secured by an encumbrance, mortgage, or other pledge of property of the district, except for revenues, income, tax proceeds, and other moneys pledged for the payment of securities. No property of the district, subject to said exception, shall be liable to be forfeited or taken in payment of the securities.

Source: L. 62: p. 206, § 14. **C.R.S. 1963:** § 89-15-23.

32-4-525. Incontestable recital in securities. Any resolution authorizing, or other instrument appertaining to, any securities under this part 5 may provide that each security therein authorized shall recite that it is issued under authority of this part 5. Such recital shall conclusively impart full compliance with all of the provisions of this part 5, and all securities issued containing such recital shall be incontestable for any cause whatsoever after their delivery for value.

Source: L. 62: p. 207, § 14. **C.R.S. 1963:** § 89-15-24.

32-4-526. Security details. (1) Any securities in this part 5 authorized to be issued shall bear such date, shall be in such denomination, shall mature at such time but in no event exceeding forty years from their date, shall bear interest at a rate such that the net effective interest rate of the issue of securities does not exceed the maximum net effective interest rate authorized, which interest may be evidenced by one or two sets of coupons, payable annually or semiannually; except that the first coupon appertaining to any security may represent interest for any period, not in excess of one year, as may be prescribed by resolution or other instrument; and said securities and any coupons shall be payable in such medium of payment at any banking institution or such other place within or without the state, including but not limited to the office of the treasurer of any county in which the district is located wholly or in part, as determined by the board, and said securities at the option of the board may be in one or more series, may be made subject to prior redemption in advance of maturity in such order or by lot or otherwise at such time without or with the payment of such premium, not exceeding six percent of the principal amount of each security so redeemed, as determined by the board.

(2) Any resolution authorizing the issuance of securities or other instrument appertaining thereto may capitalize interest on any securities during any period of construction estimated by the board and one year thereafter and any other cost of any project, by providing for the payment of the amount capitalized from the proceeds of the securities.

(3) Securities may be issued with privileges for conversion or registration, or both, for payment as to principal or interest, or both; and where interest accruing on the securities is not represented by interest coupons, the securities may provide for the endorsing of payments of interest thereof; and the securities generally shall be issued in such manner, in such form, either coupon or registered, with such recitals, terms, covenants and conditions, and with such other details, as may be provided by the board in the resolution authorizing the securities, or other instrument appertaining thereto, except as otherwise provided in this part 5.

(4) Any resolution authorizing the issuance of securities or any other instrument appertaining thereto may provide for their reissuance in other denominations in negotiable or nonnegotiable form and otherwise in such manner and form as the board may determine.

(5) Subject to the payment provisions specifically provided in this part 5, said debentures, warrants, bonds, any interest coupons thereto attached, and such interim receipts or temporary certificates or temporary bonds, and notes shall be fully negotiable within the meaning of and for all the purposes of article 8 of title 4, C.R.S., except as the board may otherwise provide; and each holder of such security, or of any coupon appertaining thereto, by accepting such security or coupon shall be conclusively deemed to have agreed that such security or coupon, except as otherwise provided, is and shall be fully negotiable within the meaning and for all purposes of said article.

(6) Notwithstanding any other provision of law, the board in any proceedings authorizing securities under this part 5:

(a) May provide for the initial issuance of one or more securities, in this subsection (6) called "bond", aggregating the amount of the entire issue;

(b) May make such provision for installment payments of the principal amount of any such bond as it may consider desirable;

(c) May provide for the making of any such bond payable to bearer or otherwise, registrable as to principal or as to both principal and interest, and where interest accruing thereon is not represented by interest coupons, for the endorsing of payments of interest on such bonds;

(d) May further make provision in any such proceedings for the manner and circumstances in which any such bond may in the future, at the request of the holder thereof, be converted into bonds of smaller denominations, which bonds of smaller denominations may in turn be either coupon bonds or bonds registrable as to principal, or principal and interest, or both.

(7) If lost or completely destroyed, any security may be reissued in the form and tenor of the lost or destroyed security upon the owner furnishing, to the satisfaction of the board: Proof of ownership; proof of loss or destruction; a surety bond in twice the face amount of the security and any coupons; and payment of the cost of preparing and issuing the new security.

(8) Any security shall be executed in the name of and on behalf of the district and signed by the chairman of the board, with the seal of the district affixed thereto and attested by the secretary of the district.

(9) Except for any bonds which are registrable for payment of interest, interest coupons payable to bearer and appertaining to the bonds shall be issued and shall bear the original or facsimile signature of the chairman of the board.

(10) Any one of said officers, after filing with the secretary of state his manual signature certified by him under oath, may execute or cause to be executed with a facsimile signature in lieu of his manual signature any security authorized in this part 5, but such a filing is not a condition of execution with a facsimile signature of any interest coupon, and provided that at least one signature required or permitted to be placed on each such security, excluding any interest coupon, shall be manually subscribed. An officer's facsimile signature has the same legal effect as his manual signature.

(11) The secretary of the district may cause the seal of the district to be printed, engraved, stamped, or otherwise placed in facsimile on any security. The facsimile seal has the same legal effect as the impression of the seal.

(12) The securities and any coupons bearing the signatures of the officers in office at the time of the signing thereof shall be binding obligations of the district, notwithstanding that before the delivery thereof and payment therefor, any or all of the persons whose signatures appear thereon shall have ceased to fill their respective offices.

(13) Any officer in this part 5 authorized or permitted to sign any security or interest coupon, at the time of its execution and of the execution of a signature certificate, may adopt as his own facsimile signature the facsimile signature of his predecessor in office in the event that such facsimile signature appears upon the security or coupons appertaining thereto, or upon both the security and such coupons.

(14) The securities may be repurchased by the district out of any funds available for such purpose from the project to which they pertain at a price of not more than the principal amount thereof and accrued interest, plus the amount of the premium, if any, which might on the next redemption date of such securities be paid to the holders thereof if such securities should be called for redemption on such date pursuant to their terms, and all securities so repurchased shall be cancelled.

(15) The resolution authorizing the securities or other instrument appertaining thereto may contain any agreement or provision customarily contained in instruments securing securities, including, without limiting the generality of the foregoing, covenants designated in section 32-4-529.

Source: L. 62: p. 207, § 14. **C.R.S. 1963:** § 89-15-25. **L. 70:** p. 287, § 89. **L. 75:** (5) amended, p. 220, § 68, effective July 16.

32-4-527. Sale of securities. (1) Any securities authorized in this part 5, except for warrants not issued for cash, and except for interim receipts or certificates or temporary bonds issued pending preparation of definitive bonds, shall be sold at public or private sale for not less than the principal amount thereof and accrued interest, or at the board's option, below par at a discount not exceeding six percent of the principal amount thereof and at a price such that the net effective interest rate of the issue of securities does not exceed the maximum net effective interest rate authorized. For any securities the issuance of which does not require approval at an election pursuant to this part 5, the maximum net effective interest rate shall be established by the board prior to the time such securities are sold and issued.

(2) No discount, except as provided in this part 5, or commission shall be allowed or paid on or for any security sale to any purchaser or bidder, directly or indirectly; but nothing contained in this part 5 shall be construed as prohibiting the board from employing legal, fiscal, engineering, and other expert services in connection with any project or facilities authorized in this part 5, and with the authorization, issuance, and sale of securities.

Source: L. 62: p. 210, § 14. **C.R.S. 1963:** § 89-15-26. **L. 70:** p. 288, § 90.

32-4-528. Application of proceeds. (1) All moneys received from the issuance of any securities authorized in this part 5 shall be used solely for the purposes for which issued and the cost of any project thereby delineated.

(2) Any accrued interest and any premium shall be applied to the payment of the interest on or the principal of the securities, or both interest and principal, or shall be deposited in a reserve therefor, as the board may determine.

(3) Any unexpended balance of such security proceeds remaining after the completion of the acquisition or improvement and equipment of the project or the completion of the purposes for which such securities were issued shall be paid immediately into the fund created for the payment of the principal of said securities and shall be used therefor, subject to the provisions as to the times and methods for their payment as stated in the securities and the proceedings authorizing or otherwise appertaining to their issuance, or in a reserve therefor.

(4) The validity of said securities shall not be dependent on nor affected by the validity or regularity of any proceedings relating to the acquisition or improvement and equipment of the project or the proper completion of any project for which the securities are issued.

(5) The purchasers of the securities shall in no manner be responsible for the application of the proceeds of the securities by the district or any of its officers, agents, and employees.

Source: L. 62: p. 211, § 14. **C.R.S. 1963:** § 89-15-27.

32-4-529. Covenants in security proceedings. (1) Any resolution or trust indenture authorizing the issuance of securities or any other instrument appertaining thereto may contain covenants and other provisions, notwithstanding such covenants and provisions may limit the exercise of powers conferred by this part 5, in order to secure the payment of such securities, in agreement with the holders and owners of such securities, as to any one or more of the following:

(a) The service charges, and any general taxes to be fixed, charged, or levied, and the collection, use, and disposition thereof, including but not limited to the foreclosure of liens for delinquencies, the discontinuance of services, facilities, or commodities, or use of any sewage disposal system or project, prohibition against free service, the collection of penalties and collection costs, including disconnection and reconnection fees, and the use and disposition of any revenues of the district derived, or to be derived, from any source;

(b) The acquisition, improvement, or equipment of all or any part of the sewage disposal system or of any project;

(c) The creation and maintenance of reserves or sinking funds to secure the payment of the principal of and interest on any securities or of operation and maintenance expenses of any sewage disposal system or any project, or part thereof, and the source, custody, security, use, and disposition of any such reserves or funds, including but not limited to the powers and duties of any trustee with regard thereto;

(d) A fair and reasonable payment by the district from its general fund or other available moneys to the account of a designated project for any facilities or commodities furnished or services rendered thereby to the district or any of its departments, boards, or agencies;

(e) The purpose to which the proceeds of the sale of securities may be applied, and the custody, security, use, expenditure, application, and disposition thereof;

(f) The payment of the principal of and interest on any securities, and the sources and methods thereof, the rank or priority of any securities as to any lien or security for payment, or the acceleration of any maturity of any securities, or the issuance of other or additional securities payable from or constituting a charge against or lien upon any revenues pledged for the payment

of securities and the creation of future liens and encumbrances there against, and limitations thereon;

(g) The use, regulation, inspection, management, operation, maintenance, or disposition, or any limitation or regulation of the use, of all or any part of the sewage disposal system or any facilities or project;

(h) The determination or definition of revenues from the sewage disposal system or any project or of the expenses of operation and maintenance of such system or project, the use and disposition of such revenues and the manner of and limitations upon paying such expenses;

(i) The insurance to be carried by the district and use and disposition of insurance moneys, the acquisition of completion or surety bonds appertaining to any project or funds, or both, and the use and disposition of any proceeds of such bonds;

(j) Books of account, the inspection and audit thereof, and other records appertaining to a sewage disposal system, sewer system, or any project authorized in this part 5;

(k) The assumption or payment or discharge of any indebtedness, other obligation, lien, or other claim relating to any part of a sewage disposal system or of any project or any securities having or which may have a lien on any part of any revenues of the district;

(l) Limitations on the powers of the district to acquire or operate, or permit the acquisition or operation of, any plants, structures, facilities, or properties which may compete or tend to compete with the sewage disposal system or any project;

(m) The vesting in a corporate or other trustee such property, rights, powers, and duties in trust as the district may determine, which may include any of the rights, powers, and duties of the trustee appointed by the holders of securities, and limiting or abrogating the right of such holders to appoint a trustee, or limiting the rights, duties, and powers of such trustee;

(n) The payment of costs or expenses incident to the enforcement of the securities or of the provisions of the resolution or of any covenant or contract with the holders of the securities;

(o) The procedure, if any, by which the terms of any covenant or contract with, or duty to, the holders of securities may be amended or abrogated, the amount of securities the holders of which must consent thereto, and the manner in which such consent may be given or evidenced;

(p) Events of default, rights, and liabilities arising therefrom, and the rights, liabilities, powers, and duties arising upon the breach by the district of any covenants, conditions, or obligations;

(q) The terms and conditions upon which the holders of the securities, or any portion, percentage, or amount of them, may enforce any covenants or provisions made under this part 5, or duties imposed thereby;

(r) The terms and conditions upon which the holders of the securities, or of a specified portion, percentage, or amount thereof, or any trustee therefor, shall be entitled to the appointment of a receiver, which receiver may enter and take possession of the sewage disposal system or any project or service, operate and maintain the same, prescribe fees, rates, and charges, and collect, receive, and apply all revenues thereafter arising therefrom in the same manner as the district itself might do;

(s) A procedure by which the terms of any resolution authorizing securities, or any other contract with any holders of securities, including but not limited to an indenture of trust or similar instrument, may be amended or abrogated, and as to the amount of securities the holders of which must consent thereto, and the manner in which such consent may be given;

(t) The terms and conditions upon which any or all of the securities become or may be declared due before maturity, and as to the terms and conditions upon which such declaration and its consequences may be waived;

(u) All such acts and things as may be necessary or convenient or desirable in order to secure the district's securities, or, in the discretion of the board, tend to make the securities more marketable, notwithstanding that such covenant, act, or thing may not be enumerated in this part 5, it being the intention hereof to give a district power to do all things in the issuance of securities and for their security, except as specifically limited in this part 5.

Source: L. 62: p. 211, § 14. **C.R.S. 1963:** § 89-15-28.

32-4-530. Remedies of security holders. (1) Subject to any contractual limitations binding upon the holders of any issue or series of securities, or trustee therefor, including but not limited to the restriction of the exercise of any remedy to a specified proportion, percentage, or number of such holders, and subject to any prior or superior rights of others, any holder of securities, or trustee therefor, has the right, for the equal benefit and protection of all holders of securities similarly situated:

(a) By mandamus or other suit, action, or proceeding at law or in equity to enforce his rights against the district and its board and any of its officers, agents, and employees, and to require and compel the district or its board or any such officers, agents, or employees to perform and carry out their duties, obligations, or other commitments under this part 5 and their covenants and agreements with the holder of any security;

(b) By action or suit in equity to require the district and its board to account as if they were the trustee of an express trust;

(c) By action or suit in equity to have appointed a receiver, which receiver may enter and take possession of any system, project, or services, revenues from which are pledged for the payment of the securities, prescribe sufficient fees derived from the operation thereof, and collect, receive, and apply all revenues or other moneys pledged for the payment of the securities in the same manner as the district itself might do in accordance with the obligations of the district;

(d) By action or suit in equity enjoin any acts or things which may be unlawful or in violation of the rights of the holder of any security, and bring suit thereupon.

(2) If a resolution of a district authorizing or providing for the issuance of the securities of any series or any proceedings appertaining thereto contains a provision authorized by section 32-4-529 (1)(r) and shall further provide in substance that any trustee appointed pursuant to said section shall have the powers provided by that section, then such trustee, whether or not all of the bonds of such series have been declared due and payable, shall be entitled as of right to the appointment of a receiver of the sewage disposal system, and such receiver may enter upon and take possession of the sewage disposal system and, subject to any pledge or contract with the holders of such securities, shall take possession of all moneys and other property derived from or applicable to the acquisition, operation, maintenance, or improvement of the sewage disposal system and proceed with such acquisition, operation, maintenance, or improvement which the district is under any obligation to do, and operate, maintain, equip, and improve the sewage disposal system, and fix, charge, collect, enforce, and receive the service charges and all systems revenues thereafter arising, subject to any pledge thereof or contract with the holders of such

securities relating thereto, and perform the public duties and carry out the contracts and obligations of the district in the same manner as the district itself might do and under the direction of the court.

(3) Neither the members of the board of directors of a district nor any person executing securities issued pursuant to this part 5 shall be liable personally on the securities by reason of the issuance thereof. Securities issued pursuant to this part 5 shall not be in any way a debt or liability of the state or of any municipality or other public body and shall not create or constitute any indebtedness, liability, or obligation of the state or of any such municipality or other public body, either legal, moral, or otherwise, and nothing in this part 5 contained shall be construed to authorize any district to incur any indebtedness on behalf of, or in any way to obligate, the state or any municipality or other public body, except the district, and except as in this part 5 otherwise expressly stated or necessarily implied.

Source: L. 62: p. 214, § 14. **C.R.S. 1963:** § 89-15-29.

32-4-531. Cancellation of paid securities. Whenever the treasurer of the district redeems and pays any of the securities issued under the provisions of this part 5, he shall cancel the same by writing across the face thereof or stamping thereon the word "Paid", together with the date of the payment, sign his name thereto, and transmit the same to the secretary of the district, taking his receipt therefor, which receipt shall be filed in the records of the district. The secretary shall credit the treasurer on his books for the amount so paid.

Source: L. 62: p. 216, § 14. **C.R.S. 1963:** § 89-15-30.

32-4-532. Interest after maturity. No interest shall accrue on any security authorized in this part 5 after it becomes due and payable if funds for the payment of the principal of and interest on the security and any prior redemption premium due are available to the paying agent for such payment without default.

Source: L. 62: p. 216, § 14. **C.R.S. 1963:** § 89-15-31.

32-4-533. Refunding bonds. (1) Any bonds issued under this part 5 may be refunded, without an election, pursuant to a resolution adopted by the board in the manner provided in this part 5 for the issuance of other securities, subject to any contractual limitations, to refund, pay, or discharge all or any part of the district's outstanding bonds, including any interest thereon in arrears or about to become due, or for the purpose of reducing interest costs or effecting other economies or of modifying or eliminating restrictive contractual limitations appertaining to the issuance of additional bonds for any sewage disposal system or project.

(2) Any bonds issued for refunding purposes may either be delivered in exchange for the outstanding bonds authorized to be refunded or may be sold as provided in this part 5 for the sale of other bonds.

(3) No bonds may be refunded under this part 5 unless they either mature or are callable for prior redemption under their terms within ten years from the date of issuance of the refunding bonds, or unless the holders thereof voluntarily surrender them for exchange or payment. No maturity of any bonds refunded may be extended over fifteen years. The rate of interest on such

refunding bonds shall be determined by the board. The principal amount of the refunding bonds may exceed the principal amount of the refunded bonds if the aggregate principal and interest costs of the refunding bonds do not exceed such unaccrued costs of the bonds refunded.

(4) The proceeds of refunding bonds shall either be immediately applied to the retirement of the bonds to be refunded or be placed in escrow to be applied to the payment of the bonds upon their presentation therefor. Any escrowed proceeds, pending such use, may be invested or reinvested in securities meeting the investment requirements established in part 6 of article 75 of title 24, C.R.S. Such escrowed proceeds and investments, together with any interest to be derived from any such investment, shall be in an amount at all times sufficient to pay the bonds refunded as they become due at their respective maturities or due at prior redemption dates as to principal, interest, any prior redemption premium due, and any charges of the escrow agent payable therefrom.

(5) Refunding revenue bonds may be made payable from any revenues derived from the operation of any sewage disposal system or project, or any other source, notwithstanding that the pledge of such revenues for the payment of the outstanding bonds issued by the district which are to be refunded is thereby modified.

(6) Bonds for refunding and bonds for any other purpose authorized in this part 5 may be issued separately or issued in combination in one series or more.

(7) Except as in this section specifically provided or necessarily implied, the relevant provisions in this part 5 pertaining to bonds shall be equally applicable in the authorization and issuance of refunding bonds, including their terms and security, the bond resolution, trust indenture, taxes, and service charges, and other aspects of the bonds.

(8) The determination of the board that the limitations under this part 5 imposed upon the issuance of refunding bonds have been met shall be conclusive in the absence of fraud or arbitrary and gross abuse of discretion.

Source: L. 62: p. 216, § 14. **C.R.S. 1963:** § 89-15-32. **L. 70:** p. 288, § 91. **L. 89:** (4) amended, p. 1118, § 38, effective July 1.

32-4-534. Cumulative rights of security holders. (1) No right or remedy conferred upon any holder of any security or any coupon appertaining thereto or any trustee for such holder, by this part 5 or by any proceedings appertaining to the issuance of such security or coupon, is exclusive of any other right or remedy, but each such right or remedy is cumulative and in addition to every other right or remedy and may be exercised without exhausting and without regard to any other remedy conferred by this part 5 or by any other law.

(2) The failure of any holder of any security or coupon so to proceed as provided in this part 5 or in such proceedings shall not relieve the district, its board, or any of its officers, agents, and employees of any liability for failure to perform or carry out any duty, obligation, or other commitment.

Source: L. 62: p. 217, § 14. **C.R.S. 1963:** § 89-15-33.

32-4-535. Issuance of notes and pledge of bonds as collateral security. (1) (a) Notwithstanding any limitation or other provision in this part 5, whenever a proposal to issue bonds has been approved and the district authorized to issue bonds in the manner required by

this part 5 for any purpose authorized in this part 5, the district is authorized to borrow money without any other election in anticipation of taxes, the receipt of the proceeds of said bonds or any other revenues of the district, or any combination thereof, and to issue notes to evidence the amount so borrowed. Notes may mature at such times not exceeding a period of time equal to the estimated time needed to effect the purposes for which the bonds are so authorized to be issued, plus two years, as the board may determine. Except as otherwise provided in this section, notes shall be issued as provided in this part 5 for securities in sections 32-4-524 to 32-4-532 and section 32-4-534. Taxes, other revenues of the district, including, without limiting the generality of the foregoing, proceeds of bonds to be thereafter issued or reissued, or bonds issued for the purpose of securing the payment of notes, may be pledged for the purpose of securing the payment of the notes.

(b) Any bonds pledged as collateral security for the payment of any notes shall mature at such times as the board may determine but in no event exceeding forty years from the date of either any of such bonds or any of such notes, whichever date is earlier. Any such bonds pledged as collateral security shall not be issued in an aggregate principal amount exceeding the aggregate principal amount of the note secured by a pledge of such bonds, nor shall they bear interest at any time which, with any interest accruing at the same time on the note so secured, exceeds the maximum net effective interest rate approved at the election held to authorize the issuance of said bonds under this part 5.

(2) No note issued pursuant to the provisions of this section shall be extended or funded except by the issuance or reissuance of a bond in compliance with subsection (3) of this section.

(3) For the purpose of funding any note, any bond pledged as collateral security to secure the payment of such note may be reissued without an election, and any bonds not previously issued but authorized to be issued at an election for a purpose the same as or encompassing the purpose for which the notes were issued may be issued for such a funding. Notwithstanding any other provision of law, any bond to be issued for the purpose of funding any note by a district that qualifies as an enterprise in accordance with section 20 (2)(d) of article X of the state constitution may be issued without an election. Any such bonds shall mature at such times as the board may determine but in no event exceeding forty years from the date of either any of the notes so funded or any of the bonds so pledged as collateral security, whichever date is the earlier. Bonds for funding, including but not necessarily limited to any such reissued bonds, and bonds for any other purpose authorized in this part 5, may be issued separately or issued in combination in one series or more. Except as otherwise provided in this section, any such funding bonds shall be issued as is provided for refunding bonds in subsections (1), (2), (4), (5), (7), and (8) of section 32-4-533 and provided for securities in sections 32-4-524 to 32-4-532 and section 32-4-534.

Source: L. 62: p. 218, § 14. **C.R.S. 1963:** § 89-15-34. **L. 70:** p. 288, § 92. **L. 2002:** (3) amended, p. 46, § 2, effective August 7.

32-4-536. Connections with existing drains and pumping stations. In order to carry out and effectuate its purposes, every district is authorized to enter upon and use and connect with any existing public drains, sewers, conduits, pipe lines, pumping and ventilating stations, and treatment plants or works, or any other public property of a similar nature within the district, and, if deemed necessary by the district, close off and seal outlets and outfalls therefrom. No

district shall, in the absence of a contract so authorizing take permanent possession or make permanent use of any such treatment plant or works unless it acquires the same as provided in this part 5.

Source: L. 62: p. 219, § 14. **C.R.S. 1963:** § 89-15-35.

32-4-537. Connections with drains serving property - service charges. (1) Each municipality within the district, and every person owning or operating any sewer or drain or any system of water distribution serving three or more parcels of real property in the district, shall at the request of the district, make available to the district any of its maps, plans, specifications, records, books, accounts, or other data or things deemed necessary by the district for its purposes.

(2) Each municipality shall promptly pay to any district all service charges which the district may charge to it, and shall provide for the payment thereof in the same manner as other obligations of such municipality. Except to the extent the proceeds of general ad valorem taxes and other revenues are made available, each municipality shall fix and collect service charges in connection with its sewer system sufficient in amount to produce revenues annually to pay the service charges levied by the district and all other claims to be defrayed therewith, as provided in section 32-4-522.

(3) Each person owning or operating any sewer or drain which serves three or more parcels of real property in a municipality in the district and which discharges sewage into waters in or bordering the state shall, upon notice from the municipality of its availability and a proposed point of connection with the sewer system of the municipality, cause such sewer or drain to be connected with the system at such point and in such manner as the municipality may specify and shall thereafter cause said sewer or drain to discharge into the sewer system.

(4) Each municipality and any person owning or operating any system of water distribution serving three or more parcels of real property in the district shall, from time to time after request therefor by the district, deliver to the district copies of the records made by it in the regular course of business of the amount of water supplied by it to every such parcel of real property in the district. Such copies shall be delivered to the district within sixty days after the making of such records, and the district shall pay the reasonable cost of preparation and delivery of such copies.

Source: L. 62: p. 219, § 14. **C.R.S. 1963:** § 89-15-36.

32-4-538. Construction of other sewage disposal systems prohibited. It is hereby declared that a district shall be the exclusive agency for the acquisition and operation of a sewage disposal system within a district, except as in this part 5 otherwise provided or authorized, and that no sewage disposal system or other facility for the collection, treatment, or disposal of sewage arising within a district, including any sewage treatment or disposal facilities of a municipality, shall be acquired or improved after a district is organized, unless the district gives its consent thereto and approves the plans and specifications therefor, except for any acquisition or improvement of any sewer collection facilities or sewer system, but not sewage treatment or disposal facility or sewage disposal system, or any part thereof, owned by a municipality at any point above the connection of such collection facilities or sewer system with

any sewage disposal system or other project of the district. Each district is empowered by this part 5 to give such consent and approval, subject to the terms and provisions of any agreement with any holder of securities.

Source: L. 62: p. 220, § 14. **C.R.S. 1963:** § 89-15-37.

32-4-539. Publication of resolution or proceedings - effect - right to contest legality - time limitation. (1) In its discretion the board may provide for the publication once in full of any resolution or other proceedings adopted by the board ordering the issuance of any securities or, in the alternative, publication of notice, which resolution, other proceedings, or notice so published shall state the fact and date of such adoption and the place where such resolution or other proceedings has been filed for public inspection and also the date of the first publication of such resolution, other proceedings, or notice, and also state that any action or proceeding of any kind in any court questioning the validity of the creation and establishment of the district, or the validity or proper authorization of securities provided for by the resolution or other proceedings, or the validity of any covenants, agreements, or contracts provided for by the resolution or other proceedings, shall be commenced within twenty days after the first publication of such resolution, other proceedings, or notice.

(2) If no such action or proceedings is commenced within twenty days after the first publication of such resolution, other proceedings, or notice, then all residents and taxpayers and owners of property in the district and users of the sewage disposal system and all public bodies and all other persons whomsoever shall be forever barred and foreclosed from commencing any action or proceeding in any court, or from pleading any defense to any action or proceedings, questioning the validity of the establishment of the district, the validity or proper authorization of such securities, or the validity of any such covenants, agreements, or contracts, and said securities, covenants, agreements, and contracts shall be conclusively deemed to be valid and binding obligations in accordance with their terms and tenor.

Source: L. 62: p. 220, § 14. **C.R.S. 1963:** § 89-15-39.

32-4-540. Confirmation of contract proceedings. (1) (a) In its discretion, the board may file a petition at any time in the district court in and for any county in which the district is located wholly or in part, praying for a judicial examination and determination of any power conferred or of any tax or rates or charges levied, or of any act, proceeding, or contract of the district, whether or not said contract has been executed, including proposed contracts for the acquisition, improvement, equipment, maintenance, operation, or disposal of any project for the district. Such petition shall set forth the facts whereon the validity of such power, assessment, act, proceeding, or contract is founded and shall be verified by the chairman of the board.

(b) Such action shall be in the nature of a proceeding in rem, and jurisdiction of all parties interested may be had by publication and posting, as provided in this part 5. Notice of the filing of said petition shall be given by the clerk of the court, under the seal thereof, stating in brief outline the contents of the petition and showing where a full copy of any contract therein mentioned, may be examined. The notice shall be served by publication in at least five consecutive issues of a weekly newspaper of general circulation published in the county in which the principal office of the district is located, and by posting the same in the office of the district

at least thirty days prior to the date fixed in said notice for the hearing on said petition. Jurisdiction shall be complete after such publication and posting.

(c) Any owner of property in the district or person interested in the contract or proposed contract or in the premises may appear and move to dismiss or answer said petition at any time prior to the date fixed for said hearing or within such further time as may be allowed by the court; and the petition shall be taken as confessed by all persons who fail to appear.

(2) The petition and notice shall be sufficient to give the court jurisdiction and upon hearing, the court shall examine into and determine all matters and things affecting the question submitted, shall make such findings with reference thereto, and render such judgment and decree thereon as the case warrants. Costs may be divided or apportioned among any contesting parties in the discretion of the trial court. Review of the judgment of the court may be had as in other similar cases, except that such review must be applied for within thirty days after the time of the rendition of such judgment, or within such additional time as may be allowed by the court within thirty days. The Colorado rules of civil procedure shall govern in matters of pleading and practice where not otherwise specified in this part 5. The court shall disregard any error, irregularity, or omission which does not affect the substantial right of the parties.

Source: L. 62: p. 221, § 14. **C.R.S. 1963:** § 89-15-40.

32-4-541. Preliminary expenses. (1) The district may provide for the payment of all necessary preliminary expenses actually incurred in the making of surveys, estimates of costs and revenues, the employment of engineers, architects, fiscal agents, attorneys at law, clerical help, other agents or employees, the making of notices, taking of options, and all other expenses necessary or desirable to be made and paid prior to the authorization for or the issuance of such securities, and any other cost of any project.

(2) No such expenditures shall be made or paid unless an appropriation has been budgeted and made therefor in the same manner as is required by law, or unless the proceeds of securities or other moneys are available to defray such expenses.

(3) Any funds so expended by the district for preliminary expenses incurred in connection with the same purpose as that for which securities are issued may be fully reimbursed and repaid to the district out of the proceeds derived from the sale of such securities.

(4) The amount so advanced by the district to pay such preliminary expenses may, by a resolution authorizing the issuance of such securities, be made a first charge against such security proceeds until the same has been repaid as provided in this part 5, and in such event said amount shall be paid therewith before any other disbursements are made therefrom.

Source: L. 62: p. 222, § 14. **C.R.S. 1963:** § 89-15-41.

32-4-542. Tax exemption. (1) The effectuation of the powers authorized in this part 5 shall be in all respects for the benefit of the people of the state, including, but not necessarily limited to, those residing in any district exercising any power under this part 5, for the improvement of their health and living conditions, and for the increase of their commerce and prosperity.

(2) No district exercising any power granted in this part 5 shall be required to pay any general ad valorem taxes upon any property appertaining to any project authorized in this part 5 and acquired within the state, nor the district's interest therein.

(3) Securities issued under this part 5 and the income therefrom shall forever remain free and exempt from taxation by the state, the district, and any other public body, except transfer, inheritance, and estate taxes.

Source: L. 62: p. 223, § 14. **C.R.S. 1963:** § 89-15-42.

32-4-543. Freedom from judicial process. (1) Execution or other judicial process shall not issue against any property in this part 5 authorized of the district nor shall any judgment against the district be a charge or lien upon its property.

(2) This section does not apply to or limit the right of the holder of any security, his trustee, or any assignee of all or part of his interest, the federal government when it is a party to any contract with the district, or any other obligee under this part 5 to foreclose, otherwise to enforce, and to pursue any remedies for the enforcement of any pledge or lien given by the district on the proceeds of taxes, service charges, or other revenues.

Source: L. 62: p. 223, § 14. **C.R.S. 1963:** § 89-15-43.

32-4-544. Legal investments in securities. It shall be legal for any bank, trust company, banker, savings bank, or banking institution; any building and loan association, savings and loan association, or investment company; any other person carrying on a banking or investment business; any insurance company, insurance association, or other person carrying on an insurance business; and any executor, administrator, curator, trustee, or other fiduciary to invest funds or moneys in their custody in any of the securities authorized to be issued pursuant to the provisions of this part 5. Public entities, as defined in section 24-75-601 (1), C.R.S., may invest public funds in such bonds only if said bonds satisfy the investment requirements established in part 6 of article 75 of title 24, C.R.S. Such securities shall be authorized security for all public deposits. Nothing in this section with regard to legal investments shall be construed as relieving any public body or other person of any duty of exercising reasonable care in selecting securities.

Source: L. 62: p. 223, § 14. **C.R.S. 1963:** § 89-15-44. **L. 89:** Entire section amended, p. 1131, § 71, effective July 1.

32-4-545. Misdemeanors and civil rights. (1) Any person who wrongfully or purposely fills up, cuts, damages, injures, or destroys, or in any manner impairs, the usefulness of any reservoir, canal, ditch, lateral, drain, dam, intercepting sewer, outfall sewer, force main, other sewer, sewage treatment works, sewage treatment plant, sewer system, sewage disposal system, or any part thereof, or other work, structure, improvement, equipment, or other property acquired under the provisions of this part 5, or wrongfully and maliciously interferes with any officer, agent, or employee of the district in the proper discharge of his duties, is guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of not more than three hundred dollars, or by imprisonment in the county jail for not more than ninety days, or by both such fine and imprisonment.

(2) The district damaged by any such act may also bring a civil action for damages sustained by any such act, and in such proceeding the prevailing party shall also be entitled to reasonable attorneys' fees and costs of court.

Source: L. 62: p. 224, § 14. **C.R.S. 1963:** § 89-15-45.

32-4-546. Validation. All securities issued or purportedly issued and other contracts executed or purportedly executed of districts prior to February 21, 1962, all district bond elections held and carried, or purportedly held and carried prior to that date, and all acts and proceedings had or taken, or purportedly had or taken, by or on behalf of districts under law or under color of law prior to that date, preliminary to and in the creation and any reorganization of each such district, or the modification of its corporate boundaries, the designation and qualification of directors, officers, employees, and other agents of each such district, the authorization, execution, sale, and issuance of all securities, the authorization and execution of all other contracts, and the exercise of other powers in the metropolitan sewage disposal district law, are validated, ratified, approved, and confirmed, except as provided in section 32-4-547, notwithstanding any lack of power, authority, or otherwise, other than constitutional, and notwithstanding any defects and irregularities, other than constitutional, in such securities, acts, and proceedings, in such authorization, execution, sale, and issuance, and in such exercise of powers; and such securities and other contracts are and shall be binding, legal, valid and enforceable obligations of the district to which they appertain in accordance with their terms and their authorization proceedings.

Source: L. 62: p. 224, § 15. **C.R.S. 1963:** § 89-15-46.

32-4-547. Effect of and limitations upon validation. This part 5 shall operate to supply such legislative authority as may be necessary to validate any securities issued, other contracts executed by districts, and any acts and proceedings taken prior to February 12, 1962, appertaining to the issuance of securities or execution of other contracts by districts or otherwise, which the legislature could have supplied or provided for in the law under which such securities were issued, or such other contracts were executed and such acts or proceedings were taken; but this part 5 shall be limited to the validation of securities, other contracts, acts, and proceedings to the extent to which the same can be effectuated under the state and federal constitutions. This part 5, shall not operate to validate, ratify, approve, confirm, or legalize any bond or other security, other contract, act, proceedings, or other matter the legality of which is being contested or inquired into in any legal proceedings pending and undetermined on February 12, 1962, and shall not operate to confirm, validate, or legalize any bond or other security, other contract, act, proceedings, or other matter which has been determined in any legal proceedings to be illegal, void, or ineffective prior to February 12, 1962.

Source: L. 62: p. 224, § 16. **C.R.S. 1963:** § 89-15-47.

SINGLE PURPOSE SERVICE DISTRICTS

ARTICLE 5

32-5-101 to 32-5-346. (Repealed)

Source: L. 81: Entire article repealed, p. 1628, § 42, effective July 1.

Editor's note: This article was numbered as article 16 of chapter 36 and articles 6 and 14 of chapter 89, C.R.S. 1963. For amendments to this article prior to its repeal in 1981, consult the Colorado statutory research explanatory note and the table itemizing the replacement volumes and supplements to the original volume of C.R.S. 1973 beginning on page vii in the front of this volume.

REGIONAL SERVICE AUTHORITIES

ARTICLE 7

Regional Service Authorities

Law reviews: For article, "The Regional Approach for Art, Culture and Library Services", see 16 Colo. Law. 1975 (1987).

32-7-101. Short title. This article shall be known and may be cited as the "Service Authority Act of 1972".

Source: L. 72: p. 452, § 1. **C.R.S. 1963:** § 89-25-1.

32-7-102. Legislative declaration. The general assembly hereby declares that the purpose of this article is to implement the provisions of section 17 of article XIV of the state constitution, adopted at the 1970 general election, by providing for and facilitating the formation and operation of a limited number of service authorities in the state of Colorado. It is further declared that the orderly formation and operation of regional service authorities providing authorized functions, services, and facilities and exercising powers granted by this article will serve a public use and will promote the health, safety, security, and general welfare of the inhabitants thereof and the people of the state of Colorado. It is further declared to be the policy of the state of Colorado to encourage the utilization of single service authorities to provide those functions, services, and facilities which transcend local government boundaries, thus reducing the duplication, proliferation, and fragmentation of local governments, and encouraging establishment of efficient, effective, and responsive regional government. To these ends, this article shall be liberally construed.

Source: L. 72: p. 452, § 1. **C.R.S. 1963:** § 89-25-2.

Cross references: For service authorities, see § 17 of art. XIV, Colo. Const.

32-7-103. Definitions. As used in this article, unless the context otherwise requires:

(1) "Board" means the board of directors of a service authority.

(2) "Concurrent", when used in regard to the provision of a service by a service authority, means that a service may be provided by a service authority in accordance with the provisions of this article, but the administration of such service shall not preclude counties, municipalities, or special districts from providing the same or similar service. This definition does not prohibit counties, municipalities, or special districts from contracting with each other or with a service authority for the provision of a local service, nor does it prohibit counties, municipalities, or special districts from relinquishing control of a local service by agreement with a service authority or by vesting exclusive jurisdiction for the provision of a given service with the service authority.

(3) "County" means a home rule or statutory county and includes a city and county.

(3.5) "Eligible elector" of a service authority means an individual who resides within the service authority and is registered and otherwise qualified to vote in county elections in a county which is located within the service authority.

(4) "Exclusive", when used in regard to the provision of a service by a service authority, means that the service authority shall have sole governmental responsibility and authority for the provision of such service within its boundaries, but this definition shall not prohibit a service authority from contracting with counties, municipalities, special districts, or nongovernmental persons or entities for the provision of any aspect of such service to the residents therein.

(5) "General election" means the election held on the first Tuesday after the first Monday of November in every even-numbered year, as provided in section 1-4-201, C.R.S., for the purpose of electing members of the board and for submission of other public questions, if any.

(6) "Local government" means a county, city and county, municipality, or special district organized pursuant to this title or pursuant to article 8 of title 29 or part 2 of article 20 of title 30, C.R.S.

(7) "Local improvement district" means an area within a service authority in which the real property is specially benefited and constitutes the basis of assessment for all or part of the cost of the construction or installation of designated improvements within such area.

(8) "Municipality" means a home rule or statutory city or town or a city and county.

(9) "Population" means the population as estimated by the court, commission, secretary of state, or board, as the case may be, based upon census tract data or other officially compiled data.

(10) "President" means the president of the board.

(11) "Publication" or "publish" means at least one publication in at least one newspaper of general circulation in the service authority. If there is no such newspaper, publication shall be by posting in at least three public places within the service authority.

(12) (Deleted by amendment, L. 94, p. 1642, § 66, effective May 31, 1994.)

(13) "Secretary" means the secretary of the board.

(14) "Service" means a function, service, or facility which a service authority is authorized to provide in accordance with this article.

(15) "Service authority" means a body corporate and political subdivision of the state formed pursuant to the provisions of section 17 of article XIV of the constitution of the state of

Colorado for the purpose of providing certain functions, services, and facilities in the manner and within the limitations provided in this article.

(16) "Special election" means any election called by the board for submission of public questions, the election to be held on a Tuesday other than a general election day.

(17) "Special taxing district" means a geographical area within a service authority designated and delineated by the board to facilitate the furnishing of services and the collection of ad valorem taxes and charges for such services.

Source: L. 72: p. 453, § 1. **C.R.S. 1963:** § 89-25-3. **L. 80:** (5) amended, p. 415, § 26, effective February 21. **L. 85:** (12) amended, p. 1350, § 23, effective April 30. **L. 92:** (12) and (16) amended, p. 896, § 139, effective January 1, 1993. **L. 94:** (3.5) added and (12) amended, p. 1642, § 66, effective May 31. **L. 2009:** (6) amended, (SB 09-292), ch. 369, p. 1979, § 110, effective August 5.

32-7-104. Territorial requirements for service authorities. (1) No territory shall be included within the boundaries of more than one service authority.

(2) (a) Except as provided in paragraph (b) of this subsection (2), a service authority shall include all of the territory of at least one county and may include such additional entire counties as may be proposed, if each county has some contiguity with another county within the service authority and does not result in the formation of an enclave.

(b) In no event shall any service authority be formed in the metropolitan area of Denver which does not include that part of Adams county excluding census enumeration districts 1, 2, and 3 of the east Adams division, and that part of Arapahoe county excluding census enumeration districts 1, 2, and 3 of the east Arapahoe division, as such districts and divisions are used by the United States bureau of the census in designation of land areas for the purposes of the 1970 census, and all of the city and county of Denver, and all of Jefferson county, but an additional county or additional counties may be included.

(3) (a) Except as provided in subsection (2)(b) of this section, no county may be divided upon formation of a service authority or thereafter except in the case of a municipality having territory in two counties which are not within the same service authority, either proposed or formed, in which event the municipality may be included in either of two service authorities without regard to county boundary lines, as provided in paragraph (b) of this subsection (3).

(b) Neither the governing body nor the residents of any such municipality shall participate in any of the procedures by which the service authority is originally formed, but, after a service authority is formed which includes the territory of either county, such municipality may be included in the service authority to which it directs its request for inclusion in the manner provided in section 32-7-131.

(4) The boundaries of any service authority shall not be such as to create any enclave.

Source: L. 72: p. 454, § 1. **C.R.S. 1963:** § 89-25-4. **L. 75:** (2) and (3)(a) amended, p. 1296, § 1, effective June 16. **L. 94:** (2)(a) amended, p. 573, § 1, effective April 7.

32-7-105. Petition or resolution for formation - designation of services. (1) The formation of a service authority shall be initiated by a petition signed by eligible electors of the proposed service authority in number not less than five percent of the votes cast in the proposed

service authority for all candidates for the office of governor at the last preceding general election or by resolution adopted by a majority of the governing bodies of the counties and municipalities having territory within the boundaries of the proposed service authority. The petition or resolution shall be filed with the district court of the county within the proposed service authority which has the largest population and a copy thereof delivered to the organizational commission upon its appointment by the court.

(1.5) Local governing bodies in their resolution for formation or the people in their petition for formation may designate which services listed in section 32-7-111 are to be initially administered by the proposed service authority, subject to the approval of the registered electors as provided in section 17 of article XIV of the state constitution, and the manner in which such services are to be submitted to the electors and may provide that such services shall be voted on separately or in combination with one or more other services. If such provisions are not set forth in the resolution or petition, the organizational commission shall make such determinations.

(2) (a) The petition or resolution shall state the name proposed for the service authority and shall list the counties to be included within the service authority and any municipality to be excluded from the authority pursuant to section 32-7-104.

(b) Upon filing of the petition or resolution, the court shall fix a time not less than twenty nor more than forty days after the petition or resolution is filed for a hearing thereon. At least seven days prior to the hearing date, the clerk of the court shall give notice by publication of the pendency of the petition or resolution and of the time and place of hearing thereon. At the hearing, the court shall determine whether the requisite number of eligible electors have signed the petition or whether a resolution has been adopted by the requisite number of counties and municipalities. No petition with the requisite signatures nor any resolution passed by the requisite number of counties and municipalities shall be declared void on account of minor defects, and the court may, at any time, permit the petition or resolution to be amended to conform to the facts by correcting the defects.

(3) If it appears at the conclusion of the hearings that the petition or resolution conforms with the requirements of section 17 of article XIV of the state constitution and this article, the court, by order entered of record, shall appoint an organizational commission according to the procedures required under section 32-7-107.

Source: L. 72: p. 455, § 1. **C.R.S. 1963:** § 89-25-5. **L. 75:** (1) amended and (1.5) added, p. 1298, § 1, effective June 20. **L. 85:** (1), (1.5), and (2)(b) amended, p. 1350, § 24, effective April 30. **L. 92:** (1) and (2)(b) amended, p. 896, § 140, effective January 1, 1993.

Cross references: For service authorities, see § 17 of art. XIV, Colo. Const.

32-7-106. Priority of petition or resolution. (1) When the district court receives a resolution adopted by a majority of the governing bodies of the counties and municipalities or receives a petition signed by the requisite number of eligible electors pursuant to section 32-7-105 for the initiation of formation of a service authority, no other proceedings shall be commenced or prosecuted in that or any other court for the creation of another service authority involving all or any one of the same counties until the question of formation of the authority pursuant to the resolution or petition has been finally determined, unless the later filing is allowed under subsection (2) of this section.

(2) A resolution filed within ten days of the date of the filing of a petition under the circumstances set forth in subsection (1) of this section shall take precedence over the petition and shall proceed to final determination before the petition may be further considered.

Source: L. 72: p. 455, § 1. **C.R.S. 1963:** § 89-25-6. **L. 85:** (1) amended, p. 1350, § 25, effective April 30. **L. 92:** (1) amended, p. 897, § 141, effective January 1, 1993.

32-7-107. Court appoints an organizational commission and election committee. (1) For a service authority which is to be established in an area having a total population of less than five hundred thousand, the court shall appoint nine organizational commission members selected from the membership of the governing bodies of the county or counties and municipalities having territory within the boundaries of the proposed service authority, subject to the following limitations:

(a) If more than one county is included within the boundaries of the proposed service authority, no more than five members of the organizational commission shall be residents of any one county or any one municipality, and at least one member shall be appointed from every county.

(b) If only one county is included within the boundaries of the proposed service authority, no more than five members of the organizational commission shall be residents of any one municipality.

(2) (a) Subject to the limitations in paragraph (b) of this subsection (2), for a service authority which is to be established in an area having a total population of five hundred thousand or more, the court shall appoint fifteen organizational commission members selected from the membership of the governing bodies of the county or counties and municipalities having territory within the boundaries of the proposed service authority.

(b) If more than one county is included within the boundaries of the proposed service authority and to the extent feasible, the membership on the organizational commission shall be allocated:

(I) Among counties in proportion to the population of each county within the service authority, but each county shall have at least one member on the commission; and

(II) Among county commissioners and members of the governing bodies of municipalities within each county in proportion to the population of the incorporated and unincorporated areas of the counties.

(c) If only one county is included within the boundaries of the proposed service authority and to the extent feasible, the membership on the organizational commission shall be allocated among the county commissioners and members of the governing bodies of municipalities within the county in proportion to the population of the incorporated and unincorporated areas of the county.

(3) (a) At the hearing specified in section 32-7-105 (2)(b), the court shall appoint the county clerk and recorder of each county within the service authority as members of an election committee to administer the election provided for in the formation of the service authority and shall within seven days of the designation notify the county clerk and recorders of their appointment.

(b) A majority of the county clerk and recorders shall constitute a quorum. A chairperson shall be elected by the county clerk and recorders at their first meeting, who may call additional meetings as necessary to accomplish the purposes of the election committee.

Source: L. 72: p. 456, § 1. **C.R.S. 1963:** § 89-25-7. **L. 92:** (3) amended, p. 897, § 142, effective January 1, 1993. **L. 94:** (1) and (2) amended, p. 573, § 2, effective April 7.

32-7-108. Service authority organizational commission. (1) The service authority organizational commission appointed pursuant to section 32-7-107 shall meet within twenty days after its appointment on a date designated by the district court. The service authority organizational commission shall elect a chairman and a vice-chairman from among its membership. Further meetings of the commission shall be held upon call of the chairman or a majority of the members of the commission. All meetings shall be open to the public. A majority of the commission shall constitute a quorum. The commission may adopt such other rules for its operations and proceedings as it deems necessary or desirable. Members of the commission shall receive no compensation but shall be reimbursed for necessary expenses pursuant to law.

(2) (a) The service authority organizational commission shall, if the determination is not made in the resolution or petition for formation, determine which services listed in section 32-7-111 are to be administered and shall determine the maximum ad valorem mill levy (other than for debt purposes), if any, necessary to support each designated service by the proposed service authority upon its formation, subject to the approval of the eligible electors as provided in section 17 of article XIV of the state constitution. The maximum mill levy limitation, if any, required by this paragraph (a) shall be included as a part of the term "services" as used in this section and section 32-7-109.

(b) Repealed.

(3) (a) Within ninety days after its initial meeting, the commission shall present to the district court a report listing services to be considered by the voters in each county included in the service authority. A majority vote of the members of the service authority organizational commission shall determine the services that shall be presented to the voters for their approval or rejection, if such services are not designated by the resolution or petition for formation.

(b) The commission report shall also divide the service authority into compact districts of approximately equal population in accordance with the provisions of section 32-7-110 for the purpose of electing candidates to the service authority board. The number of districts shall equal the number of board members to be elected from districts. Such districts shall be numbered consecutively starting with number one, and the terms of office shall be as specified in section 32-7-110.

(c) The commission shall specify the date for a special election for formation of the service authority, but if the organizational commission's report is completed not more than one hundred eighty days and not less than seventy days before the next general election, the election shall be held jointly with the next general election.

(d) The service authority organizational commission shall be dissolved as of the day on which the election is held pursuant to section 32-7-109.

Source: L. 72: p. 456, § 1. **C.R.S. 1963:** § 89-25-8. **L. 75:** (2)(a) and (3)(a) amended and (2)(b) repealed, p. 1299, §§ 2, 4, effective June 20. **L. 85:** (2)(a) amended, p. 1351, § 26, effective April 30. **L. 92:** (2)(a) and (3)(c) amended, p. 898, § 143, effective January 1, 1993.

32-7-109. Election for formation, selection of services, and initial board of directors. (1) (a) Within seven days after receipt of the organizational commission's report, the district court shall direct the election committee, as provided in section 32-7-107 (3), to conduct an election on the date designated by the organizational commission for the purpose of deciding whether a service authority is to be formed, to provide an opportunity for the eligible electors to approve services of the service authority, and to elect the board of directors of the service authority.

(b) The court shall direct the election committee to publish notice thereof within seven days of the directive according to the provisions of section 1-5-205, C.R.S., setting forth the list of proposed services and the requirements for nomination to the board. Independent candidates for a district office may be nominated by filing with the election committee, on forms supplied by the committee, a nomination petition signed by at least twenty-five eligible electors of the district in which the candidate resides. Nothing in this article shall be construed to restrict a political party from making nominations to the board of directors of the service authority by conventions of delegates or by primary election or by both.

(2) The election committee shall publish a second notice of the election pursuant to section 1-5-205, C.R.S., which shall include the names of the candidates nominated for the first board of directors, and shall again list the services to be decided upon.

(3) The election shall be held and conducted as provided in articles 1 to 13 of title 1, C.R.S. The question of the formation of the service authority must receive the approval of a majority of votes cast, but no service may be authorized unless approved by a majority of the eligible electors voting thereon in each county within the service authority.

(4) The election commission shall survey the returns as provided in article 10 of title 1, C.R.S., and shall certify the results to the court as provided in section 1-10-203, C.R.S. If a majority of the registered electors voting thereon vote "for" formation, the court shall declare, by order entered of record, that the service authority is formed in the corporate name designated in the petition or resolution and shall designate those services, if any, which were authorized by a majority of the registered electors voting thereon in each county at said election. Upon the filing with the court of the oath of office of members elected to the board, the court, by order entered of record, shall declare the members of the board elected and qualified and shall order the election committee to issue certificates of election pursuant to section 1-11-105, C.R.S., and the formation shall be complete. At that time the election committee shall be dissolved. The board shall be charged with administering those approved services in accordance with this article.

(5) The entry of an order forming a service authority shall finally and conclusively establish its regular formation against all persons except the state of Colorado, in an action in the nature of quo warranto, commenced by the attorney general within thirty-five days after entry of such order, and not otherwise. The formation of the service authority shall not be directly or collaterally questioned in any suit, action, or proceeding, except as expressly authorized in this section.

(6) All necessary expenses for the elections and other proceedings conducted pursuant to sections 32-7-107, 32-7-108, and this section, including the expenses and reimbursements for the

organizational commission, shall be paid by the counties within or partly within the service authority in proportion to the population of the respective counties or portions thereof within the service authority, and the governing bodies thereof shall enact any necessary supplemental appropriation.

(7) Within fifteen days after the entry of the order forming a service authority, the clerk of the court shall file a copy of the decree with the board of county commissioners and the assessor of each county within the service authority and with the division of local government.

Source: L. 72: p. 457, § 1. **C.R.S. 1963:** § 89-25-9. **L. 80:** (1)(b) amended, p. 415, § 27, effective February 21. **L. 85:** (1)(b), (3), and (4) amended, p. 1351, § 27, effective April 30. **L. 92:** (1) to (4) amended, p. 898, § 144, effective January 1, 1993. **L. 94:** (4) amended, p. 1642, § 67, effective May 31. **L. 95:** (4) amended, p. 1106, § 47, effective May 31. **L. 96:** (2) amended, p. 1476, § 38, effective June 1. **L. 98:** (1)(b) amended, p. 827, § 45, effective August 5. **L. 2012:** (5) amended, (SB 12-175), ch. 208, p. 882, § 149, effective July 1.

32-7-110. Board of directors. (1) The governing body of the service authority shall be a board of directors in which all legislative power of the service authority is vested. In those service authorities having a population in excess of five hundred thousand, the board shall consist of fifteen members, all of whom shall reside in and be elected by the eligible electors of the respective districts. In those service authorities having a population of at least fifty thousand but not more than five hundred thousand, the board shall consist of nine members, all of whom shall reside in and be elected by the eligible electors of the respective districts. In those service authorities having a population of less than fifty thousand, the board shall consist of five members, all of whom shall reside in and be elected by the eligible electors of the respective districts. At the formation election, the terms for representatives from odd-numbered districts shall continue until their successors are elected at the second general election thereafter and are qualified, and the terms for those elected from even-numbered districts shall continue until their successors are elected at the first general election thereafter and are qualified. Thereafter all terms shall be for four years. For the first five years after formation of any service authority, or until January 1, 1980, whichever occurs first, the members shall be eligible electors of the service authority and shall be elected from among the mayors, councilpersons, trustees, and county commissioners holding office at the time of their election in municipalities and counties within or partially within the authority. Thereafter, any eligible elector of the service authority shall be eligible to hold office. Notwithstanding any provision in the charter of any municipality or county to the contrary, mayors, councilpersons, trustees, and county commissioners may additionally hold elective office with the service authority and be compensated as provided in this section.

(2) At least ninety days prior to the first general election after the formation of the service authority, the board may change the boundary of any board of director district within the service authority. Thereafter such boundaries may be changed no more frequently than every four years or after announcement of the results of a decennial census. The board shall redistrict only by resolution passed by a majority of the members elected to the board, and any such redistricting shall be such as to provide compact districts of approximately equal population. No redistricting shall extend or shorten the term of office of any member of the board.

(3) The board has power, by appointment, to fill all vacancies on the board, and the person so appointed shall hold office until the next general election and until a successor is elected and qualified. Any person so appointed shall reside in the district in which the vacancy occurred. If the term of the member creating the vacancy extends beyond the next general election, the appointment shall be for the unexpired term.

(4) The board shall elect a president, vice-president, secretary, and such other officers as it deems necessary. The president and vice-president must be members of the board. The board may appoint a chief administrator, who shall serve at the pleasure of the board. The board shall prescribe by resolution the duties of said officers pursuant to the powers granted in this article. In addition to other powers provided by resolution, the president shall preside over meetings of the board and shall vote as a member of the board. All special and regular meetings of the board shall be held at locations which are within the boundaries of the district or which are within the boundaries of any county in which the district is located, in whole or in part, or in any county so long as the meeting location does not exceed twenty miles from the district boundaries. The provisions of this subsection (4) governing the location of meetings may be waived only if the following criteria are met:

(a) The proposed change of location of a meeting of the board appears on the agenda of a regular or special meeting of the board; and

(b) A resolution is adopted by the board stating the reason for which a meeting of the board is to be held in a location other than under the provisions of this subsection (4) and further stating the date, time, and place of such meeting.

(5) The board may provide by resolution for the compensation of its members in the amount of fifty dollars for each day a member is necessarily engaged in the business of the authority, in addition to the reasonable and necessary expenses incurred by each member while so engaged. Except for the initial board, the compensation of a member shall not be increased nor diminished during his term of office.

(6) Except as specifically provided otherwise, a majority of board members shall constitute a quorum, and a majority of the members of the board shall be necessary for any action taken by the board except that a majority of a quorum may adjourn from day to day.

(7) In addition to any acts of the board specifically required to be accomplished by resolution, any action adopting or revising a budget, appropriating funds, establishing the administrative organization and structure, or promulgating regulations enforceable by fine or penalty shall be passed by resolution. Resolutions promulgating regulations enforceable by fine or penalty shall be published one time prior to final passage and within fourteen days after passage; publication after final passage may be by reference. At least six days shall elapse between introduction and final passage of a resolution. Such resolution shall not take effect and be enforced until the expiration of thirty days after final passage except resolutions calling for special elections or those necessary to the immediate preservation of the public health or safety, which shall contain the reasons making the same necessary in a separate section. The excepted resolutions shall take effect in five days, if passed by an affirmative vote of three-fourths of the members of the board. All other actions of the board may be accomplished by motion.

(8) Any board member may be recalled from office pursuant to the provisions and subject to the conditions of part 1 of article 12 of title 1, C.R.S.

(9) Any resolution may be referred to or initiated by the eligible electors in accordance with the provisions and subject to the conditions of sections 31-11-104 and 31-11-105, C.R.S.

(10) It is the duty of the board to comply with the provisions of parts 1, 5, and 6 of article 1 of title 29, C.R.S. It is the further duty of the board to publish the results of its annual audit statement or report which shall be certified by the person making the audit, or by the governing body, if unaudited, in one issue of a newspaper of general circulation in the service authority. Such publication shall be no later than thirty days following completion of the audit statement or report.

(11) The fiscal and budget year for all service authorities organized or operating under the provisions of this article shall be from January 1 through December 31 of each year.

Source: L. 72: p. 459, § 1. **C.R.S. 1963:** § 89-25-10. **L. 81:** (8) amended, p. 1624, § 26, effective July 1. **L. 85:** (1) and (9) amended, p. 1352, § 28, effective April 30. **L. 90:** (4) amended, p. 1498, § 7, effective July 1. **L. 92:** (1), (3), (8), and (9) amended, p. 899, § 145, effective January 1, 1993. **L. 93:** (9) amended, p. 699, § 8, effective May 4. **L. 95:** (9) amended, p. 442, § 29, effective May 8.

Cross references: For the budget law, see part 1 of article 1 of title 29; for the local government uniform accounting law, see part 5 of article 1 of title 29; for the local government audit law, see part 6 of article 1 of title 29.

32-7-111. Designation of services. (1) Subject to local authorization as provided in section 32-7-112, local governing bodies, by resolution, or the people, by petition, or the service authority organizational commission, if such services are not designated by the resolution or petition for formation prior to formation, or the board after formation, may, by resolution, initiate one or more of the following services or combinations thereof:

(a) Domestic water collection, treatment, and distribution;

(b) Urban drainage and flood control;

(c) Sewage collection, treatment, and disposal;

(d) Public surface transportation;

(e) Collection of solid waste, but the service authority shall not collect solid waste except on a finding by the board that existing solid waste collection service is inadequate. Such finding shall be in addition to the concurrent majority requirement of section 32-7-112 (1)(a).

(f) Disposal of solid waste;

(g) Parks and recreation;

(h) Libraries;

(i) Fire protection;

(j) Hospitals, including convalescent nursing homes, ambulance services, and any other health and medical care facilities or services;

(k) Museums, zoos, art galleries, theaters, and other cultural facilities or services;

(l) Housing;

(m) Weed and pest control;

(n) Central purchasing, computer services, equipment pool, and any other management services for local governments, including procurement of supplies; acquisition, management, maintenance, and disposal of property and equipment; legal services; special communication systems; or any other similar services to local governments which are directly related to improving the efficiency or operation of local governments;

(o) Local gas or electric services or heating and cooling services from geothermal resources, solar or wind energy, hydroelectric or renewable biomass resources, including waste and cogenerated heat; except that no facilities of a municipally owned utility shall be combined with the facilities of another municipally owned utility without its consent and except that neither the initiation nor rendering of local gas and electric services under this paragraph (o) shall interfere with, impair, or otherwise affect any franchise, certificate of public convenience and necessity, or the services being rendered by any other supplier operating subject to the jurisdiction of the public utilities commission of the state of Colorado;

(p) Jails and rehabilitation; and

(q) Land and soil preservation.

(2) Unless authorized pursuant to section 32-7-112 (2), the services provided by a service authority shall be provided on a concurrent basis with local jurisdictions. This shall not prohibit a board from contracting with local governments or state government for the provision, construction, or operation of any service by the service authority or state or local government, nor does it prohibit any local government from voluntarily vesting exclusive jurisdiction for the provision of a given service with the service authority.

Source: L. 72: p. 461, § 1. **C.R.S. 1963:** § 89-25-11. **L. 73:** p. 997, § 1. **L. 75:** IP(1) amended, p. 1299, § 3, effective June 20. **L. 81:** (1)(o) amended, p. 1457, § 6, effective May 27.

32-7-112. Local authorization of functions, services, and facilities. (1) (a) No service designated in section 32-7-111 shall be provided by a service authority unless such service, together with the maximum ad valorem tax mill levy (other than for debt purposes), if any, necessary to support each such service, has been submitted to and authorized by a majority of the eligible electors voting thereon in each county within the service authority.

(b) Any service submitted to the eligible electors for their approval or rejection may be designated in general terms without limitation on concurrent or contractual arrangements among the various local governments; but, if the service is to be provided on an exclusive basis, as provided in subsection (2) of this section, the proposition submitted to the eligible electors shall state that such service is to be provided on an exclusive basis. Any mill levy limitation submitted for authorization by the eligible electors shall be designated in specific terms, whether the services to be supported thereby are on a concurrent or exclusive basis.

(c) Any proposition initiated after formation of a service authority shall be submitted by resolution of the board, by resolution of a majority of the governing boards of counties and municipalities, or by a petition signed by eligible electors of the service authority in number not less than five percent of the votes cast in the service authority for all candidates for the office of governor at the last preceding general election.

(2) (a) At any general election following formation of a service authority, the board may submit a proposal to the eligible electors providing that any one or more services designated in section 32-7-111, including the types of services assumed pursuant to section 32-7-143, shall be provided exclusively by the service authority. The proposal may also be submitted at that time by resolution of a majority of the governing bodies of counties and municipalities or by petition signed by the eligible electors of the service authority in number not less than five percent of the votes cast in the service authority for all candidates for the office of governor at the last preceding general election.

(b) If a majority of the eligible electors voting at any general election approve the designation of one or more services as exclusive, the board shall be responsible and shall have final authority for the provision of the service within its boundaries. Counties, municipalities, and special districts organized pursuant to part 2 of article 20 of title 30, C.R.S., or article 1 or part 4 of article 4 of this title shall be prohibited from providing the services within the boundaries of the service authority. The designation shall not preclude a service authority from contracting with local governments or the state government for any service; nor shall the designation relieve local governments from the responsibility of providing the service for a period of two years or until the time that the board can provide for the orderly transfer of assets, liabilities, and obligations of the local governments to the service authority.

Source: L. 72: p. 462, § 1. **C.R.S. 1963:** § 89-25-12. **L. 81:** (2)(b) amended, p. 1624, § 27, effective July 1. **L. 85:** Entire section amended, p. 1352, § 29, effective April 30. **L. 92:** Entire section amended, p. 900, § 146, effective January 1, 1993.

32-7-113. General powers. (1) The service authority shall be a body corporate and a political subdivision of the state, and the board has the following general powers:

(a) To have and use a corporate seal;

(b) To sue and be sued and be a party to suits, actions, and proceedings; the provisions of the "Colorado Governmental Immunity Act", as set forth in article 10 of title 24, C.R.S., shall be applicable to any service authority formed under this article;

(c) To enter into contracts and agreements affecting the affairs of the service authority and to accept all funds resulting therefrom pursuant to the provisions and limitations of part 2 of article 1 of title 29, C.R.S.;

(d) To contract with private persons, associations, or corporations for the provision of any service within or without its boundaries and to accept all funds and obligations resulting therefrom;

(e) To borrow money and incur indebtedness and other obligations and to evidence the same by certificates, notes, or debentures and to issue general obligation or revenue bonds, or any combinations thereof, in accordance with the provisions of this article;

(f) To refund any bonded or other indebtedness or special obligations of the service authority without an election in accordance with the provisions and limitations of this article;

(g) To acquire, dispose of, and encumber real and personal property, including, without limitation, rights and interests in property, including leases and easements, necessary to accomplish the purposes of the service authority;

(h) To acquire, construct, equip, operate, and maintain facilities to accomplish the purposes of the service authority;

(i) To have the management, control, and supervision of all the business affairs and properties of the service authority and in any case in which it acquires two or more facilities, the authority may use differential prices which reflect differential equities, liabilities, and operating costs for not exceeding thirty years;

(j) To hire and retain agents, employees, engineers, attorneys, and financial or other consultants and to provide for the powers, duties, qualifications, and terms of tenure thereof;

(k) To have and exercise the powers of eminent domain to take any private property necessary to the exercise of the powers granted, both within and without the service authority, in the manner provided by law for the condemnation of private property for public use;

(l) To construct, establish, and maintain works and facilities in, across, or along any easement dedicated to a public use, or any public street, road, or highway, subject to the provisions of section 32-7-116, and in, upon, or over any vacant public lands, which public lands are now, or may become, the property of the state of Colorado, and to construct, establish, and maintain works and facilities in, across, or along any stream of water or watercourse;

(m) (I) To provide for the revenues and ad valorem taxes needed to finance the service authority, subject to the limitations of this article, to fix and from time to time increase or decrease, and collect rates, fees, tolls, and other service charges pertaining to the services of the service authority, including without limitation minimum charges and charges for availability of the facilities or services relating thereto; to pledge such revenues for the payment of securities; and to enforce the collection of such revenues by civil action or by any other means authorized by law;

(II) To levy, collect, and cause to be collected ad valorem taxes and other revenues, including rates, fees, tolls, and charges, fixed within the boundaries of any special taxing district within the service authority as provided in this article;

(III) To levy, collect, and cause to be collected special assessments fixed against specially benefited real property in any improvement district within the service authority as provided in this article;

(n) To adopt and amend bylaws setting forth rules of procedure for the conduct of its affairs and providing for the administrative organization and structure, including provisions for delegation of powers and functions of the service authority, consistent with section 17 of article XIV of the state constitution and with this article;

(o) To adopt by resolution, and enforce, pursuant to section 32-7-115, regulations not inconsistent with state law which are necessary, appropriate, or incidental to any authorized service provided by the service authority;

(p) (I) To plan for the territory within the service authority, including the review of all comprehensive plans of local governments located within the boundaries of the service authority;

(II) To review all capital construction or other federal grant-in-aid projects proposed by any local governmental entity within the boundaries of the service authority and for which review is required by federal or state law;

(q) To appoint citizen advisory committees to assist and advise with respect to services and powers of the service authority;

(r) To accept on behalf of the service authority gifts, grants, and conveyances upon such terms and conditions as the board may approve;

(s) To have and exercise all rights and powers necessary or incidental to or implied from the powers granted in this article.

Source: L. 72: p. 463, § 1. **C.R.S. 1963:** § 89-25-13.

32-7-114. Duties related to planning powers. (1) To provide for comprehensive planning to promote the orderly and efficient development of the physical, social, and economic

elements of the service authority and to encourage and assist local governments within the boundaries of the service authority to plan for the future, the board shall prepare and adopt, after such public hearings as it deems necessary, a comprehensive development guide for the service authority area, consisting of a compilation of policy statements, goals, standards, programs, maps, and those future developments that will have an impact on the entire area, including but not limited to such matters as land use, parks and open space land needs, transportation facilities, public hospitals and health facilities, libraries, schools, other public buildings, domestic water collection, treatment, and distribution, housing, and the delivery and distribution of social services to residents of the service authority.

(2) The board shall review all comprehensive plans of each commission, board, or agency of the state of Colorado, or any local government within the service authority area, if such plan is determined by the board to affect the development of the service authority. Each such plan shall be submitted to the board for such determination before any action is taken, and, if the board finds that a plan or any part thereof is inconsistent with its comprehensive development guide for the service authority area, is detrimental to the orderly and economic development of the authority's area, or will cause inefficient or uneconomic delivery of services to inhabitants of the area, it shall, within sixty days after the filing of the plan with the service authority, notify the respective state agency or local government of noncompliance with the regional plan. If no agreement can be obtained between the board and a state agency or local government within ninety days after such notice of noncompliance, the board shall indicate the noncompliance of any such plan on the service authority's comprehensive development guide, and said plan shall take effect.

(3) The board shall review all applications of any local government in the service authority area for a loan or grant from a state or federal agency if review by a regional or areawide agency is required by federal law, by the federal agency, or by state law. Each commission, board, or agency, before submitting such application to the United States, or any agency thereof, or to the state, or any agency thereof, shall first transmit the application to the board of the service authority for its comments and recommendations with respect to whether or not the project proposed is consistent with the comprehensive development guide for the service authority area. The comments and recommendations made by the board of the service authority shall then become a part of the application, and if submitted to a state or federal agency such comments and recommendations shall also be submitted. If the board of the service authority fails to report its comments and recommendations within sixty days, the local government may forward its grant application to the appropriate agency of the state or the United States government. If, however, the local government shall forward its application to the appropriate agency of the state or the United States government after said sixty days have lapsed without obtaining the review by the service authority of its application, it shall state upon said application that it was not reviewed by the service authority acting in its capacity as the regional or areawide agency.

Source: L. 72: p. 465, § 1. **C.R.S. 1963:** § 89-25-14. **L. 2005:** (1) amended, p. 670, § 8, effective June 1.

32-7-115. Ancillary powers. (1) The board of any service authority has the power to adopt by resolution and enforce regulations not inconsistent with state law or regulations which

are necessary, appropriate, or incidental to any authorized services provided by the service authority.

(2) Said regulations shall be compiled and kept by the secretary so as to be readily available for public inspection and shall be enforced by the peace officers of any municipality or county located within or partly within the boundaries of the service authority.

(3) Violations of such regulations shall be prosecuted by the district attorney or other person designated by the board in the county court of the county in which the violation occurred and shall be punishable by a fine not exceeding three hundred dollars, or by imprisonment in the county jail not exceeding ninety days, or by both such fine and imprisonment.

Source: L. 72: p. 466, § 1. **C.R.S. 1963:** § 89-25-15.

32-7-116. Powers to be exercised without franchise - condition. (1) The board has authority, without the necessity of a franchise, to cut into or excavate and use any easements dedicated to a public use, or any public street, road, or highway pursuant to the construction, maintenance, or provision of any service authorized to be provided by the service authority.

(2) The legislative body or other authority having jurisdiction over any such public street, road, or highway has authority to make such reasonable rules as it deems necessary in regard to any such work or use, and may require the payment of such reasonable fees by the service authority as may be fixed by said body to insure proper restoration of such streets, roads, or highways.

(3) When any such fee is paid by the service authority, it shall be the responsibility of the legislative body or other authority to promptly restore such street, road, or highway. If such fee is not fixed or paid, the service authority shall promptly restore any such street, road, or highway to its former condition, as nearly as possible.

(4) In the course of such construction, the service authority shall not impair the normal use of any street, road, or highway more than is reasonably necessary.

Source: L. 72: p. 466, § 1. **C.R.S. 1963:** § 89-25-16.

32-7-117. Revenues of service authority - collection. (1) In any service authority, all rates, fees, tolls, and charges shall constitute a perpetual lien on and against the property served until paid, and any such lien may be enforced and foreclosed by certification of the delinquent amounts due, within one hundred twenty days after the due date of such rates, fees, tolls, or charges, to the board of county commissioners of the county in which said property is located. The officials of said county shall collect and remit such delinquent amounts to the service authority in the manner provided by law for the collection of general property taxes.

(2) The board may discontinue service for delinquencies in the payment of such rates, fees, tolls, or charges or in the payment of taxes levied pursuant to this article and shall prescribe and enforce rules and regulations for the connection with and the disconnection from the facilities of the service authority.

Source: L. 72: p. 466, § 1. **C.R.S. 1963:** § 89-25-17.

32-7-118. Levy and collection of taxes. (1) To provide for the levy and collection of taxes, the board shall determine, in each year, the amount of money necessary to be raised by taxation, taking into consideration other sources of revenue of the service authority, and shall fix a rate of levy which, when levied upon every dollar of valuation for assessment of taxable property within the service authority and together with other revenues, will raise the amount required by the service authority annually to supply funds for paying the expenses of organization and the costs of constructing, operating, and maintaining the service authority and promptly to pay in full, when due, all interest on and principal of bonds and other obligations of the service authority payable from taxes, and, in the event of accruing defaults or deficiencies, an additional levy may be made as provided in section 32-7-119. The authority of the board under this section and section 32-7-113 (1)(m) is subject to mill levy limitations provided in this article; but, if the board determines that the maximum mill levy authorized under this article is insufficient to support any service of the district, the board may submit the question of an increased mill levy authorization to the eligible electors of the service authority at the next regular election of the authority.

(2) The board may apply a portion of such taxes and other revenues for the purpose of creating a reserve fund in such amount as the board may determine, which may be used to meet the obligations of the service authority for maintenance, operating expenses, depreciation, and extension and improvement of the facilities of the service authority.

(3) The board, in accordance with the schedule prescribed by section 39-5-128, C.R.S., shall certify to the board of county commissioners of each county within the service authority, or having a portion of its territory within the service authority, the rate so fixed, in order that, at the time and in the manner required by law for levying taxes, such board of county commissioners shall levy such tax upon the valuation for assessment of all taxable property which is located within the county and the service authority.

(4) All taxes levied under this article, together with interest thereon and penalties for default in payment thereof, and all costs of collecting same, shall constitute, until paid, a perpetual lien on and against the property, and such lien shall be on a parity with the tax lien of other general ad valorem taxes.

(5) Property taxes provided for in this article shall be levied, assessed, collected, remitted, and accounted for in the manner provided for other general ad valorem taxes.

(6) The board may accept on behalf of the service authority any state-collected, locally-shared taxes of whatever nature or kind if such taxes are approved and enacted by the general assembly.

(7) The board has the power to deposit or to invest surplus funds in the manner and form it determines to be most advantageous; but said deposits or investments must meet the requirements and limitations of part 6 of article 75 of title 24, C.R.S. For the purpose of making such deposits, the board may appoint, by written resolution, one or more persons to act as custodians of the moneys of the district. Such persons shall give surety bonds in such amounts and form and for such purposes as the board requires.

(8) The board has the power to accept on behalf of the service authority all funds tendered it from the state, the federal government, or any political subdivision or agency of either, which funds are specifically intended as incentive to, or assistance in, the formation, operation, or extension of service authority activities.

(9) No service authority shall levy a tax for the entire authority or for any special taxing district or special assessment district for the calendar year during which it shall have been formed unless, prior to the date specified by section 39-5-128, C.R.S., for certification of the rate of levy for such year, the assessor and board of county commissioners of each county within the service authority have received from the board a map and a legal description of such service authority, special taxing district, or special assessment district and a copy of a budget of such service authority or district as provided by section 29-1-113, C.R.S., and increased property tax levies shall be subject to the provisions of section 29-1-301, C.R.S.

Source: L. 72: p. 467, § 1. **C.R.S. 1963:** § 89-25-18. **L. 77:** (3) and (9) amended, p. 1512, § 75, effective July 15. **L. 79:** (7) amended, p. 1625, § 39, effective June 8. **L. 85:** (1) amended, p. 1353, § 30, effective April 30. **L. 90:** (9) amended, p. 1436, § 5, effective January 1, 1991. **L. 92:** (1) amended, p. 901, § 147, effective January 1, 1993.

32-7-119. Levies to cover deficiencies. The board, in certifying annual levies, shall take into account the maturing indebtedness for the ensuing year as provided in its contract, maturing bonds and interest on bonds, and deficiencies and defaults of prior years, and shall make ample provision for the payment thereof. In case the moneys produced from such levies, together with other revenues of the service authority, are not sufficient to pay punctually the annual installments on its contracts or bonds, and interest thereon, and to pay defaults and deficiencies, the board shall make such additional levies of taxes as may be necessary for such purposes, and such taxes shall continue to be levied until the indebtedness of the service authority is fully paid.

Source: L. 72: p. 468, § 1. **C.R.S. 1963:** § 89-25-19.

32-7-120. Power to issue revenue bonds - terms. To carry out the purposes of this article, the board is authorized to issue negotiable coupon bonds payable solely from the revenues derived, or to be derived, from the facility or combined facilities of the service authority. The terms, conditions, and details of said bonds, the procedures related thereto, and the refunding thereof shall be substantially the same as those provided in part 4 of article 35 of title 31, C.R.S., relating to water and sewer revenue bonds; except that the purposes for which the same may be issued shall not be so limited. Revenue bonds issued under this article shall not constitute an indebtedness within the meaning of any constitutional or statutory limitation or other provision. Each bond issued under this section shall recite in substance that said bond, including the interest thereon, is payable solely from the revenues pledged for the payment thereof and that said bond does not constitute a debt of the service authority within the meaning of any constitutional or statutory limitations or provisions. Such revenue bonds may be issued to mature at such time, not exceeding the estimated life of the facility to be acquired with the bond proceeds, as determined by the board, but in no event beyond thirty years from their respective dates.

Source: L. 72: p. 468, § 1. **C.R.S. 1963:** § 89-25-20.

32-7-121. Power to incur indebtedness - interest - maturity - denominations. (1) To carry out the purposes of this article, the board is authorized to issue general obligation

negotiable coupon bonds of the service authority. Said bonds shall bear interest at a rate such that the net effective interest rate of the issue of said bonds does not exceed that maximum net effective interest rate authorized, and shall be due and payable serially, either annually or semiannually, commencing not later than three years and extending not more than thirty years from the date of issuance. The form and terms of said bonds, including provisions for their payment and redemption, shall be determined by the board. If the board so determines, said bonds may be redeemable prior to maturity with or without payment of a premium, not exceeding three percent of the principal thereof. In any event, said bonds shall be subject to call not later than fifteen years from date. Said bonds shall be executed in the name and on behalf of the service authority and signed by the chairman of the board with the seal of the service authority affixed thereto and attested by the secretary of the board. Said bonds shall be issued in such denominations as the board determines, and the bonds and coupons thereto attached shall be payable to bearer. Interest coupons shall bear the original or facsimile signature of the president of the board.

(2) Bonds voted for different purposes by separate propositions submitted at the same or different bond elections may, at the discretion of the board, be combined and issued as a single issue of bonds so long as the security therefor is the same.

Source: L. 72: p. 469, § 1. **C.R.S. 1963:** § 89-25-21.

32-7-122. Debt question submitted to electors - resolution. (1) Whenever the board determines by resolution that the interest of the service authority and the public interest or necessity demand the acquisition, construction, installation, or completion of any works or other improvements or facilities or the making of any contract to carry out the objects or purposes of the service authority which requires the creation of any indebtedness of the service authority, the board shall order the submission of the proposition of incurring such indebtedness to the eligible electors of the service authority at an election held for that purpose. Any election may be held separately or may be held jointly or concurrently with any other election authorized by this article.

(2) The declaration of public interest or necessity required and the provision for the holding of the election may be included within one and the same resolution, which resolution, in addition to the declaration of public interest or necessity, shall recite the objects and purposes for which the indebtedness is proposed to be incurred, the estimated cost of the works or improvements, as the case may be, the principal amount of the indebtedness to be incurred, and the maximum net effective interest rate to be paid on the indebtedness. The resolution shall also fix the date upon which the election shall be held and shall appoint a designated election official to conduct the election as provided in articles 1 to 13 of title 1, C.R.S.

(3) In accordance with the provisions of section 6 (3) of article XI of the state constitution, general obligation debts contracted by a service authority for the purpose of supplying water shall be exempted from the provisions of this section.

(4) Local improvement bonds issued pursuant to section 32-7-135 shall not constitute an indebtedness within the meaning of this section and section 6 of article XI of the state constitution.

Source: L. 72: p. 469, § 1. **C.R.S. 1963:** § 89-25-22. **L. 85:** (1) amended, p. 1354, § 31, effective April 30. **L. 92:** (1) and (2) amended, p. 901, § 148, effective January 1, 1993.

32-7-123. Effect - subsequent elections. If any proposition authorized by section 32-7-122 is approved by the eligible electors, the service authority shall thereupon be authorized to incur the indebtedness or obligations, enter into contracts, or issue and sell bonds of the service authority, as the case may be, all for the purposes and objects provided for in the proposition submitted under this section, in the amount so provided, and at a price and at a rate of interest such that the maximum net effective interest rate recited in the resolution is not exceeded. Submission of the proposition of incurring the obligation or bonded or other indebtedness at an election shall not prevent or prohibit submission of the same or other propositions at subsequent elections called for any legal purpose, but no new election creating an indebtedness may be held within one hundred twenty days after the date of the election at which a proposal was defeated. No more than two elections may be held within any twelve-month period.

Source: L. 72: p. 470, § 1. **C.R.S. 1963:** § 89-25-23. **L. 92:** Entire section amended, p. 902, § 149, effective January 1, 1993.

32-7-124. Correction of faulty notices. In any case where a notice is provided for in this article, if the court or the board reviewing the proceedings finds for any reason that due notice was not given, said body shall not thereby lose jurisdiction, and the proceedings in question shall not thereby be void or be abated, but said body shall order due notice to be given, shall continue the proceeding until such time as notice is properly given, and thereupon shall proceed as though notice had been properly given in the first instance.

Source: L. 72: p. 470, § 1. **C.R.S. 1963:** § 89-25-24.

32-7-125. Refunding bonds. Any general obligation bonds issued by any service authority may be refunded without an election by the service authority issuing them, or by any successor thereof, in the name of the service authority which issued the bonds being refunded, but subject to provisions concerning their payment and to any other contractual limitations in the proceedings authorizing their issuance or otherwise appertaining thereto, by the issuance of bonds to refund, pay, and discharge all or any part of such outstanding bonds, including any interest on said bonds in arrears or about to become due, and for the purpose of avoiding or terminating any default in the payment of interest on and principal of said bonds, reducing interest costs or effecting other economies, or modifying or eliminating restrictive contractual limitations appertaining to the issuance of additional bonds or to any system appertaining thereto or for any combination of the foregoing purposes. Refunding bonds may be delivered in exchange for the outstanding bonds refunded or may be sold as provided in this article for an original issue of bonds.

Source: L. 72: p. 470, § 1. **C.R.S. 1963:** § 89-25-25.

32-7-126. Limitations upon issuance. No general obligation or revenue bonds may be refunded unless the holders thereof voluntarily surrender them for exchange or payment, or

unless they either mature or are callable for prior redemption under their terms within ten years from the date of issuance of the refunding bonds. Provision shall be made for paying the bonds refunded within said period of time. No maturity of any bond refunded may be extended over fifteen years. The interest rate on such refunding bonds shall be determined by the board. The principal amount of the refunding bonds may exceed the principal amount of the refunded bonds if the aggregate principal and interest costs of the refunding bonds do not exceed such unaccrued costs of the bonds refunded, except to the extent any interest on the bonds refunded in arrears or about to become due is capitalized with the proceeds of refunding bonds. The principal amount of the refunding bonds may also be less than or the same as the principal amount of the bonds being refunded so long as provision is duly and sufficiently made for the payment of the refunded bonds.

Source: L. 72: p. 470, § 1. **C.R.S. 1963:** § 89-25-26.

32-7-127. Use of proceeds of refunding bonds. The proceeds of refunding general obligation or revenue bonds shall either be immediately applied to the retirement of the bonds being refunded or be placed in escrow in any state or national bank within the state which is a member of the federal deposit insurance corporation to be applied to the payment of the bonds being refunded upon their presentation therefor; but, to the extent any incidental expenses have been capitalized, such refunding bond proceeds may be used to defray such expenses, and any accrued interest and any premium appertaining to a sale of refunding bonds may be applied to the payment of the interest thereon and the principal thereof, or both interest and principal, or may be deposited in a reserve therefor, as the board may determine. Any such escrow shall not necessarily be limited to proceeds of refunding bonds but may include other moneys available for the escrow's purpose. Any moneys in escrow, pending such use, may be invested or reinvested in securities meeting the investment requirements established in part 6 of article 75 of title 24, C.R.S. Such moneys and investments in escrow, together with any interest to be derived from any such investment, shall be in an amount at all times sufficient as to principal, interest, any prior redemption premium due, and any charges of the escrow agent payable therefrom to pay the bonds being refunded as they become due at their respective maturities or due at any designated prior redemption date or dates in connection with which the board shall exercise a prior redemption option. Any purchaser of any refunding bond issued under sections 32-7-125 and 32-7-126 and this section shall in no manner be responsible for the application of the proceeds thereof by the service authority or any of its officers, agents, or employees.

Source: L. 72: p. 471, § 1. **C.R.S. 1963:** § 89-25-27. **L. 89:** Entire section amended, p. 1119, § 39, effective July 1.

32-7-128. Combination of refunding and other bonds. General obligation bonds for refunding and general obligation bonds for any purpose authorized in this article may be issued separately or issued in combination in one series or more by any service authority. Revenue bonds for refunding and revenue bonds for any purpose authorized in this article may be issued separately or issued in combination in one series or more by any service authority.

Source: L. 72: p. 471, § 1. **C.R.S. 1963:** § 89-25-28.

32-7-129. Board's determination final. The determination of the board that the limitations under sections 32-7-125 to 32-7-128 imposed upon the issuance of refunding bonds have been met shall be conclusive in the absence of fraud or unless it can be shown that the board acted in an arbitrary or capricious manner.

Source: L. 72: p. 471, § 1. **C.R.S. 1963:** § 89-25-29.

32-7-130. Anticipation warrants. The board may defray any costs of the service authority by the issuance of notes or warrants to evidence the amount due therefor, in anticipation of taxes or revenues or both. Interest on such notes or warrants shall be governed by the provisions of section 5-12-104, C.R.S. Notes and warrants may mature at such time not exceeding one year from their date of issuance as the board may determine. If such notes or warrants are not paid during the fiscal year in which they are issued, the board shall, at the end of its fiscal year, budget the amount necessary to pay in full the amount of notes and warrants outstanding and due during the next fiscal year.

Source: L. 72: p. 471, § 1. **C.R.S. 1963:** § 89-25-30.

32-7-131. Inclusion - counties - municipality - existing service authority - procedures. (1) Proceedings for inclusion of an additional county, counties, or a municipality which has territory in two or more counties in a service authority shall be in accordance with the provisions of this section.

(2) (a) Inclusion of any county, counties, or a municipality specified in subsection (1) of this section may be initiated by:

(I) A petition signed by eligible electors in the respective county, counties, or municipality seeking to be included, in number not less than five percent of the votes cast in the county, counties, or municipality for the office of governor at the last preceding general election;

(II) A resolution adopted by the municipality or by a majority of the county commissioners in the county or counties; or

(III) A resolution of a majority of the governing bodies of the municipalities within the territory of the county or counties seeking to be included.

(b) Proceedings for inclusion shall be commenced by filing a verified petition or resolution with the board of directors of the service authority naming the county, counties, or municipality to be included, and shall be accompanied by a deposit of money sufficient to pay all costs of the proceedings as estimated by the board. Additional deposits may be required from time to time should the original deposit be deemed by the board to be insufficient to pay all the costs.

(3) The secretary of the board shall cause notice of a hearing on the petition to be published throughout the county or municipality. The notice shall also be mailed to the governing body of each county and the municipalities within the county, and to any municipality specified in subsection (1) of this section. The notice shall describe the nature of the petition and the purpose, date, time, and place of the hearing.

(4) At the hearing and any continuation thereof, all petitioners and county or municipal officials and any eligible elector of the service authority or of the territory proposed for inclusion shall be interested parties and may present evidence for or against the petition.

(5) Upon completion of the hearing, the board shall make the following determinations which shall be final, conclusive, and not subject to review except upon the grounds that the same are arbitrary or capricious:

(a) Whether the petition or resolution and all subsequent notices and proceedings comply with all of the requirements of this section;

(b) Whether the petition has been signed by the requisite number of eligible electors or whether the resolution was approved by the requisite number of the members of the board of county commissioners or members of the governing body or bodies of municipalities within the county having the proper qualifications; and

(c) Whether the granting of the petition or resolution, in whole or in part, is in the public interest and the interest of the service authority.

(6) Having made such determinations, the board by resolution shall grant or deny the petition or resolution, in whole or in part, as follows:

(a) If any of the determinations required by subsection (5) of this section are in the negative, the board shall deny the petition or resolution.

(b) If all of the determinations required by subsection (5) of this section are in the affirmative, the board shall order the question of including said county, counties, or municipality within the service authority to be submitted at a general or special county or municipal election, as the case may be, to a vote of the eligible electors of the county, counties, or municipality. The resolution shall name a designated election official who shall be responsible for the conducting of the election. The election shall be held and conducted as provided in articles 1 to 13 of title 1, C.R.S. If the inclusion is approved at the election, the board shall, by resolution, grant the petition, in whole or in part as the case may be, and shall file a true and correct copy of its resolution with the clerk of the district court which had jurisdiction over the initial formation of the service authority and with the board of county commissioners and assessor of the county and the division of local government in the department of local affairs.

(7) The district court or the director of the division of local government shall enter an order of inclusion of the county or municipality, as the case may be, in the service authority, which order shall finally and conclusively establish such inclusion against all persons except the state of Colorado, in an action in the nature of quo warranto, commenced by the attorney general within thirty-five days after the adoption of the resolution and not otherwise. The inclusion of the county in the service authority shall not be directly or collaterally questioned in any suit, action, or proceeding except as expressly authorized in this section.

Source: L. 72: p. 472, § 1. **C.R.S. 1963:** § 89-25-31. **L. 76:** (6)(b) and (7) amended, p. 603, § 22, effective July 1. **L. 85:** (2)(a)(I), (4), and (6)(b) amended, p. 1354, § 32, effective April 30. **L. 92:** (2) to (7) amended, p. 902, § 150, effective January 1, 1993. **L. 2012:** (7) amended, (SB 12-175), ch. 208, p. 882, § 150, effective July 1.

32-7-132. Special taxing districts authorized. (1) In accordance with the provisions of section 18 of article XIV of the state constitution, the board of a service authority may establish special taxing districts within the service authority to facilitate the furnishing of services and the collection of ad valorem taxes and charges for such services.

(2) Such special taxing districts shall be utilized when a service or level of service which a service authority is authorized to provide is to be provided in substantially less than the entire

area included within the service authority, and where resulting ad valorem taxes or charges may vary from those imposed in other areas within the service authority.

(3) As long as the service is available to the included territory, a special taxing district may include any territory within a service authority. The included territory need not be contiguous, and the same territory may lie within more than one special taxing district.

(4) In the management of a special taxing district, the board of the service authority shall have all powers granted to the board by this article.

Source: L. 72: p. 473, § 1. **C.R.S. 1963:** § 89-25-32.

32-7-133. Formation of special taxing districts. (1) Special taxing districts may be established pursuant to the provisions of this section.

(2) The board may by resolution propose the formation of the district, which resolution shall designate the proposed boundaries thereof, specify the proposed service, and set forth the methods of financing proposed for the district.

(3) The board shall present the proposal for public hearing to be held within sixty days after introduction of the resolution with notice to be published not less than fifteen days before the date set for hearing.

(4) At the hearing any eligible elector within the service authority may be heard on the proposal, including questions of inclusion in or exclusion from the district, and all objections shall be determined by the board on the basis of the public interest, taking into consideration the needs of the service authority and the availability of the service to the territory which is the subject of any objection.

(5) The board may continue the hearing as necessary and may, after the conclusion thereof, enact the proposed resolution, with or without amendments, or may reject the proposed resolution.

(6) Decisions of the board concerning the formation of a special taxing district are not subject to review unless action is instituted by a registered elector to review such proceedings within forty-five days after passage of the resolution, and any such review shall extend only to the question of whether the board exceeded its jurisdiction or abused its discretion. If the court so finds, it shall remand the matter to the board for further proceedings, consistent with such findings.

(7) No restraining order or temporary injunction enjoining the formation, the inclusion or exclusion of territory, or the operation of the special taxing district may be issued pending final judgment of the district court. Any such final judgment which has the effect of enjoining the formation, the inclusion or exclusion of territory, or the operation of a special taxing district shall automatically be stayed upon the filing of any appeal of such decision, and no application for supersedeas shall be necessary. Such stay shall continue in full force and effect pending final disposition of the proceedings.

(8) Changes in the boundaries or major changes in services or financing of a special taxing district may be initiated by resolution of the board or by petition signed by five percent of the eligible electors of the district, and these proposals shall be considered in the same manner as provided in this section for proposals for the original formation of a district.

Source: L. 72: p. 474, § 1. **C.R.S. 1963:** § 89-25-33. **L. 85:** (4), (6), and (8) amended, p. 1355, § 33, effective April 30. **L. 92:** (2) to (4) and (8) amended, p. 904, § 151, effective January 1, 1993.

32-7-134. Local improvement districts authorized. (1) The board of a service authority may establish local improvement districts within the service authority to facilitate the financing and construction or improvement of facilities within a portion or portions of a service authority. Such local improvement districts shall be established whenever any area, in the opinion of the board, will be especially benefited by the construction, installation, or improvement of any facilities.

(2) Such improvements shall be of a type to confer special benefits to real property within the boundaries of any such local improvement district and general benefits to the service authority at large or to a special taxing district within the service authority.

(3) In the management of a local improvement district, the board of the service authority shall have all powers granted to the board by this article.

Source: L. 72: p. 474, § 1. **C.R.S. 1963:** § 89-25-34.

32-7-135. Procedures to establish local improvement districts. (1) Local improvement districts may be established pursuant to the provisions of this section.

(2) The board of a service authority may establish local improvement districts within the boundaries of the service authority either by:

(a) Resolution of the board, subject to protest by the owners of a majority of all property benefited and constituting the basis of assessment as the board may determine; or

(b) Petition by the owners of a majority of all property benefited and constituting the basis of assessment in the proposed district.

(3) In either event, a public hearing shall be held at which all interested parties may appear and be heard. Right to protest and notice of public hearing shall be given as provided by the resolution of the board.

(4) The board has the power by resolution to prescribe the method of making such improvements, of assessing the cost thereof, and of issuing bonds for cost of constructing or installing such improvements, including the costs incidental thereto.

(5) Decisions of the board concerning the formation of a local improvement district are not subject to review unless action is instituted by an eligible elector of the service authority or owner of property within the local improvement district within forty-five days after passage of the resolution to form the improvement district, and any review shall extend only to the question of whether the board exceeded its jurisdiction or abused its discretion. If a court so finds, it shall remand the matter to the board for further proceedings, consistent with such findings.

(6) (a) Where all outstanding bonds of a local improvement district have been paid and any moneys remain to the credit of such district, they shall be transferred to a special surplus and deficiency fund, and whenever there is a deficiency in any local improvement district fund to meet the payments of outstanding bonds and interest due thereon, the deficiency shall be paid out of said surplus and deficiency fund.

(b) Whenever a local improvement district has paid and cancelled three-fourths of its bonds issued, and for any reason the remaining assessments are not paid in time to retire the

remaining bonds of the district and the interest due thereon, and there are not sufficient moneys in the special surplus and deficiency fund, then the service authority shall pay said bonds when due and the interest due thereon and reimburse itself by collecting the unpaid assessments due said local improvement district.

(7) (a) In consideration of general benefits conferred on the service authority at large or on a special taxing district within the service authority, as the case may be, by the construction or installation of improvements in a local improvement district, the board may levy annual taxes on all taxable property within the service authority or within the special taxing district, as the case may be, at a rate not exceeding four mills in any one year, to be disbursed as determined by the board for the purpose of paying for such general benefits, for the payment of any assessment levied against the service authority or special taxing district, as the case may be, in connection with bonds issued for local improvement districts, or for the purpose of advancing moneys to maintain current payments of interest and equal annual payments of the principal amount of bonds issued for any local improvement district.

(b) The proceeds of such taxes shall be placed in a special fund and shall be disbursed only for the purposes specified; except that, in lieu of such tax levies, the board may annually transfer to such special fund any available moneys of the service authority or of the special taxing district, as the case may be, but in no event shall the amount transferred in any one year exceed the amount which would result from a tax levied in such year as limited in this section.

Source: L. 72: p. 475, § 1. **C.R.S. 1963:** § 89-25-35. **L. 85:** (5) amended, p. 1355, § 34, effective April 30. **L. 92:** (5) amended, p. 904, § 152, effective January 1, 1993.

32-7-136. Special districts - transfer of responsibility. (1) The governing body of any special district organized pursuant to part 2 of article 20 of title 30, C.R.S., or article 1 or part 4 of article 4 of this title may designate the board of directors of the service authority in which the district is located to act as the board of directors of said district in the manner and within the limitations set forth in this section, if said service authority is authorized to perform the same service or services as the district is performing. Such designation may be made notwithstanding any other provision of this title (except article 8), article 8 of title 29, part 2 of article 20 of title 30, and parts 5 and 6 of article 25 of title 31, C.R.S.

(2) The designation shall be made by resolution adopted by a majority of the members of the governing board of the district. Prior to the adoption of the resolution, the district governing board shall hold a public hearing on the proposed designation giving all parties who are eligible electors of the district an opportunity to be heard with regard to the proposal. Notice by publication of the hearing shall be given.

(3) Certified copies of any resolution approving said designation, if adopted, shall be filed, not later than thirty days after adoption, with the regional service authority board, the county clerk and recorder of each county within which the district is located, the clerk of the district court by order of which said district was organized, and the division of local government.

(4) Said resolution shall be effective upon completion of said filings, and said designation shall take effect upon the date set forth in said resolution, or, if none, then on the first day of the second calendar month following the effective date of said resolution, except as provided in subsection (5) of this section.

(5) If the lesser of forty percent or two hundred of the eligible electors of the district request, by a petition filed with the district governing board not more than twenty days after adoption of the resolution, that the question of approving the designation be submitted to a vote of the eligible electors of the district at the next regular election or at a special election called for that purpose, the resolution and designation shall not take effect unless and until approved at the election. The question shall be so submitted by the district governing board at the next regular election, if held not more than one hundred twenty days nor less than sixty days after the filing of the petition. If no regular election is to be held within that period, the question shall be so submitted at a special election called for that purpose to be held within ninety days after the filing of the petition.

(6) If approved by a majority of those eligible electors of the district voting thereon, the resolution shall be filed as required by subsection (3) of this section, and the designation shall become effective on the date set forth in the resolution or, if none, on the first day of the second calendar month following the effective date of the resolution.

(7) If at least forty percent or two hundred of the eligible electors of the district, whichever is the lesser number, request, by a petition filed with the district governing board, that the board adopt a resolution to designate the regional service authority to be and act as the board of directors, the district governing board shall, within sixty days, hold a hearing as provided in this section. The board shall, within thirty days after the hearing, adopt a resolution and make such designation or shall act to submit the question of approving the designation at a special election called for that purpose to be held within ninety days after the filing of the petition.

(8) Any resolution adopted by the board calling for a special election shall name a designated election official who shall be responsible for the conducting of the election. The election shall be held and conducted as provided in articles 1 to 13 of title 1, C.R.S.

Source: L. 72: p. 476, § 1. **C.R.S. 1963:** § 89-25-36. **L. 81:** (1) amended, p. 1625, § 28, effective July 1. **L. 85:** (2) and (5) to (7) amended, p. 1355, § 35, effective April 30. **L. 92:** (2) and (5) to (7) amended and (8) added, p. 905, § 153, effective January 1, 1993.

32-7-137. Special districts - formation within service authority territory forbidden. Once a service authority is established in any given area, no new special districts may be organized pursuant to part 2 of article 20 of title 30, C.R.S., or article 1 or part 4 of article 4 of this title within the territory or any portion thereof of said service authority if the service authority is authorized to provide the same or essentially the same service or services as the special district would be authorized to perform.

Source: L. 72: p. 477, § 1. **C.R.S. 1963:** § 89-25-37. **L. 81:** Entire section amended, p. 1625, § 29, effective July 1.

32-7-138. Transfer and assumption of services. (1) Unless another date is provided in this article or the proposition for assumption of a service by a service authority or agreed to by the board and any local governmental unit from which the service is to be transferred, those services being assumed and those rights, properties, and other assets and liabilities of said local governmental unit incident to the service transferred and assumed shall be transferred to and

assumed by the service authority on the second January 1 after authorization of the transfer of said service.

(2) Where a local governmental unit providing part or all of the service being transferred to and assumed by the service authority is located partly within and partly without the service authority, the board, after notice by publication and hearing, shall determine which of the rights, properties, and other assets and liabilities shall be transferred to and assumed by the service authority. The board's determination shall be based on a fair and equitable allocation of rights, properties, and other assets and liabilities. Adequate provision shall be made for payment of outstanding indebtedness as it becomes due, and no such transfer and assumption shall deprive residents of a local governmental unit of any existing services necessary for their health, welfare, and safety.

(3) The plan of distribution provided for in subsection (2) of this section shall be final and conclusive against all persons unless an action is brought by the local governmental unit from which such rights, properties, and other assets and liabilities are to be transferred in the district court having jurisdiction over formation of the service authority within thirty days after adoption of said plan. All proceedings pursuant to this subsection (3) shall be advanced as a matter of immediate public interest and concern and heard at the earliest practical moment. No such plan shall be directly or collaterally questioned in any suit, action, or proceeding, except as expressly authorized in this subsection (3).

(4) Where a service is to be provided by the service authority by contract with one or more other local governmental units, any transfer to and assumption by the service authority of any rights, properties, and other assets and liabilities shall be to the extent and as provided by contract between the board and the other local governmental unit or units.

Source: L. 72: p. 477, § 1. **C.R.S. 1963:** § 89-25-38.

32-7-139. Payments for facilities acquired by regional service authority - valuation. (1) For any service authorized and approved under this article, the board of directors may acquire rights, properties, and other assets and liabilities of counties, municipalities, or special districts either through contract with the local governmental unit or upon resolution of the board, pursuant to section 32-1-701 (4), or upon the provision of any service on an exclusive basis as provided in section 32-7-112. Upon assuming the rights, title, and interest in any facility, the board shall become obligated to pay to the county, municipality, or special district, as the case may be, an amount, when due, equivalent to that necessary for the payment of all outstanding bonds and obligations of said jurisdictions for the acquisition, construction, and improvement of facilities acquired by the board.

(2) Upon the acquisition of facilities as provided in subsection (1) of this section, the board shall provide an offset of charges to the local jurisdiction either in service fees or ad valorem taxes in an amount equivalent to that which must be raised by the local governmental unit for the payment of outstanding obligations owed by such jurisdiction upon facilities acquired by the board.

(3) When any service authority board assumes the ownership of any existing facilities of a local governmental unit, the local governmental unit which paid part or all of the cost of such facilities, directly or by contract with another entity, may be entitled to receive a credit against any service charges or ad valorem taxes which may be apportioned or charged to the residents of

such local governmental unit. Said credit may be spread over a period not exceeding thirty years. An additional credit equal to interest on the unused credit balance may be paid annually at a rate not exceeding four percent per annum. The amount of such credit shall not exceed the current value of the facilities. The board shall negotiate with the local governmental units in determining the value of any facility and the amount of credit to be granted, but the determination of the board shall be final subject to court review.

(4) In the event a local governmental unit believes that the board has been arbitrary or capricious in providing or not providing for a credit as permitted in this section, the governing board of such jurisdiction may commence an action in the district court. The court may dismiss the action or recommit the controversy to the board for further negotiation, if it determines that the action of the board was arbitrary or capricious.

Source: L. 72: p. 478, § 1. **C.R.S. 1963:** § 89-25-39. **L. 81:** (1) amended, p. 1625, § 30, effective July 1.

32-7-140. Public transportation. For the purpose of providing public surface transportation, a service authority shall have, insofar as consistent with this article, any additional special powers applicable to the provision of that specific service as provided by article 9 of this title. The mill levy limitation for ad valorem taxes imposed by said article 9 shall be applicable to the service of public surface transportation when such service is provided by a service authority. Any municipality may plan or operate a public surface transportation system, and any county or municipality may contract with a service authority for the planning or operation of such a system. In addition, any county may plan and operate such a system if such plan is made in coordination with, or is made by, a regional transportation district or a service authority.

Source: L. 72: p. 479, § 1. **C.R.S. 1963:** § 89-25-40.

32-7-141. Sewage collection, treatment, and disposal. (1) For the purpose of providing sewage collection, treatment, and disposal, a service authority has, insofar as consistent with this article, any additional special powers applicable to the provision of that specific service as provided in part 5 of article 4 of this title. Any municipality as defined therein participating with the service authority shall have the additional powers provided municipalities in part 5 of article 4 of this title.

(2) If the board finds that a sewer line connection is necessary for the protection of the public health, and if the sewer line of the service authority are within four hundred feet of the nearest property line of such premises, the board may compel the owner of any business, dwelling, or other inhabited premises within the service authority to connect such premises, in accordance with the applicable plumbing code, to a sewer line. Notice to compel such connections shall be given to such owner by registered or certified mail, return receipt requested, to make such connection within twenty days after receipt of such notice, and if such connection has not begun within such period and completed with reasonable diligence by such owner, the board may thereupon make such connection, and the service authority shall, upon completion, have a first and prior lien on the premises for the cost of such connection. Such liens shall be enforced in accordance with the provisions of section 32-7-117.

Source: L. 72: p. 479, § 1. **C.R.S. 1963:** § 89-25-41.

32-7-142. Urban drainage and flood control. For the purpose of providing urban drainage and flood control, a service authority shall have, insofar as consistent with this article, any additional special powers applicable to the provision of that specific service as provided by article 11 of this title. The mill levy limitation for ad valorem taxes imposed by said article 11 shall be applicable to the service of providing urban drainage and flood control, when such service is provided by a service authority.

Source: L. 72: p. 479, § 1. **C.R.S. 1963:** § 89-25-42.

32-7-143. Assumption of services by a service authority in the Denver metropolitan area. (1) In accordance with section 17 (3)(e) of article XIV of the state constitution, after formation of a service authority in the metropolitan area composed of at least that area as specified in section 32-7-104 (2)(b), except for any portion thereof excluded pursuant to section 32-7-104 (3), those special powers, services, rights, and properties and any assets and liabilities of the Denver regional council of governments created pursuant to the provisions of section 30-28-105, C.R.S., shall be transferred to and assumed by the service authority on the first January 1 after formation. The urban drainage and flood control district as created pursuant to article 11 of this title and the metropolitan Denver sewage disposal district no. 1 created pursuant to part 5 of article 4 of this title shall, if the services are approved by a majority of the eligible electors voting thereon in each county within the service authority, be transferred to and assumed by the service authority. The transfer shall be completed by the second January 1 after formation unless an earlier date is agreed to by the board and the respective individual entities.

(2) A service authority assuming the services provided for in this section shall be subject to the following limitations upon ad valorem tax levies incurred by the service authority in furnishing the service, unless a specified greater limit is authorized by the eligible electors of the service authority or by further action of the general assembly:

(a) For the performance of the planning function, assumed pursuant to subsection (1) of this section, a levy of two-tenths mill;

(b) For the performance of the duties of urban drainage and flood control, assumed pursuant to subsection (1) of this section, a levy of two and one-half mills as provided in section 32-11-217 (1)(d);

(c) For the performance of the duties of the metropolitan Denver sewage disposal district no. 1, assumed pursuant to subsection (1) of this section, no mill levy.

Source: L. 72: p. 480, § 1. **C.R.S. 1963:** § 89-25-43. **L. 75:** (1)(a) amended, p. 1297, § 2, effective June 16. **L. 85:** (1)(a) and IP(1)(b) amended, p. 1356, § 36, effective April 30. **L. 92:** (1)(a) and IP(1)(b) amended, p. 906, § 154, effective January 1, 1993.

Editor's note: The provisions of this section were renumbered on revision in 1997.

32-7-144. Dissolution. Except as otherwise provided in this article, a service authority may be dissolved in a manner pursuant, as nearly as practicable, to the provisions of part 7 of article 1 of this title. Dissolution may be initiated by a petition signed by at least five percent of

the eligible electors of the service authority or by a resolution passed by at least three-fourths of the members of the board. No dissolution shall be effected unless approved by a majority of the eligible electors of the service authority voting thereon and unless satisfactory arrangements have been made for the continuation of any services essential for the health, welfare, and safety of residents of the dissolved service authority.

Source: L. 72: p. 480, § 1. **C.R.S. 1963:** § 89-25-44. **L. 81:** Entire section amended, p. 1625, § 31, effective July 1. **L. 85:** Entire section amended, p. 1357, § 37, effective April 30. **L. 92:** Entire section amended, p. 906, § 155, effective January 1, 1993.

32-7-145. Early hearings. All court actions involving the validity of any proceeding under this article which is a matter of immediate public interest and concern shall be advanced and heard at the earliest practical moment.

Source: L. 72: p. 480, § 1. **C.R.S. 1963:** § 89-25-45.

32-7-146. Elections. (1) Subject to the specific provisions of subsections (2) and (3) of this section, elections shall be conducted as nearly as practicable in the manner provided for general elections.

(2) The regular service authority election in each service authority shall be held on the date determined for general elections.

(3) Any referral of a proposition to allow a service authority to assume exclusive jurisdiction over any service shall be voted upon only on the date determined for general elections.

(4) All necessary expenses of any service authority general election subsequent to the organization of the service authority and other proceedings conducted pursuant to said election shall be paid by the counties within the service authority in proportion to the population of the respective counties within the service authority, and the governing bodies thereof shall enact any necessary supplemental appropriations. When the board calls a special election after formation of the service authority to be held at a time other than the general election, all necessary expenses for the election and other proceedings conducted pursuant to such elections shall be paid by the service authority.

Source: L. 72: p. 480, § 1. **C.R.S. 1963:** § 89-25-46.

SPECIAL STATUTORY DISTRICTS

Cross references: For the constitutional provision that establishes limitations on spending, the imposition of taxes, and the incurring of debt, see § 20 of article X of the Colorado constitution.

ARTICLE 8

Moffat Tunnel Improvement District

32-8-101. Purpose of tunnel. The purpose of this article is to facilitate transportation and communication between the eastern and western portions of the state through the efficient operation and maintenance of the existing Moffat tunnel under the continental divide and to promote the health, comfort, safety, convenience, and welfare of the people of the state, with special benefit to the property within the boundaries of the improvement district created in this article.

Source: L. 22: p. 88, § 1. **C.L.** § 9590. **CSA:** C. 138, § 200. **CRS 53:** § 93-1-1. **C.R.S. 1963:** § 93-1-1. **L. 94:** Entire section amended, p. 729, § 2, effective April 19. **L. 96:** Entire section R&RE, p. 1048, § 2, effective May 23.

32-8-101.5. Definitions. As used in this article, unless the context otherwise requires:

(1) "Board" means the Moffat tunnel commission created pursuant to section 32-8-103 (1).

(2) "Contract" or "contractual" means any contract, lease, license, permit, or other written authority for the use of the Moffat tunnel, its approaches, and equipment according to the terms of the underlying agreement.

(3) "Department" means the department of local affairs created in section 24-1-125, C.R.S.

(4) "District" means the Moffat tunnel improvement district created pursuant to this article.

(5) "Moffat tunnel" or "tunnel" shall include any and all portions of the Moffat railroad tunnel, its approaches, or equipment.

(6) "User" means any lessee, licensee, permittee, or other holder of any interest in, or any contractual right to use, any portion of the Moffat tunnel, but not any person claiming by, through, or under such user. "User" also includes the owner of any permanent improvements lawfully located on any portion of the Moffat tunnel or its approaches.

Source: L. 2002: Entire section added with relocated provisions, p. 1071, § 5, effective August 7.

Editor's note: This section was formerly numbered as § 24-32-2902.

Cross references: For the legislative declaration contained in the 2002 act enacting this section, see section 1 of chapter 274, Session Laws of Colorado 2002.

32-8-102. Territory comprising district. (1) There is hereby created an improvement district known and designated as the Moffat tunnel improvement district. Said district is declared to be a body corporate under the laws of Colorado, and by said name may sue and defend in all actions, suits, and proceedings.

(2) Said district shall be comprised of the following territory: City and county of Denver, county of Grand, county of Moffat, county of Routt, and those portions of Eagle, Gilpin, Boulder, Adams, and Jefferson counties described as follows:

(a) Eagle County: All of township two south, ranges eighty-two and eighty-three west of the sixth principal meridian;

(b) Gilpin County: Commencing at the northwest corner of Gilpin county, thence east on the north boundary line of said county to the easterly boundary line of Gilpin county; thence southerly along said easterly boundary line to the point of intersection with the east and west center line of township two south in range seventy-two west of the sixth principal meridian; thence west along said east and west center line of township two south, to the point where the said east and west center line of township two south, intersects the westerly boundary line of Gilpin county, in range seventy-four west of the sixth principal meridian; thence northerly along said westerly boundary line to the place of beginning;

(c) Jefferson County: Commencing at the northwest corner of Jefferson county, thence east along the north boundary line of said county to the northeast corner of section four, township two south, range sixty-nine west of the sixth principal meridian; thence south along the east lines of sections four, nine, and sixteen, township two south, range sixty-nine west of the sixth principal meridian to the southeast corner of said section sixteen; thence east along the north lines of sections twenty-two, twenty-three, and twenty-four of said township two south, range sixty-nine west, to the east line of Jefferson county; thence south along the east line of Jefferson county to the southeast corner of section thirteen, township three south, range sixty-nine west of the sixth principal meridian; thence west along the south lines of sections thirteen, fourteen, fifteen, sixteen, seventeen, and eighteen of said township three south, range sixty-nine west, to the southwest corner of said section eighteen; thence north along the west line of range sixty-nine west of the sixth principal meridian to the southeast corner of section twenty-five, township two south, range seventy west of the sixth principal meridian; thence west along the south lines of sections twenty-five, twenty-six, twenty-seven, twenty-eight, twenty-nine, and thirty of said township two south, range seventy west, and the south lines of sections twenty-five, twenty-six, and twenty-seven, township two south, range seventy-one west of the sixth principal meridian, to the southwest corner of section twenty-seven, township two south, range seventy-one west of the sixth principal meridian; thence north along the west lines of sections twenty-seven and twenty-two of said township two south, range seventy-one west, to the northwest corner of said section twenty-two; thence west along the south lines of sections sixteen, seventeen, and eighteen, township two south, range seventy-one west, and the east and west center line of township two south, range seventy-two west, to the west boundary line of Jefferson county; thence north along said west boundary line to the place of beginning;

(d) Adams County: All of Adams county in township three south, range sixty-eight west of the sixth principal meridian;

(e) Boulder County: Commencing at the southwest corner of Boulder county, thence easterly along the southerly boundary line of said county to the southeast corner of section thirty-one, township one south, range seventy west of the sixth principal meridian; thence north along the east lines of sections thirty-one and thirty, township one south, range seventy west of the sixth principal meridian, to the northeast corner of said section thirty; thence west along the north line of section thirty of said township one south, range seventy west, to the northwest corner of said section thirty; thence north along the east line of section twenty-four, township one south, range seventy-one west, to the northeast corner of said section twenty-four; thence west along the north lines of sections twenty-four, twenty-three, twenty-two, twenty-one, twenty, and nineteen, township one south, and ranges seventy-one, seventy-two, seventy-three, and seventy-four west, of the sixth principal meridian, to the westerly boundary line of Boulder county; thence south along said westerly boundary line to the place of beginning.

Source: L. 22: p. 89, § 2. **C.L.** § 9591. **CSA:** C. 138, § 201. **CRS 53:** § 93-1-2. **C.R.S. 1963:** § 93-1-2.

32-8-103. Commission - election - appointment - transfer of powers to the department of local affairs. (1) The district was, until February 1, 1998, managed and controlled by a board of five members known as the "Moffat tunnel commission". At that time, acting pursuant to Senate Bill 96-233, the department assumed the powers of the board.

(2) to (3.5) (Deleted by amendment, L. 2002, p. 1069, § 2, effective August 7, 2002.)

(4) (Deleted by amendment, L. 92, p. 906, § 156, effective January 1, 1993.)

(5) to (7) (Deleted by amendment, L. 2002, p. 1069, § 2, effective August 7, 2002.)

(8) The district shall be managed and controlled by the department. The department shall have the powers and duties set forth in sections 32-8-107 and 32-8-124 with respect to the district and the properties of the district.

Source: L. 22: p. 92, § 4. **C.L.** § 9593. **L. 27:** p. 491, § 1. **L. 31:** p. 454, § 1. **CSA:** C. 138, § 203. **CRS 53:** § 93-1-4. **L. 63:** p. 726, § 1. **C.R.S. 1963:** § 93-1-4. **L. 72:** p. 563, § 32. **L. 76:** (3) amended, p. 310, § 56, effective May 20. **L. 81:** (3) amended, p. 296, § 19, effective June 19. **L. 82:** (3) amended, p. 545, § 3, effective April 15. **L. 89:** (4) amended, p. 847, § 121, effective July 1. **L. 91:** (3) amended, p. 643, § 94, effective May 1. **L. 92:** (2) to (5) amended, p. 906, § 156, effective January 1, 1993. **L. 93:** (3) amended, p. 1441, § 140, effective July 1. **L. 94:** (3) amended, p. 1643, § 68, effective May 31. **L. 95:** (3) amended, p. 1107, § 48, effective May 31. **L. 96:** (3.5), (7), and (8) added, p. 1049, § 3, effective May 23. **L. 2001:** (7)(e) repealed, p. 1180, § 19, effective August 8. **L. 2002:** (1), (2), (3), (3.5), (5), (6), (7), and (8) amended, p. 1069, § 2, effective August 7.

Cross references: For the legislative declaration contained in the 2002 act amending subsections (1), (2), (3), (3.5), (5), (6), (7), and (8), see section 1 of chapter 274, Session Laws of Colorado 2002.

32-8-104. Officers - bonds - meetings - seal and records - reports - repeal. (Repealed)

Source: L. 22: p. 95, § 5. **C.L.** § 9594. **CSA:** C. 138, § 204. **CRS 53:** § 93-1-5. **C.R.S. 1963:** § 93-1-5. **L. 90:** (2) amended, p. 1499, § 8, effective July 1. **L. 96:** (5) added, p. 1050, § 4, effective May 23; (6) added by revision, p. 1053, § 7(2).

Editor's note: Subsection (6) provided for the repeal of this section effective February 1, 1998, when the department of local affairs assumed the powers of the Moffat tunnel commission pursuant to § 32-8-103 (7). (See L. 96, p. 1053.) Said § 32-8-103 (7) was repealed in 2002.

32-8-105. Tunnel - location - construction. (Repealed)

Source: L. 22: p. 97, § 6. **C.L.** § 9595. **CSA:** C. 138, § 205. **CRS 53:** § 93-1-6. **C.R.S. 1963:** § 93-1-6. **L. 96:** Entire section repealed, p. 1053, § 7(1), effective May 23.

32-8-106. Board to adopt plans - bids. (Repealed)

Source: L. 22: p. 97, § 7. **C.L.** § 9596. **CSA:** C. 138, § 206. **CRS 53:** § 93-1-7. **C.R.S. 1963:** § 93-1-7. **L. 96:** Entire section repealed, p. 1053, § 7(1), effective May 23.

32-8-107. Powers of department. (1) The department has power on behalf of said district:

(a) To employ a chief engineer, and such other engineers, assistants, and employees as may be necessary, and to provide for their compensation;

(b) To secure the services of attorneys and provide for their compensation;

(c) To preserve, operate, and maintain, or contract for the preservation, operation, and maintenance of the Moffat tunnel and its approaches and all necessary works incidental thereto; to equip and electrify the tunnel, its approaches and connections, and to construct and maintain power plants for the lighting, equipment, and electrifying of the tunnel, its approaches and connections;

(d) To enter into and execute all contracts, leases, and other instruments in writing necessary or proper to the accomplishment of the purposes of this article;

(e) and (f) (Deleted by amendment, L. 96, p. 1050, § 5, effective May 23, 1996.)

(g) To adopt bylaws not in conflict with the constitution and laws of the state, in carrying out the purposes of this article;

(h) To exercise all powers necessary and requisite for the accomplishment of the purposes for which this district is organized and capable of being delegated by the general assembly of the state of Colorado; and no enumeration of particular powers granted shall be construed to impair any general grant of power contained in this article, nor to limit any such grant to powers of the same class as those so enumerated;

(i) To receive on behalf of the district aid or donations from any person or corporation or from the United States government for the purpose of preserving, operating, or maintaining the tunnel and its approaches and equipment;

(j) To deposit moneys of the district that are not required to be transferred to each of the counties of the district or to the city and county of Denver pursuant to section 32-8-124 and that are not needed in the conduct of district affairs in any depository authorized in section 24-75-603, C.R.S. For the purpose of making such deposits, the board may appoint, by written resolution, one or more persons to act as custodians of the moneys of the district. Such persons shall give surety bonds in such amounts and form and for such purposes as the board requires.

(k) (Deleted by amendment, L. 2002, p. 1071, § 3, effective August 7, 2002.)

Source: L. 22: p. 98, § 8. **C.L.** § 9597. **CSA:** C. 138, § 207. **CRS 53:** § 93-1-8. **C.R.S. 1963:** § 93-1-8. **L. 79:** (1)(j) added, p. 1625, § 40, effective June 8. **L. 94:** (1)(k) added, p. 730, § 3, effective April 19. **L. 96:** (1) amended, p. 1050, § 5, effective May 23. **L. 98:** (1)(j) amended, p. 827, § 46, effective August 5. **L. 2002:** IP(1) and (1)(k) amended, p. 1071, § 3, effective August 7.

Cross references: For the legislative declaration contained in the 2002 act amending the introductory portion to subsection (1) and subsection (1)(k), see section 1 of chapter 274, Session Laws of Colorado 2002.

32-8-108. Contract for use of tunnel - repeal. (Repealed)

Source: L. 22: p. 99, § 9. **C.L.** § 9598. **CSA:** C. 138, § 208. **CRS 53:** § 93-1-9. **C.R.S. 1963:** § 93-1-9. **L. 96:** (3) added by revision, p. 1053, § 7(2).

Editor's note: Subsection (3) provided for the repeal of this section effective February 1, 1998, when the department of local affairs assumed the powers of the Moffat tunnel commission pursuant to § 32-8-103 (7). (See L. 96, p. 1053.) Said § 32-8-103 (7) was repealed in 2002.

32-8-108.5. Disposition of district property - repeal. (Repealed)

Source: L. 96: Entire section added, p. 1051, § 6, effective May 23; (4) added by revision, p. 1053, § 7(2).

Editor's note: Subsection (4) provided for the repeal of this section effective February 1, 1998, when the department of local affairs assumed the powers of the Moffat tunnel commission pursuant to § 32-8-103 (7). (See L. 96, p. 1053.) Said § 32-8-103 (7) was repealed in 2002.

32-8-109. Bonds. (Repealed)

Source: L. 22: p. 101, § 10. **C.L.** § 9599. **CSA:** C. 138, § 209. **CRS 53:** § 93-1-10. **C.R.S. 1963:** § 93-1-10. **L. 96:** Entire section repealed, p. 1053, § 7(1), effective May 23.

32-8-110. Special benefits - assessments. (Repealed)

Source: L. 22: p. 102, § 11. **C.L.** § 9600. **CSA:** C. 138, § 210. **CRS 53:** § 93-1-11. **C.R.S. 1963:** § 93-1-11. **L. 96:** Entire section repealed, p. 1053, § 7(1), effective May 23.

32-8-111. Exemptions. (Repealed)

Source: L. 22: p. 103, § 12. **C.L.** § 9601. **CSA:** C. 138, § 211. **CRS 53:** § 93-1-12. **C.R.S. 1963:** § 93-1-12. **L. 96:** Entire section repealed, p. 1053, § 7(1), effective May 23.

32-8-112. Special assessments for deficits. (Repealed)

Source: L. 22: p. 103, § 13. **C.L.** § 9602. **CSA:** C. 138, § 212. **CRS 53:** § 93-1-13. **C.R.S. 1963:** § 93-1-13. **L. 96:** Entire section repealed, p. 1053, § 7(1), effective May 23.

32-8-113. Records - filing. (Repealed)

Source: L. 22: p. 103, § 14. **C.L.** § 9603. **CSA:** C. 138, § 213. **CRS 53:** § 93-1-14. **C.R.S. 1963:** § 93-1-14. **L. 96:** Entire section repealed, p. 1053, § 7(1), effective May 23.

32-8-114. Hearings - notice - appeal - assessments conclusive evidence. (Repealed)

Source: L. 22: p. 104, § 15. **C.L.** § 9604. **CSA:** C. 138, § 214. **CRS 53:** § 93-1-15. **C.R.S. 1963:** § 93-1-15. **L. 96:** Entire section repealed, p. 1053, § 7(1), effective May 23.

32-8-115. Collection of assessments - fund. (Repealed)

Source: L. 22: p. 105, § 16. **C.L.** § 9605. **L. 35:** p. 707, § 1. **CSA:** C. 138, § 215. **CRS 53:** § 93-1-16. **C.R.S. 1963:** § 93-1-16. **L. 79:** (2) amended, p. 1625, § 41, effective June 8. **L. 96:** Entire section repealed, p. 1053, § 7(1), effective May 23.

32-8-116. Accepting securities for bond. (Repealed)

Source: L. 37: p. 926, § 2. **CSA:** C. 138, § 215(1). **CRS 53:** § 93-1-17. **C.R.S. 1963:** § 93-1-17. **L. 96:** Entire section repealed, p. 1053, § 7(1), effective May 23.

32-8-117. Assessments lien on property. (Repealed)

Source: L. 22: p. 107, § 17. **C.L.** § 9606. **CSA:** C. 138, § 216. **CRS 53:** § 93-1-18. **C.R.S. 1963:** § 93-1-18. **L. 96:** Entire section repealed, p. 1053, § 7(1), effective May 23.

32-8-118. Assessments - coupons accepted in payment. (Repealed)

Source: L. 22: p. 107, § 18. **C.L.** § 9607. **CSA:** C. 138, § 217. **CRS 53:** § 93-1-19. **C.R.S. 1963:** § 93-1-19. **L. 96:** Entire section repealed, p. 1053, § 7(1), effective May 23.

32-8-119. Perpetual ownership in district. (Repealed)

Source: L. 22: p. 107, § 19. **C.L.** § 9608. **CSA:** C. 138, § 218. **CRS 53:** § 93-1-20. **C.R.S. 1963:** § 93-1-20. **L. 96:** Entire section repealed, p. 1053, § 7(1), effective May 23.

32-8-120. Construction. (Repealed)

Source: L. 22: p. 107, § 20. **C.L.** § 9609. **CSA:** C. 138, § 219. **CRS 53:** § 93-1-21. **C.R.S. 1963:** § 93-1-21. **L. 96:** Entire section repealed, p. 1053, § 7(1), effective May 23.

32-8-121. Repeal - saving clause. (Repealed)

Source: L. 22: p. 108, § 22. **C.L.** § 9611. **CSA:** C. 138, § 220. **CRS 53:** § 93-1-22. **C.R.S. 1963:** § 93-1-22. **L. 96:** Entire section repealed, p. 1053, § 7(1), effective May 23.

32-8-122. Board empowered to invest funds - repeal. (Repealed)

Source: L. 43: p. 483, § 1. **CSA:** C. 138, § 220(1). **CRS 53:** § 93-1-23. **C.R.S. 1963:** § 93-1-23. **L. 89:** Entire section amended, p. 1119, § 40, effective July 1. **L. 96:** (2) added by revision, p. 1053, § 7(2).

Editor's note: Subsection (2) provided for the repeal of this section effective February 1, 1998, when the department of local affairs assumed the powers of the Moffat tunnel commission pursuant to § 32-8-103 (7). (See L. 96, p. 1053.) Said § 32-8-103 (7) was repealed in 2002.

32-8-123. Projects within the district - distributions from Moffat tunnel fund - repeal. (Repealed)

Source: L. 94: Entire section added, p. 728, § 1, effective April 19. **L. 96:** (5) added by revision, p. 1053, § 7(2).

Editor's note: Subsection (5) provided for the repeal of this section effective February 1, 1998, when the department of local affairs assumed the powers of the Moffat tunnel commission pursuant to § 32-8-103 (7). (See L. 96, p. 1053.) Said § 32-8-103 (7) was repealed in 2002.

32-8-124. Administration of district - department of local affairs - assumption of obligations - powers - immunity. (1) Annually on or before July 1, the department shall determine the amount of revenue necessary for administrative costs of the department relating to the property of the district. After setting aside sufficient revenue necessary for administrative costs, which may be paid from the available cash, securities, and other moneys of the district, not including proceeds from sales of district property, the department shall transfer all cash, securities, and other moneys of the district, including any remaining proceeds from sales of district property, to each of the counties and the city and county of Denver included, in whole or in part, in the district as specified in section 32-8-102 in such proportion as the total amount of taxes and assessments received by the district from each county or city and county of Denver and its taxpayers since the district's creation is to the total of all taxes and assessments received by the district from those sources since the district's creation.

(2) The department shall have authority over all of the property of the district to the same extent as other property of the department; except that, if this authority conflicts with or is limited by any provision of this article, the provision of this article shall apply. Except as otherwise provided in this article, the state shall not assume any liability for the acts, omissions, indebtedness, or other obligations of the board or the district and shall be immune from any action relating to the construction, operation, or maintenance of the Moffat tunnel, its approaches, or equipment, pursuant to the provisions of the "Colorado Governmental Immunity Act", article 10 of title 24, C.R.S.

Source: L. 96: Entire section added, p. 1051, § 6, effective May 23. **L. 2002:** Entire section amended with relocated provisions, p. 1071, § 4, effective August 7.

Editor's note: Subsection (2) was formerly numbered as § 24-32-2903.

Cross references: For the legislative declaration contained in the 2002 act amending this section, see section 1 of chapter 274, Session Laws of Colorado 2002.

32-8-124.3. Contracts for use of tunnel. (1) The department shall have:

(a) The right to enforce the provisions of any contracts and to modify the contracts upon mutual agreement of the respective parties to the contracts; and

(b) The power to enter into contracts with persons and with private and public corporations for the right to use the tunnel for the transmission of power, for telephone and other communication lines, for railroad and railway purposes, and for any other purpose to which the same may be adapted. All the contracts and rights of use shall be subject and subordinate to all prior contracts and may not impair the rights of any existing legal user.

(2) Users shall be responsible for the cost of maintaining, to the extent of their use, the Moffat tunnel, its approaches, and equipment.

Source: L. 2002: Entire section added with relocated provisions, p. 1072, § 5, effective August 7.

Editor's note: This section was formerly numbered as § 24-32-2904.

Cross references: For the legislative declaration contained in the 2002 act enacting this section, see section 1 of chapter 274, Session Laws of Colorado 2002.

32-8-124.5. Rules - right to construct and repair. (1) The executive director of the department is authorized to adopt reasonable rules relating to the Moffat tunnel subject to the provisions of this article and subject to existing contractual rights and obligations of the users. All rules of the board shall be repealed upon the adoption of rules by the executive director relating to the Moffat tunnel pursuant to this subsection (1).

(2) As provided through any existing contractual rights and in accordance with reasonable rules of the department, users shall have the right to construct and repair, for their own benefit and at their sole cost, betterments or improvements on or to the Moffat tunnel relating to their respective uses, as long as the betterments or improvements do not interfere with other existing uses.

Source: L. 2002: Entire section added with relocated provisions, p. 1072, § 5, effective August 7.

Editor's note: This section was formerly numbered as § 24-32-2905.

Cross references: For the legislative declaration contained in the 2002 act enacting this section, see section 1 of chapter 274, Session Laws of Colorado 2002.

32-8-124.7. Property of Moffat tunnel improvement district. (1) (a) The department shall have the authority to convey or transfer ownership of all tangible property, real and personal, or any interest therein owned by the district for fair market value. Each user shall have the right to purchase, to the extent of its use, real property interests of the district at fair market value, which shall be determined pursuant to the appraisal procedures of the department. Fair market value, as used in this section, shall not include any improvements or the value of any improvements owned or paid for by the user. In addition, when determining fair market value of any portion of or interest in the real property of the district, the value or detriment of any lease,

license, or permit granted for the benefit of the party acquiring such real property shall not be considered. Each user shall also have a commercially reasonable right of first refusal to purchase at the fair market value, to the extent of its use, any real property interest offered for conveyance.

(b) The purchaser of any real property or interest therein of the district, whether the purchaser is a current user or any other party, shall take the property subject to then existing leases, contracts for use, licenses, or other encumbrances on or obligations relating to the property and the right of the district, and its successors and assigns, to reasonable access across the interests conveyed for access to the tunnel.

(2) Proceeds from any conveyance shall be used first for the expenses of the conveyance. Expenses of conveyance, including administrative costs incurred by the state and legal and other costs incurred in connection with the sale of the property of the district, shall not in the aggregate exceed four percent of the purchase price of the property being conveyed. Any remaining proceeds shall be immediately transferred to the counties and the city and county of Denver included, in whole or in part, in the district as specified in section 32-8-102, in such proportion as the total amount of taxes and assessments received by the district from each county or the city and county of Denver and its taxpayers since the district's creation is to the total of all taxes and assessments received by the district from those sources since the district's creation. Proceeds may be transferred directly to the counties and the city and county of Denver in conjunction with the closing of the sale of the property of the district, or they may be credited first to the cash fund created in section 32-8-126 before being immediately transferred to the counties and the city and county of Denver.

(3) The department may adopt reasonable procedures consistent with this article for the disposition of property of the district. All dispositions shall be made at fair market value and unencumbered except to the extent provided in paragraph (b) of subsection (1) of this section. All conveyances of property shall be made in the name of the "Moffat tunnel improvement district, by and through the department of local affairs of the state of Colorado acting as the Moffat tunnel commission under authority of section 32-8-124.7, C.R.S."

Source: L. 2002: Entire section added with relocated provisions, p. 1073, § 5, effective August 7.

Editor's note: This section was formerly numbered as § 24-32-2906.

Cross references: For the legislative declaration contained in the 2002 act enacting this section, see section 1 of chapter 274, Session Laws of Colorado 2002.

32-8-125. Moffat tunnel improvement district - sunset. (1) At such time as the district does not own any real property, all remaining property interests, tangible and intangible, including, but not limited to, fixtures, books, documents, contracts, records of title, and other records of the district shall be transferred to the department. The executive director of the department shall execute all necessary bills of sale and instruments of conveyance or assignment to evidence the transfer of property and shall take any other actions necessary to carry out the purposes of this article.

(2) Upon the completion of all actions required by subsection (1) of this section, the executive director of the department shall certify that all such actions have been completed and

that the Moffat tunnel improvement district is dissolved. The district shall be dissolved as of the effective date of such certification, and a copy of the certification shall be filed with the general assembly pursuant to the provisions of section 24-1-136 (9), C.R.S.

Source: L. 96: Entire section added, p. 1051, § 6, effective May 23.

32-8-126. Moffat tunnel cash fund - created. (1) All cash, proceeds, and other moneys collected by the department pursuant to this article shall be transmitted to the state treasurer who shall credit the same to the Moffat tunnel cash fund, which fund is hereby created. Moneys in the fund not subject to immediate transfer pursuant to section 32-8-124.7 (2) shall be subject to annual appropriation by the general assembly for the direct and indirect costs of the administration of this article.

(2) Notwithstanding any provision of subsection (1) of this section to the contrary, on June 1, 2009, the state treasurer shall deduct eighty-six thousand seven hundred fifty-eight dollars from the Moffat tunnel cash fund and transfer such sum to the general fund.

Source: L. 96: Entire section added, p. 1051, § 6, effective May 23. **L. 2002:** Entire section amended, p. 1074, § 6, effective August 7. **L. 2009:** Entire section amended, (SB 09-279), ch. 367, p. 1930, § 19, effective June 1.

Cross references: For the legislative declaration contained in the 2002 act amending this section, see section 1 of chapter 274, Session Laws of Colorado 2002.

ARTICLE 9

Regional Transportation District Act

Editor's note: For a discussion of the difference between service authorities authorized by section 17 of article XIV of the Colorado constitution and statutorily created special districts, see Anema v. Transit Const. Authority, 788 P.2d 1261 (Colo. 1990).

Cross references: For formation of a metropolitan district within a regional transportation district, see § 32-1-1004 (6).

32-9-101. Short title. This article shall be known and may be cited as the "Regional Transportation District Act".

Source: L. 69: p. 714, § 1. **C.R.S. 1963:** § 89-20-1.

32-9-102. Legislative declaration. (1) The general assembly determines, finds, and declares:

(a) That the creation of the regional transportation district will promote the public health, safety, convenience, economy, and welfare of the residents of the district and of the state of Colorado; and

(b) That a general law cannot be made applicable to the district and to the properties, powers, duties, functions, privileges, immunities, rights, liabilities, and disabilities of such district as provided in this article because of a number of atypical factors and special conditions concerning same.

Source: L. 69: p. 714, § 1. **C.R.S. 1963:** § 89-20-2.

32-9-103. Definitions. As used in this article, unless the context otherwise requires:

(1) "Board" means the board of directors of the district.

(2) "Condemn" or "condemnation" means the exercise by the district of the power of dominant eminent domain or eminent domain, in the manner provided in articles 1 to 7 of title 38, C.R.S., to acquire mass transportation facilities and property, real or personal, or an interest therein, for the public use of the district.

(3) "Director" means a member of the board.

(3.5) "Director district" means that area within the district which is represented by one director.

(3.7) "Discovery" means physical discovery of an undocumented utility communicated by the district or its contractors, agents, or employees verbally or in writing to the utility company's designated project representative or, if no representative has been designated, to the chief engineer or equivalent.

(4) "District" means the regional transportation district created by this article.

(5) "District securities" means bonds, temporary bonds, refunding bonds, special obligation bonds, interim notes, notes, and warrants of the district authorized to be issued by this article.

(6) "Dominant eminent domain" means that the right of the district to condemn public property, real and personal, shall be superior in public necessity to that of any city, town, city and county, county, or other public corporation except a school district, but such right shall be superior only for the purpose of acquiring existing mass transportation facilities and related real or personal property.

(6.2) "Eligible elector" means a registered elector as defined in section 1-1-104 (35), C.R.S., who resides within the geographic boundaries of the district.

(6.3) "Fixed guideway corridor" means a corridor designated by the district for the construction and operation of a fixed guideway mass transit system.

(6.4) "Fixed guideway corridor utility relocation agreement" means an agreement entered into by the district and a utility company for the purpose of performing utility relocation work necessitated by a transportation expansion plan in accordance with the requirements of section 32-9-119.1.

(6.5) "Fixed guideway mass transit system" means any public transportation system that utilizes and occupies a separate right-of-way or rail for the exclusive use of public transportation service. No such system shall intersect any road or street with an average daily traffic count of twenty thousand or greater at grade unless the municipality or county having jurisdiction over such road or street specifically requests an at grade crossing.

(6.7) "Force majeure" means fire, explosion, action of the elements, strike, interruption of transportation, rationing, shortage of labor, equipment, or materials, court action, illegality, unusually severe weather, act of God, act of war, or any other cause that is beyond the control of

the party performing work on a utility relocation project and that could not have been prevented by the party while exercising reasonable diligence.

(6.9) "Major electrical facilities" shall have the same meaning as set forth in section 29-20-108 (3)(a), (3)(b), (3)(c), and (3)(d), C.R.S.

(7) (a) "Mass transportation system" or "system" means any system of the district or any other system, the owner or operator of which contracts with the district for the provision of transportation services, that transports the general public by bus, rail, or any other means of surface conveyance or any combination thereof, within the district.

(b) Such system may include facilities for transportation within or without or both within and without the district as special charter services provided to the general public. The schedule of charges for special charter service shall be equal to but not less than those charged by authorized common carriers rendering the same or similar service. The service may be performed under such terms and conditions for which facilities are made available for such charter use and in conformity with the reasonable rules and regulations provided by the board with respect to the use thereof, but the special charter service outside the district shall be limited to such rights and privileges as are obtained by the district in the acquisition of mass transportation facilities and property.

(c) The system may include facilities for the transportation of package-express shipments on routes to and from Boulder and Denver if such shipments are transported coincidentally with the transportation of the general public in scheduled service and over prescribed routes within the district. The schedule of charges for package-express service shall not be less than those charged by authorized common carriers rendering the same or similar service over the same routes and distances. The package-express service may be performed under such terms and conditions for which facilities are made available for such package-express use and in conformity with the rules and regulations established by the board with respect to the use thereof.

(8) (Deleted by amendment, L. 2000, p. 307, § 1, effective April 5, 2000.)

(9) "Operation and maintenance expenses" means all reasonable and necessary current expenses of the district, paid or accrued, of operating, maintaining, and repairing facilities of the mass transportation system of the district.

(10) "Person" means any natural person, association, partnership, company, or corporation.

(11) "Public body" means the state of Colorado, or any county, city and county, city, town, district, or any other political subdivision of the state, excluding the regional transportation district.

(12) "Publication" means the publication once a week for three consecutive weeks in at least one newspaper having general circulation in the district. Publication need not be made on the same day of the week in each of the three weeks; but not less than fourteen days shall intervene between the first day of publication and the last day of publication.

(13) "Revenues" means the tolls, fees, rates, charges, or other income and revenues derived from the operation of the mass transportation system of the district, moneys received in the form of grants or contributions from all sources, public or private, income derived from investments by the district, and any combination of the foregoing.

(14) "Taxes" or "taxation" means general ad valorem property taxes only.

(15) (Deleted by amendment, L. 92, p. 907, § 157, effective January 1, 1993.)

(15.1) "Utility company" or "utility" shall have the same meaning as set forth in 23 CFR 645.105, as amended.

(15.5) "Utility facility" means all installed equipment of a utility.

(16) "Vehicular service" means any service provided by the district that involves transporting the general public by means of any self-propelled vehicle that is designed primarily for travel on the public highways and that is generally and commonly used to transport persons and property over the public highways. "Vehicular service" does not include any service provided by the district that is part of the rail system.

Source: L. 69: p. 714, § 1. **C.R.S. 1963:** § 89-20-3. **L. 70:** p. 292, § 97. **L. 71:** p. 978, § 1. **L. 73:** p. 985, § 1. **Initiated 80:** (3.5) added, effective upon proclamation of the Governor, December 19, 1980. **L. 81:** (7)(a) amended and (7)(c) added, p. 1640, § 1, effective May 28; (15) amended, p. 1626, § 32, effective July 1. **L. 85:** (7)(a) amended, p. 1119, § 1, effective July 1. **L. 87:** (6.3) and (6.5) added and (7)(a) amended, p. 1246, § 2, effective May 22. **L. 92:** (6.2) added and (15) amended, p. 907, § 157, effective January 1, 1993. **L. 93:** (7)(a) amended, p. 1790, § 79, effective June 6. **L. 94:** (6.2) amended, p. 460, § 1, effective March 29; (6.3) amended, p. 1324, § 1, effective May 25. **L. 97:** (6.2) amended, p. 805, § 1, effective May 20. **L. 99:** (6.5) and (7)(a) amended, p. 1400, §§ 3, 4, effective June 4. **L. 2000:** (8) and (13) amended, p. 307, § 1, effective April 5. **L. 2003:** (16) added, p. 1795, § 1, effective May 21. **L. 2007:** (3.7), (6.4), (6.7), (6.9), (15.1), and (15.5) added, p. 717, § 1, effective May 3.

Editor's note: For the complete initiated measure and votes cast for the adoption or rejection thereof, see L. 81, pp. 2057-2060.

Cross references: For the legislative declaration contained in the 1999 act amending subsections (6.5) and (7)(a), see section 1 of chapter 338, Session Laws of Colorado 1999.

32-9-104. Liberal construction. This article being necessary to secure and preserve the public health, safety, and general welfare, the rule of strict construction shall have no application to this article, but it shall be liberally construed to effect the purposes and objects for which this article is intended.

Source: L. 69: p. 731, § 1. **C.R.S. 1963:** § 89-20-62.

32-9-105. Creation of district. There is hereby created a district to be known and designated as the "Regional Transportation District".

Source: L. 69: p. 715, § 1. **C.R.S. 1963:** § 89-20-4.

32-9-106. District area. (Repealed)

Source: L. 69: p. 715, § 1. **C.R.S. 1963:** § 89-20-5. **L. 71:** p. 981, § 1. **L. 73:** pp. 985, 988, §§ 2, 1. **L. 75:** Entire section amended, p. 1300, § 1, effective July 1. **L. 77:** (2)(a) amended, p. 287, § 60, effective June 29. **L. 81:** (2)(a.1) added and (2)(b)(I) amended, pp. 1641, 1644, §§ 2, 3, effective May 28. **L. 86:** (3) added, p. 1070, § 1, effective March 20. **L. 91:** (3) amended, p.

1071, § 46, effective July 1. **L. 92:** (1) amended and (4) added, p. 986, § 1, effective July 1; (2)(c)(I)(A) amended, p. 908, § 158, effective January 1, 1993. **L. 94:** (1) and (2)(d) amended, p. 1339, § 2, effective May 25. **L. 96:** (1) amended, p. 308, § 2, effective April 15. **L. 99:** (1) amended, p. 419, § 2, effective April 30. **L. 2001:** (1) amended and (5) and (6) added, p. 259, § 4, effective November 15. **L. 2007:** Entire section repealed, p. 836, § 10, effective October 1.

32-9-106.1. District area. (1) (a) Subject to the requirements of paragraph (b) of subsection (2) of this section, the area comprising the district shall consist of the following:

(I) The area within the district on July 1, 2007; and

(II) Any additional area annexed to or included in the district after July 1, 2007, as provided in sections 32-9-106.6, 32-9-106.7, and 32-9-106.8.

(b) The area specified in paragraph (a) of this subsection (1) shall not include any area removed from the district for any reason on or after July 1, 2007.

(2) (a) The board shall ensure that the entire district area shall be depicted on a map and the area's description stated in a written document. In the event of a discrepancy between the area depicted on the map and the description of the area stated in the written document, the written document shall be held to be the accurate description of the area.

(b) In depicting and describing the entire district area as specified in paragraph (a) of this subsection (2), the board shall ensure that:

(I) If the district area references an existing county boundary or an existing boundary of an annexation, the district area shall coincide with the existing county boundary or existing boundary of the annexation;

(II) Gaps in the district area shall be avoided by following the most directly referenced parcel or aliquot line;

(III) Subdivided parcels, tracts, or lots that lie fifty percent or more within the district area shall be included in the district area;

(IV) Subdivided parcels, tracts, or lots that lie less than fifty percent within the district area shall not be included in the district area; and

(V) When a previous statutory district area reference is ambiguous or unclear, the district area shall be determined to follow along the boundary of the district area as previously determined by the district.

(c) The map and written document specified in paragraph (a) of this subsection (2) shall be maintained in the district office and shall be open to public inspection and made available for copying.

(d) Copies of the map and written document specified in paragraph (a) of this subsection (2) shall be certified by the secretary of the board and shall be filed with the secretary of state, the division of local government in the department of local affairs, the department of revenue, the transportation and energy committee of the house of representatives, or any successor committee, and the transportation committee of the senate, or any successor committee.

(e) (I) The map and written document specified in paragraph (a) of this subsection (2) shall first be completed on July 1, 2007, and shall be updated no later than thirty days after any additional area is annexed or included in the district as provided for in paragraph (a) of subsection (1) of this section or after any area is removed from the district for any reason.

(II) If the map and written document specified in paragraph (a) of this subsection (2) are updated as specified in subparagraph (I) of this paragraph (e), the new map and written

document shall be promptly certified by the secretary of the board and filed as provided in paragraph (d) of this subsection (2). Upon receiving a certified copy of the updated map and written document pursuant to this subparagraph (II), the department of revenue shall communicate with any retailer within the taxing jurisdictions affected by the inclusion of any additional area in or the removal of any area from the district in order to facilitate the administration and collection of taxes within the area comprising the district and to identify all retailers affected by the inclusion or removal of any area. The department shall make copies of any such written document and map available to all taxing jurisdictions in the state, including any special district that imposes a sales tax.

(III) An annexation or inclusion of additional area into the district as provided in sections 32-9-106.6, 32-9-106.7, and 32-9-106.8 shall not become effective until the board updates the map and written document specified in paragraph (a) of this subsection (2) as required in subparagraph (II) of this paragraph (e).

(3) (a) In addition to the map and written document specified in paragraph (a) of subsection (2) of this section, the district shall also ensure that the district area in each county, whether the district is included in an incorporated or unincorporated portion of each county, is depicted on a separate map and its description stated in a separate written document. In the event of a discrepancy between the area depicted on the map and the description of the area stated in the written document, the written document shall be held to be the accurate description of the area.

(b) The map and written document specified in paragraph (a) of this subsection (3) shall be maintained in the district office and shall be open to public inspection and copying.

(c) Copies of the maps and written documents specified in paragraph (a) of this subsection (3) shall be certified by the secretary of the board and shall be recorded in the office of the county clerk and recorder of each appropriate county. Copies of the map and written document specified in paragraph (a) of this subsection (3) shall also be filed with the secretary of state, the division of local government in the department of local affairs, the department of revenue, the transportation and energy committee of the house of representatives, or any successor committee, and the transportation committee of the senate, or any successor committee.

(d) (I) The map and written document specified in paragraph (a) of this subsection (3) shall first be completed on July 1, 2007, and shall be updated no later than thirty days after any additional area in a county is annexed or included in the district as provided for in paragraph (a) of subsection (1) of this section or after any area in a county is removed from the district for any reason.

(II) If a map and written document specified in paragraph (a) of this subsection (3) is updated as specified in subparagraph (I) of this paragraph (d), the new map and written document shall be promptly certified by the secretary of the board and recorded as provided in paragraph (c) of this subsection (3).

Source: L. 2007: Entire section added, p. 831, § 1, effective May 14.

32-9-106.3. Additional district areas - rights-of-way - Douglas county. (Repealed)

Source: L. 94: Entire section added, p. 1328, § 1, effective May 25. **L. 96:** (3)(a)(II)(B) amended, p. 1079, § 2, effective May 23. **L. 2007:** Entire section repealed, p. 836, § 10, effective October 1.

32-9-106.4. Additional district areas - Adams county. (Repealed)

Source: L. 96: Entire section added, p. 306, § 1, effective April 15; (2)(a)(II)(B) amended, p. 1079, § 3, effective May 23. **L. 2006:** Entire section repealed, p. 836, § 2, effective May 4.

32-9-106.5. Additional district areas - Weld county. (Repealed)

Source: L. 98: Entire section added, p. 1269, § 1, effective June 1. **L. 2006:** Entire section repealed, p. 836, § 2, effective May 4.

32-9-106.6. Additional district areas as a result of annexation. (1) Subject to the requirements of section 32-9-106.1 (2)(e)(III), in addition to the areas described in section 32-9-106.1, the following areas are included in the district:

(a) Repealed.

(b) Area that is annexed by a municipality on or after May 25, 1994, if the municipality or part of the municipality was in the district at the time of the annexation. This annexed area shall also be included in the following districts automatically upon annexation:

(I) The Denver metropolitan major league baseball stadium district, if the municipality to which the area is annexed is in such district; and

(II) The Denver metropolitan scientific and cultural facilities district, if the municipality to which the area is annexed is in such district.

(2) Repealed.

Source: L. 94: Entire section added, p. 1328, § 1, effective May 25. **L. 96:** IP(2) and (2)(b) amended, p. 1080, § 4, effective May 23. **L. 2007:** IP(1) amended, p. 834, § 4, effective May 14; (1)(a) and (2) repealed, p. 836, § 10, effective October 1.

32-9-106.7. Additional district area - petition or election - required filings - definitions. (1) Subject to the requirements of section 32-9-106.1 (2)(e)(III), the following areas may be included in the district according to the terms set forth in this section:

(a) For any parcel of land thirty-five acres or more that is located in the incorporated or unincorporated portion of any county and has a boundary that is contiguous to any boundary of the district, the land may be included in the district upon presentation to the board of a petition signed by one hundred percent of the owners of the land sought to be included. The petition shall contain a legal description of the land, shall state that assent to the inclusion is given by the fee owner or owners thereof, and shall be acknowledged by the fee owner or owners in the same manner as required for the conveyance of land.

(b) For any area in an incorporated or unincorporated portion of any county containing multiple parcels of land, any of which is less than thirty-five acres and which area is contiguous

to any boundary of the district, the area may be included in the district after one of the following conditions is met:

(I) One hundred percent of the owners of the land within the specified area, including the owners of any land constituting a planned unit development or subdivision, submit a petition to the board seeking inclusion in the district. The petition shall contain a legal description of the land, shall state that assent to the inclusion is given by the fee owner or owners thereof, and shall be acknowledged by the fee owner or owners in the same manner as required for the conveyance of land.

(II) (A) A petition requesting an election for the purpose of including the specified area in the district signed by at least eight percent of the eligible electors who reside within the geographic boundaries of the area is submitted to the board. The petition shall contain a legal description of the area; and

(B) The board authorizes an election to be held in the area sought to be included and a majority of those registered electors, as defined in section 1-1-104 (35), C.R.S., who reside within the geographic boundaries of the area and who vote in such election, approve the inclusion of the area in the district.

(c) (Deleted by amendment, L. 2007, p. 623, § 1, effective April 26, 2007.)

(1.5) (a) As used in this subsection (1.5), "area" means:

(I) All or any portion of a county entirely outside the boundaries of the district; or

(II) Portions of a county that are not within the boundaries of the district when other portions of the county are within the boundaries of the district.

(b) Subject to the requirements of section 32-9-106.1 (2)(e)(III), the area that is contiguous to any boundary of the district may be included in the district according to the following terms:

(I) An election is requested for the purpose of including the area in the district by one of the following methods:

(A) A petition signed by at least eight percent of the eligible electors in both incorporated and unincorporated portions of the area who reside within the geographic boundaries of the area is submitted to the board. The petition shall contain a legal description of the area to be included within the district.

(B) A resolution by the board of county commissioners of the county to hold an election for the purpose of including the area, including municipalities and home rule municipalities, in the district is submitted to the board of directors of the district. The resolution shall contain a legal description of the area to be included within the district.

(II) The board authorizes an election to be held at the same time for both the incorporated and unincorporated portions of the area seeking to be included in the district and a majority of those registered electors, as defined in section 1-1-104 (35), C.R.S., who reside within the geographic boundaries of the area and who vote in the election approve the inclusion of the area in the district.

(2) No election shall be held for inclusion of any area into the district pursuant to this section unless the board of directors of the district first resolves to accept the area if the election is successful. No petition for the inclusion of any area into the district shall be accepted except upon majority vote of the board of directors of the district.

(3) (a) A petition submitted to the voters pursuant to this section shall be filed with the board at least one hundred twenty days before the election at which the ballot question is

submitted to a vote. Upon receiving such petition, the board shall designate an election official to conduct the election and provide a copy of the petition to such official. Upon declaring the petition sufficient, the board shall submit the petition along with the ballot question to the coordinated election official in accordance with section 1-7-116, C.R.S., and the coordinated election official shall conduct the election.

(b) Any ballot for any election authorized by this section shall include a description of the specified area proposed to be included in the district and the current rate of sales tax levied by the regional transportation district.

(c) The ballot shall contain the following question: "Shall the area described in the ballot be included in the regional transportation district?"

(d) An election held pursuant to this section shall be conducted in accordance with articles 1 to 13 of title 1, C.R.S., and any other requirements of this section. The election shall be run by the office of the clerk and recorder of the county containing the area seeking inclusion in the district. The ballot question shall be submitted to a vote pursuant to this section only at a state general election or, if the board so determines, at a special election held on the first Tuesday in November of an odd-numbered year. The district shall pay for all costs associated with the election.

(e) The board shall call the election authorized by this section by resolution. The resolution shall state:

(I) The object and purpose of the election;

(II) A description of the area proposed to be included in the district;

(III) The date of the election; and

(IV) The name of the designated election official who is responsible for conducting the election pursuant to articles 1 to 13 of title 1, C.R.S.

(4) Repealed.

Source: L. 99: Entire section added, p. 417, § 1, effective April 30. **L. 2000:** (4) added, p. 422, § 3, effective August 2. **L. 2003:** (1)(b)(II)(B) and (1)(c) amended, p. 821, § 1, effective April 1. **L. 2006:** (1.5) added, p. 835, § 1, effective May 4. **L. 2007:** (1)(a), IP(1)(b), and (1)(c) amended, p. 623, § 1, effective April 26; IP(1) and IP(1.5)(b) amended, p. 834, § 5, effective May 14; (4) repealed, p. 836, § 10, effective October 1.

32-9-106.8. Additional district areas - annexation of unincorporated territory that is entirely surrounded by the district. (1) Subject to the requirements of section 32-9-106.1 (2)(e)(III), when any unincorporated territory is entirely contained within the boundaries of the district, the board may, by resolution, annex the territory to the district. The board shall give notice of a proposed annexation resolution by publishing a copy of the resolution once a week for four successive weeks in a newspaper of general circulation in the territory proposed to be annexed. The board shall also send a copy of the proposed annexation resolution by registered mail to the board of county commissioners and county attorney of the county containing the territory to be annexed, to any special district or school district having territory within the territory to be annexed, and to the executive director of the department of revenue. The first publication of the notice and the mailing of the proposed annexation resolution shall occur at least thirty days prior to the final adoption of the resolution, and the board shall allow interested

persons to testify for or against the resolution at a public hearing held prior to the final adoption of the resolution.

(2) No territory may be annexed pursuant to subsection (1) of this section if any part of the district boundary or area surrounding the territory consists of public rights-of-way, including streets and alleys, that are not immediately adjacent to the district on the side of the right-of-way opposite to the territory.

Source: L. 2001: Entire section added, p. 821, § 1, effective August 8. **L. 2007:** (1) amended, p. 834, § 6, effective May 14.

32-9-106.9. District area - town of Castle Rock in Douglas county. (1) In consideration of the fact that various noncontiguous parcels containing less than twenty percent of the residents of the town of Castle Rock are included in the district, the voters within the boundaries of the town of Castle Rock may elect to consolidate the status of the town of Castle Rock as completely included in or completely excluded from the boundaries of the district at an election held pursuant to subsection (3) of this section.

(2) The outcome of any election held pursuant to subsection (3) of this section shall apply to any area that is annexed by the town of Castle Rock on or after the date of such election, regardless of whether the area was included within the boundaries of the district before the annexation.

(3) Pursuant to the provisions of subsection (1) of this section, the area included within the boundaries of the town of Castle Rock may be included in or excluded from the district if the following requirements are met:

(a) Two proposals, one to include the area and one to exclude the area, are initiated by any of the following methods:

(I) Two petitions, one requesting an election for the purpose of including the area in the district and one requesting an election for the purpose of excluding the area from the district, are each signed by at least five percent of the registered electors within the town of Castle Rock and submitted to the governing body of the town of Castle Rock; or

(II) The governing body of the town of Castle Rock adopts two resolutions, one to hold an election for the purpose of including the area in the district and one to hold an election for the purpose of excluding the area from the district.

(b) An election is held and conducted in accordance with articles 1 to 13 of title 1 or article 10 of title 31, C.R.S., as applicable, and the following requirements:

(I) The election is held either at the odd-year election held on the first Tuesday in November of 2005 or any regular local district election for the town of Castle Rock held thereafter, as determined by the governing body of the town of Castle Rock. The town of Castle Rock shall pay the costs of such elections.

(II) One ballot question provides for all of the registered electors in the town of Castle Rock to vote for or against the inclusion of the proposed area in the district and one ballot question provides for all of the registered electors in the town of Castle Rock to vote for or against the exclusion of the area from the district.

(III) Each ballot question specifies that the area proposed to be included in or excluded from the district, as applicable, is all of the area within the boundaries of the town of Castle Rock.

(IV) Each ballot question contains the current rates of sales and use tax levied by the district.

(V) The ballot contains both of the following questions:

(A) "Shall the area described in the ballot be included in the regional transportation district and subject to taxation by the district?"; and

(B) "Shall the area described in the ballot be excluded from the regional transportation district and not subject to taxation by the district?".

(4) (a) In the event that either the ballot question to include all of the area within the boundaries of the town of Castle Rock in the district or the ballot question to exclude all of the area within the boundaries of the town of Castle Rock from the district is approved by a majority of the registered electors who voted in the election and the other ballot question is not approved by a majority of the registered electors who voted in the election, the ballot question that was approved by a majority of the registered electors who voted in the election shall take effect.

(b) In the event that both the ballot question to include all of the area within the boundaries of the town of Castle Rock in the district and the ballot question to exclude all of the area within the boundaries of the town of Castle Rock from the district are approved by a majority of the registered electors who voted in the election, only the ballot question that receives the larger number of votes in favor of the question shall take effect.

(c) In the event that neither the ballot question to include all of the area within the boundaries of the town of Castle Rock in the district nor the ballot question to exclude all of the area within the boundaries of the town of Castle Rock from the district is approved by a majority of registered electors who voted in the election, neither ballot question shall take effect and the boundaries of the district shall continue to include the parts of the town of Castle Rock that were included in the district before such election.

(5) In the event that the registered electors of the town of Castle Rock elect to be included within or excluded from the boundaries of the district, the town of Castle Rock shall grant the department of revenue any costs up to the amount of seventeen thousand five hundred dollars it incurs in carrying out the requirements of this section.

(6) Under no circumstance shall any moneys from the general fund be appropriated to the department of revenue or any other department to cover the costs incurred in carrying out the requirements of this section.

Source: L. 2004: Entire section added, p. 680, § 1, effective August 4.

32-9-107. Mass transportation system. The district, acting by and through the board, is authorized to develop, maintain, and operate a mass transportation system for the benefit of the inhabitants of the district.

Source: L. 69: p. 715, § 1. **C.R.S. 1963:** § 89-20-6. **L. 72:** p. 483, § 8. **L. 83:** Entire section R&RE, p. 1282, § 1, effective June 3. **L. 94:** Entire section amended, p. 1326, § 8, effective May 25.

32-9-107.5. Regional fixed guideway mass transit system - authorization. (1) (a) The general assembly hereby finds, determines, and declares that:

(I) The construction of a fixed guideway mass transit system in the Denver metropolitan area is a matter of statewide concern; and

(II) Such a system is necessary for economic development, commerce, and the reduction of air pollution.

(b) The general assembly further finds and declares that the development of mass transportation systems is in the best interests of the citizens of the Denver metropolitan area. The general assembly also believes that such a system should be financed by a mixture of private funds, of federal funds which have been identified for these purposes, and of receipts from a sales tax on the residents of the district.

(c) The general assembly further declares that it is the intent of this section that long-range planning continue in order to identify fixed guideway corridors as the demand is demonstrated.

(d) The general assembly further declares that, where practicable, the board should encourage the use of Colorado residents, goods, and services in implementing this section.

(2) and (3) Repealed.

Source: L. 87: Entire section added, p. 1247, § 3, effective May 22. **L. 92:** (2)(b) and (3)(b) amended, p. 1345, § 1, effective July 1. **L. 94:** (1)(b) and (1)(c) amended and (2) and (3) repealed, pp. 1324, 1327, §§ 2, 9, effective May 25.

Cross references: For priority of civil actions arising out of the planning, development, financing, or construction of the Denver metropolitan area mass transportation system, see article 85 of title 13.

32-9-107.7. Regional fixed guideway mass transit systems - construction - authorization. (1) Any action of the board relating to the authorization of the construction of a regional fixed guideway mass transit system in any corridor shall require the affirmative vote of a two-thirds majority of the board membership. The board shall take no action relating to the construction of a regional fixed guideway mass transit system until after such system has been approved by the designated metropolitan planning organization. Each component part or corridor of such system shall be separately approved by the metropolitan planning organization. Such action shall include approval of the method of financing and the technology selected for such projects.

(2) Repealed.

Source: L. 90: Entire section added, p. 1511, § 1, effective May 23. **L. 2002:** (2) repealed, p. 866, § 1, effective August 7.

32-9-108. Authorizing election. (Repealed)

Source: L. 69: p. 716, § 1. **C.R.S. 1963:** § 89-20-7. **L. 70:** p. 292, § 98. **L. 72:** p. 482, § 6. **L. 73:** pp. 986, 991, §§ 3, 1. **L. 80:** (3) added, p. 679, § 1, effective May 1. **L. 82:** (3) repealed, p. 502, § 8, effective April 15. **L. 83:** Entire section repealed, p. 1284, § 6, effective June 3.

32-9-109. Board of directors. (Repealed)

Source: L. 69: p. 716, § 1. **C.R.S. 1963:** § 89-20-8. **L. 70:** p. 292, § 99. **L. 73:** p. 988, § 2.

Editor's note: This section was repealed in 1980 by initiative, effective January 1, 1983. For the complete initiated measure and votes cast for the adoption or rejection thereof, see L. 81, pp. 2057-2060.

32-9-109.5. Board of directors - membership - powers. (1) Effective January 1, 1983, the governing body of the district shall be a board of directors consisting of fifteen persons, each of whom is an eligible elector residing within the director district.

(2) Members of the board of directors shall be elected as provided in section 32-9-111.

(3) The terms of members of the board serving on December 31, 1982, shall expire on January 1, 1983, and a new board, constituted pursuant to this section shall take office on January 1, 1983, after having been elected pursuant to section 32-9-111.

(4) All powers, duties, functions, rights, and privileges vested in the district shall be exercised and performed by the board; except that the exercise of any executive, administrative, or ministerial powers may be delegated by the board to officers and employees of the district.

Source: Initiated 80: Entire section added, effective upon proclamation of the Governor, December 19, 1980. **L. 92:** (1) amended, p. 908, § 159, effective January 1, 1993.

Editor's note: For the complete initiated measure and votes cast for the adoption or rejection thereof, see L. 81, pp. 2057-2060.

32-9-110. Initial board. (Repealed)

Source: L. 69: p. 716, § 1. **C.R.S. 1963:** § 89-20-9. **L. 70:** p. 292, § 100. **L. 73:** p. 989, §§ 3, 4. **L. 75:** IP(1) and (2) amended, p. 1303, § 2, effective July 1.

Editor's note: This section was repealed in 1980 by initiative, effective January 1, 1983. For the complete initiated measure and votes cast for the adoption or rejection thereof, see L. 81, pp. 2057-2060.

32-9-111. Election of directors - dates - terms. (1) (a) After the federal census in 1980 and each federal census thereafter, the board of directors shall apportion the composition of the board into compact and contiguous director districts so that the fifteen directors will represent, to the extent practical, the people of the district on the basis of population. Such apportionment shall be completed before March 15 of the second year following that in which the federal census is taken and shall be made only upon the affirmative vote of two-thirds of the total membership of the board. If such apportionment is not completed before March 15 of such year, the legislative council, with the assistance of the director of research of the legislative council and the director of the office of legislative legal services, shall, by April 15, apportion the composition of the board into compact and contiguous director districts so that the fifteen directors will represent, to the extent practicable, the people of the district on the basis of

population. The apportionment recommended by the legislative council shall be submitted to the general assembly which shall approve or amend the apportionment before May 1 of such year.

(b) If a petition or election results in the inclusion of an area within the district pursuant to section 32-9-106.7, the board shall, within forty-five days, vote to include the new area in one or more existing adjacent director districts based, to the extent practical, on population. The vote by the board shall require a two-thirds majority.

(2) Such director districts shall be comprised of general election precincts established by the boards of county commissioners of those counties, all or part of which are within the district, and by the election commission of the city and county of Denver. No general election precinct may be split into two or more director districts.

(3) The regular district election shall be held jointly with the state general election in every even-numbered year as provided in section 1-7-116, C.R.S., and the first election shall be held in 1982. Each director shall be elected by the eligible electors residing within the director district.

(4) Except as provided in this subsection (4), the regular term of office of directors shall be four years. At the election held in 1982, eight members of the board shall be elected for two-year terms. The two-year terms shall be determined by lot at the first meeting of the board following the apportionment of director districts. Seven members shall be elected for four-year terms.

(5) (a) Except as provided in this subsection (5), nominations for an election of directors shall be made in accordance with the general election laws of the state. Nominations for directors shall be made by petition and filed in the office of the secretary of state in the manner provided for independent candidates pursuant to section 1-4-802 and part 9 of article 4 of title 1, C.R.S. The petitions shall be signed by at least two hundred fifty eligible electors residing within the director district in which the officer is to be elected.

(b) to (d) (Deleted by amendment, L. 92, p. 908, § 160, effective January 1, 1993.)

(e) It is the intent of the people of the state of Colorado that the election of directors be conducted in the most efficient and economical manner which is practicable.

(f) Every candidate for director shall comply with the provisions of article 45 of title 1, C.R.S.

(6) (Deleted by amendment, L. 92, p. 908, § 160, effective January 1, 1993.)

Source: L. 69: p. 717, § 1. **C.R.S. 1963:** § 89-20-10. **L. 75:** Entire section amended, p. 1304, § 3, effective July 1. **Initiated 80:** Entire section R&RE, effective upon proclamation of the Governor, December 19, 1980. **L. 81:** (1) and (5)(a)(III) amended, p. 1645, § 1, effective June 8. **L. 82:** (1) amended and (5)(f) added, pp. 496, 497, §§ 1, 2, effective March 25. **L. 83:** (6) amended, p. 1282, § 2, effective June 3. **L. 88:** (1)(a) amended, p. 312, § 23, effective May 23. **L. 90:** (1)(a) amended, p. 325, § 5, effective June 9. **L. 91:** (5)(a) amended, p. 799, § 1, effective March 27. **L. 92:** (3), (5)(a) to (5)(d), and (6) amended, p. 908, § 160, effective January 1, 1993. **L. 94:** (1)(b) amended, p. 1339, § 3, effective May 25; (3) amended, p. 1643, § 69, effective May 31. **L. 95:** (3) amended, p. 1107, § 49, effective May 31. **L. 96:** (1)(b) amended, p. 308, § 3, effective April 15. **L. 98:** (1)(b) amended, p. 1271, § 2, effective June 1. **L. 99:** (1)(b) amended, p. 419, § 3, effective April 30. **L. 2001:** (5)(a) amended, p. 1005, § 16, effective August 8. **L. 2007:** (1)(b) amended, p. 835, § 7, effective May 14.

Editor's note: For the complete initiated measure and the votes cast for the adoption or rejection thereof, see L. 81, pp. 2057-2060.

32-9-112. Vacancies - appointments - recall. (1) A change of residence of a member of the board to a place outside the director district from which the member was elected shall automatically create a vacancy on the board. Upon a vacancy occurring for any reason other than normal expiration of a term, the vacancy shall be filled by appointment by the board of county commissioners of the county wherein the director district is located or, in the case of a member elected in Denver, by the mayor of the city and county of Denver, with the approval of the city council of said city and county. In the case of a director district which contains territory in two or more counties, or in the city and county of Denver and in one or more counties, the vacancy shall be filled by appointment by the board of county commissioners of the county wherein the largest number of eligible electors of the director district reside; except that, if the largest number of eligible electors of the director district reside in the city and county of Denver, the vacancy shall be filled by appointment by the mayor of the city and county of Denver, with the approval of the city council of the city and county.

(1.5) Any director appointed shall serve until the next regular election, at which time the vacancy shall be filled by election for any remaining unexpired portion of the term.

(2) Effective July 1, 1983, any member of the board may be recalled from office by the eligible electors of the director district such member represents pursuant to the provisions of part 1 of article 12 of title 1, C.R.S.

(3) Repealed.

Source: L. 69: p. 717, § 1. **C.R.S. 1963:** § 89-20-11. **L. 70:** p. 293, § 101. **L. 73:** p. 989, § 5. **Initiated 80:** Entire section R&RE, effective upon proclamation of the Governor, December 19, 1980. **L. 81:** (3) added, p. 1646, § 2, effective June 8. **L. 82:** (3) amended, p. 497, § 3, effective March 25. **L. 83:** (3) repealed, p. 2051, § 19, effective October 14. **L. 92:** Entire section amended, p. 909, § 161, effective January 1, 1993.

Editor's note: For the complete initiated measure and the votes cast for the adoption or rejection thereof, see L. 81, pp. 2057-2060.

32-9-113. Fidelity bonds. Each director, before entering upon his official duties, shall give a fidelity bond to the district in the sum of ten thousand dollars with good and sufficient surety, to be approved by the governor, conditioned for the faithful performance of the duties of his office. Premiums on all fidelity bonds provided for in this section shall be paid by the district and filed in the office of the secretary of state.

Source: L. 69: p. 717, § 1. **C.R.S. 1963:** § 89-20-12.

32-9-114. Board's administrative powers. (1) The board has the following administrative powers:

(a) To fix the time and place at which its regular meetings, to be held at least quarterly, shall be held within the district and shall provide for the calling and holding of special meetings;

(b) To adopt and amend bylaws and rules for procedure;

(c) To elect one director as chairman of the board and another director as chairman pro tem of the board, and to appoint one or more persons as secretary and treasurer of the board;

(d) To prescribe a system of business administration, to create necessary offices, and to establish the powers, duties, and compensation of all officers, agents, and employees and other persons contracting with the district, subject to the provisions of section 32-9-117;

(e) To prescribe a method of auditing and allowing or rejecting claims and demands;

(f) To provide a method for the letting of contracts on a fair and competitive basis for the construction of works, any facility, or any project, or any interest therein, or for the performance or furnishing of labor, materials, or supplies as required in this article;

(g) To designate an official newspaper published in the district in the English language; except that nothing in this article shall prevent the board from directing publication in any additional newspaper where it deems that the public necessity may so require;

(h) To make and pass resolutions and orders necessary to carry out the provisions of this article.

Source: L. 69: p. 717, § 1. **C.R.S. 1963:** § 89-20-13.

32-9-115. Records of board - audits. (1) All resolutions and orders shall be recorded and authenticated by the signature of the presiding officer of the board and the secretary. Every legislative act of the board of a general or permanent nature shall be by resolution. The book of resolutions and orders shall be a public record. A record shall also be made of all other proceedings of the board, minutes of the meetings, certificates, contracts, bonds given by officers, employees, and any other agents of the district, and all corporate acts, which record shall also be a public record. The treasurer shall keep an account of all moneys received by and disbursed on behalf of the district, which shall also be a public record. Any public record of the district shall be open for inspection by any eligible elector of the district, or by any representative of the state, or of any county, city and county, city, or town within the district. All records are subject to audit as provided by law for political subdivisions.

(2) Repealed.

(3) In addition to the audit authorized in subsection (1) of this section and the audit required pursuant to section 29-1-603, C.R.S., at least once every five years, or more frequently in the state auditor's discretion, the state auditor shall conduct or cause to be conducted a performance audit of the district to determine whether the district is effectively and efficiently fulfilling its statutory obligations. The first performance audit shall begin on or after January 1, 2005, and be completed as soon as possible thereafter. Upon the completion of a performance audit, the state auditor shall submit a written report to the legislative audit committee. The cost of the performance audits shall be paid by the district.

Source: L. 69: p. 718, § 1. **C.R.S. 1963:** § 89-20-14. **L. 80:** Entire section amended, p. 679, § 2, effective May 1. **L. 82:** (2) repealed, p. 502, § 8, effective April 15. **L. 92:** (1) amended, p. 910, § 162, effective January 1, 1993. **L. 94:** (3) added, p. 1325, § 3, effective May 25. **L. 2002:** (3) amended, p. 866, § 2, effective August 7. **L. 2004:** (3) amended, p. 970, § 1, effective August 4.

32-9-116. Meetings of board. (1) All meetings of the board shall be held within the district and shall be open to the public. No business of the board shall be transacted except at a regular or special meeting at which a quorum consisting of at least a majority of the total membership of the board is present.

(2) Repealed.

(3) Effective January 1, 1983, any action of the board shall require the affirmative vote of at least eight members present and voting.

Source: L. 69: p. 718, § 1. **C.R.S. 1963:** § 89-20-15. **L. 82:** Entire section amended, p. 497, § 4, effective March 25.

Editor's note: Subsection (2)(b) provided for the repeal of subsection (2), effective January 1, 1983. (See L. 82, p. 497.)

32-9-117. Compensation of directors. (1) Except as otherwise provided in subsection (2) of this section, effective January 1, 1983, each director shall receive a sum of three thousand dollars per annum.

(2) Effective January 1, 2009, each director elected at the 2008 general election or at any general election thereafter and each director appointed to fill a vacancy for an unexpired term of a director elected at the 2008 general election or any election thereafter shall receive a sum of twelve thousand dollars per annum, payable at the rate of one thousand dollars per month.

(3) No director shall receive any compensation as an officer, engineer, attorney, employee, or any other agent of the district.

(4) Nothing contained in this article shall be construed as preventing the board from authorizing the reimbursement of any director for expenses incurred that appertain to the activities of the district.

Source: L. 69: p. 718, § 1. **C.R.S. 1963:** § 89-20-16. **Initiated 80:** Entire section R&RE, effective upon proclamation of the Governor, December 19, 1980. **L. 81:** Entire section amended, p. 1646, § 3, effective June 8. **L. 85:** Entire section amended, p. 1120, § 1, effective May 10. **L. 2008:** Entire section amended, p. 305, § 1, effective August 5.

Editor's note: For the complete initiated measure and the votes cast for the adoption or rejection thereof, see L. 81, pp. 2057-2060.

32-9-118. Conflicts in interest prohibited. No director, officer, employee, or agent of the district shall be interested in any contract or transaction with the district except in his official representative capacity.

Source: L. 69: p. 718, § 1. **C.R.S. 1963:** § 89-20-17.

32-9-119. Additional powers of district. (1) In addition to any other powers granted to the district in this article, the district has the following powers:

(a) To have the duties, privileges, immunities, rights, liabilities, and disabilities of a public body politic and corporate. The district shall be a political subdivision of the state.

(b) To have perpetual existence and succession, subject to the provisions of section 32-9-158;

(c) To adopt, have, and use a seal and to alter same at pleasure;

(d) To sue and be sued;

(e) To enter into any contract or agreement not inconsistent with this article or the laws of this state;

(f) To borrow money and to issue district securities evidencing same;

(g) To refund any loan or obligation of the district and to issue refunding securities therefor;

(h) To purchase, trade, exchange, or otherwise acquire, maintain, and dispose of real property and personal property and any interest therein;

(i) To levy and cause to be collected taxes on all taxable property within the district, subject to the limitations imposed by this article and the laws of the state;

(j) To employ such officers, agents, employees, and other persons necessary to carry out the purposes of this article and to acquire office space, equipment, services, supplies, and insurance necessary to carry out the purposes of this article;

(k) To condemn property for public use;

(l) To establish, maintain, and operate a mass transportation system, subject to the provisions of section 32-9-119.5 for the operation of the district's bus operations, and all necessary facilities relating thereto across or along any public street, highway, bridge, viaduct, or other public right-of-way, or in, upon, under, or over any vacant public lands without first obtaining a franchise from the public body having jurisdiction over the same; except that the district shall cooperate with any public body having such jurisdiction and the district shall promptly restore any such street, highway, bridge, viaduct, or other public right-of-way to its former state of usefulness as nearly as may be and shall not use the same in such a manner as to impair completely or unnecessarily the usefulness thereof;

(l.5) To implement the provisions of section 32-9-119.5 concerning the operation of the district's bus operations;

(m) To fix and from time to time increase or decrease the revenues for services and facilities provided by the district; to pledge revenues for the payment of special district obligation bonds that have been issued in accordance with this article; and to enforce the collection of such revenues;

(n) To deposit any moneys of the district not then needed in the conduct of district affairs in any banking institution within or without the district or in any depository authorized in section 24-75-603, C.R.S. For the purpose of making such deposits, the board may appoint, by written resolution, one or more persons to act as custodians of the moneys of the district. Such persons shall give surety bonds in such amounts and form and for such purposes as the board requires.

(o) To invest any surplus money in the district's treasury, including moneys in a sinking or reserve fund established for the purpose of retiring any district securities, not required for immediate necessities of the district in securities meeting the investment requirements established in part 6 of article 75 of title 24, C.R.S.;

(p) To sell from time to time such securities thus purchased and held;

(q) To accept grants or loans from the federal government, the state government, or any political subdivision thereof, to enter into contracts and cooperate with the federal government,

the state government, or any political subdivision thereof, and to do all things necessary, not inconsistent with this article or the laws of this state, in order to avail itself of such aid, assistance, and cooperation under any federal or state legislation;

(r) To enter into joint operating or service contracts, and acquisition, improvement, equipment, or disposal contracts with any public body in the district concerning any mass transportation facility whether acquired by the district or by the public body; to perform such contracts; and to accept grants and contributions from any public body or any other person in connection therewith;

(s) To enter upon any land within the district to make surveys, borings, soundings, and examinations for the purposes of the district;

(t) To have the management, control, and supervision of all business and affairs relating to any mass transportation facility authorized in this article, subject to the provisions of section 32-9-119.5 for the operation of the district's bus operations, or otherwise concerning the district, and of the acquisition, improvement, equipment, operation, maintenance, and disposal of any property relating to any such mass transportation facility; except that the oversight of operations and facilities for safety purposes as required by 49 CFR 659, "Rail Fixed Guideway Systems; State Safety Oversight", and article 18 of title 40, C.R.S., shall be subject to the jurisdiction of the public utilities commission of the state of Colorado;

(u) To enter into contracts of indemnity and guaranty;

(v) To secure financial statements, appraisals, economic feasibility reports, and valuations of any type relating to the mass transportation system of the district or any facility therein;

(w) To make all contracts, execute all instruments, and do all things necessary or convenient in the exercise of the powers granted in this article, or in the performance of the district's covenants or duties, or in order to secure the payment of district securities;

(x) To have and exercise all rights and powers necessary or incidental to or implied from the specific powers granted in this article, which specific powers shall not be considered as a limitation upon any power necessary or appropriate to carry out the purposes and intent of this article;

(y) To exercise all or any part or combination of the powers granted in this article.

(1.9) Repealed.

(2) (a) To provide revenue to finance the operations of the district, to defray the cost of construction of capital improvements and acquisition of capital equipment, and to pay the interest and principal on securities of the district, the board, for and on behalf of the district, has the power to levy uniformly throughout the district a sales tax at any rate that may be approved by the board, upon every transaction or other incident with respect to which a sales tax is now levied by the state, pursuant to the provisions of article 26 of title 39, C.R.S.

(b) and (b.5) Repealed.

(c) Sales tax levied pursuant to this subsection (2) shall be collected, administered, and enforced as follows:

(I) The collection, administration, and enforcement of said sales tax shall be performed by the executive director of the department of revenue in the same manner as the collection, administration, and enforcement of the state sales tax imposed under article 26 of title 39, C.R.S., including, without limitation, the retention by a vendor of the percentage of the amount

remitted to cover the vendor's expense in the collection and remittance of said tax as provided in section 39-26-105, C.R.S.

(I.5) (A) A qualified purchaser may provide a direct payment permit number issued pursuant to section 39-26-103.5, C.R.S., to any vendor or retailer that is liable and responsible for collecting and remitting any sales tax levied on any sale made to the qualified purchaser pursuant to this subsection (2). A vendor or retailer that has received in good faith from a qualified purchaser a direct payment permit number shall not be liable or responsible for collection and remittance of any sales tax imposed on such sale that is paid for directly from such qualified purchaser's funds and not the personal funds of any individual.

(B) A qualified purchaser that provides a direct payment permit number to a vendor or retailer shall be liable and responsible for the amount of sales tax levied on any sale made to the qualified purchaser pursuant to this subsection (2) in the same manner as liability would be imposed on a qualified purchaser for state sales tax pursuant to section 39-26-105 (3), C.R.S.

(II) The executive director of the department of revenue shall administer, collect, and distribute any sales tax imposed in conformity with this article. The executive director of the department of revenue shall make monthly distributions of such sales tax collections to the district. The department of revenue shall retain an amount not to exceed the net incremental cost of such administration, collection, and distribution and shall transmit such amount to the state treasurer, who shall credit the same to the general fund; except that the amount retained by the department of revenue in any given fiscal year commencing on or after July 1, 1994, shall not exceed the amount retained by the department in the 1993-94 fiscal year, as adjusted in accordance with changes in the consumer price index for the Denver-Boulder consolidated metropolitan statistical area. The cost of such administration, collection, and distribution shall be the audited net incremental cost thereof reduced by the amount of interest earned on such sales tax collections prior to distribution to the district.

(3) to (8) Repealed.

Source: L. 69: p. 718, § 1. **C.R.S. 1963:** § 89-20-18. **L. 71:** p. 978, § 2. **L. 73:** p. 991, § 2. **L. 79:** (1)(n) amended, p. 1626, § 42, effective June 8. **L. 80:** (1.9) added and (2) R&RE, p. 680, §§ 3, 4, effective May 1. **L. 82:** (1.9), (2)(b)(II)(B), (2)(b)(VI), and (2)(b)(VII) repealed, (2)(a), (2)(b)(I), (2)(b)(II), and (2)(b)(III) amended, and (2)(b)(V) R&RE, pp. 502, 498, 500, §§ 8, 1, 2, 3, effective April 15; (2)(b)(II)(B) RC&RE, p. 643, § 3, effective June 1. **L. 83:** (2)(a) amended, p. 1209, § 2, effective May 1; (1)(b), (2)(b)(I), (2)(b)(II)(B), and (2)(b)(III)(A) amended, p. 1282, § 3, effective June 3. **L. 87:** (2)(b)(III)(A) amended and (3) to (8) added, pp. 1252, 1249, §§ 5, 4, effective May 22; (2)(c)(II) amended, p. 1240, § 1, effective January 1, 1988. **L. 88:** (1)(l) and (1)(t) amended and (1)(l.5) added, p. 1156, § 3, effective May 3. **L. 89:** (1)(o) amended, p. 1120, § 41, effective July 1. **L. 91:** (8) amended, p. 1919, § 45, effective June 1; (2)(b)(V) repealed, p. 883, § 1, effective June 5. **L. 92:** (2)(a), (2)(b)(III), and (2)(b)(IV) amended, p. 910, § 163, effective January 1, 1993. **L. 94:** (2)(c)(II) amended, p. 318, § 4, effective March 29; (2)(b) and (3) to (8) repealed, p. 1327, § 9, effective May 25. **L. 97:** (2)(b.5) added, p. 805, § 2, effective May 20; (1)(t) amended, p. 932, § 2, effective August 6. **L. 99:** (2)(a) amended, p. 982, § 5, effective May 28; (2)(a) amended, p. 1357, § 6, effective January 1, 2000; (2)(c)(I.5) added, p. 14, § 7, effective January 1, 2000. **L. 2000:** (1)(m) amended, p. 307, § 2, effective April 5. **L. 2002:** IP(2)(a) amended, p. 714, § 4, effective August 7; IP(2)(a) amended, p. 734, § 4, effective August 7. **L. 2004:** (2)(a) amended, p. 1039, § 6, effective July 1.

L. 2009: IP(2)(a) amended, (SB 09-108), ch. 5, p. 49, § 4, effective March 2; (2)(a)(III) added, (HB 09-1342), ch. 354, p. 1847, § 6, effective July 1. **L. 2013:** (2)(a) amended, (HB 13-1272), ch. 337, p. 1964, § 2, effective January 1, 2014.

Editor's note: (1) Subsection (2)(b.5)(II)(B) provided for the repeal of subsection (2)(b.5), effective November 4, 1997, when the registered electors of the district voted negatively on the ballot question set forth in § 32-9-119.3 (2)(b).

(2) Amendments to subsection (2)(a) by House Bill 99-1015 and House Bill 99-1271 were harmonized.

Cross references: For the legislative declaration in the 2013 act amending subsection (2)(a), see section 1 of chapter 337, Session Laws of Colorado 2013.

32-9-119.1. Transportation expansion plan - utility relocation - legislative declaration - definitions. (1) The general assembly hereby finds and declares that:

(a) The district has been authorized to construct a transportation expansion plan adopted by the board and approved by the voters on November 2, 2004. The transportation expansion plan anticipates that construction will be completed on all fixed guideway corridors in a twelve-year period.

(b) The scheduling and timely performance of the transportation expansion plan partially depends on coordination with utility companies for the prompt performance of utility relocation work necessitated by construction of the transportation expansion plan.

(c) Increased coordination between the district and utility companies is in the public interest, and prompt performance of utility relocation work within the adopted plan schedule will reduce delays and costs of construction. Utility relocation work shall be undertaken in a manner that minimizes the relocation cost and the disruption of utility services.

(2) (a) The district shall negotiate with any affected utility company in each fixed guideway corridor. In coordination with the district, each utility company shall determine whether a district contractor or the utility company shall be responsible for the relocation of its utility facilities. In making such a determination, the utility company shall take into consideration the location of the utility facilities, complexity of the relocation, and timing of the need for relocation work.

(b) The district and the utility company shall make such arrangements for funding utility relocations as are specified in the easements, licenses, franchises, or other property interests and rights of use held by the district or the utility company. Nothing in this section is intended to alter existing property agreements, licenses, or other interests of the district and utility company regarding the obligation to pay for utility relocation.

(3) (a) The district may enter into fixed guideway corridor utility relocation agreements with a utility company. Such agreements shall be for the performance of all services required to assure timely relocation of utilities according to the most current written standards and practices established by the utility company at the time the agreement is entered into, unless other standards are mutually selected by the district and the utility company.

(b) A fixed guideway corridor utility relocation agreement shall include a schedule for design, review, dispute resolution, and construction.

(c) (I) A fixed guideway corridor utility relocation agreement may provide for a utility company betterment, including, but not limited to, increased capacity and extensions of services; except that a betterment shall not materially delay project construction and shall be at the expense of the utility company.

(II) As used in this section, "betterment" means any upgrade of the utility facility being relocated that is not attributable to project construction and is made solely for the benefit of and at the election of the utility.

(d) A fixed guideway corridor utility relocation agreement may incorporate reasonable and appropriate conditions, including, but not limited to, conditions for ensuring:

(I) The prompt performance of utility relocation work by either the district, utility company, or contractor for the transportation expansion plan, as specified in the agreement;

(II) The cooperation of the utility company with the contractor for the transportation expansion plan; and

(III) The payment by the utility company of any damages caused by the company's delay in the performance of the relocation work or interference with the performance of the project by any other contractor, except when such delay or interference is caused by a force majeure.

(4) All design and construction of utility relocation shall be subject to review and approval by district and utility company engineers.

(5) (a) If the district and utility company are unable to reach a fixed guideway corridor utility relocation agreement, or if utility relocation disputes arise under an agreement, the district and utility company shall each designate an official, at no level lower than district corridor project manager and utility company chief engineer, to resolve the differences.

(b) If the differences cannot be resolved pursuant to paragraph (a) of this subsection (5), utility relocation disputes shall be heard in the following district courts for each of the following corridors and projects:

(I) For union station, Denver county district court;

(II) For the U.S. 36 corridor, Boulder county district court;

(III) For the west corridor, Jefferson county district court;

(IV) For the gold line corridor, Jefferson county district court;

(V) For the east corridor, Denver county district court;

(VI) For the I-225 corridor, Arapahoe county district court;

(VII) For the southwest corridor, Arapahoe county district court; and

(VIII) For the north corridor, Adams county district court.

(c) It shall be presumed that there will be irreparable harm to the public if an injunction is not granted to require utility relocation, regardless of a later determination as to which party is responsible for the cost of relocation.

(6) (a) The district shall provide a utility company with detailed maps, drawings, plans, and profiles of the district's proposed improvements in each fixed guideway corridor in the transportation expansion plan at:

(I) The conclusion of preliminary engineering;

(II) Sixty percent completion of final design;

(III) The conclusion of final design; and

(IV) Such other times as may be requested by the utility company.

(b) The district shall solicit information as to the location of utility facilities within the fixed guideway corridor from the utility company.

(c) For all utilities identified on any documents provided to or in the possession of the district, the district shall provide written notice to a utility company as soon as practicable of a transportation expansion plan that will require the relocation of the company's facilities.

(d) (I) Where documents have been in the possession of the district during final design of a fixed guideway corridor, the district shall provide notice to a utility company of a transportation expansion plan that will require the relocation of the company's facilities not later than one year before relocation is required for each relocation on each fixed guideway corridor.

(II) Notwithstanding subparagraph (I) of this paragraph (d), if major electrical facilities must be relocated, the district shall provide notice to a utility company at least eighteen months in advance of the required relocation date or the district shall pay the cost of any temporary relocation measures required to maintain service to utility customers. If temporary relocation measures are necessary, such measures shall be provided at the lowest possible cost during construction and relocation.

(III) For any discovery of utilities during construction that are not identified on documents provided to or in possession of the district, the district and the utility company shall confer within forty-eight hours of discovery to determine appropriate relocation procedures.

(IV) The district and utility company shall, within ten days of discovery, enter into an agreement as to the manner in which any necessary relocation will be accomplished and the party that shall perform the work.

(V) If an agreement is reached and if the utility company performs under the agreement, the utility company shall not be liable for delay damages as provided in subsection (8) of this section.

(7) (a) For purposes of ensuring continuation of required utility services to the residents of the district during and after construction of the fixed guideway corridors, the district may provide, and condemn when necessary, replacement easements for the relocation of utilities. If such replacement easements are necessary, the district shall endeavor to meet any existing standards of the utility for easements. Any necessary condemnation shall be considered a transportation project undertaken by the district. The cost of replacement easements shall be paid:

(I) By the district in those instances where the district has acquired, at no extra cost, an easement previously owned and occupied by the utility; or

(II) By the utility if the district has compensated the utility for a previously occupied easement from which the utility is being relocated.

(b) Notwithstanding any local law to the contrary, aboveground utility facilities shall be relocated aboveground and underground utility facilities shall be relocated underground. To minimize the cost of the reconfiguration of the utility facility, the replacement easement shall be acquired as close as possible to the original location of the facility that must be relocated.

(8) (a) Where the utility company has elected to perform relocation work or where there has been no agreement reached between a utility company and the district, the utility company shall be liable to the district for actual damages suffered by the district as a direct result of the utility company's delay in the performance of any utility relocation work or as a direct result of the utility company's interference with the performance of fixed guideway corridor construction by other contractors.

(b) Notwithstanding paragraph (a) of this subsection (8), a utility company shall not be liable for damages caused by the failure to timely perform the relocation work or the interference

with the performance of the transportation expansion plan by another contractor when the failure to perform or the interference is caused by a force majeure.

Source: L. 2007: Entire section added, p. 718, § 2, effective May 3.

32-9-119.3. Elections for sales tax rate increase. (1) The board, in accordance with the provisions of section 20 (4) of article X of the state constitution, may submit to the registered electors of the district one or more ballot questions to increase the rate of the sales tax levied by the district pursuant to section 32-9-119 (2)(a) to any rate approved by the board, with or without an accompanying increase in district debt, for such purposes authorized by this article as may be specified in any such ballot question.

(2) A ballot question submitted pursuant to subsection (1) of this section shall be submitted at a general election or an election held on the first Tuesday of November in an odd-numbered year that is conducted in accordance with the "Uniform Election Code of 1992", articles 1 to 13 of title 1, C.R.S. The secretary of state shall determine the identifying numbering or lettering of such a ballot question, and the question shall be printed upon the ballot immediately following any statewide amendments and propositions.

(3) If a majority of the registered electors voting on a ballot question submitted pursuant to subsection (1) of this section vote affirmatively on the question, the rate of the sales tax levied by the district pursuant to section 32-9-119 (2)(a) shall be increased to the rate specified in the ballot question and approved by the registered electors.

(4) Nothing in this section shall be construed to limit the ability of the district to seek the approval of the registered electors of the district regarding any other matter for which such approval may be sought.

Source: L. 97: Entire section added, p. 806, § 3, effective May 20. **L. 2009:** Entire section RC&RE, (SB 09-108), ch. 5, p. 49, § 5, effective March 2; (2) amended, (HB09-1326), ch. 258, p. 1182, § 19, effective May 15.

Editor's note: Subsection (9)(b) provided for the repeal of this section, effective November 4, 1997, when the registered electors of the district voted negatively on the ballot question set forth in § 32-9-119.3 (2)(b).

32-9-119.4. Election for a sales tax rate increase - petition requirement. (1) For purposes of complying with the provisions of section 20 (4) of article X of the state constitution and upon receipt of a notice from the secretary of state stating that a valid petition has been filed and verified and the adoption by the board of an appropriate resolution, the board may submit to the registered electors within the geographical boundaries of the district at any general election or election held in November of an odd-numbered year, the ballot question set forth in subsection (3) of this section.

(2) A valid petition:

(a) Shall request that the board submit the ballot question set forth in subsection (3) of this section to the registered electors within the geographical boundaries of the district;

(b) Shall be signed by a number of such registered electors equal to at least five percent of the total number of votes cast within the geographical boundaries of the district for all candidates for the office of secretary of state at the previous general election; and

(c) Shall have the required signatures verified by the secretary of state in accordance with subsection (4) of this section.

(3) (a) Except as otherwise provided in paragraph (b) of this subsection (3), the ballot question to be submitted by the board pursuant to subsection (1) of this section shall be as follows:

"Shall regional transportation district taxes be increased (first full fiscal year dollar increase) annually and by whatever additional amounts are raised annually thereafter by increasing the rate of sales tax levied by the district by four-tenths of one percent, from the current six-tenths of one percent to one percent commencing January 1 (first calendar year that commences after the election at which the ballot question is submitted), and, in connection therewith, shall regional transportation district debt be increased (principal amount), with a repayment cost of (maximum total district cost) with all proceeds of debt and taxes to be used and spent for the construction and operation of a fixed guide way mass transit system, the construction of additional park-n-ride lots, the expansion and improvement of existing park-n-ride lots, and increased bus service, including the use of smaller buses and vans and alternative fuel vehicles as appropriate, as specified in the transit expansion plan adopted by the board of directors of the district on or before (specified date) and shall debt be evidenced by bonds, notes, or other multiple-fiscal year obligations including refunding bonds that may be issued as a lower or higher rate of interest and including debt that may have a redemption prior to maturity with or without payment of a premium, payable from all revenues generated by said tax increase, federal funds, investment income, public and private contributions, and other revenues as the board may determine, and with such revenues raised by the sales tax rate increase and the proceeds of debt obligations and any investment income on such revenues and proceeds being exempt from the revenue and spending restrictions contained in section 20 of article X of the Colorado constitution until such time as all debt is repaid when the rate of tax will be decreased to that amount necessary for the continued operation of the system but not less than six-tenths of one percent?"

(b) The ballot question set forth in paragraph (a) of this subsection (3) may be modified by the proponents of a petition or by the district to the extent necessary to conform to the legal requirements for ballot questions and titles.

(c) If at any election a majority of the registered electors within the geographical boundaries of the district voting on the ballot question vote affirmatively on the ballot question specified in paragraph (a) of this subsection (3), then the rate of sales tax levied by the district shall be increased by four-tenths of one percent to a rate of one percent.

(4) The provisions of article 40 of title 1, C.R.S., regarding the following subject matter shall apply to petitions that may be submitted pursuant to this section: Form requirements and approval; circulation of petitions; elector information and signatures on petitions; affidavits and requirements of circulators of petitions; and verification of signatures, including, but not limited to, cure of an insufficiency of signatures and protests regarding sufficiency statements and procedures for hearings or further appeals regarding such protests. The provisions of article 40 of

title 1, C.R.S., regarding review and comment, the setting of a ballot title, including, but not limited to, the duties of the title board, rehearings and appeals, and the number of signatures required shall not apply to petitions that may be submitted pursuant to this section.

(5) Any petition shall be filed with the secretary of state at least ninety days before the election at which the ballot question specified in the petition is to be submitted to the registered electors within the geographical boundaries of the district. Notice of any question to be submitted to the registered electors within the geographical boundaries of the district after verification of the signatures on any petition filed with the secretary of state and at which election such question shall be submitted shall be filed by the board in the office of the secretary of state prior to fifty-five days before the election.

(6) Prior to the general election at which any question is to be submitted to the registered electors pursuant to subsection (1) of this section, the board shall hold at least two public hearings in each of the counties included, in whole or in part, within the district.

(7) (a) No public moneys from the state, any city, town, city and county, or county shall be expended by the public entity or by any private entity or private person to advertise, promote, or purchase commercial promotion or advertisement to urge electors to vote in favor of or against any question submitted at an election pursuant to the provisions of this section.

(b) No question submitted to eligible electors of the district pursuant to this section shall obligate any funds of the department of transportation, nor shall the approval of a question by the eligible electors be construed as creating any commitment or obligation of funds of the department.

(8) If at any election a majority of the registered electors within the geographical boundaries of the district voting on the question vote in the affirmative on a ballot question to increase the rate of sales tax levied by the district and then, in a corresponding or subsequent election, a majority of the registered electors within the geographical boundaries of the district voting on the question vote in the affirmative to lower the rate of sales tax levied by the district, the district shall decrease the rate of the sales tax to six-tenths of one percent or to an amount necessary to repay all indebtedness of the district obligated under the approved sales tax increase, including any costs incurred with regard to necessary debt repayment brought on by a corresponding or subsequent sales tax reduction, and following such repayment to six-tenths of one percent.

Source: L. 2002: Entire section added, p. 714, § 5, effective August 7; entire section added, p. 734, § 5, effective August 7.

32-9-119.5. Competition to provide vehicular service within the regional transportation district. (1) The general assembly hereby finds, determines, and declares that: Public transportation services are provided to assist the transit-dependent and the poor, to relieve congestion, and to minimize automotive pollution; public transportation service should be provided at the lowest possible cost consistent with desired service and safety; private transportation providers have been effectively used under competitive contracts to provide public transportation services at lower costs and with lower annual cost increases; obtaining cost-competitive public transportation services requires the establishment of a mechanism for competitive contracting; facilities and vehicles purchased for public transportation service are public assets which are held in the public trust; contracting for services has historically provided

opportunities for minority, women, and disadvantaged business enterprises; and it is the intent of the general assembly that disadvantaged business enterprises, as defined in part 23 of title 49 of the code of federal regulations, as amended, shall have the maximum opportunity to participate in the performance of contracts.

(2) (a) The district may implement a system under which up to fifty-eight percent of the district's vehicular service is provided by qualified private businesses pursuant to competitively negotiated contracts.

(b) (Deleted by amendment, L. 2003, p. 1795, § 2, effective May 21, 2003.)

(c) The district shall promulgate reasonable standards with respect to experience, safety records, and financial responsibility by which private providers can be qualified to provide vehicular services pursuant to this section.

(d) The district shall prepare a standard form of agreement to provide vehicular services. Such contract shall include:

(I) The specification of reasonable passenger comfort and safety characteristics of the equipment used;

(II) The specification of standards for access to vehicular services for persons with disabilities, which shall be as specified in the district's plan for such services as approved by the federal transit administration;

(III) The specification for reasonable training and safety records to be required of any driver;

(IV) A provision for reasonable insurance protecting the district from liability for the acts, negligence, or omission of the provider, its agents, and its employees;

(V) Reasonable standards for reliability and on-time performance;

(VI) Reasonable penalties for inadequate performance, including the district's right to cancel the contract;

(VII) Provisions for the use of the district's logo, transfers, transit ways, bus stops, and such other elements as are owned by the district and appropriate for use by the provider to provide coordinated service with the district;

(VIII) A provision that the provider shall retain fifty to one hundred percent of the passenger fares and remit the balance of such fares to the district;

(IX) A provision that the provider, at its sole risk and in compliance with applicable laws and regulations, shall have the right to sell additional services, including food and other services to its passengers, and to sell advertising except as prohibited by existing contracts, freight, charter, and other services using the provider's vehicles;

(X) The term of the agreement, which shall be as follows:

(A) For any agreement under which the district shall supply vehicles for use by the provider and if such vehicles have been financed under any section of the federal "Internal Revenue Code of 1986", as amended, that provides tax-free status for such vehicles, a term of not more than three years, including any renewal options;

(B) For any agreement under which the district shall supply vehicles for use by the provider and if such vehicles have not been financed under any section of the federal "Internal Revenue Code of 1986", as amended, that provides tax-free status for such vehicles, a term of not more than five years, including any renewal options; or

(C) For any agreement under which the provider shall supply its own vehicles, a term of years as negotiated by the district and the provider; and

(XI) No provision specifying wages, benefits, work rules, work conditions, or union organization of the employees of the provider beyond compliance with applicable regulation and law, including compliance with the "Federal Transit Act", 49 U.S.C. sec. 5333 (b).

(3) (a) (I) Subject to the requirements of the "Federal Transit Act", as amended, the district may request proposals from private providers to provide up to fifty-eight percent of all of the vehicular service of the district as measured by vehicle hours or vehicle hour equivalents. The district's decision as to which vehicular services are subject to requests for proposals must represent the district's total vehicular service operations; except that each individual request for proposals may designate one type of vehicular service. Service provided by private businesses pursuant to this section shall be accomplished through attrition of the district's full-time employees. Layoffs shall not occur solely as a result of the implementation of this section. If the director of the division of labor standards and statistics in the department of labor and employment orders an arbitration pursuant to section 8-3-113 (3), C.R.S., the arbitrator shall not have the power to establish a level of vehicular service to be provided by private businesses in accordance with this section.

(II) The district shall establish reasonable standards for vehicle hour equivalents for all vehicular services that are not ordinarily measured by vehicle hours.

(b) Each request for proposals shall specify the route or service area, service frequency or hours of operation, and the entire structure of maximum fares determined by the district. Such request for proposals shall include the district's estimate of passenger revenue. Each request for proposals shall also specify any federal funds available for vehicle capital assistance whether through reimbursement of eligible depreciation expenses or through lease of vehicles owned by the district.

(c) Each individual request for proposals shall reflect the district's determination as to the appropriate size for each such request in order to maximize the number of qualified providers submitting proposals without causing undue operating inefficiencies.

(c.5) Each request for proposals shall specify all of the evaluation factors to be used by the district in awarding the contract and the weight to be given by the district for each factor. The evaluation factors shall include the cost to the district, cost related factors, non-cost factors such as performance history of comparable services provided in-state or out-of-state, financial stability, managerial experience, operational plan, employee recruitment and training, and any other factors identified by the district. No award shall be made based on cost to the district alone, and in no event shall such cost be weighted more than thirty-five percent in making an award determination.

(d) Any qualified provider may respond to any request for proposals. The district shall ensure that disadvantaged business enterprises, as defined in part 23 of title 49 of the code of federal regulations, as amended, have the greatest possible opportunity to respond. Any response shall be timely if received by the district within the time specified in its request for proposals, which shall not exceed ninety days nor be less than forty-five days. Each response shall specify the least cost to the district required by the provider submitting the proposal to provide the services described in the request for proposals. If it determines the public interest requires such, the district retains the right to enter into noncompetitively awarded contracts on an interim basis for the time needed to implement the request for proposal process.

(e) (I) With respect to each request for proposals, the district shall award the contract based on a consideration of the evaluation factors established pursuant to paragraph (c.5) of this

subsection (3). Each contract shall be effective not later than ninety days after its award. If the district determines that no responsive proposals are received for a request for proposals or that the proposals submitted would not be in the best interests of the district to accept, the district may reject such proposals and may, in its discretion, solicit new proposals for the designated service in accordance with the provisions of this section.

(II) (Deleted by amendment, L. 98, p. 126, § 1, effective August 5, 1998.)

(4) (Deleted by amendment, L. 2003, p. 1795, § 2, effective May 21, 2003.)

(5) Any person qualified to provide vehicular services pursuant to subsection (2) of this section who does not require a district subsidy shall be able to provide vehicular services within the district. Such person shall execute the district's standard form of agreement to provide vehicular services; except that such person shall be free to determine and retain passenger fares. Vehicles operated pursuant to this subsection (5) shall be identified to the public as charging fares not established by the district.

(6) Fares for vehicular services provided pursuant to this section shall be exempt from sales or use taxes imposed pursuant to article 26 of title 39, C.R.S. Providers shall not otherwise be exempt from property, sales, income, excise, and other taxes.

(7) The provision of vehicular services in accordance with this section shall not be subject to regulation by the public utilities commission of the state of Colorado; except that taxi service as defined in the commission's rules shall be subject to regulation by the commission.

(8) (a) For purposes of providing legislative oversight of the operation of this section, the transportation legislation review committee shall review the district's implementation of this section and recommend any necessary changes to the general assembly.

(b) Repealed.

(9) (Deleted by amendment, L. 2007, p. 970, § 1, effective August 3, 2007.)

Source: L. 88: Entire section added, p. 1152, § 1, effective May 3. **L. 90:** (2)(a), (2)(d)(X), and (3)(c) to (3)(e) amended, p. 1512, § 1, effective April 9. **L. 92:** (2)(d)(II) amended, p. 1345, § 2, effective July 1. **L. 94:** (8)(a) amended, p. 622, § 2, effective April 14. **L. 96:** (3)(e) amended, p. 1883, § 1, effective June 8; (8)(b) repealed, p. 1274, § 209, effective August 7. **L. 98:** (3)(e) amended, p. 126, § 1, effective August 5. **L. 99:** (2)(a), (2)(d)(X), and (3)(a) amended, p. 940, § 1, effective May 28. **L. 2003:** (2)(a), (2)(b), (2)(c), IP(2)(d), (2)(d)(II), (2)(d)(XI), (3)(a), (3)(b), (3)(e)(I), (4), (5), (6), and (7) amended and (3)(c.5) added, p. 1795, § 2, effective May 21. **L. 2007:** (2)(a), (3)(a)(I), and (9) amended, p. 970, § 1, effective August 3. **L. 2016:** (3)(a)(I) amended, (HB 16-1323), ch. 131, p. 381, § 21, effective August 10.

32-9-119.6. Report to general assembly on privatization of certain management functions of the district. (Repealed)

Source: L. 88: Entire section added, p. 1155, § 2, effective May 3. **L. 96:** Entire section repealed, p. 1274, § 211, effective, August 7.

32-9-119.7. Farebox recovery ratios - plans. (1) The general assembly hereby finds and declares that surface transportation in the Denver metropolitan area is a major problem confronting not only the citizens of the metropolitan area but also the citizens of the entire state of Colorado. The general assembly further finds that, although mass transportation is one

component of an effective surface transportation system, the allocation of resources to mass transportation must be made in light of all surface transportation needs. The general assembly further finds that the district should be organized efficiently, economically, and on a demand-responsive basis and that the district should consider least-cost alternatives in discharging its responsibilities. The general assembly further finds that the farebox recovery ratio of the district must be improved so that resources once allocated for mass transportation can be made available for other surface transportation needs.

(2) For the purposes of this section, "operating costs" means all expenditures, including depreciation, except for those incurred in long-term planning and development of mass transportation and rapid transit infrastructures and those costs incurred as a result of providing transportation service mandated by the federal "Americans with Disabilities Act of 1990", 42 U.S.C. sec. 12101 through 12213, and "revenues collected" means all non-sales tax revenue generated through the operation and maintenance of the mass transit system, except for those revenues generated as a result of providing transportation service mandated by the federal "Americans with Disabilities Act of 1990".

(3) The district shall take whatever measures it deems necessary to ensure that the following percentages of its operating costs are funded by revenues collected, as follows:

(a) For the fiscal year 1990, twenty-seven and one-half percent;

(b) For the fiscal year 1991, twenty-eight and one-half percent;

(c) For the fiscal year 1992, twenty-nine and one-half percent;

(d) For the fiscal year 1993 and each fiscal year thereafter, thirty percent.

(4) The district shall prepare annual budgets based on the percentages required by subsection (3) of this section. The district shall submit copies of its annual budget to the transportation legislation review committee created in section 43-2-145, C.R.S.

(5) No later than August 1, 1989, the district shall submit to the highway legislation review committee optional plans which shall address the following objectives:

(a) To make the mass transportation operations of the district more demand-responsive;

(b) To demonstrate that the district has considered least-cost options for performing its service;

(c) To make recommendations regarding farebox recovery ratios; and

(d) To demonstrate improved commuter and to-and-from-work service.

(6) (Deleted by amendment, L. 2002, p. 866, § 3, effective August 7, 2002.)

(7) The district shall submit to the transportation legislation review committee any information, data, testimony, audits, or other information the committee may request.

Source: L. 89: Entire section added, p. 1318, § 1, effective June 5. **L. 93:** (2) amended, p. 352, § 1, effective April 12. **L. 94:** (4) and (7) amended, p. 622, § 3, effective April 14. **L. 2002:** (6) and (7) amended, p. 866, § 3, effective August 7.

32-9-119.8. Provision of retail and commercial goods and services at district transfer facilities - residential and other uses at district transfer facilities permitted - definitions. (1) As used in this section, unless the context otherwise requires:

(a) "Local zoning ordinance" means an applicable legislative act enacted by any municipality, county, or city and county in which a transfer facility is located that relates to the planning and zoning of real property.

(a.3) "Public entity" includes, but is not limited to, a public body, as that term is defined in section 32-9-103 (11), and any other governmental entity, agency, or official, including an urban renewal authority and the department of transportation.

(a.7) "Residential use or other use" means any residential use, as defined in section 38-33.3-103, C.R.S., or other use permitted by an applicable local zoning ordinance.

(b) "Transfer facility" means a public park-n-ride, bus terminal, light rail station, or other bus or rail transfer facility owned or operated by the district whether the property on which the facility is located is owned by the district or leased by the district from any other entity.

(2) Except as provided in subsection (2.5) of this section, the district may negotiate and enter into agreements with any person or public entity for the provision of retail and commercial goods and services to the public at transfer facilities or for the provision of residential uses or other uses at such facilities. The district itself shall not provide retail and commercial goods and services at transfer facilities pursuant to this section, except for the sale of mass transportation tickets, tokens, passes, and other transactions directly and necessarily related to the operation of a mass transportation system. The district may negotiate and enter into agreements with third parties to provide any of the goods and services or other uses contemplated under this section.

(2.5) The district shall notify and obtain the approval of the executive director of the department of transportation before negotiating and entering into any agreement with any person or public entity for the provision of retail and commercial goods and services to the public or the provision of residential uses or other uses at a transfer facility that is located on property that is owned by the department of transportation and leased to the district for the operation of such transfer facility.

(3) Any person obtaining the use of any portion of a transfer facility for the provision of retail or commercial goods or services or for the provision of residential uses or other uses shall be required to compensate the district by payment of rent at fair market value, or, at the discretion of the district, by the provision of services or capital improvements to facilities used in transit services, alone or in combination with rental payments, such that the total benefit to the district is not less than the fair market rental value of the property used by the person.

(4) The use of a transfer facility for the provision of retail or commercial goods or services or for the provision of residential uses or other uses shall not be permitted if the use would reduce transit services, would reduce the availability of adequate parking for the public, or, for uses involving the provision of retail or commercial goods or services, would result in a competitive disadvantage to a private business reasonably near a transfer facility engaging in the sale of similar goods or services. The provision of retail and commercial goods and services or the provision of residential uses or other uses at transfer facilities shall be designed to offer convenience to transit customers and shall be conducted in a manner that encourages multimodal access from all users.

(5) Any development of any portion of a transfer facility made available by the district for the provision of retail or commercial goods or services or for the provision of residential uses or other uses shall be subject to all applicable local zoning ordinances.

(6) Subject to subsection (2.5) of this section, section 43-3-101 (3), C.R.S., shall not bar the provision or sale of retail or commercial goods or services or the provision of residential uses or other uses conducted in accordance with the provisions of this section upon any property owned by the Colorado department of transportation and leased to the district for the operation of transfer facilities.

Source: L. 97: Entire section added, p. 342, § 1, effective April 19. **L. 99:** (2) and (6) amended and (2.5) added, p. 262, § 2, effective April 9. **L. 2010:** Entire section amended, (HB 10-1143), ch. 123, p. 408, § 1, effective August 11.

Cross references: For the legislative declaration contained in the 1999 act amending subsections (2) and (6) and enacting subsection (2.5), see section 1 of chapter 88, Session Laws of Colorado 1999.

32-9-119.9. Limited authority to charge fees for parking - reserved parking spaces - penalties - definitions. (1) (a) The district may charge a parking fee at a district parking facility for:

(I) A motor vehicle registered at an address outside the district;

(II) A motor vehicle left in the district parking facility for more than twenty-four hours; or

(III) Reserved parking.

(b) The district shall not charge a parking fee at a district parking facility pursuant to this subsection (1), prohibit parking pursuant to subsection (1.5) of this section, or enforce a penalty pursuant to subsection (4) of this section, which for purposes of this paragraph (b) includes treating a motor vehicle as abandoned, until it has posted signs warning of such parking fee, prohibition, or penalty at all entrances and exits to the facility for at least ninety days. The warning signs shall remain in place so long as the parking fee, prohibition, or penalty is in effect at the facility.

(c) The district shall be prohibited from requiring an individual to give any type of personal information, including, but not limited to, any motor vehicle registration or driver's license information in furtherance of the administration and enforcement of the parking fee imposed pursuant to this subsection (1); except that the district may require an individual to provide such personal information in order to use reserved parking or automatic payment services offered by the district.

(d) Except as otherwise provided by this section, the district shall not charge a person any type of fee, regardless of what it may be called, to park at a district parking facility.

(e) All parking fees established in this subsection (1) shall be payable in advance. Payment devices shall be available at all parking facilities at which parking fees are charged pursuant to this subsection (1). The district may establish customer accounts to permit persons who use a district parking facility to prepay parking fees.

(1.5) The district may establish rules prohibiting a person who is not using the mass transportation system from parking at a district parking facility.

(2) No more than fifteen percent of a district parking facility shall be set aside for reserved parking. The district may provide for reserved parking spaces at a facility for the use of its employees.

(3) This section shall not apply to a district parking facility for which a lease was entered into by the district prior to January 1, 2006, a facility where the district charged for parking prior to January 1, 2006, or a district parking facility at or related to Denver union station.

(4) (a) If a motor vehicle is parked at a district parking facility and the person who parks the motor vehicle either fails to pay a parking fee that is required by the district pursuant to the authority set forth in subsection (1) of this section or violates a rule established by the district

pursuant subsection (1.5) of this section, the district may impose a penalty on the owner of the vehicle for each day that the vehicle is parked at the facility. The penalty shall be twenty dollars for the first offense, fifty dollars for the second offense, and one hundred dollars for all subsequent offenses. The district shall give written notice to the owner of the penalty and shall notify the owner that he or she may, within fourteen days of the notice from the district, request a hearing to dispute the penalty. The hearing shall be held within thirty days after receipt of the request from the owner and may be conducted in person or by telephone. No person engaged in conducting the hearing or participating in a decision shall be responsible to or subject to the supervision or direction of any person engaged in the performance of parking management functions for the district.

(b) Any motor vehicle for which a penalty is assessed pursuant to paragraph (a) of this subsection (4) that is left unattended at the district parking facility for more than four days shall be considered an abandoned motor vehicle subject to the provisions of part 18 of article 4 of title 42, C.R.S.

(c) The board shall establish reasonable rules concerning the administration and enforcement of this section.

(5) In order to aid in the enforcement of this section and to allow the district to carry out its functions, the department of revenue or an authorized agent of the department shall allow the district to inspect, on an as-needed basis, any motor vehicle registration electronic database that includes the name and address of any registered owner. The inspection of these records by the district is consistent with uses set forth in section 24-72-204 (7)(b)(I), C.R.S., and shall be done in accordance with the provisions of part 2 of article 72 of title 24, C.R.S. The district shall maintain such registration information for one year and shall not release such information to any party other than to the registered owner or as necessary to enforce the penalty set forth in subsection (4) of this section. After one year, the district shall destroy the registration information.

(6) As used in this section, unless the context otherwise requires, "district parking facility" or "facility" means a park-n-ride lot or any other parking lot or structure owned or leased and operated by the district.

(7) A public or private entity may lease, own, or operate a parking lot or structure available for use by the general public at or near a district mass transit station. Unless such a parking lot or structure is operated under a contract with the district that specifies the terms of its use and operation and provides the district with a share of the parking revenues that it generates, the parking lot or structure is not a district parking facility.

(8) Other local governments and the district shall consult with each other prior to the establishment of zoning, other authorization by a governmental body, or contracts required for privately owned or managed parking facilities intended for users of the district's mass transportation system.

Source: L. 2006: Entire section added, p. 229, § 1, effective August 7. **L. 2007:** Entire section amended, p. 1000, § 1, effective July 1. **L. 2013:** (6) amended and (7) and (8) added, (SB 13-027), ch. 137, p. 449, § 2, effective April 26.

Cross references: For the legislative declaration in the 2013 act amending subsection (6) and adding subsections (7) and (8), see section 1 of chapter 137, Session Laws of Colorado 2013.

32-9-120. Levy of taxes - limitations. (1) Notwithstanding any other provision of law or this article to the contrary, no general ad valorem property taxes shall be levied, directly or indirectly, by the district under the provisions of this article, except for the payment of any annual deficit, if any, in the operation and maintenance expenses of the district, such levy not to exceed one-half mill on each dollar of valuation for assessment each year.

(2) Annually, the board shall determine the amount of money necessary to be raised by taxation for the coming year and shall fix a rate of levy, subject to the provisions of subsection (1) of this section, which rate when levied upon every dollar of valuation for assessment of taxable property within the district, together with any other unencumbered revenues and moneys of the district, shall raise that sum necessary to pay in full all interest and principal on securities of the district, except special obligations payable solely from the revenues of the district, and to pay, to the extent permitted by this section, all other obligations of the district that the district can pay under this article with taxes coming due within the coming year, but excluding any special obligations.

(3) The board shall certify to the counties of the district and the city and county of Denver, in accordance with the schedule prescribed by section 39-5-128, C.R.S., the rate so fixed in subsection (2) of this section, with directions to such counties and the city and county of Denver to levy and collect such taxes upon the taxable property within their respective counties or the city and county and to levy and collect such other taxes pursuant to section 32-9-121.

(4) Repealed.

Source: L. 69: p. 720, § 1. **C.R.S. 1963:** § 89-20-19. **L. 70:** p. 293, § 102. **L. 71:** p. 979, § 3. **L. 73:** p. 992, § 3. **L. 80:** (1) amended and (4) added, p. 683, § 5, effective May 1. **L. 81:** (1) amended, p. 1646, § 4, effective June 8. **L. 82:** (1) amended and (4) repealed, pp. 500, 502, §§ 4, 8, effective April 15. **L. 87:** (3) amended, p. 1407, § 4, effective April 22. **L. 2000:** (2) amended, p. 308, § 3, effective April 5.

32-9-121. Levies to cover deficiencies. In the event that the sum produced from general ad valorem property tax levies totaling less than the maximum levy authorized by section 32-9-120 (1), together with any unencumbered revenues and moneys of the district, are insufficient to pay, when due, installments on contracts and securities of the district and interest thereon and to pay defaults and deficiencies, the board shall make such additional levies of taxes as may be necessary, subject to the provisions and limitations of section 32-9-120 (1), until such contracts and securities and interest thereon are fully paid. In no case shall the mill levy exceed one-half mill. No levies shall be made pursuant to this section to pay any amount of special obligations of the district payable solely from sales taxes and the revenues, or a combination thereof, of the district.

Source: L. 69: p. 720, § 1. **C.R.S. 1963:** § 89-20-20. **L. 73:** p. 992, § 4. **L. 80:** Entire section amended, p. 683, § 6, effective May 1. **L. 81:** Entire section amended, p. 1646, § 5,

effective June 8. **L. 82:** Entire section amended, p. 500, § 5, effective April 15. **L. 2000:** Entire section amended, p. 308, § 4, effective April 5.

32-9-122. Levying and collecting taxes - lien. It is the duty of the body having authority to levy taxes within each county or city and county of the district to levy the taxes provided in sections 32-9-120 and 32-9-121. It is the duty of all officials charged with the duty of collecting taxes to collect such taxes at the time and in the form and manner and with like interest and penalties as other taxes are collected, and when collected, to pay the same to the district. The payment of such collection shall be made as soon as practical after collection to the treasurer of the district and paid into the depository thereof to the credit of the district. All taxes levied under this article, together with interest thereon and penalties for default in payment thereof, and all costs of collecting the same, shall constitute, until paid, a perpetual lien on and against the property taxed, and such lien shall be on a parity with the tax lien of other taxes.

Source: L. 69: p. 721, § 1. **C.R.S. 1963:** § 89-20-21.

Cross references: For collection of taxes, see article 10 of title 39.

32-9-123. Delinquent taxes. If the taxes levied are not paid, then delinquent real property shall be sold at the regular tax sale for the payment of said taxes, interest, and penalties, in the manner provided by the statutes of the state for selling real property for the nonpayment of taxes. If there are no bids at said tax sale for the property so offered, said property shall be struck off to the county, and the county shall account to the district in the same manner as provided by law for accounting for school, town, and city taxes. Delinquent personal property shall be distrained and sold as provided by law. Nothing in this article shall be construed as preventing the collection in full of the proceeds of all levies of taxes lawfully made by the district, including without limitation any delinquencies, interest, penalties, and costs.

Source: L. 69: p. 721, § 1. **C.R.S. 1963:** § 89-20-22.

Cross references: For the sale of tax liens, see article 11 of title 39.

32-9-123.5. Prohibition on borrowing by district. Notwithstanding any other provision of this article, the district shall not borrow money for the purpose of acquisition, construction, continuing construction, or operation of mass transit facilities during the period from January 1, 1990, through May 9, 1990, and, during such time period, the district shall not issue any district securities evidencing such borrowing.

Source: L. 90: Entire section added, p. 1514, § 1, effective April 3.

32-9-124. Forms of borrowing. Subject to the provisions of this article, the district, to carry out the purposes of this article, may borrow money and may issue the following district securities to evidence such borrowing: Notes, warrants, bonds, temporary bonds, refunding bonds, special obligation bonds, and interim notes.

Source: L. 69: p. 721, § 1. **C.R.S. 1963:** § 89-20-23.

32-9-125. Issuance of notes. The district may borrow money in anticipation of general ad valorem property taxes, sales taxes, or revenues, or a combination thereof, and issue notes to evidence the amount so borrowed.

Source: L. 69: p. 721, § 1. **C.R.S. 1963:** § 89-20-24. **L. 73:** p. 992, § 5.

32-9-126. Issuance of warrants. The district may defray the cost of any services or supplies, equipment, or other materials furnished to or for the benefit of the district by the issuance of warrants to evidence the amount due therefor in anticipation of general ad valorem property taxes, sales taxes, or revenues, or any combination thereof.

Source: L. 69: p. 721, § 1. **C.R.S. 1963:** § 89-20-25. **L. 73:** p. 993, § 6.

32-9-127. Maturities of notes and warrants. Notes and warrants may mature at such time not exceeding two years from the respective dates of their issuance as the board may determine. They shall not be extended or funded except by the issuance of bonds, special obligation bonds, or interim notes in compliance with sections 32-9-128 and 32-9-130.

Source: L. 69: p. 721, § 1. **C.R.S. 1963:** § 89-20-26. **L. 70:** p. 304, § 1.

32-9-128. Incurrence of special obligations. The district may borrow money in anticipation of the revenues and the sales tax proceeds of the district, but not the proceeds of any general ad valorem property taxes, and issue special obligation bonds to evidence the amount so borrowed. Any special obligation bonds or other obligations payable in whole or in part from the sales tax proceeds of the district or revenues of the district, or both, may be issued or incurred without an election, in anticipation of such sales tax proceeds or revenues, or both.

Source: L. 69: p. 721, § 1. **C.R.S. 1963:** § 89-20-27. **L. 70:** p. 293, § 103. **L. 73:** 993, § 7. **L. 82:** Entire section amended, p. 501, § 6, effective April 15. **L. 2000:** Entire section amended, p. 308, § 5, effective April 5.

32-9-128.5. Private activity and exempt facility bonds. (1) In order to maximize public and private participation in federal funding opportunities and opportunities for transportation infrastructure development, the district, in addition to the other powers granted by this article, shall have the following powers:

(a) Subject to the requirements specified in subsection (2) of this section, to issue private activity or exempt facility bonds as authorized by federal law; and

(b) To enter into agreements with private businesses under which:

(I) The district agrees to loan to a private business the net proceeds of private activity or exempt facility bonds issued so that the private business can finance all or a portion of a mass transportation system project that is owned by, leased from the district by, or operated by the private business; and

(II) The private business agrees that it has the sole responsibility to pay, either directly or indirectly through the district or a bond trustee, all financial obligations owed to bond holders and that it shall provide and maintain any reserve deemed necessary by the district to ensure that the financial obligations are paid.

(2) The private activity or exempt facility bonds issued by the district as authorized by paragraph (a) of subsection (1) of this section shall specify that bond holders may not look to any revenues of the district for repayment of the bonds. The bonds shall further specify that the only sources of repayment for the bonds are revenues provided by the private business, property of the private business, or credit enhancement obtained by the private business that may be pledged to the payment of the bonds. Because private activity or exempt facility bonds are payable only from said sources, such bonds shall not be deemed to create district indebtedness or a multiple-fiscal year obligation within the meaning of any provision of the state constitution or the laws of this state, and the district may issue such bonds without voter approval.

(3) Notwithstanding any other provision of law, the state or any state agency, county, municipality, or other municipal or quasi-municipal corporation or political subdivision may, in connection with a mass transportation system project financed by private activity or exempt facility bonds issued by the district, lend or grant money or any other form of real, personal, or mixed property directly to a private business developing or operating the project or indirectly to such a private business through the district and may enter into contracts to make such loans and grants, all upon terms and conditions the district or private business and the state, state agency, county, municipality, or municipal or quasi-municipal corporation or political subdivision may agree upon. If a loan or grant is paid indirectly to a private business through the district, the district shall forward the loan or grant to the private business immediately, and the loan or grant shall not be deemed to be revenues of the district.

(4) The provision of mass transportation services by private operators under contract to and operating within the district is not subject to regulation by the public utilities commission of the state of Colorado created in section 40-2-101 (1), C.R.S.

Source: L. 2008: Entire section added, p. 1073, § 1, effective August 5.

32-9-129. Issuance of temporary bonds. The district may, without an election, issue temporary bonds, pending preparation of definitive bonds and exchangeable for the definitive bonds when prepared, as the board may determine. Each temporary bond shall set forth substantially the same conditions, terms, and provisions as the definitive bond for which it is exchanged. Each holder of a temporary bond shall have all the rights and remedies which he would have as a holder of the definitive bond.

Source: L. 69: p. 722, § 1. **C.R.S. 1963:** § 89-20-29. **L. 73:** 993, § 8.

32-9-130. Issuance of interim notes. The district may borrow money and issue interim notes evidencing short-term loans for the acquisition or improvement and equipment of any mass transportation facility of the district in supplementation of long-term financing and the issuance of bonds, as provided in section 32-9-148.

Source: L. 69: p. 722, § 1. **C.R.S. 1963:** § 89-20-30. **L. 73:** 993, § 9.

32-9-131. Pledge of proceeds of sales taxes and revenues. The payment of district securities may be secured by the specific pledge of the proceeds of sales taxes or revenues, or both such taxes and revenues, of the district, as the board may determine. Revenues or sales taxes pledged for the payment of any securities, as received by the district, shall immediately be subject to the lien of each such pledge, without any physical delivery thereof, any filing, or further act, and the lien of each such pledge and the obligation to perform the contractual provisions made in the authorizing resolution or other instrument relating thereto shall have priority over all other obligations and liabilities of the district, except as may be otherwise provided in this article or in said resolution or instrument, and subject to any prior pledges and liens theretofore created. The lien of each such pledge shall be valid and binding as against all persons having claims of any kind in tort, contract, or otherwise against the district, irrespective of whether such persons have notice thereof.

Source: L. 69: p. 722, § 1. **C.R.S. 1963:** § 89-20-31. **L. 73:** 994, § 10. **L. 2000:** Entire section amended, p. 308, § 6, effective April 5.

32-9-132. Ranking among different issues. Except as otherwise provided in the authorizing resolution of the board, all securities of the same issue or series shall, subject to the prior rights of outstanding securities, claims, and other obligations, have a prior lien on the revenues pledged for the payment of the securities.

Source: L. 69: p. 722, § 1. **C.R.S. 1963:** § 89-20-32. **L. 2000:** Entire section amended, p. 309, § 7, effective April 5.

32-9-133. Ranking in same issue. All securities of the same issue or series shall be equally and ratably secured without priority by a lien on the revenues of the district in accordance with the provisions of this article and the authorizing resolution, or other instrument relating thereto, except to the extent such resolution or other instrument shall otherwise expressly provide.

Source: L. 69: p. 723, § 1. **C.R.S. 1963:** § 89-20-33. **L. 2000:** Entire section amended, p. 309, § 8, effective April 5.

32-9-134. Payment recital in securities. District securities issued under this article and constituting special obligations shall recite in substance that the securities and the interest thereon are payable solely from the revenues of the district or the sales tax proceeds of the district, or both, as the case may be, pledged to the payment thereof.

Source: L. 69: p. 723, § 1. **C.R.S. 1963:** § 89-20-34. **L. 73:** p. 994, § 13. **L. 2000:** Entire section amended, p. 309, § 9, effective April 5.

32-9-135. Incontestable recital in securities. Any authorizing resolution, or other instrument relating thereto under this article, may provide that each security therein designated shall recite that it is issued under authority of this article. Such recital shall conclusively impart

full compliance with all the provisions of this article, and all securities issued containing such recital shall be incontestable for any cause whatsoever after their delivery for value.

Source: L. 69: p. 723, § 1. **C.R.S. 1963:** § 89-20-35.

32-9-136. Limitation upon payment. The payment of securities shall not be secured by any encumbrance, mortgage, or other pledge of property of the district, other than revenues, proceeds of sales taxes, or any other moneys pledged for the payment of the securities. No property of the district, subject to said exception, shall be liable to be forfeited or taken in payment of the securities.

Source: L. 69: p. 723, § 1. **C.R.S. 1963:** § 89-20-36. **L. 73:** p. 994, § 14. **L. 2000:** Entire section amended, p. 309, § 10, effective April 5.

32-9-137. Security details. (1) Any district securities authorized to be issued in this article shall bear such date, shall be in such denomination, shall mature at such time, but in no event exceeding forty years from their date or any shorter limitation provided in this article, and shall bear interest at a rate such that the net effective interest rate of the issue of securities does not exceed the maximum net effective interest rate authorized, which interest may be evidenced by one or two sets of coupons payable annually or semiannually, except that the first interest payment date appertaining to any security may represent interest for any period not in excess of one year, as may be prescribed by resolution or other instrument. The securities and any coupons shall be payable in such medium of payment at any banking institution or such other place within or without the state as determined by the board, and the securities at the option of the board may be in one or more series, may be made subject to prior redemption in advance of maturity in such order or by lot or otherwise at such time without or with the payment of such premium, not exceeding seven percent of the principal amount of each security so redeemed, as determined by the board. For any securities the issuance of which does not require approval at an election pursuant to this article, the maximum net effective interest rate shall be established by the board prior to the sale and issuance of such securities.

(2) Any district securities may be issued with privileges for conversion or registration, or both, for payment as to principal or interest, or both, and where interest accruing on the securities is not represented by interest coupons, the securities may provide for the endorsing of payments of interest thereon, and the securities generally shall be issued in such manner, in such form, either coupon or registered, with such recitals, terms, covenants, and conditions, and with such other details, as may be provided by the board in the resolution authorizing the securities, or other instrument appertaining thereto, except as otherwise provided in this article.

(3) Any resolution authorizing the issuance of securities or any other instrument relating thereto may provide for their reissuance in other denominations in negotiable or nonnegotiable form and otherwise in such manner and form as the board may determine.

Source: L. 69: p. 723, § 1. **C.R.S. 1963:** § 89-20-38. **L. 70:** p. 294, § 105.

32-9-138. Negotiability. Subject to the payment provisions specifically provided in this article, any district securities and any interest coupons thereto attached shall be fully negotiable

within the meaning of and for all the purposes of article 8 of title 4, C.R.S., except as the board may otherwise provide.

Source: L. 69: p. 724, § 1. **C.R.S. 1963:** § 89-20-39.

32-9-139. Single bonds. (1) The board may:

(a) Provide for the initial issuance of one or more securities, in this section called "bond", aggregating the amount of the entire issue, or a designated portion thereof;

(b) Make such provision for installment payments of the principal amount of any such bond as the board may consider desirable;

(c) Provide for the making of any such bond payable to bearer or otherwise, registrable as to principal or as to both principal and interest, and where interest accruing thereon is not represented by interest coupons, for the endorsing of payments of interest on each such bond;

(d) Further make provision in any such proceedings for the manner and circumstances in which any such bond may in the future, at the request of the holder or owner thereof, be converted into securities of smaller denominations, which securities of smaller denominations may in turn be either coupon bonds or bonds registrable as to principal, or principal and interest, or both, at the option of the holder or owner.

Source: L. 69: p. 724, § 1. **C.R.S. 1963:** § 89-20-40. **L. 73:** p. 994, § 11.

32-9-140. Sale of securities. (1) Any securities authorized in this article, except for warrants not issued for cash, and except for temporary bonds issued pending preparation of definitive bonds, shall be sold at public or private sale for not less than the principal amount thereof and accrued interest, or at the board's option, below par, at a discount not exceeding seven percent of the principal amount thereof, but such securities shall never be sold at a price such that the net effective interest rate exceeds the maximum net effective interest rate authorized.

(2) No discount, except as provided in subsection (1) of this section, or commission shall be allowed or paid on or for any security sale to any purchaser or bidder, directly or indirectly.

Source: L. 69: p. 724, § 1. **C.R.S. 1963:** § 89-20-41. **L. 70:** p. 294, § 106.

32-9-141. Application of proceeds. All moneys received from the issuance of any securities authorized in this article shall be used solely for the purposes for which issued.

Source: L. 69: p. 724, § 1. **C.R.S. 1963:** § 89-20-42.

32-9-142. Use of unexpended proceeds. Any unexpended balance of such security proceeds remaining after the completion of the purposes for which such securities were issued shall be credited immediately to the fund or account created for the payment of the principal of said securities and shall be used therefor, subject to the provisions as to the times and methods for their payment as stated in the securities and the proceedings authorizing or otherwise appertaining to their issuance, or so paid into a reserve therefor.

Source: L. 69: p. 724, § 1. **C.R.S. 1963:** § 89-20-43.

32-9-143. Covenants in security proceedings. Any resolution or trust indenture authorizing the issuance of securities or any other instrument relating thereto may contain covenants and other provisions limiting the exercise of powers conferred by this article upon the board in order to secure the payment of such securities, in agreement with the holders and owners of such securities, as the board may determine.

Source: L. 69: p. 725, § 1. **C.R.S. 1963:** § 89-20-44.

32-9-144. Remedies of security holders. (1) Subject to contractual limitations binding upon the holders or owners of any issue or series of securities or trustee therefor and subject to any prior or superior rights of others, any holder or owner of securities or trustee therefor shall have the right and power for the equal benefit and protection of all holders and owners of securities similarly situated:

(a) By mandamus or other suit, action, or proceeding at law or in equity to enforce his rights against the district and its board and any of its officers, agents, and employees, and to require and compel the district or its board or any such officers, agents, or employees to perform and carry out their duties, obligations, or other commitments under this article and their covenants and agreements with the holder or owner of any security;

(b) By action or suit in equity to require the district and its board to account as if they were the trustee of an express trust;

(c) By action or suit in equity to have appointed a receiver, which receiver may enter and take possession of any revenues or any proceeds of taxes, or both, pledged for the payment of the securities, prescribe sufficient fees derived therefrom, and collect, receive, and apply all revenues or other moneys pledged for the payment of the securities in the same manner as the district itself might do in accordance with the obligations of the district;

(d) By action or suit in equity to enjoin any acts or things which may be unlawful or in violation of the rights of the holder of any security and to bring suit thereupon.

Source: L. 69: p. 725, § 1. **C.R.S. 1963:** § 89-20-45. **L. 2000:** (1)(c) amended, p. 309, § 11, effective April 5.

32-9-145. Limitations upon liabilities. Neither the directors nor any person executing any district securities issued under this article shall be liable personally on the securities by reason of the issuance thereof. Securities issued pursuant to this article shall not in any way create or constitute any indebtedness, liability, or obligation of the state or of any political subdivision thereof, except the district, and nothing in this article shall be construed to authorize the district to incur any indebtedness on behalf of or in any way to obligate the state or any political subdivision thereof, except the district.

Source: L. 69: p. 725, § 1. **C.R.S. 1963:** § 89-20-46.

32-9-146. Interest after maturity. No interest shall accrue on any security authorized in this article after it becomes due and payable if funds for the payment of the principal of and the

interest on the security and any prior redemption premium due are available to a paying agent for such payment without default.

Source: L. 69: p. 725, § 1. **C.R.S. 1963:** § 89-20-47.

32-9-147. Refunding bonds. (1) Except as otherwise provided in this article, any bonds issued under this article may be refunded without an election, subject to the provisions concerning their payment and to any other contractual limitations in the proceedings authorizing their issuance or otherwise relating thereto.

(2) Any bonds issued for refunding purposes may either be delivered in exchange for the outstanding bonds authorized to be refunded or may be sold as provided in this article for the sale of other bonds.

(3) No bonds may be refunded under this article unless the holders thereof voluntarily surrender them for exchange or payment or unless they either mature or are callable for prior redemption under their terms within ten years from the date of issuance of the refunding bonds. Provision shall be made for paying the bonds within said period of time. No maturity of any bonds refunded may be extended over fifteen years. The rate of interest on such refunding bonds shall be determined by the board. The principal amount of the refunding bonds may exceed the principal amount of the refunded bonds if the aggregate principal and interest costs of the refunding bonds do not exceed such unaccrued costs of the bonds refunded, except the extent any interest on the bonds refunded in arrears or about to become due is capitalized with the proceeds of the refunding bonds. The principal amount of the refunding bonds may also be less than or the same as the principal amount of the bonds refunded so long as provision is duly and sufficiently made for their payment.

(4) The proceeds of refunding bonds shall either be immediately applied to the retirement of the bonds to be refunded or be placed in escrow or in trust to be applied to the payment of the bonds refunded upon their presentation therefor. Any proceeds held in escrow or in trust, pending such use, may be invested or reinvested in securities meeting the investment requirements established in part 6 of article 75 of title 24, C.R.S. Such proceeds and investments in escrow or in trust, together with any interest or other gain to be derived from any such investment, shall be in an amount at all times sufficient as to principal, interest, any prior redemption premium due, and any charges of the escrow agent or trustee payable therefrom to pay the bonds refunded as they become due at their respective maturities or due at designated prior redemption dates upon which the board shall be obligated to call the refunded bonds for prior redemption.

(5) Except as otherwise provided in this article, the relevant provisions pertaining to bonds generally shall be equally applicable in the authorization and issuance of refunding bonds, including their terms and security, the bond resolution, trust indenture, taxes, and revenues, and other aspects of the bonds.

Source: L. 69: p. 725, § 1. **C.R.S. 1963:** § 89-20-48. **L. 70:** p. 294, § 107. **L. 73:** pp. 994, 995, §§ 12, 16. **L. 89:** (4) amended, p. 1120, § 42, effective July 1.

32-9-148. Issuance of interim notes. (1) Whenever a proposal to issue bonds for any purpose authorized in this article has been approved at an election held in accordance with this

article, the district may borrow money without any other election in anticipation of sales taxes or of the receipt of the proceeds of said bonds and to issue interim notes to evidence the amount so borrowed; except that the aggregate amount of the interim notes may not exceed the amount so authorized by the election. Any interim notes may mature at such time not exceeding a period of time equal to the estimated time needed to effect the purposes for which the bonds are authorized to be issued, plus two years, as the board may determine. Except as otherwise provided in this section, interim notes shall be issued as provided in this article for district securities.

(2) Sales taxes, proceeds of bonds to be thereafter issued or reissued, and bonds issued for the purpose of securing the payment of interim notes, or any combination thereof, may be pledged for the purpose of securing the payment of the interim notes. Any bonds pledged as collateral security for the payment of any interim notes shall mature at such time as the board may determine, but in no event exceeding forty years from the date of either any of such bonds or any of such interim notes, whichever date is the earlier. Any such bonds pledged as collateral security shall not be issued in an aggregate principal amount exceeding the aggregate principal amount of the interim notes or interim notes secured by a pledge of such bonds, nor shall they bear interest at any time which, with any interest accruing at the same time on the interim notes so secured, exceeds the maximum net effective interest rate authorized.

(3) For the purpose of funding any interim notes, any bonds pledged as collateral security to secure the payment of such interim notes, upon their surrender as pledged property, may be reissued without an election, and any bonds not previously issued but authorized to be issued at an election may be issued for such a funding. Any such bonds shall mature at such time as the board may determine, but in no event exceeding forty years from the date of either any of the interim notes so funded or any of the bonds so pledged as collateral security, whichever date is earlier. Bonds may be issued separately or issued in combination in one series or more. Except as otherwise provided in this section any such funding bonds shall be issued as is provided in this article for district securities.

(4) No interim note issued pursuant to the provisions of this section shall be extended or funded except by the issuance or reissuance of a bond in compliance with the provisions of this section.

Source: L. 69: p. 726, § 1. **C.R.S. 1963:** § 89-20-49. **L. 70:** p. 295, § 108. **L. 73:** p. 994, § 15.

32-9-149. Elections. (1) Where in this article an election is permitted or required, the election shall be held concurrently or jointly with any general election held under the laws of this state or in accordance with article 41 of title 1, C.R.S., as applicable.

(2) Repealed.

Source: L. 69: p. 727, § 1. **C.R.S. 1963:** § 89-20-50. **L. 70:** p. 296, § 109. **L. 81:** (2) amended, p. 1626, § 33, effective July 1. **L. 83:** Entire section R&RE, p. 1283, § 4, effective June 3. **L. 86:** (2) repealed, p. 1221, § 31, effective May 30. **L. 92:** (1) amended, p. 911, § 164, effective January 1, 1993. **L. 94:** (1) amended, p. 1325, § 4, effective May 25.

32-9-150. Election resolution. (1) The board shall call any election by resolution adopted at least thirty days prior to the election. The resolution shall recite:

(a) The objects and purposes of the election for which the indebtedness is proposed to be incurred;

(b) The estimated cost;

(c) How much, if any, of said estimated cost is to be defrayed out of any federal grant or money other than that received from indebtedness to be incurred;

(d) The estimated additional annual cost of operation and maintenance of any facility, the acquisition of which the indebtedness, in whole or in part, is to be incurred;

(e) The amount of principal of the indebtedness to be incurred therefor, and the maximum net effective interest rate to be paid on such indebtedness;

(f) The date upon which the election shall be held; and

(g) The name of the designated election official who shall be responsible for conducting the election pursuant to articles 1 to 13 of title 1, C.R.S.

(2) and (3) (Deleted by amendment, L. 92, p. 911, § 165, effective January 1, 1993.)

Source: L. 69: p. 727, § 1. **C.R.S. 1963:** § 89-20-51. **L. 70:** p. 296, § 110. **L. 92:** IP(1), (1)(f), (2), and (3) amended and (1)(g) added, p. 911, § 165, effective January 1, 1993.

32-9-151. Conduct and costs of elections. (1) Except as otherwise provided in this article, any district election shall be held and conducted in accordance with articles 1 to 13 of title 1, C.R.S.

(2) The district shall reimburse each affected county for all true and actual costs of conducting a district election pursuant to sections 1-5-505 and 1-5-506, C.R.S.

Source: L. 69: p. 728, § 1. **C.R.S. 1963:** § 89-20-52. **L. 70:** p. 296, §§ 111, 112. **L. 71:** pp. 962, 963, §§ 10, 11. **L. 73:** p. 989, § 6. **L. 77:** (5) amended, p. 233, § 9, effective June 19; (8) amended, p. 1513, § 76, effective July 15. **L. 80:** (3) and (9) amended, p. 415, § 28, effective February 21. **L. 83:** Entire section R&RE, p. 1284, § 5, effective June 3. **L. 92:** Entire section amended, p. 911, § 166, effective January 1, 1993. **L. 93:** (2) amended, p. 1791, § 80, effective June 6.

32-9-152. Notice of election. (Repealed)

Source: L. 69: p. 729, § 1. **C.R.S. 1963:** § 89-20-53. **L. 83:** Entire section repealed, p. 1284, § 6, effective June 3.

32-9-153. Polling places. (Repealed)

Source: L. 69: p. 729, § 1. **C.R.S. 1963:** § 89-20-54. **L. 83:** Entire section repealed, p. 1284, § 6, effective June 3.

32-9-154. Election supplies. (Repealed)

Source: L. 69: p. 729, § 1. **C.R.S. 1963:** § 89-20-55. **L. 70:** p. 297, § 113. **L. 77:** Entire section amended, p. 1513, § 77, effective July 15. **L. 83:** Entire section repealed, p. 1284, § 6, effective June 3.

32-9-155. Election returns. (Repealed)

Source: L. 69: p. 729, § 1. **C.R.S. 1963:** § 89-20-56. **L. 70:** p. 297, § 114. **L. 71:** p. 963, § 12. **L. 83:** Entire section repealed, p. 1284, § 6, effective June 3.

32-9-156. District - tax exempted. The district shall be exempted from any general ad valorem taxes upon any property of the district acquired and used for purposes of this article.

Source: L. 69: p. 730, § 1. **C.R.S. 1963:** § 89-20-57.

32-9-157. Dissolution of district. (Repealed)

Source: L. 69: p. 730, § 1. **C.R.S. 1963:** § 89-20-58. **L. 72:** p. 483, § 7. **L. 73:** p. 989, § 7. **L. 76:** (4) and (5) amended, p. 603, § 23, effective July 1. **L. 83:** Entire section repealed, p. 1284, § 6, effective June 3.

32-9-158. Merger, consolidation, or assumption of district. Nothing in this article shall be construed to prevent the merger, consolidation, or assumption of the regional transportation district with, into, or by any other district, authority, or political subdivision of the state that may be authorized and formed pursuant to the laws and constitution of the state of Colorado, so long as adequate and equitable provisions are made upon merger, consolidation, or assumption for the discharge of all obligations of the district and for the protection of the rights of all holders of securities of the district.

Source: L. 69: p. 731, § 1. **C.R.S. 1963:** § 89-20-61.

32-9-159. Freedom from judicial process. (1) Execution or other judicial process shall not issue against any property of the district authorized in this article, nor shall any judgment against the district be a charge or lien upon its property.

(2) Subsection (1) of this section does not apply to or limit the right of the holder or owner of any district securities, his trustee, or any assignee of all or part of this interest, the federal government or any public body when it is a party to any contract with the district, and any other obligee under this article to foreclose, to enforce, or to pursue any remedies for the enforcement of any pledge or lien given by the district on the proceeds of any taxes or revenues or both, or on any other moneys of the district.

Source: L. 69: p. 730, § 1. **C.R.S. 1963:** § 89-20-59.

32-9-160. Misdemeanors. (1) Any person who wrongfully damages, injures, or destroys, or in any manner impairs the usefulness of any facility, property, structure, improvement, equipment, or other property of the district acquired under the provisions of this article, or who wrongfully interferes with any officer, agent, or employee of the district in the proper discharge of his duties is guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of not more than three hundred dollars, or by imprisonment in the county jail for not more than ninety days, or by both such fine and imprisonment.

(2) If the district is damaged by any such act, it may also bring a civil action for damages sustained by any such act, and in such proceeding the prevailing party shall also be entitled to reasonable attorneys' fees and costs of court.

Source: L. 69: p. 731, § 1. **C.R.S. 1963:** § 89-20-60.

32-9-161. Eminent domain. (1) Subsequent to approval of incurrence of debt and issuance of securities in an election held pursuant to section 32-9-108, the power of eminent domain vested in the district shall include, but not be limited to, the power to condemn, in the name of the district:

(a) Either the fee simple or any lesser estate or interest in any real property which the board by resolution determines is necessary for carrying out the purposes of this article; such resolution shall be prima facie evidence that the condemnation of the fee simple, or other lesser estate or interest in real property, is necessary for carrying out the purposes of this article;

(b) Any property necessary to carry out any of the purposes of this article, even if such property is already devoted to the same use by any person or public body, except the federal government unless the federal government consents to such condemnation; and

(c) Any existing transportation system of any person or public body in the district in use.

(2) The district shall not abandon any condemnation proceedings after the date upon which the district took possession of the property condemned.

Source: L. 73: p. 986, § 4. **C.R.S. 1963:** § 89-20-63.

Editor's note: Section 32-9-108, which is referenced in subsection (1) of this section, was repealed by L. 83, p. 1284, § 6. The election formerly detailed in that section, concerning authorizing the district to issue securities, payable from a district-wide sales tax, for the development of a multimodal mass transportation system was held September 7, 1973.

32-9-162. Money management. The district has the authority to structure and transact its banking affairs in a manner most financially advantageous to the district, consistent with prevailing prudent business practice. The district may conduct its banking affairs with any banking or other state or federally regulated financial institution, which is federally insured, whether such bank or other financial institution is within or without the district.

Source: L. 85: Entire section added, p. 1120, § 2, effective May 5.

32-9-163. Investment management. (1) In addition to the authority granted the district under section 32-9-119 (1)(n), (1)(o), and (1)(p), the district may invest its moneys in any of the following:

(a) Obligations of the United States government or its agencies and instrumentalities;

(b) Certificates of deposit or other evidences of deposit or investment of a bank, a savings and loan association, or any other state or federally regulated financial institution, which is federally insured;

(c) Bankers' acceptances drawn on and accepted by commercial banks;

(d) Collateralized prime commercial paper;

(e) Repurchase agreements and reverse repurchase agreements the underlying collateral of which consists of the instruments set forth in paragraphs (a) to (d) of this subsection (1);

(f) Money market mutual funds the portfolios of which consist of the instruments set forth in paragraphs (a) to (d) of this subsection (1);

(g) Securities of the district.

(2) In addition to the investments authorized by subsection (1) of this section, the district, for purposes of hedging against interest rate risk only and not for speculation, may enter into contractual arrangements involving debt futures and options on debt futures only on obligations of the United States government.

(3) Investment decisions shall be made with the judgment and care, under circumstances then prevailing, which persons of prudence, discretion, and intelligence exercise in the management of their own affairs and shall not be made for speculation but shall be made for investment, considering the probable credit quality of their capital as well as the probable income to be derived.

(4) The district shall establish a written investment policy with respect to investing the moneys of the district. The investment policy shall address, but shall not be limited to, liquidity, diversification, credit quality of principal, yield, maturity, and quality and capability of investment management, with primary emphasis on credit quality and liquidity.

Source: L. 85: Entire section added, p. 1120, § 2, effective May 5.

32-9-164. Custodians. For purposes of making deposits or investments, the board may appoint, by written resolution, one or more persons to act as custodians of the moneys of the district, who shall give surety bonds in such amounts and form and for such purposes as the board requires.

Source: L. 85: Entire section added, p. 1120, § 2, effective May 5.

ARTICLE 9.5

Transit Construction Authority

32-9.5-101 to 32-9.5-110. (Repealed)

Source: L. 89: Entire article repealed, p. 1321, § 2, effective August 1.

Editor's note: This article was added in 1987. For amendments to this article prior to its repeal in 1989, consult the Colorado statutory research explanatory note and the table itemizing the replacement volumes and supplements to the original volume of C.R.S. 1973 beginning on page vii in the front of this volume.

Cross references: For the holding that the transit construction authority (prior to its repeal in 1989) was not a service authority within the meaning of § 17 of article XIV of the Colorado constitution, see Anema v. Transit Const. Authority, 788 P.2d 1261 (Colo. 1990).

ARTICLE 9.7

Mass Transportation

32-9.7-101. Definitions. For purposes of this article, unless the context otherwise requires:

(1) "Mass transportation project" means any project which transports the general public by bus, rail, air, high occupancy vehicle lane, or any other means of conveyance provided for in article 9 of this title.

Source: L. 89: Entire article added, p. 1320, § 1, effective August 8.

32-9.7-102. Mass transportation account. There is hereby created in the state treasury a mass transportation account which shall consist of all of the unexpended revenues collected by the board of the transit construction authority as of August 1, 1989, which revenues were collected pursuant to the authority of such board to impose assessments on property or persons. Such revenues shall be transmitted to the state treasurer for deposit into a separate interest-bearing mass transportation account for the construction of mass transportation projects in the corridors from which such funds were collected. The expenditure of such funds shall only be made with the approval of the general assembly. Any other use of these funds shall require a two-thirds majority vote of both houses of the general assembly. The mass transportation account created in this section shall accumulate interest and shall be kept separate from all other accounts in the state treasury, and it shall be identified separately from all other revenues in the state treasury. All reports, studies, plans, documents, books, financial records, audits, and any other information compiled by the transit construction authority shall be transferred to the director of research of the legislative council, and such information shall be identified separately from all other information relating to mass transportation issues and shall be made available to the public upon request.

Source: L. 89: Entire article added, p. 1320, § 1, effective August 8.

Editor's note: The transit construction authority was terminated on August 1, 1989. See chapter 291, Session Laws of Colorado 1989.

Cross references: For the appropriation made from the mass transportation account to the corrections expansion reserve fund, see § 17-1-117, as said section existed prior to its repeal in 2000.

ARTICLE 10

Three Lakes Water and Sanitation District Act

32-10-101. Short title. This article shall be known and may be cited as the "Three Lakes Water and Sanitation District Act".

Source: L. 71: p. 1002, § 1. **C.R.S. 1963:** § 89-24-1.

32-10-102. Legislative declaration. (1) The general assembly determines, finds, and declares that:

(a) Certain areas in this state possess natural characteristics which make them attractive for the building of seasonal homes and tourist facilities. There is an increasing need to build public facilities in such areas in order to accommodate the needs of the seasonal population. Many of these areas contain large federal land holdings which attract seasonal users. The increasing public use in such areas is leading to serious water quality problems, a factor of concern to all the citizens of this state. Such an area is the three lakes area of Grand county, surrounding Grand lake, Shadow Mountain lake, and lake Granby. The general assembly thus declares that the creation of this district promotes the health, comfort, convenience, safety, and welfare of all the people of the state and visitors to the state, and will be of special benefit to the inhabitants of the district and the property therein.

(b) All property to be acquired by the district under this article shall be owned, operated, administered, and maintained for and on behalf of all of the people of the district;

(c) The provision in this article for the purposes, powers, duties, privileges, immunities, rights, liabilities, and disabilities concerning the district will serve a public use;

(d) The district created by this article is a body corporate and politic, a political subdivision of the state, and a municipal corporation with the powers provided in this article;

(e) Any notice provided for in this article for any purpose is reasonably calculated to inform each person who has a legally protected interest which may be directly and adversely affected by any proceedings under this article;

(f) The necessity for this article results from the population, growth, and development in the area included by this article and from the resultant pollution of Grand lake, Shadow Mountain lake, and lake Granby;

(g) A general law cannot be made applicable to the district, and to properties, powers, duties, privileges, immunities, rights, liabilities, and disabilities pertaining thereto as provided in this article, because of the number of atypical factors and special conditions concerning them;

(h) The powers, privileges, and rights granted in this article and the duties, immunities, liabilities, and disabilities provided in this article comply in all respects with any requirement or limitation imposed by any constitutional provision;

(i) For the accomplishment of the purposes provided in this section, the provisions of this article shall be broadly construed.

Source: L. 71: p. 1002, § 1. **C.R.S. 1963:** § 89-24-2.

32-10-103. Definitions. (Repealed)

Source: L. 71: p. 1003, § 1. **C.R.S. 1963:** § 89-24-3. **L. 77:** (7) amended, p. 1513, § 78, effective July 15. **L. 87:** IP(5)(a), (5)(a)(II), and (5)(b) amended, p. 337, § 107, effective July 1. **L. 92:** (4), (5)(a), (7), (10), and (13) amended and (2.5) added, p. 912, § 167, effective January 1, 1993. **L. 94:** (5)(a)(I) amended, p. 1775, § 46, effective January 1, 1995. **L. 97:** Entire section repealed, p. 1095, § 8, effective May 27.

32-10-104. Creation of district. There is hereby created a district known and designated as the "three lakes water and sanitation district".

Source: L. 71: p. 1004, § 1. **C.R.S. 1963:** § 89-24-4.

32-10-105. Boundaries of district. The area comprising the district shall consist of the lands located in Grand county, described as follows:

Beginning at the NE corner Section 1, T. 4 N., R. 76 W., of the 6th principal meridian; thence southerly along the east lines of Sections 1, 12, 13, 24, and 25, all in T. 4 N., R. 76 W., to the SE corner of said Section 25; thence easterly along the north lines of Sections 31 and 32, T. 4 N., R. 75 W., to the NE corner of said Section 32; thence southerly along the east line of Section 32, T. 4 N., R. 75 W., to the SE corner of said Section 32; thence easterly along the north line of Section 4, T. 3 N., R. 75 W., to the N 1/4 corner of said Section 4; thence southerly along the north-south centerlines of Section 4 and Section 9, T. 3 N., R. 75 W., to the center of said Section 9; thence westerly along the east-west centerlines of Sections 9, 8, and 7, T. 3 N., R. 75 W., to a point on the easterly shoreline of Shadow Mountain lake; thence southerly along the easterly shoreline of Shadow Mountain lake through Sections 7, 18, and 19, T. 3 N., R. 75 W., to the Shadow Mountain lake dam at the centerline of the Colorado river, in said Section 19; thence southerly along the centerline of the Colorado river, Columbine bay, and Grand bay of lake Granby through Sections 19, 30, 29, and 32, T. 3 N., R. 75 W., to a point on the south line of said Section 32, which line is also the north line of Section 5, T. 2 N., R. 75 W.; thence easterly along the north line of said Section 5 to the NE corner of Section 5, T. 2 N., R. 75 W.; thence southerly along the east lines of Sections 5 and 8, T. 2 N., R. 75 W., to the E 1/4 corner of said Section 8; thence easterly along the east-west centerline of Section 9, T. 2 N., R. 75 W., to the E 1/4 corner of said Section 9; thence southerly along the east line of Section 9, T. 2 N., R. 75 W., to the SE corner of said Section 9; thence easterly along the north lines of Sections 15 and 14, T. 2 N., R. 75 W., to the NE corner of said Section 14; thence southerly along the east lines of Sections 14 and 23, T. 2 N., R. 75 W., to the SE corner of said Section 23; thence westerly along the south lines of Sections 23, 22, and 21, T. 2 N., R. 75 W., to the S 1/4 corner of said Section 21; thence northerly along the north-south centerline of said Section 21 to the S 1/4 corner of Section 16, T. 2 N., R. 75 W.; thence westerly along the south lines of Sections 16, 17, and 18, T. 2 N., R. 75 W., and Sections 13, 14, and 15, T. 2 N., R. 76 W., to the SW corner of said Section 15; thence northerly along the west lines of Sections 15, 10, and 3, T. 2 N., R. 76 W., to the W 1/4 corner of said Section 3; thence westerly along the east-west centerline of Section 4, T. 2 N., R. 76 W., to the center of said Section 4; thence northerly along the north-south centerline of said Section 4, T. 2 N., R. 76 W., and the north-south centerline of Section 33, T. 3 N., R. 76 W., to the center of said Section 33; thence westerly along the east-west centerlines of Sections 33, 32, and 31, T. 3 N., R. 76 W., to the W 1/4 corner of said Section 31; thence northerly along the west line of Section 31, T. 3 N., R. 76 W., to the NW corner of said Section 31; thence easterly along the north line of said Section 31, T. 3 N., R. 76 W., to the N 1/4 corner of said Section 31; thence northerly along the north-south centerline of Section 30, T. 3 N., R. 76 W., to the N 1/4 corner of said Section 30; thence easterly along the north line of Section 30, T. 3 N., R. 76 W., to the NE corner of said Section 30; thence northerly along the west line of Section 20, T. 3 N., R. 76 W., to the NW corner of said Section 20; thence easterly along the north lines

of Sections 20, 21, and 22, T. 3 N., R. 76 W., to the NE corner of said Section 22; thence northerly along the west lines of Sections 14 and 11, T. 3 N., R. 76 W., to the NW corner of said Section 11; thence easterly along the north line of Section 11, T. 3 N., R. 76 W., to the N 1/4 corner of said Section 11; thence northerly along the north-south centerlines of Section 2, T. 3 N., R. 76 W., and Section 35, T. 4 N., R. 76 W., to the N 1/4 corner of said Section 35; thence easterly along the north line of Section 35, T. 4 N., R. 76 W., to the NE corner of said Section 35; thence northerly along the west lines of Sections 25, 24, and 13, T. 4 N., R. 76 W., to the NW corner of said Section 13; thence westerly along the south line of Section 11, T. 4 N., R. 76 W., to the S 1/4 corner of said Section 11; thence northerly along the north-south centerlines of Sections 11 and 2, T. 4 N., R. 76 W., to the N 1/4 corner of said Section 2; thence easterly along the north lines of Sections 2 and 1, T. 4 N., R. 76 W., to the NE corner of said Section 1, the point of beginning; and the above description contains 59.25 square miles, more or less, including water surface areas.

Source: L. 71: p. 1004, § 1. **C.R.S. 1963:** § 89-24-5.

32-10-106. Board of directors - initial appointment. (Repealed)

Source: L. 71: p. 1006, § 1. **C.R.S. 1963:** § 89-24-6. **L. 92:** Entire section amended, p. 912, § 168, effective January 1, 1993. **L. 97:** Entire section repealed, p. 1095, § 8, effective May 27.

32-10-107. Board to file oath and bond. (Repealed)

Source: L. 71: p. 1006, § 1. **C.R.S. 1963:** § 89-24-7. **L. 97:** Entire section repealed, p. 1095, § 8, effective May 27.

32-10-108. Oath and bond of directors. (Repealed)

Source: L. 71: p. 1026, § 1. **C.R.S. 1963:** § 89-24-72. **L. 92:** Entire section amended, p. 913, § 169, effective January 1, 1993. **L. 97:** Entire section repealed, p. 1095, § 8, effective May 27.

32-10-109. Organization of board - compensation - audit - removal. (Repealed)

Source: L. 71: p. 1006, § 1. **C.R.S. 1963:** § 89-24-8. **L. 77:** (4)(a) amended, p. 1513, § 79, effective July 15. **L. 96:** (4) amended, p. 549, § 2, effective April 24. **L. 97:** Entire section repealed, p. 1095, § 8, effective May 27.

32-10-110. Meetings - vacancies. (Repealed)

Source: L. 71: p. 1007, § 1. **C.R.S. 1963:** § 89-24-9. **L. 90:** (1)(c) amended, p. 1499, § 9, effective July 1. **L. 91:** IP(1)(c) amended, p. 821, § 8, effective June 1. **L. 92:** (3) amended, p. 913, § 170, effective January 1, 1993. **L. 97:** Entire section repealed, p. 1095, § 8, effective May 27.

32-10-111. Directors - number - election - term. (Repealed)

Source: L. 71: p. 1017, § 1. **C.R.S. 1963:** § 89-24-34. **L. 92:** Entire section amended, p. 913, § 171, effective January 1, 1993. **L. 97:** Entire section repealed, p. 1095, § 8, effective May 27.

32-10-112. Vacancies. (Repealed)

Source: L. 71: p. 1027, § 1. **C.R.S. 1963:** § 89-24-77. **L. 92:** (1)(a) and (3) amended, p. 914, § 172, effective January 1, 1993. **L. 97:** Entire section repealed, p. 1095, § 8, effective May 27.

32-10-113. Qualifications and nominations of candidates for district directors. (Repealed)

Source: L. 71: p. 1018, § 1. **C.R.S. 1963:** § 89-24-37. **L. 75:** (2) amended, p. 221, § 71, effective July 16. **L. 92:** Entire section amended, p. 914, § 173, effective January 1, 1993. **L. 97:** Entire section repealed, p. 1095, § 8, effective May 27.

32-10-114. Objections to nominations. (Repealed)

Source: L. 71: p. 1018, § 1. **C.R.S. 1963:** § 89-24-38. **L. 92:** Entire section repealed, p. 924, § 198, effective January 1, 1993.

32-10-115. General powers. (Repealed)

Source: L. 71: p. 1007, § 1. **C.R.S. 1963:** § 89-24-10. **L. 79:** (1)(q) added, p. 1626, § 43, effective June 8. **L. 97:** Entire section repealed, p. 1095, § 8, effective May 27.

32-10-116. Contracts of district - requirements. (Repealed)

Source: L. 71: p. 1009, § 1. **C.R.S. 1963:** § 89-24-11. **L. 97:** Entire section repealed, p. 1095, § 8, effective May 27.

32-10-117. Water, sanitation - charge for availability - power to compel connection. (Repealed)

Source: L. 71: p. 1009, § 1. **C.R.S. 1963:** § 89-24-12. **L. 97:** Entire section repealed, p. 1095, § 8, effective May 27.

32-10-118. Water and sanitation - right to sell or lease water. (Repealed)

Source: L. 71: p. 1010, § 1. **C.R.S. 1963:** § 89-24-13. **L. 97:** Entire section repealed, p. 1095, § 8, effective May 27.

32-10-119. Construction of facilities - duties. (Repealed)

Source: L. 71: p. 1010, § 1. **C.R.S. 1963:** § 89-24-14. **L. 97:** Entire section repealed, p. 1095, § 8, effective May 27.

32-10-120. Revenues of district - collection. (Repealed)

Source: L. 71: p. 1010, § 1. **C.R.S. 1963:** § 89-24-15. **L. 97:** Entire section repealed, p. 1095, § 8, effective May 27.

32-10-121. Levy and collection of taxes. (Repealed)

Source: L. 71: p. 1011, § 1. **C.R.S. 1963:** § 89-24-16. **L. 77:** (3) amended, p. 1514, § 80, effective July 15. **L. 97:** Entire section repealed, p. 1095, § 8, effective May 27.

32-10-122. Levies to cover deficiencies. (Repealed)

Source: L. 71: p. 1011, § 1. **C.R.S. 1963:** § 89-24-17. **L. 97:** Entire section repealed, p. 1095, § 8, effective May 27.

32-10-123. Inclusion in or exclusion from district - procedures. (Repealed)

Source: L. 71: p. 1011, § 1. **C.R.S. 1963:** § 89-24-18. **L. 81:** (1) amended, p. 1626, § 34, effective July 1. **L. 92:** (6)(c) amended, p. 914, § 174, effective January 1, 1993. **L. 97:** Entire section repealed, p. 1095, § 8, effective May 27.

32-10-124. Court proceedings - inclusion - exclusion. (Repealed)

Source: L. 71: p. 1013, § 1. **C.R.S. 1963:** § 89-24-19. **L. 93:** (1.5) added, p. 84, § 3, effective March 29. **L. 97:** Entire section repealed, p. 1095, § 8, effective May 27.

32-10-125. Effect of inclusion or exclusion. (Repealed)

Source: L. 71: p. 1014, § 1. **C.R.S. 1963:** § 89-24-20. **L. 97:** Entire section repealed, p. 1095, § 8, effective May 27.

32-10-126. Power to issue revenue bonds - terms. (Repealed)

Source: L. 71: p. 1014, § 1. **C.R.S. 1963:** § 89-24-21. **L. 97:** Entire section repealed, p. 1095, § 8, effective May 27.

32-10-127. Power to incur indebtedness - interest - maturity - denominations. (Repealed)

Source: L. 71: p. 1014, § 1. **C.R.S. 1963:** § 89-24-22. **L. 97:** Entire section repealed, p. 1095, § 8, effective May 27.

32-10-128. Debt question submitted to electors - resolution. (Repealed)

Source: L. 71: p. 1015, § 1. **C.R.S. 1963:** § 89-24-23. **L. 92:** (1) and (2) amended, p. 915, § 175, effective January 1, 1993. **L. 97:** Entire section repealed, p. 1095, § 8, effective May 27.

32-10-129. Effect - subsequent elections. (Repealed)

Source: L. 71: p. 1015, § 1. **C.R.S. 1963:** § 89-24-24. **L. 92:** Entire section amended, p. 915, § 176, effective January 1, 1993. **L. 97:** Entire section repealed, p. 1095, § 8, effective May 27.

32-10-130. Correction of faulty notices. (Repealed)

Source: L. 71: p. 1016, § 1. **C.R.S. 1963:** § 89-24-25. **L. 97:** Entire section repealed, p. 1095, § 8, effective May 27.

32-10-131. Early hearings. (Repealed)

Source: L. 71: p. 1016, § 1. **C.R.S. 1963:** § 89-24-26. **L. 97:** Entire section repealed, p. 1095, § 8, effective May 27.

32-10-132. Refunding bonds. (Repealed)

Source: L. 71: p. 1016, § 1. **C.R.S. 1963:** § 89-24-27. **L. 97:** Entire section repealed, p. 1095, § 8, effective May 27.

32-10-133. Limitations upon issuance. (Repealed)

Source: L. 71: p. 1016, § 1. **C.R.S. 1963:** § 89-24-28. **L. 97:** Entire section repealed, p. 1095, § 8, effective May 27.

32-10-134. Use of proceeds of refunding bonds. (Repealed)

Source: L. 71: p. 1016, § 1. **C.R.S. 1963:** § 89-24-29. **L. 89:** Entire section amended, p. 1120, § 43, effective July 1. **L. 97:** Entire section repealed, p. 1095, § 8, effective May 27.

32-10-135. Combination of refunding and other bonds. (Repealed)

Source: L. 71: p. 1017, § 1. **C.R.S. 1963:** § 89-24-30. **L. 97:** Entire section repealed, p. 1095, § 8, effective May 27.

32-10-136. Board's determination final. (Repealed)

Source: L. 71: p. 1017, § 1. **C.R.S. 1963:** § 89-24-31. **L. 97:** Entire section repealed, p. 1095, § 8, effective May 27.

32-10-137. Board of directors of district to conduct elections. (Repealed)

Source: L. 71: p. 1017, § 1. **C.R.S. 1963:** § 89-24-32. **L. 92:** Entire section amended, p. 916, § 177, effective January 1, 1993. **L. 97:** Entire section repealed, p. 1095, § 8, effective May 27.

32-10-138. Persons entitled to vote at district elections. (Repealed)

Source: L. 71: p. 1017, § 1. **C.R.S. 1963:** § 89-24-33. **L. 87:** Entire section R&RE, p. 337, § 108, effective July 1. **L. 92:** (1) to (3), IP(4), and (4)(c) amended, p. 916, § 178, effective January 1, 1993. **L. 93:** (1) amended, p. 1791, § 81, effective June 6. **L. 94:** (4)(c) amended, p. 1643, § 70, effective May 31. **L. 97:** Entire section repealed, p. 1095, § 8, effective May 27.

32-10-139. Notice of election. (Repealed)

Source: L. 71: p. 1018, § 1. **C.R.S. 1963:** § 89-24-35. **L. 87:** Entire section R&RE, p. 338, § 109, effective July 1. **L. 92:** Entire section repealed, p. 924, § 198, effective January 1, 1993.

32-10-140. Copies of election laws and judges' instructions. (Repealed)

Source: L. 71: p. 1018, § 1. **C.R.S. 1963:** § 89-24-36. **L. 87:** Entire section amended, p. 338, § 110, effective July 1. **L. 92:** Entire section repealed, p. 924, § 198, effective January 1, 1993.

32-10-141. Judges of election. (Repealed)

Source: L. 71: p. 1018, § 1. **C.R.S. 1963:** § 89-24-39. **L. 92:** Entire section repealed, p. 924, § 198, effective January 1, 1993.

32-10-142. Oath of judges - compensation. (Repealed)

Source: L. 71: p. 1019, § 1. **C.R.S. 1963:** § 89-24-40. **L. 87:** (3) amended, p. 338, § 111, effective July 1. **L. 92:** Entire section repealed, p. 924, § 198, effective January 1, 1993.

32-10-143. Precincts and polling places. (Repealed)

Source: L. 71: p. 1019, § 1. **C.R.S. 1963:** § 89-24-41. **L. 77:** Entire section amended, p. 1514, § 81, effective July 15. **L. 92:** Entire section repealed, p. 924, § 198, effective January 1, 1993.

32-10-144. Ballots, ballot boxes, electronic voting, and voting machines. (Repealed)

Source: L. 71: p. 1019, § 1. **C.R.S. 1963:** § 89-24-42. **L. 77:** Entire section amended, p. 1514, § 82, effective July 15. **L. 92:** Entire section repealed, p. 924, § 198, effective January 1, 1993.

32-10-145. Arrangements for voting. (Repealed)

Source: L. 71: p. 1020, § 1. **C.R.S. 1963:** § 89-24-43. **L. 92:** Entire section repealed, p. 924, § 198, effective January 1, 1993.

32-10-146. Hours of voting. (Repealed)

Source: L. 71: p. 1020, § 1. **C.R.S. 1963:** § 89-24-44. **L. 92:** Entire section repealed, p. 924, § 198, effective January 1, 1993.

32-10-147. Watchers. (Repealed)

Source: L. 71: p. 1020, § 1. **C.R.S. 1963:** § 89-24-45. **L. 92:** Entire section repealed, p. 924, § 198, effective January 1, 1993.

32-10-148. Judge to keep pollbook. (Repealed)

Source: L. 71: p. 1021, § 1. **C.R.S. 1963:** § 89-24-46. **L. 92:** Entire section repealed, p. 924, § 198, effective January 1, 1993.

32-10-149. Preparing to vote - affidavit. (Repealed)

Source: L. 71: p. 1021, § 1. **C.R.S. 1963:** § 89-24-47. **L. 92:** Entire section repealed, p. 924, § 198, effective January 1, 1993.

32-10-150. Manner of voting in precincts which use paper ballots. (Repealed)

Source: L. 71: p. 1021, § 1. **C.R.S. 1963:** § 89-24-48. **L. 92:** Entire section repealed, p. 924, § 198, effective January 1, 1993.

32-10-151. Disabled voter - assistance. (Repealed)

Source: L. 71: p. 1021, § 1. **C.R.S. 1963:** § 89-24-49. **L. 92:** Entire section repealed, p. 924, § 198, effective January 1, 1993.

32-10-152. Spoiled ballots. (Repealed)

Source: L. 71: p. 1021, § 1. **C.R.S. 1963:** § 89-24-50. **L. 92:** Entire section repealed, p. 924, § 198, effective January 1, 1993.

32-10-153. Count and certification of votes. (Repealed)

Source: L. 71: p. 1022, § 1. **C.R.S. 1963:** § 89-24-51. **L. 92:** Entire section repealed, p. 924, § 198, effective January 1, 1993.

32-10-154. Defective ballots. (Repealed)

Source: L. 71: p. 1022, § 1. **C.R.S. 1963:** § 89-24-52. **L. 92:** Entire section repealed, p. 924, § 198, effective January 1, 1993.

32-10-155. Return of ballot box, pollbook, and registration list. (Repealed)

Source: L. 71: p. 1022, § 1. **C.R.S. 1963:** § 89-24-53. **L. 92:** Entire section repealed, p. 924, § 198, effective January 1, 1993.

32-10-156. Preservation of records. (Repealed)

Source: L. 71: p. 1022, § 1. **C.R.S. 1963:** § 89-24-54. **L. 92:** Entire section repealed, p. 924, § 198, effective January 1, 1993.

32-10-157. Use of voting machines. (Repealed)

Source: L. 71: p. 1022, § 1. **C.R.S. 1963:** § 89-24-55. **L. 80:** Entire section amended, p. 415, § 29, effective February 21. **L. 92:** Entire section repealed, p. 924, § 198, effective January 1, 1993.

32-10-158. Judges to inspect machines. (Repealed)

Source: L. 71: p. 1023, § 1. **C.R.S. 1963:** § 89-24-56. **L. 92:** Entire section repealed, p. 924, § 198, effective January 1, 1993.

32-10-159. Ballot labels - voting machines. (Repealed)

Source: L. 71: p. 1023, § 1. **C.R.S. 1963:** § 89-24-57. **L. 92:** Entire section repealed, p. 924, § 198, effective January 1, 1993.

32-10-160. Close of polls and count of votes - voting machines. (Repealed)

Source: L. 71: p. 1023, § 1. **C.R.S. 1963:** § 89-24-58. **L. 92:** Entire section repealed, p. 924, § 198, effective January 1, 1993.

32-10-161. Absentee voting. (Repealed)

Source: L. 71: p. 1023, § 1. **C.R.S. 1963:** § 89-24-59. **L. 77:** (3) amended, p. 234, § 10, effective June 19. **L. 80:** (1) amended, p. 415, § 30, effective February 21. **L. 87:** (3) amended,

p. 338, § 112, effective July 1. **L. 92:** Entire section repealed, p. 924, § 198, effective January 1, 1993.

32-10-162. Challenges. (Repealed)

Source: L. 71: p. 1023, § 1. **C.R.S. 1963:** § 89-24-60. **L. 72:** p. 562, § 31. **L. 92:** Entire section repealed, p. 924, § 198, effective January 1, 1993.

32-10-163. Canvass of votes - certificate of election. (Repealed)

Source: L. 71: p. 1024, § 1. **C.R.S. 1963:** § 89-24-61. **L. 92:** Entire section repealed, p. 924, § 198, effective January 1, 1993.

32-10-164. Imperfect returns. (Repealed)

Source: L. 71: p. 1024, § 1. **C.R.S. 1963:** § 89-24-62. **L. 92:** Entire section repealed, p. 924, § 198, effective January 1, 1993.

32-10-165. Corrections. (Repealed)

Source: L. 71: p. 1024, § 1. **C.R.S. 1963:** § 89-24-63. **L. 92:** Entire section repealed, p. 924, § 198, effective January 1, 1993.

32-10-166. Recount of votes - board to conduct. (Repealed)

Source: L. 71: p. 1024, § 1. **C.R.S. 1963:** § 89-24-64. **L. 92:** Entire section repealed, p. 924, § 198, effective January 1, 1993.

32-10-167. Tie - lots - notice to candidates. (Repealed)

Source: L. 71: p. 1024, § 1. **C.R.S. 1963:** § 89-24-65. **L. 92:** Entire section repealed, p. 924, § 198, effective January 1, 1993.

32-10-168. Contests. (Repealed)

Source: L. 71: p. 1025, § 1. **C.R.S. 1963:** § 89-24-66. **L. 80:** Entire section amended, p. 416, § 31, effective February 21. **L. 92:** Entire section repealed, p. 924, § 198, effective January 1, 1993.

32-10-169. District judge to preside - bond. (Repealed)

Source: L. 71: p. 1025, § 1. **C.R.S. 1963:** § 89-24-67. **L. 92:** Entire section repealed, p. 924, § 198, effective January 1, 1993.

32-10-170. Controversies. (Repealed)

Source: L. 71: p. 1025, § 1. **C.R.S. 1963:** § 89-24-68. **L. 92:** Entire section repealed, p. 924, § 198, effective January 1, 1993.

32-10-171. District attorney or attorney general to prosecute. (Repealed)

Source: L. 71: p. 1025, § 1. **C.R.S. 1963:** § 89-24-69. **L. 92:** Entire section repealed, p. 924, § 198, effective January 1, 1993.

32-10-172. Sufficiency of complaint - judicial notice. (Repealed)

Source: L. 71: p. 1025, § 1. **C.R.S. 1963:** § 89-24-70. **L. 92:** Entire section repealed, p. 924, § 198, effective January 1, 1993.

32-10-173. Election offenses - penalties. (Repealed)

Source: L. 71: p. 1026, § 1. **C.R.S. 1963:** § 89-24-71. **L. 80:** Entire section amended, p. 439, § 6, effective July 1. **L. 92:** Entire section repealed, p. 924, § 198, effective January 1, 1993.

32-10-174. Officers subject to recall. (Repealed)

Source: L. 71: p. 1026, § 1. **C.R.S. 1963:** § 89-24-73. **L. 92:** Entire section amended, p. 917, § 179, effective January 1, 1993. **L. 97:** Entire section repealed, p. 1095, § 8, effective May 27.

32-10-175. Recall - procedure - tampering with petition. (Repealed)

Source: L. 71: p. 1026, § 1. **C.R.S. 1963:** § 89-24-74. **L. 85:** (1)(a) amended, p. 1122, § 1, effective May 22. **L. 88:** (2) added, p. 296, § 12, effective May 29. **L. 92:** Entire section repealed, p. 924, § 198, effective January 1, 1993.

32-10-176. Recall petition - sufficiency - review. (Repealed)

Source: L. 71: p. 1027, § 1. **C.R.S. 1963:** § 89-24-75. **L. 85:** Entire section R&RE, p. 1122, § 2, effective May 22. **L. 92:** Entire section repealed, p. 924, § 198, effective January 1, 1993.

32-10-177. Recall election - resignation. (Repealed)

Source: L. 71: p. 1027, § 1. **C.R.S. 1963:** § 89-24-76. **L. 85:** Entire section amended, p. 1123, § 3, effective May 22. **L. 92:** Entire section repealed, p. 924, § 198, effective January 1, 1993.

32-10-178. Transfer of functions to a service authority. (Repealed)

Source: L. 71: p. 1028, § 1. **C.R.S. 1963:** § 89-24-78. **L. 97:** Entire section repealed, p. 1095, § 8, effective May 27.

32-10-179. Master plan - approval by board of county commissioners. (Repealed)

Source: L. 71: p. 1028, § 1. **C.R.S. 1963:** § 89-24-79. **L. 97:** Entire section repealed, p. 1095, § 8, effective May 27.

32-10-180. Application of special district act. On and after May 27, 1997, and except as provided in this article, the three lakes water and sanitation district shall be subject to the provisions of the "Special District Act", article 1 of this title. All actions taken by the district under this article prior to May 27, 1997, shall be considered valid and effective, and any existing debt and bond obligations of the district shall be deemed valid, effective, and binding.

Source: L. 97: Entire section added, p. 1095, § 7, effective May 27.

ARTICLE 11

Urban Drainage and Flood Control Act

PART 1

GENERAL PROVISIONS

32-11-101. Short title. This article shall be known and may be cited as the "Urban Drainage and Flood Control Act".

Source: L. 69: p. 732, § 1. **C.R.S. 1963:** § 89-21-1.

32-11-102. Legislative declaration. (1) The general assembly hereby determines, finds, and declares that:

(a) All property to be acquired by the district under this article shall be owned, operated, administered, and maintained for and on behalf of all of the people of the district;

(b) The creation of the district by this article promotes the health, comfort, safety, convenience, and welfare of all the people of the state and is of special benefit to the inhabitants of the district and the property therein;

(c) The provisions in this article of the purposes, powers, duties, privileges, immunities, rights, liabilities, and disabilities concerning the district serve a public use;

(d) The district created by this article is a body corporate and politic, a political subdivision of the state, and a municipal corporation with the powers provided in this article;

(e) Any notice provided for in this article for any purpose is reasonably calculated to inform each person of interest in any proceedings under this article which may directly and adversely affect his legally protected interests, if any;

(f) The necessity for this article results from the large population growth in the urban area included by this article within the district constituting a major portion of the state's

population, from the numerous capital improvements and large amount of improved real property situated within such urban area, from the torrential storms occurring sporadically and intermittently in the urban area and other areas draining into such urban area, from the increasing danger of floods therein and the resultant risks to the property and to the health and safety of the persons within the urban area, from the division of the urban area into large areas of incorporated areas and unincorporated areas, from the fragmentation and proliferation of powers, rights, privileges, and duties pertaining to water, flood control, and drainage within such urban area among a substantial number of public bodies, and from the resultant inabilities of such public bodies to acquire suitable capital improvements for the alleviation of such dangers and risks;

(g) A general law cannot be made applicable to the district, and to properties, powers, duties, privileges, immunities, rights, liabilities, and disabilities pertaining thereto as provided in this article, because of the number of atypical factors and special conditions concerning them;

(h) The powers, privileges, and rights granted in this article, and the duties, immunities, liabilities, and disabilities provided in this article comply in all respects with any requirement or limitation imposed by any constitutional provision;

(i) For the accomplishment of the purposes provided in this section, the provisions of this article shall be broadly construed;

(j) The experience of the Big Thompson flood of 1976 illustrates the need for Colorado floodplains to be continually kept clear of debris and debris-collecting structures. This need is most apparent in the urban drainage and flood control district which encompasses many different political entities and more than one-half of the entire population of this state. To meet this need, it is the intent of the general assembly that a systematic and uniform program of preventive maintenance be instituted and maintained in the district, which program shall be administered by the board of directors of the district and not by local governments.

Source: L. 69: p. 733, § 2. **C.R.S. 1963:** § 89-21-2. **L. 79:** (1)(j) added, p. 1210, § 1, effective July 1.

32-11-103. Public purpose. The exercise of any power authorized in this article by the board on behalf of the district has been determined, and is declared to effect a public purpose; and any project authorized in this article shall effect a public purpose.

Source: L. 69: p. 818, § 215. **C.R.S. 1963:** § 89-21-215.

32-11-104. Definitions. As used in this article, unless the context otherwise requires:

(1) "Acquisition" or "acquire" means the purchase, construction, reconstruction, lease, gift, transfer, assignment, option to purchase, other contract, grant from the federal government, any public body, or any other person, endowment, bequest, devise, installation, condemnation, and any other acquirement (or any combination thereof) of the facilities, other property, any project, or an interest therein, authorized by this article.

(2) This "article" means the "Urban Drainage and Flood Control Act".

(3) "Assess", "assessment", or "special assessment" means the levy of a special assessment, or the special assessment, against any tract specially benefited in an improvement district by any project, which assessment shall be made on a front-foot, zone, area, or other equitable basis as determined by the board; but in no event shall any assessment exceed the

estimated maximum special benefits to the tract assessed as determined by the board, as provided in section 32-11-634 (4).

(4) "Assessable property" means the tracts of land specially benefited in an improvement district by any project the cost of which is wholly or partly defrayed by the urban district by the levy of assessments, except any tract owned by the federal government in the absence of its consent to the assessment of any tract so owned, and except any street, alley, highway, or other public right-of-way of a public body, as provided in section 32-11-660.

(5) "Assessment lien" means a lien on a tract in an improvement district created by resolution of the urban district to secure the payment of an assessment levied against that tract, as provided in section 32-11-645.

(6) "Assessment unit" means a unit or quasi-improvement district designated by the board for the purpose of petition, remonstrance, and assessment in the case of a combination of projects in an improvement district, pursuant to section 32-11-606.

(7) "Board" or "board of directors", when not otherwise qualified, means the board of directors of the urban district.

(8) "Chairman" or "chairman of the board", or any phrase of similar import means the de jure or de facto presiding officer of the board and the urban district, or his successor in functions, if any.

(9) "Commercial bank" means a state or national bank or trust company which is a member of the federal deposit insurance corporation, including without limitation any "trust bank" as defined in this section.

(10) (a) "Condemnation" or "condemn" means the acquisition by the exercise of the power of eminent domain of any property for the facilities, any project, or an interest therein, authorized in this article. The board may exercise on behalf of the district the power of eminent domain or dominant eminent domain within or without or both within and without the district in the manner provided in articles 1 to 7 of title 38, C.R.S., as from time to time amended, except as otherwise provided in this article. The district may take any property necessary to carry out any of the objects or purposes of this article, whether such property is already devoted to the same use by any person other than the federal government in the absence of its consent to any such taking, and may condemn any existing works or improvements of any such person in the district.

(b) The power of eminent domain vested in the board includes the power to condemn, in the name of the district, either the fee simple or any lesser estate or interest in any real property which the board by resolution determines is necessary for carrying out the purposes of this article. Such resolution is prima facie evidence that the taking of the fee simple, easement, or other lesser estate or interest, as the case may be, is necessary.

(c) The district shall not abandon any condemnation proceedings subsequent to the date upon which it has taken possession of the property being acquired.

(d) In the event the construction of any project authorized in this article, or any part thereof, makes necessary the removal and relocation of any public utility, whether on private or public right-of-way, or otherwise, the district shall reimburse the owner of such public utility facility for the expense of such removal and relocation, including the cost of any necessary land or rights in land.

(11) (a) "Corporate district" means any school district, local college district, conservancy district, drainage district, metropolitan district, water district, sanitation district, water and sanitation district, mosquito control district, street improvement district, television relay and

translator district, public improvement district, general improvement district, fire protection district, metropolitan recreation district, metropolitan park district, metropolitan recreation and park district, metropolitan water district, health service district, metropolitan sewage disposal district, irrigation district, internal improvement district, water conservation district, water conservancy district, or any other type of district constituting a body corporate and politic and a political subdivision of the state.

(b) "Corporate district" does not include a "district" or "urban district" as defined in this section nor an "improvement district" as defined in this section.

(12) "Cost" or "cost of the project", or any phrase of similar import, means, in addition to the usual connotations thereof, all or any part of the cost of the acquisition, improvement, and equipment (or any combination thereof) of all or any part of a project of the urban district and of all or any property, rights, easements, licenses, privileges, franchises, and other agreements deemed by the urban district to be necessary or useful and convenient therefor or in connection therewith, and all incidental expenses pertaining thereto, including without limitation at the option of the board and as it may from time to time determine:

(a) The cost of demolishing, removing, or relocating any buildings, structures, or other facilities on land acquired;

(b) The cost of acquiring any lands to which such buildings, structures, or other facilities may be moved or relocated;

(c) The cost of equipment for the district, including any project;

(d) The cost of installing or relocating or installing and relocating water lines, storm sewers, sanitary sewers, and other utility lines and services;

(e) The costs of restoring any public street, highway, bridge, viaduct, or other public right-of-way, stream of water, watercourse, ditch flume, pipeline, utility transmission line, or other public facilities to their former state of usefulness as nearly as may be;

(f) Condemnation costs, including all preliminary expenses and other incidental expenses pertaining to any condemnation;

(g) The cost of preliminary plans, other plans, specifications, studies, surveys, estimates of project cost and of taxes, revenues, and assessments (or any combination thereof), economic feasibility reports, and any other expenses necessary or incident to determining the feasibility or practicability of a project;

(h) The cost of other estimates, appraising, printing, advice, inspection, and other services rendered by engineers, architects, financial consultants, attorneys-at-law, clerical help, and other employees and agents of the urban district, and other professional costs;

(i) Court costs and other legal expenses;

(j) The cost of making, publishing, posting, mailing, and otherwise giving any notice, and of filing and recording instruments;

(k) The cost of acquiring any real property, including any easement or other right or interest therein, and including the taking of any option;

(l) The cost of contingencies, operation and maintenance expenses, and other expenses of the district prior to and during the acquisition, improvement, and equipment (or any combination thereof) of any project, and additionally during a period of not exceeding one year after the completion of the project, as may be estimated and determined by the board in any resolution authorizing the issuance of any district securities or other instrument pertaining thereto or in any contract with any public body, the federal government, or otherwise;

(m) Such provision or reserves or both provision and reserves for working capital, operation and maintenance expenses, replacement expenses, or for payment or security of principal of and interest on any district securities during and after the acquisition, improvement, and equipment (or any combination thereof) of any project, as the board may determine;

(n) Reimbursements to the federal government, the state, or any other public body or other person of any moneys theretofore expended for the purposes of the district, including such expenditures for or in connection with a project;

(o) The cost of funding any notes, warrants, or interim debentures as provided in this article;

(p) The preparation of budgets, including without limitation the procedure preliminary thereto;

(q) The levy, collection, and disposition of special assessments, including without limitation the preparation of preliminary rolls and assessment rolls;

(r) The levy, collection, and disposition of taxes;

(s) The fixing, collection, and disposition of revenues;

(t) All such other expenses as may be necessary or incident to the financing, acquisition, improvement, equipment, and completion of the facilities, any project, any part thereof, or the placing of the same in operation.

(13) (a) "County" means the county in the state of Colorado in which is situated any tract assessed or other property to which the term "county" pertains, including without limitation the city and county of Denver and the city and county of Broomfield; and if such property at any time after June 14, 1969, is located in more than one county, "county" means each county in which the property is located.

(b) Whenever the term "county" is used in connection with an election held by the urban district, or taxes levied by the district, or otherwise in connection therewith, the term "county" means each county in which the urban district is located, including without limitation the city and county of Denver.

(14) "County assessor" means the de jure or de facto county assessor of each such county, or his successor in functions, if any.

(15) "County clerk" means the de jure or de facto county clerk of each such county, or his successor in functions, if any.

(16) "County treasurer" means the de jure or de facto county treasurer of each such county, or his successor in functions, if any.

(17) "Director" means a de jure or de facto member of the board.

(18) "Disposal" or "dispose" means the sale, destruction, razing, loan, lease, grant, transfer, assignment, option to sell, other contract, or other disposition (or any combination thereof) of facilities, other property, or an interest therein, authorized in this article.

(19) (a) "District" or "urban district" means the urban drainage and flood control district created by this article.

(b) "District" or "urban district" does not include the term "corporate district" nor the term "improvement district" as defined in this section.

(20) "District securities" means bonds, temporary bonds, notes, warrants, and interim debentures evidencing loans to or money due from the urban district and authorized to be issued pursuant to the provisions of this article.

(21) "Engineer" means any engineer in the permanent employ of the urban district, or any licensed professional engineer, or firm of such engineers, as from time to time determined by the board:

(a) Who has a wide and favorable repute for skill and experience in the field of designing and in preparing plans and specifications for and supervising the construction of facilities like those which the district is authorized to acquire;

(b) Who is entitled to practice and is practicing under the laws of the state; and

(c) Who is selected, retained, and compensated by the board, in the name and on behalf of the district.

(22) "Equipment" or "equip" means the furnishing of all necessary or desirable, related, or appurtenant machinery, furnishings, apparatus, paraphernalia, and other gear, or any combination thereof, pertaining to any project or other property of the urban district, or any interest therein, authorized in this article, or otherwise relating to the district's facilities.

(23) (a) "Executive officer" means the de jure or de facto mayor, chairman of the board, president of the corporate district, or other titular head or chief official of a "public body" as defined in this section, or his successor in functions, if any.

(b) "Executive officer" does not include a city manager, county manager, or other chief administrator of a public body who is not its titular head.

(24) (a) "Facilities" means the drainage and flood control system of the urban district, consisting of all properties, real, personal, mixed, or otherwise, owned or acquired by the district through purchase, construction, or otherwise, and used in connection with such system of the district, and in any way pertaining thereto, whether situated within or without its limits, or both within and without its limits.

(b) The facilities of the district may, as the board from time to time determines, consist of any natural and artificial watercourses for the collection, channeling, impounding, and disposition of rainfall, other surface and subsurface drainage, and storm and flood waters, including without limitation ditches, ponds, dams, spillways, retarding basins, detention basins, lakes, reservoirs, canals, channels, levees, revetments, dikes, walls, embankments, bridges, inlets, outlets, connections, laterals, other collection lines, intercepting sewers, outfalls, outfall sewers, trunk sewers, force mains, submains, waterlines, sluices, flumes, syphons, sewer lines, pipes, other transmission lines, culverts, pumping stations, gauging stations, stream gauges, rain gauges, engines, valves, pumps, meters, junction boxes, manholes, other inlet and outlet structures, passenger cars, pickups, trucks, and other vehicles, bucket machines, inlet and outlet cleaners, backhoes, draglines, graders, other equipment, apparatus, fixtures, structures, and buildings, flood warning services, and appurtenant telephone, telegraph, radio, and television apparatus, and other water diversion, drainage, and flood control facilities, and all appurtenances and incidentals necessary, useful, or desirable for any such facilities (or any combination thereof), including real and other property therefor.

(25) "Federal government" means the United States, or any department, agency, instrumentality, or corporation thereof.

(26) Repealed.

(27) "Fiscal year" for the purpose of this article means the twelve months commencing on the first day of January of any calendar year and ending on the last day of December of the same calendar year.

(28) "Governing body" means the city council, city commission, board of commissioners, board of trustees, board of directors, or other legislative body of a public body designated in this article in which body the legislative powers of the public body are vested.

(29) "Governor" means the de jure or de facto governor of the state of Colorado, or his successor in functions, if any.

(30) (a) "Gross revenues" or "gross pledged revenues" means all the revenues derived directly or indirectly from service charges by the urban district from the operation and use of and otherwise pertaining to the facilities, or any part thereof, whether resulting from repairs, extensions, enlargements, betterments, or other improvements to the facilities, or otherwise, and includes all revenues received by the district from the facilities, including, without limiting the generality of the foregoing, all fees, rates, and other charges for the use of the facilities, or for any service rendered by the district in the operation thereof, or otherwise pertaining thereto, as received by the urban district and pledged wholly or in part for the payment of any district securities issued under this article.

(b) "Gross revenues" or "gross pledged revenues" does not include:

(I) The proceeds derived from any assessments or taxes;

(II) Any moneys borrowed and used for the acquisition of capital improvements for or other acquisition of the facilities; and

(III) Any moneys received as grants, appropriations, or other gifts from the federal government, the state, or other sources, the use of which is limited by the grantor or donor to the construction of capital improvements for or other acquisition of the facilities, except to the extent any such moneys are received as service charges for the use of or otherwise pertaining to the facilities.

(31) (a) "Hereby", "herein", "hereinabove", "hereinafter", "hereof", "hereunder", "herewith", or any term of similar import, refers to this article and not solely to the particular portion thereof in which such word is used.

(b) "Heretofore" means before the adoption of this article.

(c) "Hereafter" means after the adoption of this article.

(32) "Holder" or any similar term, when used in conjunction with any coupons, any bonds, or any other designated district securities, means the person in possession and the apparent owner of the designated item if such obligation is registered to bearer or is not registered, or the term means the registered owner of any such security which is registrable for payment if it is at the time registered for payment otherwise than to bearer.

(33) "Improvement" or "improve" means the extension, enlargement, betterment, alteration, reconstruction, replacement, and other major improvement (or any combination thereof) of the facilities, any property pertaining thereto, any project, or an interest therein, authorized in this article.

(34) (a) "Improvement district" means the geographical area within the urban district designated and delineated by the board, in which improvement district are located the facilities or project, or an interest therein, the cost of which is to be defrayed wholly or in part by the levy of special assessments, and in which improvement district is located each tract to be assessed therefor. An improvement district may consist of noncontiguous areas. Improvement districts shall be designated by consecutive numbers or in some other manner to identify separately each such district in the urban district.

(b) "Improvement district" does not mean the "urban district" as defined in this section.

(35) (a) "Mailed notice", "notice by mail", or any phrase of similar import means the giving by the engineer, district secretary, district treasurer, county treasurer, any deputy thereof, or other designated person, as determined by the board or as otherwise provided in this article, of any designated written or printed notice addressed to the last-known owner of each tract assessed or to be assessed or other designated person at his last-known address, by deposit at least twenty days prior to the designated hearing or other time or event, in the United States mails, postage prepaid, as first-class mail. The failure to mail any such notice shall not invalidate any proceedings under this article.

(b) The names and addresses of such property owners shall be obtained from the records of the county assessor or from such other source or sources as the engineer, district secretary, district treasurer, county treasurer, any deputy thereof, or other person so giving notice deems reliable. Any list of such names and addresses pertaining to any improvement district may be revised from time to time, but such a list need not be revised more frequently than at twelve-month intervals.

(c) Any mailing of any notice required in this article shall be verified by the affidavit or certificate of the engineer, district secretary, district treasurer, county treasurer, the deputy thereof, or other person mailing the notice, which verification shall be retained in the records of the urban district at least until all assessments and securities pertaining thereto have been paid in full or any claim is barred by a statute of limitations.

(36) (a) "Municipality" means an incorporated town, city and county, or city, whether incorporated and governed under general act or special charter.

(b) "Municipal" pertains to a municipality.

(37) "Net revenues" or "net pledged revenues" means the gross pledged revenues remaining after the deduction of the "operation and maintenance expenses" as defined in this section.

(38) "Newspaper" means a newspaper printed in the English language at least once each calendar week.

(39) (a) "Operation and maintenance expenses", or any phrase of similar import, means all reasonable and necessary current expenses of the district, paid or accrued, of operating, maintaining, and repairing the facilities, including without limitation, at the district's option (except as by contract or otherwise limited by law):

(I) Engineering, auditing, reporting, legal, and other overhead expense of the district directly related to the administration, operation, and maintenance of the facilities;

(II) Property and liability insurance and fidelity bond premiums;

(III) Payments to pension, retirement, health, and hospitalization funds, and other insurance;

(IV) The reasonable charges of any paying agent, any copaying agent, and any other depositary bank pertaining to any project, any bonds or other district securities pertaining thereto, or otherwise relating to the facilities;

(V) Any taxes, assessments, excise taxes, or other charges which may be lawfully imposed on the district or its income or operations of the facilities under its control, or any privilege relating to the facilities or their operation;

(VI) The costs incurred by the district in the collection of any taxes, assessments, and pledged revenues, and in making refunds of any taxes, assessments, or pledged revenues lawfully due to others;

(VII) Expenses in connection with the issuance of district securities evidencing any loan to or other obligation of the district;

(VIII) The expenses and compensation of any trustee, receiver, or other fiduciary under this article or otherwise;

(IX) Contractual services and professional services, salaries, labor, and the cost of materials and supplies used for current operation, ordinary and current rentals of equipment, or other property; and

(X) All other administrative, general, and commercial expenses pertaining to the facilities.

(b) "Operation and maintenance expenses" does not include any allowance for depreciation or any amounts for capital replacements, renewals, major repairs, and maintenance items (or any combination thereof) of a type not recurring annually or at shorter intervals; nor does it include: The costs of extensions, enlargements, betterments, and other improvements (or any combination thereof), or any reserves therefor; any reserves for operation, maintenance, or repair of the facilities; any allowance for the redemption of any bond or other district security evidencing a loan or other obligation of the district, or the payment of any interest thereon, or any reserve therefor; any liabilities incurred in the acquisition or improvement of any properties comprising any project (or any combination thereof) or otherwise pertaining to the facilities, or otherwise; any other grounds of legal liability not based on contract.

(40) "Ordinance" means the formal instrument by the adoption of which a "governing body" of any "public body" as defined in this section takes formal legislative action, whether such instrument is in the form of an ordinance, resolution, or other type of document.

(41) (a) "Person" means a corporation, firm, other body corporate (including the federal government or any public body), partnership, association, or individual, and also includes an executor, administrator, trustee, receiver, or other representative appointed according to law.

(b) "Person" does not include the "urban district" as defined in this section.

(42) "Pledged revenues" or "revenues" means all or a portion of the gross pledged revenues. The designated term indicates a source of revenues and does not necessarily indicate all or any portion or other part of such revenues in the absence of further qualification.

(43) "Project" means such part of the facilities of the district as the board determines to acquire and authorize at one time.

(44) "Property" means personal property and real property, both improved and unimproved.

(45) (a) "Publication" or "publish" means three consecutive weekly publications in at least one newspaper having general circulation in the district.

(b) It is not necessary that an advertisement be made on the same day of the week in each of the three weeks, but not less than fourteen days, excluding the day of first publication but including the day of the last publication, shall intervene between the first publication and the last publication, and publication shall be complete on the date of the last publication.

(46) (a) "Public body" means the state of Colorado or any agency, instrumentality, or corporation thereof, or any county, municipality, corporate district, housing authority, urban renewal authority, other type of authority, the regents of the university of Colorado, the state board for community colleges and occupational education, or any other body corporate and politic and political subdivision of the state.

(b) "Public body" does not include the "federal government" nor the "urban district" as defined in this section.

(47) "Real property" means:

(a) Land, including land under water;

(b) Buildings, structures, fixtures, and improvements on land;

(c) Any property appurtenant to or used in connection with land; and

(d) Every estate, interest, privilege, leasehold, easement, license, franchise, right-of-way, and other right in land, legal or equitable, including, without limiting the generality of the foregoing, rights-of-way, terms for years, and liens, charges, or encumbrances by way of judgment, mortgage, or otherwise, and the indebtedness secured by such liens.

(48) "Revenues" means the "pledged revenues" as defined in this section.

(49) "Secretary" means the de jure or de facto secretary of the board and the urban district, or his successor in functions, if any.

(50) "Service charges" means the fees, rates, and other charges for the use of the facilities of the district, or for any service rendered by the district in the operation thereof, or otherwise pertaining thereto, as more specifically provided in section 32-11-306 and elsewhere in this article.

(51) "Special assessments" means "assessment" as defined in this section.

(52) "State" means the state of Colorado; and, where the context so indicates, "state" means the geographical area comprising the state of Colorado.

(53) "Taxes", "taxation", or "tax" means general (ad valorem) taxes.

(54) (a) "Taxpaying elector" and "elector" of a district have the meanings, respectively, as specified in section 32-1-103 for "taxpaying elector" and "eligible elector"; except that to qualify under this article as a taxpaying elector or as an elector of a district, a person must also be a resident of the district.

(b) A person who is obligated to pay taxes under a contract to purchase property in the district shall be considered as such an owner.

(c) The ownership of any property subject to the payment of a specific ownership tax on a motor vehicle or trailer or of any other excise or property tax other than general (ad valorem) taxes shall not constitute the ownership of property subject to taxation as provided in this article.

(55) (a) "Tract" means any lot or other parcel of land for assessment purposes, whether platted or unplatted, regardless of lot or land lines.

(b) Lots, plots, blocks, and other subdivisions may be designated in accordance with any recorded plat thereof; and all lands, platted and unplatted, shall be designated by a definite description, as provided in section 32-11-659.

(56) "Treasurer" means the de jure or de facto treasurer of the board and the urban district, or his successor in functions, if any.

(57) "Trust bank" means a "commercial bank" as defined in this section, which bank is authorized to exercise and is exercising trust powers, and also means any branch of the federal reserve bank.

(58) "Urban district" means "district" as defined in this section.

(59) "United States" means the United States of America.

Source: L. 69: p. 733, § 3. **C.R.S. 1963:** § 89-21-3. **L. 70:** p. 298, § 115. **L. 77:** (10)(a) amended, p. 287, § 61, effective June 29. **L. 81:** (54)(a) amended, p. 1626, § 35, effective July 1.

L. 89: (26) repealed, p. 1135, § 85, effective July 1. **L. 94:** (54)(a) amended, p. 1643, § 71, effective May 31. **L. 96:** (11)(a) amended, p. 476, § 18, effective July 1. **L. 2001:** (13)(a) amended, p. 266, § 5, effective November 15. **L. 2004:** IP(21) amended, p. 1314, § 64, effective May 28.

32-11-105. Construction. (1) This article, except where the context by clear implication otherwise requires, shall be construed as follows:

(a) Sections, subsections, paragraphs, and subparagraphs mentioned by number, letter, or otherwise correspond to the respective articles, sections, subsections, paragraphs, and subparagraphs of this article so numbered or otherwise so designated.

(b) The titles or headnotes applied to sections, subsections, paragraphs, and subparagraphs in this article are inserted only as a matter of convenience and ease in reference and in no way define, limit, or describe the scope or intent of any provision of this article.

(c) Figures may be used instead of words, and words may be used instead of figures, in all notices, proceedings, and other documents required by this article or otherwise pertaining hereto.

(d) No tract in an improvement district need be separately described except in the assessment roll.

(e) Any cost or estimated cost may be stated as a designated amount per front foot, or per square foot, or per other unit pertaining to the method of prorating costs and of computing assessments, or per lot of a given size and proportionate amounts for other lots, except in the case of assessments.

Source: L. 69: p. 742, § 4. **C.R.S. 1963:** § 89-21-4.

32-11-106. Liberal construction. This article being necessary to secure and preserve the public health, safety, and general welfare, the rule of strict construction shall have no application to this article, but this article shall be liberally construed to effect the purposes and objects for which it is intended.

Source: L. 69: p. 818, § 214. **C.R.S. 1963:** § 89-21-214.

32-11-107. Sufficiency of article. (1) This article, without reference to other statutes of the state, except as otherwise expressly provided in this article, shall constitute full authority for the exercise of powers granted in this article, including without limitation the financing of any project authorized in this article wholly or in part and the issuance of district securities to evidence such loans.

(2) No other act or law with regard to the authorization or issuance of securities or the exercise of any other power granted in this article that provides for an election, requires an approval, or in any way impedes or restricts the carrying out of the acts authorized in this article to be done shall be construed as applying to any proceedings taken under this article or acts done pursuant to this article, except as otherwise provided in this article.

(3) The provisions of no other law, either general, special, or local, except as provided in this article, shall apply to the doing of the things authorized to be done in this article; and no

public body shall have authority or jurisdiction over the doing of any of the acts authorized in this article to be done, except as otherwise provided in this article.

(4) No notice, consent, or approval by any public body or officer thereof shall be required as a prerequisite to the sale or issuance of any district securities or the making of any contract or the exercise of any other power under this article, except as provided in this article.

(5) The powers conferred by this article shall be in addition and supplemental to, and not in substitution for, and the limitations imposed by this article shall not affect the powers conferred by, any other law.

(6) No part of this article shall repeal or affect any other law or part thereof, the intent of this article being that it shall provide a separate method of accomplishing its objectives and not an exclusive one; and this article shall not be construed as repealing, amending, or changing any such other law.

Source: L. 69: p. 818, § 216. **C.R.S. 1963:** § 89-21-216.

PART 2

ADMINISTRATION

32-11-201. Creation of district. There is hereby created a district to be known and designated as the "Urban Drainage and Flood Control District".

Source: L. 69: p. 743, § 5. **C.R.S. 1963:** § 89-21-5.

32-11-202. Boundaries of district. The area comprising the district consists of the lands located in the city and county of Denver, in the city and county of Broomfield, and in the counties of Adams, Arapahoe, Boulder, Douglas, and Jefferson within the boundaries of the district, described as follows:

Beginning at the southwest corner of Section 26, T.2 N., R.71 W.; thence easterly along the south line of Section 26, T.2 N., R.71 W. and along the south line of Section 25, T.2 N., R.71 W., a distance of 2 miles to the southeast corner of said Section 25, T.2 N., R.71 W., being the northwest corner of Section 31, T.2 N., R.70 W.; thence southerly along the west line of said Section 31, T.2 N., R.70 W., a distance of 1 mile, more or less, to the southwest corner of said Section 31, T.2 N., R.70 W.; thence easterly, along the south line of said Section 31, T.2 N., R.70 W., and along the south line of Sections 32, 33, and 34 of T.2 N., R.70 W., a distance of 4 miles, more or less, to the southeast corner of said Section 34, T.2 N., R.70 W.; thence northerly along the east line of said Section 34, T.2 N., R.70 W., a distance of 0.5 miles, more or less, to the east 1/4 corner of said Section 34, T.2 N., R.70 W.; thence easterly along the center section line of Section 35, T.2 N., R.70 W., a distance of 1.0 mile, more or less, to the east 1/4 corner of said Section 35, T.2 N., R.70 W.; thence southerly along the east line of said Section 35, T.2 N., R.70 W., a distance of 0.5 miles, more or less, to the southeast corner of said Section 35, T.2 N., R.70 W.; thence easterly along the south line of Section 36, T.2 N., R.70 W., a distance of 1 mile, more or less, to the southeast corner of said Section 36, T.2 N., R.70 W.; thence northerly along the east line of said Section 36, T.2 N., R.70 W., a distance of 0.5 miles, more or less, to

the east 1/4 corner of said Section 36, T.2 N., R.70 W.; thence easterly along the center section line of Section 31, T.2 N., R.69 W., a distance of 1 mile, more or less, to the east 1/4 corner of said Section 31, T.2 N., R.69 W.; thence northerly along the east line of said Section 31, T.2 N., R.69 W., a distance of 0.5 miles, more or less, to the northeast corner of said Section 31, T.2 N., R.69 W.; thence easterly along the south line of Sections 29 and 28, T.2 N., R.69 W., and along a portion of the south line of Section 27, T.2 N., R.69 W., a distance of 2.5 miles, more or less, to the south 1/4 corner of said Section 27, T.2 N., R.69 W.; thence northerly along the center section line of Section 27, T.2 N., R.69 W., and along the center section line of Section 22, T.2 N., R.69 W., a distance of 2 miles, more or less, to the north 1/4 corner of said Section 22, T.2 N., R.69 W.; thence easterly along the north line of said Section 22, T.2 N., R.69 W., and along the north line of Sections 23 and 24, T.2 N., R.69 W., a distance of 2.5 miles, more or less, to the northeast corner of Section 24, T.2 N., R.69 W.; thence southerly along the east line of Sections 24, 25, and 36 of T.2 N., R.69 W., and continuing southerly along the east line of Sections 1, 12, 13, 24, 25, and 36 of T.1 N., R.69 W., a distance of 9 miles, more or less, to the southeast corner of said Section 36, T.1 N., R.69 W., said corner being also the southwest corner of Section 31, T.1 N., R.68 W.; thence easterly along the south line of said Section 31, T.1 N., R.68 W., and along the south line of Sections 32, 33, 34, 35, and 36 of T.1 N., R.68 W., and continuing easterly along the south line of Sections 31, 32, 33, 34, 35, and 36 of T.1 N., R.67 W., and continuing easterly along the south line of Sections 31, 32, 33, 34, 35, and 36 of T.1 N., R.66 W., and continuing easterly along the south line of Sections 31, 32, 33, 34, 35, and 36 of T.1 N., R.65 W., and continuing easterly along the south line of Sections 31, 32, 33, 34, 35, and 36 of T.1 N., R.64 W., a distance of 30 miles, more or less, to the southeast corner of said Section 36, T.1 N., R.64 W., said corner being also the northeast corner of Section 1, T.1 S., R.64 W.; thence southerly along the east line of Section 1, T.1 S., R.64 W., and continuing southerly along the east line of Sections 12, 13, 24, 25, and 36 of T.1 S., R.64 W., and continuing southerly along the east line of Sections 1, 12, 13, 24, 25 and 36 of T.2 S., R.64 W., and continuing southerly along the east line of Sections 1, 12, 13, 24, 25, and 36 of T.3 S., R.64 W., and continuing southerly along the east line of Sections 1, 12, 13, 24, 25, and 36 of T.4 S., R.64 W., and continuing southerly along the east line of Sections 1, 12, 13, 24, 25, and 36 of T.5 S., R.64 W., a distance of 30 miles, more or less, to the southeast corner of Section 36, T.5 S., R.64 W.; thence westerly along the south line of said Section 36, T.5 S., R.64 W., and continuing westerly along the south line of Sections 35, 34, 33, 32, and 31, T.5 S., R.64 W., and continuing westerly along the south line of Sections 36, 35, and 34, T.5 S., R.65 W., a distance of 9 miles, more or less, to the southwest corner of Section 34, T.5 S., R.65 W., said corner being also the northeast corner of Section 4, T.6 S., R.65 W.; thence southerly along the east line of said Section 4, T.6 S., R.65 W., and continuing southerly along the east line of Sections 9, 16, 21, 28, and 33, T.6 S., R.65 W., and continuing southerly along the east line of Sections 4, 9, and 16, T.7 S., R.65 W., a distance of 9 miles, more or less, to the southeast corner of Section 16, T.7 S., R.65 W.; thence westerly along the south line of Section 16 and along the south line of Sections 17 and 18, T.7 S., R.65 W., and continuing westerly along the south line of Sections 13, 14, 15, 16, 17, and 18, T.7 S., R.66 W., and continuing westerly along the south line of Sections 13, 14, 15, 16, and 17, T.7 S., R.67 W., a distance of 14 miles, more or less, to the southwest corner of Section 17, T.7 S., R.67 W., said corner also being the northeast corner of Section 19, T.7 S., R.67 W.; thence southerly along the east line of Section 19, T.7 S., R.67 W., and continuing south along the east line of Section 30, T.7 S., R.67 W., a distance of 2 miles, more or less, to the southeast corner of

Section 30, T.7 S., R.67 W.; thence westerly along the south line of Section 30, T.7 S., R.67 W., and continuing westerly along the south line of Sections 25, 26, 27, 28, 29, and 30, T.7 S., R.68 W., and continuing along the south line of Sections 25 and 26, T.7 S., R.69 W., a distance of 9 miles, more or less, to the southwest corner of Section 26, T.7 S., R.69 W.; thence northerly along the west line of said Section 26, and along the west line of Sections 23, 14, 11, and 2, T.7 S., R.69 W., a distance of 5 miles, more or less, to the northwest corner of Section 2, T.7 S., R.69 W., said corner being also the northeast corner of Section 3, T.7 S., R.69 W.; thence westerly along the north line of said Section 3 and along the north line of Sections 4, 5, and 6, T.7 S., R.69 W., and continuing westerly along the north line of Section 1, T.7 S., R.70 W., a distance of 5 miles, more or less, to the northwest corner of Section 1, T.7 S., R.70 W., said corner being also the southwest corner of Section 36, T.6 S., R.70 W.; thence northerly along the west line of said Section 36 and along the west line of Sections 25, 24, 13, 12, and 1 of T.6 S., R.70 W., and continuing easterly along the north line of said Section 1 to the southwest corner of Section 36, T.5 S., R.70 W., and along the west line of Sections 36 and 25, T.5 S., R.70 W., a distance of 8 miles, more or less, to the northwest corner of Section 25, T.5 S., R.70 W., said corner being also the northeast corner of Section 26, T.5 S., R.70 W.; thence westerly along the north line of said Section 26, and westerly along the north line of Sections 27, 28, 29, and 30, a distance of 5 miles, more or less, to the northwest corner of Section 30, T.5 S., R.70 W., said corner being also the southwest corner of Section 19, T.5 S., R.70 W.; thence northerly along the west line of said Section 19, and along the west line of Sections 18, 7, and 6 of T.5 S., R.70 W., and along the west line of Sections 31, 30, 19, 18, 7, and 6 of T.4 S., R.70 W., and continuing northerly along the west line of Sections 31, 30, 19, 18, 7, and 6 of T.3 S., R.70 W., and continuing northerly along the west line of Sections 31, 30, 19, 18, 7, and 6 of T.2 S., R.70 W., and continuing northerly along the west line of Sections 31 and 30 of T.1 S., R.70 W., a distance of 24 miles, more or less, to the northwest corner of Section 30, T.1 S., R.70 W., said corner being also the southeast corner of Section 24, T.1 S., R.71 W.; thence westerly along the south line of said Section 24 and along the south line of Section 23, a distance of 2.5 miles, more or less, to the southwest corner of Section 23, T.1 S., R.71 W.; thence northerly along the west line of said Section 23 and along the west line of Sections 14, 11, and 2 of T.1 S., R.71 W., and continuing easterly along the south line of Section 34 to the southwest corner of Section 35 of T.1 N., R.71 W., and continuing northerly along the west line of Sections 35, 26, 23, 14, 11, and 2 of T.1 N., R.71 W., and continuing northerly along the west line of Section 35, T.2 N., R.71 W., a distance of 11 miles, more or less, to the southwest corner of Section 26, T.2 N., R.71 W., said corner being the point of beginning; and the described area containing 1208 sections, more or less.

Source: L. 69: p. 743, § 6. **C.R.S. 1963:** § 89-21-6. **L. 71:** p. 983, § 1. **L. 89:** Entire section amended, p. 1322, § 1, effective April 12. **L. 2001:** IP amended, p. 266, § 6, effective November 15.

32-11-203. Board of directors. (1) All powers, rights, privileges, and duties vested in or imposed upon the urban district shall be exercised and performed by and through a local legislative body designated as the board of directors.

(2) The board of directors of the district may create an executive committee of the board and may delegate and redelegate to such committee such power to act on behalf of the district as the board may determine by resolution.

(3) The exercise of all executive, administrative, and ministerial powers may be delegated and redelegated by the board to officials and employees of the district.

(4) The board shall consist of sixteen directors.

(5) (a) Except for the initial appointments of directors, or for any director chosen to fill any unexpired term, and except as otherwise provided in section 32-11-204 (1) and (5.5), the term of each director shall commence on February 1 of a designated year as provided in this article and shall be for two years.

(b) Each director shall be chosen to serve such a two-year term ending on the last day of January of such a year; and each director whose term so ends and otherwise remains qualified to serve as a director shall serve until his successor has been duly chosen and qualified.

(6) The board of directors shall institute and maintain a systematic and uniform program of preventive maintenance in the district, which program shall be administered by said board of directors and not by local governments.

Source: L. 69: p. 745, § 7. **C.R.S. 1963:** § 89-21-7. **L. 79:** (6) added, p. 1210, § 2, effective July 1. **L. 89:** (5)(a) amended, p. 1325, § 2, effective April 12. **L. 2001:** (4) amended, p. 266, § 7, effective November 15.

32-11-204. Regular appointments. (1) The mayor of the city and county of Denver or the deputy mayor shall be ex officio a director.

(2) Except as otherwise provided in this article, the other directors shall be chosen as provided in this section.

(3) (a) Two directors shall be appointed to the board by the city council of the city and county of Denver after the second Tuesday in January in each odd-numbered year and by the twentieth day of January in such year. One director shall be appointed to the board by such city council during such part of January in each even-numbered year.

(b) Each director appointed pursuant to this subsection (3) shall be a member of such city council and shall remain as such during his term of office as director.

(4) (a) A director shall be appointed to the board by the board of county commissioners of each of the counties of Adams and Boulder and by the city council of the city and county of Broomfield after the second Tuesday in January in each odd-numbered year and by the twentieth day of January in such year; except that, in 2001, the city council of the city and county of Broomfield shall appoint a director after November 15, 2001. A director shall be appointed to the board by the board of county commissioners of each of the counties of Arapahoe, Douglas, and Jefferson during such part of January in each even-numbered year.

(b) Each director appointed pursuant to this subsection (4) shall be a member of the board of county commissioners appointing him to be a director and shall remain as such during his term of office as director.

(5) (a) A director shall be appointed to the board by the governor from each of the counties of Arapahoe and Jefferson after the second Tuesday in January in each odd-numbered year and by the twentieth day of January in such year. A director shall be appointed to the board by the governor from each of the counties of Adams and Boulder during such part of January in each even-numbered year.

(b) Each director appointed pursuant to this subsection (5) shall be an executive officer of a municipality with a population of one hundred thousand or less, as determined by the latest

Denver regional council of governments' estimate, which is located wholly or in part in the county from which he is appointed, shall be a resident of such county, and shall remain as such an executive officer and such a county resident during his term of office as director.

(5.5) The mayor or the mayor pro tem of any city located within the district and having a population in excess of one hundred thousand, as determined by the latest Denver regional council of governments' estimate, shall be ex officio a director.

(6) (a) On or after the twenty-first day of January of each year but on or before the last day of January in such year, a director shall be appointed to the board by such board, including as members thereof for the purposes of this subsection (6) each director newly appointed in such month to the board as provided in subsections (3) to (5) of this section, and including each incumbent director whose regular term of office does not end on the last day of such month, but excluding each incumbent director whose regular term of office ends on the last day of such month.

(b) Each director appointed pursuant to this subsection (6) shall be a professional engineer licensed by the state, an elector of the district, and not an officer in the regular employment of any public body. Each such director shall remain so qualified during his or her term of office as director.

(c) No director appointed pursuant to this subsection (6) shall be deemed to be in the regular employment of such a public body designated in paragraph (b) of this subsection (6) merely because the director or an engineering firm of which he is a member or with which he is otherwise associated is engaged as an independent contractor by the public body.

(d) For the purposes of this subsection (6), a quorum of the board shall constitute a majority of the body composed of the mayor of the city and county of Denver or the deputy mayor and such other directors authorized to appoint such remaining director as provided in paragraph (a) of this subsection (6). Each such appointment shall be by motion adopted by a majority of such directors, including the mayor or the deputy mayor, constituting a quorum.

(e) The secretary of the board shall give at least five days' mailed notice of a special or regular meeting designated by the board for considering each such appointment. Such notice shall be addressed to each such director authorized to make such a remaining appointment at the mailing address designated by him in the records of the district.

(7) Each appointing authority designated in subsections (3) to (6) of this section shall cause each newly appointed director, each other appointing authority, the mayor of the city and county of Denver or the deputy mayor, and the secretary of the board to be notified forthwith of each such appointment.

(8) If any appointing authority designated in subsections (3) to (6) of this section fails to appoint any director to the board as therein provided and to cause notification of such appointment to be given pursuant to subsection (7) of this section, at the time, subject to the limitations, and otherwise as provided in said subsections (3) to (6), the governor forthwith shall make such appointment and shall cause notice thereof to be given as provided in said subsections (3) to (6) for the appointing authority.

(9) Except as otherwise provided in this article, any incumbent may be reappointed as a director to the board.

Source: L. 69: p. 745, § 8. **C.R.S. 1963:** § 89-21-8. **L. 70:** p. 298, § 116. **L. 81:** (1), (6)(d), and (7) amended, p. 1648, § 1, effective May 26. **L. 89:** (5)(b) amended and (5.5) added,

p. 1325, § 3, effective April 12. **L. 2001:** (4)(a) amended, p. 267, § 8, effective November 15. **L. 2004:** (6)(b) amended, p. 1314, § 65, effective May 28.

32-11-205. Filling vacancies. Upon a vacancy occurring in the board by reason of a director's death, resignation, termination of office as a city council member, county commissioner, or executive officer, or failure to remain a professional engineer licensed by the state who is an elector of the district, and is not an officer or in the regular employment of any public body, as the case may be, in contravention of any provision in section 32-11-204 (3) to (6), or for any other reason, the vacancy for the unexpired term of office of such director, upon the creation of such vacancy, shall be filled by the authority appointing him or her by the appointment forthwith of a successor director to serve for such unexpired term in the manner provided for such appointing authority in section 32-11-204 for regular appointments, except as otherwise provided in this section.

Source: L. 69: p. 748, § 10. **C.R.S. 1963:** § 89-21-10. **L. 70:** p. 298, § 117. **L. 2004:** Entire section amended, p. 1314, § 66, effective May 28.

32-11-206. Organizational meetings. (1) Except for the first board, each board shall meet on the first business day (excluding each Saturday, Sunday, and holiday) in February in each year at a regular place of meeting of the board within the district for the qualification of new directors and for the selection of new officers.

(2) Each director, before entering upon his official duties, shall take and subscribe an oath or affirmation before an officer authorized to administer oaths that he will support the constitution of the United States and the constitution and laws of the state, and that he will faithfully and impartially discharge the duties of his office to the best of his ability, which oath or affirmation shall be filed in the office of the secretary of state.

Source: L. 69: p. 748, § 11. **C.R.S. 1963:** § 89-21-11.

32-11-207. Fidelity bonds. (1) Each director shall, before entering upon his official duties, give a fidelity bond to the district in the sum of ten thousand dollars with good and sufficient surety to be approved by the governor, conditioned for the faithful performance of all of the duties of his office, without fraud, deceit, or oppression, and conditioned for the accounting for all moneys and property coming into his hands, and the prompt and faithful payment of all moneys and the delivery of all property coming into his custody or control belonging to the district to his successors in office.

(2) Premiums on all fidelity bonds provided for in this section shall be paid by the district, and all such bonds shall be kept on file in the office of the secretary of state.

Source: L. 69: p. 748, § 12. **C.R.S. 1963:** § 89-21-12.

32-11-208. Board's administrative powers. (1) The board, on behalf and in the name of the district, has the following powers:

(a) To fix the time and place at which its regular meetings shall be held within the district and to provide for the calling and holding of special meetings;

(b) To adopt and amend or otherwise modify bylaws and rules of procedure;

(c) To select one director as chairman of the board and of the district and another director as chairman pro tem of the board and of the district, and to choose a secretary and a treasurer of the board and of the district, each of which two positions may be filled by a person who is, or is not, a director, and both of which positions may be filled by one person;

(d) To prescribe by resolution a system of business administration, and to create all necessary offices, and to establish and reestablish the powers, duties, and compensation of all officers, agents, and employees and other persons contracting with the district subject to the provisions of section 32-11-212; but, except as may be otherwise therein provided, such compensation shall be established at prevailing rates of pay for equivalent services.

Source: L. 69: p. 748, § 13. **C.R.S. 1963:** § 89-21-13.

32-11-209. Additional administrative powers. (1) The board also has the following powers for the district:

(a) To require and fix the amount of all official fidelity and completion bonds as may be necessary in the opinion of the board for the protection of the funds and property of the district, subject to the provisions of section 32-11-207;

(b) To prescribe a method of auditing and allowing or rejecting claims and demands, except as provided in section 32-11-801 and elsewhere in this article;

(c) To provide a method for the letting of contracts on a fair and competitive basis for the construction of works, the facilities, or any project, or any interest therein, or the performance or furnishing of labor, materials, or supplies as required in this article and to require a contractor's bond in the manner required of a school board and a school district in sections 38-26-101 and 38-26-105 to 38-26-107, C.R.S., as from time to time amended;

(d) To designate an official newspaper published in the district and to publish any notice or other instrument in any additional newspaper when the board deems it necessary to do so;

(e) To make and pass resolutions and orders on behalf of the district, not repugnant to the provisions of this article, necessary or proper for the government and management of the affairs of the district, for the execution of the powers vested in the district, and for carrying into effect the provisions of this article;

(f) To appoint, by written resolution, one or more persons to act as custodians of the moneys of the district for purposes of depositing such moneys in any depository authorized in section 24-75-603, C.R.S. Such persons shall give surety bonds in such amounts and form and for such purposes as the board requires.

Source: L. 69: p. 749, § 14. **C.R.S. 1963:** § 89-21-14. **L. 77:** (1)(c) amended, p. 288, § 62, effective June 29. **L. 79:** (1)(f) added, p. 1626, § 44, effective June 8.

32-11-210. Records of board. (1) On all resolutions and orders, the roll shall be called, and the ayes and noes shall be recorded. All resolutions and orders, as soon as may be after their passage, shall be recorded in a book kept for that purpose and be authenticated by the signature of the presiding officer of the board and the secretary.

(2) Every legislative act of the board of a general or permanent nature shall be by resolution.

(3) The book of resolutions and orders shall be a public record. A record shall also be made of all other proceedings of the board, minutes of the meetings, certificates, contracts, bonds given by officers, employees, and any other agents of the district, and all corporate acts, which record shall also be a public record.

(4) The treasurer shall keep strict and accurate accounts of all moneys received by and disbursed for and on behalf of the district in a permanent record, which also shall be a public record.

(5) Any permanent record of the district shall be open for inspection by any elector thereof, by any other interested person, or by any representative of the federal government or any public body.

(6) All records are subject to audit as provided by law for political subdivisions of the state.

Source: L. 69: p. 749, § 15. **C.R.S. 1963:** § 89-21-15.

Cross references: For the local government audit law, see part 6 of article 1 of title 29.

32-11-211. Meetings of board. (1) All meetings of the board shall be held within the district and shall be open to the public.

(2) No business of the board shall be transacted except at a regular or special meeting at which a quorum consisting of at least a majority of the total membership of the board is present.

(3) Any action of the board shall require the affirmative vote of a majority of the directors present and voting except as otherwise provided in this article.

(4) A smaller number of directors than a quorum may adjourn from time to time and may compel the attendance of absent members in such manner and under such penalties as the board may provide.

Source: L. 69: p. 749, § 16. **C.R.S. 1963:** § 89-21-16.

32-11-212. Compensation of directors. (1) (a) (I) For directors serving a term of office commencing prior to April 24, 1996, each director shall receive as compensation for the director's services a sum, not in excess of two hundred forty dollars per annum, which shall be set by the board on a regular or special meeting basis, but a director shall not be compensated for any meeting that the director fails to attend.

(II) For directors serving a term of office commencing on or after April 24, 1996, each director shall receive as compensation for the director's services a sum, not in excess of one thousand two hundred dollars per annum, which shall be set by the board on a regular or special meeting basis and which shall not exceed seventy-five dollars per meeting attended. A director shall not be compensated for any meeting that the director fails to attend.

(b) For the purposes of this subsection (1), attendance by an alternate, when authorized in this article, shall be considered as attendance by the director.

(c) If an alternate attends a meeting on behalf of a director, the alternate shall receive compensation not less than that established for directors.

(2) No director shall receive any compensation as an officer, engineer, attorney, employee, or other agent of the district.

(3) The board may authorize the reimbursement of any director for expenses incurred and pertaining to the activities of the district.

Source: L. 69: p. 750, § 17. **C.R.S. 1963:** § 89-21-17. **L. 81:** (1) amended, p. 1649, § 1, effective July 1. **L. 96:** (1) amended, p. 549, § 3, effective April 24.

32-11-213. Conflicts in interest prohibited. (1) No director, officer, employee, or agent of the district shall be interested in any contract or transaction with the district, except in his official representative capacity or as is provided in his contract of employment with the district, subject to the provisions of section 32-11-212.

(2) Neither the holding of any office or employment in the government of any public body or of the federal government nor the owning of any property within the state, within or without the district, shall be deemed a disqualification for membership on the board or employment by the district or a disqualification for compensation for services as a director or as an officer, employee, or agent of the district, except as provided in section 32-11-212 and elsewhere in this article.

Source: L. 69: p. 750, § 18. **C.R.S. 1963:** § 89-21-18.

32-11-214. Authorization of facilities. (1) The district, acting by and through the board, may acquire, improve, equip, relocate, maintain, and operate the facilities, any project, or any part thereof for the benefit of the district and the inhabitants thereof, after the board has made such preliminary studies and otherwise taken such action as it determines to be necessary or desirable as preliminaries thereto.

(2) When a comprehensive program for the acquisition of facilities for the district satisfactory to the board is available, such program shall be tentatively adopted. The program need only describe the proposed facilities in general terms and not in detail.

(3) A public hearing on the proposed program shall be scheduled, and notice of the hearing shall be given by publication. After the hearing and any adjournments thereof which may be ordered, the board may either require changes to be made in the program as the board considers desirable, or the board may approve the program as prepared.

(4) If any substantial changes to the comprehensive program are ordered at any time, in the original acquisition of the facilities or in any improvement thereto, or otherwise, a further hearing shall be held pursuant to notice which shall be given by publication.

(5) Such a comprehensive program may consist of one project or of more than one project. A public hearing need not be held on each such project if it implements such a comprehensive program on which a public hearing has been held.

Source: L. 69: p. 750, § 19. **C.R.S. 1963:** § 89-21-19.

32-11-215. Implementing powers. The board, in connection with the facilities of the district and any project, may from time to time condemn, otherwise acquire, improve, equip, operate, maintain, and dispose of property within or without or both within and without the district.

Source: L. 69: p. 751, § 20. **C.R.S. 1963:** § 89-21-20.

32-11-216. Additional powers of district. (1) The district has the following powers:

(a) To have duties, privileges, immunities, rights, liabilities, and disabilities pertaining to a body corporate and politic and constituting a municipal corporation and political subdivision of the state established as an instrumentality exercising public and essential governmental and proprietary functions to provide for the public health, safety, and general welfare; but, the district shall not have the power to construct, condemn, purchase, acquire, lease, add to, maintain, or conduct and operate a water works to provide domestic, municipal, and industrial water to urban areas;

(b) To have perpetual existence and succession;

(c) To adopt, have, and use a corporate seal and to alter the same at pleasure;

(d) To sue and to be sued and to be a party to suits, actions, and proceedings;

(e) To commence, maintain, intervene in, defend, compromise, terminate by settlement or otherwise, and otherwise participate in and assume the cost and expense of any and all actions and proceedings begun and pertaining to the district, its board, its officers, agents, or employees or any of the district's powers, duties, privileges, immunities, rights, liabilities and disabilities, the facilities or any project of the district, or any property of the district;

(f) To enter into contracts and agreements, including but not limited to contracts with the federal government, the state, and any other public body;

(g) To trade, exchange, purchase, condemn, and otherwise acquire, operate, maintain, and dispose of real property and personal property, including interests therein, either within or without or both within and without the territorial limits of the district.

Source: L. 69: p. 751, § 21. **C.R.S. 1963:** § 89-21-21.

32-11-217. Financial powers of district. (1) The district also has the following powers:

(a) To borrow money and to issue district securities evidencing any loan to or amount due by the district, to provide for and secure the payment of any district securities and the rights of the holders thereof, and to purchase, hold, and dispose of district securities, as provided in this article;

(b) To fund or refund any loan or obligation of the district, and to issue funding or refunding securities to evidence such loan or obligation without any election, except as provided in this article;

(c) (I) To levy and cause to be collected taxes on and against all taxable property within the district; except that any levy, except as provided in subparagraph (II) of this paragraph (c), in excess of one mill shall require the favorable vote of a majority of the electors of the district voting on the question, subject to the limitations provided in paragraph (d) of this subsection (1), by certifying, in accordance with the schedule prescribed by section 39-5-128, C.R.S., in each year in which the board determines to levy taxes, to the body having authority to levy taxes within each county wherein the district has any territory, the rate so fixed, with directions that, at the time and in the manner required by law for levying taxes for other purposes, such body having authority to levy taxes shall levy such taxes upon the valuation for assessment of all taxable property within the district, in addition to such other taxes as may be levied by such body, as provided in this section. Not more than one-tenth of a mill shall be used for engineering

and operations of the district, not more than four-tenths of a mill shall be used for capital construction, and not more than four-tenths of a mill shall be used for maintenance and preservation of floodways and floodplains.

(I.5) In addition to the financial powers and limitations set forth in subparagraph (I) of this paragraph (c) and notwithstanding the limitations set forth in paragraph (d) of this subsection (1), the district shall have the power to levy and cause to be collected an additional tax not to exceed one-tenth of a mill upon the valuation for assessment of all taxable property within those portions of Adams, Arapahoe, Denver, Douglas, and Jefferson counties lying within the district. The additional tax shall be collected in the manner set forth in subparagraph (I) of this paragraph (c). The funds derived from such levy shall be used for the maintenance of and any improvements on that portion of the South Platte river which lies within the district.

(II) No levy authorized by this article for the payment of the principal of, any prior redemption premiums due in connection with, or the interest on any bonds or other securities issued under this article, whether general obligations or special obligations, shall be subject to the election requirements of subparagraph (I) of this paragraph (c), but all such levies shall be subject to the limitations provided in paragraph (d) of this subsection (1).

(d) To levy taxes for any fiscal year without limitation as to rate or amount for the payment of any debt of the district authorized at an election as provided in this article, except as otherwise provided by sections 32-11-564 and 32-11-566, in accordance with section 32-11-533, and evidenced by the district's interim debentures, bonds, or other contract constituting a general obligation of the district, for a term exceeding one year, and between the district and the federal government or any public body (or any combination thereof), as provided in this section, but otherwise to levy taxes for any fiscal year subject to the following limitations:

Purpose of levy	**Mill limitation**
To defray operation and maintenance expenses:	one-half mill
To defray costs of capital improvements:	one mill
To accumulate funds as additional security for payment of assessment bonds:	one mill
Maximum annual nondebt levy:	two and one-half mills;

(e) To fix, from time to time increase or decrease, collect, and cause to be collected rates, fees, and other service charges pertaining to the facilities of the district, including without limitation minimum charges and charges for availability of the facilities or services relating thereto; to pledge such revenues for the payment of district securities; and to enforce the collection of such revenues by civil action or by any other means provided by law;

(f) To levy, collect, and cause to be collected assessments fixed against specially benefited real property in any improvement district within the urban district as provided in this article;

(g) To deposit any moneys of the district in any depository authorized in section 24-75-603, C.R.S.;

(h) To invest and reinvest any surplus money in the district's treasury, including such moneys in a sinking or reserve fund established for the purpose of retiring any district securities, not required for the immediate necessities of the district in securities meeting the investment requirements established in part 6 of article 75 of title 24, C.R.S., by direct purchase of any issue

of such securities, or part thereof, at the original sale of the same, or by the subsequent purchase of such securities, except as otherwise provided in section 32-11-520 or elsewhere in this article;

(i) To redeem at maturity and to sell from time to time such securities thus purchased and held, so that the proceeds may be applied to the purposes for which the money with which such securities were originally purchased was placed in the treasury of the district;

(j) To reinvest the proceeds of any such sale in securities as provided in paragraph (h) of this subsection (1) and otherwise in this article.

Source: L. 69: p. 751, § 22. **C.R.S. 1963:** § 89-21-22. **L. 70:** p. 298, § 118. **L. 71:** p. 964, § 13. **L. 73:** p. 996, § 1. **L. 79:** (1)(c) amended, p. 1210, § 3, effective July 1; (1)(g) amended, p. 1626, § 45, effective June 8. **L. 83:** (1)(c) amended, p. 1285, § 1, effective May 20. **L. 84:** (1)(c) amended, p. 846, § 1, effective July 1. **L. 86:** (1)(c)(I) amended and (1)(c)(I.5) added, p. 1071, § 1, effective April 17. **L. 87:** (1)(c)(I) amended, p. 1407, § 5, effective April 22. **L. 89:** (1)(h) and (1)(j) amended, p. 1121, § 44, effective July 1.

32-11-218. Miscellaneous powers. (1) The district also has the following powers:

(a) To hire and retain officers, agents, employees, engineers, attorneys, and any other persons, permanent or temporary, necessary or desirable to effect the purposes of this article, to defray any expenses incurred thereby in connection with the district, and to acquire office space, equipment, services, supplies, fire and extended coverage insurance, use and occupancy insurance, workers' compensation insurance, property damage insurance, public liability insurance for the district and its officers, agents, and employees, and other types of insurance, as the board may determine; but, no provision in this article authorizing the acquisition of insurance shall be construed as waiving any immunity of the district or any director, officer, or agent thereof otherwise existing under the laws of the state;

(b) To pay or otherwise to defray the cost of a project;

(c) To pay or otherwise to defray and to contract so to pay or defray, for any term not exceeding fifty years, without an election, except as otherwise provided in this article, the principal of, any interest on, and any other charges pertaining to any securities or other obligations of the federal government, any public body, or other person incurred in connection with any property thereof subsequently acquired by the district and relating to its facilities;

(d) To establish, operate, and maintain facilities within the district across or along any public street, highway, bridge, viaduct, or other public right-of-way, or in, upon, under, or over any vacant public lands, which public lands are or may become the property of a public body, without first obtaining a franchise from the public body having jurisdiction over the same; but the district shall cooperate with any public body having such jurisdiction, shall promptly restore any such street, highway, bridge, viaduct, or other public right-of-way to its former state of usefulness as nearly as may be, and shall not use the same in such manner as permanently to impair completely or unnecessarily the usefulness thereof;

(e) To adopt, amend, repeal, enforce, and otherwise administer such reasonable resolutions, rules, regulations, and orders as the district deems necessary or convenient for the operation, maintenance, management, government, and use of the district's facilities and any other drainage and flood control facilities under its control, whether situated within or without or both within and without the territorial limits of the district;

(f) (I) To adopt, amend, repeal, enforce, and otherwise administer under the police power such reasonable flood-plain zoning resolutions, rules, regulations, and orders pertaining to properties within the district of any public body or other person (other than the federal government) reasonably affecting the collection, channeling, impounding, or disposition of rainfall, other surface and subsurface drainage, and storm and flood waters (or any combination thereof), including without limitation variances in the event of any practical difficulties or unnecessary hardship and exceptions in the event of appropriate factors, as the board may from time to time deem necessary or convenient. In the event of any conflict between any flood-plain zoning regulation adopted under this section and any flood-plain zoning regulation adopted by any other public body, the more restrictive regulation shall control.

(II) No such resolution, rule, regulation, or order shall be adopted or amended except by action of the board on the behalf and in the name of the district after a public hearing thereon is held by the board, in connection with which any public body owning drainage and flood control facilities in the area involved or otherwise exercising powers affecting drainage and flood control therein and other persons of interest have an opportunity to be heard, after mailed notice of the hearing is given by the secretary to each such public body and after notice of such hearing is given by publication by the secretary to persons of interest, both known and unknown.

Source: L. 69: p. 753, § 23. **C.R.S. 1963:** § 89-21-23. **L. 90:** (1)(a) amended, p. 573, § 67, effective July 1.

32-11-219. Cooperative powers. (1) Subject to the provisions of sections 32-11-533 and 32-11-534, the district also has the following powers:

(a) To accept contributions or loans from the federal government for the purpose of financing the planning, acquisition, improvement, equipment, maintenance, and operation of any enterprise in which the district is authorized to engage, and to enter into contracts and cooperate with, and accept cooperation from, the federal government in the planning, acquisition, improvement, equipment, maintenance, and operation, and in financing the planning, acquisition, improvement, equipment, maintenance, and operation of any such enterprise in accordance with any legislation which congress may adopt, under which aid, assistance, and cooperation may be furnished by the federal government in the planning, acquisition, improvement, equipment, maintenance, and operation, or in financing the planning, acquisition, improvement, equipment, maintenance, and operation of any such enterprise, including without limitation costs of engineering, architectural, and economic investigations and studies, surveys, designs, plans, working drawings, specifications, procedures, and other action preliminary to the acquisition, improvement, or equipment of any project, and to do all things necessary in order to avail itself of such aid, assistance, and cooperation under any federal legislation;

(b) To enter without any election into joint operating or service contracts and agreements; acquisition, improvement, equipment, or disposal contracts; or other arrangements for any term not exceeding fifty years with the federal government and any public body (or any combination thereof), concerning the facilities and any project or property pertaining thereto, whether acquired by the district, by the federal government, or by any public body; and to accept grants and contributions from the federal government, any public body, or any other person in connection therewith;

(c) To enter into and perform without any election, when determined by the board to be in the public interest, contracts and agreements, for any term not exceeding fifty years, with the federal government, any public body, or any other person for the provision and operation by the district of any drainage and flood control facilities pertaining to such facilities of the district or any project relating thereto and the payment periodically thereby to the district of amounts at least sufficient, if any, in the determination of the board, to compensate the district for the cost of providing, operating, and maintaining such facilities serving the federal government, such public body, or such other person, or otherwise;

(d) To enter into and perform without any election contracts and agreements with the federal government, any public body, or any other person for or concerning the planning, construction, lease or other acquisition, improvement, equipment, operation, maintenance, disposal, and the financing of any property pertaining to the facilities of the district or to any project of the district, including but not necessarily limited to any contract or agreement for any term not exceeding fifty years;

(e) To cooperate with and act in conjunction with the federal government or any of its engineers, officers, boards, commissions, or departments, or with the state or any of its engineers, officers, boards, commissions, or departments, or with any other public body or any other person in the acquisition, improvement, or equipment of any facilities or any project authorized for the district or for any other works, acts, or purposes provided for in this article, and to adopt and carry out any definite plan or system of work for any such purpose;

(f) To cooperate with the federal government or any public body by an agreement therewith by which the district may:

(I) Acquire and provide, without cost to the cooperating entity, the land, easements, and rights-of-way necessary for the acquisition, improvement, or equipment of any project;

(II) Hold the cooperating entity free from and save it harmless from any claim for damages arising from the acquisition, improvement, equipment, maintenance, and operation of any facilities;

(III) Maintain and operate any facilities in accordance with regulations prescribed by the cooperating entity;

(IV) Establish and enforce regulations, if any, concerning the facilities and satisfactory to the cooperating entity;

(g) To provide by any contract for any term not exceeding fifty years, or otherwise, without an election:

(I) For the joint use of personnel, equipment, and facilities of the district and any public body, including without limitation public buildings constructed by or under the supervision of the board or the governing body of the public body concerned, upon such terms and agreements and within such areas within the district as may be determined, for the promotion and protection of health, comfort, safety, life, welfare, and property of the inhabitants of the district and any such public body and any other persons of interest;

(II) For the joint employment of clerks, stenographers, and other employees pertaining to the facilities or any project established in the district, upon such terms and conditions as may be determined for the equitable apportionment of the expenses resulting therefrom.

(2) The board shall provide for comprehensive planning and, where possible, coordinate operations with all regional special purpose districts, regional multipurpose public agencies, and

regional planning commissions and any political subdivision that is multijurisdictional in nature and functions wholly or partly within the urban district.

(3) If a single multipurpose service authority is subsequently created in the Denver metropolitan area, the powers, functions, and facilities of the district created by this article shall be transferred to such service authority; except that the general assembly may provide for the transfer to other political subdivisions of any facilities outside the boundaries of such service authority.

(4) The board, wherever and however possible and feasible, shall promote and cooperate with park and recreation districts, municipalities, and other governmental agencies for the development and use of drainageways for recreational and park purposes.

Source: L. 69: p. 754, § 24. **C.R.S. 1963:** § 89-21-24.

32-11-220. Other supplemental powers. (1) The district also has the following powers:

(a) To enter upon any land to make surveys, borings, soundings, and examinations for the purpose of the district, and to locate the necessary works of any project and any roadways and other rights-of-way pertaining to any project authorized in this article; to acquire all property necessary or convenient for the acquisition, improvement, or equipment of such works, including works constructed and being constructed by private owners, and all necessary appurtenances; and also, where necessary or convenient to such end, and for such purposes and uses, to acquire and hold the stock of corporations, domestic or foreign, owning facilities, franchises, concessions, or rights pertaining to facilities or any project of the district;

(b) To acquire property by agreement, condemnation, or otherwise, and if any street, road, highway, railroad, canal, ditch, or other property subject or devoted to public use becomes subject to interference by reason of the construction or proposed construction of any works of the district, the right to interfere with such property, whether it be publicly or privately owned; but:

(I) If such right is acquired by condemnation proceedings, and if the court finds that public necessity or convenience requires, the judgment may direct the district to relocate such street, road, highway, railroad, canal, ditch, or other property in accordance with the plans prescribed by the court;

(II) If, by such judgment or agreement, the district is required to relocate any such street, road, highway, railroad, canal, ditch, or other property subject or devoted to public use, the board has the power to acquire in the name of the district, by agreement or condemnation, all rights-of-way and other property necessary or proper for compliance with the agreement or judgment of condemnation, and thereafter to make such conveyance of such relocated street, road, highway, railroad, canal, ditch, or other property as may be proper to comply with the agreement or judgment;

(c) To carry on technical and other investigations of all kinds, make measurements, collect data, and make analyses, studies, and inspections pertaining to the facilities and any project, both within and without the district;

(d) To make and keep records in connection with the facilities and any project or otherwise concerning the district;

(e) To arbitrate any differences arising in connection with the facilities and any project or otherwise concerning the district;

(f) To have the management, control, and supervision of all business and affairs pertaining to the facilities and any project authorized in this article, or otherwise concerning the district, and of the acquisition, improvement, equipment, operation, maintenance, and disposal of any property pertaining to the facilities or any such project;

(g) To enter into contracts of indemnity and guaranty, in such form as may be approved by the board, relating to or connected with the performance of any contract or agreement which the district is empowered to enter into under the provisions of this article or of any other law of the state;

(h) To obtain financial statements, appraisals, economic feasibility reports, and valuations of any type pertaining to the facilities or any project or any property relating thereto;

(i) To adopt any resolution authorizing a project or the issuance of district securities, or both, or otherwise pertaining thereto, or otherwise concerning the district;

(j) To make and execute an indenture or other trust instrument pertaining to any district securities authorized in this article, except as otherwise provided in section 32-11-502 and elsewhere in this article;

(k) To make all contracts, execute all instruments, and do all things necessary or convenient in the exercise of the powers granted in this article, or in the performance of the district's covenants or duties, or in order to secure the payment of district securities;

(l) To have and exercise all rights and powers necessary or incidental to or implied from the specific powers granted in this article, which specific powers shall not be considered as a limitation upon any power necessary or appropriate to carry out the purposes and intent of this article;

(m) To exercise all or any part or combination of the powers granted in this article.

Source: L. 69: p. 755, § 25. **C.R.S. 1963:** § 89-21-25.

32-11-221. Approval of other facilities. (1) No public body or other person (other than the federal government) shall, after June 14, 1969, acquire or improve within the territorial limits of the district any drainage and flood control facilities (other than gutters and rainspouts attached to buildings and other structures; other than curbs and gutters pertaining to the improvement of any streets, alleys, highways, and other rights-of-way; and other than a collection or secondary storm drainage system, as defined in the Denver regional council of governments storm drainage criteria manual, as from time to time amended) until a proposal for such an acquisition or improvement has been approved by the board.

(2) If any person (other than the federal government) after June 14, 1969, acquires or improves any such facilities without such approval, the board may order their modification to meet the reasonable specifications and other requirements of the district.

(3) The board shall not approve a proposal for any such acquisition or improvement unless the drainage or flood control facilities so to be acquired or improved appropriately complement or supplement the facilities of the district, both proposed and acquired, and upon the adoption of a comprehensive program for the acquisition of facilities for the district, as from time to time modified, if modified, pursuant to section 32-11-214, appropriately conform to such program.

(4) The board shall not unreasonably withhold its approval of nor disapprove any such proposal unless such facilities to be acquired or approved do not so complement or supplement the district's facilities or do not so conform to such a comprehensive program of the district, if any.

(5) If any such proposal does not sufficiently delineate the facilities so to be acquired or improved for the board to determine whether such facilities so complement or supplement the district's facilities and so conform to such a comprehensive program of the district, if any, the board may order such additional information to be furnished to it as it may deem necessary or desirable for it to make such a determination. The board may delay its consideration of any such proposal until the additional information which the board requests is received by it.

Source: L. 69: p. 760, § 33. **C.R.S. 1963:** § 89-21-33.

32-11-222. Powers of public bodies. (1) The governing body of any public body, upon its behalf and in its name, for the purpose of aiding and cooperating in any project authorized in this article, upon the terms and with or without consideration and with or without an election, as the governing body determines, has power under this article:

(a) To sell, lease, loan, donate, grant, convey, assign, transfer, and otherwise dispose to the district any facilities or any other property, or any interest therein, pertaining to any project (or any combination thereof);

(b) To make available to the district for temporary use, or otherwise to dispose of any machinery, equipment, facilities, and other property, and any agents, employees, persons with professional training, and any other persons, to effect the purposes of this article. Any such property owned and persons in the employ of any public body while engaged in performing for the district any service, activity, or undertaking authorized in this article, pursuant to contract or otherwise, shall have and retain all of the powers, privileges, immunities, rights, and duties of, and shall be deemed to be engaged in the service and employment of, such public body, notwithstanding that such service, activity, or undertaking is being performed in or for the district.

(c) To enter into any agreement or joint agreement between or among the federal government, the district, and any public bodies (or any combination thereof) extending over any period not exceeding fifty years, which is mutually agreed thereby, notwithstanding any law to the contrary, respecting action or proceedings pertaining to any power granted in this article, and the use or joint use of any facilities, project, or other property herein authorized;

(d) To sell, lease, loan, donate, grant, convey, assign, transfer, or pay over to the district any facilities or any project authorized in this article, or any part or parts thereof, or any interest in personal property or real property, or any funds available for acquisition, improvement, or equipment purposes, including the proceeds of any securities issued for acquisition, improvement, or equipment purposes which may be used by the district in the acquisition, improvement, equipment, maintenance, and operation of any facilities or project authorized in this article (or any combination thereof);

(e) To transfer, grant, convey, or assign and set over to the district any contracts which may have been awarded by the public body for the acquisition, improvement, or equipment of any project not begun or, if begun, not completed;

(f) To budget and appropriate, and each public body is required and directed to budget and appropriate from time to time the proceeds of taxes, service charges, and other revenues legally available therefor to pay all obligations arising from the exercise of any powers granted in this article as such obligation accrues and becomes due;

(g) To provide for an agency, by any agreement authorized in this article, to administer or execute that or any collateral agreement, which agency may be one of the parties to the agreement, or a commission or board constituted pursuant to the agreement;

(h) To provide that any such agency shall possess the common power specified in the agreement, and may exercise it in the manner or according to the method provided in the agreement. Such power is subject to the restrictions upon the manner of exercising the power of any one of the contracting parties, which party shall be designated by the agreement.

(i) To continue any agreement authorized in this article for a definite term not exceeding fifty years, or until rescinded or terminated, which agreement may provide for the method by which it may be rescinded or terminated by any party.

Source: L. 69: p. 761, § 34. **C.R.S. 1963:** § 89-21-34.

PART 3

TAXATION AND SERVICE CHARGES

32-11-301. Levy and collection of taxes. To levy and collect taxes, the board shall determine, in each year, the amount of money necessary to be raised by taxation, taking into consideration other sources of revenue of the urban district, and shall fix a rate of levy, subject to the provisions of section 32-11-217 (1)(c) and (1)(d), which, when levied upon every dollar of valuation for assessment of taxable property within the district, and, together with other moneys of the district, will raise the amount required by the district annually to supply funds for paying expenses of organization and the costs of acquiring, improving, equipping, operating, and maintaining any project or facilities of the district, and promptly to pay in full, when due, all interest on the principal of, any prior redemption premiums due in connection with, and any other district charges pertaining to the general obligation bonds and other general obligation securities of the district and any other debt of the district, and to meet any other obligations of the district payable from taxes, and in the event of accruing defaults or deficiencies, an additional levy may be made as provided in section 32-11-302.

Source: L. 69: p. 757, § 26. **C.R.S. 1963:** § 89-21-26. **L. 72:** p. 612, § 134.

32-11-302. Levies to cover deficiencies. (1) The board, in certifying annual levies, shall take into account the maturing obligations for the ensuing year as provided in its contracts, maturing securities, and interest on securities, and deficiencies and defaults in prior years, and shall make ample provision for the payment thereof.

(2) In case the moneys produced from such levies, together with the revenues and any other moneys of the district, are not sufficient punctually to pay the annual installments of its contracts or securities and interest thereon, and to pay defaults and deficiencies, the board shall make such additional levies of taxes as may be necessary for such purposes, and notwithstanding

any limitations, except the limitations in section 32-11-217 (1)(d), such taxes shall be made and continue to be levied until the obligations of the district payable from taxes are fully paid.

Source: L. 69: p. 757, § 27. **C.R.S. 1963:** § 89-21-27.

32-11-303. Sinking funds. Whenever any obligations (other than any special obligations not payable from taxes) have been incurred by the district, subject to the limitations in section 32-11-217 (1)(d), the board may levy taxes and collect revenue for the purpose of creating a reserve in such amount as the board may determine, which may be used to meet such general obligations and any other obligations payable from taxes of the district, for operation and maintenance expenses and depreciation charges, and for defraying the cost of any project of the district.

Source: L. 69: p. 758, § 28. **C.R.S. 1963:** § 89-21-28.

32-11-304. Levying and collecting taxes. (1) The body having authority to levy taxes within each county in which the district is situate shall levy the taxes provided in section 32-11-217 (1)(c) and (1)(d), and elsewhere in this article.

(2) All officials charged with the duty of collecting taxes shall collect such taxes levied by the district at the time and in the form and manner and with like interest and penalties as other taxes are collected and, when collected, shall pay the same to the district.

(3) The payment of such collection shall be made monthly to the treasurer of the district and paid into the depository thereof to the credit of the district.

(4) All taxes levied under this article, together with interest thereon and penalties for default in payment thereof, and all costs of collecting the same, shall constitute, until paid, a perpetual lien on and against the property taxed, and such lien shall be on a parity with the tax lien of other taxes.

Source: L. 69: p. 758, § 29. **C.R.S. 1963:** § 89-21-29.

Cross references: For collection of taxes, see article 10 of title 39; for enforcement of tax liens, see article 20 of title 39.

32-11-305. Delinquent taxes. (1) If the taxes levied are not paid, then delinquent real property shall be sold at the regular tax sale for the payment of such taxes, interest, and penalties, in the manner provided by the statutes of the state for selling real property for the nonpayment of taxes. If there are no bids at such tax sale for the property so offered, the property shall be struck off to the county, and the county shall account to the district in the same manner as provided by law for accounting for school, town, and city taxes.

(2) Delinquent personal property shall be distrained and sold as provided by law.

(3) Nothing in this article, neither the tax limitations in section 32-11-217 (1)(d) nor otherwise, shall be construed as preventing the collection in full of the proceeds of all levies of taxes by the district authorized by this article, including without limitation any delinquencies, interest, penalties, and costs.

Source: L. 69: p. 758, § 30. **C.R.S. 1963:** § 89-21-30.

Cross references: For the sale of tax liens, see article 11 of title 39.

32-11-306. Service charges. (1) (a) The urban district, as provided in section 32-11-217 (1)(e) and elsewhere in this article, may fix, modify, and collect, or cause to be collected, service charges for direct or indirect connection with, or the use or services of, the facilities of the district, including without limitation minimum charges and charges for the availability of the facilities or services relating thereto.

(b) Such service charges may be charged to and collected in advance or otherwise by the district at any time or from time to time from any person owning real property within the district or from any occupant of such property which directly or indirectly is, has been, or will be connected with the drainage and flood control system of the district or from which or on which originates or has originated rainfall, other surface and subsurface drainage, and storm and flood waters (or any combination thereof) which have entered or may enter such system, and such owner or occupant of any such real property shall be liable for and shall pay such service charges to the district at the time when and place where such service charges are due and payable.

(c) Such service charges of the district may accrue from any date on which the board reasonably estimates, in any resolution authorizing the issuance of any securities or other instrument pertaining thereto or in any contract with any person, that the facilities comprising the system or any project being acquired or improved and equipped will be available for service or use.

(2) (a) Such service charges, as nearly as the district deems practicable and equitable, shall be reasonable, and shall be uniform throughout the district for the same type, class, and amount of use or service of the district's system, and may be based or computed on measurements of drainage flow devices duly provided and maintained by the district or by any user as approved by the district, or on the consumption of water in or on or in connection with the real property, making due allowance for commercial and other use of water discharged into any sanitary sewer system and for any infiltration of groundwater and discharge of surface runoff into such sewer system, or on the capacity of the capital improvements in or on or connected with the real property, or upon the availability of service or readiness to serve by the district's system, or on any other factors determining the type, class, and amount of use or service of the district's system, or on any combination of such factors. The district may give weight to the characteristics of any real property, including without limitation the characteristics of capital improvements, both proposed and existing, in any subdivision or other area in the urban district, and any other special matter affecting the runoff of rainfall, of other surface and subsurface drainage, and of storm and flood waters (or any combination thereof) from such real property directly or indirectly into the district's facilities.

(b) Reasonable penalties may be fixed for any delinquencies, including without limitation interest on delinquent service charges from any date due at a rate of not exceeding one percent per month, or fraction thereof, reasonable attorneys' fees, and other costs of collection.

(3) The district may prescribe and from time to time when necessary revise a schedule of such service charges, which shall comply with the terms of any contract of the district, and in any event shall be such that the revenues from the service charges of the district will at all times be adequate, except to the extent that the proceeds of any taxes or other moneys are available

and used, after an allowance is made for delinquencies accrued and reasonably estimated to accrue by the board in the payment of such service charges, whether resulting from any delinquency of any person or from any other cause:

(a) To pay all operation and maintenance expenses;

(b) To pay punctually the principal of and interest on any securities payable from revenues of the district's facilities and issued or to be issued by the district;

(c) To maintain such reserves or sinking funds therefor; and

(d) To pay any expenses incidental to the facilities of the district or any project authorized in this article, any contingencies, acquisitions, improvements, and equipment, and any other cost, as may be required by the terms of any contract of, or as may be deemed necessary or desirable by, the district.

(4) Such schedule shall thus be prescribed and from time to time revised by the district. A public hearing thereon may be, but is not required to be, held by the district at least seven days after such published notice is given, as the district may determine to be reasonable. The district shall fix and determine the time or times when and the place or places where such service charges shall be due and payable and may require that the service charges shall be paid in advance for a period of not more than one year. A copy of such schedule of service charges in effect shall at all times be kept on file at the principal office of the district and shall at all reasonable times be open to public inspection.

(5) The general assembly has determined and hereby declares that the obligations arising from time to time of any person to pay service charges fixed in connection with the district's facilities shall constitute general obligations of the public body or other person charged with their payment; but as such obligations accrue for current services and benefits from and use of such facilities, the obligations shall not constitute an indebtedness of the public body within the meaning of any constitutional, charter, or statutory limitation, or other provision restricting the incurrence of any debt.

(6) No board, agency, bureau, commission, or official other than the board of the district has authority to fix, prescribe, levy, modify, supervise, or regulate the making of service charges, nor to prescribe, supervise, or regulate the performance of services pertaining to the district's facilities, as authorized in this article; but this subsection (6) is not a limitation on the contracting powers of the district acting by and through its board.

Source: L. 69: p. 758, § 31. **C.R.S. 1963:** § 89-21-31.

PART 4

ELECTIONS

32-11-401. Elections. Wherever in this article an election is permitted or required, the election may be held separately at a special election or may be held jointly or concurrently with any primary or general election held under the laws of the state; but no election shall be held at the same time as any regular election of any city, town, or school district any part of the area of which is located within the boundaries of the district. The elections shall be held and conducted, and the results determined, in the manner provided by articles 1 to 13 of title 1, C.R.S.

Source: L. 69: p. 762, § 36. **C.R.S. 1963:** § 89-21-36. **L. 70:** p. 299, § 119. **L. 81:** Entire section amended, p. 1626, § 36, effective July 1. **L. 92:** Entire section amended, p. 917, § 180, effective January 1, 1993.

32-11-402. Election resolution. (1) The board shall call any election by resolution adopted at least thirty days prior to the election.

(2) The resolution shall recite the objects and purposes of the election, the date upon which the election shall be held, and the form of the ballot and shall designate an election official to conduct the election.

(3) to (5) (Deleted by amendment, L. 92, p. 917, § 181, effective January 1, 1993.)

Source: L. 69: p. 762, § 37. **C.R.S. 1963:** § 89-21-37. **L. 70:** p. 299, § 120. **L. 92:** Entire section amended, p. 917, § 181, effective January 1, 1993.

32-11-403. Conduct of election. (Repealed)

Source: L. 69: p. 763, § 38. **C.R.S. 1963:** § 89-21-38. **L. 70:** pp. 299, 300, §§ 121, 122. **L. 71:** p. 964, §§ 14, 15. **L. 77:** (6) amended, p. 234, § 11, effective June 19; (4) and (10) amended, p. 288, § 63, effective June 29; (9) amended, p. 1515, § 83, effective July 15. **L. 80:** (4) and (10) amended, p. 416, § 32, effective February 21. **L. 92:** Entire section repealed, p. 924, § 198, effective January 1, 1993.

32-11-404. Notice of election. (Repealed)

Source: L. 69: p. 764, § 39. **C.R.S. 1963:** § 89-21-39. **L. 92:** Entire section repealed. p. 924, § 198, effective January 1, 1993.

32-11-405. Polling places. (Repealed)

Source: L. 69: p. 764, § 40. **C.R.S. 1963:** § 89-21-40. **L. 92:** Entire section repealed, p. 924, § 198, effective January 1, 1993.

32-11-406. Election supplies. (Repealed)

Source: L. 69: p. 764, § 41. **C.R.S. 1963:** § 89-21-41. **L. 70:** p. 300, § 123. **L. 77:** (1) amended, p. 1515, § 84, effective July 15. **L. 92:** Entire section repealed, p. 924, § 198, effective January 1, 1993.

32-11-407. Election returns. (Repealed)

Source: L. 69: p. 765, § 42. **C.R.S. 1963:** § 89-21-42. **L. 92:** Entire section repealed, p. 924, § 198, effective January 1, 1993.

PART 5

32-11-501. Forms of borrowing. (1) Upon the conditions and under the circumstances set forth in this section, the urban district, to carry out the purposes of this article, at any time or from time to time may borrow money to defray the cost of any project designated by the board, or any part thereof as the board may determine, and may issue district securities to evidence such borrowing or obligations otherwise incurred under this article, as provided in this section.

(2) The urban district may issue, in one series or more, without the district securities being authorized at any election, except as otherwise provided in section 32-11-533 and elsewhere in this article, in anticipation of taxes or pledged revenues, or both, and constituting either general obligations or special obligations of the district, any one or more of the following types of district securities:

(a) Notes, evidencing any amount borrowed by the district;

(b) Warrants, evidencing the amount due to any person for any services, supplies, equipment, or other materials furnished to or for the benefit of the district and pertaining to a project;

(c) Bonds, evidencing any amount borrowed by the district and constituting long-term financing;

(d) Temporary bonds, pending the preparation of and exchangeable for definitive bonds of like character and in like principal amount when prepared and issued in compliance with the conditions and limitations provided in this article; and

(e) Interim debentures, evidencing any emergency loans, construction loans, and other temporary loans not exceeding three years, in supplementation of long-term financing and the issuance of bonds, as provided in sections 32-11-558 to 32-11-563.

(3) The urban district, pursuant to part 6 of this article and sections 32-11-803 to 32-11-808, at any time or from time to time, may create therein an improvement district, levy special assessments against the assessable property in the improvement district, and cause the assessments to be collected to defray wholly or in part the cost of any project, and may issue, in one series or more, without the district securities being authorized at any election, in anticipation of the assessments and any other moneys pledged additionally to secure the payment of the securities, and constituting special obligations of the urban district, any one or more of the following types of district securities:

(a) Bonds, evidencing any amount borrowed and constituting long-term financing;

(b) Temporary bonds, pending the preparation of and exchangeable for definitive bonds of like character and in like principal amount when prepared and issued in compliance with the conditions and limitations provided in this article; and

(c) Assessment debentures, evidencing any construction loans or other temporary loans not exceeding three years, in supplementation of long-term financing and the issuance of bonds, as provided in section 32-11-621.

Source: L. 69: p. 765, § 43. **C.R.S. 1963:** § 89-21-43.

32-11-502. Limitations upon security. (1) The payment of district securities or any other obligations of the district shall not be secured by an encumbrance, mortgage, or other pledge of property of the district, except for its pledged revenues, proceeds of taxes, proceeds of

assessments, and any other moneys pledged for the payment of the securities or such other obligations.

(2) No property of the district subject to such exception shall be liable to be forfeited or taken in payment of any district securities or other obligations of the district.

Source: L. 69: p. 766, § 44. **C.R.S. 1963:** § 89-21-44.

32-11-503. Recourse against district personnel. No recourse shall be had for the payment of the principal of, any interest on, and any prior redemption premiums due in connection with any bonds or other district securities or other obligations of the district evidenced by any other contract or for any claim based thereon or otherwise upon the resolution authorizing the issuance of such securities or the incurrence of such other obligations, or other instrument pertaining thereto, against any individual director or any officer or other agent of the district, past, present, or future, either directly or indirectly through the board or the district, or otherwise, whether by virtue of any constitution, statute, or rule of law, or by the endorsement of any penalty or otherwise, all such liability, if any, shall be by the acceptance of the securities and as a part of the consideration of their issuance or by the making of any other contract specially waived and released.

Source: L. 69: p. 766, § 45. **C.R.S. 1963:** § 89-21-45.

32-11-504. Repeal of article. The faith of the state is pledged that this article, any law supplemental or otherwise pertaining thereto, and any other law concerning the bonds or other district securities, taxes, assessments, or the pledged revenues, or any combination of such securities, such taxes, such assessments, and such revenues shall not be repealed, amended, or otherwise directly or indirectly modified in such a manner as to impair adversely any outstanding district securities, until all such securities have been discharged in full or provision for their payment and redemption has been fully made, including without limitation the known minimum yield from the investment or reinvestment of moneys pledged therefor in federal securities.

Source: L. 69: p. 766, § 46. **C.R.S. 1963:** § 89-21-46.

32-11-505. Registration of securities. (1) Before the board delivers any securities under this article, all such securities shall be registered by the treasurer in a book kept in his office for that purpose.

(2) The register shall show:

(a) The principal amount of the securities;

(b) The time of payment of each of the securities; and

(c) The rate of interest each of the securities bears.

(3) After registration by the treasurer, he shall cause the securities to be delivered to the purchaser thereof from the district, upon payment being made therefor on the terms of the sale.

Source: L. 69: p. 766, § 47. **C.R.S. 1963:** § 89-21-47.

32-11-506. Details of securities. (1) Except as otherwise provided in this article and in any other law, the provisions of which are relevant by express reference in this article thereto, any district securities issued under this article, as may be provided by the board in a resolution authorizing their issuance and in any indenture or other proceedings pertaining thereto, may be:

(a) In such form, issued in such manner, and issued with such provisions:

(I) For the application of any accrued interest and any premium from the sale of any bonds or other district securities under this article as provided in section 32-11-516;

(II) For the registration of the bonds or other securities for payment as to principal only, or as to both principal and interest, at the option of any holder of a bond or other security, or for registration for payment only in either manner designated;

(III) For the endorsement of payments of interest on the bonds or other securities or for reconverting the bonds or other securities into coupon bonds or other coupon securities, or both for such endorsement and such reconversion, where any bond or other security is registered for payment as to interest; and where interest accruing on the securities is not represented by interest coupons, the securities may provide for the endorsing of payments of interest thereon;

(IV) For the endorsement of payments of principal on the bonds or other securities, where any bond or other securities are registered for payment as to principal;

(V) For the initial issuance of one or more bonds or other securities aggregating the amount of the entire issue or any portion thereof, and the endorsement of payments of interest or principal or both interest and principal on the securities;

(VI) For the manner and circumstances in and under which any such bond or other securities may in the future, at the request of the holder thereof, be converted into bonds or other securities of smaller or larger denominations, which bonds or other securities of smaller or larger denominations may in turn be either coupon bonds or other coupon securities or bonds or other securities registered for payment, or coupon bonds or other coupon securities with provisions for registration for payment;

(VII) For the reissuance of any outstanding bonds or other securities, and the terms and conditions thereof, whether lost, apparently destroyed, wrongfully taken, or for any other reason, as provided in the "Uniform Commercial Code - Investment Securities", being article 8 of title 4, C.R.S., or otherwise;

(VIII) For the deposit of moneys, federal securities, or other securities of the federal government, or both moneys and all such securities, with and securing their repayment by a commercial bank within or without or both within and without this state; and

(IX) For the payment of costs or expenses incident to the enforcement of the securities or of the provisions of the resolution or of any covenant or contract with the holders of the securities.

(b) Issued otherwise with such recitals, terms, covenants, conditions, and other provisions as the board may provide.

Source: L. 69: p. 767, § 48. **C.R.S. 1963:** § 89-21-48.

32-11-507. Recital of issuance under article. A resolution providing for the issuance of bonds or other district securities under this article or an indenture or other proceedings pertaining thereto may provide that the securities contain a recital that they are issued pursuant to this

"Urban Drainage and Flood Control Act", which recital shall be conclusive evidence of their validity and the regularity of their issuance.

Source: L. 69: p. 768, § 49. **C.R.S. 1963:** § 89-21-49.

32-11-508. Additional securities details. (1) As the board may determine, any bonds and other district securities issued under this article, except as otherwise provided in this article or in any law supplemental thereto, may:

(a) Be of a convenient denomination or denominations;

(b) Be fully negotiable within the meaning of and for all the purposes of the "Uniform Commercial Code - Investment Securities", being article 8 of title 4, C.R.S.;

(c) Mature at such time or serially at such times in regular numerical order at annual or other designated intervals in amounts designated and fixed by the board;

(d) Bear interest payable annually, semiannually, or at other designated intervals, but the first interest payment date may be for interest accruing for any other period;

(e) Be made payable in lawful money of the United States, at the office of the treasurer, any county treasurer, or any commercial bank within or without or both within and without the state as may be provided by the board; and

(f) Be printed at such place within or without this state, as the board may determine.

Source: L. 69: p. 768, § 50. **C.R.S. 1963:** § 89-21-50.

32-11-509. Payment without further order. The principal of, the interest on, and any prior redemption premium due in connection with any district securities shall be paid as the same become due in accordance with the terms of the securities and any resolutions and other proceedings pertaining to their issuance, without any warrant or further order or other preliminaries.

Source: L. 69: p. 768, § 51. **C.R.S. 1963:** § 89-21-51.

32-11-510. Interest coupons. Any bonds issued under this article (except temporary bonds) shall have one or two sets of interest coupons, bearing the number of the bond to which they are respectively attached, numbered consecutively in regular numerical order, and attached in such manner that they may be removed upon the payment of the installments of interest without injury to the bonds, except as otherwise provided in this article.

Source: L. 69: p. 768, § 52. **C.R.S. 1963:** § 89-21-52.

32-11-511. Execution of securities. Bonds and other district securities issued under this article shall be executed in the name of the district, shall be signed by the chairman of the board, shall be countersigned by the treasurer, and shall be attested by the secretary. All bonds or other securities shall be authenticated by the seal of the district affixed thereto. All coupons shall be signed by the treasurer. Facsimile signatures may be used on any coupons.

Source: L. 69: p. 768, § 53. **C.R.S. 1963:** § 89-21-53.

32-11-512. Use of facsimiles. Any bonds or other securities, including without limitation any certificates endorsed thereon and any coupons attached thereto, may be executed with facsimile signatures and seals as provided in sections 11-55-103 and 11-55-104, C.R.S., as from time to time amended.

Source: L. 69: p. 769, § 54. **C.R.S. 1963:** § 89-21-54. **L. 77:** Entire section amended, p. 288, § 64, effective June 29.

32-11-513. Execution by incumbents. The bonds, any coupons pertaining thereto, and other securities bearing the signatures of the officers in office at the time of the signing thereof shall be the valid and binding obligations of the district, notwithstanding that before the delivery thereof and payment therefor all of the persons whose signatures appear thereon have ceased to fill their respective offices.

Source: L. 69: p. 769, § 55. **C.R.S. 1963:** § 89-21-55.

32-11-514. Execution with predecessor's facsimile. Any officer authorized or permitted to sign any bonds, any coupons, or any other securities, at the time of their execution and of a signature certificate pertaining thereto, may adopt for his own facsimile signature the facsimile signature of his predecessor in office in the event that such facsimile signature appears upon the bonds, coupons, and other securities pertaining thereto, or any combination thereof.

Source: L. 69: p. 769, § 56. **C.R.S. 1963:** § 89-21-56.

32-11-515. Repurchase of securities. Any bonds or other district securities may be repurchased by the board out of any funds available for such purpose at a price of not more than the principal amount thereof and accrued interest, plus the amount of the premium, if any, which might on the next prior redemption date of such securities be paid to the holders thereof if such securities should be called for redemption on such date pursuant to their terms. All securities so repurchased shall be canceled; but if the securities are not called for prior redemption at the district's option within one year from the date of their purchase, they may be repurchased without limitation as to price.

Source: L. 69: p. 769, § 57. **C.R.S. 1963:** § 89-21-57.

32-11-516. Use of securities proceeds. (1) All moneys received from the issuance of any securities authorized in this article shall be used solely for the purpose for which issued and to defray wholly or in part the cost of the project thereby delineated, except for any funding or refunding securities.

(2) Any accrued interest and any premium shall be applied to the cost of the project or to the payment of the interest on or the principal of the securities, or both interest and principal, or shall be deposited in a reserve therefor, or any combination thereof, as the board may determine.

Source: L. 69: p. 769, § 58. **C.R.S. 1963:** § 89-21-58.

32-11-517. Use of surplus proceeds. Any unexpended balance of the proceeds of such securities remaining after the completion of the acquisition or improvement of properties pertaining to the project or otherwise to the completion of the purpose for which such securities were issued shall be credited immediately to the fund or account created for the payment of the interest on or the principal of the securities, or both principal and interest, and shall be used therefor, subject to the provisions as to the times and methods for their payment as stated in the securities and the proceedings authorizing or otherwise pertaining to their issuance, or so paid into a reserve therefor, or any combination thereof, as the board may determine.

Source: L. 69: p. 769, § 59. **C.R.S. 1963:** § 89-21-59.

32-11-518. Validity of securities unaffected by project. (1) The validity of any securities shall not be dependent on or affected by the validity or regularity of any proceedings relating to a project or the proper completion of any purpose for which the securities are issued.

(2) The purchaser of the securities shall in no manner be responsible for the application of the proceeds of the securities by the district or any of its officers, agents, and employees.

Source: L. 69: p. 770, § 60. **C.R.S. 1963:** § 89-21-60.

32-11-519. Employment of experts. (1) The board on behalf of the district may employ legal, fiscal, engineering, and other expert services in connection with any project or the facilities, or both such project and facilities, and the authorization, sale, and issuance of bonds and other securities under this article.

(2) The board on behalf of the district is authorized to enter into any contracts or arrangements, not inconsistent with the provisions of this article, with respect to the sale of bonds or other securities under this article, the employment of engineers, architects, financial consultants, and bond counsel, and other matters as the board may determine to be necessary or desirable in accomplishing the purposes of this article.

Source: L. 69: p. 770, § 61. **C.R.S. 1963:** § 89-21-61.

32-11-520. Investments and reinvestments. (1) The board, subject to any contractual limitations from time to time imposed upon the district by any resolution authorizing the issuance of the district's outstanding securities or by any trust indenture or other proceedings pertaining thereto, may cause to be invested and reinvested any proceeds of taxes, any proceeds of assessments, any pledged revenues, and any proceeds of bonds or other district securities issued under this article in securities meeting the investment requirements established in part 6 of article 75 of title 24, C.R.S., and may cause such proceeds of taxes, assessments, revenues, district securities, and other securities to be deposited in any trust bank within or without or both within and without this state and secured in such manner and subject to such terms and conditions as the board may determine, with or without the payment of any interest on such deposit, including without limitation time deposits evidenced by certificates of deposit.

(2) Any such securities and any certificates of deposit thus held may from time to time be sold, and the proceeds may be so reinvested or redeposited as provided in this section.

(3) Sales and redemptions of any such securities and certificates of deposit thus held shall from time to time be made in season so that the proceeds may be applied to the purposes for which the money with which such securities and certificates of deposit were originally acquired was placed in the district treasury.

(4) Any gain from any such investments or reinvestments may be credited to any fund or account pledged for the payment of any securities issued under this article, including any reserve therefor, or any other fund or account pertaining to a project or the facilities or the district's general fund, subject to any contractual limitations in any proceedings pertaining to outstanding district securities.

(5) Any commercial bank incorporated under the laws of this state which may act as depository of the proceeds of any securities issued under this article, any other securities owned by the district, any proceeds of taxes, any proceeds of assessments, any pledged revenues, and any moneys otherwise pertaining to a project or the facilities, or any combination thereof, may furnish such indemnifying bonds or may pledge such securities as may be required by the board.

Source: L. 69: p. 770, § 62. **C.R.S. 1963:** § 89-21-62. **L. 89:** (1) to (3) and (5) amended, p. 1121, § 45, effective July 1.

32-11-521. Rights and remedies cumulative. No right or remedy conferred upon any holder of any securities or any coupon pertaining thereto or any trustee for such holder by this article or by any proceedings pertaining to the issuance of such securities or coupon is exclusive of any right or remedy, but each such right or remedy is cumulative and in addition to every other right or remedy and may be exercised without exhausting and without regard to any other remedy conferred by this article or by any other law.

Source: L. 69: p. 771, § 63. **C.R.S. 1963:** § 89-21-63.

32-11-522. Continuation of liabilities. The failure of any holder of any district securities or any coupons pertaining thereto to proceed as provided in this article or in such proceedings shall not relieve the district, the board, or any of the officers, agents, and employees of the district of any liability for failure to perform any duty, obligation, or other commitment.

Source: L. 69: p. 771, § 64. **C.R.S. 1963:** § 89-21-64.

32-11-523. Temporary bonds. (1) Each temporary bond issued under this article shall set forth substantially the same conditions, terms, and provisions as the definitive bond for which it is exchanged.

(2) Each holder of a temporary bond has all the rights and remedies which he would have as a holder of the definitive bond for which the temporary bond is to be exchanged.

Source: L. 69: p. 771, § 65. **C.R.S. 1963:** § 89-21-65.

32-11-524. Statement of purpose. The resolution authorizing the issuance of any district securities or any indenture pertaining thereto shall describe the purpose for which the securities are issued at least in general terms and may describe any purpose in detail.

Source: L. 69: p. 771, § 66. **C.R.S. 1963:** § 89-21-66.

32-11-525. Prior redemption calls. (1) Nothing in this article or in any other law of this state shall be construed to permit the board to call, on behalf of the district, bonds or other securities outstanding any time after the adoption of this article for prior redemption in order to fund or refund such securities or in order otherwise to pay them prior to their stated maturities, unless the right to call such securities for prior redemption was specifically reserved and stated in such bonds at the time of their issuance, and all conditions with respect to the manner, price, and time applicable to such prior redemption, as set forth in the proceedings authorizing the outstanding securities, are strictly observed.

(2) It is the intention of the general assembly in this section to make certain that the holder of no outstanding bond or other security may be compelled to surrender such security for funding or refunding or other payment prior to its stated maturity or optional date of prior redemption expressly reserved therein, even though such funding or refunding or other payment might result in financial benefit to the district.

Source: L. 69: p. 771, § 67. **C.R.S. 1963:** § 89-21-67.

32-11-526. Surrender of district securities by state. Notwithstanding the provisions of section 32-11-525 or of any other law, this state, acting by and through the state agency authorizing the acquisition of district bonds or other district securities, may agree with the board to exchange any outstanding securities of the district held by the state or any agency, corporation, department, or other instrumentality of the state, for funding or refunding bonds or other funding securities of the district, or otherwise to surrender at such price and time and otherwise upon such conditions and other terms and in such manner as may be mutually agreeable, such outstanding securities to the state for funding or refunding or other payment at any time prior to their respective maturities or to any date as of which the district has the right and option to call on its behalf such outstanding securities for prior redemption as expressly provided in the outstanding securities and any resolution, trust indenture, or other proceedings authorizing their issuance.

Source: L. 69: p. 771, § 68. **C.R.S. 1963:** § 89-21-68.

32-11-527. Notes and warrants. (1) Notes and warrants designated in section 32-11-501 (2) may mature at such time, not exceeding one year from the date of their issuance, as the board may determine.

(2) The notes and warrants shall not be extended or funded except by the issuance of bonds or interim debentures in compliance with sections 32-11-558 to 32-11-563 and other provisions in this article supplemental thereto.

Source: L. 69: p. 772, § 69. **C.R.S. 1963:** § 89-21-69.

32-11-528. General obligation securities. (1) The district may issue as general obligations any of the following types of district securities, payable from taxes, or payable from

taxes and additionally secured as to their payment by a pledge of net revenues or gross revenues, as the board may determine:

(a) Notes;

(b) Warrants;

(c) Interim debentures;

(d) Bonds; and

(e) Temporary bonds.

Source: L. 69: p. 772, § 70. **C.R.S. 1963:** § 89-21-70.

32-11-529. Special obligation securities. (1) The district may issue as special obligations any of the following types of district securities, in anticipation of net pledged revenues; but not under any circumstances under their terms and the proceedings authorizing their issuance, in anticipation of taxes nor in anticipation of gross pledged revenues:

(a) Notes;

(b) Warrants;

(c) Interim debentures;

(d) Bonds; and

(e) Temporary bonds.

(2) Such special obligation district securities may be payable from, secured by a pledge of, and constitute a lien on net pledged revenues.

Source: L. 69: p. 772, § 71. **C.R.S. 1963:** § 89-21-71.

32-11-530. Covenant to pay operation and maintenance expenses. Any resolution authorizing the issuance of general obligation district securities payable from gross revenues or any indenture or other proceedings pertaining thereto may contain a covenant of the district that to the extent required, as provided therein, the district will pay operation and maintenance expenses by appropriation from its general fund and that to the extent the moneys accounted for therein are insufficient for that purpose the district shall levy taxes therefor, subject to the limitation pertaining to such expenses in section 32-11-217 (1)(d).

Source: L. 69: p. 772, § 72. **C.R.S. 1963:** § 89-21-72.

32-11-531. Securities constituting indebtedness. (1) Any outstanding general obligation bonds, any temporary general obligation bonds to be exchanged for such definitive bonds, and any general obligation interim debentures constitute outstanding indebtedness of the district and exhaust the debt-incurring power of the district under the debt limitation pertaining thereto in section 32-11-534.

(2) Any general obligation notes and general obligation warrants shall be issued within budget limitations and unencumbered appropriations and shall not constitute indebtedness.

Source: L. 69: p. 772, § 73. **C.R.S. 1963:** § 89-21-73.

32-11-532. Securities not constituting indebtedness. Any other district securities (except general obligation notes and general obligation warrants) constitute special obligations of the district, and all such other securities (including all notes and warrants, general obligations, or special obligations payable within one year from date) neither constitute outstanding indebtedness of the district nor exhaust its debt-incurring power under any such debt limitation.

Source: L. 69: p. 773, § 74. **C.R.S. 1963:** § 89-21-74. **L. 84:** Entire section amended, p. 847, § 2, effective July 1.

32-11-533. Election to authorize debt. Subject to the provisions of sections 32-11-564 and 32-11-566, no indebtedness shall be incurred by the issuance of district securities or by any contract by which the district agrees to repay as general obligations of the district to the federal government or to any public body over a term not limited to the then current fiscal year any project costs advanced thereby under any contract for the acquisition of the project or any interest therein, advanced by the issuance of securities of such a public body to defray any cost of the project or of facilities thereby acquired and becoming a part of the district's facilities, or otherwise advanced, unless a proposal of issuing the district's general obligation bonds, including the maximum net effective interest rate at which such issue of bonds may be issued, or of incurring an indebtedness by the district by making such a contract is submitted and approved at an election held for that purpose in accordance with part 4 of this article and with all laws amendatory thereof and supplemental thereto.

Source: L. 69: p. 773, § 75. **C.R.S. 1963:** § 89-21-75. **L. 70:** p. 301, § 124.

32-11-534. Limitations upon incurring debt. (1) The aggregate amount of indebtedness of the district evidenced by district securities and otherwise by contract with the federal government or any public body, or otherwise, shall not at any time exceed three percent of the valuation for assessment of the taxable property within the district as shown by the last preceding assessment for the purposes of taxation, except as otherwise provided in this article.

(2) No debt within such debt limitation at the time it is incurred by the issuance of district securities or by otherwise obligating the district under contract shall become invalid because of any reduction subsequently of the district's debt-incurring power for any reason.

(3) Nothing in this article authorizes the creation of an indebtedness by any public body located wholly or in part within the district or elsewhere.

Source: L. 69: p. 773, § 76. **C.R.S. 1963:** § 89-21-76.

32-11-535. Interest and prior redemption charges. Interest on any district securities or on any moneys directly or indirectly advanced by the federal government or any public body and to be repaid by the district under any contract, and any prior redemption premiums due in connection with the prepayment of any such securities, and any other prepayment charges due from the district under any contract, do not constitute indebtedness under this article, except as otherwise provided in sections 32-11-564 (1)(a) and 32-11-566 (3).

Source: L. 69: p. 773, § 77. **C.R.S. 1963:** § 89-21-77.

32-11-536. Recitals in securities. (1) The district securities issued under this article, designated in section 32-11-501 (2), and constituting special obligations shall recite in substance that the securities and the interest thereon are payable solely from the net revenues pledged to the payment thereof.

(2) District securities issued under this article and constituting general obligations shall pledge the full faith and credit of the district for their payment, shall so state, and shall state that they are payable from taxes.

(3) General obligation district securities, the payment of which is additionally secured by a pledge of revenues, shall recite in substance, in addition to the statements required by subsection (2) of this section, that the payment of the securities and the interest thereon is additionally secured by a pledge of the net revenues or the gross revenues, as the case may be, designated in the securities.

Source: L. 69: p. 774, § 78. **C.R.S. 1963:** § 89-21-78.

32-11-537. Consolidated bond fund. Payment of the principal of and the interest on general obligation bonds may be made from a consolidated bond interest and redemption fund of the district except as otherwise provided in any proceedings pertaining to outstanding district securities or in any other contract.

Source: L. 69: p. 774, § 79. **C.R.S. 1963:** § 89-21-79.

32-11-538. Securities tax levies. (1) There shall be levied annually a special tax on all taxable property, both real and personal, within the territorial limits of the district, fully sufficient, without regard to any statutory limitations existing, except for any notes or warrants, to pay the interest on the general obligation district securities and to pay and retire the same as provided in this article and any law supplemental to this article. The amount of money to be raised by such tax shall be included in the annual estimate or budget for the district for each year for which such tax is required to be levied by this article. Such tax shall be levied and collected in the same manner and at the same time as other taxes of the district are levied and collected.

(2) Subject to the provisions of section 32-11-537, the proceeds of any such tax levied to pay interest on such securities of any series shall be kept by the district treasurer in a special account separate and apart from all other funds, and the proceeds of the tax levied to pay the principal of such securities shall be kept by the treasurer in a special account separate and apart from all other funds, which two special accounts shall be used for no other purpose than the payment of the interest on the securities and the principal thereof, respectively, as the same falls due.

Source: L. 69: p. 774, § 80. **C.R.S. 1963:** § 89-21-80.

Cross references: For collection of taxes, see article 10 of title 39.

32-11-539. Initial levies. (1) Such tax shall be levied immediately after the issuance of any general obligation securities issued in accordance with the provisions of this article, at the

times and in the manner provided by law, and annually thereafter until all of the securities and the interest thereon have been fully discharged.

(2) Such tax may be first levied after the district, acting by and through the board, has contracted to sell any securities but before their issuance.

Source: L. 69: p. 774, § 81. **C.R.S. 1963:** § 89-21-81.

32-11-540. Payments from general fund. Any sums coming due on any general obligation district securities at any time when there are not on hand from such tax levy or levies sufficient funds to pay the same shall be promptly paid when due from the general fund of the district, reimbursement to be made to such general fund in the sums thus advanced when the taxes provided for in this article have been collected.

Source: L. 69: p. 774, § 82. **C.R.S. 1963:** § 89-21-82.

32-11-541. Use of other moneys. The district may apply any funds (other than taxes) that may be available for that purpose to the payment of the interest on or the principal of any general obligation district securities as the same respectively mature, including without limitation the payment of general obligation bonds as provided in section 32-11-537, and regardless of whether the payment of the general obligation district securities is additionally secured by a pledge of revenues and, upon such payments, the levy of taxes provided in this article may thereupon to that extent be diminished.

Source: L. 69: p. 775, § 83. **C.R.S. 1963:** § 89-21-83.

32-11-542. Appropriation of taxes. There is by this article, and there shall be by resolution authorizing the issuance of any indebtedness contracted in accordance with the provisions of this article, specially appropriated the proceeds of such taxes to the payment of the principal thereof and any interest thereon; and such appropriations shall not be repealed nor the taxes postponed or diminished, except as otherwise expressly provided in this article, until the principal of and interest on the district securities evidencing such debt or other indebtedness evidenced by other contract have been wholly paid.

Source: L. 69: p. 775, § 84. **C.R.S. 1963:** § 89-21-84.

32-11-543. Special obligation limitations. None of the covenants, agreements, representations, and warranties contained in any resolution authorizing the issuance of bonds or other district securities issued under the provisions of this article, designated in section 32-11-501 (2), and constituting special obligations, or in any other instrument pertaining thereto, in the absence of any breach thereof, shall ever impose or be construed as imposing any liability, obligation, or charge against the district (except the special funds pledged therefor) or against the general credit of the district, payable out of the general fund of the district, or out of any funds derived from taxation.

Source: L. 69: p. 775, § 85. **C.R.S. 1963:** § 89-21-85.

32-11-544. Purchase price and interest. (1) Any district securities designated in section 32-11-501 (2) and otherwise issued under this article, as may be provided by the board in a resolution authorizing their issuance and in any indenture or other proceedings pertaining thereto, may be issued at, above, or below par, at a discount not exceeding seven percent of the principal amount of the securities; but they may not be issued at a price such that the net effective interest rate of the issue of securities exceeds the maximum net effective interest rate authorized.

(2) Such district securities shall bear interest at a rate such that the net effective interest rate of the issue of securities does not exceed the maximum net effective interest rate authorized.

Source: L. 69: p. 775, § 86. **C.R.S. 1963:** § 89-21-86. **L. 70:** p. 301, § 125.

32-11-545. Public and private sales. (1) Notes may be issued at public or private sale.

(2) Warrants may be issued to evidence the amount due to any person furnishing services or materials as provided in this article.

(3) General obligation bonds shall be issued at public sale. Bonds constituting special obligations may be issued at public or private sale.

(4) Temporary bonds shall be issued to a purchaser of the definitive bonds in anticipation of the exchange of the former for the latter.

(5) Interim debentures may be issued at public or private sale.

Source: L. 69: p. 775, § 87. **C.R.S. 1963:** § 89-21-87.

32-11-546. Notice of public sale. (1) Before selling any district securities publicly, the board shall:

(a) Cause a notice calling for bids for the purchase of the securities to be published once a week for four consecutive weeks by four weekly insertions a week apart, the first publication to be not more than thirty days nor less than twenty-two days next preceding the date of sale, in a newspaper published within the boundaries of the district and having general circulation therein;

(b) Cause such other notice to be given as the board may direct.

Source: L. 69: p. 775, § 88. **C.R.S. 1963:** § 89-21-88.

32-11-547. Contents of sale notice. (1) The notice shall:

(a) Specify a place and designate a day and the hour thereof subsequent to the date of the last publication when sealed bids for the purchase of the securities shall be received and opened publicly;

(b) Specify the maximum rate of interest which the securities shall bear;

(c) Require each bidder to submit a bid specifying the lowest rate or rates of interest and premium, if any, at which the bidder will purchase the securities, at or above par, or, if so permitted by the board, below par at a discount not exceeding the maximum discount fixed by the board.

Source: L. 69: p. 776, § 89. **C.R.S. 1963:** § 89-21-89.

32-11-548. Bid requirements. (1) All bids shall:

(a) Be in writing and be sealed; and

(b) Except any bid of the state or any board or department thereof, if one is received, be accompanied by a deposit of an amount of at least two percent of the principal amount of the securities, either in cash, or by cashier's check or treasurer's check of, or by certified check drawn on, a solvent commercial bank in the United States, which deposit shall be returned if the bid is not accepted.

Source: L. 69: p. 776, § 90. **C.R.S. 1963:** § 89-21-90.

32-11-549. Acceptance of best bid. (1) Subject to the right of the board to reject any and all bids, the securities shall be sold to the responsible bidder making the best bid.

(2) If there are two or more equal bids for the securities and such equal bids are the best bids received and not less than the principal amount of the securities and accrued interest, except for any permitted discount, the board shall determine which bid shall be accepted.

Source: L. 69: p. 776, § 91. **C.R.S. 1963:** § 89-21-91.

32-11-550. Rejection of bids. (1) If a bid is accepted, the deposits of all other bidders shall be thereupon returned. If all bids are rejected, all deposits shall be returned forthwith.

(2) If the successful bidder fails or neglects to complete the purchase of the securities within thirty days following the acceptance of his bid, or within ten days after the bonds are made ready and are tendered by the district for delivery, whichever is later, the amount of his deposit shall be forfeited to the district (but no bidder shall forfeit such deposit whenever the securities are not ready and so tendered for delivery within sixty days from the date of the acceptance of his bid), and the board may accept the bid of the person making the next best bid.

(3) If all bids are rejected, the board may readvertise the securities for sale in the same manner as provided for the original advertisement or may sell the securities privately.

Source: L. 69: p. 776, § 92. **C.R.S. 1963:** § 89-21-92.

32-11-551. Bond maturities. (1) General obligation bonds shall mature within not exceeding forty years from their date or respective dates and commencing not later than the third year thereafter, in such manner as the board may determine.

(2) Special obligation bonds (other than assessment bonds) shall mature within not exceeding fifty years from their date or respective dates.

Source: L. 69: p. 776, § 93. **C.R.S. 1963:** § 89-21-93.

32-11-552. Prior redemption provisions. The board may provide for the redemption prior to maturity at the option of the district of any or all of the bonds or other district securities designated in section 32-11-501 (2), in such order, by lot or otherwise, at such time, with or without the payment of such premiums not exceeding seven percent of the principal amount of each bond or other security so redeemed, and otherwise upon such terms as may be provided by

the board in the resolution authorizing the issuance of the securities or other instrument pertaining thereto.

Source: L. 69: p. 777, § 94. **C.R.S. 1963:** § 89-21-94.

32-11-553. Special funds and accounts. The board, in any resolution authorizing the issuance of bonds or other securities designated in section 32-11-501 (2) or in any instrument or other proceedings pertaining thereto, may create special funds and accounts for the payment of the cost of a project, of operation and maintenance expenses, of the securities, including the accumulation and maintenance of reserves therefor, of improvements, including the accumulation and maintenance of reserves therefor, and of other obligations pertaining to the securities, any project, or the facilities.

Source: L. 69: p. 777, § 95. **C.R.S. 1963:** § 89-21-95.

32-11-554. Covenants and other provisions. (1) Any resolution providing for the issuance of any bonds or other district securities under this article payable from pledged revenues, and any indenture or other instrument or proceedings pertaining thereto, may at the discretion of the board contain covenants or other provisions, notwithstanding such covenants and provisions may limit the exercise of powers conferred by this article, in order to secure the payment of such securities, in agreement with the holders of such securities, including without limitation covenants or other provisions as to any one or more of the following:

(a) The pledged revenues and, in the case of general obligations, the taxes to be fixed, charged, or levied, and the collection, use, and disposition thereof, including but not limited to the foreclosure of liens for delinquencies, the discontinuance of services, facilities, or use of any properties or facilities, prohibition against free service, the collection of penalties and collection costs, and the use and disposition of any moneys of the district, derived or to be derived from any source designated in this article;

(b) The acquisition, improvement, or equipment of all or any part of properties pertaining to any project or the facilities;

(c) The creation and maintenance of reserves or sinking funds to secure the payment of the principal of and interest on any securities or of operation and maintenance expenses of the facilities, or part thereof, and the source, custody, security, regulation, use, and disposition of any such reserves or funds, including but not limited to the powers and duties of any trustee with regard thereto;

(d) A fair and reasonable payment by the district from its general fund or other available moneys to the account of any designated facilities for services rendered thereby to the district;

(e) The payment of the cost of any project by delineating the purposes to which the proceeds of the sale of securities may be applied, and the custody, security, use, expenditure, application, and disposition thereof;

(f) The temporary investment and any reinvestment of the proceeds of bonds, any other securities, any taxes, or any pledged revenues, or any combination thereof, in securities meeting the investment requirements established in part 6 of article 75 of title 24, C.R.S.;

(g) The pledge of and the creation of a lien upon pledged revenues or the proceeds of bonds or other district securities pending their application to defray the cost of the project, or

both such revenues and proceeds of such securities, to secure the payment of bonds or other securities issued under this article;

(h) The payment of the principal of and interest on any securities, and any prior redemption premiums due in connection therewith, and the sources and methods thereof, the rank or priority of any securities as to any lien or security for payment, or the acceleration of any maturity of any securities, or the issuance of other or additional securities payable from or constituting a charge against or lien upon any pledged revenues or other moneys pledged for the payment of securities and the creation of future liens and encumbrances thereagainst;

(i) The use, regulation, inspection, management, operation, maintenance, or disposition, or any limitation or regulation of the use of all or any part of the facilities or any property of the district pertaining thereto;

(j) The determination or definition of pledged revenues from the facilities or of operation and maintenance expenses of the facilities, the use and disposition of such revenues, and the manner of and limitations upon paying such expenses;

(k) The creation of special funds and accounts pertaining to any pledged revenues or to the bonds or other securities issued under this article;

(l) The insurance to be carried by the district or any person in interest and use and disposition of insurance moneys, the acquisition of completion, performance, surety, and fidelity bonds pertaining to any project or funds, or both, and the use and disposition of any proceeds of such bonds;

(m) Books of account, the inspection and audit thereof, and other records pertaining to any project, the facilities, or pledged revenues;

(n) The assumption or payment or discharge of any obligation, lien, or other claim relating to any part of any project, the facilities, or any securities having a lien on any part of any pledged revenues or other moneys of the district;

(o) Limitations on the powers of the district to acquire or operate, or permit the acquisition or operation of, any structures, the facilities or properties of which may compete or tend to compete with the facilities;

(p) The vesting in a corporate or other trustee such property, rights, powers, and duties in trust as the board may determine which may include any or all of the rights, powers, and duties of the trustee appointed by the holders of securities, and limiting or abrogating the right of such holders to appoint a trustee, or limiting the rights, duties, and powers of such trustee;

(q) Events of default, rights, and liabilities arising therefrom, and the rights, liabilities, powers, and duties arising upon the breach by the district of any covenants, conditions, or obligations;

(r) The terms and conditions upon which the holders of the securities or any portion, percentage, or amount of them may enforce any covenants or provisions made under this article or duties imposed by this article;

(s) The terms and conditions upon which the holders of the securities or of a specified portion, percentage, or amount thereof, or any trustee therefor, shall be entitled to the appointment of a receiver, which receiver may enter and take possession of any facilities or service, operate and maintain the same, prescribe fees, rates, and charges, and collect, receive, and apply all revenues thereafter arising therefrom in the same manner as the district itself might do;

(t) A procedure by which the terms of any resolution authorizing securities, or any other contract with any holders of securities, including but not limited to an indenture of trust or similar instrument, may be amended or abrogated, and as to the proportion, percentage, or amount of securities the holders of which must consent thereto, and the manner in which such consent may be given;

(u) The terms and conditions upon which any or all of the securities shall become or may be declared due before maturity, and as to the terms and conditions upon which such declaration and its consequences may be waived; and

(v) All such acts and things as may be necessary or convenient or desirable in order to secure the securities, or in the discretion of the board tend to make the securities more marketable, notwithstanding that such covenant, act, or thing may not be enumerated in this article, it being the intention of this article to give the board power to do in the name and on behalf of the district all things in the issuance of district securities and for their security except as expressly limited in this article.

Source: L. 69: p. 777, § 96. **C.R.S. 1963:** § 89-21-96. **L. 89:** (1)(f) amended, p. 1122, § 46, effective July 1.

32-11-555. Liens on pledged revenues. (1) Revenues pledged for the payment of any securities, as received by or otherwise credited to the district, shall immediately be subject to the lien of each such pledge without any physical delivery thereof, any filing, or further act.

(2) The lien of each such pledge and the obligation to perform the contractual provisions made in the authorizing resolution or other instrument pertaining thereto has priority over any other obligations and liabilities of the district, except as may be otherwise provided in this article or in the resolution or other instrument, and subject to any prior pledges and liens theretofore created.

(3) The lien of each such pledge shall be valid and binding as against all persons having claims of any kind in tort, contract, or otherwise against the district irrespective of whether such persons have notice thereof.

Source: L. 69: p. 779, § 97. **C.R.S. 1963:** § 89-21-97.

32-11-556. Rights and powers of securities holders. (1) Subject to any contractual limitations binding upon the holders of any issue or series of district securities, or trustee therefor, including but not limited to the restriction of the exercise of any remedy to a specified proportion, percentage, or number of such holders, and subject to any prior or superior rights of others, any holder of securities, or trustee therefor, shall have the right and power, for the equal benefit and protection of all holders of securities similarly situated:

(a) By mandamus or other suit, action, or proceeding at law or in equity to enforce his rights against the district, the board, and any other of the officers, agents, and employees of the district, to require and compel the district, the board, or any such officers, agents, or employees to perform and carry out their respective duties, obligations, or other commitments under this article and under their respective covenants and agreements with the holder of any security;

(b) By action or suit in equity to require the district to account as if it is the trustee of an express trust;

(c) By action or suit in equity to have appointed a receiver, which receiver may enter and take possession of any facilities and any pledged revenues for the payment of the securities, prescribe sufficient fees derived from the facilities, and collect, receive, and apply all pledged revenues or other moneys pledged for the payment of the securities in the same manner as the district itself might do in accordance with the obligations of the district; and

(d) By action or suit in equity to enjoin any acts or things which may be unlawful or in violation of the rights of the holder of any securities and to bring suit thereupon.

Source: L. 69: p. 779, § 98. **C.R.S. 1963:** § 89-21-98.

32-11-557. Receivers. (1) If a resolution of the board authorizing or providing for the issuance of any securities of any series or any other proceedings pertaining thereto contains a provision authorized by section 32-11-554 (1)(s) and further provides in substance that any trustee appointed pursuant to section 32-11-554 (1)(p) shall have the powers provided therein, then such trustee, whether or not all of the bonds or other securities of such series have been declared due and payable, shall be entitled as of right to the appointment of a receiver of the facilities pertaining thereto.

(2) Any receiver appointed as permitted by section 32-11-554 (1)(s) may enter upon and take possession of the facilities and any property pertaining thereto, and, subject to any pledge or contract with the holders of such securities, shall take possession of all moneys and other property derived from or applicable to the acquisition, operation, maintenance, or improvement of the facilities and proceed with such acquisition, operation, maintenance, or improvement which the board on the behalf of the district is under any obligation to do, and shall operate, maintain, equip, and improve the facilities, and fix, charge, collect, enforce, and receive the service charges and all revenues thereafter arising subject to any pledge thereof or contract with the holders of such securities relating thereto and perform the public duties and carry out the contracts and obligations of the district in the same manner as the board itself might do and under the direction of the court.

Source: L. 69: p. 780, § 99. **C.R.S. 1963:** § 89-21-99.

32-11-558. Issuance of interim debentures. (1) Notwithstanding any limitation or other provision in this article, whenever the issuance of general obligation bonds by a district for any project has been approved at an election held in accordance with this article, the district is authorized to borrow money without any other election in anticipation of the receipt of the proceeds of taxes, the proceeds of the bonds, the proceeds of pledged revenues, or any other moneys of the district, or any combination thereof, and to issue general obligation interim debentures to evidence the amount so borrowed.

(2) The district also is authorized to borrow money without any election in anticipation of the proceeds of revenue bonds of the district and of its pledged revenues, or any combination thereof, but excluding the proceeds of any taxes, and to issue special obligation interim debentures to evidence the amount so borrowed.

Source: L. 69: p. 780, § 100. **C.R.S. 1963:** § 89-21-100. **L. 70:** p. 301, § 126.

32-11-559. Limitations upon funding and refunding securities. (1) Subject to the provisions of subsections (2) to (4) of this section, nothing in this article authorizes the district to issue any district securities constituting a debt for the purpose of funding or refunding district securities constituting special obligations and not constituting an indebtedness.

(2) Any special obligation securities of the district pertaining to any project may be funded or refunded by general obligation securities pertaining to the project only if the district is authorized to issue general obligation bonds pertaining to the project at an election held in the manner provided in section 32-11-533.

(3) No general obligation securities pertaining to the project and creating an indebtedness, by funding or refunding special obligation securities or otherwise (in contradistinction to funding or refunding securities merely reevidencing an indebtedness formerly evidenced by the securities funded or refunded), shall be issued in a principal amount exceeding the debt limitation in section 32-11-534.

(4) No bonds of the district shall be refunded by the issuance of its interim debentures, its notes, or its warrants. No interim debentures of the district shall be funded by the issuance of its notes or its warrants.

Source: L. 69: p. 780, § 101. **C.R.S. 1963:** § 89-21-101. **L. 70:** p. 302, § 127.

32-11-560. Interim debenture details. (1) Any interim debentures may mature at such time not exceeding a period of time equal to the estimated time needed to effect the purpose for which they are issued or for which the bonds are authorized to be issued, but not exceeding three years from the date or respective dates of the interim debentures, as the board may determine.

(2) The proceeds of interim debentures shall be used to defray the cost of the project.

(3) Any notes or warrants or both may be funded with the proceeds of interim debentures, as well as bonds.

(4) Except as otherwise provided in sections 32-11-558 to 32-11-563, interim debentures shall be issued as provided in this article for district securities in sections 32-11-502 to 32-11-557 and 32-11-803 to 32-11-808.

Source: L. 69: p. 781, § 102. **C.R.S. 1963:** § 89-21-102.

32-11-561. Payment of interim debentures. (1) Except as otherwise provided in section 32-11-559, the proceeds of taxes, pledged revenues, and other moneys, including without limitation proceeds of bonds to be issued or reissued after the issuance of interim debentures, and bonds issued for the purpose of securing the payment of interim debentures, or any combination thereof, may be pledged for the purpose of securing the payment of interim debentures. But the proceeds of taxes and the proceeds of bonds payable from taxes, or any combination thereof, shall not be used to pay any special obligation interim debentures, nor may their payment be secured by a pledge of any such general obligation bonds, except as otherwise provided in section 32-11-559.

(2) Any bonds pledged as collateral security for the payment of any interim debentures shall mature at such time as the board may determine, except as otherwise provided in section 32-11-551.

(3) No bonds pledged as collateral security shall be issued in an aggregate principal amount exceeding the aggregate principal amount of the interim debentures secured by a pledge of such bonds, nor shall they bear interest at any time which, with any interest accruing at the same time on the interim debentures so secured, exceeds seven percent each year.

Source: L. 69: p. 781, § 103. **C.R.S. 1963:** § 89-21-103.

32-11-562. Funding interim debentures. No interim debentures issued pursuant to the provisions of sections 32-11-558 to 32-11-561 shall be extended or funded except by the issuance or reissuance of bonds in compliance with section 32-11-563.

Source: L. 69: p. 782, § 104. **C.R.S. 1963:** § 89-21-104.

32-11-563. Funding bonds. (1) For the purpose of funding any interim debentures, any bonds pledged as collateral security to secure the payment of such interim debentures, upon their surrender as pledged property, may be reissued without an election, and any bonds not previously issued but authorized to be issued at an election pursuant to section 32-11-533 for a purpose the same as or encompassing the purpose for which the interim debentures were issued, may be issued for such a funding.

(2) Any such bonds shall mature at such time as the board may determine, except as otherwise provided in section 32-11-551.

(3) Bonds for funding (including but not necessarily limited to any such reissued bonds) and bonds for any other purpose may be issued separately or issued in combination in one series or more.

(4) Except as otherwise provided in sections 32-11-559 to 32-11-563, any such funding bonds shall be issued as is provided in this article for other bonds.

Source: L. 69: p. 782, § 105. **C.R.S. 1963:** § 89-21-105.

32-11-564. Refunding bonds. (1) Subject to the provisions of section 32-11-559, any general obligation bonds or special obligation bonds of the district issued in accordance with the provisions of this article or any other law, and payable from any pledged revenues and any general obligation bonds of the district so issued but not payable from pledged revenues may be refunded on behalf of the district by the board, by the adoption of a resolution by the board, and by any trust indenture or other proceedings pertaining thereto, authorizing without any election the issuance of refunding bonds to refund, pay, and discharge all or any part of such outstanding bonds of any one or more or all outstanding issues:

(a) For the acceleration, deceleration, or other modification of the payment of such obligations, including without limitation any capitalization of any interest thereon in arrears or about to become due for any period not exceeding three years from the date of the refunding bonds, unless the capitalization of interest on bonds constituting an indebtedness increases the district debt in excess of the district's debt limitation in section 32-11-534; or

(b) For the purpose of reducing interest costs or effecting other economies; or

(c) For the purpose of modifying or eliminating restrictive contractual limitations pertaining to the issuance of additional bonds, otherwise concerning the outstanding bonds, or to any facilities pertaining thereto; or

(d) For any combination of such purposes.

Source: L. 69: p. 782, § 106. **C.R.S. 1963:** § 89-21-106.

32-11-565. Method of issuing refunding bonds. (1) Subject to the provisions of sections 32-11-525 and 32-11-526, any such bonds issued for refunding purposes may either be delivered in exchange for the outstanding bonds being refunded or may be publicly or privately sold.

(2) The refunding bonds, or any part thereof, except as limited by section 32-11-568 (2), may be exchanged by the district for securities meeting the investment requirements established in part 6 of article 75 of title 24, C.R.S., which have been made available for escrow investment by any purchaser of refunding bonds, upon terms of exchange mutually agreed upon, and any such securities so received by the district shall be placed in escrow as provided in sections 32-11-567 and 32-11-568.

Source: L. 69: p. 782, § 107. **C.R.S. 1963:** § 89-21-107. **L. 89:** (2) amended, p. 1122, § 47, effective July 1.

32-11-566. Conditions for refunding. (1) No such bonds may be refunded under this article unless they have been outstanding for at least one year from the date or respective dates of their delivery, and unless the holders thereof voluntarily surrender them for exchange or payment, or unless they either mature or are callable for prior redemption under their terms within ten years from the date of issuance of the refunding bonds. Provision shall be made for paying the securities within such period of time.

(2) No maturity of any bond refunded may be extended over fifteen years, or beyond one year next following the date of the last outstanding maturity, whichever limitation is later. The rate of interest on such refunding bonds shall be determined by the board.

(3) The principal amount of the refunding bonds may exceed the principal amount of the refunded bonds if the aggregate principal and interest costs of the refunding bonds do not exceed such unaccrued costs of the bonds refunded, except to the extent any interest on the bonds refunded in arrears or about to become due is capitalized with the proceeds of the refunding bonds. Principal may also then be increased to that extent. In no event, however, in the case of any bonds constituting a debt, shall the principal of the bonds be increased to any amount in excess of the debt limitation in section 32-11-534.

(4) The principal amount of the refunding bonds may also be less than or the same as the principal amount of the bonds being refunded so long as provision is duly and sufficiently made for their payment.

Source: L. 69: p. 783, § 108. **C.R.S. 1963:** § 89-21-108. **L. 70:** p. 302, § 128.

32-11-567. Disposition of refunding bond proceeds. (1) Except as otherwise provided in this article, the proceeds of such refunding bonds shall either be immediately applied to the

retirement of the bonds to be refunded, or be placed in escrow or trust in any trust bank within or without or both within and without this state to be applied to the payment of the refunded bonds or the refunding bonds, or both, upon their presentation therefor to the extent, in such priority, and otherwise in the manner which the board may determine.

(2) The incidental costs of refunding bonds may be paid by the purchaser of the refunding bonds or be defrayed from any general fund (subject to appropriations therefor as otherwise provided by law) or other available revenues of the district under the control of the board or from the proceeds of the refunding bonds, or from the interest or other yield derived from the investment of any refunding bond proceeds or other moneys in escrow or trust, or from any other sources legally available therefor, or any combination thereof, as the board may determine.

(3) Any accrued interest and any premium pertaining to a sale of refunding bonds may be applied to the payment of the interest thereon or the principal thereof, or to both interest and principal, or may be deposited in a reserve therefor, or may be used to refund bonds by deposit in escrow, trust, or otherwise, or may be used to defray any incidental costs pertaining to the refunding, or any combination thereof, as the board may determine.

Source: L. 69: p. 783, § 109. **C.R.S. 1963:** § 89-21-109.

32-11-568. Administration of escrow or trust. (1) No such escrow or trust shall necessarily be limited to proceeds of refunding bonds but may include other moneys available for its purpose.

(2) Any proceeds in escrow or trust, pending such use, may be invested or reinvested in securities meeting the investment requirements established in part 6 of article 75 of title 24, C.R.S.

(3) Any trust bank accounting for federal securities and other securities issued by the federal government in such escrow or trust may place them for safekeeping wholly or in part in any trust bank within or without or both within and without this state.

(4) Any trust bank shall continuously secure any moneys placed in escrow or trust and not so invested or reinvested in federal securities and other securities issued by the federal government by a pledge in any trust bank within or without or both within and without the state of federal securities in an amount at all times at least equal to the total uninvested amount of such moneys accounted for in such escrow or trust.

(5) Such proceeds and investments in escrow or trust, together with any interest or other gain to be derived from any such investment, shall be in an amount at all times at least sufficient to pay principal, interest, any prior redemption premiums due, and any charges of the escrow agent or trustee, and any other incidental expenses payable therefrom, except to the extent provision may have been previously otherwise made therefor, as such obligations become due at their respective maturities or due at designated prior redemption dates in connection with which the board has exercised or is obligated to exercise a prior redemption option on behalf of the district.

(6) The computations made in determining such sufficiency shall be verified by a certified public accountant licensed to practice in this state or in any other state.

Source: L. 69: p. 783, § 110. **C.R.S. 1963:** § 89-21-110. **L. 89:** (2) amended, p. 1122, § 48, effective July 1.

32-11-569. Security for payment of refunding bonds. Refunding bonds may be made payable from any taxes or pledged revenues, or both taxes and such revenues, which might be legally pledged for the payment of the bonds being refunded at the time of the refunding or at the time of the issuance of the bonds being refunded, as the board may determine, notwithstanding the taxes, or the revenue sources, or the pledge of such revenues, or any combination thereof, for the payment of the outstanding bonds refunded is thereby modified, subject to the provisions of section 32-11-559.

Source: L. 69: p. 784, § 111. **C.R.S. 1963:** § 89-21-111.

32-11-570. Combination of bond purposes. Bonds for refunding and bonds for any other purpose authorized by this article or by any other law may be issued separately or issued in combination in one series or more by the district in accordance with the provisions of this article.

Source: L. 69: p. 784, § 112. **C.R.S. 1963:** § 89-21-112.

32-11-571. Applicability of other statutory provisions. Except as expressly provided or necessarily implied in sections 32-11-564 to 32-11-570, the relevant provisions elsewhere in this article pertaining generally to the issuance of bonds to defray the cost of any project shall be equally applicable in the authorization and issuance of refunding bonds, including their terms and security, the covenants and other provisions of the resolution authorizing the issuance of the bonds, or other instrument or proceedings pertaining thereto, and other aspects of the bonds.

Source: L. 69: p. 784, § 113. **C.R.S. 1963:** § 89-21-113.

PART 6

SPECIAL ASSESSMENTS

32-11-601. Special assessments. (1) The board, pursuant to this part 6 and to sections 32-11-803 to 32-11-808, upon the behalf and in the name of the urban district, for the purpose of defraying all the cost of acquiring or improving or acquiring and improving any project authorized by this article, or any portion of the cost thereof not to be defrayed with moneys available therefor from the general fund, any special fund, or otherwise, also has power under this article:

(a) To levy assessments against assessable property within the urban district and to cause the assessments so levied to be collected;

(b) To pledge the proceeds of any assessments levied under this article to the payment of assessment bonds and of assessment debentures and to create liens on such proceeds to secure such payments;

(c) To issue assessment bonds and assessment debentures payable from the assessments and additionally to secure their payment as provided in this article;

(d) To make all contracts, to execute all instruments, and to do all things necessary or convenient in the exercise of the powers granted in this article or in the performance of the district's duties or in order to secure the payment of its assessment bonds and assessment debentures, subject to the provisions of sections 32-11-502 to 32-11-526 and 32-11-803 to 32-11-808.

Source: L. 69: p. 785, § 114. **C.R.S. 1963:** § 89-21-114.

32-11-602. Initiating procedure. (1) The procedure for acquiring or improving, or acquiring and improving, any assessment project can be initiated in one of the following ways:

(a) The provisional order method; or

(b) The petition method.

Source: L. 69: p. 785, § 115. **C.R.S. 1963:** § 89-21-115.

32-11-603. Provisional order method. (1) Whenever the board is of the opinion that the interest of the urban district requires any assessment project, the board, by resolution, shall direct the engineer to prepare:

(a) Preliminary plans showing:

(I) A typical section of the contemplated project; and

(II) The types of material, approximate thickness, and width;

(b) A preliminary estimate of the cost of the project, including incidental costs; and

(c) An assessment plat showing:

(I) The area to be assessed; and

(II) The amount of maximum benefits estimated to be assessed against each tract in each assessment area.

(2) The resolution may provide for one or more types of construction, and the engineer shall separately estimate the cost of each type of construction. The estimate may be made in a lump sum or by unit process, as to such engineer may seem most desirable for the facilities complete in place.

(3) The resolution shall describe the project in general terms.

(4) The resolution shall state:

(a) What part or portion of the expense thereof is of special benefit, and, therefore, shall be paid by assessments;

(b) What part, if any, has been or is proposed to be defrayed with moneys derived from other than the levy of assessments; and

(c) The basis by which the cost will be apportioned and assessments will be levied.

(5) In case the assessment is not to be made according to front feet, the resolution shall:

(a) By apt description designate the improvement district, including the tracts to be assessed;

(b) Describe definitely the location of the project; and

(c) State that the assessment is to be made upon all the tracts benefited by the project proportionately to the benefits received.

(6) In case the assessment is to be upon the abutting property upon a frontage basis, it shall be sufficient for the resolution so to state and to define the location of the project to be made.

(7) It shall not be necessary in any case to describe minutely in the resolution each particular tract to be assessed but simply to designate the property, improvement district, or the location so that the various parts to be assessed can be ascertained and determined to be within or without the proposed improvement district.

(8) The engineer shall forthwith prepare and file with the secretary:

(a) The preliminary plans;

(b) The preliminary estimate of cost; and

(c) The assessment plat.

(9) Upon the filing of the plans, preliminary estimate of cost, and plat, the board shall examine the same; and if the plans, estimate, and plat are found to be satisfactory, the board shall make a provisional order by resolution to the effect that the project shall be acquired or improved, or both acquired and improved.

Source: L. 69: p. 785, § 116. **C.R.S. 1963:** § 89-21-116.

32-11-604. Petition method. (1) Whenever the owner or owners of tracts to be assessed in the proposed improvement district for not less than ninety-five percent of the entire cost of any project, including all incidental expenses, comprising more than fifty percent of the area of such territory and also comprising a majority of the landowners residing in the territory, may by written petition initiate the acquisition of any assessment project which the board is authorized to initiate, subject to the following limitations:

(a) The board may incorporate such project in any improvement district or districts;

(b) The board need not proceed with the acquisition of any such project or any part thereof after holding a provisional order hearing thereon, pursuant to sections 32-11-608 to 32-11-611, and all provisions of this article thereunto enabling, if the board determines that it is not for the public interest that the proposed project or a part thereof be then ordered to be made; and

(c) Any particular kind of project, any material therefor, or any part thereof need not be acquired or located, as provided in the petition, if the board determines that such is not for the public interest.

(2) The board need not take any proceedings or action upon receiving any such petition if the board determines by resolution that the acquisition of the designated project probably is not feasible for reasons stated in such resolution, and if the resolution requires a cash deposit or a pledge of property in at least an amount or value therein designated and found therein by the board probably to be sufficient to defray the expenses and costs incurred by the board taken preliminary to and in the attempted acquisition of the project designated in the petition, and if such deposit or pledge is not made with the treasurer within twenty days after notice by mail is given to the person presenting the petition to the secretary of the urban district or after one publication in a newspaper of general circulation in the urban district of a notice of the resolution's adoption and of its content in summary form, as the board may determine. An additional deposit or pledge may from time to time be similarly so required as a condition precedent to the continuation of action by the urban district.

(3) Whenever such deposit or pledge is so made and thereafter the board determines that such acquisition is not feasible within a reasonable period of time, the board may require that all or any portion of the costs theretofore incurred in connection therewith by the urban district after its receipt of the petition shall be defrayed from such deposit or the proceeds of such pledged property, in the absence of such defrayment of costs by petitioners or other interested persons within twenty days after the determination by resolution of the amount so to be defrayed and after such published notice thereof.

(4) Any surplus moneys remaining from such deposit or pledge shall be returned by the urban district to the person making the same.

Source: L. 69: p. 786, § 117. **C.R.S. 1963:** § 89-21-117.

32-11-605. Subsequent procedure. Upon the filing of such a petition, the board shall proceed in the same manner as is provided by this article where proceedings are initiated by the board, except as otherwise expressly provided or necessarily implied in section 32-11-604.

Source: L. 69: p. 787, § 118. **C.R.S. 1963:** § 89-21-118.

32-11-606. Combination of programs. (1) More than one improvement program may be combined in one improvement district when the board determines such programs may be combined together in an efficient and an economical improvement district.

(2) If in the combination of improvement programs, they are separate and distinct by reason of substantial difference in their character or location, or otherwise, each such program shall be considered as a unit or quasi-improvement district for the purpose of petition, remonstrance, and assessment.

(3) In case of such combination, the board shall designate the improvement program and the area constituting each such unit, and, in the absence of an arbitrary and an unreasonable abuse of discretion, its determination that there is or is not such a combination and its determination of the project and the area constituting each such unit within the project shall be final and conclusive.

(4) The costs of acquiring or improving, or acquiring and improving, each such improvement program shall be segregated for the levy of assessments, and an equitable share of the incidental costs shall be allocated to each such unit.

Source: L. 69: p. 787, § 119. **C.R.S. 1963:** § 89-21-119.

32-11-607. Effect of estimates. (1) No estimate of cost required or authorized in this article shall constitute a limitation upon such cost or a limitation upon the rights and powers of the board or of any officers, agents, or employees of the urban district, except as otherwise expressly stated in this article.

(2) No assessment, however, shall exceed the amount of the estimate of maximum special benefits from the project to any tract assessed.

Source: L. 69: p. 787, § 120. **C.R.S. 1963:** § 89-21-120.

32-11-608. Fixing hearing and notice. (1) In the provisional order the board shall set a time at least twenty days thereafter and a place at which the owners of the tracts to be assessed or any other persons interested therein may appear before the board and be heard as to the propriety and advisability of acquiring or improving, or acquiring and improving, the assessment project provisionally ordered.

(2) Notice shall be given:

(a) By publication; and

(b) By mail.

(3) Proof of publication shall be by affidavit of the publisher.

(4) Proof of mailing shall be by affidavit of the engineer, secretary, or any deputy mailing the notice.

(5) Proof of publication and proof of mailing shall be maintained in the records of the urban district until all the assessments pertaining thereto have been paid in full, including principal, interest, any penalties, and any collection costs.

Source: L. 69: p. 788, § 121. **C.R.S. 1963:** § 89-21-121.

32-11-609. Content of notice. (1) The notice shall describe:

(a) The kind of project proposed (without mentioning minor details or incidentals);

(b) The estimated cost of the project, and the part or portion, if any, to be paid from sources other than assessments;

(c) The basis for apportioning the assessments, which assessment shall be in proportion to the special benefits derived to each of the several tracts comprising the assessable property and on a front-foot, area, zone, or other equitable basis;

(d) The number of installments and the time in which the assessments are payable;

(e) The maximum rate of interest on unpaid installments of assessments;

(f) The extent of the improvement district to be assessed (by boundaries or other brief description);

(g) The time and the place when and where the board will consider the ordering of the proposed project and will hear all complaints, protests, and objections that may be made in writing and filed with the secretary of the urban district at least three days prior thereto or may be made verbally at the hearing concerning the same by the owner of any tract to be assessed or by any person interested;

(h) The fact that the description of the tracts to be assessed, the maximum amount of benefits estimated to be conferred on each such tract, and all proceedings in the premises are on file and can be seen and examined at the office of the secretary during business hours at any time by any person so interested; and

(i) That regardless of the basis used for apportioning assessments, in cases of wedge-shaped, V-shaped, or any other irregular-shaped tracts, an amount apportioned thereto shall be in proportion to the special benefits thereby derived.

Source: L. 69: p. 788, § 122. **C.R.S. 1963:** § 89-21-122.

32-11-610. Subsequent modifications. (1) All proceedings may be modified or rescinded wholly or in part by resolution adopted by the board at any time prior to the passage of

the resolution adopted pursuant to section 32-11-614 creating the improvement district and authorizing the project.

(2) No substantial change in the improvement district, details, preliminary plans, specifications, or estimates shall be made after the first publication or mailing of notice to property owners, whichever occurs first, except for any deletion of a portion of a project and property from the proposed improvement program for the improvement district or for any assessment unit.

(3) The engineer, however, has the right to make minor changes in time, plans, and materials entering into the work at any time before its completion.

Source: L. 69: p. 789, § 123. **C.R.S. 1963:** § 89-21-123.

32-11-611. Provisional order hearing. (1) On the date and at the place fixed for the provisional order hearing, any property owners interested in such project may by specific and written complaints, protests, or objections present their views in respect to the proposed project to the board or may present them orally. The board may adjourn the hearing from time to time.

(2) After the hearing has been concluded, after all written complaints, protests, and objections have been read and duly considered, and after all persons desiring to be heard in person have been heard, the board shall consider the arguments, if any, and any other relevant material put forth.

(3) Thereafter if the board determines that it is not for the public interest that the proposed project or a part thereof be made, the board shall make an order by resolution to that effect; and thereupon the proceeding for the project or for any part thereof determined against by such order shall stop and shall not be begun again until the adoption of a new resolution.

(4) Any complaint, protest, or objection to the regularity, validity, and correctness of the proceedings and instruments taken, adopted, or made prior to the date of the hearing shall be deemed waived unless presented in writing on specific grounds at the time and in the manner specified in this article.

Source: L. 69: p. 789, § 124. **C.R.S. 1963:** § 89-21-124.

32-11-612. Appeal from adverse order. Any person filing a written complaint, protest, or objection on any one or more specific grounds as provided in section 32-11-611, shall have the right within thirty days after the board has finally passed on such complaint, protest, or objection by resolution, as provided in section 32-11-611 (3), or as provided in section 32-11-614 (1), to commence an action or suit in any court of competent jurisdiction to correct or to set aside only such a determination of the board on any such specific and written complaint, protest, or objection; but thereafter all actions or suits attacking the validity of the preliminary plans, any preliminary estimate of cost, assessment plat, other proceedings, and any maximum amount of benefits shall be perpetually barred.

Source: L. 69: p. 789, § 125. **C.R.S. 1963:** § 89-21-125.

32-11-613. Post-hearing procedure. (1) After the provisional order hearing is held and after the board has disposed of all complaints, protests, and objections, verbal and in writing, the

board shall determine whether to proceed with the improvement district and with each assessment unit therein, if there is more than one.

(2) If the board desires to proceed and desires any modification, by motion or by resolution, it shall direct the engineer to prepare and to present to the board:

(a) A revised and detailed estimate of the total cost, including without limitation the cost of acquiring or improving, or acquiring and improving, each proposed improvement program and of each of the incidental costs, which revised estimate shall not constitute a limitation for any purpose, except as otherwise provided in this article;

(b) Full and detailed plans and specifications for each proposed improvement program designed to permit and to encourage competition among the bidders if any improvements are to be acquired by construction contract; and

(c) A revised map and assessment plat showing, respectively, the location of each improvement program and the tracts to be assessed therefor, excluding any area or program not before the board at a provisional order hearing.

(3) That resolution, a separate resolution, or the resolution creating the improvement district may combine or may divide the proposed improvement program or programs pertaining to the improvement district and any other facilities into suitable construction units for the purpose of letting separate and independent contracts, regardless of the extent of any improvement program constituting an assessment unit and regardless of whether a portion or none of the cost of any project is to be defrayed other than by the levy of special assessments.

(4) Nothing in this article shall be construed as not requiring the segregation of costs of unrelated improvement programs for assessment purposes, as provided in this article.

Source: L. 69: p. 789, § 126. **C.R.S. 1963:** § 89-21-126.

32-11-614. Creation of district. (1) When an accurate estimate of cost, full and detailed plans and specifications, and the map and assessment plat are prepared, presented, and satisfactory to the board, regardless of whether the preliminary estimate of cost, plans, and specifications, map and assessment plat are modified pursuant to section 32-11-613, the board shall by resolution create the district and order the proposed project to be acquired or improved, or acquired and improved.

(2) The resolution shall prescribe:

(a) The extent of the improvement district by boundaries or by other brief description and similarly of each assessment unit therein, if there is more than one;

(b) The kind and location of each improvement program proposed (without mentioning minor details);

(c) The amount or the proportion of the total cost to be defrayed by assessments, the method of levying assessments, the number of installments, and the times in which the costs assessed will be payable; and

(d) The character and the extent of any construction units.

(3) The engineer may further revise such cost, plans and specifications, and the map and assessment plat from time to time for all or any part of any project; and the resolution may be appropriately amended prior to letting any construction contract therefor and prior to any property being acquired or any work being done other than by independent contract let by the urban district.

(4) The resolution, as amended, if amended, shall order the work to be done as provided in this article.

Source: L. 69: p. 790, § 127. **C.R.S. 1963:** § 89-21-127.

32-11-615. Methods of acquisition or improvement. (1) Any construction work for any project or portion thereof shall be done in any one or more of the following three ways:

(a) By independent contract;

(b) By use of district owned or leased equipment and district officers, agents, and employees; or

(c) By any public body or by the federal government acquiring or improving a project or any interest therein which is authorized in this article which results in general benefits to the urban district and in special benefits to the assessable property being assessed therefor by the urban district within its boundaries and within an improvement district therein created therefor.

(2) Any project or any interest therein not involving construction work pertaining to a capital improvement may be acquired or improved pursuant to any appropriate contract, or otherwise, including, without limitation, the condemnation or other acquisition of real property. In such case nothing in subsection (1) of this section nor in sections 32-11-616 to 32-11-619 shall be applicable.

(3) Notwithstanding a project authorized in this article or any interest therein may not be owned by the urban district nor be directly acquired or improved, or acquired and improved, nor the costs thereof directly incurred by the urban district, and notwithstanding the project authorized in this article or any interest therein may be located on land, an easement or other interest therein, or other real property owned by the federal government or by a public body, the urban district has the power:

(a) To acquire or improve, or both, or to cooperate in the acquisition or improvement of, or both, the project or any interest therein with the federal government or with any public body pursuant to agreement between or among the urban district and such other bodies corporate and politic so long as the project or the interest therein acquired or improved, or both, results in general benefits to the urban district and in special benefits to the assessable property being assessed therefor by the urban district within its boundaries and within the improvement district therein created therefor;

(b) To levy special assessments on such assessable property to defray all or any part of the costs of the project or any interest therein or to defray all or any part of the urban district's share of such costs if all costs are not being defrayed by the urban district; and

(c) To issue bonds and assessment debentures and to exercise other powers granted in this article and pertaining to such acquisition or improvement, or both.

Source: L. 69: p. 791, § 128. **C.R.S. 1963:** § 89-21-128.

32-11-616. Construction contracts. (1) No contract for doing construction work for acquiring or improving the project contemplated shall be made or awarded nor shall the board incur any expense or any liability in relation thereto, except for maps, plats, diagrams, estimates, plans, specifications, and notices until after the provisional order hearing and notice thereof provided for in this article have been had and given.

(2) The board may advertise by publication for proposals for doing the work whenever the board desires, but the contract shall not be made or awarded before the time stated in subsection (1) of this section.

(3) In the case of construction work done by independent contract for any project or portion thereof in any improvement district, the engineer or any purchasing officer of the urban district, as provided by the board, shall request competitive bids and publish notice stating that bids will be received at a time and at a place designated therein.

(4) The urban district may contract only with the responsible bidder submitting the lowest and best bid upon proper terms.

(5) The district has the right to reject any and all bids and to waive any irregularity in any bid.

(6) Any contract may be let on a lump-sum or on a unit basis.

(7) No contract shall be entered into for such work unless the contractor gives an undertaking with a sufficient surety approved by the board and in an amount fixed by it for the faithful performance of the contract, substantially as required of a school board and a school district by sections 38-26-101 and 38-26-105 to 38-26-107, C.R.S., as from time to time amended, except as expressly otherwise provided in this article.

(8) Upon default in the performance of any contract, the engineer, or any purchasing officer, as directed by motion of the board, may advertise and may relet the remainder of the work without further resolution and may deduct the cost from the original contract price and may recover any excess cost by suit on the original bond, or otherwise.

(9) All contracts shall provide, among other things, that the person entering into the contract with the urban district will pay for all materials furnished and for services rendered for the performance of the contract and that any person furnishing the materials or rendering the services may maintain an action to recover for the same against the obligor in the undertaking as though the person was named therein. Final settlement shall be effected substantially as required by section 38-26-107, C.R.S., as from time to time amended, and all laws thereunto enabling.

(10) If any contract or any agreement is made in violation of the provisions of this section, it shall be voidable, and no action shall be maintained thereon by any party thereto against the urban district.

(11) To the extent the urban district makes any payment thereunder, such contract or agreement shall be valid, and any such payment may be included in any cost defrayed by the levy of assessments unless theretofore the urban district elects to void the contract or the agreement in its entirety and to recover any such payment from the party to whom made.

(12) The board, except as expressly limited in this article, may in the letting of contracts impose such conditions upon bidders with regard to bonds and to securities, and such guaranties of good and faithful performance, completion of any work, and the keeping of the same in repair, and may provide for any further matter or thing in connection therewith as may be considered by the board to be advantageous to the urban district and to all interested persons.

Source: L. 69: p. 791, § 129. **C.R.S. 1963:** § 89-21-129. **L. 77:** (7) and (9) amended, p. 288, § 65, effective June 29.

32-11-617. Extra work authorized - payment. Extra work may arise in connection with any project mentioned in this article and not particularly provided for in the plans,

specifications, estimates, bids and contracts; and such extra work shall be performed by the contractor at the direction of the engineer at cost of labor and materials and overhead including superintendence as set forth in the plans, specifications, or construction contract, such amount to be included in the assessment for the project (but not exceeding in the aggregate the estimated maximum special benefits to any tract so assessed) or to be paid out of the general or other funds of the district available therefor, in the discretion of the board.

Source: L. 69: p. 793, § 130. **C.R.S. 1963:** § 89-21-130.

32-11-618. Construction by district. (1) In the case of construction work done by the use of district owned or leased equipment and by district officers, agents, and employees for any project or any portion thereof in any improvement district, supplies and materials may be purchased or may be otherwise acquired therefor.

(2) All supplies and materials purchased by the urban district for an improvement district costing five hundred dollars or more shall be purchased only after the purchasing officer has given notice by publication therefor.

(3) The district shall accept the lowest and best bid, the kind, quality, and material being equal, but the district has the right to reject all bids, to waive any irregularity in any bid, and to select a single item from any bid when so stated in the invitation to bid.

(4) The provision as to bidding shall not apply to the purchase of patented and manufactured products offered for sale in a noncompetitive market or solely by a manufacturer's authorized dealer.

Source: L. 69: p. 793, § 131. **C.R.S. 1963:** § 89-21-131.

32-11-619. Cooperative construction. (1) In the case of construction work done by agreement with the urban district and with one or more public bodies or with the federal government (or any combination thereof) for any project or any portion thereof in any improvement district, the urban district may enter into and carry out any contract or may establish or comply with the rules and regulations concerning labor and materials and other related matters in connection with any project or any portion thereof, as the district may deem desirable or as may be requested by the federal government or by any public body which is a party to any such contract with the district that may assist in the financing of any project or any part thereof, regardless of whether the district is a party to any construction contract or to any other contract pertaining to incurring costs of the project.

(2) Any project, any portion of the cost of which may be defrayed by the urban district by the levy of assessments under this article, may be acquired with the cooperation and the assistance of, or under a contract let by, or with labor, or supplies and materials, or all of such furnished by any one or more such public bodies or by the federal government (or any combination thereof).

(3) Advantage may be taken of any offer from any source to complete any project on a division of expense or responsibility.

(4) The engineer, on behalf of and in the name of the urban district, is authorized to acquire or improve, or acquire and improve, any such project in such a manner when so authorized by the resolution creating the improvement district or by any amendment thereto.

Source: L. 69: p. 793, § 132. **C.R.S. 1963:** § 89-21-132.

32-11-620. Use of existing improvements. After the provisional order hearing and at the time of the passage of the resolution creating any improvement district and any project for the improvement district, or any amendment thereof, if any tract or the property of any railway company to be assessed in the improvement district has the whole or any part of the proposed project, conforming to the general plan, the same may be adopted in whole or in part or may be changed to conform to the general plan, if deemed practical; and the owner of such real estate, when the assessment is made, shall be credited with the amount which is saved by reason of adapting or of adopting such existing improvements.

Source: L. 69: p. 793, § 133. **C.R.S. 1963:** § 89-21-133.

32-11-621. Assessment debentures. (1) For the purpose of paying any contractor of or otherwise defraying any cost of the project in connection with any improvement district as the same becomes due from time to time until moneys are available therefor from the levy and collection of assessments and from any issuance of assessment bonds, the board may issue assessment debentures on the behalf and in the name of the urban district as provided in sections 32-11-501 (3) and 32-11-502 to 32-11-526 and elsewhere in this article, except as otherwise provided in sections 32-11-621 to 32-11-631.

(2) Any assessment debentures issued for any construction work shall be issued only upon estimates of the engineer.

(3) Any assessment debentures shall be special obligations payable from designated special assessments, any proceeds of special assessment bonds, and any other moneys designated to be available for the redemption of such debentures and authorized in this article to be pledged as additional security for the payment of such bonds.

Source: L. 69: p. 794, § 134. **C.R.S. 1963:** § 89-21-134.

32-11-622. Issuance of assessment securities. (1) The board has power in connection with any improvement district to issue, on the behalf and in the name of the urban district, bonds in an amount not exceeding the estimated cost of the project or part thereof to be defrayed by the levy and collection of assessments, or if the bonds are issued after the levy of assessments, in an aggregate principal amount not exceeding the aggregate amount of unpaid assessments pledged for the payment of the bonds as provided in sections 32-11-501 (3) and 32-11-502 to 32-11-526 and elsewhere in this article, except as otherwise provided in sections 32-11-622 to 32-11-631.

(2) Any assessment bonds may be issued at public or private sale to defray the cost of the project, including any temporary advances evidenced by assessment debentures or otherwise and all proper incidental expenses.

(3) The board may enter into a contract to sell assessment debentures and assessment bonds at any time; but, any other provisions of this article notwithstanding, if the board so contracts before it awards a construction contract or otherwise contracts for acquiring or improving, or acquiring and improving, the project, the board may terminate the contract to sell such securities if, before the awarding of the construction contract or otherwise contracting for the acquisition or improvement, or acquisition and improvement, of the project, the board

determines not to acquire or improve, or acquire and improve, the project, and if the board has not elected to proceed under section 32-11-615 other than by independent contract pursuant to section 32-11-615 (1)(a), if at all.

Source: L. 69: p. 794, § 135. **C.R.S. 1963:** § 89-21-135.

32-11-623. Purchase price and interest. (1) Any district securities designated in section 32-11-501 (3) and otherwise issued under this article, both assessment bonds and assessment debentures, as may be provided by the board in a resolution authorizing their issuance and the maximum net effective interest rate thereof and in any indenture or other proceedings pertaining thereto, may be issued at, above, or below par, at a discount not exceeding seven percent of the principal amount thereof, but they may not be issued at a price such that the net effective interest rate of the issue of securities exceeds the maximum net effective interest rate authorized.

(2) Such bonds and debentures shall bear interest at a rate such that the net effective interest rate of the issue of bonds or debentures does not exceed the maximum net effective interest rate authorized.

(3) No bond interest rate shall at any time exceed the interest rate (or lower or lowest rate if more than one) borne by the unpaid assessments, but any such bond interest rate may be the same as or less than any assessment interest rate, subject to the limitations of this section, as the board may determine.

Source: L. 69: p. 794, § 136. **C.R.S. 1963:** § 89-21-136. **L. 70:** p. 302, § 129.

32-11-624. Use of assessments - payment of assessment securities. (1) The assessments pertaining to any improvement district when levied shall be and shall remain a lien on the respective tracts assessed until paid as provided in this article.

(2) When the assessments pertaining to the improvement district are collected (including principal, interest, and any penalty), they shall be placed in a special fund or special account and as such shall at all times constitute a sinking fund or sinking account for and be deemed specially appropriated to the payment of any assessment debentures not funded with bond proceeds and the payment of the assessment bonds pertaining to the improvement district and the interest thereon, and shall not be used for any other purpose until such securities and the interest thereon are fully paid; or if no such securities are issued, all assessments upon their payment shall be so appropriated and used to defray the cost of the project.

(3) Any assessment debentures not funded with bond proceeds and the assessment bonds, including both principal and interest, shall be payable only out of moneys collected on account of the assessments (including installments thereof, interest thereon, and any penalties) for the project pertaining to the improvement district to which such securities pertain, except as provided in this article.

Source: L. 69: p. 795, § 137. **C.R.S. 1963:** § 89-21-137.

32-11-625. Bond limitations and details. (1) All assessment bonds issued under this article shall be issued by the treasurer upon estimates of the engineer, or if bonds are issued after

the levy of assessments, in an aggregate principal amount not exceeding the aggregate amount of unpaid assessments pledged for the payment of the bonds, and upon order of the board by resolution.

(2) The bonds shall mature in no event after that date which is one year after the last assessment installment payment date.

Source: L. 69: p. 795, § 138. **C.R.S. 1963:** § 89-21-138.

32-11-626. Prior redemption provisions. The board may provide for the redemption prior to maturity at the option of the district of any of the bonds or debentures designated in section 32-11-501 (3), in such order, by lot or otherwise, at such time or times, without or with the payment of such premium not exceeding seven percent of the principal amount of each bond or other security so redeemed, and otherwise upon such terms as may be provided by the board in the resolution authorizing the issuance of the securities or other instrument pertaining thereto.

Source: L. 69: p. 795, § 139. **C.R.S. 1963:** § 89-21-139.

32-11-627. Special obligations. (1) Assessment debentures and assessment bonds issued under this article shall constitute special obligations of the urban district and shall not be a debt of the district. The district shall not be liable on such securities except as otherwise expressly provided in this article, nor shall the urban district thereby pledge its full faith and credit for their payment. Such securities (other than debentures funded with bond proceeds) shall not be payable out of any funds other than the special assessments (including installments thereof, interest thereon, and any penalties) and other funds and moneys pledged as additional security for the payment thereof, as authorized in this article.

(2) Each assessment debenture and assessment bond issued under this article shall recite in substance that the bond and the interest thereon are payable solely from the special assessments and such other funds and moneys pledged to the payment thereof.

Source: L. 69: p. 796, § 140. **C.R.S. 1963:** § 89-21-140.

32-11-628. Primary additional security. (1) The urban district shall additionally secure the payment of the assessment debentures and the assessment bonds pertaining to any improvement district as provided in this article.

(2) Whenever there is a deficiency in any improvement district to meet payment of such outstanding assessment securities and interest due thereon, it shall be paid out of the urban district's special surplus and deficiency fund.

(3) The urban district shall pay the assessment securities pertaining to any improvement district when due and the interest due thereon from any available moneys of the urban district and reimburse itself by collecting the unpaid assessments due the improvement district, whenever:

(a) Four-fifths of the outstanding bonds pertaining to the improvement district have been paid; and

(b) For any reason the remaining assessments pertaining to the improvement district are not paid in time to take up the final bonds of the improvement district and the interest due thereon; and

(c) There is not sufficient money in the special surplus and deficiency fund.

(4) When all outstanding assessment securities pertaining to an improvement district have been paid and any moneys remain to the credit of such district, they shall be transferred to the special surplus and deficiency fund.

Source: L. 69: p. 796, § 141. **C.R.S. 1963:** § 89-21-141.

32-11-629. Permissive additional security. (1) In addition to the additional security provided for in section 32-11-628, and not in limitation thereof, the urban district may further additionally secure the payment of assessment debentures and assessment bonds pertaining to any improvement district, both as to principal and interest, as may be provided in accordance with this section.

(2) In consideration of general benefits conferred on the urban district at large from the acquisition by construction, or otherwise, of local improvements, the urban district, prior to the issuance of any assessment debentures or assessment bonds pertaining to any improvement district in this article, may contract by resolution with the holders thereof that the payment of such securities pertaining to the improvement district, both as to principal and interest, as the same become due, is additionally secured by a pledge of moneys in a special fund or special account created therefor into which the urban district covenants to deposit the proceeds of general (ad valorem) property taxes to be levied not earlier than the date of the debentures or bonds of any such series nor later than two years after the maturity date thereof or last maturity date of any serial bonds of any issue, not exceeding in any one year in the aggregate for all improvement districts the limitation pertaining to assessment bonds in section 32-11-217 (1)(d). After the issuance of any such securities, the urban district shall levy such general (ad valorem) taxes pursuant to such contract; but any such levy shall be diminished to the extent other funds of the urban district available therefor are appropriated to and deposited in such fund or account.

(3) Prior to the redemption of all such securities, including both principal and interest, the proceeds of such taxes and any moneys deposited in such fund or account in lieu of such taxes shall be disbursed from the fund or account only for the payment of the principal of and interest on the securities, and any prior redemption premium pertaining thereto. After the securities have been redeemed in full, any moneys remaining in the fund or account and pertaining only to the improvement district shall be deposited in the surplus and deficiency fund.

(4) Securities of the urban district pertaining to any improvement district payable from assessments, which payment shall be additionally secured as provided in section 32-11-628, or in both that section and this section, as the board may determine, shall not be subject to the debt limitation nor exhaust the debt incurring power of the urban district, nor shall such securities be required to be authorized at any election. Such securities shall not be held to constitute a prohibited lending of credit or donation nor to contravene any constitutional or statutory limitation or restriction.

Source: L. 69: p. 796, § 142. **C.R.S. 1963:** § 89-21-142.

32-11-630. Redemption of securities. (1) Whenever considered advisable by the treasurer, he may, and whenever funds may be in his hands to the credit of any improvement district exceeding the amount of interest on the unpaid principal becoming due on and prior to one year next after the last interest payment date, and, if maturing serially, the principal becoming due on the next principal payment date, he shall, subject to the provisions concerning the payment of assessment debentures and assessment bonds pertaining to an improvement district prior to maturity in the securities and in any resolution pertaining to their issuance, by publication at least once not less than fifteen days prior to the redemption date, call in a suitable number of securities of the improvement district for payment, for the principal amount thereof, accrued interest to the redemption date, and any prior redemption premium due thereon.

(2) After the redemption date so designated, interest on the securities so called shall cease. The urban district, however, may provide that such securities be redeemed only on interest payment dates.

(3) The notice shall specify the securities so called by number, and all such securities shall be paid in the order designated in any such resolution.

(4) The holder of any such securities may at any time furnish his post-office address to the treasurer, and in such case a copy of such advertisement shall be mailed by the treasurer to the holder of the securities called at such address within three days of the date of such publication.

Source: L. 69: p. 797, § 143. **C.R.S. 1963:** § 89-21-143.

32-11-631. Rights and powers of security holders. (1) Subject to any contractual limitations binding upon the holders of any issue or series of assessment debentures or assessment bonds or the trustee therefor, including but not limited to the restriction of the exercise of any remedy to a specified proportion, percentage, or number of such holders, any holder of such securities or trustee therefor has the right and power for the equal benefit and protection of all holders of the securities similarly situated:

(a) By mandamus or by other suit, action, or proceeding at law or in equity to enforce his rights against the urban district, the board, and any other of the officers, agents, and employees of the district, and to require and to compel the district, the board, or any such officers, agents, or employees to perform and to carry out their respective duties, obligations, or other commitments under this article and under their respective covenants and agreements with the holder of such securities;

(b) By action or by suit in equity to require the urban district to account as if it is the trustee of an express trust;

(c) By action or by suit in equity to have appointed a receiver, which receiver may take possession of any accounts and may collect, receive, and apply all assessments, other revenues, and other moneys pledged for the payment of the securities in the same manner as the urban district itself might do in accordance with the obligations of the district; and

(d) By action or by suit in equity to enjoin any acts or things which might be unlawful or in violation of the rights of the holder of any such securities and to bring suit thereupon.

Source: L. 69: p. 797, § 144. **C.R.S. 1963:** § 89-21-144.

32-11-632. Statement of cost of project. Upon the completion of any project in any improvement district or, in the case of assessment units or sewers, upon completion from time to time of an improvement program in any assessment unit or any parts of sewers affording complete drainage for any part of the improvement district, or after the determination of the net cost to the urban district, and upon the acceptance thereof by the board, or whenever the total cost of such project or any of such part of sewers can be definitely ascertained, and upon the board's determination to assess all or a part of the cost thereof, the engineer shall prepare and shall furnish to the board a statement showing the total cost of the project or of any such part thereof.

Source: L. 69: p. 798, § 145. **C.R.S. 1963:** § 89-21-145.

32-11-633. Order for assessment roll and its form. (1) Following the furnishing of the statement of the cost of the project, the board by resolution shall:

(a) Determine the cost of the project to be paid by the assessable property in the improvement district;

(b) Order the engineer to make out an assessment roll containing, among other things:

(I) The name of each last-known owner of each tract to be assessed or, if not known, that the name is unknown; and

(II) A description of each tract to be assessed and the amount of the proposed assessment thereon, apportioned upon the basis for assessments stated in the provisional order for the hearing on the project;

(c) Cause a copy of the resolution to be furnished by the secretary to the engineer.

(2) In fixing the amount or the sum of money that may be required to pay the cost of the project, the board need not necessarily be governed by the estimates of such cost provided for in this article, but the board may fix such other sum within the limits prescribed as it may deem necessary to cover the cost of the project.

(3) If by mistake or otherwise any person is improperly designated in the assessment roll as the owner of any tract or if the same is assessed without the name of the owner or in the name of a person other than the owner, such assessment shall not for that reason be vitiated, but it shall in all respects be as valid upon and against such tract as though assessed in the name of the owner thereof. When the assessment roll has been confirmed, such assessment shall become a lien on such tract and shall be collected as provided by law.

Source: L. 69: p. 798, § 146. **C.R.S. 1963:** § 89-21-146.

32-11-634. Assessment computations and limitations. (1) If the assessment is made upon the basis of frontage, the engineer shall assess each tract with such relative portion of the whole amount to be levied as the length of front of such premises bears to the whole frontage of all the tracts to be assessed, and the frontage of all tracts to be assessed shall be deemed to be the aggregate number of feet as determined for assessment by the engineer.

(2) If the assessment is directed to be according to an area or zone or another equitable basis other than a front-foot basis, the engineer shall assess upon each tract such relative portion of the whole sum to be levied as is proportionate to the estimated benefit according to such basis.

(3) Regardless of the basis used, in cases of wedge-shaped or V-shaped or any other irregular-shaped tracts, an amount apportioned thereto shall be in proportion to the special benefits thereby derived.

(4) No assessment shall exceed the amount of the estimate of maximum special benefits to the tract assessed, as provided in section 32-11-607 (2).

(5) Any amount which would be assessed against any tract in the absence of both limitations in subsections (3) and (4) of this section shall be defrayed by other than the levy of assessments.

Source: L. 69: p. 799, § 147. **C.R.S. 1963:** § 89-21-147.

32-11-635. Determination of assessable tracts. The board shall determine what amount or part of every expense shall be charged as an assessment and the tracts upon which the same shall be levied, and as often as the board deems it expedient, it shall require all of the several tracts chargeable therewith respectively to be reported by the secretary to the engineer for assessment.

Source: L. 69: p. 799, § 148. **C.R.S. 1963:** § 89-21-148.

32-11-636. Preparation of proposed roll. (1) Upon receiving the report mentioned in section 32-11-633, the engineer shall make an assessment roll and state a proposed assessment therein upon each tract so reported to him, and by such proposed assessments he shall defray the whole amount of all charges so directed to be levied upon each of such tracts respectively. When completed, he shall report the assessment roll to the board.

(2) When any assessment is reported by the engineer to the board as directed in this section, the same shall be filed in the office of the secretary and numbered.

Source: L. 69: p. 799, § 149. **C.R.S. 1963:** § 89-21-149.

32-11-637. Notice of assessment hearing. (1) Upon receiving the assessment roll, the board, by resolution, shall:

(a) Fix a time and a place when and where complaints, protests, and objections that may be made in writing or verbally concerning the same by the owner of any tract or by any person interested may be heard; and

(b) Order the secretary to give notice of the hearing.

(2) The secretary shall give notice by publication and by mail of the time and the place of such hearing, which notice shall also state:

(a) That the assessment roll is on file in his office;

(b) The date of filing the same;

(c) The time and the place when and where the board will hear all complaints, protests, or objections that may be made in writing or verbally to the assessment roll and to the proposed assessments by the parties thereby aggrieved; and

(d) That any complaint, protest, or objection to the regularity, validity, and correctness of the proceedings, of the assessment roll, of each assessment contained therein, and of the

amount thereof levied on each tract shall be deemed waived unless filed in writing on specific grounds with the secretary at least three days prior to the assessment hearing.

Source: L. 69: p. 799, § 150. **C.R.S. 1963:** § 89-21-150.

32-11-638. Assessment hearing. (1) At the time and the place so designated, the board shall hear and shall determine any written complaint, protest, or objection filed as provided in section 32-11-637, any verbal views expressed in respect to the proposed assessments, the assessment roll, or the assessment procedure, and the board may adjourn the hearing from time to time.

(2) The board by resolution has the power in its discretion to revise, correct, confirm, or set aside any assessment and to order that such assessment be made de novo.

Source: L. 69: p. 800, § 151. **C.R.S. 1963:** § 89-21-151.

32-11-639. Levy of assessments. (1) After the assessment roll is in final form and is so confirmed by resolution, the urban district by the same or by a supplemental resolution shall by reference to such assessment roll as so modified, if modified, and as confirmed by such resolution, levy the assessments in the roll.

(2) The board shall cause the resolution levying the assessments to be published at least one time in a newspaper of general circulation in the improvement district.

(3) No assessment shall be levied for any capital improvements acquired by the urban district and located or to be located on any land until the board by the adoption of such resolution or otherwise determines that the district has the right to possession of such land or an interest therein for the purpose of acquiring the improvements.

(4) Such decision and resolution shall be a final determination of the regularity, validity, and correctness of the proceedings, of the assessment plat, of the assessment roll, of each assessment contained therein, and of the amount thereof levied on each tract.

(5) Such determination by the board shall be conclusive upon the owners of the property assessed.

(6) The roll shall be prima facie evidence in all courts and tribunals of the regularity of all proceedings preliminary to the making thereof and of the validity of the assessments and the assessment roll.

Source: L. 69: p. 800, § 152. **C.R.S. 1963:** § 89-21-152.

32-11-640. Appeal of adverse determination. (1) Within the fifteen days immediately succeeding the publication of the assessment resolution, any person who has filed a complaint, protest, or objection on specific grounds in writing, as provided in this article, has the right to commence an action or a suit in any court of competent jurisdiction to correct or to set aside such determination.

(2) Thereafter all actions or suits attacking the regularity, validity, and correctness of the proceedings of the assessment plat, of the assessment roll, of each assessment contained therein, and the amount thereof levied on each tract, including without limitation the defense of confiscation, shall be perpetually barred.

Source: L. 69: p. 800, § 153. **C.R.S. 1963:** § 89-21-153.

32-11-641. Transfer of roll to county treasurer. (1) Upon the expiration of such fifteen-day period for any such appeal, the secretary shall forthwith note on the assessment roll or by separate instrument each assessment, if any, the regularity, validity, or correctness of which is challenged in such an action or suit.

(2) Thereupon the secretary shall forthwith certify under the seal of the urban district and transmit to the county treasurer of each county in which the improvement district is located, wholly or in part, the assessment roll with the assessment resolution, with a notation of any pending legal actions and suits and with the secretary's warrant for the collection of the assessments levied against the assessable property within the county. The county treasurer shall receipt for the same and all such rolls shall be numbered for convenient reference.

Source: L. 69: p. 801, § 154. **C.R.S. 1963:** § 89-21-154.

32-11-642. Thirty-day payment period - deferred payments. (1) All assessments made in pursuance of the assessment resolution shall be due and payable without demand not earlier than thirty-one days after its publication upon its final passage and within sixty days after such publication.

(2) Each such assessment or any part thereof may at the election of the owner be paid in installments with interest as provided in this article, whenever the board so authorizes the payment of assessments.

(3) Failure to pay the whole assessment within such period of thirty days shall be conclusively considered an election on the part of all persons interested, whether under disability or otherwise, to pay in installments the amount of the assessment then unpaid.

(4) All persons so electing to pay in installments shall be conclusively considered as consenting to the project for which each such assessment was levied, and such election shall be conclusively considered as a waiver of all rights to question the power of jurisdiction of the urban district to acquire or improve, or acquire and improve, the project, the quality of the work, the regularity or sufficiency of the proceedings, or the validity or the correctness of the assessment.

(5) The owner of any tract assessed may at any time pay the whole unpaid principal and the interest accrued to the next interest payment date, together with penalties if any. The board may require in the assessment resolution the payment of a premium for any prepayment not exceeding seven percent of each installment of principal so prepaid.

(6) Subject to the foregoing provisions, all installments, both of principal and interest, shall be payable at such times as may be determined in and by the assessment resolution.

Source: L. 69: p. 801, § 155. **C.R.S. 1963:** § 89-21-155.

32-11-643. Acceleration upon delinquency. (1) Failure to pay any installment, whether principal or interest, when due shall ipso facto cause the whole amount of the unpaid principal to become due and payable immediately at the option of the urban district, security holder, or trustee therefor initiating foreclosure proceedings, the exercise of such option to be

indicated by the commencement of foreclosure proceedings for not only each delinquent installment but also all other unpaid installments of any assessment.

(2) At any time prior to the day of sale, the owner may pay the amount of delinquent installments, with accrued interest, all penalties, and cost of collection accrued, including but not necessarily limited to any attorneys' fees, and shall thereupon be restored to the right thereafter to pay in installments in the same manner as if default had not been made.

Source: L. 69: p. 801, § 156. **C.R.S. 1963:** § 89-21-156.

32-11-644. Limitations upon deferred payments. (1) In case of such election to pay in installments, the assessment shall be payable in not less than two nor more than twenty substantially equal annual installments or not less than four nor more than forty substantially equal semiannual installments of principal.

(2) Interest in all cases on the unpaid principal accruing from the date of publishing the assessment resolution upon its final passage until the respective installment due dates shall be payable annually or semiannually at a rate not exceeding eight percent per annum; except that, in the case of an assessment initiated subsequent to July 1, 1984, such interest shall not exceed the maximum rate fixed by the board in the notice of the provisional order hearing given pursuant to sections 32-11-608 and 32-11-609.

(3) Nothing in this article shall limit the discretion of the board in determining whether assessments shall be payable in installments and the time the first installment of principal or of interest, or of both, and any subsequent installments thereof shall become due.

(4) The board in the assessment resolution shall state the number of installments in which assessments may be paid, the period of payment, the rate of interest upon the unpaid installments of principal to their respective due dates, any privileges of making prepayments, and any premium to be paid to the urban district for exercising any such privilege, the rate of interest upon unpaid principal and accrued interest after any delinquency at the rate of one percent per month, or any fraction thereof, and any penalties and any collection costs payable after delinquency.

Source: L. 69: p. 802, § 157. **C.R.S. 1963:** § 89-21-157. **L. 84:** (2) amended, p. 847, § 3, effective July 1.

32-11-645. Assessment liens. (1) The payment of the amount so assessed, including each installment thereof, the interest thereon, and any penalties and collection costs shall be secured by an assessment lien upon the tract assessed from the date of publication of the assessment resolution.

(2) Each such lien upon each tract assessed shall:

(a) Be subordinate and junior to any lien thereon for any general (ad valorem) taxes, whether prior in time or not;

(b) Be prior and superior to any assessment lien thereon subsequently levied by the urban district or by any public body;

(c) Be subordinate and junior to any assessment lien thereon theretofore levied by the urban district or by any public body; and

(d) Be prior and superior to all liens, claims, mortgages, other encumbrances, and titles other than the liens of assessments and general taxes.

(3) All purchasers, mortgagees, or encumbrancers of any such tract shall hold the same subject to such lien so created, whether prior in time or not.

(4) Each such assessment lien shall continue as to unpaid installments, principal, interest, and any penalties and costs until such assessments, the principal thereof, interest thereon, and any penalties and costs pertaining thereto shall be fully paid, unless terminated by the foreclosure of any prior and superior lien on the tract assessed.

(5) But unmatured installments shall not be deemed to be within the terms of any general covenant or warranty.

(6) No statute of limitations shall begin to run against any assessment or the assessment lien to secure its payment until after the last installment of principal thereof becomes due.

(7) The urban district may use any available funds or moneys for the satisfaction of any lien prior in right to any special assessment lien created by the district.

(8) In the resale of any property to which the urban district has so acquired title, the district shall use its best efforts to sell the property for an amount at least equal to the funds or moneys so used plus the amount necessary to satisfy the special assessment lien created by the district, including principal, interest, penalties, and collection costs.

(9) The moneys received from such a resale in payment for the property shall be used first to satisfy such special assessment lien and thereafter to restore to the fund from which any such prior lien was satisfied and the moneys used therefor.

(10) The urban district is authorized to acquire and to dispose of property on which there are delinquent taxes or assessments, or both.

Source: L. 69: p. 802, § 158. **C.R.S. 1963:** § 89-21-158.

32-11-646. Division of tract. (1) If any tract is divided after an assessment thereon has been levied and divided into installments and before the collection of all the installments, the board may require the county assessor to apportion the uncollected amounts upon the several parts of land so divided according to the proportions thereof based upon their valuation for assessment for taxes.

(2) The report of such apportionment, when approved, shall be conclusive on all the parties, and all assessments thereafter made upon such tracts shall be according to such subdivision.

Source: L. 69: p. 803, § 159. **C.R.S. 1963:** § 89-21-159.

32-11-647. Surpluses and deficiencies. (1) If any assessment proves insufficient to pay for the project or the work for which it is levied and the expense incident thereto, the amount of such deficiency shall be paid from the capital improvements fund of the urban district or from such other account in which moneys are accounted for which may be made available for such purpose by the board.

(2) If sufficient moneys are not legally available so as to defray the amount of such deficiency as the respective obligations comprising the cost of the project become due, the urban

district shall budget, appropriate, and levy taxes therefor, subject to the limitation pertaining to capital improvements in section 32-11-217 (1)(d).

(3) If a greater amount of assessments has been collected than was necessary to defray the cost of the project of any improvement district to which the assessments pertain, the excess shall be transferred to the special surplus and deficiency fund of the urban district as provided in section 32-11-628.

Source: L. 69: p. 803, § 160. **C.R.S. 1963:** § 89-21-160.

32-11-648. Notice of assessment or installment due. (1) Each county treasurer to whom an assessment roll is transmitted pursuant to section 32-11-641 shall give notice by mail and by publication of the levy of the assessments against the assessable property in the county, of the fact they are payable, and of the last day for their payment, as provided in section 32-11-642 (1).

(2) Each such county treasurer shall give notice by mail and by publication of such installment of such assessments which is payable and of the last day for its payment, as provided in section 32-11-644 and in the assessment resolution.

(3) Each such notice given by the county treasurer shall:

(a) State the amount of the assessment or of the installment due, except in the case of any published notice;

(b) State how unpaid principal is payable in installments; and

(c) State the place of payment and the time for it to close.

(4) The failure of the county treasurer to give notice or to do any other act or thing required by this section shall not affect the assessment or any installment thereof.

Source: L. 69: p. 803, § 161. **C.R.S. 1963:** § 89-21-161.

32-11-649. When collections paid district. All collections made by the county treasurer upon each assessment roll in any calendar month shall be accounted for and paid over to the district treasurer on or before the tenth day of the next succeeding calendar month, with separate statements for all such collections for each improvement district.

Source: L. 69: p. 804, § 162. **C.R.S. 1963:** § 89-21-162.

32-11-650. Collections by county treasurer. The county treasurer shall receive payment of all assessments against assessable property located in the county appearing upon the assessment roll, with interest.

Source: L. 69: p. 804, § 163. **C.R.S. 1963:** § 89-21-163.

32-11-651. Collection of delinquent assessments. (1) As soon as any assessment or any installment thereof pertaining to any improvement district becomes in default, the county treasurer shall mark the same delinquent on the assessment roll, together with the amount of unpaid principal shown on the assessment roll and accrued interest thereon to the date of

delinquency, and the county treasurer shall within thirty days after such delinquency certify such amounts as shown thereon to the board of the urban district.

(2) The county treasurer shall collect the delinquent assessment, or the delinquent installment and all other unpaid installments of the assessment, if any, and accrued interest, all penalties, and costs of collection accrued, in accordance with section 32-11-643 and other provisions in this article supplemental thereto, in the same manner and with the same interest and penalties thereon as other taxes collected by the county treasurer on behalf of the urban district. All of the laws of the state for the assessment and collection of general taxes, including the laws for the sale of real property for taxes and redemption therefrom, shall be applicable to and shall have the same effect with respect to the collection of such assessments.

(3) If the board elects by resolution to have the urban district foreclose the lien on any assessable property and secure the payment of any delinquent assessment or delinquent installment thereof as provided in part 11 of article 25 of title 31, C.R.S., the secretary shall notify each county treasurer to whom there has been transmitted an assessment roll pertaining to such delinquent assessments and installments of such election and shall transmit thereto a copy of such resolution. Thereupon the county treasurer shall take no further action unless the board causes him to be informed subsequently that the owner of any tract has been restored the right to pay in installments in accordance with section 32-11-643 (2) and other provisions in this article supplemental thereto.

Source: L. 69: p. 804, § 164. **C.R.S. 1963:** § 89-21-164. **L. 81:** (3) amended, p. 1626, § 37, effective July 1.

Cross references: For collection of taxes, see article 10 of title 39; for the sale of tax liens, see article 11 of title 39; for redemptions, see article 12 of title 39.

32-11-652. Optional filing of claim of lien. (1) The board may, but is not required, in any assessment resolution or in any resolution supplemental thereto, provide that the secretary, within thirty days after the expiration of the thirty-day payment period specified in section 32-11-642, shall make out, sign, attest with the seal of the urban district, and file for record in the office of the county clerk of each county in which is located assessable property pertaining to any improvement district, a claim of lien for the unpaid amount due and assessed against each tract on the assessment roll for the improvement district.

(2) When a claim of lien is so filed and any assessment pertaining thereto is paid in full, the secretary shall release the lien against any specific tract either by entering and signing a receipt of payment upon the margin of the record thereof or by filing for record in the office of the county clerk and recorder a separate release wherein payment of the assessment, principal, interest, and any penalty is recited.

Source: L. 69: p. 804, § 165. **C.R.S. 1963:** § 89-21-165.

32-11-653. Duties imposed when assessments are levied. (1) Whenever the board has provided for any project under this article, has levied assessments therefor, and has issued assessment bonds or assessment debentures or both such types of securities for the financing of

the same, then and in such event there shall be imposed upon the urban district the following additional duties:

(a) The district shall act as the agency for the collection of such assessments and in so doing shall act as trustees for the benefit of such holders of assessment debentures or bonds.

(b) If the board creates more than one improvement district, the funds of each such district shall be kept in a separate fund or account to be used for the payment of interest and principal of the assessment securities pertaining to the improvement district.

(c) The urban district shall prepare annually and shall make available for inspection in the district treasurer's office to each holder of assessment securities a statement of the financial condition of the improvement district relating to such securities, which report shall include a statement of all delinquencies existing at such time.

(d) Where there is a delinquency continuing for a period of one year in the payment of any installment of such assessment made for the project, the urban district shall thereafter forthwith proceed with the institution of proceedings to foreclose the assessment lien against the property or properties wherein the delinquency exists, unless the county treasurer has instituted such proceedings, as provided in this article.

(e) The holder of any assessment security issued under this article or any trustee therefor has the right to institute such foreclosure proceedings in the name of the urban district issuing such security, if such a delinquency has continued for a period of one and one-half years and if the urban district has not theretofore instituted such foreclosure proceedings. The failure of any holder of any assessment security or any trustee therefor so to proceed shall not be deemed a waiver of any other right or privilege and shall not relieve the urban district or any of its officers, agents, or employees of any liability for failure to perform any duty.

Source: L. 69: p. 805, § 166. **C.R.S. 1963:** § 89-21-166.

32-11-654. Procedure to place omitted tracts on roll. (1) Whenever by mistake or inadvertence or for any cause any tract otherwise subject to assessment within any improvement district has been omitted from the assessment roll for any project, the board may, upon its own motion or upon the application of any owner of any tract within such district charged with the lien of an assessment for the project, assess the same in accordance with the special benefits accruing to such omitted tract by reason of such project and in proportion to the assessments levied upon other tracts in such district.

(2) In any such case the board shall first pass a resolution setting forth that certain tracts therein described were omitted from such assessment, and notifying all persons who may desire to object thereto to appear at a meeting of the board at a time specified in such resolution to present their objection thereto and directing the engineer to report to the board at or prior to the date fixed for such hearing the amount which should be borne by each such tract so omitted, which resolution shall be published at least once by the secretary in a newspaper of general circulation in the improvement district and shall be thereby mailed to the last known owner of each such tract.

(3) At the conclusion of such hearing or any adjournment thereof, the board shall consider the matter as though each such tract had been included upon the original roll and may confirm the same or any portion thereof by resolution.

(4) Thereupon the assessment on such roll of each omitted tract shall be collected, the payment of which shall be secured by an assessment lien; and a claim of lien therefor may be filed for record in the office of the county clerk as other assessments, as provided in section 32-11-652.

Source: L. 69: p. 805, § 167. **C.R.S. 1963:** § 89-21-167.

32-11-655. Irregularities in contracts and assessments. (1) Whenever the board makes any contract pertaining to any project provided in this article or makes any assessment against any tract within any improvement district for any project authorized in this article and, in making such contract or assessment, acts in good faith and without fraud, each such contract and assessment shall be valid and enforceable as such, and the assessment shall be a lien upon the tract upon which the same purports to be a lien.

(2) It shall be no objection to the validity of such contract, assessment, or lien that:

(a) The contract for such project was not awarded in the manner or at the time required hereby, or otherwise;

(b) The contract was made by an unauthorized officer or person if the same has been confirmed by the authorities of the urban district; and

(c) The assessment is based upon an improper basis of benefits to the tract within the improvement district, unless it appears that the urban district authorities acted fraudulently or oppressively in making such assessment.

Source: L. 69: p. 806, § 168. **C.R.S. 1963:** § 89-21-168.

32-11-656. Owner of interest may pay share. The owner of any divided or undivided interest in any tract assessed under this article may pay his share of any assessment, upon producing evidence of the extent of his interest satisfactory to the county treasurer having the roll in charge.

Source: L. 69: p. 806, § 169. **C.R.S. 1963:** § 89-21-169.

32-11-657. Payment of assessments by joint owner. (1) Whenever any assessment or installment thereof is paid or any delinquency therefor is redeemed or any judgment therefor is paid by any joint owner of any tract assessed for any project, such joint owner may, after demand and refusal, by an action brought in the district court recover from each of his co-owners the respective amounts of such payment which each such co-owner should bear with interest thereon at ten percent per annum from the date of such payments, and costs of the action.

(2) The joint owner making such payment shall have a lien upon the undivided interest of his co-owners in and to such property from date of such payment.

Source: L. 69: p. 806, § 170. **C.R.S. 1963:** § 89-21-170.

32-11-658. Assessment paid in error. When, through error or inadvertence, any person pays any assessment or installment thereof upon the tract of another, such payor may, after

demand and refusal, by an action in the district court recover from the owner of such tract the amount so paid and costs of the action.

Source: L. 69: p. 807, § 171. **C.R.S. 1963:** § 89-21-171.

32-11-659. Description of property - notice to transferees. (1) It is sufficient in any case to describe the tract as the same is platted or recorded or described in any official record, although the same belongs to several persons.

(2) Any purchaser, lienholder, assignee, or transferee of any tract subject to assessment as provided in this article, in any improvement district provided for in this article, after the first publication of the notice of the provisional order to create such district, shall be held to notice thereof and of all proceedings with reference thereto the same as the owners of such tract at the time of such notice or proceedings.

Source: L. 69: p. 807, § 172. **C.R.S. 1963:** § 89-21-172.

32-11-660. Assessment of public property. (1) When the urban district, any public body, or the federal government (except the federal government in the absence of its consent by congress to assessment) owns any tract or holds the title to any tract not used as a street or other public right-of-way of the urban district or other public body, which if owned by a private person would be liable to assessment for benefits to pay for any project mentioned in this article, an assessment shall be made against such tract as though such tract were the property of a private person.

(2) The urban district, the public body, or the federal government, in the case of such consent, shall pay the amount of each such assessment by the levy of taxes or from other funds available therefor.

Source: L. 69: p. 807, § 173. **C.R.S. 1963:** § 89-21-173.

32-11-661. Collecting assessments against public properties. (1) If any assessment against any tract of a private person operating a public utility or any tract of the urban district, any public body, or the federal government is not paid as provided by law, suit may be brought in the proper district court to enforce the collection of the assessment, and the judgment rendered against any such owner of the tract shall be enforced as are other judgments.

(2) No such tract owned thereby shall be sold under any such judgment, nor as the result of any foreclosure of an assessment, nor otherwise.

Source: L. 69: p. 807, § 174. **C.R.S. 1963:** § 89-21-174.

32-11-662. Sewer districts and subdistricts. The urban district may establish and maintain separate or combined sewer systems, which systems shall be divided into improvement district and subdistrict sewers for storm drainage, upon initiation by the board.

Source: L. 69: p. 807, § 175. **C.R.S. 1963:** § 89-21-175.

32-11-663. Sewer acquisitions. Sewers and other drainage facilities shall be established and constructed at such time and in such locations, to such extent, with such dimensions and materials, and in accordance with such full details and specifications as may be prescribed by the board. Whenever necessary, land rights-of-way for any sewer or other drainage facility ordered by the board may be purchased, condemned, or otherwise acquired on behalf of the improvement district and the cost charged to such district.

Source: L. 69: p. 807, § 176. **C.R.S. 1963:** § 89-21-176.

32-11-664. Classification of sewer districts. (1) The board may order by resolution:

(a) The acquisition of improvement district sewers, other drainage facilities, and appurtenances for storm drainage, to be known as sewer districts; and

(b) The acquisition of relief sewers or other drainage facilities or intercepting sewers or other drainage facilities and appurtenances for storm drainage for districts, to be known as relief districts or as intercepting districts.

(2) Such sewers shall be constructed so as to connect within or without the improvement district with some other sufficient sewer or disposal facilities or with some natural drainage. Such districts may be composed of subdistricts to be specifically named or numbered in such resolution.

(3) District sewers, except as provided in this article, shall include all submains necessary to provide outlets for all subdistrict laterals within the improvement district.

(4) Special district sewers shall include the necessary mains to provide outlets for all laterals within the special sewer district.

Source: L. 69: p. 807, § 177. **C.R.S. 1963:** § 89-21-177.

32-11-665. Acquisition of subdistrict laterals. The board may at the time of ordering the acquisition of district sewers or at any time thereafter order the acquisition of subdistrict laterals in any such subdistrict so as to connect the same with the submains or with the district main sewer, the same to be approved by resolution as in the case of district sewers.

Source: L. 69: p. 808, § 178. **C.R.S. 1963:** § 89-21-178.

32-11-666. Assessment of district sewers. (1) The cost of district sewers may be assessed upon all the assessable property in the improvement district, in proportion to the special benefits derived to each of the several tracts comprising the assessable property and on a front-foot, area, zone, or other equitable basis. The cost of subdistrict laterals shall be assessed in like manner upon all the assessable property in the subdistrict.

(2) The acquisition, however, of any submain may be omitted until such time as it may be required, in which case subdistricts so left without submains shall not be assessed for any part of the cost of submains acquired along, with, and as a part of the sewer district.

(3) Whenever submains so omitted are required and are constructed, they may be ordered as provided for other sewers, and their cost shall be assessed to the subdistricts which are supplied with submains.

Source: L. 69: p. 808, § 179. **C.R.S. 1963:** § 89-21-179.

32-11-667. Issuance of refunding bonds. (1) Any assessment bonds issued under this article may be refunded pursuant to resolution to be adopted by the board in the manner provided in this article for the issuance of other assessment bonds. Refunding bonds so issued may be secured in such manner and may be made payable from such sources as provided in the resolution authorizing their issuance.

(2) The security for the payment of the refunding bonds may be greater or lesser than the security for the payment of the bonds refunded. Bonds pertaining to more than one improvement district may be refunded by the bonds of one series. Such refunding bonds may be payable from the unpaid assessments of such improvement districts, and such payment may be additionally secured in accordance with sections 32-11-628 and 32-11-629 and other provisions in this article supplemental thereto.

(3) Refunding bonds so issued may be sold at public or at private sale or may be exchanged dollar for dollar for the bonds to be refunded.

(4) If sold, the proceeds of sale may be escrowed for the payment of the bonds to be refunded in such manner as may be provided in the resolution authorizing the refunding bonds and in sections 32-11-564 to 32-11-568 and section 32-11-570 for other refunding bonds of the urban district constituting special obligations.

Source: L. 69: p. 808, § 180. **C.R.S. 1963:** § 89-21-180.

32-11-668. Reassessments. Whenever any assessment for any project under this article, in the opinion of the board, is invalid by reason of any irregularity or informality in the proceedings, or if any court of competent jurisdiction adjudges such assessments to be illegal, the board, whether the project has been effected or not or whether any parts of the assessments have been paid or not, has power to cause a new assessment to be made for the same purpose for which the former assessment was made.

Source: L. 69: p. 809, § 181. **C.R.S. 1963:** § 89-21-181.

32-11-669. Procedure for relevy. (1) When an assessment is so determined to be invalid or illegal, the board shall by resolution order and shall make a new assessment or reassessment upon the tracts which have been or will be benefited by the project to which the invalid assessment pertains, to the extent of their proportionate part of the expense thereof, and in case the cost exceeds the actual value of such project, the new assessment or reassessment shall be for and shall be based upon the actual value of the same at the time of the project's completion.

(2) To this end the engineer shall make a new assessment roll in an equitable manner with reference to the benefits received, as near as may be in accordance with the law in force at the time such reassessment is made.

(3) When the new roll has been confirmed and approved by the board as provided for the original assessments, the reassessment shall be enforced and collected in the same manner that other assessments for such project are enforced and collected, under the provisions in sections 32-11-635 to 32-11-661.

(4) No proceedings relative to making the cost of any project chargeable upon property benefited thereby, required, and provided by the laws of the urban district prior to the making of the original assessment roll, shall be included or required within the purpose of sections 32-11-668 to 32-11-679.

Source: L. 69: p. 809, § 182. **C.R.S. 1963:** § 89-21-182.

32-11-670. Resolution for reassessment. The board of the urban district shall by resolution order and make a new assessment or reassessment, as provided in section 32-11-669, upon the tracts which have been or will be benefited by such project to the extent of their proportionate part of the cost of the project.

Source: L. 69: p. 809, § 183. **C.R.S. 1963:** § 89-21-183.

32-11-671. Assessment roll - certification. Upon the passage of a resolution, as provided in this article, the engineer shall make out an assessment roll according to the provisions of the resolution and shall certify the same to the board, as provided in section 32-11-636.

Source: L. 69: p. 809, § 184. **C.R.S. 1963:** § 89-21-184.

32-11-672. Notice of filing. Upon receiving the assessment roll, the secretary shall give notice of an assessment hearing, as provided in section 32-11-637.

Source: L. 69: p. 809, § 185. **C.R.S. 1963:** § 89-21-185.

32-11-673. Hearing. At the time and place appointed for hearing, the board shall hold an assessment hearing and shall otherwise proceed, as provided in section 32-11-638.

Source: L. 69: p. 809, § 186. **C.R.S. 1963:** § 89-21-186.

32-11-674. Levy of reassessment - cost and value. (1) The fact that the contract has been let or that such project has been acquired or improved, or acquired and improved, and otherwise completed in whole or in part shall not prevent such assessment from being made, nor shall the omission, failure, or neglect of any officer to comply with the provisions of the laws governing the urban district as to petition, notice, resolution to acquire or improve, or both acquire and improve, estimate, survey, diagram, manner of letting contract or execution of work, or any other matter whatsoever connected with the project and the first assessment thereof operate to invalidate or in any way to affect the making of the new assessment or reassessment, as provided for by sections 32-11-668 to 32-11-679, charging the property benefited with the expense thereof, except as otherwise provided in this article.

(2) Any such reassessment shall be levied by resolution, shall become final, and shall be subject to appeal as provided in sections 32-11-639 and 32-11-640.

(3) Such reassessment shall be for an amount which shall not exceed the actual cost and value of the project, together with any interest that has lawfully accrued thereon; and such

amount shall be equitably apportioned upon the tracts benefited thereby according to the provisions of the laws of the urban district.

(4) It is the true intent and meaning of sections 32-11-668 to 32-11-679 to make the cost and expense of each local improvement project payable by the tracts benefited by such project by making a reassessment therefor, notwithstanding that the proceedings of the board, engineer, or other body or any officers thereof may be found irregular or defective, whether jurisdictional or otherwise.

Source: L. 69: p. 809, § 187. **C.R.S. 1963:** § 89-21-187.

32-11-675. Credits for prior assessment. Whenever any sum or any part thereof levied upon any tract in the assessment so set aside has been paid and not refunded, the payment so made shall be applied upon the reassessment of the tract on account of which the same was paid.

Source: L. 69: p. 810, § 188. **C.R.S. 1963:** § 89-21-188.

32-11-676. Collection of assessments - new warrant or order. (1) In all cases where the county treasurer or other district and county authorities are unable to enforce the collection of any assessment by reason of irregularity or omission in any proceedings subsequent to the confirmation of the assessment, the board is authorized to cause a new warrant or order to issue to the county treasurer or other proper officer for the collection of any assessment which by reason of such irregularity or omission remains unpaid and not collected.

(2) The county treasurer or other proper officer shall proceed under such new warrant or order to enforce and to collect the assessments therein specified in the same manner, as near as may be, as is prescribed by the provisions of sections 32-11-642 to 32-11-651, for the enforcement and the collection of assessments, after the same have been confirmed and reassessed, as provided in sections 32-11-668 to 32-11-679.

(3) As often as any failure occurs by reason of such irregularities or omissions, a new warrant or order may issue, and new proceedings shall be had in like manner until such assessment is fully collected as to each tract charged therewith.

Source: L. 69: p. 810, § 189. **C.R.S. 1963:** § 89-21-189.

32-11-677. Appeal to district court. Any person who has filed objections to such new assessment or reassessment, as provided in this article, has the right to appeal to the district court of this state in and for the county and district in which the tract assessed is situated, as provided and subject to the limitations in section 32-11-640.

Source: L. 69: p. 810, § 190. **C.R.S. 1963:** § 89-21-190.

32-11-678. Procedure exclusive. The rights and remedies given in this article to the taxpayer and the property owner for objecting to, contesting, or appealing from the amount, correctness, regularity, or validity of such new assessment or reassessment are declared to be exclusive of all other rights, remedies, suits, or actions either at law or in equity which might

otherwise be available, to afford him a sufficient day in court for the redressing of all rights and grievances that he may have in connection with such new assessment or reassessment.

Source: L. 69: p. 811, § 191. **C.R.S. 1963:** § 89-21-191.

32-11-679. Application of reassessment funds. Whenever the urban district issues assessment debentures or assessment bonds to obtain funds to pay for any project which has been actually acquired or improved, or both acquired and improved, and the assessments levied therefor fail to be valid or sufficient in whole or in part and a new assessment or reassessment has been levied and confirmed, as provided in sections 32-11-668 to 32-11-679, then the urban district is directed to apply all moneys derived from such assessments, new assessments, and reassessments to the payment of such assessment securities according to their tenor. The securities issued for any project actually acquired or improved, or both acquired and improved, shall be valid and binding obligations of the district, payable out of such assessments, new assessments, and reassessments, which shall be levied and relevied until payment in full has been made, as provided in section 32-11-624.

Source: L. 69: p. 811, § 192. **C.R.S. 1963:** § 89-21-192.

PART 7

ANNEXATION

32-11-701. Annexation of lands to district. (1) The territorial limits of the urban district may be enlarged by the annexation of additional real property thereto in the following ways:

(a) By petition and consent of the fee owner pursuant to sections 32-11-702 and 32-11-706;

(b) By petition of the taxpaying electors, and approval pursuant to sections 32-11-703, 32-11-704, and 32-11-706; and

(c) By action initiated by the urban district pursuant to sections 32-11-705 and 32-11-706.

Source: L. 69: p. 812, § 201. **C.R.S. 1963:** § 89-21-201. **L. 70:** p. 302, § 130.

32-11-702. Petition of fee owners. (1) The fee owner of any real property contiguous to the territorial limits of the district and capable of being served with facilities of the district may file with the board a petition in writing praying that such property be included in the district.

(2) The petition shall set forth an accurate legal description of the property owned by the petitioners and shall state that assent to the annexation of such property in the district is given by the signers thereto, constituting all the fee owners of such property.

(3) The petition must be acknowledged in the same manner required for conveyance of land.

(4) There shall be no withdrawal from a petition after consideration by the board, nor shall further objections be filed except in case of fraud or misrepresentation.

(5) The board shall hear the petition at an open meeting after the publication of a notice of the filing of such petition, and of the place, time, and date of such meeting, and of the names and addresses of the petitioners, in a newspaper of general circulation in the county or counties in which the real property proposed to be annexed is located.

(6) The board shall determine if such annexation is feasible and in the best interests of the district.

(7) If the board so determines, the board shall grant the petition.

(8) If the petition is granted as to all or any of the real property therein described, the board shall by resolution make an order to that effect.

Source: L. 69: p. 812, § 202. **C.R.S. 1963:** § 89-21-202.

32-11-703. Petition of taxpaying electors. (1) Not less than ten percent or one hundred, whichever number is smaller, of the taxpaying electors of any real property which is contiguous to the district and contains twenty-five thousand or more square feet of land may file a petition with the board in writing praying that such area be annexed to the district; but no single tract or parcel or property, containing ten acres or more, may be included in any district without the consent of the owner thereof.

(2) The petition shall describe the area to be annexed and shall be acknowledged in the same manner as conveyances of land are required to be acknowledged.

(3) The secretary of the board shall cause notice of the filing of the petition to be given by publication in a newspaper of general circulation in the county or counties in which the property is situated.

(4) The notice shall state:

(a) The fact that such a petition has been filed;

(b) The names of the petitioners;

(c) The description of the area desired to be included;

(d) The date and place of a hearing on the proposed annexation; and

(e) A statement that all persons interested shall appear at the time and place stated in the notice and show cause in writing why the petition should not be granted.

(5) There shall be no withdrawal from a petition after consideration by the board, nor shall further objections be filed except in case of fraud or misrepresentation.

(6) The board, at the time and place mentioned in the notice, shall proceed to hear the petition and all written objections thereto.

(7) The board shall determine if such annexation is feasible and in the best interests of the district.

Source: L. 69: p. 813, § 203. **C.R.S. 1963:** § 89-21-203.

32-11-704. Annexation election. (1) If the petition is provisionally granted, the board by resolution shall:

(a) Make an order to that effect;

(b) Direct that the question of inclusion of the area within the district be submitted at an election within the area to be included or annexed; and

(c) Designate the secretary of the board as the designated election official to give notice and conduct the election according to the provisions of articles 1 to 13 of title 1, C.R.S.

(2) The annexation election shall be held within the area sought to be annexed, and only registered electors of the district shall vote on the question.

(3) and (4) (Deleted by amendment, L. 92, p. 917, § 182, effective January 1, 1993.)

(5) If a majority of the votes cast on the question at the election favor inclusion, the board shall by resolution enter an order making the real property a part of the district.

Source: L. 69: p. 813, § 204. **C.R.S. 1963:** § 89-21-204. **L. 70:** p. 303, § 131. **L. 71:** p. 965, § 16. **L. 81:** (2) amended, p. 1627, § 38, effective July 1. **L. 92:** Entire section amended, p. 917, § 182, effective January 1, 1993.

32-11-705. Annexation initiated by board. (1) At any time as a condition to an annexation initiated by the board, it may determine by resolution that real property proposed for annexation:

(a) Is contiguous to the territorial limits of the district;

(b) Contains six hundred forty or more acres of land;

(c) Has become urbanized by having a population of at least one thousand persons per square mile and having at least five hundred dwelling units per square mile; and

(d) Is capable of being served with the facilities of the urban district.

(2) Such a resolution shall provisionally order the annexation of such area.

(3) The secretary of the board shall cause notice of the adoption of the provisional resolution to be given by publication in a newspaper of general circulation in the county or counties in which the property is situated.

(4) The notice shall state:

(a) The fact that such a provisional resolution has been adopted;

(b) The description of the area desired to be included;

(c) The date and place of a hearing on the proposed annexation; and

(d) A statement that all persons interested shall appear at the time and place stated in the notice and show cause in writing why the annexation should not be made final.

(5) The board, at the time and place mentioned in the notice, shall proceed to hear all written objections to the proposed annexation and all other matters in the premises.

(6) The board shall determine by resolution if such annexation is feasible and in the best interest of the district.

(7) If the board so determines, the secretary shall furnish by mail to the director of the division of local government within the department of local affairs, under the seal of the district, a copy of the provisional resolution and of the feasibility resolution and shall request the director to approve the annexation.

(8) If the director approves the annexation in writing, the board, upon the receipt of such approval, may by resolution enter its order making the real property a part of the district.

Source: L. 69: p. 814, § 205. **C.R.S. 1963:** § 89-21-205.

32-11-706. General provisions about annexations. (1) The failure of any person in the urban district or in the area to be annexed to file a written objection to any proposed annexation

in a hearing of the board thereon shall be taken as an assent on such person's part to the inclusion in the district of the area described in the notice of the hearing for annexation.

(2) The action of the board in its determination that any proposed annexation which it orders is feasible and to the best interests of the district shall be final, conclusive, and not subject to review.

(3) Whenever the board by resolution enters an order annexing any real property to the urban district, the secretary of the board shall forthwith file the resolution:

(a) With the secretary of state;

(b) With the attorney general of the state;

(c) With the division of local government; and

(d) With each county clerk and recorder, county assessor, and county treasurer of the county or counties in which the annexed real property is located.

(4) If an order is so entered annexing real property to the urban district, such order is deemed final. The entry of such order finally and conclusively establishes the annexation of the real property to the district against all persons except the state, in a proceeding in the nature of quo warranto, commenced by the attorney general within thirty days after the resolution entering such order is filed with him or her and not otherwise. Such an annexation shall not be directly or collaterally questioned in any suit, action, or proceeding except as expressly authorized in this subsection (4).

(5) After the date of the annexation of such real property to the urban district by the adoption of such resolution, the annexed property shall be liable for its proportionate share of existing bonded indebtedness of the district; but such real property shall not be liable for any taxes or service charges levied or assessed prior to the inclusion of such annexed property in the district, nor shall the entry of the property into the district be made subject to or contingent upon the payment or assumption of any penalty, toll, or charge, other than the taxes and service charges which are uniformly made, assessed, or levied for the entire district except as otherwise expressly provided in this article.

(6) The urban district acting by and through the board and the owner of the real property sought to be annexed to the district may enter into an agreement with respect to the terms and conditions on which such property may be annexed.

Source: L. 69: p. 815, § 206. **C.R.S. 1963:** § 89-21-206. **L. 2016:** (4) amended, (HB 16-1094), ch. 94, p. 268, § 17, effective August 10.

PART 8

MISCELLANEOUS

32-11-801. Budgets, accounts, and audits. The district shall adopt a budget for each fiscal year, shall maintain accounts, and shall cause an annual audit to be made pertaining to the financial affairs of the district as respectively provided in the local government budget law of Colorado, the Colorado local government uniform accounting law, and the Colorado local government audit law, as from time to time amended, except as otherwise provided in this article.

Source: L. 69: p. 760, § 32. **C.R.S. 1963:** § 89-21-32. **L. 77:** Entire section amended, p. 289, § 66, effective June 29.

Cross references: For the local government budget law, see part 1 of article 1 of title 29; for the local government uniform accounting law, see part 5 of article 1 of title 29; for the local government audit law, see part 6 of article 1 of title 29.

32-11-802. Effect of extraterritorial functions. All of the powers, privileges, immunities, rights, exemptions from laws, ordinances, and rules, all pension, relief, disability, workers' compensation, and other benefits which apply to the activity of officers, agents, or employees of the district or any such public body when performing their respective functions within the territorial limits of the respective public agencies shall apply to them to the same degree and extent while engaged in the performance of any of their extraterritorial functions and duties under this article.

Source: L. 69: p. 762, § 35. **C.R.S. 1963:** § 89-21-35. **L. 90:** Entire section amended, p. 573, § 68, effective July 1.

32-11-803. Early hearings. (1) All cases in which there may arise a question of validity of any power granted in this article or of any other provision of this article shall be advanced as a matter of immediate public interest and concern and shall be heard at the earliest practicable moment.

(2) The courts shall be open at all times for the purposes of this article.

Source: L. 69: p. 811, § 193. **C.R.S. 1963:** § 89-21-193.

32-11-804. Decision of board final. The action and decision of the board proceeding under this article as to all matters passed upon by the board in relation to any action, matter, or thing provided in this article shall be final and conclusive in the absence of fraud.

Source: L. 69: p. 811, § 194. **C.R.S. 1963:** § 89-21-194.

32-11-805. Correction of faulty notices. In any case where a notice is provided for in this article, if the board or the court finds for any reason that due notice was not given, the board or the court shall not thereby lose jurisdiction, and the proceeding in question shall not thereby be void or abated; but the board or court shall order due notice to be given and shall continue any hearing until such time as notice is properly given, and thereupon shall proceed as though notice has been properly given in the first instance.

Source: L. 69: p. 811, § 195. **C.R.S. 1963:** § 89-21-195.

32-11-806. Correction of errors in proceedings. It is the duty of the board, and it shall have the power by any subsequent proceedings, to correct any mistakes, errors, or irregularities in any of the proceedings mentioned in this article.

Source: L. 69: p. 811, § 196. **C.R.S. 1963:** § 89-21-196.

32-11-807. Retention of jurisdiction. (1) The board may continue the hearing upon any petition or resolution or remonstrance provided for in this article and shall retain jurisdiction until the same is fully disposed of.

(2) The board shall not lose jurisdiction over the acquiring or improving, or acquiring and improving, of any project, the levy of any taxes, assessments, or service charges, or the issuance of any securities or any other matter provided for in this article by reason of any adjournment or any delays, errors, mistakes, or irregularities on the part of any director or any district officer or any other person.

Source: L. 69: p. 811, § 197. **C.R.S. 1963:** § 89-21-197.

32-11-808. Conclusiveness of board's determination. The determination of the board that the limitations imposed in this article upon the issuance of bonds or upon the issuance of other securities under this article, both general obligations and special obligations, have been met shall be conclusive in the absence of fraud or arbitrary and gross abuse of discretion, regardless of whether the authorizing resolution or the securities thereby authorized contain a recital as authorized by section 32-11-507.

Source: L. 69: p. 812, § 198. **C.R.S. 1963:** § 89-21-198.

32-11-809. Investments by public bodies. It is legal for any public entity, as defined in section 24-75-601 (1), C.R.S., to invest any permanent state funds or other funds available for investment in any of the bonds or other securities authorized to be issued pursuant to the provisions of this article if the securities satisfy the investment requirements established in part 6 of article 75 of title 24, C.R.S.

Source: L. 69: p. 812, § 199. **C.R.S. 1963:** § 89-21-199. **L. 89:** Entire section amended, p. 1131, § 72, effective July 1.

32-11-810. Investments by other persons. (1) It is legal for any bank, trust company, banker, savings bank or institution, any building and loan association, savings and loan association, investment company, and any other person (other than a public body) carrying on a banking or investment business, any insurance company, insurance association, or any other person (other than a public body) carrying on an insurance business, and any executor, administrator, curator, trustee, or any other fiduciary to invest funds or moneys in their custody in any of the bonds or other securities issued in accordance with the provisions of this article.

(2) Nothing contained in this section with regard to legal investments shall be construed as relieving any representative of any corporation or other person of any duty of exercising reasonable care in selecting securities.

(3) It is legal for any securities issued under this article which are general obligation bonds or other general obligation securities or are special assessment bonds or other special assessment securities, the payment of which is additionally secured as required by section 32-11-628 and as permitted by section 32-11-629, to be accepted and held as security for the prompt

payment of any public deposits of the state, any agency, instrumentality, or corporation thereof, or any county, city, town, school district, or other political subdivision thereof, including without limitation any quasi-municipal district or any authority.

Source: L. 69: p. 812, § 200. **C.R.S. 1963:** § 89-21-200.

32-11-811. Delegated powers. The officers of the urban district and of each county in which the district is located are authorized to take all action necessary or appropriate to effectuate the provisions of this article.

Source: L. 69: p. 816, § 207. **C.R.S. 1963:** § 89-21-207.

32-11-812. Confirmation of contract proceedings. (1) In its discretion, the board may file a petition at any time in the district court in and for any county in which the urban district is located, praying for a judicial examination and determination of any power conferred, or of any securities issued or merely authorized to be issued, or of any taxes, assessments, or service charges levied or otherwise made or contracted to be levied or otherwise made, or of any other act, proceeding, or contract of the district, whether or not such act, proceeding, or contract has been taken or executed, including proposed contracts for any project, proposed securities of the district to defray wholly or in part the cost of the project, and the proposed acquisition, improvement, equipment, maintenance, operation, or disposal of any property pertaining thereto (or any combination thereof).

(2) Such petition shall:

(a) Set forth the facts whereon the validity of such power, securities, taxes, assessments, charges, act, proceeding, or contract is founded; and

(b) Be verified by the chairman of the board.

(3) Such action shall be in the nature of a proceeding in rem, and jurisdiction of all parties interested may be had by publication and posting, as provided in this article.

(4) Notice of the filing of the petition shall be given by the clerk of the court, under the seal thereof, stating in brief outline the contents of the petition and showing where a full copy of any proceeding or contract therein mentioned may be examined.

(5) The notice shall be served:

(a) By publication at least once a week for five consecutive weeks by five weekly insertions, in at least:

(I) A newspaper of general circulation published in the city and county of Denver; and

(II) A newspaper of general circulation published in each of the counties of Adams, Arapahoe, Boulder, and Jefferson;

(b) By posting in the office of the district at least thirty days prior to the date fixed in the notice for the hearing on the petition.

(6) Jurisdiction shall be complete after such publication and posting.

(7) Any owner of property in the district or any other person interested in the proceeding or contract or proposed proceeding or proposed contract or in the premises may appear and move to dismiss or answer the petition at any time prior to the date fixed for the hearing or within such further time as may be allowed by the court. The petition shall be taken as confessed by all persons who fail so to appear.

(8) The petition and notice shall be sufficient to give the court jurisdiction, and upon hearing the court shall examine into and determine all matters and things affecting the question submitted, shall make such findings with reference thereto, and shall render such judgment and decree thereon as the case warrants.

(9) Costs may be divided or apportioned among any contesting parties in the discretion of the trial court.

(10) Review of the judgment of the court may be had as in other similar cases, except that such review must be applied for within thirty days after the time of the rendition of such judgment or within such additional time as may be allowed by the court within the thirty days.

(11) The Colorado rules of civil procedure shall govern in matters of pleading and practice where not otherwise specified in this article.

(12) The court shall disregard any error, irregularity, or omission which does not affect the substantial rights of the parties.

(13) All cases in which there may arise a question of the validity of any matter provided for under this section shall be advanced as a matter of immediate public interest and concern and shall be heard at the earliest practicable moment.

Source: L. 69: p. 816, § 208. **C.R.S. 1963:** § 89-21-208.

32-11-813. Tax exemptions. (1) The effectuation of the powers authorized in this article are in all respects for the benefit of the people of the state, for the improvement of their health and living conditions, and for the increase of their commerce and prosperity.

(2) The urban district shall not be required to pay any taxes upon any property pertaining to the facilities of the district or any project authorized in this article and acquired within the state, nor the district's interest in any such property.

Source: L. 69: p. 817, § 209. **C.R.S. 1963:** § 89-21-209.

32-11-814. Freedom from judicial process. (1) Execution or other judicial process shall not issue against any property of the district authorized in this article, nor shall any judgment against the district be a charge or lien upon its property.

(2) Subsection (1) of this section does not apply to or limit the right of the holder or owner of any district securities, his trustee, or any assignee of all or part of this interest, the federal government when it is a party to any contract with the district, and any other obligee under this article to foreclose, otherwise to enforce, and to pursue any remedies for the enforcement of any pledge or lien given by the district on the proceeds of any taxes, assessments, pledged revenues, or any other moneys of the district or any combination thereof.

Source: L. 69: p. 817, § 210. **C.R.S. 1963:** § 89-21-210.

32-11-815. Misdemeanors. Any person who wrongfully or purposely fills up, cuts, damages, injures, or destroys or in any manner impairs the usefulness of the facilities of the district or any property pertaining to any project, or any part thereof, or any other work, structure, improvement, equipment, or other property acquired under the provisions of this article, or wrongfully and maliciously interferes with any officer, agent, or employee of the

district in the proper discharge of his duties, is guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of not more than three hundred dollars, or by imprisonment in the county jail for not more than ninety days, or by both such fine and imprisonment.

Source: L. 69: p. 817, § 211. **C.R.S. 1963:** § 89-21-211.

32-11-816. Civil rights. If the urban district is damaged by any act referred to in section 32-11-815, the district may also bring a civil action for damages sustained by any such act, and in such proceeding the prevailing party shall also be entitled to reasonable attorneys' fees and costs of court.

Source: L. 69: p. 817, § 212. **C.R.S. 1963:** § 89-21-212.

32-11-817. Exemption of district. A district formed under this article shall not be considered a political subdivision for the purposes of section 8-3-104 (12), C.R.S.

Source: L. 69: p. 818, § 213. **C.R.S. 1963:** § 89-21-213.

Cross references: For the labor peace act, see article 3 of title 8.

ARTICLE 11.5

Fountain Creek Watershed, Flood Control,
and Greenway District

PART 1

GENERAL PROVISIONS

32-11.5-101. Short title. This article shall be known and may be cited as the "Fountain Creek Watershed, Flood Control, and Greenway District Act".

Source: L. 2009: Entire article added, (SB 09-141), ch. 194, p. 840, § 1, effective April 30.

32-11.5-102. Legislative declaration. (1) The general assembly hereby finds and declares that:

(a) The Fountain creek watershed, including Fountain creek, related wetlands, existing trails, and recreational facilities, is a unique and high quality watershed that is an important resource and asset to the people of El Paso county, Pueblo county, and the state of Colorado;

(b) There are many challenges arising from the unique nature of the Fountain creek watershed, including torrential storms that occur intermittently in urban and rural areas that drain into Fountain creek and result in increased potential for flood danger to property, natural resources, and persons within the urban and rural areas of the watershed;

(c) It is necessary to address flooding, drainage, sedimentation, water quality, water quantity, and erosion problems within the Fountain creek watershed in El Paso county and Pueblo county;

(d) Because the Fountain creek watershed is physically located in both El Paso county and Pueblo county and crosses the jurisdictional boundaries of the two counties, the cities of Colorado Springs, Fountain, Manitou Springs, and Pueblo, and the towns of Palmer Lake, Green Mountain Falls, and Monument, the watershed includes large areas of both incorporated and unincorporated land, which has:

(I) Resulted in the fragmentation and proliferation among the counties and municipalities of powers, rights, privileges, and duties pertaining to storm water, flood mitigation, and attenuation and drainage within the watershed; and

(II) Left the counties and municipalities unable to acquire suitable capital improvements for the mitigation of the flooding, drainage, and erosion problems within the watershed;

(e) In order to address flooding, drainage, sedimentation, water quality, water quantity, and erosion problems and recreational opportunities within the Fountain creek watershed and effectively protect, develop, and use the natural resources within the watershed, it is necessary and appropriate to create the Fountain creek watershed, flood control, and greenway district and to authorize the district to primarily manage, administer, and fund the capital improvements necessary in the Fountain creek watershed and the Fountain creek watershed management area to:

(I) Prevent and mitigate flooding, sedimentation, and erosion;

(II) Improve water quality and otherwise address water quality and water quantity issues;

(III) Improve drainage;

(IV) Fund the acquisition and protection of open space;

(V) Develop public recreational opportunities, including parks, trails, and open space; and

(VI) Improve wildlife and aquatic habitat and restore, enhance, establish, and preserve wetlands.

(2) The general assembly further finds and declares that:

(a) A general law cannot be made applicable to the Fountain creek watershed, flood control, and greenway district, or to the properties, powers, duties, privileges, immunities, rights, liabilities, and disabilities pertaining thereto as provided in this article, because of the number of atypical factors and special conditions concerning them;

(b) The creation of the Fountain creek watershed, flood control, and greenway district promotes the health, comfort, safety, convenience, and welfare of all the people of the state and is of special benefit to the inhabitants of the district and the property within the district;

(c) All property to be acquired by the district under this article shall be owned, operated, administered, and maintained for and on behalf of all of the people of the district;

(d) All legal and available funding sources shall be available to the district, including, but not limited to, mill levies, service fees, special assessments, and gifts, grants, and donations from public, private, and not-for-profit sources.

Source: L. 2009: Entire article added, (SB 09-141), ch. 194, p. 840, § 1, effective April 30.

32-11.5-103. Definitions. As used in this article, unless the context otherwise requires:

(1) "Assessable property" means any tract of land in an improvement district specially benefited by a project paid for in whole or in part by the district by the levy of assessments other than:

(a) A tract owned by the federal government absent its consent to the assessment of the tract; or

(b) A street, alley, highway, or other public right-of-way of a public body.

(2) "Assessment unit" means a unit or quasi-improvement district designated by the board for the purpose of petition, remonstrance, and assessment in the case of a combination of projects in an improvement district.

(3) "Board" means the board of directors of the district.

(4) "Bond" means any bond, note, warrant, interim certificate, contract, or other evidence of indebtedness of the district issued or otherwise executed pursuant to this article, including, but not limited to, any obligation to the United States in connection with a loan from or guaranteed by the United States.

(5) "Chairperson" means the presiding officer of the board or his or her successor in functions, if any.

(6) "Citizens advisory group" means the citizens appointed by the board to represent various interests identified in this article and to consult with and offer advice to the board on managing the watershed.

(7) "Condemnation" or "condemn" means the exercise of the power of eminent domain by the district for the purpose of acquiring property for any project, facilities, or interest therein authorized by the district pursuant to this article.

(8) "Corporate district" means a district constituting a body corporate and politic and a political subdivision of the state, including, but not limited to, a school district, a local college district, a special district created pursuant to article 1 of this title, any other kind of district created pursuant to this title, a public improvement district, or a local improvement district; except that "corporate district" does not include the district or an improvement district.

(9) (a) "Corridor" means an area generally northerly to southerly along Fountain creek that consists of the portion of the one-hundred-year floodplain of Fountain Creek, as defined by the federal emergency management agency and further identified on maps promulgated by the agency, hereinafter referred to as the "FEMA one-hundred-year floodplain", consisting of floodplains in El Paso county that lie south of the municipal limits of the city of Fountain and the floodplain in Pueblo county that lies north of the municipal limits of the city of Pueblo.

(b) Notwithstanding paragraph (a) of this subsection (9), public bodies not represented on the board, through their governing bodies, may consent to the jurisdiction of the district and add property to the corridor. The represented public bodies shall also have the option of adding additional sections of the watershed within their respective jurisdictional boundaries to the corridor and consent to the jurisdiction of the district.

(10) "Director" means a member of the board.

(11) "District" means the Fountain creek watershed, flood control, and greenway district created in section 32-11.5-201, the boundary of which is defined in section 32-11.5-202.

(12) "Eligible elector" means an eligible elector as defined in section 32-1-103 (5).

(13) "Engineer" means any engineer in the permanent employ of the district, any licensed professional engineer, or any firm of professional engineers as determined by the board that:

(a) Has skill and experience in the field of designing and preparing plans and specifications for and supervising the construction of facilities like those the district is authorized to acquire;

(b) Is practicing engineering under the laws of the state; and

(c) Is selected, retained, and compensated by the district as required by section 32-11.5-205 (1)(h)(I).

(14) "Equip" means the furnishing of all necessary or desirable, related, or appurtenant machinery, furnishings, apparatus, paraphernalia, and other gear, or any combination thereof, pertaining to any project or other property of the district, or any interest therein, authorized in this article or otherwise relating to facilities.

(15) "Facilities" means all or any portion of the drainage, flood control, and recreational system of the district, consisting of all property owned or acquired by the district through purchase, construction, or otherwise, that is used by the district in connection with drainage, flood control, and recreation, whether situated within or outside, or both within and outside, the territory of the district, including, but not limited to, water rights for recreational or flood control uses, or both, natural and artificial watercourses for the collection, channeling, impounding, and disposition of rainfall, other surface and subsurface drainage, and storm and flood waters, including, but not limited to, ditches, ponds, dams, spillways, retarding basins, detention basins, nonpoint source water quality treatment and abatement systems, lakes, reservoirs, canals, channels, levees, revetments, dikes, walls, embankments, bridges, inlets, outlets, connections, laterals, other collection lines, intercepting sewers, outfalls, outfall sewers, trunk sewers, force mains, submains, waterlines, sluices, flumes, syphons, sewer lines, pipes, other transmission lines, culverts, pumping stations, gauging stations, stream gauges, rain gauges, engines, valves, pumps, meters, junction boxes, manholes, other inlet and outlet structures, motor vehicles, bucket machines, inlet and outlet cleaners, backhoes, draglines, graders, other equipment, apparatus, fixtures, structures, and buildings, flood warning services, and appurtenant telephone, telegraph, radio, and television apparatus, other water diversion, drainage, and flood control facilities, trails, open space, habitat for wildlife and aquatic life, and all appurtenances and incidentals necessary, useful, or desirable for any such facilities including real and other property therefor.

(16) "Fiscal year" means the twelve months commencing on the first day of January of any calendar year and ending on the last day of December of the same calendar year.

(17) "Fountain creek watershed" or "watershed" means the watershed officially denominated by the United States government as "watershed boundary dataset, hydraulic unit code # 11020003, Fountain creek sub-basin of the Arkansas river, Colorado".

(18) "Fountain creek watershed management area" or "watershed management area" means that portion of the district that consists of townships within the watershed and other townships that will benefit from improvements to the watershed and that is legally described as townships 11s68w, 11s67w, 11s66w, 12s68w, 12s67w, 12s66w, 12s65w, 13s68w, 13s67w, 13s66w, 13s65w, 14s68w, 14s67w, 14s66w, 14s65w, 14s64w, 15s67w, 15s66w, 15s65w, 15s64w, 16s67w, 16s66w, 16s65w, 16s64w, 17s66w, 17s65w, 17s64w, 18s66w, 18s65w,

18s64w, 19s66w, 19s65w, 19s64w, 20s66w, 20s65w, 20s64w, 21s66w, 21s65w, 21s64w of the 6th principal meridian.

(19) "Governing body" means a city council, board of town trustees, board of county commissioners, board of directors, or other entity in which the legislative powers of a public body are vested.

(20) "Improvement" or "improve" means the extension, enlargement, betterment, alteration, reconstruction, replacement, or major repair of facilities, a project, infrastructure, related property, or an interest therein.

(21) "Improvement district" means a contiguous or noncontiguous geographical area within the watershed management area that is designated and delineated by the board by an assigned number or in some other manner that separately identifies it from any other improvement district and contains facilities or a project, or an interest in facilities or a project, the cost of which is to be defrayed wholly or in part by the levy of special assessments against each tract within the area.

(22) "Infrastructure" means one or more elements of a drainage or flood control system that is similar in kind to facilities but owned by a public body or other person other than the district.

(23) "Mailed notice" means any designated written or printed notice addressed to the owner of record of each tract assessed or to be assessed by deposit at least fourteen days prior to the designated hearing or other time or event in the United States mail, postage prepaid, as first-class mail.

(24) "Municipality" means an incorporated city or town.

(25) "Newspaper" means a newspaper printed in the English language at least once each calendar week.

(26) "Project" means any facility or related group of facilities that the board determines to authorize, construct, or acquire at one time.

(27) "Publication" or "publish" means one publication at least fourteen days prior to the date of a hearing or event in each official newspaper designated by the district pursuant to section 32-11.5-205 (1)(l).

(28) (a) "Public body" means the state of Colorado or any agency, instrumentality, or corporation thereof; any county, municipality, corporate district, authority, or state institution of higher education; or any other body corporate and politic and political subdivision of the state.

(b) "Public body" does not include the federal government or the district.

(29) "Represented public body" means a public body that is entitled, alone or in concert with another public body, to appoint one or more directors to the board.

(30) "Service charges" means the fees, rates, and other charges for the use of the facilities of the district or for any related service rendered by the district.

(31) "Small municipalities" means, collectively, the town of Green Mountain Falls, the city of Manitou Springs, the town of Monument, and the town of Palmer Lake, Colorado.

(32) "Special assessment" means a charge levied against any tract specially benefited in an improvement district by any project that shall be made on a front-foot, zone, area, or other equitable basis as determined by the board; except that the charge shall not exceed the estimated maximum special benefits to the tract assessed as determined by the board pursuant to part 5 of this article.

(33) "Technical advisory committee" means the advisory committee made up of technical experts appointed by the board to provide recommendations to the board regarding public policy or expenditure of funds for the benefit of the watershed.

(34) (a) "Tract" means any lot or other parcel of land for assessment purposes, whether platted or unplatted, regardless of lot or land lines.

(b) Lots, plots, blocks, and other subdivisions may be designated in accordance with any recorded plat thereof, and all lands, platted and unplatted, shall be designated by a definite legal description.

Source: L. 2009: Entire article added, (SB 09-141), ch. 194, p. 842, § 1, effective April 30.

32-11.5-104. Public purpose - liberal construction - sufficiency of article. (1) The exercise of any power authorized in this article by the board on behalf of the district and any project authorized pursuant to this article effects a public purpose.

(2) This article being necessary to secure and preserve the public health, safety, and general welfare, the rule of strict construction shall not apply to this article. This article shall be liberally construed to effect its purposes.

(3) (a) Except as otherwise provided in the state constitution, section 25-8-102 (4), C.R.S., or this article, this article, without reference to any other law, shall constitute full authority for the exercise of the powers granted in this article, including without limitation the financing of any project authorized in this article wholly or in part and the issuance of bonds to evidence the financing.

(b) Except as otherwise provided in this article, no other law with regard to the authorization or issuance of bonds or the exercise of any other power granted in this article that provides for an election, requires an approval, or in any way impedes or restricts the carrying out of the acts authorized in this article shall apply to proceedings taken under or acts done pursuant to this article.

(c) Except as otherwise provided in this article, no notice, consent, or approval by any public body or officer thereof shall be required as a prerequisite to the sale or issuance of any bonds or the making of any contract or the exercise of any other power under this article.

(d) The powers conferred by this article shall be in addition and supplemental to, and not in substitution for, and the limitations imposed by this article shall not affect, the powers conferred by any other law.

(e) Nothing in this article shall repeal or affect any other law except to the extent that this article is inconsistent with any other law, this article being intended to provide a separate method of accomplishing its objectives and not an exclusive one. This article shall not be construed as repealing, amending, or changing any other law except to the extent that the other law is inconsistent with this article. This article shall not be construed as repealing, modifying, or amending any existing law or court decree concerning the determination or administration of water rights.

Source: L. 2009: Entire article added, (SB 09-141), ch. 194, p. 846, § 1, effective April 30.

PART 2

DISTRICT ADMINISTRATION AND POWERS

32-11.5-201. Creation of district. There is hereby created the Fountain creek watershed, flood control, and greenway district, which shall be a body politic and corporate and a political subdivision of the state. The district shall not be an agency of state government and shall not be subject to administrative direction by any department, commission, board, bureau, or agency of the state.

Source: L. 2009: Entire article added, (SB 09-141), ch. 194, p. 847, § 1, effective April 30.

32-11.5-202. Boundaries of district. The area comprising the district consists of the counties of El Paso and Pueblo.

Source: L. 2009: Entire article added, (SB 09-141), ch. 194, p. 847, § 1, effective April 30.

32-11.5-203. Board of directors - general powers and delegation thereof - manner of appointment - compensation. (1) (a) The district shall be governed by a board of directors, and, subject to paragraph (b) of this subsection (1), the board shall exercise all powers, rights, privileges, and duties of the district as provided in this article.

(b) (I) The board may create an executive committee of the board and may delegate to the committee such power to act on behalf of the district as the board may determine by resolution, except as limited by the supermajority requirements specified in section 32-11.5-204 (1)(b)(II).

(II) The board may appoint an executive director for the district and may delegate the exercise of any of its executive, administrative, and ministerial powers to the executive director and any other staff of the district. The executive director shall have such powers as may be granted by the board, which may include, but are not limited to, the ability to hire employees, consultants, or staff to help carry out the day to day operations of the district and to help execute the spending plan adopted by the board. The board may also contract for professional services, including, but not limited to, financial, legal, and engineering services, to the extent necessary to administer and implement the purposes of this article.

(2) (a) The board shall consist of nine directors appointed as follows:

(I) One Pueblo county commissioner appointed by the Pueblo county board of county commissioners as a representative of Pueblo county;

(II) One El Paso county commissioner appointed by the El Paso county board of county commissioners as a representative of El Paso county;

(III) One city of Pueblo city council member or the mayor of the city of Pueblo appointed by the Pueblo city council as a representative of the city of Pueblo;

(IV) One city of Colorado Springs city council member or the mayor of the city of Colorado Springs appointed by the Colorado Springs city council as a representative of the city of Colorado Springs;

(V) One city of Fountain city council member or the mayor of the city of Fountain appointed by the Fountain city council as a representative of the city of Fountain;

(VI) One director appointed by the Pueblo county board of county commissioners who is either a representative of the lower Arkansas valley conservancy district or a citizen of Pueblo county and who represents the interests of persons from the portion of the district that lies east of the confluence of Fountain creek and the Arkansas river;

(VII) One director appointed jointly by the Colorado Springs city council and the El Paso county board of county commissioners who is either a representative of the small municipalities selected from candidates nominated by the small municipalities, or, if the small municipalities do not submit at least one candidate, then a citizen of El Paso county;

(VIII) One director appointed jointly by the Pueblo city council and the Pueblo county board of county commissioners who is a citizen at large and resides in Pueblo county; and

(IX) One director appointed jointly by the El Paso county and Pueblo county boards of county commissioners who is a member of the citizens advisory group. The citizens advisory group shall provide two or more nominees for the director position to the boards, but the boards shall not be limited to the nominees in appointing the director.

(b) The term of each director shall commence on February 1; except that the terms of the directors initially appointed shall commence immediately upon their appointment. The directors initially appointed pursuant to subparagraphs (I), (IV), (VII), and (IX) of paragraph (a) of this subsection (2) shall serve initial terms through January 31, 2011, and the directors initially appointed pursuant to subparagraphs (II), (III), (V), (VI), and (VIII) of paragraph (a) of this subsection (2) shall serve initial terms through January 31, 2012. The term of each director appointed after the initial appointments shall be for two years. Each appointing authority or pair of joint appointing authorities has sole discretion to reappoint any director who the authority or authorities initially appointed.

(c) Each appointing authority shall select and appoint its respective director in any lawful manner as determined by the appointing authority. Each appointing authority shall designate and provide notice to the other represented public bodies of the identity of its respective director, and any designee or alternate it may choose to name, within thirty days after the appointment. Each appointing authority may also name an alternate director to attend meetings if the primary director is unavailable to attend or has a conflict of interest.

(d) If a board vacancy occurs for any reason including, but not limited to, a director no longer possessing a mandatory qualification for board membership that the director held at the time of his or her appointment to the board, the appointing authority that appointed the director shall fill the vacancy by appointing a successor director to serve for the unexpired term. The successor director shall possess any mandatory qualification specified in paragraph (a) of this subsection (2).

(3) (a) A director shall not receive a salary or compensation or reimbursement for any expenses incurred in the performance of his or her duties, other than as may be provided by the represented public body or other organization the director represents at the sole discretion of the represented public body or organization or unless authorized by the board.

(b) A director shall not receive any compensation as an officer, engineer, attorney, employee, or other agent of the district.

Source: L. 2009: Entire article added, (SB 09-141), ch. 194, p. 847, § 1, effective April 30.

32-11.5-204. Board - meetings - records. (1) (a) Except for the initial board, each board shall meet in January of each year at a regular place of meeting within the district for the qualification of new directors and for the selection of new officers. The initial board at its first meeting, and each successor board at the annual meeting held in January of each year thereafter, shall, by a majority vote of a quorum of the directors, elect the following officers:

(I) A chairperson who shall preside over all meetings of the board and see that the meetings and debate are conducted in an orderly and expeditious manner. Except as otherwise permitted by section 32-11.5-203 (1)(b)(II), the chairperson shall sign all contracts, agreements, and legal documents of the board and in general shall perform all duties incident to the office of chairperson.

(II) A vice-chairperson who shall assume the duties of the chairperson in the chairperson's absence.

(b) (I) A majority of the directors shall constitute a quorum for the transaction of business by the board unless a different number is set by resolution of the board at the annual meeting. Except as otherwise provided in this article or in the bylaws, the affirmative vote of a majority of a quorum of the board of directors shall be sufficient to conduct the business of the board. If less than a quorum is present at a meeting, the chairperson or other presiding officer may compel the attendance of any absent member in such manner and under such penalties as the board may provide or may adjourn the meeting to a different time and place. If the meeting is adjourned, the chairperson shall notify absent directors of the time and place of the adjourned meeting.

(II) Subject to the requirement that a quorum of the board be present to vote, the board shall adopt spending or other fiscal policy resolutions, including, but not limited to, resolutions that, subject to applicable voter approval requirements, establish or increase taxes levied or fees imposed and collected by the district or multiple-fiscal year financial obligations to be incurred by the district, and public policy resolutions, including but not limited to resolutions that initiate condemnation proceedings and resolutions to initiate or voluntarily participate in litigation, only by a supermajority vote as follows:

Board Members Appointed	Votes Required for Approval
2	2
3	2
4	3
5	4
6	4
7	5
8	6
9	7

(III) Each director or director's alternate shall be entitled to one vote, and voting by proxy shall not be permitted.

(IV) All meetings of the board, the technical advisory committee, the citizens advisory group, or any executive committee or other committee designated by the board shall be held in

the district subject to the open meetings provisions of the "Colorado Sunshine Act of 1972", part 4 of article 6 of title 24, C.R.S.

(V) The directors, the technical advisory committee, the citizens advisory group, or any executive committee or other committee designated by the board may participate in any meeting of the board or committee by means of a telephone conversation or similar communication equipment by which all persons participating in the meeting can hear each other at the same time. Such remote participation shall constitute presence in person at the meeting.

(2) (a) The board shall perform all legislative acts of a general and permanent nature by resolution, which may require approval by a supermajority vote as specified in subparagraph (II) of paragraph (b) of subsection (1) of this section. On all resolutions and orders, the roll shall be called, and the ayes and noes shall be recorded. After passage, all resolutions and orders shall be recorded in the records of the offices of the clerk and recorders of El Paso and Pueblo counties, recorded in a book kept by the district for that purpose, and authenticated by the signature of the presiding officer of the board and the secretary of the board.

(b) The district and the board shall be subject to the "Colorado Open Records Act", article 72 of title 24, C.R.S.

(c) All district records are subject to audit as provided by law for political subdivisions of the state.

Source: L. 2009: Entire article added, (SB 09-141), ch. 194, p. 849, § 1, effective April 30.

32-11.5-205. Powers of district. (1) The district, acting through the board or through other persons to whom the board has delegated any of its powers as authorized by this article, has the following general and administrative powers:

(a) To have perpetual existence;

(b) To sue and be sued;

(c) To adopt bylaws for the regulation of its affairs and the conduct of its business;

(d) To fix the time and place at which its regular meetings shall be held within the district and to provide for the calling and holding of special meetings;

(e) To adopt and use a seal;

(f) To maintain offices at any place within the district it may designate;

(g) (I) To appoint a secretary and a treasurer of the board. Each position may be filled by a director or by another person, and both positions may be filled by the same person.

(II) The secretary of the board shall keep a record of the minutes of all meetings, ensure that all notices required by law are duly given and posted, serve as the custodian of board records, attest to documents as the need arises, and perform such other functions as may be prescribed by the board.

(h) (I) Subject to the provisions of section 32-11.5-203 (1)(b) and subparagraph (II) of this paragraph (h), to hire and fix the compensation of officers and employees and hire or retain other persons, including but not limited to professionals such as engineers, attorneys, accountants, and other financial professionals.

(II) (A) No director, officer, employee, or agent of the district shall be interested in any contract or transaction with the district except in his or her official capacity or as is provided in his or her contract of employment with the district.

(B) Neither the holding of any office or employment of a public body or of the federal government nor the owning of any property within the state, within or outside the district, shall be deemed a disqualification for membership on the board or employment by the district or deemed a disqualification for compensation for services as an officer, employee, or agent of the district.

(C) A director shall not vote on any issue with respect to which the director has a conflict of interest as required by sections 18-8-308, 24-18-108.5, and 24-18-110, C.R.S. An appointing body may name an alternate director to cure the temporary disqualification, and the alternate may vote in place of the disqualified director.

(i) To appoint a technical advisory committee of technical experts to provide recommendations to the board regarding public policy or expenditure of funds for the benefit of the watershed and to carry on technical and other investigations of all kinds, make measurements, collect data, and make analyses, studies, and inspections pertaining to facilities, projects, and related property both within and outside the district;

(j) To appoint a citizens advisory group representing various interests pertaining to the watershed to consult with and offer advice to the board regarding the management of the watershed;

(k) To appoint one or more persons to act as custodians of the moneys of the district for purposes of depositing the moneys in any depository authorized in section 24-75-603, C.R.S. Custodians shall give surety bonds in such amounts and form and for such purposes as the board requires.

(l) To designate an official newspaper published in El Paso county and an official newspaper published in Pueblo county and to publish any notice or other instrument in any additional newspaper or newspapers as the board deems necessary;

(m) To enter into contracts and agreements, including, but not limited to, contracts and agreements with any public body or agency thereof or with the federal government;

(n) (I) To trade, exchange, purchase, condemn in the manner provided in articles 1 to 7 of title 38, C.R.S., and otherwise acquire, operate, maintain, and dispose of real and personal property, including interests therein, within or outside the district.

(II) If the construction of any project or part of a project authorized in this article requires the removal and relocation of any public utility facility or any park or utility facility owned or operated by a public body or an enterprise of a public body, whether on private or public right-of-way or otherwise, the district shall cooperate with the public body to determine the necessity of the removal and relocation and, if necessary, the appropriate reimbursement to the owner of the park or public utility facility for the expense of the removal and relocation, including the cost of any necessary land or rights in land and any other resulting costs.

(o) To institute, maintain, and administer a systematic and uniform program of preventive maintenance in the district;

(p) To promulgate such resolutions and issue such orders as the district deems necessary or convenient for the operation, maintenance, management, government, and use of facilities and any other drainage and flood control facilities under its control, whether situated within or outside or both within and outside the territorial limits of the district;

(q) To promote, construct, and manage the protection and improvement of the watershed to prevent and mitigate flooding, erosion, and sedimentation, improve drainage and water quality, address water quantity, provide a healthy riparian habitat with recreational amenities,

including, but not limited to, open space and trails, improve wildlife and aquatic habitat, and restore, enhance, establish, and preserve wetlands;

(r) To prepare and submit ballot language to place one or more funding measures before the affected electors in Pueblo and El Paso counties; and

(s) To provide information to educate the public concerning the purposes and benefits of the district.

(2) The district has the following financial powers:

(a) To provide funding derived from both El Paso and Pueblo counties to support the district;

(b) To provide cooperation and financial and technical assistance throughout the Fountain creek watershed;

(c) (I) Subject to the requirements of subparagraph (II) of this paragraph (c), to finance the acquisition, construction, operation, or maintenance of projects and any other lawful operations of the district through:

(A) The establishment of service charges within the watershed management area pursuant to part 3 of this article;

(B) The imposition of mill levies, levied at a total rate of no more than five mills, on all taxable property within the district and the issuance of bonds pursuant to part 4 of this article;

(C) The creation of improvement districts and imposition of special assessments on all property within an improvement district pursuant to part 5 of this article;

(D) The acceptance of gifts, grants, and donations from public, private, and not-for-profit sources;

(E) Certificates of participation; and

(F) Any other lawful means authorized in this article.

(II) (A) No action by the district to establish or increase any special assessment authorized by this article and, in accordance with section 20 (4)(a) of article X of the state constitution, no action by the district to establish or increase any tax or mill levy authorized by this article shall take effect unless first submitted to a vote of the eligible electors of the district or, in the case of a special assessment, the eligible electors of the improvement district in which the special assessment is proposed to be collected.

(B) No action by the district creating a multiple-fiscal year debt or other financial obligation that is subject to section 20 (4)(b) of article X of the state constitution shall take effect unless first submitted to a vote of the eligible electors of the district or, in the case of improvement district bonds to be paid with revenues from a special assessment, the eligible electors of the improvement district in which the special assessment is proposed to be collected.

(C) The questions proposed to the eligible electors under sub-subparagraphs (A) and (B) of this subparagraph (II) shall be submitted at a biennial election of the district, a general election, or any election to be held on the first Tuesday in November of an odd-numbered year. The action shall not take effect unless a majority of the eligible electors voting on the question at the election vote in favor thereof. Elections shall be held and conducted, and the results determined, in the manner provided by articles 1 to 13 of title 1, C.R.S. No district moneys may be used to urge or oppose passage of an election required under this section.

(d) (I) Subject to the limitations specified in part 3 of this article and subparagraph (II) of this paragraph (d), to impose service charges for the availability or use of the facilities of the

district, pledge service charge revenues for the payment of bonds, and enforce the collection of service charge revenues by civil action or by any other means provided by law.

(II) The power of the district to establish service charges is limited to the areas within the counties of El Paso and Pueblo that are within the Fountain creek watershed management area.

(e) To obtain financial statements, appraisals, economic feasibility reports, and valuations of any type pertaining to the facilities or any project or any related property;

(f) To deposit moneys of the district in any depository authorized in section 24-75-603, C.R.S.;

(g) To create special funds and accounts as a source of repayment for bonds, including reserves required or desired for that purpose, or for payment of project acquisition, construction, operation, maintenance, or other related costs;

(h) To invest or deposit any district moneys in the manner provided by part 6 of article 75 of title 24, C.R.S., and to direct a corporate trustee that holds any district moneys to invest or deposit the moneys in investments or deposits other than those specified by said part 6 if the board determines, by resolution, that the investment or deposit meets the standard established in section 15-1-304, C.R.S., the income is at least comparable to income available on investments or deposits specified by said part 6, and the investment will assist the board in the financing, construction, operation, or maintenance of its projects or facilities;

(i) (I) Subject to the limitations set forth in subparagraph (II) of this paragraph (i), until such time as the district has sufficient funding to operate independent of funding from the represented public bodies, to request from the represented public bodies appropriate staff, resources, and funding support. The represented public bodies may fund independent staff or pledge to support the district with their own employees or contribute funding in any manner deemed equitable and appropriate by the represented public bodies and the district.

(II) In accord with the state constitution or any charter of a represented public body, performance of a represented public body's obligations under this article is expressly subject to annual appropriation of funds by the respective governing body of the public body. If sufficient moneys are not appropriated for performance of a public body's obligations under this article or appropriated funds cannot be expended due to applicable spending limitations, performance of the public body under this article shall be null and void by operation of law, and the public body shall thereafter have no liability for compensation or damages to any person in excess of the public body's authorized appropriation for the purposes of this article or the applicable spending limit, whichever is less. A represented public body shall notify all other represented public bodies and the district as soon as practicable in the event of nonappropriation or in the event a spending limitation becomes applicable.

(3) (a) The district has the following jurisdictional and land use powers:

(I) Within the corridor, to exercise full land use authority; and

(II) Outside of the corridor, but within the watershed management area, to exercise advisory land use authority only; except that the district shall be entitled to receive notice from all represented public bodies and to provide comments to such represented public bodies regarding land use applications for projects located outside the corridor, but within the watershed management area, that, in the opinion of the applicable represented public body's planning director or planning director's designee, will have a direct or indirect impact on the Fountain creek watershed. Each represented public body shall send notice to the district identifying its

planning director or designee. The district may request to review land use applications of any represented public body for projects located outside the corridor that may directly or indirectly impact the watershed.

(b) Throughout the watershed management area, including within the corridor, the district has the authority to accept and manage funding for the management and construction of any stream improvement authorized by the represented public body or bodies with jurisdiction over the area in which the improvement will be located.

(4) The district has the following cooperative and miscellaneous powers:

(a) To provide for comprehensive planning and, where possible, coordinate with all regional special purpose districts, regional multipurpose planning agencies, local and regional planning commissions, and other multijurisdictional political subdivisions operating wholly or partly within the district;

(b) To adopt a comprehensive program for the acquisition, construction, operation, and maintenance of facilities;

(c) To establish, operate, and maintain facilities within the watershed management area across or along any public street, highway, bridge, viaduct, or other public right-of-way, or in, upon, under, or over any vacant public lands that are or may become the property of a public body subject to first obtaining consent from the public body having jurisdiction over the same, which consent shall not be unreasonably withheld, but may be contingent upon reasonable conditions being met. The district shall cooperate with any public body having such jurisdiction, shall promptly restore any such street, highway, bridge, viaduct, or other public right-of-way to its former state of usefulness as nearly as may be, and shall not adversely affect the usefulness thereof.

(d) (I) To the extent consistent with the jurisdictional and land use authority set forth in subsection (3) of this section, to adopt floodplain zoning resolutions and orders pertaining to properties within the watershed management area that affect the collection, channeling, impounding, or disposition of rainfall, other surface and subsurface drainage, or storm and flood waters as it deems necessary or convenient. If a district floodplain zoning resolution or order conflicts with a floodplain zoning resolution or order adopted by any other public body, the more restrictive resolution or order shall control.

(II) No district floodplain resolution or order shall be adopted or amended except by action of the board after a public hearing held by the board at which any public body owning drainage and flood control infrastructure or otherwise exercising powers affecting drainage and flood control in the affected area, whether directly or through an enterprise, and other interested persons have an opportunity to be heard. The board shall provide mailed notice of the hearing to each such public body and shall also publish notice of the hearing for the benefit of other interested persons.

(e) To enter into cooperative or contractual agreements with any government, as defined in section 29-1-202 (1), C.R.S., as authorized in section 29-1-203, C.R.S., concerning comprehensive planning or the provision of any function, service, or facility authorized by this article, including, but not limited to:

(I) Joint operating or service contracts and agreements; acquisition, improvement, equipment, or disposal contracts; personnel sharing agreements; or other arrangements concerning personnel, any facilities, project, or related property or any similar property or equipment owned by the federal government or a public body; and

(II) Contracts and agreements for the provision and operation by the district of any drainage, flood control, or recreational property or equipment related to facilities or projects of the district in exchange for compensation sufficient to defray the cost to the district of providing, operating, and maintaining the property or equipment;

(f) To do all things necessary to be qualified to accept and to accept contributions or loans from the federal government for the purpose of financing the planning, acquisition, improvement, equipment, maintenance, and operation of any project or authorized activity of the district and to enter into contracts and cooperate with the federal government in the financing, planning, acquisition, improvement, equipment, maintenance, and operation of any such project or authorized activity in accordance with any applicable federal legislation under which aid, assistance, and cooperation may be furnished by the federal government;

(g) Subject to any limitations specified in this article or articles 1 to 7 of title 38, C.R.S., to enter upon any land to make surveys, borings, soundings, and examinations and to locate facilities, projects, roadways, and other rights-of-way pertaining to facilities and projects as needed to accomplish the purposes of the district;

(h) To mediate any differences arising among the represented public bodies in connection with any facilities, project, or activity of the district; and

(i) To have and exercise all rights and powers necessary or incidental to or implied from the specific powers granted in this article.

Source: L. 2009: Entire article added, (SB 09-141), ch. 194, p. 851, § 1, effective April 30.

32-11.5-206. Approval of other infrastructure. (1) Subject to the limitations specified in section 32-11.5-205 (3), on and after April 30, 2009, only the federal government may acquire or improve within the territorial limits of the watershed management area any drainage and flood control or recreational infrastructure, unless a proposal for the acquisition or improvement is reviewed by, and in the case of infrastructure within the corridor approved by, the board; except that a public body or other person may acquire or improve gutters and rainspouts attached to buildings or other structures; curbs and gutters appurtenant to streets, alleys, highways, and other rights-of-way; or a collection or secondary storm drainage system, as defined in the El Paso county drainage criteria manual or the Pueblo county drainage criteria manual, as applicable, or in any successor publications to either manual. If a public body or other person other than the federal government acquires or improves such infrastructure within the corridor without board review and approval, the board may order modification of the infrastructure to meet the reasonable specifications and other requirements of the district.

(2) (a) The board shall not approve a proposal for drainage, flood control, or recreational infrastructure acquisition or improvement within the watershed management area unless the infrastructure to be acquired or improved appropriately complements or supplements facilities, both proposed and acquired, and is consistent with any comprehensive program for the acquisition and construction of facilities adopted by the district pursuant to section 32-11.5-205 (4)(b). The board may withhold its approval or disapprove a proposal for drainage, flood control, or recreational infrastructure acquisition or improvement only if the infrastructure to be acquired or approved does not complement or supplement facilities or does not conform to any comprehensive program of the district.

(b) If a proposal for drainage, flood control, or recreational infrastructure acquisition or improvement within the watershed management area does not sufficiently delineate the infrastructure to be acquired or improved for the board to determine whether the infrastructure complements or supplements facilities and conforms to any comprehensive program of the district, the board may demand such additional information as it deems necessary or desirable to make such a determination. The board may delay its consideration of the proposal until it receives any additional information requested.

Source: L. 2009: Entire article added, (SB 09-141), ch. 194, p. 858, § 1, effective April 30.

32-11.5-207. Powers of public bodies. (1) A public body, for the purpose of aiding and cooperating in any project authorized in this article, may:

(a) Sell, lease, loan, donate, grant, convey, assign, transfer, and otherwise dispose to the district any project-related infrastructure, property, or interest therein;

(b) Make available to the district for temporary use, or otherwise dispose of, any machinery, equipment, infrastructure, or other property and any agents, employees, persons with professional training, or other persons to effect the purposes of this article. Any property owned by and persons in the employ or service of a public body shall, while performing any authorized service, activity, or undertaking for the district, have and retain all of the powers, privileges, immunities, rights, and duties, and be deemed to be engaged in the service and employment, of the public body, notwithstanding that the service, activity, or undertaking is being performed for the district.

(c) Enter into any agreement or joint agreement between or among the federal government, the district, a public body, or any combination thereof with respect to action or proceedings pertaining to any power granted in this article and the use or joint use of any infrastructure, facilities, project, or other property;

(d) Sell, lease, loan, donate, grant, convey, assign, transfer, or pay over to the district infrastructure, property, or moneys for the purpose of allowing the district to finance, acquire, improve, equip, operate, or maintain facilities or projects;

(e) Transfer, grant, convey, or assign to the district any contracts awarded by the public body for the acquisition, improvement, or equipment of any project not commenced or not completed; and

(f) Budget and appropriate, as required, the proceeds of taxes, service charges, and other revenues legally available to pay all bonds and other obligations arising from the exercise of any powers granted in this article as payments for the bonds or other obligations become due.

Source: L. 2009: Entire article added, (SB 09-141), ch. 194, p. 859, § 1, effective April 30.

PART 3

SERVICE CHARGES

32-11.5-301. Service charges. (1) (a) The district may impose and collect service charges, or special fees as defined by Colorado law, for direct or indirect connection with, or the use or services of, facilities, including, but not limited to, minimum charges and charges for the availability of facilities or related services. Such service charges may only be charged within the watershed management area.

(b) Service charges may be charged to and collected in advance or otherwise by the district at any time from any owner or occupant of real property within the watershed management area that directly or indirectly is, has been, or will be connected with facilities or from which or on which originates or has originated rainfall, other surface and subsurface drainage, or storm and flood waters that have entered or will enter facilities, and the owner or occupant of any such real property shall be liable for and shall pay the service charges to the district when due and payable.

(c) Service charges of the district shall accrue from the date on which the board estimates, in any resolution authorizing the issuance of any bonds to be paid from service charge revenues or in any contract with any person, that the facilities for which the service charge is imposed will be available for service or use.

(2) (a) Service charges:

(I) Shall be imposed at rates reasonably calculated to defray only the costs of the facilities for which they are imposed that are not defrayed by other district revenues;

(II) Shall, as nearly as the district deems practicable and equitable, be uniform throughout the watershed management area for the same type, class, and amount of use of facilities or related services;

(III) May be based or computed:

(A) On measurements of drainage flow devices duly provided and maintained by the district or by any user as approved by the district;

(B) On the consumption of water in, on, or in connection with the real property on which the service charge is imposed, making due allowance for commercial and other use of water discharged into any sanitary sewer system and for any infiltration of groundwater and discharge of surface runoff into the sewer system;

(C) On the capacity of the capital improvements in, on, or connected with the real property on which the service charge is imposed;

(D) On the availability of service of facilities;

(E) On any other factors determining the type, class, and amount of use or service of facilities; or

(F) On any combination of the factors specified in sub-subparagraphs (A) to (E) of this subparagraph (III).

(b) For purposes of determining service charges, the district may give weight to the specific characteristics of any real property, including, but not limited to, location within the watershed, the characteristics of capital improvements, both proposed and existing, in any subdivision or other area in the watershed management area or any other special matter affecting the runoff of rainfall, other surface and subsurface drainage, or storm and flood waters from the real property directly or indirectly into the district's facilities.

(c) The district may set reasonable penalties for any delinquencies in the payment of service charges, including without limitation interest on delinquent service charges from any

date due at a rate not exceeding one percent per month, or fraction of a month, reasonable attorney fees, and other costs of collection.

(3) The district shall prescribe and revise a schedule of any service charges it imposes or collects. The schedule shall comply with the terms of any contract of the district and shall ensure that the service charges of the district are adequate, taking into account other available district revenues and anticipated service charge delinquencies, to:

(a) Pay all facilities operation and maintenance expenses;

(b) Pay punctually the principal of and interest on any bonds payable from revenues of facilities;

(c) Maintain required reserves or sinking funds; and

(d) Pay all expenses incidental to facilities or projects, including, but not limited to, contingencies and acquisition, improvement, and equipment costs, required by the terms of any contract or otherwise deemed necessary or desirable by the district.

(4) The district shall keep a copy of any schedule of service charges in effect on file at its principal office and shall allow inspection of the schedule whenever the office is open for business.

(5) Except as otherwise provided in a contract or agreement entered into by the district as authorized by section 32-11.5-205 (4)(e), only the board may prescribe, supervise, or regulate the performance of services pertaining to facilities or set or alter service charges.

Source: L. 2009: Entire article added, (SB 09-141), ch. 194, p. 859, § 1, effective April 30.

PART 4

TAXES AND BONDS

32-11.5-401. Taxes. Subject to the election requirements specified in section 32-11.5-205 (2)(c)(II) and the limitations specified in part 3 of article 1 of title 29 C.R.S., the district may levy and collect ad valorem taxes, levied at a rate of no more than five mills, on and against all taxable property within the district. The proceeds of ad valorem taxes may be used for any authorized purpose of the district including, but not limited to, the funding of reserve funds to be used to repay bonds issued pursuant to section 32-11.5-402, defray maintenance, operation, and depreciation costs of facilities, and improve facilities.

Source: L. 2009: Entire article added, (SB 09-141), ch. 194, p. 861, § 1, effective April 30.

32-11.5-402. Bonds. (1) Subject to the election requirements specified in section 32-11.5-205 (2)(c)(II), the district may, from time to time, issue bonds for any of its corporate purposes. The bonds shall be issued pursuant to a resolution of the board or a trust indenture, shall not be secured by an encumbrance, mortgage, or other pledge of real or personal property of the district, and shall be payable from any district revenues unless the bond resolution or trust indenture specifically limits the source of district revenues from which the bonds are payable.

(2) Bonds may be executed and delivered by the district at such times, may be in such form and denominations and include such terms and maturities, may be subject to optional or mandatory redemption prior to maturity with or without a premium, may be in fully registered form or bearer form registrable as to principal or interest or both, may bear such conversion privileges, may be payable in such installments and at such times not exceeding forty years from the date thereof, may be payable at such place or places whether within or without the state, may bear interest at such rate or rates per annum, which may be fixed or vary according to index, procedure, or formula or as determined by the district or its agents, without regard to any interest rate limitation appearing in any other law of the state, may be subject to purchase at the option of the holder or the district, may be evidenced in such manner, may be executed by such officers of the district, including the use of one or more facsimile signatures so long as at least one manual signature appears on the bonds, which may be either of an officer of the district or of an agent authenticating the same, may be in the form of coupon bonds that have attached interest coupons bearing a manual or facsimile signature of an officer of the district, and may contain such provisions not inconsistent with this article, all as provided in the resolution of the district under which the bonds are authorized to be issued or as provided in a trust indenture between the district and any bank or trust company having full trust powers.

(3) Bonds may be sold at public or private sale at such price or prices, in such manner, and at such times as determined by the board, and the board may pay all fees, expenses, and commissions that it deems necessary or advantageous in connection with the sale of the bonds. The power to fix the date of sale of the bonds, to receive bids or proposals, to award and sell bonds, to fix interest rates, and to take all other action necessary to sell and deliver the bonds may be delegated to an officer or agent of the district. Any outstanding bonds may be refunded by the district pursuant to article 56 of title 11, C.R.S. All bonds and any interest coupons applicable thereto are declared to be negotiable instruments.

(4) The resolution or a trust indenture authorizing the issuance of the bonds may pledge all or a portion of the special fund, may contain such provisions for protecting and enforcing the rights and remedies of holders of any of the bonds as the district deems appropriate, may set forth the rights and remedies of the holders of any of the bonds, and may contain provisions that the district deems appropriate for the security of the holders of the bonds, including, but not limited to, provisions for letters of credit, insurance, standby credit agreements, or other forms of credit ensuring timely payment of the bonds, including the redemption price or the purchase price.

(5) Any lawful pledge of moneys or other property made by the district or by any person or governmental unit with which the district contracts shall be valid and binding from the time the pledge is made. The special fund or other property so pledged shall immediately be subject to the lien of the pledge without any physical delivery or further act, and the lien of the pledge shall be valid and binding against all parties having claims of any kind in tort, contract, or otherwise against the pledging party regardless of whether the claiming party has notice of the lien. The instrument by which the pledge is created need not be recorded or filed.

(6) Neither the members of the board, employees of the district, nor any person executing the bonds shall be liable personally on the bonds or subject to any personal liability or accountability by reason of the issuance thereof.

(7) The district may purchase its bonds out of any available moneys and may hold, pledge, cancel, or resell such bonds subject to and in accordance with agreements with the holders thereof.

(8) The state hereby pledges and agrees with the holders of any bonds and with those parties who enter into contracts with the district pursuant to this article that the state will not limit, alter, restrict, or impair the rights vested in the district or the rights or obligations of any person with which it contracts to fulfill the terms of any agreements made pursuant to this article. The state further agrees that it will not in any way impair the rights or remedies of the holders of bonds until the bonds have been paid or until adequate provision for payment has been made. The district may include this provision and undertaking for the state in its bonds.

(9) All banks, trust companies, savings and loan associations, insurance companies, executors, administrators, guardians, trustees, and other fiduciaries may legally invest any moneys within their control in any bonds issued under this article. Public entities, as defined in section 24-75-601 (1), C.R.S., may invest public funds in bonds only if the bonds satisfy the investment requirements established in part 6 of article 75 of title 24, C.R.S.

(10) The income or other revenues of the district, all properties at any time owned by the district, bonds, and the transfer of and the income from bonds shall be exempt from all taxation and assessments in the state. In the resolution or indenture authorizing bonds, the district may waive the exemption from federal income taxation for interest on the bonds. Bonds shall be exempt from the provisions of article 51 of title 11, C.R.S.

Source: L. 2009: Entire article added, (SB 09-141), ch. 194, p. 862, § 1, effective April 30.

PART 5

IMPROVEMENT DISTRICTS AND SPECIAL ASSESSMENTS

32-11.5-501. Improvement districts, special assessments, and bonds - general authority of district. Subject to the election requirements specified in section 32-11.5-205 (2)(c)(II) and the procedural and other requirements of this part 5, the district may create one or more improvement districts, levy special assessments against all of the assessable property in an improvement district, and cause the assessments to be collected to defray wholly or in part the cost of acquiring, constructing, or improving one or more projects. Subject to the election requirements specified in section 32-11.5-205 (2)(c)(II), the district may also issue bonds to be repaid from the revenues generated by special assessments and, if applicable, any other moneys pledged to secure the payment of the bonds.

Source: L. 2009: Entire article added, (SB 09-141), ch. 194, p. 864, § 1, effective April 30.

32-11.5-502. Initiating procedure. (1) The procedure for acquiring, constructing, or improving any project to be funded in whole or in part with revenues generated by special assessments can be initiated by the provisional order method described in subsection (2) of this section or the petition method described in subsection (3) of this section.

(2) (a) Whenever the board determines that the interest of the district requires any project to be funded in whole or in part with revenues generated by special assessments, the board, by resolution approved by a supermajority vote as specified in section 32-11.5-204 (1)(b)(II), shall direct the engineer to prepare:

(I) Preliminary plans showing:

(A) A typical section of the contemplated project; and

(B) The types of material, approximate thickness, and width;

(II) A preliminary estimate of the total cost of the project; and

(III) An assessment plat showing:

(A) The area to be assessed; and

(B) The amount of maximum benefits estimated to be assessed against each tract.

(b) The resolution of the board shall describe the project in general terms but may provide for one or more types of construction, and the engineer shall separately estimate the cost of each type of construction. The estimate may be made in a lump sum or by unit process, as deemed most appropriate by the engineer for the completed facilities.

(c) The resolution of the board shall state:

(I) What part or portion of the expense of the described project is of special benefit and is to be paid for with revenues generated by special assessments;

(II) What part of the project, if any, has been or is proposed to be funded with revenues generated from sources other than special assessments; and

(III) The basis by which the cost of the project will be apportioned and special assessments will be levied.

(d) In case a special assessment is not to be made according to front feet, the resolution of the board shall:

(I) By apt description designate the improvement district, including the tracts to be assessed;

(II) Describe definitely the location of the project; and

(III) State that the special assessment is to be made upon all the tracts benefited by the project proportionately to the benefits received.

(e) In case a special assessment is to be upon the abutting property on a frontage basis, it shall be sufficient for the resolution so to state and to define the location of the project to be made.

(f) The resolution of the board need not describe in detail each particular tract to be assessed but may simply designate the property, improvement district, or location so that the various tracts to be assessed can be determined to be within the proposed improvement district.

(g) The engineer shall forthwith prepare and file with the district:

(I) The preliminary plans;

(II) The preliminary estimate of cost; and

(III) The assessment plat.

(h) Upon the filing of the plans, preliminary estimate of cost, and plat, the board shall examine the same. If the board finds the plans, estimate, and plat to be satisfactory, it shall make a provisional order by resolution to the effect that the project shall be acquired, constructed, or improved.

(3) (a) The owner or owners of tracts to be assessed in a proposed improvement district for not less than ninety-five percent of the entire cost of a project, comprising more than fifty

percent of the area of the proposed improvement district and also comprising a majority of the landowners residing in the proposed improvement district, may, by written petition, initiate the acquisition, construction, or improvement of any assessment project that the board is authorized to initiate subject to the following limitations:

(I) The board may incorporate the project in one or more existing or alternative proposed improvement districts;

(II) The board is not required to proceed with the construction, acquisition, or improvement of the project or any part thereof if, after holding a provisional order hearing pursuant to section 32-11.5-507, the board determines that it is not in the public interest for the proposed project or part thereof to go forward; and

(III) A particular kind of project, material therefor, or a part thereof need not be constructed, acquired, improved, or located as provided in the petition if the board determines that it is not in the public interest.

(b) The board is not required to take any further action regarding a petition if the board determines by resolution that the construction, acquisition, or improvement of the proposed project is probably not feasible, the resolution requires a cash deposit or a pledge of property in at least an amount designated by the board probably to be sufficient to defray the costs likely to be incurred by the board before and during the attempted acquisition, construction, or improvement of the project designated in the petition, and the deposit or pledge is not provided to the board within twenty days after mailed notice is given to the person presenting the petition or after one publication in a newspaper of general circulation in the district of a notice of the resolution's adoption and of its content in summary form. The board may subsequently, as it deems necessary, require one or more additional deposits or pledges as a condition precedent to the continuation of action by the district.

(c) Whenever a deposit or pledge is made and thereafter the board determines that acquisition, construction, or improvement of a project proposed by petition is not feasible within a reasonable period, the board may require that all or any portion of the costs incurred by the district in connection with the petition or project be defrayed from the deposit or proceeds of the pledged property unless the petitioners or other interested persons defray the costs within twenty days after the board determines the amount to be defrayed by resolution.

(d) Any surplus moneys remaining from a deposit or pledge shall be returned by the district to the person making the same.

(4) Except as otherwise provided in subsection (3) of this section, upon the filing of a petition pursuant to said subsection (3), the board shall proceed in the same manner as provided in subsection (2) of this section for proceedings initiated by the board.

Source: L. 2009: Entire article added, (SB 09-141), ch. 194, p. 864, § 1, effective April 30.

32-11.5-503. Combination of projects. (1) More than one project may be combined in an improvement district if the board determines that the combination will be efficient and economical.

(2) If projects combined in one improvement district are separate and distinct due to substantial differences in their character or location or other substantial differences, each project

shall be considered as a separate assessment unit or quasi-improvement district for the purpose of petition, remonstrance, and assessment.

(3) If projects are combined, the board shall designate the project and the area constituting each assessment unit, and, in the absence of arbitrary and capricious action or abuse of discretion, its determination that there is or is not such a combination and its determination of the project and the area constituting the assessment unit shall be final and conclusive.

(4) The costs of acquiring, constructing, or improving each project shall be segregated for the levy of assessments, and an equitable share of the incidental costs shall be allocated to each assessment unit.

Source: L. 2009: Entire article added, (SB 09-141), ch. 194, p. 867, § 1, effective April 30.

32-11.5-504. Effect of estimates. (1) Unless otherwise specifically provided in this article, no estimate of the cost of a project required or authorized in this part 5 shall constitute a limit on the cost or a limit on the powers of the board or of any officers, agents, or employees of the district.

(2) No assessment shall exceed the amount of the estimate of maximum special benefits from the project to any tract assessed.

Source: L. 2009: Entire article added, (SB 09-141), ch. 194, p. 867, § 1, effective April 30.

32-11.5-505. Fixing hearing and notice. (1) In a resolution constituting a provisional order pursuant to section 32-11.5-502 (2), the board shall set a time at least twenty days after the date of the resolution and a place at which the owners of the tracts to be assessed or any other interested persons may appear before the board and be heard as to the propriety and advisability of acquiring, constructing, or improving the provisionally ordered project.

(2) Notice of the meeting required by subsection (1) of this section shall be given by publication and by mail to all owners of record of the tracts to be assessed.

(3) The notice required by subsection (2) of this section shall include the following information:

(a) The kind of project proposed;

(b) The estimated cost of the project and the portion, if any, to be paid from sources other than special assessments;

(c) The basis for apportioning the special assessments, which shall be in proportion to the special benefits derived to each of the several tracts comprising the assessable property and on a front-foot, area, zone, or other equitable basis;

(d) The number of installments and the time in which the special assessments are payable;

(e) The maximum rate of interest on unpaid installments of special assessments;

(f) The area of the improvement district to be assessed;

(g) The time and place at which the board will consider the ordering of the proposed project and hear all complaints, protests, and objections that may be made in writing and filed

with the district at least three days in advance or may be made verbally at the hearing by the owner of any tract to be assessed or by any other interested person;

(h) The fact that the description of the tracts to be assessed, the maximum amount of benefits estimated to be conferred on each tract, and all related proceedings are on file and may be examined at main offices of the district during business hours by any interested person; and

(i) A statement that regardless of the basis used for apportioning assessments, in cases of wedge-shaped, V-shaped, or any other irregular-shaped tracts, an amount apportioned thereto shall be in proportion to the special benefits thereby derived.

(4) The district shall maintain proof of publication and proof of mailing of the notice required by subsections (1) and (2) of this section and described in subsection (3) of this section in the records of the district until any special assessments imposed to fund the project that is the subject of the provisional order have been paid in full.

Source: L. 2009: Entire article added, (SB 09-141), ch. 194, p. 867, § 1, effective April 30.

32-11.5-506. Subsequent modifications. (1) Except as otherwise provided in subsection (2) of this section, the board may modify or rescind by resolution any board action relating to the creation of an improvement district or the imposition of special assessments at any time before adopting a resolution creating the improvement district pursuant to section 32-11.5-509 and authorizing a project to be funded in whole or in part with revenues generated by special assessments.

(2) No substantial change in a proposed improvement district, details, preliminary plans, specifications, or estimates shall be made after the first publication or mailing of notice to property owners, whichever occurs first; except that the board may delete a portion of a project or any tract from the proposed improvement district or from any assessment unit, and the engineer may make minor changes in time, plans, and materials for a project at any time before its completion.

Source: L. 2009: Entire article added, (SB 09-141), ch. 194, p. 868, § 1, effective April 30.

32-11.5-507. Provisional order hearing. (1) At the provisional order hearing, any property owners interested in a proposed project to be funded in whole or in part with revenues generated by special assessments may present their views to the board. The board may adjourn the hearing from time to time.

(2) If the board determines, after considering all views presented at the provisional order hearing, that it is not in the public interest that the proposed project or a portion of the proposed project go forward, the board shall order by resolution that the proceeding for the rejected project or portion shall stop. The rejected project or portion may only resume if the board adopts a new resolution.

Source: L. 2009: Entire article added, (SB 09-141), ch. 194, p. 869, § 1, effective April 30.

32-11.5-508. Post-hearing procedure. (1) After the provisional order hearing, the board shall determine whether to form the proposed improvement district and any assessment unit within the proposed improvement district.

(2) If the board desires to form the proposed improvement district but also desires to modify the district, the board shall direct the engineer to prepare and present to the board:

(a) A revised and detailed estimate of the total cost, including without limitation the cost of acquiring, constructing, or improving each proposed project. Unless otherwise specifically provided in this article, the revised estimate shall not constitute a limitation for any purpose.

(b) Full and detailed plans and specifications for each proposed project designed to permit and to encourage competition among the bidders if any projects are to be acquired, constructed, or improved by construction contract; and

(c) A revised map and assessment plat showing the location of each proposed project and the tracts to be assessed therefor.

(3) The board, in the resolution creating the improvement district or in a separate resolution, may combine or divide the proposed projects into suitable construction units for the purpose of letting separate and independent contracts, regardless of the extent of any project constituting an assessment unit and regardless of whether or not a portion of the cost of any project is to be defrayed with revenues other than revenues generated by special assessments.

(4) Nothing in this part 5 shall be construed as not requiring the segregation of costs of unrelated improvement programs for assessment purposes.

Source: L. 2009: Entire article added, (SB 09-141), ch. 194, p. 869, § 1, effective April 30.

32-11.5-509. Creation of improvement district. (1) When an accurate estimate of cost, full and detailed plans and specifications, and the map and assessment plat are prepared, presented, and are satisfactory to the board, regardless of whether the preliminary estimate of cost, plans and specifications, and map and assessment plat are modified pursuant to section 32-11.5-508 and any required election has been held, the board shall by resolution create the improvement district and order the proposed project to be acquired, constructed, or improved.

(2) The resolution shall prescribe:

(a) The extent of the improvement district and of any assessment within the improvement district by boundaries or by other brief description;

(b) The kind and location of each proposed project;

(c) The amount or the proportion of the total cost to be defrayed by special assessments, the method of levying special assessments, the number of installments, and the times at which special assessments will be payable; and

(d) The character and the extent of any construction units pursuant to section 32-11.5-508 (3).

(3) The engineer may further revise the cost, plans and specifications, and the map and assessment plat for all or any part of a project, and the board may amend the resolution creating the improvement district accordingly prior to letting any construction contract and prior to any property being acquired or any work being done other than by independent contract let by the district.

Source: L. 2009: Entire article added, (SB 09-141), ch. 194, p. 869, § 1, effective April 30.

32-11.5-510. Construction contracts. No contract for construction work to acquire or improve the project contemplated shall be made or awarded nor shall the board incur any expense or any liability in relation thereto, except for maps, plats, diagrams, estimates, plans, specifications, and notices, until after the provisional order hearing and notice provided for in this part 5 have been had and given.

Source: L. 2009: Entire article added, (SB 09-141), ch. 194, p. 870, § 1, effective April 30.

32-11.5-511. Division of tract. If a tract is divided after a special assessment has been levied and divided into installments and before the collection of all the installments, the board may require the county assessor to apportion the uncollected amounts upon the several parts of the tract so divided proportionally based upon their valuation for assessment for taxes. The apportionment shall be conclusive on all parties, and all subsequent assessments shall be according to the apportionment.

Source: L. 2009: Entire article added, (SB 09-141), ch. 194, p. 870, § 1, effective April 30.

PART 6

ANNEXATION

32-11.5-601. Annexation of lands to watershed management area. (1) The territorial limits of the watershed management area may be enlarged by the annexation of additional real property thereto:

(a) By petition and consent of the fee owner pursuant to sections 32-11.5-602 and 32-11.5-606;

(b) By petition of the eligible electors pursuant to sections 32-11.5-603, 32-11.5-604, and 32-11.5-606;

(c) By action initiated by the district pursuant to sections 32-11.5-605 and 32-11.5-606 with the consent of the governing body of each county or municipality that includes any of the real property to be annexed; or

(d) By petition by the governing body of each county or municipality that includes any of the real property to be annexed.

Source: L. 2009: Entire article added, (SB 09-141), ch. 194, p. 870, § 1, effective April 30.

32-11.5-602. Petition of fee owners. (1) The fee owner of any real property contiguous to the territorial limits of the watershed management area and capable of being served with

facilities of the district may file with the board a petition in writing seeking the inclusion of the property in the watershed management area.

(2) The petition authorized in subsection (1) of this section shall:

(a) Set forth an accurate legal description of the property owned by the petitioners;

(b) State that assent to the annexation of the property is given by the signers thereto, constituting all the fee owners of the property; and

(c) Be acknowledged in the same manner required for conveyance of land.

(3) A fee owner may not withdraw a petition after consideration by the board or file further objections except in the case of fraud or misrepresentation.

(4) The board shall hear a petition filed pursuant to subsection (1) of this section at an open meeting after publishing notice of the filing of the petition, the place, time, and date of the meeting, and the names and addresses of the petitioners in a newspaper of general circulation in the county or counties in which the real property proposed to be annexed is located.

(5) The board shall grant a petition by resolution if it determines that the proposed annexation is feasible and in the best interests of the district. The board may determine that annexation of only a portion of the property proposed to be annexed is appropriate.

Source: L. 2009: Entire article added, (SB 09-141), ch. 194, p. 871, § 1, effective April 30.

32-11.5-603. Petition of eligible electors. (1) Not less than ten percent or one hundred, whichever number is smaller, of the eligible electors of any real property that is contiguous to the watershed management area and contains twenty-five thousand or more square feet of land may file a petition with the board in writing seeking the annexation of the property to the watershed management area; except that no single tract or parcel or property containing ten acres or more may be included in the watershed management area without the consent of the owner.

(2) A petition shall describe the area to be annexed and shall be acknowledged in the same manner required for conveyances of land.

(3) The board shall cause notice of the filing of a petition to be published in a newspaper of general circulation in the county or counties in which the property proposed to be annexed is located, and the notice shall state:

(a) That a petition has been filed;

(b) The names of the petitioners;

(c) A description of the area proposed to be annexed;

(d) The place, time, and date of a board hearing on the proposed annexation at which the board will consider the petition and all written objections to the petition; and

(e) A statement that all interested persons may appear at the board hearing and show cause in writing why the petition should not be granted.

(4) The eligible electors may not withdraw a petition after consideration by the board or file further objections except in the case of fraud or misrepresentation.

(5) The board shall grant a petition by resolution if it determines that the proposed annexation is feasible and in the best interests of the district.

Source: L. 2009: Entire article added, (SB 09-141), ch. 194, p. 871, § 1, effective April 30.

32-11.5-604. Annexation election. (1) If a petition is provisionally granted pursuant to section 32-11.5-602 or 32-11.5-603, the board by resolution shall:

(a) Make an order to that effect;

(b) Direct that the question of inclusion of the real property proposed to be annexed within the watershed management area be submitted to the eligible electors of the area that includes the real property only; and

(c) Designate the secretary of the board as the designated election official to give notice and conduct the election according to the provisions of articles 1 to 13 of title 1, C.R.S.

(2) If a majority of the votes cast on the question at the election favor inclusion, the board shall by resolution enter an order making the real property a part of the watershed management area.

Source: L. 2009: Entire article added, (SB 09-141), ch. 194, p. 872, § 1, effective April 30.

32-11.5-605. Annexation initiated by the board. (1) (a) At any time and as a condition to an annexation initiated by the board, the board may adopt a resolution determining that real property proposed for annexation:

(I) Is contiguous to the territorial limits of the watershed management area;

(II) Contains six hundred forty or more acres of land;

(III) Has become urbanized by having a population of at least one thousand persons per square mile and having at least five hundred dwelling units per square mile; and

(IV) Is capable of being served by the facilities of the district.

(b) A resolution adopted pursuant to paragraph (a) of this subsection (1) shall provisionally order the annexation of the real property proposed to be annexed.

(2) The board shall cause notice of the adoption of a resolution pursuant to subsection (1) of this section to be given by publication in a newspaper of general circulation in the county or counties in which the property proposed to be annexed is located, and the notice shall state:

(a) That the resolution has been adopted;

(b) The description of the area proposed to be annexed;

(c) The place, time, and date of a board hearing on the proposed annexation at which the board will consider all written objections to the finalization of the annexation; and

(d) That all interested persons may appear at the board hearing and show cause in writing why the annexation should not be made final.

(3) Prior to the board hearing, the board shall obtain written consent to annex the property from the governing body of each county or municipality that includes any of the real property proposed to be annexed.

(4) If, after the board hearing, the board determines by resolution that the proposed annexation is feasible and in the best interest of the district, the board shall furnish by mail to the director of the division of local government within the department of local affairs copies of both the resolution adopted pursuant to subsection (1) of this section and the post-hearing resolution and shall request that the director approve the annexation.

(5) If the director approves the annexation in writing, the board, upon the receipt of such approval, shall by resolution enter a final order annexing the real property to the district.

Source: L. 2009: Entire article added, (SB 09-141), ch. 194, p. 873, § 1, effective April 30.

32-11.5-606. General annexation provisions. (1) The failure of any person in the watershed management area or in an area proposed to be annexed to the watershed management area to file a written objection to a proposed annexation in a properly noticed hearing of the board thereon constitutes the assent of the person to the inclusion in the watershed management area of the area described in the notice of the hearing for annexation.

(2) A determination by the board that a proposed annexation is feasible and in the best interests of the district shall be final, conclusive, and not subject to review.

(3) Whenever the board by resolution enters an order annexing real property to the watershed management area, the board shall file the resolution with:

(a) The secretary of state;

(b) The state attorney general;

(c) The division of local government; and

(d) The county clerk and recorder, county assessor, and county treasurer of each county in which the annexed real property is located.

(4) A board resolution annexing real property to the watershed management area is a final order and shall finally and conclusively establish the annexation of the real property to the watershed management area against all persons; except that the attorney general, on behalf of the state, within thirty days of the filing of the resolution with the attorney general as required by paragraph (b) of subsection (3) of this section, may file a proceeding in the nature of quo warranto against the annexation. An annexation shall not be directly or collaterally questioned in any suit, action, or proceeding except as expressly authorized in this subsection (4).

(5) After the date of the final annexation of real property to the watershed management area by resolution of the board, the annexed real property shall be liable for its proportionate share of existing bonded indebtedness of the district but shall not be liable for any taxes or service charges levied or assessed prior to its annexation to the watershed management area. The annexation of the real property to the watershed management area shall not be made subject to or contingent upon the payment or assumption of any penalty, toll, or charge, other than the taxes and service charges that are uniformly made, assessed, or levied within the watershed management area except as otherwise expressly provided in this article.

(6) The district and the owner of any real property sought to be annexed to the watershed management area may enter into an agreement with respect to the terms and conditions on which the property may be annexed.

Source: L. 2009: Entire article added, (SB 09-141), ch. 194, p. 874, § 1, effective April 30.

PART 7

MISCELLANEOUS

32-11.5-701. Budgets, accounts, audits, and construction contracting. (1) The district shall adopt a budget for each fiscal year, shall maintain accounts, and shall cause audits

to be made pertaining to the financial affairs of the district as respectively provided in the "Local Government Budget Law of Colorado", part 1 of article 1 of title 29, C.R.S., the "Colorado Local Government Uniform Accounting Law", part 5 of article 1 of title 29, C.R.S., and the "Colorado Local Government Audit Law", part 6 of article 1 of title 29, C.R.S.

(2) The district shall be subject to the provisions of article 91 of title 24, C.R.S., regarding construction contracting. In accordance with section 24-101-105 (2), C.R.S., the district may adopt all or any part of the "Procurement Code", articles 101 to 112 of title 24, C.R.S. The district may also award contracts using an integrated project delivery method pursuant to the "Integrated Delivery Method for Special District Public Improvements Act", part 18 of article 1 of this title.

Source: L. 2009: Entire article added, (SB 09-141), ch. 194, p. 875, § 1, effective April 30.

32-11.5-702. No action maintainable. An action or proceeding at law or in equity to review any acts or proceedings or to question the validity or enjoin the performance of any act or proceedings or the issuance of any bonds or for any other relief against or from any acts or proceedings done under this article, whether based upon irregularities or jurisdictional defects, shall not be maintained unless commenced within thirty days after the performance of the act or proceedings and is thereafter perpetually barred.

Source: L. 2009: Entire article added, (SB 09-141), ch. 194, p. 875, § 1, effective April 30.

32-11.5-703. Early hearings. Any civil action in which there may arise a question regarding the validity of any power granted in this article or of any other provision of this article shall be advanced as a matter of immediate public interest and concern and shall be heard at the earliest practicable moment.

Source: L. 2009: Entire article added, (SB 09-141), ch. 194, p. 875, § 1, effective April 30.

32-11.5-704. Freedom from judicial process. (1) Execution or other judicial process shall not issue against any property of the district authorized in this article, nor shall any judgment against the district be a charge or lien upon its property.

(2) Subsection (1) of this section does not apply to or limit the right of any bondholder, trustee, or assignee of a bondholder, the federal government when it is a party to any contract with the district, or any other obligee under this article to foreclose, otherwise to enforce, and to pursue any remedies for the enforcement of any pledge or lien given by the district on the proceeds of any taxes, assessments, revenues, or any other moneys of the district.

Source: L. 2009: Entire article added, (SB 09-141), ch. 194, p. 875, § 1, effective April 30.

ARTICLE 12

32-12-101. Short title. This article shall be known and may be cited as the "Rail District Act of 1982".

Source: L. 82: Entire article added, p. 503, § 1, effective April 23.

32-12-102. Legislative declaration. Any loss of railroad service within certain regions of Colorado may seriously interfere with the flow of commerce within this state, and the general assembly hereby declares that the following measures are adopted to allow for the formation of rail districts permitting local participation in the ownership of certain railroad properties and in the conduct of providing railroad services, subject to the limitations contained in this article.

Source: L. 82: Entire article added, p. 503, § 1, effective April 23.

32-12-103. Definitions. As used in this article, unless the context otherwise requires:

(1) "Board" means the board of directors of a rail district.

(2) "Chairman" means the chairman of the board.

(3) "County" means a home rule or statutory county and includes a city and county.

(3.5) "Eligible elector" or "elector" of a rail district means an individual qualified pursuant to section 32-1-103 (5).

(4) "Municipality" means a home rule or statutory city or town, a territorial charter city, or a city and county.

(5) "Population" means the population as estimated by the organizational commission or secretary of state, based upon census tract data or other officially compiled data.

(6) "Publication" means printing, once a week for three consecutive weeks, by three publications in one or more newspapers of general circulation in the rail district or proposed rail district if there is such a newspaper and, if not, then in a newspaper in the county in which the rail district or proposed rail district is located. It is not necessary that publication be made on the same day of the week in each of the three weeks, but not less than twelve days, excluding the day of the first publication but including the day of the last publication, shall intervene between the first publication and the last publication, and publication shall be complete on the date of the last publication.

(7) (Deleted by amendment, L. 92, p. 918, § 183, effective January 1, 1993.)

(8) "Rail district" means a special district which may acquire and operate railroad facilities subject to the following:

(a) Any such purchase of railroad facilities shall be:

(I) From a railroad which is subject to the jurisdiction of a federal bankruptcy court pursuant to federal bankruptcy laws; or

(II) From a railroad that has been granted the right to abandon such railroad facilities by the federal surface transportation board; and

(III) Limited to a railroad facility which has been in operation within the five years prior to such purchase by a rail district.

(b) Upon acquisition, any such railroad facility shall be operated to haul freight or passengers or both.

(c) No rail district may be formed containing any area of the regional transportation district, created by article 9 of this title.

(9) "Railroad facilities" or "facilities" means all property either real, personal, or mixed which is used or useful in the conduct of railroad services.

(10) "Rates, fees, tolls, or charges" shall apply only to rates, fees, tolls, or charges required by a rail district and shall not apply to rates, fees, tolls, or charges which are prescribed by federal or other state laws or regulations and which are subject to the jurisdiction of federal or other state agencies.

(11) "Regular special district election" means the election held on the Tuesday succeeding the first Monday of May in every even-numbered year, as provided in section 32-1-103 (17), for the purpose of electing members of the board and for submission of other public questions, if any.

(12) "Secretary" means the secretary of the board.

(13) "Service" means a function or service which a rail district is authorized to provide in accordance with this article.

(14) "Special election" means any election called by the board for submission of public questions, which election shall be held on a Tuesday other than a regular election day.

Source: L. 82: Entire article added, p. 503, § 1, effective April 23. **L. 92:** (3.5) added and (7), (11), and (14) amended, p. 918, § 183, effective January 1, 1993. **L. 2001:** (8)(a)(II) amended, p. 1276, § 43, effective June 5.

32-12-104. Territorial requirements for rail districts. (1) A rail district may include any or all of the territory of one or more counties, as may be proposed, if each county has some contiguity with another county within the rail district or proposed rail district.

(2) The boundaries of any rail district shall not be such as to create any enclave.

Source: L. 82: Entire article added, p. 505, § 1, effective April 23.

32-12-105. Petition for formation. (1) The formation of a rail district shall be initiated by a petition signed by eligible electors of the proposed rail district in number not less than five percent of the votes cast in the proposed rail district for all candidates for the office of secretary of state at the last preceding general election. The petition shall be filed with the district court of the county which has the largest population within the proposed rail district and a copy thereof delivered to the organizational commission upon its appointment by the court. In addition, a copy thereof shall also be filed with the division of local government in the department of local affairs.

(2) (a) The petition shall state the name proposed for the rail district, shall contain a description of the territory to be included within the boundaries of such rail district, shall list the counties and municipalities or portions thereof to be included within the rail district, and shall also state the proposed rail facilities to be acquired and operated.

(b) Upon the filing of the petition, the court shall fix a time for a hearing, which shall be not less than twenty nor more than forty days after the petition is filed. At least seven days prior

to the hearing date, the clerk of the court shall give notice by publication of the pendency of the petition and of the time and place of the hearing. At the hearing, the court shall determine whether the requisite number of eligible electors has signed the petition. No petition with the requisite signatures shall be declared void on account of minor defects, and the court may at any time permit the petition to be amended to correct any defects.

(3) If it appears at the conclusion of the hearings that the petition conforms with the requirements of this article, the court, by order entered of record, shall appoint a rail district organizational commission according to the procedures required under section 32-12-106.

(4) At the time of filing the petition or at any time subsequent thereto, and prior to the time of hearing on said petition, a bond shall be filed, with security approved by the court, or a cash deposit made sufficient to pay all expenses connected with the proceedings in case the organization of the rail district is not effected. If at any time during the proceeding the court is satisfied that the bond first executed or the amount of cash deposited is insufficient in amount, it may require the execution of an additional bond or the deposit of additional cash within a time to be fixed, not less than ten days distant, and, upon failure of the petitioner to execute or deposit the same, the petition shall be dismissed.

Source: L. 82: Entire article added, p. 505, § 1, effective April 23. **L. 92:** (1) and (2)(b) amended, p. 919, § 184, effective January 1, 1993.

32-12-106. Court appoints organizational commission and election committee. (1) The court shall appoint an odd number of at least five rail district organizational commission members selected from the membership of the governing bodies of the counties and municipalities having territory within the boundaries of the proposed rail district, subject to the following limitation: If the proposed rail district is comprised of more than one county or portion thereof, no more than a majority of the members of the organizational commission shall be residents of any one county or any one municipality, and at least one member shall be appointed from every county situated wholly or partially within the boundaries of the proposed rail district. If the proposed rail district is within the boundaries of only one county and includes one or more municipalities, at least two members shall be residents of one or more municipalities within the county.

(2) (a) At the hearing specified in section 32-12-105 (2)(b), the court shall appoint the county clerk and recorder of each county located wholly or partially within the boundaries of the proposed rail district as members of an election committee to administer the election provided for in the formation of such rail district and shall within seven days of such appointment notify said county clerk and recorders of their appointments.

(b) A majority of the county clerk and recorders shall constitute a quorum. A chairman shall be elected by the county clerk and recorders at their first meeting, who may call additional meetings as necessary to accomplish the purposes of the election committee.

Source: L. 82: Entire article added, p. 505, § 1, effective April 23.

32-12-107. Rail district organizational commission. (1) The rail district organizational commission appointed pursuant to section 32-12-106 shall meet within twenty days after its appointment on a date designated by the district court. The rail district

organizational commission shall elect a chairman and a vice-chairman from among its membership. Further meetings of the commission shall be held upon call of the chairman or a majority of the members of the commission. All meetings shall be open to the public. A majority of the commission shall constitute a quorum. The commission may adopt other such rules for its operations and proceedings as it deems necessary or desirable. Members of the commission shall receive no compensation but may be reimbursed for necessary expenses incurred during the performance of their official duties as organizational costs. Such organizational costs may be paid from the bond or cash deposit provided in section 32-12-105 (4) if the organization is not effected or by the rail district if the organization is effected.

(2) (a) The rail district organizational commission shall determine which rail facilities are to be acquired and rehabilitated and what rail services are to be provided, together with the maximum ad valorem tax mill levy, if any, necessary to support the acquisition and rehabilitation by the proposed rail district upon its formation, subject to the approval of the eligible electors as provided in this article.

(b) The rail district organizational commission shall determine the manner in which the railroad facility acquisitions and services are to be submitted for consideration by the eligible electors at the formation election to be called by the district court, as provided in section 32-12-108. Prior to the submission of the report to the district court, pursuant to paragraph (a) of subsection (3) of this section, the commission shall conduct a public hearing and cause notice to be published, stating the time and place of the public hearing, and shall apprise the general public of its right to attend the hearing and make comments regarding the proposals to be placed on the ballot.

(3) (a) Within ninety days after its initial meeting, the commission shall present to the district court a report listing proposed railroad facilities to be acquired and proposed services to be considered by the eligible electors in each county included in the rail district. A majority vote of the members of the rail district organizational commission shall determine the proposed railroad facilities acquisitions, the proposed services, and the maximum mill levy that shall be presented to the eligible electors for their approval or rejection.

(b) The commission report shall also divide the rail district into five zones of approximately equal population in accordance with the provisions of section 32-12-109 for the purpose of electing candidates to the board. The board shall consist of seven members, including one member from each of the five zones and two at-large members. Such zones shall be numbered consecutively starting with number one, and the terms of office shall be as specified in section 32-12-109.

(c) The commission shall specify the date for a special election for formation of the rail district, but, if the organizational commission's report is completed not more than one hundred eighty days and not less than eighty days before the next general election, the election may be held jointly or concurrently with the next general election.

(d) The rail district organizational commission shall be dissolved as of the day on which the election is held pursuant to section 32-12-108.

Source: L. 82: Entire article added, p. 506, § 1, effective April 23. **L. 92:** (2), (3)(a), and (3)(c) amended, p. 919, § 185, effective January 1, 1993.

32-12-108. Election for formation - acquisitions - services - mill levy limit - board. (1) (a) Within seven days after receipt of the rail district organizational commission's report, the district court shall direct the election committee, as provided in section 32-12-106 (2), to conduct an election on the date designated by the organizational commission for the purpose of deciding whether a rail district is to be formed, to provide an opportunity for the eligible electors to approve the proposed railroad facilities to be acquired, the maximum mill levy, and the services proposed for the rail district, and to elect the board of directors of the rail district.

(b) The court shall direct the election committee to publish notice of the election setting forth the list of proposed railroad facilities acquisitions, proposed services, and maximum mill levy and to conduct the election pursuant to articles 1 to 13 of title 1, C.R.S.

(2) (Deleted by amendment, L. 92, p. 920, § 186, effective January 1, 1993.)

(3) At the election, eligible electors shall "approve" or "disapprove" the formation of the rail district, the railroad facilities proposed to be acquired, the services proposed, and the maximum mill levy and shall elect candidates to serve on the board of directors of the rail district. The candidate receiving the highest number of votes within each zone shall be elected, and the two candidates receiving the highest number of votes within the entire rail district shall be elected members at large. In the event of tie votes for the last available vacancy for the board, the committee shall determine by lot the person who shall be elected. No rail district may be formed, no facility acquired, no service established, and no maximum mill levy established unless approved by a majority of the eligible electors voting thereon in each county, or portion thereof, within the rail district.

(4) Within seven days following the election, the committee shall certify the results of the election to the court. If a majority of the eligible electors in each county, or portion thereof, voting thereon approve formation, the court shall declare, by order entered of record, that the rail district is formed in the corporate name designated in the petition and shall designate those railroad facilities to be acquired, the services to be provided, and the maximum mill levy which were authorized by a majority of the eligible electors voting thereon in each county, or portion thereof, at the election. Upon the filing with the court of the oath of office of members elected to the board, the court, by order entered of record, shall declare the members of the board elected and qualified, and the formation shall be complete. At that time, the election committee shall be dissolved. The board shall be charged with acquiring, rehabilitating, and operating those approved facilities in accordance with this article.

(5) The entry of an order forming a rail district shall finally and conclusively establish its regular formation against all persons except the state of Colorado, which may commence an action in the nature of quo warranto, within thirty-five days after entry of such order, and not otherwise. The formation of the rail district shall not be directly or collaterally questioned in any suit, action, or proceeding, except as expressly authorized in this section.

(6) All necessary expenses for the elections and other proceedings conducted pursuant to sections 32-12-106 and 32-12-107 and this section, including the expenses and reimbursements for the organizational commission, shall be paid from the bond or cash deposit required pursuant to section 32-12-105 (4) if the organization is not effected or by the rail district if the organization is effected.

(7) Within fifteen days after the entry of the order forming a rail district, the clerk of the court shall file a copy of the decree with the board of county commissioners and the assessor of each county, or portion thereof, within the rail district and with the division of local government.

Source: L. 82: Entire article added, p. 507, § 1, effective April 23. **L. 92:** (1) to (4) amended, p. 920, § 186, effective January 1, 1993. **L. 94:** (1)(b) amended, p. 1644, § 72, effective May 31. **L. 98:** (1)(b) amended, p. 827, § 47, effective August 5. **L. 2012:** (5) amended, (SB 12-175), ch. 208, p. 882, § 151, effective July 1.

32-12-109. Board of directors. (1) The governing body of the rail district shall be a board of directors in which all legislative power of the rail district is vested. The board shall consist of seven members, five of whom shall reside in and be elected by the eligible electors of the respective zones and two of whom shall be elected at large. Of those members first elected, the terms for representatives from odd-numbered zones and the at-large member receiving the greater number of votes shall continue until their successors are elected at the second regular special district election thereafter and are qualified, and the terms for those elected from even-numbered zones and the other at-large member shall continue until their successors are elected at the first regular special district election thereafter and are qualified. Thereafter, all terms shall be for four years. Any eligible elector of the rail district who resides in the rail district shall be eligible to hold office. Notwithstanding any provision in the charter of any municipality or county to the contrary, mayors, councilmen, trustees, and county commissioners may additionally hold elective office with the rail district and be compensated as provided in this section.

(2) At least ninety days prior to the first regular special district election after the formation of the rail district, the board may change the boundary of any board of director zone within the rail district. Thereafter, the boundaries may be changed no more frequently than every four years or after announcement of the results of a decennial census. The board shall zone only by resolution passed by a majority of the members elected to the board, and any rezoning shall be such as to provide compact zones of approximately equal population. No rezoning shall extend or shorten the term of office of any member of the board.

(3) The board has power, by appointment, to fill all vacancies on the board, and the person so appointed shall hold office until the next regular special district election and until a successor is elected and qualified. Any person appointed to represent a zone shall reside in the zone in which the vacancy occurred. If the term of the member creating the vacancy extends beyond the next regular special district election, the election shall be for the unexpired term.

(4) The board shall elect a chairman, vice-chairman, secretary, and such other officers as it deems necessary. The chairman and vice-chairman shall be members of the board. The board may appoint or contract for a chief administrator, who shall serve at the pleasure of the board. The board shall prescribe by resolution the duties of said officers pursuant to the powers granted in this article. In addition to other powers provided by resolution, the chairman shall preside over meetings of the board and shall vote as a member of the board.

(5) The board may provide by resolution for the compensation of its members which shall be the same per diem compensation as provided in section 2-2-307, C.R.S., for members of interim legislative committees for each day a member is necessarily engaged in the business of the district, in addition to the reasonable and necessary expenses incurred by each member while so engaged. Except for the initial board, the compensation of a member shall not be increased nor diminished during his term of office.

(6) Except as specifically provided otherwise, a majority of board members shall constitute a quorum, and a majority of the members elected to the board shall be necessary for any action taken by the board; except that a majority of a quorum may adjourn from day to day.

(7) In addition to any acts of the board specifically required to be accomplished by resolution, any action adopting or revising a budget or establishing the administrative organization and structure shall be passed by resolution. At least six days shall elapse between introduction and final passage of a resolution. Such resolution shall not take effect and be enforced until the expiration of thirty days after final passage except resolutions calling for special elections or those necessary to the immediate preservation of the public health or safety, which shall contain the reasons making the same necessary in a separate section. All other actions of the board may be accomplished by motion.

(8) Any board member may be recalled from office pursuant to the provisions and subject to the conditions of sections 32-1-906 and 32-1-907.

(9) It is the duty of the board to comply with the provisions of parts 1, 5, and 6 of article 1 of title 29, C.R.S. It is the further duty of the board to publish the results of its annual audit statement or report which shall be certified by the person making the audit, or by the board if unaudited, in one issue of a newspaper of general circulation in the rail district. Such publication shall be no later than thirty days following completion of the audit statement or report.

(10) The fiscal and budget year for all rail districts organized or operating under the provisions of this article shall be from January 1 through December 31 of each year.

(11) All special and regular meetings of the board shall be held at locations which are within the boundaries of the rail district or which are within the boundaries of any county in which the rail district is located, in whole or in part, or in any county so long as the meeting location does not exceed twenty miles from the district boundaries. The provisions of this subsection (11) may be waived only if the following criteria are met:

(a) The proposed change of location of a meeting of the board appears on the agenda of a regular or special meeting of the board; and

(b) A resolution is adopted by the board stating the reason for which a meeting of the board is to be held in a location other than under the provisions of this subsection (11) and further stating the date, time, and place of such meeting.

Source: L. 82: Entire article added, p. 508, § 1, effective April 23. **L. 90:** (11) added, p. 1500, § 10, effective July 1. **L. 92:** (1) to (3) amended, p. 921, § 187, effective January 1, 1993.

32-12-110. General powers. (1) The rail district shall be a body corporate and a political subdivision of the state, and the board has the following general powers:

(a) To have and use a corporate seal;

(b) To sue and be sued and be a party to suits, actions, and proceedings. The provisions of the "Colorado Governmental Immunity Act", article 10 of title 24, C.R.S., shall be applicable to any rail district, or employee thereof, formed under this article.

(c) To enter into contracts and agreements affecting the affairs of the rail district and to accept all funds resulting therefrom pursuant to the provisions and limitations of part 2 of article 1 of title 29, C.R.S.;

(d) To contract with private persons, associations, or corporations for the provision of any service related to the operations of the rail district within or without its boundaries and to accept all funds and obligations resulting therefrom;

(e) To borrow money and incur indebtedness and other obligations and to evidence the same by certificates, notes, or debentures and to issue general obligation or revenue bonds, or any combinations thereof, in accordance with the provisions of this article;

(f) To refund any bonded or other indebtedness or special obligations of the rail district without an election in accordance with the provisions and limitations of this article;

(g) To acquire, dispose of, and encumber real and personal property, including, without limitation, rights and interests in property, including leases and easements, necessary to accomplish the purposes of the rail district;

(h) To acquire, construct, equip, operate, rehabilitate, and maintain those rail facilities as authorized in section 32-12-108 to accomplish the purposes of the rail district;

(i) To operate such acquired facility itself or subcontract such operation to a private or common carrier;

(j) To have the management, control, and supervision of all the business affairs and properties of the rail district;

(k) To hire and retain agents, employees, engineers, attorneys, and financial or other consultants and to provide for the powers, duties, and qualifications thereof;

(l) To construct, establish, and maintain works and facilities in, across, or along any easement dedicated to a public use, or any public street, road, or highway, subject to the provisions of section 32-12-111, and in, upon, or over any vacant public lands, which public lands are now, or may become, the property of the state of Colorado, and to construct, establish, and maintain works and facilities in, across, or along any stream of water or watercourse; however, in the exercise of such powers, the rail district shall not displace or force the relocation of public utility facilities except by agreement between the district and the public utility;

(m) To provide for the revenues needed to finance the rail district, subject to the limitations of this article; to fix and from time to time increase or decrease and to collect rates, fees, tolls, and other service charges pertaining to the services of the rail district, including without limitation minimum charges and charges for availability of the facilities or services relating thereto; to pledge such revenues for the payment of securities; and to enforce the collection of such revenues by civil action or by any other means authorized by law;

(n) To adopt and amend bylaws setting forth rules of procedure for the conduct of its affairs and providing for the administrative organization and structure of the rail district, consistent with this article;

(o) To adopt by resolution regulations not inconsistent with state law which are necessary, appropriate, or incidental to any authorized service provided by the rail district. Said regulations shall be compiled and kept by the secretary so as to be readily available for public inspection.

(p) To appoint citizen advisory committees to assist and advise with respect to services and powers of the rail district;

(q) To accept on behalf of the rail district gifts, grants, and conveyances upon such terms and conditions as the board may approve;

(r) To have and exercise all rights and powers necessary to or implied from the powers granted in this article.

Source: L. 82: Entire article added, p. 510, § 1, effective April 23.

32-12-111. Powers to be exercised without franchise - condition. (1) The board has authority, without the necessity of a franchise, to cut into or excavate and use any easements dedicated to a public use or any public street, road, or highway pursuant to the construction, maintenance, or provision of services provided by the rail district.

(2) The legislative body or other authority having jurisdiction over any such public street, road, or highway has authority to make such reasonable rules as it deems necessary in regard to any such work or use, and may require the payment of such reasonable fees by the rail district as may be fixed by said body to insure proper restoration of such streets, roads, or highways.

(3) When any such fee is paid by the rail district, it shall be the responsibility of the legislative body or other authority to promptly restore such street, road, or highway. If such fee is not fixed or paid, the rail district shall promptly restore any such street, road, or highway to its former condition, as nearly as possible.

(4) In the course of such construction, the rail district shall not impair the normal use of any street, road, or highway more than is reasonably necessary.

Source: L. 82: Entire article added, p. 511, § 1, effective April 23.

32-12-112. Limitations. (1) No rail district shall purchase any real property, or any lesser interest therein, without first submitting the proposition to a vote by the eligible electors of the rail district and obtaining the approval of a majority of the electors voting on the issue. Any such election may be held separately or may be held jointly or concurrently with any other election authorized by this article.

(2) A rail district shall have no power of eminent domain.

(3) A rail district shall be subject to the provisions of part 3 of article 1 of title 29, C.R.S., to the extent such provisions are applicable.

Source: L. 82: Entire article added, p. 512, § 1, effective April 23. **L. 92:** (3) amended, p. 2180, § 47, effective June 2; (1) amended, p. 921, § 188, effective January 1, 1993.

32-12-113. Revenues of rail district - collection. In any rail district, all rates, fees, tolls, and charges shall constitute a perpetual lien on and against the property served until paid, and any such lien may be enforced by civil action or by any other means authorized by law.

Source: L. 82: Entire article added, p. 512, § 1, effective April 23.

32-12-114. Levy and collection of taxes. (1) To provide for the levy and collection of taxes, the board shall determine, in each year, the amount of money necessary to be raised by taxation, taking into consideration other sources of revenue of the rail district, and shall fix a rate of levy not to exceed the maximum mill levy authorized pursuant to section 32-12-108 which, when levied upon all taxable property within the rail district, and together with other revenues, will raise the amount required by the rail district annually to supply funds for paying expenses of organization and the costs of constructing, operating, and maintaining the rail district, and

promptly to pay in full, when due, all interest on, the principal of, and any redemption premium of bonds and other obligations of the rail district payable from taxes. The authority of the board under this section is subject to mill levy limitations provided in this article; but if the board determines that the maximum mill levy authorized under this article is insufficient to support any service of the district, the board may submit the question of an increased mill levy authorization to the eligible electors of the rail district at the next regular special district election or special election of the district, and each election shall be held at least one hundred twenty days after any preceding election of the rail district, and no more than two elections concerning an increased rail levy authorization shall be held in any year.

(2) The board may apply a portion of such taxes and other revenues for the purpose of creating a reserve fund in such amount as the board may determine, which may be used to meet the obligations of the rail district for maintenance, operating expenses, depreciation, and improvement of the facilities of the rail district.

(3) The board, in accordance with the schedule prescribed by section 39-5-128, C.R.S., shall certify to the board of county commissioners of each county within the rail district, or having a portion of its territory within the rail district, the rate so fixed, in order that, at the time and in the manner required by law for levying taxes, such board of county commissioners shall levy such tax upon all taxable property which is located within the rail district.

(4) All taxes levied under this article, together with interest thereon and penalties for default in payment thereof, and all costs of collecting same, shall constitute, until paid, a perpetual lien on and against the property, and such lien shall be on a parity with the tax lien of other general ad valorem taxes.

(5) Property taxes provided for in this article shall be levied, assessed, collected, remitted, and accounted for in the manner provided for other general ad valorem taxes.

(6) The board has the power to deposit or to invest surplus funds in the manner and form it determines to be most advantageous; but said deposits or investments must meet the requirements and limitations of part 6 of article 75 of title 24, C.R.S. For the purpose of making such deposits, the board may appoint, by written resolution, one or more persons to act as custodians of the moneys of the district. Such persons shall give surety bonds in such amounts and form and for such purposes as the board requires.

(7) The board has the power to accept on behalf of the rail district all funds tendered it from the state, the federal government, or any political subdivision or agency of either, which funds are specifically intended as incentive to, or assistance in, the formation, operation, or extension of rail district activities.

(8) No rail district shall levy a tax for the entire district for the calendar year during which it shall have been formed unless, prior to the date specified by section 39-5-128, C.R.S., for certification of the rate of levy for such year, the assessor and board of county commissioners of each county within the rail district have received from the board a map and a legal description of such rail district, and a copy of a budget of such rail district as provided by section 29-1-113, C.R.S., and increased property tax levies shall be subject to the provisions of section 29-1-301, C.R.S.

Source: L. 82: Entire article added, p. 512, § 1, effective April 23. **L. 90:** (8) amended, p. 1436, § 6, effective January 1, 1991. **L. 92:** (1) amended, p. 922, § 189, effective January 1, 1993.

32-12-115. Power to issue revenue bonds - terms. (1) To carry out the purposes of this article, the board is authorized to issue negotiable coupon bonds payable solely from the revenues derived, or to be derived, from the facility or combined facilities of the rail district. The terms, conditions, and details of said bonds, and the procedures related thereto shall be substantially the same as those provided in part 4 of article 35 of title 31, C.R.S., relating to water and sewer revenue bonds; except that the purposes for which the same may be issued shall not be so limited. Revenue bonds and interest coupons, if any, appurtenant thereto shall never constitute a debt or indebtedness of the rail district or any county, municipality, or other political subdivision of this state within the meaning of any provision or limitation of the state constitution or statutes or any home rule charter and shall not constitute nor give rise to a pecuniary liability of any such rail district, county, municipality, or political subdivision of this state or a charge against its general credit or taxing powers. Each bond issued under this section shall recite in substance that said bond, including the interest thereon, is payable solely from the revenues pledged for the payment thereof and that said bond does not constitute a debt of the rail district within the meaning of any constitutional or statutory limitations or provisions. Such revenue bonds may be issued to mature at such time, not exceeding the estimated life of the facility to be acquired with the bond proceeds, as determined by the board, but in no event beyond thirty years from their respective dates.

(2) Negotiable coupon bonds payable from revenues derived, or to be derived, from a facility or combined facilities of the rail district as authorized by subsection (1) of this section may further be secured by and be payable from tax revenues of the rail district to the same extent as general obligation bonds authorized in section 32-12-116. The form, terms, and limitations on the bonds shall be as specified in section 32-12-116. The question of the issuance of the bonds shall be submitted to and approved by the eligible electors of the rail district voting thereon, as provided by section 32-12-117.

Source: L. 82: Entire article added, p. 513, § 1, effective April 23. **L. 92:** (2) amended, p. 922, § 190, effective January 1, 1993.

32-12-116. Power to incur indebtedness - interest - maturity - denominations. (1) To carry out the purposes of this article, the board is authorized to issue general obligation negotiable coupon bonds of the rail district. Said bonds shall bear interest at a rate such that the net effective interest rate of the issue of said bonds does not exceed that maximum net effective interest rate authorized and shall be due and payable serially, either annually or semiannually, commencing not later than three years and extending not more than thirty years from the date of issuance. The form and terms of said bonds, including provisions for their payment and redemption, shall be determined by the board. If the board so determines, said bonds may be redeemable prior to maturity with or without payment of a premium, not exceeding three percent of the principal thereof. In any event, said bonds shall be subject to call not later than fifteen years from date. Said bonds shall be executed in the name and on behalf of the rail district and signed by the chairman with the seal of the rail district affixed thereto and attested by the secretary. Said bonds shall be issued in such denominations as the board determines, and the bonds and coupons, if any, thereto attached may be payable to bearer or may be in fully registered form. Interest coupons shall bear the original or facsimile signature of the chairman.

(2) Bonds voted for different purposes by separate propositions submitted at the same or different bond elections may, at the discretion of the board, be combined and issued as a single issue of bonds so long as the security therefor is the same.

Source: L. 82: Entire article added, p. 514, § 1, effective April 23.

32-12-117. Debt question submitted to eligible electors - resolution. (1) Whenever the board determines by resolution that the interest of the rail district and the public interest or necessity demand the acquisition, construction, installation, or completion of any work or other improvements or facilities, or the making of any contract to carry out the objects or purposes of the rail district which requires the creation of any indebtedness of the rail district, the board shall order the submission of the proposition of incurring the indebtedness to the eligible electors of the rail district at an election held for that purpose. Any such election may be held separately or may be held jointly or concurrently with any other election authorized by this article.

(2) The declaration of public interest or necessity required and the provision for the holding of the election may be included within the same resolution, which resolution, in addition to the declaration of public interest or necessity, shall recite the objects and purposes for which the indebtedness is proposed to be incurred, the estimated cost of the works, improvements, or facilities, as the case may be, the principal amount of the indebtedness to be incurred therefor, and the maximum net effective interest rate to be paid on the indebtedness. The resolution shall also fix the date of the election and shall name a designated election official who shall be responsible for conducting the election pursuant to articles 1 to 13 of title 1, C.R.S.

Source: L. 82: Entire article added, p. 514, § 1, effective April 23. **L. 92:** Entire section amended, p. 922, § 191, effective January 1, 1993.

32-12-118. Effect - subsequent elections. If any proposition authorized by section 32-12-117 is approved by a majority of electors voting thereon, the rail district shall thereupon be authorized to incur such indebtedness or obligations, enter into such contracts, or issue and sell such bonds of the rail district, as the case may be, all for the purposes and objects provided for in the proposition submitted under said section, in the amount so provided, and at a price and at a rate of interest such that the maximum net effective interest rate recited in the resolution is not exceeded. Submission of the proposition of incurring such obligation or bonded or other indebtedness at such an election shall not prevent or prohibit submission of the same or other propositions at subsequent elections called for such purpose, but no new election creating an indebtedness may be held within one hundred twenty days after the date of the election at which a proposal was defeated. No more than two such elections may be held within any twelve-month period.

Source: L. 82: Entire article added, p. 515, § 1, effective April 23.

32-12-119. Correction of faulty notices. In any case where a notice is provided for in this article, if the court or the board reviewing the proceedings finds for any reason that due notice was not given, said body shall not thereby lose jurisdiction, and the proceedings in question shall not thereby be void or be abated, but said body shall order due notice to be given,

shall continue the proceeding until such time as notice is properly given, and thereupon shall proceed as though notice had been properly given in the first instance.

Source: L. 82: Entire article added, p. 515, § 1, effective April 23.

32-12-120. Refunding bonds. Any bonds issued by any rail district may be refunded without an election as provided in article 56 of title 11, C.R.S.

Source: L. 82: Entire article added, p. 515, § 1, effective April 23.

32-12-121. Anticipation warrants. The board may defray any costs of the rail district by the issuance of notes or warrants to evidence the amount due therefor, in anticipation of taxes or revenues or both. Interest on such notes or warrants shall be governed by the provisions of section 5-12-104, C.R.S. Notes and warrants may mature at such time not exceeding one year from their date of issuance as the board may determine. If such notes or warrants are not paid during the fiscal year in which they are issued, the board shall, at the end of its fiscal year, budget the amount necessary to pay in full the amount of notes and warrants outstanding and due during the next fiscal year.

Source: L. 82: Entire article added, p. 515, § 1, effective April 23.

32-12-122. Inclusion of additional territory in existing rail district - procedures. (1) Proceedings for inclusion of a portion of a county or portions of two or more counties or an entire additional county, counties, or a municipality, or portion thereof, in a rail district shall be in accordance with the provisions of part 4 of article 1 of this title, subject to the provisions of this article. Inclusion may be initiated by petitions signed by eligible electors in an amount equal to at least five percent of the total number of electors who cast votes in the area seeking to be included for all candidates for the office of secretary of state at the last preceding general election.

(2) The board shall initiate negotiations for the purchase and operation of the additional rail facilities in the newly included area.

(3) If negotiations fail to acquire any additional authorized railroad facilities, upon petition by the board, the court shall order the newly expanded portion of the rail district excluded.

Source: L. 82: Entire article added, p. 515, § 1, effective April 23. **L. 92:** (1) amended, p. 923, § 192, effective January 1, 1993.

32-12-123. Grant of operating privileges and use of railroad and facilities. Except as may be limited by the terms and conditions of any grant, loan, or agreement authorized by this article, a rail district may by contract, lease, or otherwise, for such consideration and term as it may determine, grant to any person the privilege of operating or using any railroad or railroad facilities or property owned or controlled by the rail district. No person may be granted any authority to operate a railroad other than as a common carrier or switching service.

Source: L. 82: Entire article added, p. 516, § 1, effective April 23.

32-12-124. Arrangements for operating and providing railroad service. (1) The rail district may enter into contracts, leases, and other arrangements for such term as the rail district may determine with any persons:

(a) Granting the privilege of using or improving the railroad or any portion or facility or space for commercial purposes;

(b) Conferring the privilege of supplying goods, commodities, services, or facilities along the railroad;

(c) Making available services to be furnished by the rail district or its agents.

(2) In each case the district may establish the terms and conditions and fix the charges, rentals, or fees for the privileges or services, which shall be reasonable and uniform for the same class of privilege or service.

Source: L. 82: Entire article added, p. 516, § 1, effective April 23.

32-12-125. Public purpose and necessity for acquisitions. Any land and other property and privileges acquired and used by or on behalf of any rail district are hereby declared to be acquired and used for public and governmental purposes and as a matter of public necessity; however, public utilities may acquire rights-of-way across or along such land in accordance with their powers of eminent domain.

Source: L. 82: Entire article added, p. 516, § 1, effective April 23.

32-12-126. Disposition of property of rail district. Except as may be limited by the terms and conditions of any grant, loan, or agreement made or received by the rail district, a rail district may, by sale, lease, or otherwise, dispose of any of its property or portion thereof or interest therein.

Source: L. 82: Entire article added, p. 516, § 1, effective April 23.

32-12-127. Dissolution. Except as otherwise provided in this article, a rail district may be dissolved in a manner pursuant, as nearly as practicable, to the provisions of part 7 of article 1 of this title. Dissolution may be initiated by petitions signed by eligible electors in an amount equal to at least five percent of the total number of electors who cast votes within the rail district for all candidates for the office of secretary of state at the last preceding general election. No dissolution shall be effected unless approved by a majority of the eligible electors of the rail district voting thereon and unless satisfactory arrangements have been made for payment of any obligations or debts and for the continuation of any services essential for the health, welfare, and safety of residents of the rail district.

Source: L. 82: Entire article added, p. 516, § 1, effective April 23. **L. 92:** Entire section amended, p. 923, § 193, effective January 1, 1993.

32-12-128. Early hearings. All court actions involving the validity of any proceeding under this article which is a matter of immediate public interest and concern shall be advanced and heard at the earliest practical moment.

Source: L. 82: Entire article added, p. 517, § 1, effective April 23.

32-12-129. Elections. (1) Elections shall be conducted pursuant to articles 1 to 13 of title 1, C.R.S.

(2) All necessary expenses of any rail district regular special district election or special election subsequent to the organization of the rail district and other proceedings conducted pursuant to the election shall be paid by the rail district.

Source: L. 82: Entire article added, p. 517, § 1, effective April 23. **L. 92:** Entire section amended, p. 923, § 194, effective January 1, 1993.

ARTICLE 13

Scientific and Cultural Facilities District

Editor's note: For a discussion of the difference between service authorities authorized by § 17 of article XIV of the Colorado constitution and statutorily created special districts, see Anema v. Transit Const. Authority, 788 P.2d 1261 (Colo. 1990).

Cross references: For the constitutional provision that establishes limitations on spending, the imposition of taxes, and the incurring of debt, see section 20 of article X of the Colorado constitution.

32-13-101. Short title. This article shall be known as the "Scientific and Cultural Facilities District Act".

Source: L. 87: Entire article added, p. 1254, § 1, effective July 1.

32-13-102. Legislative declaration. The general assembly hereby finds, determines, and declares that the scientific and cultural facilities located in the state of Colorado are a rich source of knowledge and inspiration to all of the residents of the state, that the preservation and development of such facilities are vital to the cultural and intellectual life of the state, that scientific and cultural facilities are an important factor to the economic well-being of the state, that economic development and tourism are needed to maintain and to promote such facilities, and that creation of scientific and cultural facilities districts will promote the health, safety, and welfare of the residents of the state.

Source: L. 87: Entire article added, p. 1254, § 1, effective July 1.

32-13-103. Definitions. As used in this article, unless the context otherwise requires:

(1) "Annual operating expenses" means expenditures for all purposes except capital construction, endowment, and payment of debt principal or interest.

(1.5) "Annual operating income" means operating income from all mission-based sources, except capital construction fund income, designated funds raised for the purchase of specified capital needs, unrelated business income, funds raised for the purpose of debt reduction, income for endowment corpus, any distribution of moneys by the board, and any restriction established through board policy.

(2) "Board" means the board of directors of a scientific and cultural facilities district created pursuant to this article.

(3) "County cultural council" means a council comprised of members appointed by the county commissioners of the county, the city council of the city and county of Denver, or the city council of the city and county of Broomfield who reside within the boundaries of the district and proportionately represent the population of the incorporated and unincorporated portions of the county.

(4) "Cultural facility" means a nonprofit institutional organization under section 501 (c)(3) of the federal "Internal Revenue Code of 1986", as amended, or any agency of local government with the primary purpose of enlightening and entertaining the public through the production, presentation, exhibition, advancement, or preservation of visual arts, performing arts, or cultural history, as such terms are defined by the board. "Cultural facility" does not include any agency of the state, any educational institution, any radio or television broadcasting network or station, any cable communications system, or any newspaper or magazine.

(5) "District" means a scientific and cultural facilities district created pursuant to this article.

(6) "Paid attendance" means the total paid attendance at all mission-based programs as verified by annual audit reports.

(6.5) "Reasonable costs related to a coordinated election" means the amount that the district owes a county or a city and county under the terms of an agreement entered into pursuant to the provisions of section 1-7-116, C.R.S., for the district's share of the costs of a coordinated election; except that such amount shall not exceed the total county or city and county election costs multiplied by one-half of the sum of the weighted population average and the weighted ballot average. Weighted population average equals the active registered voters who reside in both the district and the county or city and county divided by the sum of all active registered voters for each political subdivision, as such term is defined in section 1-7-116 (1), C.R.S., for which the county or city and county conducts the coordinated election. Weighted ballot average equals the number of district referred measures, as such term is defined in section 1-1-104 (34.5), C.R.S., on the ballot in question divided by the total number of referred measures, initiatives, and candidate elections in the coordinated election.

(7) (a) With respect to the Denver metropolitan scientific and cultural facilities district, "scientific facility" means a nonprofit institutional organization under section 501 (c)(3) of the federal "Internal Revenue Code of 1986", as amended, or an agency of local government with the primary purpose of enlightening and entertaining the public through the production, presentation, exhibition, advancement, or preservation of natural history or natural sciences including earth, life, or physical sciences, as such terms are defined by the board. "Scientific facility" does not include any agency of the state, any educational institution, any radio or television broadcasting network or station, any cable communications system, any newspaper or

magazine, or any organization that is engaged solely in the acquisition or physical restoration of historic buildings, structures, or sites.

(b) (I) With respect to scientific and cultural facilities districts other than the Denver metropolitan scientific and cultural facilities district, "scientific facility" means a nonprofit institutional organization under section 501 (c)(3) of the federal "Internal Revenue Code of 1986", as amended, or an agency of local government with the primary purpose of enlightening and entertaining the public through the production, presentation, exhibition, advancement, or preservation of natural history or natural sciences including earth, life, or physical sciences, as such terms are defined by the board. "Scientific facility" does not include any agency of the state, any educational institution, any radio or television broadcasting network or station, any cable communications system, or any newspaper or magazine.

(II) (Deleted by amendment, L. 94, p. 480, § 1, effective March 31, 1994.)

(c) For purposes of this subsection (7), "cultural history" means the history that concentrates upon the social, intellectual, and artistic aspects or forces in the life of a people, region, state, or nation, for which an understanding and appreciation may be gained through buildings, structures, sites, architecture, objects, and activities significant in said history.

Source: L. 87: Entire article added, p. 1254, § 1, effective July 1. **L. 92:** (7) amended, p. 990, § 1, effective April 24. **L. 94:** (7)(a) and (7)(b)(II) amended and (7)(c) added, p. 480, § 1, effective March 31. **L. 2001:** (3) amended, p. 267, § 9, effective November 15. **L. 2004:** (1) and (3) amended and (1.5) added, p. 284, § 1, effective July 1, 2006. **L. 2006:** (6.5) added, p. 1779, § 2, effective June 6. **L. 2016:** (1.5), (4), (6), (7)(a), and (7)(b)(I) amended, ch. 135, p. 389, § 1, effective January 1, 2017.

32-13-104. Creation of district - area of district. There is hereby created a district to be known and designated as the "Denver Metropolitan Scientific and Cultural Facilities District". The area comprising the district shall consist of all of the area within the boundaries of the counties of Adams, Arapahoe, Boulder, and Jefferson, all of the area within the boundaries of the city and county of Broomfield and the city and county of Denver, and all of the area within the county of Douglas; except that the area within the boundaries of the town of Castle Rock and the area within the boundaries of the town of Larkspur in the county of Douglas shall not be included in the district.

Source: L. 87: Entire article added, p. 1255, § 1, effective July 1. **L. 94:** Entire section amended, p. 1339, § 4, effective May 25. **L. 96:** (1)(b) amended, p. 308, § 4, effective April 15. **L. 99:** (1)(b) amended, p. 420, § 4, effective April 30. **L. 2004:** Entire section amended, p. 285, § 2, effective July 1, 2006.

32-13-104.3. Additional district area - petition - required filings. (1) For any area that is contiguous to any boundary of the district, the area may be included in the district if the following requirements are satisfied:

(a) A petition signed by one hundred percent of the owners of the land comprising the area proposed to be included, including the owners of any land constituting a planned unit development or subdivision, is presented to the board. The petition shall contain a legal description of the land comprising the area proposed to be included, state that assent to the

inclusion is given by the fee owner thereof, and be acknowledged by the fee owner in the same manner as required for the conveyance of land.

(b) The board resolves to accept the area specified in the petition into the district.

(2) Prior to including any additional area in the district pursuant to this section, the district shall file a notice and map containing a legal description of the area with the county clerk and recorder of any county in which the area is located, the division of local government in the department of local affairs, and the department of revenue. Upon receiving a notice and map pursuant to this subsection (2), the department of revenue shall communicate with any taxing jurisdictions affected by the inclusion of the additional area in the district in order to facilitate the administration and collection of taxes within the additional area and to identify all retailers affected by the inclusion of the additional area. The department of revenue shall make copies of any such notices and maps available to all taxing jurisdictions in the state, including special districts that impose a sales tax.

(3) A map of the land comprising the area proposed to be included in the district shall be available for review by the landowners of such area when the landowners sign a petition to be included in the district pursuant to paragraph (a) of subsection (1) of this section.

Source: L. 2004: Entire section added, p. 924, § 1, effective August 4.

32-13-104.5. Additional district area - Douglas county. (1) In addition to the areas described in section 32-13-104, all or any portion of the area within the boundaries of Douglas county that is not included in the Denver metropolitan scientific and cultural facilities district but is contiguous with the district may be included in the district if the following requirements are met:

(a) A proposal to include the area proposed to be included in the district is initiated by any of the following methods:

(I) A petition requesting an election for the purpose of including the area proposed to be included in the district is signed by at least five percent of the eligible electors of the unincorporated portion of such area and of each portion of such area that is within a municipality; or

(II) The governing bodies of all municipalities that include portions of the area proposed to be included in the district and the board of county commissioners of Douglas county adopt resolutions requesting an election for the purpose of including the area in the district. The board of county commissioners of Douglas county shall adopt such a resolution only after all municipalities that include portions of the areas proposed to be included have adopted such resolutions.

(b) An election is held and conducted in accordance with articles 1 to 13 of title 1, C.R.S., and the following requirements:

(I) The election is held at a general or odd-year election not later than 2025, as determined by intergovernmental agreement of the governing bodies of all municipalities that include portions of the area proposed to be included in the district and the board of county commissioners of Douglas county;

(II) The ballot provides for the eligible electors in the area proposed to be included in the district to vote for or against the inclusion of the proposed area in the district;

(III) The ballot is in a single form determined by intergovernmental agreement of the governing bodies of all municipalities that include portions of the area proposed to be included in the district and the board of county commissioners of Douglas county;

(IV) The ballot contains a description of the area proposed to be included within the district;

(V) The ballot contains the current rates of sales tax levied by the district; and

(VI) The ballot contains the following question: "Shall the area described in the ballot be included in the Denver metropolitan cultural and scientific facilities district?"

(2) The governing bodies of all municipalities that include portions of the area proposed to be included in the district and the board of county commissioners of Douglas county shall, pursuant to an intergovernmental agreement, adopt resolutions calling the election authorized by this section. The resolutions shall state:

(a) The object and purpose of the election;

(b) A description of the area proposed to be included in the district;

(c) The date of the election; and

(d) The name of the designated election official responsible for conducting the election pursuant to articles 1 to 13 of title 1, C.R.S.

Source: L. 98: Entire section added, p. 357, § 1, effective April 20. **L. 99:** (1)(b)(I) amended, p. 452, § 9, effective August 4. **L. 2004:** IP(1), IP(1)(a), (1)(a)(I), and (1)(b)(I) amended, p. 285, § 3, effective July 1, 2006. **L. 2016:** (1)(b)(I) amended, (SB 16-016), ch. 135, p. 390, § 2, effective April 29.

32-13-104.7. Annexation of enclaves. (1) When any unincorporated territory has been entirely contained within the boundaries of the Denver metropolitan scientific and cultural facilities district, the board may, by resolution, annex the territory to the district. The board shall give notice of a proposed annexation resolution by publishing a copy of the resolution once a week for four successive weeks in a newspaper of general circulation in the territory proposed to be annexed. The board shall also send a copy of the proposed annexation resolution by registered mail to the board of county commissioners and county attorney of the county containing the territory to be annexed, to any special district or school district having territory within the territory to be annexed, and to the executive director of the department of revenue. The first publication of the notice and the mailing of the proposed annexation resolution shall occur at least thirty days prior to the final adoption of the resolution, and the board shall allow interested persons to testify for or against the resolution at a public hearing held prior to the final adoption of the resolution.

(2) No territory may be annexed pursuant to subsection (1) of this section if any part of the district boundary or area surrounding the territory consists of public rights-of-way, including streets and alleys, that are not immediately adjacent to the district on the side of the right-of-way opposite to the territory.

Source: L. 2001: Entire section added, p. 822, § 2, effective August 8.

32-13-105. Authorizing elections - repeal.

(1) to (4) Repealed.

(5) (a) For purposes of complying with the provisions of section 20 (4) of article X of the state constitution and upon proper submittal of a valid initiative petition to or upon the adoption of a resolution by the board of the district created in section 32-13-104, the district may submit to the registered electors within the geographical boundaries of the district, at a general election or an election held on the first Tuesday in November of an odd-numbered year, the question of whether the district shall be authorized to continue the levy and collection of the aggregate one-tenth of one percent sales and use tax as specified in paragraph (a) of subsection (4) of this section, as modified pursuant to subparagraphs (I), (II), and (III) of this paragraph (a), for a period of twelve years from the date upon which the authority of the district to levy and collect the sales and use taxes is scheduled to expire, as follows:

(I) A uniform sales and use tax throughout said geographical area at a rate of six hundred fifty-five ten-thousandths of one percent for total annual revenues collected by the district up to and including thirty-eight million dollars and at a rate of sixty-four one-thousandths of one percent after total annual revenues collected by the district exceed thirty-eight million dollars, upon every transaction or other incident with respect to which a sales and use tax is levied by the state, pursuant to the provisions of article 26 of title 39, C.R.S.; except that such sales and use tax shall not be levied on the sale or use of cigarettes and shall be levied on purchases of machinery or machine tools that are otherwise exempt pursuant to section 39-26-709 (1), C.R.S., to the extent such purchases are subject to a sales and use tax levied by the regional transportation district pursuant to section 29-2-105 (1)(d), C.R.S., to be distributed to the Denver museum of nature and science, the Denver zoological gardens, the Denver art museum, the Denver botanical gardens, and the Denver center for the performing arts pursuant to the provisions of section 32-13-107 (3)(a);

(II) A uniform sales and use tax throughout said geographical area at a rate of twenty-one one-thousandths of one percent for total annual revenues collected by the district up to and including thirty-eight million dollars and at a rate of twenty-two one-thousandths of one percent after total annual revenues collected by the district exceed thirty-eight million dollars, upon every transaction or other incident with respect to which a sales and use tax is levied by the state, pursuant to the provisions of article 26 of title 39, C.R.S.; except that such sales and use tax shall not be levied on the sale or use of cigarettes and shall be levied on purchases of machinery or machine tools that are otherwise exempt pursuant to section 39-26-709 (1), C.R.S., to the extent such purchases are subject to a sales and use tax levied by the regional transportation district pursuant to section 29-2-105 (1)(d), C.R.S., to be distributed to scientific and cultural facilities pursuant to the provisions of section 32-13-107 (3)(b);

(III) A uniform sales and use tax throughout said geographical area at a rate of one hundred thirty-five ten-thousandths of one percent for total annual revenues collected by the district up to and including thirty-eight million dollars and at a rate of fourteen one-thousandths of one percent after total annual revenues collected by the district exceed thirty-eight million dollars, upon every transaction or other incident with respect to which a sales and use tax is levied by the state, pursuant to the provisions of article 26 of title 39, C.R.S.; except that such sales and use tax shall not be levied on the sale or use of cigarettes and shall be levied on purchases of machinery or machine tools that are otherwise exempt pursuant to section 39-26-709 (1), C.R.S., to the extent such purchases are subject to a sales and use tax levied by the regional transportation district pursuant to section 29-2-105 (1)(d), C.R.S., to be distributed to scientific and cultural facilities pursuant to the provisions of section 32-13-107 (3)(c).

(b) Such resolution or the summary for such petition shall include, but shall not be limited to, the following statements:

(I) That the district would continue to levy and collect the aggregate one-tenth of one percent sales and use tax specified in paragraph (a) of subsection (4) of this section, as modified pursuant to subparagraphs (I), (II), and (III) of paragraph (a) of this subsection (5), for a period of twelve years from the date upon which the authority of the district to levy and collect the sales and use taxes is scheduled to expire; and

(II) The month, day, and year on which the authority of the district to levy and collect the sales and use taxes shall expire.

(c) The district may submit the question set forth in paragraph (a) of this subsection (5) to the registered electors of the district:

(I) After being presented with a petition requesting the submittal of the question which is signed by registered electors within the geographical boundaries of the district in an amount equal to at least five percent of the total number of votes cast within the geographical boundaries of the district for all candidates for the office of secretary of state at the previous general election and after verification of the signatures on the petition by the secretary of state in accordance with subsection (7) of this section; or

(II) After the adoption of a resolution by the board of the district.

(d) (I) Except as otherwise provided in subparagraph (III) of this paragraph (d), at the election, the question appearing on the ballot shall be as follows:

"SHALL THERE BE AN EXTENSION UNTIL JUNE 30, 2018, OF THE AGGREGATE 0.1 PERCENT SALES AND USE TAXES CURRENTLY LEVIED AND COLLECTED BY THE DENVER METROPOLITAN SCIENTIFIC AND CULTURAL FACILITIES DISTRICT THAT ARE SCHEDULED TO EXPIRE ON JUNE 30, 2006, FOR ASSISTING SCIENTIFIC AND CULTURAL FACILITIES WITHIN THE DISTRICT WHILE AUTHORIZING THE DISTRICT TO CONTINUE TO COLLECT, RETAIN, AND SPEND ALL REVENUE GENERATED BY SUCH TAX IN EXCESS OF THE LIMITATION PROVIDED IN ARTICLE X OF SECTION 20 OF THE COLORADO CONSTITUTION AND WHILE MODIFYING THE RATES OF THE THREE INDIVIDUAL SALES AND USE TAXES COLLECTED BY THE DISTRICT AS FOLLOWS: INCREASING THE .059 PERCENT SALES AND USE TAX TO .0655 PERCENT; DECREASING THE .028 PERCENT SALES AND USE TAX TO .021 PERCENT; AND INCREASING THE .013 PERCENT SALES AND USE TAX TO .0135 PERCENT; EXCEPT THAT, FOR TOTAL ANNUAL REVENUES COLLECTED BY THE DISTRICT THAT EXCEED THIRTY-EIGHT MILLION DOLLARS, INCREASING THE .059 PERCENT SALES AND USE TAX TO .064 PERCENT; DECREASING THE .028 PERCENT SALES AND USE TAX TO .022 PERCENT; AND INCREASING THE .013 PERCENT SALES AND USE TAX TO .014 PERCENT?"

(II) Except as otherwise provided in subparagraph (III) of this paragraph (d), the ballot title shall be a statement of the language included in the question set forth in subparagraph (I) of this paragraph (d); except that the words "SHALL THERE BE" shall not be included in the statement, and the statement shall end with a period instead of a question mark.

(III) The ballot question specified in subparagraph (I) of this paragraph (d) and the ballot title specified in subparagraph (II) of this paragraph (d) may be modified by the proponents of an initiative petition or the board of the district, as applicable, only to the extent necessary to

conform to the requirements of any final decision of a district or appellate court regarding the legal requirements for ballot questions and titles.

(IV) If at any election a majority of the registered electors within the geographical boundaries of the district voting on the question vote affirmatively on the question authorizing the district to continue the levy and collection of the sales and use taxes specified in paragraph (a) of subsection (4) of this section, as it existed prior to April 29, 2016, as modified pursuant to subparagraphs (I), (II), and (III) of paragraph (a) of this subsection (5), until the date specified in the question, then such sales and use taxes shall continue to be levied, collected, and distributed as provided for in this article until said date.

(e) (Deleted by amendment, L. 2004, p. 286, § 4, effective August 4, 2004.)

(f) All of the electors within the area of the boundaries of the counties of Adams, Arapahoe, Boulder, and Jefferson, all of the electors within the boundaries of the city and county of Broomfield and the city and county of Denver, and all of the electors within Douglas county excluding the electors within the boundaries of the town of Castle Rock or the town of Larkspur, shall be eligible electors for the purpose of the election to be held pursuant to this subsection (5).

(g) This subsection (5) is repealed, effective July 1, 2018.

(6) Repealed. (See Editor's note at the end of this section.)

(7) (a) The provisions of article 40 of title 1, C.R.S., regarding the following subject matter shall apply to petitions that may be submitted pursuant to this section: Form requirements and approval; circulation of petitions; elector information and signatures on petitions; affidavits and requirements of circulators of petitions; and verification of signatures, including but not limited to cure of an insufficiency of signatures and protests regarding sufficiency statements and procedures for hearings or further appeals regarding such protests. The provisions of article 40 of title 1, C.R.S., regarding review and comment, the setting of a ballot title, including but not limited to the duties of the title board, rehearings, and appeals, and the number of signatures required shall not apply to petitions that may be submitted pursuant to this section.

(b) Any petition shall be filed with the secretary of state at least three months before the general election or the election held on the first Tuesday of November in an odd-numbered year, whichever is applicable, at which it may be voted upon. Notice of any question to be submitted to the registered electors within the geographical boundaries of the district after verification of the signatures on any petition filed with the secretary of state and at which election such question shall be submitted shall be filed by the board in the office of the secretary of state prior to fifty-five days before such election.

(c) Notice of any question to be submitted to the registered electors within the geographical boundaries of the district upon the adoption of a resolution by the board of the district pursuant to this section and at which election such question shall be submitted shall be filed in the office of the secretary of state prior to fifty-five days before such election.

(8) The provisions of this section shall not be applicable if the authority of the district to levy and collect any sales and use taxes approved by the registered electors or to continue to levy and collect any sales and use taxes approved by the registered electors has expired pursuant to the provisions of this article.

(9) Repealed.

(10) (a) For purposes of complying with the provisions of section 20 (4) of article X of the state constitution and upon proper submittal of a valid initiative petition to or upon the adoption of a resolution by the board, the district may submit to the registered electors within the

geographical boundaries of the district, at a general election or an election held on the first Tuesday in November of an odd-numbered year, the question of whether the district shall be authorized to continue the levy and collection of the aggregate one-tenth of one percent sales and use tax as specified in paragraph (a) of subsection (5) of this section, as it existed on April 29, 2016, for a period not to exceed twelve years from the date upon which the authority of the district to levy and collect the sales and use taxes is scheduled to expire, as follows:

(I) A uniform sales and use tax throughout said geographical area at a rate of sixty-four one-thousandths of one percent for total annual revenues collected by the district up to and including thirty-eight million dollars and at a rate of fifty-seven one-thousandths of one percent after total annual revenues collected by the district exceed thirty-eight million dollars, upon every transaction or other incident with respect to which a sales and use tax is levied by the state, pursuant to the provisions of article 26 of title 39, C.R.S.; except that such sales and use tax shall not be levied on the sale or use of aviation fuel, to be distributed to the Denver museum of nature and science, the Denver zoological gardens, the Denver art museum, the Denver botanical gardens, and the Denver center for the performing arts pursuant to the provisions of section 32-13-107 (3)(a);

(II) A uniform sales and use tax throughout said geographical area at a rate of twenty-two one-thousandths of one percent for total annual revenues collected by the district up to and including thirty-eight million dollars and at a rate of twenty-six one-thousandths of one percent after total annual revenues collected by the district exceed thirty-eight million dollars, upon every transaction or other incident with respect to which a sales and use tax is levied by the state, pursuant to the provisions of article 26 of title 39, C.R.S.; except that such sales and use tax shall not be levied on the sale or use of aviation fuel, to be distributed to scientific and cultural facilities pursuant to the provisions of section 32-13-107 (3)(b); and

(III) A uniform sales and use tax throughout said geographical area at a rate of fourteen one-thousandths of one percent for total annual revenues collected by the district up to and including thirty-eight million dollars and at a rate of seventeen one-thousandths of one percent after total annual revenues collected by the district exceed thirty-eight million dollars, upon every transaction or other incident with respect to which a sales and use tax is levied by the state, pursuant to the provisions of article 26 of title 39, C.R.S.; except that such sales and use tax shall not be levied on the sale or use of aviation fuel, to be distributed to scientific and cultural facilities pursuant to the provisions of section 32-13-107 (3)(c).

(b) A resolution or the summary for a petition pursuant to paragraph (a) of this subsection (10) shall include, but shall not be limited to, the following statements:

(I) That the district would continue to levy and collect the aggregate one-tenth of one percent sales and use tax as specified in paragraph (a) of subsection (5) of this section for a period not to exceed twelve years from the date upon which the authority of the district to levy and collect the sales and use taxes is scheduled to expire; and

(II) The month, day, and year on which the authority of the district to levy and collect the sales and use taxes shall expire.

(c) The district may submit the question set forth in paragraph (a) of this subsection (10) to the registered electors of the district:

(I) After being presented with a petition requesting the submittal of the question that is signed by registered electors within the geographical boundaries of the district in an amount equal to at least five percent of the total number of votes cast within the geographical boundaries

of the district for all candidates for the office of secretary of state at the previous general election and after verification of the signatures on the petition by the secretary in accordance with subsection (7) of this section; or

(II) After the adoption of a resolution by the board.

(d) (I) Except as otherwise provided in subparagraph (III) of this paragraph (d), at the election, the question appearing on the ballot shall be as follows:

"SHALL THERE BE AN EXTENSION UNTIL JUNE 30, 2030, OF THE AGGREGATE 0.1 PERCENT SALES AND USE TAXES CURRENTLY LEVIED AND COLLECTED BY THE DENVER METROPOLITAN SCIENTIFIC AND CULTURAL FACILITIES DISTRICT THAT ARE SCHEDULED TO EXPIRE ON JUNE 30, 2018, FOR ASSISTING SCIENTIFIC AND CULTURAL FACILITIES WITHIN THE DISTRICT, WHILE AUTHORIZING THE DISTRICT TO CONTINUE TO COLLECT, RETAIN, AND SPEND ALL REVENUE GENERATED BY SUCH TAX IN EXCESS OF THE LIMITATION PROVIDED IN ARTICLE X OF SECTION 20 OF THE COLORADO CONSTITUTION AND WHILE MODIFYING THE RATES OF THE THREE INDIVIDUAL SALES AND USE TAXES COLLECTED BY THE DISTRICT AS FOLLOWS: FOR TOTAL ANNUAL REVENUES COLLECTED BY THE DISTRICT UP TO THIRTY-EIGHT MILLION DOLLARS, DECREASING THE .0655 PERCENT SALES AND USE TAX TO .064 PERCENT; INCREASING THE .021 PERCENT SALES AND USE TAX TO .022 PERCENT; AND INCREASING THE .0135 PERCENT SALES AND USE TAX TO .014 PERCENT; AND, FOR TOTAL ANNUAL REVENUES COLLECTED BY THE DISTRICT THAT EXCEED THIRTY-EIGHT MILLION DOLLARS, DECREASING THE .064 PERCENT SALES AND USE TAX TO .057 PERCENT; INCREASING THE .022 PERCENT SALES AND USE TAX TO .026 PERCENT; AND INCREASING THE .014 PERCENT SALES AND USE TAX TO .017 PERCENT?"

(II) Except as otherwise provided in subparagraph (III) of this paragraph (d), the ballot title shall be a statement of the language included in the question set forth in subparagraph (I) of this paragraph (d); except that the words "SHALL THERE BE" shall not be included in the statement, and the statement shall end with a period instead of a question mark.

(III) The ballot question specified in subparagraph (I) of this paragraph (d) and the ballot title specified in subparagraph (II) of this paragraph (d) may be modified by the proponents of an initiative petition or the board, as applicable, only to the extent necessary to conform to the requirements of any final decision of a district or appellate court regarding the legal requirements for ballot questions and titles.

(IV) If at any election a majority of the registered electors within the geographical boundaries of the district voting on the question vote affirmatively on the question authorizing the district to continue the levy and collection of the sales and use taxes specified in paragraph (a) of subsection (5) of this section, as modified pursuant to subparagraphs (I), (II), and (III) of paragraph (a) of this subsection (10), until June 30, 2030, then such sales and use taxes shall continue to be levied, collected, and distributed as provided for in this article until said date.

(e) Repealed.

(f) All of the electors within the area of the boundaries of the counties of Adams, Arapahoe, Boulder, and Jefferson, all of the electors within the boundaries of the city and county of Broomfield and the city and county of Denver, and all of the electors within Douglas county

excluding the electors within the boundaries of the town of Castle Rock or the town of Larkspur, are eligible electors for the purpose of the election to be held pursuant to this subsection (10).

(11) (a) For purposes of complying with the provisions of section 20 (4) of article X of the state constitution and upon proper submittal of a valid initiative petition to or upon the adoption of a resolution by the board, the district may submit to the registered electors within the geographical boundaries of the district, at a general election or an election held on the first Tuesday in November of an odd-numbered year, the question of whether the district shall be authorized to continue the levy and collection of the aggregate one-tenth of one percent sales and use tax as specified in paragraph (a) of subsection (10) of this section for a period not to exceed twelve years from the date upon which the authority of the district to levy and collect the sales and use taxes is scheduled to expire.

(b) A resolution or the summary for a petition pursuant to paragraph (a) of this subsection (11) shall include, but not be limited to, the following statements:

(I) That the district would continue to levy and collect the aggregate one-tenth of one percent sales and use tax as specified in paragraph (a) of subsection (10) of this section for a period not to exceed twelve years from the date upon which the authority of the district to levy and collect the sales and use taxes is scheduled to expire; and

(II) The month, day, and year on which the authority of the district to levy and collect the sales and use taxes expires.

(c) The district may submit the question set forth in paragraph (a) of this subsection (11) to the registered electors of the district:

(I) After being presented with a petition requesting the submittal of the question that is signed by registered electors within the geographical boundaries of the district in an amount equal to at least five percent of the total number of votes cast within the geographical boundaries of the district for all candidates for the office of secretary of state at the previous general election and after verification of the signatures on the petition by the secretary in accordance with subsection (7) of this section; or

(II) After the adoption of a resolution by the board.

(d) (I) Except as otherwise provided in subparagraph (III) of this paragraph (d), at the election, the question appearing on the ballot shall be as follows:

"SHALL THERE BE AN EXTENSION UNTIL (MONTH, DAY, AND YEAR) OF THE AGGREGATE 0.1 PERCENT SALES AND USE TAXES CURRENTLY LEVIED AND COLLECTED BY THE DENVER METROPOLITAN SCIENTIFIC AND CULTURAL FACILITIES DISTRICT THAT ARE SCHEDULED TO EXPIRE ON (MONTH, DAY, AND YEAR) FOR ASSISTING SCIENTIFIC AND CULTURAL FACILITIES WITHIN THE DISTRICT, WHILE AUTHORIZING THE DISTRICT TO CONTINUE TO COLLECT, RETAIN, AND SPEND ALL REVENUE GENERATED BY SUCH TAX IN EXCESS OF THE LIMITATION PROVIDED IN ARTICLE X OF SECTION 20 OF THE COLORADO CONSTITUTION?"

(II) Except as otherwise provided in subparagraph (III) of this paragraph (d), the ballot title is a statement of the language included in the question set forth in subparagraph (I) of this paragraph (d); except that the words "SHALL THERE BE" are not included in the statement, and the statement ends with a period instead of a question mark.

(III) The ballot question specified in subparagraph (I) of this paragraph (d) and the ballot title specified in subparagraph (II) of this paragraph (d) may be modified by the proponents of an initiative petition or the board, as applicable, only to the extent necessary to conform to the requirements of any final decision of a district or appellate court regarding the legal requirements for ballot questions and titles.

(IV) If at any election a majority of the registered electors within the geographical boundaries of the district voting on the question vote affirmatively on the question authorizing the district to continue the levy and collection of the sales and use taxes specified in paragraph (a) of subsection (10) of this section until the date specified in the question, then such sales and use taxes shall continue to be levied, collected, and distributed as provided for in this article until said date.

(e) The provisions of this subsection (11) are applicable only if prior voter approval is obtained to levy and collect the sales and use taxes specified in paragraph (a) of subsection (10) of this section.

Source: L. 87: Entire article added, p. 1255, § 1, effective July 1. **L. 94:** (1) and (3) amended and (4) to (8) added, pp. 471, 464, §§ 2, 1, effective March 31. **L. 95:** (9) added, p. 859, § 111, effective July 1. **L. 2004:** (1) and (4)(a) amended, p. 1040, § 7, effective July 1; (5)(a), (5)(b)(I), (5)(d)(I), (5)(d)(IV), (5)(e), (7)(a), and (7)(c) amended and (5)(f) and (10) added, pp. 286, 288, §§ 4, 5, effective August 4. **L. 2005:** (1)(a), (4)(a)(I), (5)(a)(I), and (5)(a)(II) amended, p. 777, § 66, effective June 1. **L. 2006:** (5)(a)(III) amended, p. 1506, § 52, effective June 1. **L. 2009:** (5)(a) amended, (HB 09-1342), ch. 354, p. 1848, § 7, effective July 1. **L. 2016:** (1) to (4), (9), and (10)(e) repealed, (5)(d)(IV), (7)(a), (7)(c), (8), (10)(a), (10)(d)(I), and (10)(d)(IV) amended, and (5)(g), (10)(f), and (11) added, (SB 16-016), ch. 135, pp. 401, 391, §§ 7, 3, effective April 29.

Editor's note: (1) The original election detailed in subsections (1) to (3) of this section concerning the question of authorizing the district to levy and collect sales taxes was held November 8, 1988, and a majority of the registered electors voted affirmatively on the question.

(2) (a) Subsection (5)(e) states that subsection (5) is applicable only if the question set out in subsection (4) is approved by the voters.

(b) Subsection (6)(f) provided for the repeal of subsection (6) effective upon the affirmative vote on the question set forth in subsection (4) of this section.

(c) The subsequent election detailed in subsection (4) concerning the question of extending the levy and collection of sales taxes until June 30, 2006, was held November 8, 1994, and was approved by a vote of:

For:	316,825
Against:	239,159

32-13-106. Board of directors - powers and duties. (1) The district created in section 32-13-104 shall be governed by a board of directors, to be appointed as follows:

(a) One director each shall be appointed by the boards of county commissioners of each county in the district, one director shall be appointed by the city council of the city and county of Denver, one director shall be appointed by the city council of the city and county of Broomfield; and

(b) If an odd number of directors is appointed pursuant to paragraph (a) of this subsection (1), four directors shall be appointed by the governor, and if an even number of directors is appointed pursuant to paragraph (a) of this subsection (1), three directors shall be appointed by the governor; except that the total number of directors appointed pursuant to this subsection (1) shall not exceed eleven. In the event that a new county or city and county elects a director pursuant to paragraph (a) of this subsection (1) that would cause the number of directors to exceed eleven, the longest-serving director appointed by the governor shall become an ex officio director of the board and shall no longer have the authority to vote in any board action pursuant to subsection (3) of this section. The directors appointed by the governor shall be individuals who represent different segments of society, including, but not limited to, business, education, government, accounting, and foundation management.

(c) A director appointed pursuant to this subsection (1) shall be appointed to serve for a term of three years, but no director shall serve more than two succeeding terms. Any such director may be removed at any time during his or her term by the appointing authority. The board shall be appointed prior to the submission to the registered electors of the district of the question specified in section 32-13-105.

(2) The board shall have the following powers and duties:

(a) To fix the time and place at which its regular meetings shall be held. Meetings shall be held within the district and shall be open to the public.

(b) To adopt and amend rules of procedure;

(c) To select a chairman;

(d) To hire such staff as may be necessary to assist the board in its duties;

(e) To enter into contracts including but not limited to contracts for the provision of cultural services for the district;

(f) To sue and be sued;

(g) To decide at which election the question specified in section 32-13-105 shall be submitted to the registered electors;

(g.5) To submit any question specified in section 32-13-105 to the registered electors within the geographical boundaries of the district at the appropriate election upon the proper submittal of a valid initiative petition to or upon the adoption of a resolution by the district;

(h) To administer and use moneys collected pursuant to section 32-13-107, in accordance with the guidelines specified in section 32-13-107 (3);

(i) To develop reporting and review requirements governing receipt and expenditures of tax district funds;

(j) Repealed.

(k) To determine the eligibility of organizations that apply to the district for the moneys that the board distributes pursuant to section 32-13-107 (3)(b) and (3)(c). In determining such eligibility, the board may take into consideration the applicant's financial and organizational capacity to expend tax dollars to serve the public and achieve the mission of the organization.

(l) To publish and update annual governance and transparency notice requirements by posting board member names, district contact information, and meeting information on the district's website.

(3) All business of the board shall be conducted at regular meetings which shall be open to the public, and board action shall require the affirmative vote of a majority of the total

membership of the board. Members of the board shall receive no compensation for their services but may be reimbursed for their necessary expenses while serving as members of the board.

Source: L. 87: Entire article added, p. 1256, § 1, effective July 1. **L. 94:** (2)(g.5) added, p. 476, § 5, effective March 31. **L. 95:** (2)(j) added, p. 860, § 112, effective July 1. **L. 2001:** (1) amended, p. 267, § 10, effective November 15. **L. 2004:** (1) amended and (2)(k) added, pp. 290, 291, §§ 6, 7, effective July 1, 2006. **L. 2016:** (2)(g.5) amended, (2)(j) repealed, and (2)(l) added, (SB 16-016), ch. 135, p. 395, § 4, effective April 29.

32-13-107. Sales and use tax imposed - collection - administration of tax - use - definitions. (1) (a) Except as otherwise provided in paragraph (b) of this subsection (1), upon the approval of the registered electors pursuant to the provisions of section 32-13-105, the board has the power to levy such uniform sales and use taxes throughout the district created in section 32-13-104 upon every transaction or other incident with respect to which a sales and use tax is levied by the state, pursuant to the provisions of article 26 of title 39, C.R.S.; except that beginning July 1, 2016, such sales and use tax shall not be levied or collected on the sale or use of aviation fuel.

(b) (I) Notwithstanding any law to the contrary, the authority of the district to levy and collect the sales and use taxes approved by the registered electors pursuant to the provisions of section 32-13-105 shall expire July 1, 1996, unless the district is authorized to continue to levy and collect the sales and use taxes by the registered electors pursuant to the provisions of said section.

(II) Notwithstanding any law to the contrary, the authority of the district to continue to levy and collect the sales and use taxes approved by the registered electors pursuant to the provisions of section 32-13-105 shall expire on the date specified in the question submitted to the registered electors unless the district is subsequently authorized to continue to levy and collect the sales and use taxes by the registered electors pursuant to the provisions of said section.

(2) The collection, administration, and enforcement of said sales and use tax shall be performed by the executive director of the department of revenue in the same manner as that for the collection, administration, and enforcement of the state sales and use tax imposed under article 26 of title 39, C.R.S., including, without limitation, the retention by a vendor of the percentage of the amount remitted to cover the vendor's expense in the collection and remittance of said tax as provided in section 39-26-105, C.R.S. The executive director shall make monthly distributions of such sales and use tax collections to the district. The district shall pay the net incremental cost incurred by the department of revenue in the administration and collection of such sales and use taxes; except that in no event shall the district pay in any given fiscal year commencing on or after July 1, 1994, more than an amount equal to the amount paid by the district in the 1993-94 fiscal year, as adjusted in accordance with changes in the consumer price index for the Denver-Boulder consolidated metropolitan statistical area. The department may make expenditures for such costs subject to annual appropriation by the general assembly.

(3) The proceeds of such sales and use tax collections shall be used by the board to assist scientific and cultural facilities within the district. The board may deduct from the proceeds of the sales and use tax collections amounts necessary to cover the costs incurred by the district for the administration of such proceeds; except that the amount deducted for such purpose shall not

exceed one and fifty one-hundredths percent of the sales and use tax revenues annually collected up to and including thirty-eight million dollars and one and fifty one-hundredths percent of the sales and use tax revenues annually collected in excess of thirty-eight million dollars. The board may also deduct from the proceeds of the sales and use tax collections an amount necessary to pay the district's actual or anticipated reasonable costs related to a coordinated election. After making the deductions allowed in this subsection (3), the board shall distribute the remaining proceeds from the sales and use tax collections to scientific and cultural facilities as follows:

(a) Upon voter approval of the levy and collection of the sales and use tax specified in section 32-13-105 (5)(a)(I) or (10)(a)(I), as applicable, the sales and use tax revenues levied and collected by the district shall be distributed annually by the board as follows:

(I) **[*Editor's note: This version of subparagraph (I) is effective until July 1, 2018.*]** Except as otherwise provided in subparagraph (II) of this paragraph (a), ninety-five percent of said sales and use tax revenues shall be distributed for annual operating expenses as follows:

(A) Twenty-five percent shall be distributed to the Denver museum of nature and science;

(B) Twenty and eighty-three one hundredths percent shall be distributed to the Denver art museum;

(C) Twenty-four and twenty-four one hundredths percent shall be distributed to the Denver zoological gardens;

(D) Eleven and seventy-five one hundredths percent shall be distributed to the Denver botanical gardens;

(E) Eighteen and eighteen one hundredths percent shall be distributed to the Denver center for the performing arts.

(I) **[*Editor's note: This version of subparagraph (I) is effective July 1, 2018.*]** Except as otherwise provided in subparagraph (II) of this paragraph (a), ninety-five percent of said sales and use tax revenues shall be distributed for annual operating expenses as follows:

(A) Twenty-four and fifty one-hundredths percent shall be distributed to the Denver museum of nature and science;

(B) Twenty and thirty-three one-hundredths percent shall be distributed to the Denver art museum;

(C) Twenty-four and twenty-four one-hundredths percent shall be distributed to the Denver zoological gardens;

(D) Thirteen and twenty-five one-hundredths percent shall be distributed to the Denver botanical gardens;

(E) Seventeen and sixty-eight one-hundredths percent shall be distributed to the Denver center for the performing arts;

(II) After the first five years said sales and use tax is levied and collected, up to five percent of said sales and use tax revenues specified in subparagraph (I) of this paragraph (a) may be distributed by the board to the Denver museum of nature and science, the Denver art museum, the Denver zoological gardens, the Denver botanical gardens, and the Denver center for the performing arts pursuant to a formula adopted by the board. Such formula shall be binding on the board and may only be modified every five years thereafter.

(III) Up to five percent of said sales and use tax revenues may be distributed by the board to the Denver museum of nature and science, the Denver art museum, the Denver zoological gardens, the Denver botanical gardens, and the Denver center for the performing arts

in such amounts as the board may determine appropriate based upon one or more of the following factors: Regional impact, accessibility, quality, need, enhanced or innovative programs, and collaboration with the Denver museum of nature and science, the Denver art museum, the Denver zoological gardens, the Denver botanical gardens, or the Denver center for the performing arts or with scientific and cultural facilities that qualify to receive moneys pursuant to subparagraph (I) of paragraph (b) or subparagraph (I) of paragraph (c) of this subsection (3).

(IV) (Deleted by amendment, L. 94, p. 481, 2, effective January 1, 1996.)

(V) Any moneys not distributed pursuant to the provisions of subparagraph (III) of this paragraph (a) shall be distributed at the same time and in the same manner as other moneys are annually distributed pursuant to the provisions of subparagraph (I) of this paragraph (a).

(b) Upon voter approval of the levy and collection of the sales and use tax specified in section 32-13-105 (5)(a)(II) or (10)(a)(II), as applicable, the sales and use tax revenues levied and collected by the district shall be distributed annually by the board for annual operating expenses as follows:

(I) Ninety-five percent of said sales and use tax revenues shall be distributed to scientific and cultural facilities within the district that are not receiving moneys pursuant to paragraph (a) of this subsection (3) and that meet the following criteria:

(A) Any such facility shall be a nonprofit organization that has a determination letter in effect from the internal revenue service confirming that the organization meets the requirements of section 501 (c)(3) of the federal "Internal Revenue Code of 1986", as amended, with the primary purpose of enlightening and entertaining the public through the production, presentation, exhibition, advancement, or preservation of visual arts, performing arts, cultural history, natural history, or natural sciences including earth, life, or physical sciences, as such terms are defined by the board, or shall be an agency of local government that has such primary purpose.

(B) Any such facility shall have its principal office within the district, shall conduct the majority of its activities within the state of Colorado, and shall principally benefit the residents of the district. In addition, any such facility shall demonstrate its regional service and impact according to criteria established by the board.

(C) For any facility that applies to receive district moneys prior to July 1, 2006, such facility shall have had an annual operating income of more than seven hundred thousand dollars for the previous year as adjusted for the annual change in the consumer price index as specified in this sub-subparagraph (C). For any facility that applies to receive district moneys on or after July 1, 2006, such facility shall have had an annual operating income of more than one million two hundred fifty thousand dollars for the previous year as adjusted for the annual change in the consumer price index as specified in this sub-subparagraph (C); except that any facility that qualified to receive a distribution pursuant to this paragraph (b) on or before June 30, 2006, shall be subject to the one million two hundred fifty thousand dollar threshold as adjusted for the annual change in the consumer price index as specified in this sub-subparagraph (C), as of July 1, 2009. For distributions made pursuant to this paragraph (b) in 1996 and in each year thereafter, the board shall annually adjust the amount specified in this sub-subparagraph (C), as applicable, in accordance with the annual percentage change in the consumer price index for the previous year for the Denver-Boulder-Greeley consolidated metropolitan statistical area for all urban consumers, all goods, as published by the United States department of labor, bureau of labor statistics. For distributions made pursuant to this paragraph (b) in 2017 and in each year

thereafter, the board shall annually adjust the amount specified in this sub-subparagraph (C), as applicable, for the percentage change between the average Denver-Boulder-Greeley consolidated metropolitan statistical area consumer price index, or successor index, for the calendar year three years prior to the year of distribution and the average Denver-Boulder-Greeley consolidated metropolitan statistical area consumer price index, or successor index, for the calendar year two years prior to the year of distribution.

(D) Beginning January 1, 2017, a facility must have been in existence, operating, and providing service to the public for at least seven years as a nonprofit institutional organization under section 501 (c)(3) of the federal "Internal Revenue Code of 1986", as amended, prior to applying for eligibility to receive district moneys for the first time. For purposes of this sub-subparagraph (D), "operating" means engaged in some form of activity with the primary purpose of enlightening and entertaining the public through the production, presentation, exhibition, advancement, or preservation of visual arts, performing arts, cultural history, natural history, or natural sciences including earth, life, or physical sciences, as such terms are defined by the board.

(E) Notwithstanding the provisions of this subparagraph (I), for multiple facilities that were created by a local government and that have the same taxpayer identification number or federal employee identification number, no more than two facilities per taxpayer identification number or federal employee identification number are eligible to receive a distribution of revenues pursuant to this paragraph (b) in any fiscal year.

(II) (A) **[*Editor's note: This version of subparagraph (II) is effective until January 1, 2018.*]** Distribution of moneys pursuant to subparagraph (I) of this paragraph (b) shall be based upon a formula to be applied annually which gives equal weight to the annual operating income of such facilities and the annual paid attendance at such facilities.

(B) After the first five years said sales and use tax is levied and collected, the board may modify, in its discretion, the weight to be given the factors of annual operating income and the annual paid attendance in the formula specified in sub-subparagraph (A) of this subparagraph (II). Such determination by the board of the weight to be given said factors shall be binding on the board and may only be modified every five years thereafter.

(II) (A) **[*Editor's note: This version of subparagraph (II) is effective January 1, 2018.*]** Distribution of moneys pursuant to subparagraph (I) of this paragraph (b) shall be based upon a formula to be applied annually that gives a specific weight to the annual operating income of such facilities, the annual paid attendance at such facilities, and the annual documented free attendance at such facilities. The board shall determine the weight to be given to each factor, and such determination shall be binding on the board. The board may modify the weight to be given to each factor not more than once every two years.

(B) (Deleted by amendment, L. 2016.)

(III) Up to five percent of said sales and use tax revenues may be distributed by the board to the scientific and cultural facilities that qualify to receive moneys pursuant to the provisions of subparagraph (I) of this paragraph (b) in such amounts as the board determines appropriate based upon one or more of the following factors: Regional impact, accessibility, quality, need, enhanced or innovative programs, and collaboration with the Denver museum of nature and science, the Denver art museum, the Denver zoological gardens, the Denver botanical gardens, or the Denver center for the performing arts or with scientific and cultural facilities that

qualify to receive moneys pursuant to subparagraph (I) of this paragraph (b) or subparagraph (I) of paragraph (c) of this subsection (3).

(IV) (Deleted by amendment, L. 94, p. 481, § 2, effective January 1, 1996.)

(V) Any moneys not distributed pursuant to the provisions of subparagraph (III) of this paragraph (b) shall be placed by the board in an interest-bearing account with a federally insured bank or savings and loan association located in the state of Colorado. Such moneys shall remain in such account until the board, in its discretion, determines to distribute such moneys at the same time and in the same manner as other moneys are annually distributed pursuant to the provisions of subparagraph (III) of this paragraph (b).

(b.5) (I) Prior to July 1, 2006, notwithstanding any other provision, a scientific and cultural facility that qualifies to receive moneys pursuant to the provisions of subparagraph (I) of paragraph (b) of this subsection (3) shall not receive in any given year more than thirty-three percent of the total amount of sales and use tax revenues distributed pursuant to paragraph (b) of this subsection (3) in such year. If the amount of moneys received by any scientific and cultural facility in any given year exceeds the allowable amount, the scientific and cultural facility shall refund to the district the amount of moneys in excess of the allowable amount.

(II) On and after July 1, 2006, notwithstanding any other provision, a scientific and cultural facility that qualifies to receive moneys pursuant to the provisions of subparagraph (I) of paragraph (b) of this subsection (3) for the first time prior to July 1, 2006, shall not receive in any given year more than twenty-five percent of the total amount of sales and use tax revenues distributed pursuant to paragraph (b) of this subsection (3) in such year. If the amount of moneys received by any scientific and cultural facility in any given year exceeds the allowable amount, the scientific and cultural facility shall refund to the district the amount of moneys in excess of the allowable amount.

(III) On and after July 1, 2006, notwithstanding any other provision, a scientific and cultural facility that qualifies to receive moneys pursuant to the provisions of subparagraph (I) of paragraph (b) of this subsection (3) for the first time on or after July 1, 2006, shall not receive more than fifteen percent of the total amount of sales and use tax revenues distributed pursuant to paragraph (b) of this subsection (3) in the first year of distribution, twenty percent of such total amount in the second year of distribution, and twenty-five percent of such total amount in the third and any subsequent year of distribution. If the amount of moneys received by any scientific and cultural facility in any given year exceeds the allowable amount, the scientific and cultural facility shall refund to the district the amount of moneys in excess of the allowable amount.

(c) Upon voter approval of the levy and collection of the sales and use tax specified in section 32-13-105 (5)(a)(III) or (10)(a)(III), as applicable, the sales and use tax revenues levied and collected by the district shall be distributed annually by the board for annual operating expenses as follows:

(I) Ninety-five percent of said sales and use tax revenues collected in each county comprising the district shall be distributed by the board to scientific and cultural facilities within such county pursuant to the provisions of the plan submitted by each county cultural council as specified in subparagraph (II) of this paragraph (c). Said moneys shall be distributed to scientific and cultural facilities within the district which are not receiving moneys pursuant to paragraph (a) or (b) of this subsection (3) and which meet the following criteria:

(A) Any such facility shall be a nonprofit organization that has a determination letter in effect from the internal revenue service confirming that the organization meets the requirements of section 501 (c)(3) of the federal "Internal Revenue Code of 1986", as amended, with the primary purpose of enlightening and entertaining the public through the production, presentation, exhibition, advancement, or preservation of visual arts, performing arts, cultural history, natural history, or natural sciences including earth, life, or physical sciences, as such terms are defined by the board, or shall be an agency of local government that has such primary purpose.

(B) Any such facility shall have its principal office within the district, shall conduct the majority of its activities within the state of Colorado, and shall principally benefit the residents of the district.

(C) Beginning January 1, 2017, a facility must have been in existence, operating, and providing service to the public for at least five years as a nonprofit institutional organization under section 501 (c)(3) of the federal "Internal Revenue Code of 1986", as amended, prior to applying for eligibility to receive district moneys for the first time. For purposes of this sub-subparagraph (C), "operating" means engaged in some form of activity with the primary purpose of enlightening and entertaining the public through the production, presentation, exhibition, advancement, or preservation of visual arts, performing arts, cultural history, natural history, or natural sciences including earth, life, or physical sciences, as such terms are defined by the board.

(D) Notwithstanding the provisions of this subparagraph (I), for multiple facilities that were created by a local government and that have the same taxpayer identification number or federal employee identification number, no more than two facilities per taxpayer identification number or federal employee identification number are eligible to receive a distribution of revenues pursuant to this paragraph (c) in any fiscal year.

(II) The county cultural council of each county comprising the district shall submit to the board an annual plan specifying the distribution of such revenues as provided for in subparagraph (I) of this paragraph (c) to scientific and cultural facilities in such county that meet the criteria set forth in subparagraph (I) of this paragraph (c). In creating such plan, a county cultural council may take into account an organization's financial and organizational capacity to expend tax dollars to serve the public and achieve the mission of the organization, and may give priority to scientific and cultural facilities within such county that qualify to receive moneys pursuant to the provisions of subparagraph (I) of paragraph (b) of this subsection (3). Such plans submitted by such county cultural councils to the board shall be binding upon the board.

(III) Up to five percent of said sales and use tax revenues collected in each county comprising the district may be distributed by the board to the scientific and cultural facilities that qualify to receive moneys pursuant to subparagraph (I) of this paragraph (c) as the board may determine appropriate based upon one or more of the following factors: Accessibility, quality, need, enhanced or innovative programs, financial and organizational capacity to expend tax dollars to serve the public and achieve the mission of the organization, and collaboration with the Denver museum of nature and science, the Denver art museum, the Denver zoological gardens, the Denver botanical gardens, or the Denver center for the performing arts or with scientific and cultural facilities that qualify to receive moneys pursuant to subparagraph (I) of paragraph (b) of this subsection (3) or subparagraph (I) of this paragraph (c). Any distribution made pursuant to this subparagraph (III) shall be based upon the provisions of the plan submitted by each county cultural council as required by subparagraph (II) of this paragraph (c).

(IV) (Deleted by amendment, L. 94, p. 481, § 2, effective January 1, 1996.)

(V) Any moneys not distributed pursuant to the provisions of subparagraph (III) of this paragraph (c) shall be placed by the board in an interest-bearing account with a federally insured bank or savings and loan association located in the state of Colorado. Such moneys shall remain in such account until the board, in its discretion, determines to distribute such moneys at the same time and in the same manner as other moneys are annually distributed pursuant to the provisions of subparagraph (III) of this paragraph (c).

(d) No scientific and cultural facility which receives moneys pursuant to the provisions of paragraph (c) of this subsection (3) shall use or expend such moneys for the acquisition, physical preservation, or restoration of any historic building, structure, or site.

(4) Upon any extension of the sales and use taxes levied and collected by the district in accordance with section 32-13-105, the amount of sales and use tax proceeds expended and distributed by the district in any given year shall not exceed the amount specified in the ballot question for the current fiscal year and shall not exceed the amount specified in the ballot question as adjusted for inflation plus annual local growth for each fiscal year after the current fiscal year. For purposes of this subsection (4), "inflation" has the meaning set forth in section 20 of article X of the state constitution and in section 24-77-102 (8), C.R.S., and "local growth" has the meaning set forth in section 20 of said article X. Whenever the amount of sales and use tax proceeds collected in any fiscal year pursuant to this article exceeds the permissible amount to be expended and distributed, the provisions of section 20 of said article X governing tax refunds shall apply.

(5) Pursuant to section 1-7-116, C.R.S., and any agreement enacted pursuant thereto, the district shall pay a county or a city and county for its share of the expenses associated with a coordinated election; except that the amount the district is required to pay for any coordinated election shall be limited to and not exceed the district's reasonable costs related to a coordinated election.

Source: L. 87: Entire article added, p. 1257, § 1, effective July 1. **L. 94:** (2) amended, p. 319, § 5, effective March 29; (1), (2), IP(3), IP(3)(a), IP(3)(a)(I), (3)(a)(II), (3)(a)(III), IP(3)(a)(IV), IP(3)(b), IP(3)(b)(I), (3)(b)(II)(B), (3)(b)(III), IP(3)(b)(IV), IP(3)(c), IP(3)(c)(I), (3)(c)(III), and IP(3)(c)(IV) amended and (4) added, p. 472, § 3, effective March 31; (3)(d) added, p. 484, § 3, effective March 31; (3)(a)(III) to (3)(a)(V), (3)(b)(I)(C), (3)(b)(I)(D), (3)(b)(III) to (3)(b)(V), (3)(c)(III) to (3)(c)(V) amended and (3)(b.5) added, p. 481, § 2, effective January 1, 1996. **L. 99:** (1)(a) amended, p. 982, § 6, effective May 28; (1)(a) amended, p. 1357, § 7, effective January 1, 2000. **L. 2004:** (1)(a) amended, p. 1041, § 8, effective July 1; (3)(a), IP(3)(b), (3)(b)(I), (3)(b)(III), (3)(b.5), IP(3)(c), IP(3)(c)(I), (3)(c)(I)(A), and (3)(c)(III) amended and (3)(c)(I)(C) added, p. 291, § 8, effective July 1, 2006. **L. 2005:** (3)(a)(I)(A), (3)(a)(II), (3)(a)(III), (3)(b)(III)(A), and (3)(c)(III) amended, p. 779, § 67, effective June 1. **L. 2006:** IP(3) amended and (5) added, p. 1780, § 3, effective June 6. **L. 2009:** IP(1)(a) amended, (HB 09-1342), ch. 354, p. 1849, § 8, effective July 1. **L. 2013:** (1)(a) amended, (HB 13-1272), ch. 337, p. 1965, § 3, effective January 1, 2014. **L. 2016:** (1)(a), IP(3), IP(3)(a), IP(3)(b), IP(3)(c), IP(3)(c)(I), (3)(c)(II), and (3)(c)(III) amended, (SB 16-016), ch. 135, p. 395, § 5, effective April 29; (3)(b)(I), (3)(c)(I)(A), and (3)(c)(I)(C) amended and (3)(c)(I)(D) added, (SB 16-016), ch. 135, p. 395, § 5, effective January 1, 2017; (3)(b)(II) amended, (SB 16-016), ch. 135, p. 395, § 5,

effective January 1, 2018; (3)(a)(I) amended, (SB 16-016), ch. 135, p. 395, § 5, effective July 1, 2018.

Editor's note: (1) Amendments to subsection (2) by House Bill 94-1222 and House Bill 94-1024 were harmonized. Amendments to subsections (3)(a)(III), (3)(b)(III), and (3)(c)(III) and (3)(c)(IV) by House Bill 94-1222 and House Bill 94-1223 were harmonized.

(2) Amendments to subsection (1)(a) by House Bill 99-1015 and House Bill 99-1271 were harmonized.

Cross references: For the legislative declaration in the 2013 act amending subsection (1)(a), see section 1 of chapter 337, Session Laws of Colorado 2013.

32-13-107.5. Legislative declaration - submission to voters - severability. (1) The general assembly hereby finds, determines, and declares that the extension of the sales and use taxes imposed pursuant to section 32-13-105 are extensions of expiring taxes subject to the provisions of section 20 (4)(a) of article X of the state constitution and are subject to voter approval; that the tax proceeds resulting from the taxes which the voters may be asked to extend are subject to the fiscal year spending limit of the Denver metropolitan scientific and cultural facilities district imposed by section 20 (7)(b) of said article X; that said constitutional provision limits the growth of district revenues by restricting the increase of fiscal year spending to the rate of inflation plus annual local growth; that the ballot questions specified in section 32-13-105 fully disclose to the voters that the amount of tax proceeds resulting from the taxes which they may be asked to extend will be subject to increase after the current fiscal year based upon the factors of inflation and annual local growth specified in section 20 (7)(b) of said article X; and that this disclosure in said ballot questions is for informational purposes only as the growth in the amount of tax proceeds is permitted to occur only at the rate permitted by section 20 (7)(b) of said article X.

(2) The purpose of this article is to secure a dependable source of revenue to be used by the Denver metropolitan scientific and cultural facilities district to assist scientific and cultural facilities within said district as set forth in this article and to provide for a source of revenue which will grow in proportion to the expanding financial needs of scientific and cultural facilities. However, in the event that it is found by a court of competent jurisdiction that the provisions of section 20 of article X of the state constitution do not permit an extension of an expiring tax which incorporates such growth in revenues, the portions of the ballot questions set forth in section 32-13-105 which provide for an adjustment of permissible revenues based on inflation and annual local growth shall be deemed to be severable from the remainder of such ballot questions and that the valid portions of the ballot questions are not so essentially and inseparably connected with or dependent upon the invalid portions that the valid portions would not have been enacted without the invalid portions.

Source: L. 94: Entire section added, p. 475, § 4, effective March 31.

32-13-108. Petition or resolution for formation and levy of tax - petition or resolution for extension of tax - verification of signatures - election. (1) (a) A scientific and cultural facilities district may include a portion of one county, an entire county, or areas

contained within multiple counties of the state; except that no county shall include more than one scientific and cultural facilities district composed of areas located solely within that county.

(b) The formation of a scientific and cultural facilities district other than the district created in section 32-13-104 shall be initiated by a petition signed by registered electors of each unincorporated area of a county and of each area within a municipality that is to be included in the proposed scientific and cultural facilities district in number not less than five percent of the votes cast in each area for all candidates for the office of governor at the last preceding general election, by resolution adopted by the board, or by resolution of each board adopted pursuant to an intergovernmental agreement entered into by the boards of county commissioners of the county or counties in which a scientific and cultural facilities district is proposed.

(c) Such petition or resolution shall state that the proposed scientific and cultural facilities district would levy and collect for a period of time not to exceed ten years a uniform sales tax throughout the geographical area of the district at a rate not to exceed thirty one-hundredths of one percent upon every transaction or other incident with respect to which a sales tax is levied by the county in which the transaction or other incident occurs, pursuant to the provisions of article 2 of title 29, C.R.S.

(d) Such petition or resolution shall be filed with the board or boards of county commissioners of the county or counties in which the proposed scientific and cultural facilities district would be formed at least three months before the general election or the election held on the first Tuesday of November in an odd-numbered year, whichever is applicable, at which it may be voted upon.

(2) (a) The petition or resolution for the formation of a scientific and cultural facilities district shall state:

(I) The name proposed for the scientific and cultural facilities district; and

(II) A description of the geographical area to be included in the scientific and cultural facilities district sufficient to enable a property owner to determine whether his or her property lies within the district.

(b) The petition or resolution for the formation of a scientific and cultural facilities district may state any formula or criteria concerning the distribution of sales tax collections pursuant to section 32-13-110 (3); including criteria that scientific and cultural facilities must meet in order to receive moneys from the district which are in addition to the criteria specified in section 32-13-110 (3)(a) and (3)(b). If the petition or resolution does include such formula or criteria and the registered electors voting on the question vote affirmatively on the question of creation of the district and the levy of the tax specified in paragraph (c) of subsection (1) of this section, then such formula or criteria contained in such petition or resolution shall be binding upon the board.

(c) The petition or resolution for the formation of a scientific and cultural facilities district shall state the month, day, and year on which the authority of the scientific and cultural facilities district to levy and collect the sales tax shall expire.

(2.5) (a) For purposes of complying with the provisions of section 20 (4) of article X of the state constitution, the question of whether the board of a district created pursuant to this section shall be authorized to continue the levy and collection of the sales tax throughout the district upon every transaction or other incident with respect to which a sales tax is levied by the county in which the transaction or other incident occurs, pursuant to the provisions of article 2 of title 29, C.R.S., for a period of time not to exceed ten years from the date upon which the

authority of the board to levy and collect the sales taxes is scheduled to expire shall be initiated by a petition signed by the registered electors of the district in a number not less than five percent of the votes cast in the each incorporated and unincorporated area included within the district for all candidates for the office of governor at the last preceding general election or initiated by a resolution adopted by the board of the scientific and cultural facilities district.

(b) Such petition or resolution shall state the name of the scientific and cultural facilities district and that the district would continue to levy and collect a uniform sales tax throughout the geographical area of the district at a rate not to exceed thirty one-hundredths of one percent upon every transaction or other incident with respect to which a sales tax is levied by the county in which the transaction or other incident occurs, pursuant to the provisions of article 2 of title 29, C.R.S., for a period of time not to exceed ten years from the date upon which the authority of the district to levy and collect the sales tax is scheduled to expire.

(c) Such petition or resolution shall be filed with the board or boards of county commissioners of the county or counties in which the scientific and cultural facilities district is located at least three months before the general election or the election held on the first Tuesday of November in an odd-numbered year, whichever is applicable, at which it may be voted upon.

(3) (Deleted by amendment, L. 94, p. 476, 6, effective March 31, 1994.)

(3.5) Upon the filing of any petition pursuant to this section, each affected board of county commissioners shall transmit the petition to its county clerk and recorder for verification of signatures. Each county clerk and recorder shall verify the signatures of registered electors from areas within such county within thirty days of receiving the petition. Any county clerk and recorder who declares that the petition appears not to have a sufficient number of signatures from areas within a county shall grant a fifteen-day extension to the petitioners to cure the insufficiency by filing an addendum to the original petition for the purpose of offering the number of signatures as will cure the insufficiency. No addendum offered as a cure shall be considered unless the addendum conforms to the same requirements imposed upon the original petition and unless filed with the county clerk and recorder within the fifteen-day period after the insufficiency is declared. Any protest regarding the verification or sufficiency of signatures on the petition shall be made pursuant to section 1-40-118, C.R.S., and any hearing or further appeals regarding such protest shall be held in accordance with section 1-40-119, C.R.S.

(4) (a) If a petition or resolution for the formation of a scientific and cultural facilities district and the levy and collection of the sales tax satisfies the requirements specified in this section, each affected board of county commissioners shall submit, in identical form determined by intergovernmental agreement, the question of the organization of the scientific and cultural facilities district at the next general election or election held on the first Tuesday in November of an odd-numbered year, whichever is held first after the filing of the petition or resolution. Any question submitted shall comply with the requirements of section 20 of article X of the state constitution, as applicable.

(b) If a petition or resolution for the extension of the authority to levy and collect a sales tax by the scientific and cultural facilities district satisfies the requirements specified in this section, the question of whether the scientific and cultural facilities district shall be authorized to continue the levy and collection of sales tax throughout the district shall be submitted at the next general election or election held on the first Tuesday in November of an odd-numbered year, whichever is held first after the filing of the petition or resolution. Any question submitted shall comply with the requirements of section 20 of article X of the state constitution, as applicable.

(5) (a) If at any such election a majority of the registered electors of the proposed district voting on the question vote affirmatively on the question of the creation of the district and the levy of the tax specified in paragraph (c) of subsection (1) of this section, then the district shall come into existence, and such tax may be levied and collected as provided in this article. If a majority of the registered electors of said area vote "No" on the question, the district shall not come into existence.

(b) If at any election a majority of the registered electors within the geographical boundaries of the district voting on the question vote affirmatively on the question authorizing the district to continue the levy and collection of the sales tax specified in subsection (1) of this section until the date specified in the question, then such sales tax shall continue to be levied, collected, and distributed as provided for in this article until said date.

Source: L. 87: Entire article added, p. 1261, § 1, effective July 1. **L. 90:** (2) amended, p. 1515, § 1, effective April 3. **L. 92:** (1)(a) and (1)(b) amended, p. 991, § 2, effective April 24. **L. 94:** (1)(b), (1)(c), (2), (3), (4), and (5) amended and (2.5) and (3.5) added, p. 476, § 6, effective March 31. **L. 98:** Entire section amended, p. 358, § 2, effective April 20.

32-13-109. Board of directors - powers and duties. (1) A district created pursuant to section 32-13-108 shall be governed by a board of directors which shall be appointed by the board of county commissioners. A director appointed pursuant to this subsection (1) shall be appointed to serve a term of three years, but no director shall serve more than two succeeding terms. Any such director may be removed at any time during his term by the appointing authority.

(2) The board shall have the following powers and duties:

(a) To fix the time and place at which its regular meetings shall be held. Meetings shall be held within the district and shall be open to the public.

(b) To adopt and amend rules of procedure;

(c) To select a chairman;

(d) To hire such staff as may be necessary to assist the board in its duties;

(e) To enter into contracts including but not limited to contracts for the provision of cultural services for the district;

(f) To sue and be sued;

(g) To administer and use moneys collected pursuant to section 32-13-110, in accordance with the guidelines specified in section 32-13-110.

Source: L. 87: Entire article added, p. 1262, § 1, effective July 1.

32-13-110. Tax imposed - collection - administration of tax - use. (1) Upon the approval of the registered electors pursuant to the provisions of section 32-13-108, the board shall have the power to levy such uniform sales tax throughout the district upon every transaction or other incident with respect to which a sales tax is levied by the county, pursuant to the provisions of article 2 of title 29, C.R.S.

(2) (a) If such sales tax is levied pursuant to the provisions of this article, the collection, administration, and enforcement of said sales tax shall be performed by the executive director of the department of revenue in the same manner as that for the collection, administration, and

enforcement of the state sales tax imposed under article 26 of title 39, C.R.S., including, without limitation, the retention by a vendor of the percentage of the amount remitted to cover the vendor's expense in the collection and remittance of said tax as provided in section 39-26-105, C.R.S. The executive director shall make monthly distributions of such sales tax collections to the district. The district shall pay the net incremental cost incurred by the department of revenue in the administration and collection of such sales taxes; except that in no event shall any district pay in any given fiscal year commencing after the first full fiscal year of operation more than an amount equal to the amount paid by the district in the first full fiscal year of operation, as adjusted in accordance with changes in the consumer price index for the Denver-Boulder consolidated metropolitan statistical area. The department may make expenditures for such costs subject to annual appropriation by the general assembly.

(b) (I) A qualified purchaser may provide a direct payment permit number issued pursuant to section 39-26-103.5, C.R.S., to any vendor or retailer that is liable and responsible for collecting and remitting any sales tax levied on any sale made to the qualified purchaser pursuant to this article. A vendor or retailer that has received in good faith from a qualified purchaser a direct payment permit number shall not be liable or responsible for collection and remittance of any sales tax imposed on such sale that is paid for directly from such qualified purchaser's funds and not the personal funds of any individual.

(II) A qualified purchaser that provides a direct payment permit number to a vendor or retailer shall be liable and responsible for the amount of sales tax levied on any sale made to the qualified purchaser pursuant to this article in the same manner as liability would be imposed on a qualified purchaser for state sales tax pursuant to section 39-26-105 (3), C.R.S.

(3) The proceeds of such sales tax collections shall be used by the board to assist scientific and cultural facilities within the district. After deducting any costs incurred by the district for the administration of such moneys, distributions shall be made by the board, in accordance with any formula or criteria, if any, contained in the petition or resolution pursuant to section 32-13-108 (2)(b), to scientific and cultural facilities which meet the criteria, if any, specified in such petition or resolution, and which meet the following criteria:

(a) Any such facility shall be a nonprofit organization which meets the requirements of section 501 (c)(3) of the federal "Internal Revenue Code of 1986", as amended, with the primary purpose of enlightening and entertaining the public through the production, presentation, exhibition, advancement, or preservation of visual arts, performing arts, cultural history, natural history, or natural sciences including earth, life, or physical sciences, as such terms are defined by the board, or shall be an agency of local government that has such primary purpose; and

(b) Any such facility shall have its principal office within the district, shall conduct the majority of its activities within the state of Colorado, and shall principally benefit the residents of the district.

Source: L. 87: Entire article added, p. 1262, § 1, effective July 1. **L. 90:** IP(3) amended, p. 1515, § 2, effective April 3. **L. 92:** (3)(a) amended, p. 991, § 3, effective April 24. **L. 94:** (2) amended, p. 319, § 6, effective March 29. **L. 99:** (2) amended, p. 15, § 8, effective January 1, 2000. **L. 2016:** (3)(a) amended, ch. 135, p. 400, § 6, effective January 1, 2017.

32-13-111. No impairment of contractual obligations. Nothing in this article shall be construed to affect or impair any obligations of contracts between any governmental entity and any cultural facility.

Source: L. 87: Entire article added, p. 1263, § 1, effective July 1.

32-13-112. Discount rates. Any day designated by a scientific and cultural facility within any district as a "free day" or a "discounted rate day", on which the amount of admission to such facility is waived or the amount of admission is reduced, shall be made available to all residents of the state.

Source: L. 87: Entire article added, p. 1263, § 1, effective July 1.

32-13-113. Report. (Repealed)

Source: L. 87: Entire article added, p. 1263, § 1, effective July 1. **L. 2002:** Entire section repealed, p. 867, § 4, effective August 7.

32-13-114. Repeal of article. (Repealed)

Source: L. 87: Entire article added, p. 1263, § 1, effective July 1. **L. 94:** Entire section repealed, p. 485, § 4, effective March 31.

ARTICLE 14

Denver Metropolitan Major League
Baseball Stadium District

Editor's note: For a discussion of the difference between service authorities authorized by § 17 of article XIV of the Colorado constitution and statutorily created special districts, see Anema v. Transit Const. Authority, 788 P.2d 1261 (Colo. 1990).

Cross references: For the constitutional provision that establishes limitations on spending, the imposition of taxes, and the incurring of debt, see § 20 of article X of the Colorado constitution; for the provisions of the "Colorado Baseball Spectator Safety Act of 1993", see § 13-21-120; for the provisions concerning the prohibition on bringing alcoholic beverages or any bottles or cans into the stadium, see § 18-9-123.

32-14-101. Short title. This article shall be known and may be cited as the "Denver Metropolitan Major League Baseball Stadium District Act".

Source: L. 89: Entire article added, p. 1327, § 1, effective June 2.

32-14-102. Legislative declaration. The general assembly hereby finds, determines, and declares that the location of a major league baseball franchise in the state of Colorado would be a

source of recreational entertainment for the residents of the state; that a major league baseball franchise would stimulate economic development throughout the state resulting in increased tourism, the creation and maintenance of new jobs, and the attraction and retention of sports and entertainment events; that, in order to be considered for the location of a major league baseball franchise, it is essential that the mechanism exist for financing and constructing a major league baseball stadium in the Denver metropolitan area; and that the creation of a major league baseball stadium district will promote the health, safety, and welfare of the residents of the state.

Source: L. 89: Entire article added, p. 1327, § 1, effective June 2.

32-14-103. Definitions. As used in this article, unless the context otherwise requires:

(1) "Board" means the board of directors of the Denver metropolitan major league baseball stadium district created by this article.

(2) "Commission" means the Colorado baseball commission created by this article.

(3) "Commissioner" means a member of the commission.

(4) "Director" means a member of the board.

(5) "District" means the Denver metropolitan major league baseball stadium district created by this article.

(6) "Major league baseball" means the organization which controls the administrative functions for the ownership and operation of major league baseball operations in the United States and Canada.

(7) "Major league baseball franchise" means the contractual right granted by major league baseball to any individual, group of individuals, or entity to own and operate a major league baseball team in a specified location.

(8) "Minor league baseball franchise" means the contractual right granted to any individual, group of individuals, or entity to own and operate a minor league baseball team in a specified location.

(9) "Special obligation bonds" means the bonds issued by the district pursuant to the provisions of section 32-14-117.

(10) "Stadium" means a sports facility which is designed for use primarily as a major league baseball stadium, which meets the criteria established by the board, which meets criteria which may be established by major league baseball, and which may include, but is not limited to, such features as parking areas, sky boxes, and press boxes which are necessary or desirable for such a sports facility.

Source: L. 89: Entire article added, p. 1327, § 1, effective June 2.

32-14-104. Creation of district - area of district. (1) There is hereby created a district to be known and designated as the Denver metropolitan major league baseball stadium district. The district shall be a body corporate and politic and a political subdivision of the state. The area comprising the district shall consist of:

(a) That area comprising the regional transportation district, as specified in section 32-9-106 as it existed on June 2, 1989; and

(b) That area comprising the regional transportation district as specified in sections 32-9-106.3 as it existed on May 25, 1994, 32-9-106.4 as it existed on April 15, 1996, and 32-9-106.6

as it existed on May 25, 1994, unless rejected by the eligible electors as provided in said sections. Except as otherwise provided by law, the area shall not include areas included in the regional transportation district pursuant to section 32-9-106.7.

(2) Each of the directors, officers, and employees of the district shall be a public employee for purposes of the "Colorado Governmental Immunity Act", article 10 of title 24, C.R.S.

Source: L. 89: Entire article added, p. 1328, § 1, effective June 2. **L. 90:** Entire section amended, p. 1517, § 1, effective April 16. **L. 94:** Entire section amended, p. 1339, § 5, effective May 25. **L. 96:** (1)(b) amended, p. 309, § 5, effective April 15. **L. 99:** (1)(b) amended, p. 420, § 5, effective April 30. **L. 2007:** (1) amended, p. 835, § 8, effective May 14.

32-14-105. Authorizing election. (1) The board created in section 32-14-106 may submit to the registered electors within the geographical boundaries of the district, at a general election, at a special election not paid for with public funds, or at a primary election for which the additional cost of the ballot question is prepaid and is not paid with public funds, the question of whether, upon the granting of a major league baseball franchise by major league baseball to be located in the district, the district shall be authorized to levy and collect for a period not to exceed twenty years a uniform sales tax throughout the district at a rate not to exceed one-tenth of one percent upon every transaction or other incident with respect to which a sales tax is levied by the state, pursuant to the provisions of article 26 of title 39, C.R.S.; except that such sales tax shall be levied on purchases of machinery or machine tools that are otherwise exempt pursuant to section 39-26-709 (1), C.R.S., to the extent that such purchases are subject to the sales tax levied by the regional transportation district pursuant to section 29-2-105 (1)(d), C.R.S., to be held and distributed pursuant to the provisions of section 32-14-115.

(2) The board may include, in the question submitted to the registered electors pursuant to subsection (1) of this section, additional information which it deems to be relevant including, but not limited to, a statement that a target amount of fifty percent of the costs of constructing the stadium has been established for the district to attempt to obtain funding through sources of funding other than the sales tax if approved, such as private funding sources and revenues generated from the operation of the stadium.

(3) The board shall decide at which general, primary, or special election the question shall be submitted to the registered electors. The question may be submitted to the registered electors at a special election only if major league baseball decides to grant a major league baseball franchise to be located within the district or to increase the number of major league baseball franchises prior to the next general election and only upon the affirmative vote of two-thirds of the directors of the board. Such special election shall be held on the first Tuesday after the first Monday in February, May, September, or December. Notice of the question to be submitted and the general, primary, or special election at which it is to be submitted shall be filed in the office of the secretary of state prior to ninety days before such general, primary, or special election.

(4) Prior to any general, primary, or special election at which the question is to be submitted to the registered electors pursuant to subsection (1) of this section, the board shall hold at least two public hearings in each of the counties included, in whole or in part, within the district.

(5) No public moneys from the state, any city, town, city and county, or county shall be expended by the public entity or by any private entity or private person to advertise, promote, or purchase commercial promotion or advertisement to urge electors to vote in favor of or against the question submitted at the election.

(6) If, in any general, primary, or special election, a majority of the registered electors within the geographical boundaries of the district voting on the question vote affirmatively on the question authorizing the district, upon the granting of a major league baseball franchise by major league baseball to be located within the district, to levy and collect for a period not to exceed twenty years the sales tax specified in subsection (1) of this section, then such sales tax shall be levied and collected as provided for in this article.

Source: L. 89: Entire article added, p. 1328, § 1, effective June 2. **L. 90:** (1), (3), (4), and (6) amended, p. 1517, § 2, effective April 16. **L. 2004:** (1) amended, p. 1042, § 9, effective July 1.

Editor's note: The election detailed in this section concerning the question of authorizing the district to levy and collect a sales tax was held August 14, 1990, and a majority of the registered electors voted affirmatively on the question. The vote count was as follows:

FOR:	187,710
AGAINST:	158,283

32-14-106. Board of directors - membership - qualifications. (1) The district created in section 32-14-104 shall be governed by a board of directors which shall consist of seven directors. No director shall be an elected official. Initial appointments to the board shall be made within ninety days after June 2, 1989.

(2) The seven directors shall be appointed by the governor, with the consent of the senate, for four-year terms. Appointments made to the board while the senate is not in session shall be temporary appointments, and the appointees shall serve on a temporary basis until the senate is in session and is able to confirm such appointments. Each director shall hold office until his successor is appointed and qualified.

(3) All directors shall have expertise in one or more areas which are relevant to the performance of the powers and duties of the board. Such areas of expertise may include, but are not limited to: Public finance; private finance; commercial law; commercial real estate; real estate development; general contracting; architecture; and administration of baseball operations.

(4) All directors shall reside within the geographical boundaries of the district.

(5) Any director may be removed at any time during his term at the pleasure of the governor. If any director vacates his office during the term for which appointed to the board, a vacancy on the board shall exist, and the governor shall fill such vacancy by appointment for the remainder of such unexpired term, subject to confirmation by the senate.

(6) The directors shall elect a chairman and a vice-chairman from among the membership of the board.

(7) All business of the board shall be conducted at regular or special meetings which shall be held within the geographical boundaries of the district and which shall be open to the

public. The provisions of this subsection (7) and part 4 of article 6 of title 24, C.R.S., shall apply to all meetings of the board.

(8) Board action shall require the affirmative vote of a majority of the total membership of the board.

(9) Directors of the board shall receive no compensation for their services but may be reimbursed for their necessary expenses while serving as directors of the board.

Source: L. 89: Entire article added, p. 1329, § 1, effective June 6. **L. 90:** (7) amended, p. 1518, § 3, effective April 16. **L. 91:** (7) amended, p. 821, § 9, effective June 1.

32-14-107. Board of directors - powers and duties. (1) In addition to any other powers specifically granted to the board in this article, the board shall have the following powers and duties:

(a) To fix the time and place at which its regular and special meetings shall be held within the geographical boundaries of the district;

(b) To adopt and from time to time amend or repeal rules of procedure and bylaws not in conflict with the constitution and laws of the state;

(c) To hire such permanent and temporary staff as may be necessary to assist the board in its duties;

(d) To promote the acquisition of a major league baseball franchise and the construction of a stadium within the district;

(e) To sue and be sued;

(f) To decide at which general, primary, or special election the question specified in section 32-14-105 (1) shall be submitted to the registered electors within the geographical boundaries of the district;

(g) To contract for the construction, equipment, preservation, operation, and maintenance of a stadium and all necessary works incidental thereto;

(h) To enter into such contracts as may be authorized in this article including, but not limited to, contracts for the lease and sale of a stadium;

(i) To enter into and execute all contracts, leases, intergovernmental agreements, and other instruments in writing necessary or proper to the accomplishment of the purposes of this article, including, but not limited to, intergovernmental agreements concerning revenue sharing;

(j) To conduct such investigations and studies as may be necessary in order to evaluate sites within the district which are suitable for the construction of a stadium including, without limitation, a study of major league baseball stadiums in other cities. In connection with such evaluation process, the board shall consult with representatives of any city, town, city and county, or county included, in whole or in part, in the district, the chambers of commerce located within the district, the Denver baseball commission, and any other individuals, groups of individuals, or entities which may provide any relevant expertise concerning the evaluation of stadium sites. In addition, the board shall consult with the urban land institute pursuant to the provisions of section 32-14-112 concerning the evaluation of stadium sites.

(k) To establish criteria for a stadium site and a stadium;

(l) Upon the approval of the registered electors pursuant to the provisions of section 32-14-105, to select a single site within the district for the location of a stadium after consideration

of any recommendations made by the urban land institute pursuant to the provisions of section 32-14-112 concerning such selection;

(m) To acquire on behalf of the district the selected stadium site and such other lands and interests in real and personal property as may be necessary, by gift, contract, or other means. The board may acquire on behalf of the district such lands and interests in real and personal property as may be necessary for parking facilities, stadium facilities, and stadium site access by gift, contract, or other means or through the exercise of the power of eminent domain, pursuant to the applicable provisions of articles 1 to 7 of title 38, C.R.S.; except that the board shall not be authorized to commence an action on behalf of the district to exercise the power of eminent domain after April 30, 1995, and that the board may only exercise the power of eminent domain with respect to real property which is located within the lesser of one thousand feet of the nearest boundary of real property which, as of January 31, 1993, was owned by or under contract to be acquired by the district or to the center line of Blake street or to the center line of 19th street. Any lands and interest in real and personal property acquired by the board through the exercise of the power of eminent domain shall not be sold, leased, rented, or given away except in connection with the sale or lease of the entire stadium; except that this restriction shall not apply to any agreement with the major league baseball franchise which is located in the district.

(n) To maintain an office at such place as it may designate within the geographical boundaries of the district;

(o) To exercise all powers necessary and requisite for the accomplishment of the purposes for which the district is organized and capable of being delegated by the general assembly; and no enumeration of particular powers granted shall be construed to impair any general grant of power contained in this article or to limit any such grant to powers of the same class as those so enumerated;

(p) To arrange with the city, town, city and county, or county in which the selected stadium site is located to plan, replan, zone, or rezone any part of the selected stadium site, in connection with the acquisition, construction, maintenance, and operation of the stadium proposed or being undertaken by the district pursuant to the provisions of this article;

(q) To borrow money, contract to borrow money for the purpose of issuing special obligation bonds, and issue obligations for any of its corporate purposes and to fund such obligations and to refund such obligations as provided in this article;

(r) To engage the services of private consultants and legal counsel to render professional and technical assistance and advice in carrying out the purposes of this article;

(s) To procure insurance against any loss in connection with its property and other assets and liability for personal injury to or damage to property of others in such amounts and from such insurers as are necessary and reasonable for governmental entities owning similar facilities in the district;

(t) To procure insurance or guarantees from any public or private entity, including but not limited to the state, any city, town, city and county, or county, or any department, agency, or instrumentality of the United States of America, for payment of any obligations issued by the district, including the power to pay premiums on any such insurance;

(u) To receive and accept from any source aid or contributions of money, property, labor, or other things of value to be held, used, and applied to carry out the purposes of this article subject to the conditions upon which the grants or contributions are made, including, but not limited to, gifts or grants from the state, any city, town, city and county, or county, and any

department, agency, or instrumentality of the United States of America for any purpose consistent with the provisions of this article;

(v) To acquire, dispose of, and encumber real and personal property including, without limitation, rights and interests in property, leases, and easements necessary to the functions or the operation of the district;

(w) To fix and from time to time to increase or decrease fees, rentals, rates, tolls, penalties, or other charges for services, programs, or facilities furnished by the district in connection with the operation of the stadium, and the board may pledge such revenues or any portion thereof for the payment of any indebtedness of the district as provided in this article;

(x) To levy and collect a sales tax pursuant to the provisions of this article, and the board may pledge such sales tax revenues or any portion thereof for the payment of any indebtedness of the district;

(y) To invest moneys received by the district pursuant to the provisions of this article in accordance with the provisions of part 6 of article 75 of title 24, C.R.S.;

(z) To administer and use moneys received by the district in accordance with the provisions of this article;

(aa) To develop reporting and review requirements governing the receipt and expenditures of any moneys received by the district pursuant to this article;

(bb) To deposit any moneys of the district in any banking institution or savings and loan association within the state as authorized in section 24-75-603, C.R.S., and to appoint, for purposes of making such deposits, one or more persons to act as custodians of the moneys of the district, who may be required to give surety bonds in such amounts and form and for such purposes as the board may require.

Source: L. 89: Entire article added, p. 1330, § 1, effective June 2. **L. 90:** (1)(a), (1)(f), (1)(i), (1)(l), (1)(m), (1)(q), and (1)(s) amended and (1)(bb) added, p. 1518, § 4, effective April 16. **L. 93:** (1)(m) amended, p. 902, § 1, effective May 18.

32-14-108. Conflicts of interest prohibited. (1) No director, employee, or agent of the district shall be interested in any contract or transaction with the district except in his official representative capacity.

(2) No director may vote in favor of a specific stadium site if such director or any member of the immediate family of such director has any direct or indirect financial interest in the real property on which the stadium would be located or any real property which would be significantly benefited by the construction of a major league baseball stadium.

Source: L. 89: Entire article added, p. 1332, § 1, effective June 2.

32-14-109. Records of board - audits - legislative oversight - powers and duties of state auditor. (1) All resolutions and orders shall be recorded and authenticated by the signature of the chairman of the board and the secretary. Every legislative act of the board of a general or permanent nature shall be by resolution. The book of resolutions and orders shall be a public record. A record shall also be made of all other proceedings of the board, minutes of the meetings, certificates, contracts, bonds given by directors, employees, and any other agents of the district, and all corporate acts and said record shall be a public record. The board shall keep

an account of all moneys received by and disbursed on behalf of the district, and said account shall also be a public record. Any public record of the district shall be open for inspection by any registered elector of the district, by any official representative of the state, or by any official representative of any county, city and county, city, or town included, in whole or in part, within the district. All records shall be subject to audit as provided by law for political subdivisions.

(2) (a) In addition to the audit authorized in subsection (1) of this section, upon the affirmative vote of a majority of the members of the legislative audit committee created pursuant to section 2-3-101, it is the duty of the state auditor to conduct or cause to be conducted audits of the district. The state auditor shall prepare for the committee a report and shall make recommendations on such audit and shall include a copy of or the substance of such report in the annual report made pursuant to section 2-3-103 (2).

(b) In conducting an audit pursuant to paragraph (a) of this subsection (2), the state auditor or his or her designated representative shall have access at all times, except as otherwise provided in sections 39-1-116, 39-4-103, and 39-5-120, C.R.S., to all of the books, accounts, reports, including confidential reports, vouchers, or other records or information of the district. Nothing in this paragraph (b) shall be construed as authorizing or permitting the publication of information prohibited by law. Any director, employee, or agent who fails or who interferes in any way with such examination commits a class 2 misdemeanor and shall be punished as provided in section 18-1.3-501, C.R.S.

(c) In verifying any of the audits made, the state auditor shall have the right to ascertain the amounts on deposit in any bank or other depository belonging to the district. In addition, the state auditor shall have the right to audit said account or the books of any such bank or depository. No bank or other depository shall be liable for making available to the state auditor any of the information required pursuant to the provisions of this paragraph (c).

Source: L. 89: Entire article added, p. 1332, § 1, effective June 2. **L. 2002:** (2)(b) amended, p. 1543, § 290, effective October 1. **L. 2017:** (2)(a) amended, (SB 17-294), ch. 264, p. 1413, § 105, effective May 25.

Cross references: For the legislative declaration contained in the 2002 act amending subsection (2)(b), see section 1 of chapter 318, Session Laws of Colorado 2002.

32-14-110. Privatization - study and consideration. (1) The board shall study, consider, and pursue opportunities for privatizing the costs of acquiring a stadium site, the costs of constructing a stadium, or the costs of operating a stadium in order to minimize the use of sales tax revenues to the greatest extent possible for the purposes of this article. Such methods to be studied, considered, and pursued by the board in order to achieve such privatization shall include, but not be limited to, the following:

(a) Financial incentives from private sources, including landowners and developers, available to offset the cost of a stadium site and the construction, maintenance, and operation of a stadium, including, but not limited to: Contributions of money, goods, equipment, and services; lease-purchase agreements; sale-leaseback agreements; and joint venture proposals;

(b) The sale or lease of the name of the stadium, any symbol or image of the general design, appearance, or configuration of the stadium, including trademarks, service marks, trade names, and logos;

(c) The sale or lease of seat rights;
(d) The sale or lease of luxury suites, commonly referred to as sky boxes; and
(e) The sale of long-term advertising, parking, and concession rights.

Source: L. 89: Entire article added, p. 1333, § 1, effective June 2. **L. 90:** IP(1), (1)(a), and (1)(e) amended, p. 1519, § 5, effective April 16.

32-14-111. Criteria - stadium site - stadium. (1) The board shall establish criteria for the stadium site and the stadium. In establishing such criteria, the board shall consider factors which it deems relevant including, but not limited to:

(a) The need for access to the site by motor vehicles, pedestrians, and others using the stadium, including the proximity to highways, the capacity of surrounding streets and highways to handle traffic, the proximity to actual and proposed public transportation, and the overall convenience to the citizens of the district;

(b) The extent to which financial incentives from private sources, including landowners and developers, may be maximized in order to reduce the amount of public moneys required to be expended for a stadium site;

(c) The extent to which the economic potential resulting from the location of a stadium may be maximized, including the compatibility of a stadium with adjacent actual or proposed development;

(d) The compatibility of a stadium with surrounding neighborhoods;

(e) The existence of readily available fire and police protection services;

(f) The existence or the potential for the existence of adequate parking facilities for motor vehicles in the immediately surrounding area; and

(g) Any criteria which may be established by major league baseball concerning stadium sites or stadiums.

Source: L. 89: Entire article added, p. 1333, § 1, effective June 2.

32-14-112. Consultation with urban land institute - Colorado baseball commission - consideration of recommendations. The board shall consult with and shall consider any recommendations made by the urban land institute or by the Colorado baseball commission in regard to the duties of the board, including but not limited to the selection of a stadium site, the planning and design of the stadium, and the financing of the stadium site acquisition and the construction of the stadium.

Source: L. 89: Entire article added, p. 1334, § 1, effective June 2.

32-14-113. Costs - acquisition of stadium site - construction of stadium - use of public moneys - target percentage. The district shall make every reasonable effort to obtain funding for a target amount of at least fifty percent of the total costs incurred by the district in the acquisition of a stadium site and in the construction of a stadium from moneys acquired from sources other than the levy and collection of the sales tax authorized pursuant to the provisions of section 32-14-114. Such amount constitutes a target which the district shall attempt to achieve but is not a mandatory requirement. Such moneys may include, but are not limited to, private

donations or the revenues acquired by the issuance of special obligation bonds to be paid from the financial incentives specified in section 32-14-110 (1)(a) or the operating revenues generated by the district. The sales tax authorized in section 32-14-114 shall be levied only for the period of time for which it is necessary to generate revenues sufficient to pay the percentage of the total costs incurred in said acquisition and construction not funded by other sources of money and for such other purposes specified in section 32-14-115, but such period of time shall not exceed twenty years.

Source: L. 89: Entire article added, p. 1334, § 1, effective June 2. **L. 90:** Entire section amended, p. 1520, § 6, effective April 16.

32-14-114. Sales tax imposed - collection - administration of tax - discontinuance. (1) Upon the approval of the registered electors pursuant to the provisions of section 32-14-105 and upon the granting of a major league baseball franchise by major league baseball to be located in the district, the board shall have the power to levy such uniform sales tax for a period not to exceed twenty years throughout the district created in section 32-14-104 upon every transaction or other incident with respect to which a sales tax is levied by the state, pursuant to the provisions of article 26 of title 39, C.R.S.; except that such sales tax shall not be levied on the sale of cigarettes and shall be levied on:

(a) Purchases of machinery or machine tools that are otherwise exempt pursuant to section 39-26-709 (1), C.R.S., to the extent that such sales and purchases are subject to the sales tax levied by the regional transportation district pursuant to section 29-2-105 (1)(d), C.R.S., on and after the January 1 following the adoption of a resolution by the board;

(b) Sales of low-emitting motor vehicles, power sources, or parts used for converting such power sources as specified in section 39-26-719 (1), C.R.S.; and

(c) Vending machine sales of food that are otherwise exempt pursuant to section 39-26-714 (2), C.R.S.

(2) (a) The collection, administration, and enforcement of the sales tax shall be performed by the executive director of the department of revenue in the same manner as that for the collection, administration, and enforcement of the state sales tax imposed pursuant to article 26 of title 39, C.R.S., including, without limitation, the retention by a vendor of the percentage of the amount remitted to cover the vendor's expense in the collection and remittance of the sales tax as provided in section 39-26-105, C.R.S. The executive director shall make monthly distributions of such sales tax collections to the district. The district shall pay the net incremental cost incurred by the department of revenue in the administration and collection of such sales tax; except that in no event shall the district pay in any given fiscal year commencing on or after July 1, 1994, more than an amount equal to the amount paid by the district in the 1993-94 fiscal year, as adjusted in accordance with changes in the consumer price index for the Denver-Boulder consolidated metropolitan statistical area. The department may make expenditures for such costs subject to annual appropriation by the general assembly.

(b) (I) A qualified purchaser may provide a direct payment permit number issued pursuant to section 39-26-103.5, C.R.S., to any vendor or retailer that is liable and responsible for collecting and remitting any sales tax levied on any sale made to the qualified purchaser pursuant to the provisions of this article. A vendor or retailer that has received in good faith from a qualified purchaser a direct payment permit number shall not be liable or responsible for

collection and remittance of any sales tax imposed on such sale that is paid for directly from such qualified purchaser's funds and not the personal funds of any individual.

(II) A qualified purchaser that provides a direct payment permit number to a vendor or retailer shall be liable and responsible for the amount of sales tax levied on any sale made to the qualified purchaser pursuant to the provisions of this article in the same manner as liability would be imposed on a qualified purchaser for state sales tax pursuant to section 39-26-105 (3), C.R.S.

(3) If the board levies such uniform sales tax as authorized in subsection (1) of this section, the board shall transmit to the executive director of the department of revenue not later than five days after the adoption of the resolution imposing such sales tax a certified copy of said resolution, whereupon said executive director shall proceed to collect, administer, and enforce such sales tax pursuant to the provisions of subsection (2) of this section for a period of twenty years from the effective date of said resolution, unless the executive director of the department of revenue receives from the board notification of discontinuance of the levy of such sales tax pursuant to the provisions of subsection (4) of this section.

(4) At such time, prior to the end of the twenty-year period, that the board determines that the levy of the sales tax is no longer necessary for the purposes set forth in this article, the board shall transmit to the executive director of the department of revenue not later than five days after the adoption of the resolution discontinuing the levy of such sales tax a certified copy of said resolution, whereupon said executive director shall discontinue the collection, administration, and enforcement of said sales tax on the January 1 following the adoption of said resolution. Upon the adoption of said resolution discontinuing the sales tax levy, the board shall have no further authority to levy such sales tax on and after the January 1 following the adoption of said resolution.

Source: L. 89: Entire article added, p. 1334, § 1, effective June 2. **L. 90:** (1), (3), and (4) amended, p. 1520, § 7, effective April 16. **L. 94:** (2) amended, p. 319, § 7, effective March 29. **L. 99:** (1) amended, p. 983, § 7, effective May 28; (1) amended, p. 1358, § 8, effective January 1, 2000; (2) amended, p. 15, § 9, effective January 1, 2000. **L. 2004:** (1) amended, p. 1042, § 10, effective July 1. **L. 2009:** IP(1) amended, (HB 09-1342), ch. 354, p. 1849, § 9, effective July 1.

Editor's note: Amendments to subsection (1) by House Bill 99-1015 and House Bill 99-1271 were harmonized.

32-14-115. Sales tax revenues - use. (1) Sales tax revenues levied and collected pursuant to the provisions of section 32-14-114 shall be used by the board for the following purposes:

(a) To reimburse the board for the day-to-day operating costs incurred in the administration of the district; however, such costs shall not exceed three-fourths of one percent of the amount of sales tax revenues collected annually;

(b) To reimburse the board for any loans made to the board or any direct out-of-pocket expenses incurred by the board for matters directly related to the duties of the board prior to the time that sales tax revenues were available for use by the board;

(c) To reimburse the board for expenses incurred in the investigation, study, and evaluation of potential stadium sites, for preconstruction planning of the design and construction of a stadium, and for the hiring of professionals to assist in these and other related activities;

(d) To acquire a site within the district which shall be suitable for construction of a stadium;

(e) To plan, design, and construct a stadium and all facilities incidental thereto;

(f) To pay the principal, interest, and prepayment premium, if any, on outstanding special obligation bonds issued by the board pursuant to the provisions of this article.

(2) If sales tax revenues levied and collected pursuant to the provisions of section 32-14-114 and the operating revenues generated by the district are insufficient for all of the purposes set forth in subsection (1) of this section, the purpose set forth in paragraph (f) of said subsection (1) shall have first priority of such sales tax revenues.

Source: L. 89: Entire article added, p. 1335, § 1, effective June 2. **L. 90:** Entire section R&RE, p. 1521, § 8, effective April 16.

32-14-116. Operating revenues - use. (1) Any operating revenues generated by the district, including, but not limited to, lease payments, fees, rentals, rates, tolls, penalties, and charges for services, programs, or facilities furnished by the district, shall be used by the board for the following purposes:

(a) To pay for the expenses incurred by the board in the general operation of the stadium;

(b) To provide for the repair and maintenance of the stadium;

(c) To provide for capital improvements to the stadium;

(d) To pay the principal, interest, and prepayment premium, if any, on outstanding special obligation bonds issued by the board pursuant to the provisions of this article.

(2) If operating revenues and sales tax revenues are insufficient for all of the purposes set forth in subsection (1) of this section, the purpose set forth in paragraph (d) of said subsection (1) shall have first priority of such operating revenues if such operating revenues are pledged to secure the payment of the special obligation bonds.

Source: L. 89: Entire article added, p. 1336, § 1, effective June 2. **L. 90:** Entire section R&RE, p. 1521, § 9, effective April 16.

32-14-117. Issuance of special obligation bonds. (1) Upon the approval of the registered electors pursuant to the provisions of section 32-14-105, the district may borrow money in anticipation of the revenues generated from the operation of a stadium and sales tax revenues of the district and may issue special obligation bonds to evidence the amount so borrowed. If the district issues special obligation bonds after such approval by the registered electors but prior to the granting of a major league baseball franchise by major league baseball to be located within the district, the proceeds of such special obligation bonds shall not be used to pay for any expenses incurred by the district until such time as major league baseball grants a major league baseball franchise to be located within the district. Special obligation bonds or other obligations payable in whole or in part from sales tax revenues or net operating revenues of the district or from moneys or assets of the district held in escrow may be issued or incurred

without an election, in anticipation of such sales tax revenues or net operating revenues or such moneys or assets held in escrow.

(2) Special obligation bonds issued pursuant to the provisions of this section shall satisfy the terms, conditions, and requirements as set forth in any resolution adopted by the board authorizing the issuance of such special obligation bonds or in any trust indenture entered into between the board and any commercial bank or trust company having full trust powers which are not inconsistent with the provisions of this article. Such terms, conditions, and requirements may include, but are not limited to, the following:

(a) The execution and delivery of such special obligation bonds by the district and the times of such execution and delivery;

(b) The form and denominations of such special obligation bonds, including the terms and maturities;

(c) Whether such special obligation bonds are subject to optional or mandatory redemption prior to maturity with or without a premium;

(d) Whether such special obligation bonds are in fully registered form or bearer form registrable as to principal or interest, or both;

(e) Whether such special obligation bonds may bear conversion privileges and, if so, such conversion privileges;

(f) Whether such special obligation bonds are payable in installments and, if so, the times of such installment payments; however, the period of time during which such payments may be made shall not exceed twenty years from the date of issuance;

(g) The place or places, within or without the state, at which such special obligation bonds may be paid;

(h) The interest rate or rates which such special obligation bonds bear per annum and which may be fixed or may vary according to index, procedure, formula, or such other method as determined by the district or its agents, without regard to any interest rate limitation specified by the laws of this state;

(i) Whether such special obligation bonds are subject to purchase at the option of the holder or the district;

(j) The manner of evidencing such special obligation bonds;

(k) Whether such special obligations may be executed by the officers of the district, including the use of one or more facsimile signatures so long as at least one manual signature of an officer of the district, or of any agent authenticating the same, appears on the special obligations bonds; and

(l) Whether such special obligation bonds are in the form of coupon bonds which have attached interest coupons bearing a manual or facsimile signature of an officer of the district.

Source: L. 89: Entire article added, p. 1336, § 1, effective June 2. **L. 90:** Entire section amended, p. 1522, § 10, effective April 16.

32-14-118. Pledge of sales tax revenues and net operating revenues. The payment of special obligation bonds may be secured by the specific pledge of sales tax revenues of the district, operating revenues of the district, or moneys or assets of the district held in escrow as the board, in its discretion, may determine. Operating revenues, sales tax revenues, or moneys or assets held in escrow pledged for the payment of any special obligation bonds, as received by the

district, shall immediately be subject to the lien of such pledge, without any physical delivery thereof, any filing, or further act, and the lien of such pledge and the obligation to perform the contractual provisions made in the authorizing resolution or other instrument relating thereto shall have priority over all other obligations and liabilities of the district, except as may be otherwise provided in this article or in such resolution or instrument, and subject to any prior pledges and liens previously created. The lien of such pledge shall be valid and binding as against all persons having claims of any kind in tort, contract, or otherwise against the district, regardless of whether such persons have notice thereof.

Source: L. 89: Entire article added, p. 1337, § 1, effective June 2. **L. 90:** Entire section amended, p. 1523, § 11, effective April 16.

32-14-119. Payment, recital, and securities. Special obligation bonds issued pursuant to the provisions of this article and constituting special obligations shall recite in substance that the obligations and the interest thereon are payable solely from operating revenues of the district, sales tax revenues of the district, or moneys or assets of the district held in escrow, as the case may be, pledged to the payment thereof.

Source: L. 89: Entire article added, p. 1337, § 1, effective June 2. **L. 90:** Entire section amended, p. 1524, § 12, effective April 16.

32-14-120. Incontestable recital in securities. Any authorizing resolution, or other instrument relating thereto pursuant to the provisions of this article, may provide that each security therein designated shall recite that it is issued pursuant to the authority of this article. Such recital shall conclusively impart full compliance with all of the provisions of this article, and all securities issued containing such recital shall be incontestable for any cause whatsoever after their delivery for value.

Source: L. 89: Entire article added, p. 1337, § 1, effective June 2.

32-14-121. Limitation upon payment. The payment of special obligation bonds shall not be secured by any encumbrance, mortgage, or other pledge of property of the district, other than operating revenues, sales tax revenues, or moneys or assets held in escrow. No property of the district, subject to this exception, shall be liable to be forfeited or taken in payment of the special obligation bonds.

Source: L. 89: Entire article added, p. 1337, § 1, effective June 2. **L. 90:** Entire section amended, p. 1524, § 13, effective April 16.

32-14-122. Negotiability. Subject to the payment provisions specifically provided in this article, any special obligation bonds shall be fully negotiable within the meaning of and for all the purposes of article 8 of title 4, C.R.S., except as the board may otherwise provide.

Source: L. 89: Entire article added, p. 1337, § 1, effective June 2.

32-14-123. Sale of special obligation bonds. (1) Any special obligation bonds issued pursuant to this article shall be sold at public or private sale for not less than the principal amount thereof and accrued interest, or at the option of the board, below par, at a discount not exceeding seven percent of the principal amount thereof, but such special obligation bonds shall never be sold at a price such that the net effective interest rate exceeds the maximum net effective interest rate authorized.

(2) No discount, except as provided in subsection (1) of this section, or commission shall be allowed or paid on or for any sale to any purchaser or bidder, directly or indirectly.

Source: L. 89: Entire article added, p. 1337, § 1, effective June 2.

32-14-124. Contracts. The board shall award contracts in excess of three thousand dollars on a fair and competitive basis for the construction of any works, facility, or project, or portion thereof, or for the performance or furnishing of any labor, material, personal or real property, services, or supplies.

Source: L. 89: Entire article added, p. 1338, § 1, effective June 2. **L. 90:** Entire section R&RE, p. 1524, § 14, effective April 16.

32-14-125. Management agreement - operation of stadium. Upon the approval of the registered electors pursuant to the provisions of section 32-14-105 and upon the granting of a major league baseball franchise by major league baseball to be located within the district, the board shall negotiate and enter into one or more management agreements for the management and operation of the stadium with independent contractors upon such terms and conditions which the board deems reasonable and necessary. Such agreements shall be legally binding contracts between the district and professional management organizations which shall contain appropriate and reasonable provisions with respect to termination, default, and legal remedies. For purposes of this section, "professional management organization" means a person, firm, or corporation having experience, expertise, and specialization in the management and operation of sports, entertainment, or convention facilities, or in a particular area therein.

Source: L. 89: Entire article added, p. 1338, § 1, effective June 2. **L. 90:** Entire section amended, p. 1524, § 15, effective April 16.

32-14-126. Lease of stadium - major league baseball franchise. (1) Any lease agreement entered into by the district and the major league baseball franchise to be located in the district shall include, but is not limited to, the following:

(a) A provision requiring the major league baseball franchise to conduct its complete regular home season schedule and any home play-off events in the stadium;

(b) A provision requiring the major league baseball franchise to advertise and promote events it conducts at the stadium; and

(c) A provision requiring the major league baseball franchise to not unreasonably withhold permission for the holding of other events in the stadium.

Source: L. 89: Entire article added, p. 1338, § 1, effective June 2.

32-14-126.5. Revenue sharing. After all the principal, interest, and premium, if any, of the special obligation bonds issued pursuant to this article are paid in full and the levy and collection of sales tax revenues by the district is discontinued, but prior to the repeal of this article, any funds collected by the district which are, in the sole discretion of the board, deemed not to be necessary for the anticipated expenses and reserves of the district shall be credited at least annually to the general fund of each county, city and county, city, and town which is included, in whole or in part, in the district based upon the proportion of the total amount of sales tax revenues collected pursuant to section 32-14-114 within such county, city and county, city, and town to the total amount of sales tax revenues collected pursuant to section 32-14-114 within the district. For purposes of this section, the total amount of sales tax revenues collected within a county shall not include any sales tax revenues collected in any city or town located within such county. In addition, in computing said proportion, any sales tax revenues collected in any county, city, or town which is not included, in whole or in part, within the geographical boundaries of the district shall not be included in the total amount of sales tax revenues collected within the district.

Source: L. 90: Entire section added, p. 1525, § 16, effective April 16.

32-14-127. Report. (Repealed)

Source: L. 89: Entire article added, p. 1338, § 1, effective June 2. **L. 2002:** Entire section repealed, p. 867, § 5, effective August 7.

32-14-128. Limitations upon liabilities. Neither the directors nor any person executing any obligations issued pursuant to the provisions of this article shall be personally liable on the obligations by reason of the issuance thereof. Obligations issued pursuant to this article shall not in any way create or constitute any indebtedness, liability, or obligation of the state or of any political subdivision thereof, except the district, and nothing in this article shall be construed to authorize the district to incur any indebtedness on behalf of or in any way to obligate the state or any political subdivision thereof, except the district, and nothing in this article shall be construed to authorize the district to incur any indebtedness on behalf of or in any way to obligate the state or any political subdivision thereof, except as specifically provided in this article.

Source: L. 89: Entire article added, p. 1338, § 1, effective June 2.

32-14-129. Sale of real and personal property of district. Upon completion of the construction of a stadium pursuant to the provisions of this article, the board shall make a good faith effort to sell the real and personal property of the district, including the stadium, to any qualified buyer. The board shall establish criteria to determine qualified buyers. The board shall not accept any offer from any qualified buyer for such real and personal property of the district for an amount less than the total amount of outstanding obligations of the district or the amount of sales tax revenues used by the board to acquire a site for a stadium and to construct a stadium, whichever is greater.

Source: L. 89: Entire article added, p. 1339, § 1, effective June 2.

32-14-130. Limitations upon promotional activities. No moneys of the district shall be used for promotion of the acquisition of a major league baseball franchise or for the passage of a sales tax increase for the construction of a stadium within the district.

Source: L. 89: Entire article added, p. 1339, § 1, effective June 2.

32-14-131. Colorado baseball commission - creation - membership. (1) There is hereby created the Colorado baseball commission which shall consist of no fewer than fifteen commissioners but no more than eighteen commissioners. The commission shall be a body corporate and a political subdivision of the state, shall not be an agency of state government, and shall not be subject to administrative direction by any department, commission, board, bureau, or agency of the state. Initial appointments to the commission shall be made within ninety days after June 2, 1989.

(2) Repealed.

(3) (a) Five commissioners shall be appointed by the governor.

(b) Two commissioners shall be appointed by the speaker of the house of representatives.

(c) Two commissioners shall be appointed by the president of the senate.

(d) Six commissioners shall be appointed as follows:

(I) One commissioner each shall be appointed by the boards of county commissioners of the five counties in the district; and

(II) One commissioner shall be appointed by the city and county of Denver.

(e) The remaining commissioners, if any, shall be appointed by the governor.

(4) All commissioners appointed pursuant to the provisions of paragraph (d) of subsection (3) of this section shall reside within the geographical boundaries of the district.

(5) Any appointed commissioner may be removed at any time at the pleasure of the person or governing body who appointed such commissioner. If any appointed commissioner vacates his office, a vacancy on the commission shall exist, and the person or governing body who appointed such commissioner vacating his office shall fill such vacancy by appointment.

(6) The appointed commissioners shall elect such officers as deemed necessary and appropriate from among the appointed membership of the commission.

(7) Commissioners shall receive no compensation for their services but may be reimbursed for their necessary expenses while serving as commissioners.

Source: L. 89: Entire article added, p. 1339, § 1, effective June 2. **L. 90:** (1), (3)(a), and (6) amended, (2) repealed, and (3)(e) added, pp. 1525, 1526, §§ 17, 18, effective April 16.

32-14-132. Commission - powers and duties. (1) The commission shall have the following powers and duties:

(a) To advise and make recommendations to the board concerning the performance of the duties of the board as set forth in this article;

(b) To promote the sport of baseball in the state of Colorado, including but not limited to the acquisition of a major league baseball franchise and the construction of a stadium within the district;

(c) To formulate and adopt an annual budget to govern the expenses of the commission in undertaking its activities;

(d) To adopt, and from time to time amend or repeal, such bylaws and rules and regulations as it may consider to be necessary or advisable and to keep a record of its proceedings, which record shall be open to inspection by the public at all reasonable times;

(e) To contract for those services, including services for necessary personnel, and materials required by the activities of the commission;

(f) To administer and use moneys received by the commission in accordance with the provisions of this section;

(g) To receive and expend donations or grants from any private source or from any department, agency, or instrumentality of the United States government to be held, used, and applied to carry out the purposes of this section subject to the conditions upon which the donations or grants are made; however, nothing in this paragraph (g) shall authorize the commission to accept or expend public moneys, whether as gifts, grants, or other forms of contribution, from the state, the board, any city, town, city and county, or county;

(h) To deposit any moneys received by the commission pursuant to the provisions of this section in any banking institution within the state or in any depository authorized in section 24-75-603, C.R.S., and to appoint, for purposes of making such deposits, one or more persons to act as custodians of the moneys of the commission, who may be required to give surety bonds in such amounts and form and for such purposes as the board may require; and

(i) To develop reporting and review requirements governing the receipt and expenditures of any moneys received by the commission pursuant to the provisions of this section. The account of all moneys received by and expended by the commission shall be a public record and shall be open for inspection by the public at all reasonable times.

Source: L. 89: Entire article added, p. 1340, § 1, effective June 2.

32-14-133. Repeal of article. (1) This article is repealed, effective as of the earliest occurrence of the following:

(a) Five years after July 1, 1989, if the board has not submitted the question set forth in section 32-14-105 (1) to the registered electors within the geographic boundaries of the district pursuant to the provisions of said section; or

(b) At such time as a majority of the registered electors within the geographical boundaries of the district vote negatively on the question set forth in section 32-14-105 (1); or

(c) Ten years after July 1, 1989, if major league baseball has not granted a major league baseball franchise to be located within the geographical boundaries of the district to any individual, group of individuals, or entity; or

(d) The completion of the sale of the stadium by the board to any qualified buyer pursuant to the provisions of section 32-14-129.

(2) Upon repeal of this article, any funds collected by the district but not used for the purposes set forth in this article shall be credited to the general fund of each county, city and county, city, and town which is included, in whole or in part, in the district based upon the proportion of the total amount of sales tax revenues collected pursuant to section 32-14-114 within such county, city and county, city, and town to the total amount of sales tax revenues collected pursuant to section 32-14-114 within the district. For purposes of this subsection (2),

the total amount of sales tax revenues collected within a county shall not include any sales tax revenues collected in any city or town located within such county. In addition, in computing said proportion, any sales tax revenues collected in any county, city, or town which is not included, in whole or in part, within the geographical boundaries of the district shall not be included in the total amount of sales tax revenues collected within the district.

Source: L. 89: Entire article added, p. 1341, § 1, effective June 2.

Editor's note: This article remains in effect since the question of authorizing the district to levy and collect a sales tax was approved on August 14, 1990, by a majority of the registered electors, a major league franchise was granted on July 5, 1991, and the sale of the stadium by the board has not taken place.

ARTICLE 15

Metropolitan Football Stadium District Act

32-15-101. Short title. This article shall be known and may be cited as the "Metropolitan Football Stadium District Act".

Source: L. 96: Entire article added, p. 1054, § 1, effective May 23.

32-15-102. Legislative declaration. (1) The general assembly hereby finds, determines, and declares that:

(a) There is a question of whether Mile High stadium is viable physically and economically;

(b) The general assembly and the public are in need of a full and objective review of the viability of Mile High stadium and the possible need for renovating Mile High stadium or for constructing a new football stadium, including the costs and benefits associated with the renovation of Mile High stadium or the construction and operation of a new football stadium in the metropolitan Denver area;

(c) This needed review is best accomplished by an independent body, the metropolitan football stadium district.

(2) Therefore, the general assembly has enacted this article creating the metropolitan football stadium district.

Source: L. 96: Entire article added, p. 1054, § 1, effective May 23. **L. 97:** (1)(b) amended, p. 1487, § 1, effective June 3.

32-15-103. Definitions. As used in this article, unless the context otherwise requires:

(1) "Board" means the board of directors of the metropolitan football stadium district created in section 32-15-105.

(2) "Commission" means the football stadium site selection commission created in section 32-15-128.

(3) "Director" means a member of the board.

(4) "District" means the metropolitan football stadium district created in section 32-15-104.

(5) "Franchise" means the contractual right granted to any individual, group of individuals, or entity to own and operate a national football league team in a specified location.

(5.5) "Renovate" means a substantial addition to, or to substantially remodel, redevelop, or otherwise improve, Mile High stadium for use as a stadium, as defined in this section.

(6) "Special obligation bonds" means the bonds issued by the district pursuant to the provisions of section 32-15-113.

(7) "Stadium" means a sports facility that is designed for use primarily as a national football league football stadium, which meets criteria established by the board, which meets criteria that may be established by the national football league, and that may include, but is not limited to, such features as parking areas, sky boxes, and press boxes that are necessary or desirable for such sports facility.

Source: L. 96: Entire article added, p. 1055, § 1, effective May 23. **L. 97:** (5.5) added, p. 1487, § 2, effective June 3.

32-15-104. Creation of district - area of district. (1) There is hereby created a district to be known and designated as the metropolitan football stadium district. The district shall be a body corporate and politic and a political subdivision of the state. Except as provided in subsection (1.5) of this section, the area comprising the district shall consist of:

(a) That area comprising the regional transportation district, as specified in section 32-9-106 as it existed on May 23, 1996; and

(b) That area comprising the regional transportation district as specified in sections 32-9-106.3, 32-9-106.4, and 32-9-106.6 as said sections existed on May 23, 1996, unless rejected by the eligible electors as provided in said sections. Except as otherwise provided by law, the area shall not include areas included in the regional transportation district pursuant to section 32-9-106.7.

(1.5) On and after April 22, 1998, the district shall, in addition to any areas listed under subsection (1) of this section, consist of the following areas:

(a) That area within the city of Lone Tree, state of Colorado, that, as of April 22, 1998, is zoned for commercial use and is within sections 3, 4, and 5, township 6 south, range 67 west of the sixth principal meridian, county of Douglas, state of Colorado; and

(b) That area east of Yosemite street, south of County Line road, west of Interstate 25 and within section 3, township 6 south, range 67 west of the sixth principal meridian, county of Douglas, state of Colorado.

(2) Each of the directors, officers, and employees of the district shall be a public employee for purposes of the "Colorado Governmental Immunity Act", article 10 of title 24, C.R.S.

Source: L. 96: Entire article added, p. 1055, § 1, effective May 23. **L. 98:** IP(1) amended and (1.5) added, p. 499, § 1, effective April 22. **L. 99:** (1)(b) amended, p. 420, § 6, effective April 30. **L. 2007:** (1) amended, p. 835, § 9, effective May 14.

Editor's note: The Douglas county district court ruled that subsection (1.5)(a), which included the commercial areas of the city of Lone Tree in the stadium district, was unconstitutional. The court's order was not appealed. City of Lone Tree v. Metropolitan Football Stadium District, Case No. 98 CV 349, Douglas county district court, order dated October 28, 1998.

32-15-104.3. District area - town of Castle Rock in Douglas county. (1) In consideration of the fact that various noncontiguous parcels containing less than twenty percent of the residents of the town of Castle Rock are included in the district, the voters within the boundaries of the town of Castle Rock may elect to consolidate the status of the town of Castle Rock as completely included in or completely excluded from the boundaries of the district at an election held pursuant to subsection (3) of this section.

(2) The outcome of any election held pursuant to subsection (3) of this section shall apply to any area that is annexed by the town of Castle Rock on or after the date of such election, regardless of whether the area was included within the boundaries of the district before the election.

(3) Pursuant to the provisions of subsection (1) of this section, the area included within the boundaries of the town of Castle Rock may be included in or excluded from the district if the following requirements are met:

(a) Two proposals, one to include the area and one to exclude the area, are initiated by any of the following methods:

(I) Two petitions, one requesting an election for the purpose of including the area in the district and one requesting an election for the purpose of excluding the area from the district, are each signed by at least five percent of the registered electors within the town of Castle Rock and submitted to the governing body of the town of Castle Rock; or

(II) The governing body of the town of Castle Rock adopts two resolutions, one to hold an election for the purpose of including the area in the district and one to hold an election for the purpose of excluding the area from the district.

(b) An election is held and conducted in accordance with articles 1 to 13 of title 1 or article 10 of title 31, C.R.S., as applicable, and the following requirements:

(I) The election is held either at the odd-year election held on the first Tuesday in November of 2005 or any regular local district election for the town of Castle Rock held thereafter, as determined by the governing body of the town of Castle Rock. The town of Castle Rock shall pay the costs of such elections.

(II) One ballot question provides for all of the registered electors in the town of Castle Rock to vote for or against the inclusion of the proposed area in the district and one ballot question provides for all of the registered electors in the town of Castle Rock to vote for or against the exclusion of the area from the district.

(III) Each ballot question specifies that the area proposed to be included in or excluded from the district, as applicable, is all of the area within the boundaries of the town of Castle Rock.

(IV) Each ballot question contains the current rates of sales and use tax levied by the district.

(V) The ballot contains both of the following questions:

(A) "Shall the area described in the ballot be included in the metropolitan football stadium district and subject to taxation by the district?"; and

(B) "Shall the area described in the ballot be excluded from the metropolitan football stadium district and not subject to taxation by the district?".

(4) (a) In the event that either the ballot question to include all of the area within the boundaries of the town of Castle Rock in the district or the ballot question to exclude all of the area within the boundaries of the town of Castle Rock from the district is approved by a majority of the registered electors who voted in the election and the other ballot question is not approved by a majority of the registered electors who voted in the election, the ballot question that was approved by a majority of the registered electors who voted in the election shall take effect.

(b) In the event that both the ballot question to include all of the area within the boundaries of the town of Castle Rock in the district and the ballot question to exclude all of the area within the boundaries of the town of Castle Rock from the district are approved by a majority of the registered electors who voted in the election, only the ballot question that receives the larger number of votes in favor of the question shall take effect.

(c) In the event that neither the ballot question to include all of the area within the boundaries of the town of Castle Rock in the district nor the ballot question to exclude all of the area within the boundaries of the town of Castle Rock from the district is approved by a majority of registered electors who voted in the election, neither of the ballot questions shall take effect and the boundaries of the district shall continue to include the parts of the town of Castle Rock that were included in the district before such election.

(5) In the event that the registered electors of the town of Castle Rock elect to be included within the boundaries of the district, the town of Castle Rock shall grant the department of revenue any costs it incurs in carrying out the requirements of this section.

(6) Under no circumstance shall any moneys from the general fund be appropriated to the department of revenue or any other department to cover the costs incurred in carrying out the requirements of this section.

Source: L. 2004: Entire section added, p. 682, § 2, effective August 4.

32-15-104.5. Annexation of enclaves. (1) When any unincorporated territory is entirely contained within the boundaries of the district, the board may, by resolution, annex the territory to the district. The board shall give notice of a proposed annexation resolution by publishing a copy of the resolution once a week for four successive weeks in a newspaper of general circulation in the territory proposed to be annexed. The board shall also send a copy of the proposed annexation resolution by registered mail to the board of county commissioners and county attorney of the county containing the territory to be annexed, to any special district or school district having territory within the territory to be annexed, and to the executive director of the department of revenue. The first publication of the notice and the mailing of the proposed annexation resolution shall occur at least thirty days prior to the final adoption of the resolution, and the board shall allow interested persons to testify for or against the resolution at a public hearing held prior to the final adoption of the resolution.

(2) No territory may be annexed pursuant to subsection (1) of this section if any part of the district boundary or area surrounding the territory consists of public rights-of-way, including

streets and alleys, that are not immediately adjacent to the district on the side of the right-of-way opposite to the territory.

Source: L. 2001: Entire section added, p. 822, § 3, effective August 8.

32-15-105. Board of directors - membership - qualifications. (1) The district shall be governed by a board of directors which shall consist of nine directors as follows:

(a) Six directors representing the counties and the city and county of Denver in the metropolitan Denver area of which one director shall be appointed by the county commissioners of each of the counties of Adams, Arapahoe, Boulder, Douglas, and Jefferson and one director shall be appointed by the mayor and the city council of the city and county of Denver;

(b) Two directors at large appointed by the governor; and

(c) The chairperson of the board of directors of the Denver metropolitan major league baseball stadium district created in section 32-14-106.

(2) Initial appointments to the board shall be made within forty-five days after May 23, 1996. The directors shall be appointed for four-year terms.

(3) All directors appointed pursuant to paragraph (a) of subsection (1) of this section shall reside within the geographical boundaries of the district. No director shall be a paid employee of the franchise.

(4) All directors appointed pursuant to paragraphs (a) and (b) of subsection (1) of this section shall have expertise in one or more areas that are relevant to the performance of the powers and duties of the board. Such areas of expertise may include, but are not limited to: Public finance; private finance; commercial law; commercial real estate; real estate development; general contracting; architecture; and administration of football operations.

(5) The directors shall elect a chairperson and a vice-chairperson from among the membership of the board.

(6) All business of the board shall be conducted at regular or special meetings that shall be held within the geographical boundaries of the district and that shall be open to the public. The provisions of this subsection (6) and part 4 of article 6 of title 24, C.R.S., shall apply to all meetings of the board.

(7) Board action shall require the affirmative vote of a majority of the total membership of the board.

(8) Directors of the board shall receive no compensation for their services but may be reimbursed for their necessary expenses while serving as directors of the board.

Source: L. 96: Entire article added, p. 1055, § 1, effective May 23.

32-15-106. Board of directors - powers and duties. (1) In addition to any other powers specifically granted to the board in this article, the board shall have the following duties and powers:

(a) To review any reports and studies made and to obtain any additional reports and studies it deems necessary pertaining to the costs of maintaining and repairing Mile High stadium and the costs of renovating Mile High stadium or building a new stadium and to make a determination of whether it is more cost effective and economically viable to renovate Mile High stadium or build a new stadium than to maintain and repair Mile High stadium;

(b) To require such documentation as the board determines necessary showing that the franchise has been or will be released from its existing lease for use of a stadium before a lease between the district and the franchise for use of the new or renovated stadium commences;

(c) To negotiate an agreement with the franchise requiring the franchise to pay twenty-five percent of the actual construction costs of the stadium, including but not limited to professional fees, site acquisition costs, and materials and labor costs and requiring the franchise to pay for twenty-five percent of all costs in excess of the anticipated construction costs;

(d) To negotiate the lease of Mile High stadium if it is renovated or the new stadium as set forth in section 32-15-122;

(e) To provide the counties within the district and the city and county of Denver with a benefit from a portion of the revenues, other than sales tax revenues and admissions tax revenues, derived from the operation of Mile High stadium if it is renovated or the new stadium during the period of time the district is collecting the sales tax or the admissions tax or such longer period as the board may determine appropriate;

(f) After completion of the review, negotiations, and other matters set forth in paragraphs (a) to (e) of this subsection (1) and if the board determines that there is a need to renovate Mile High stadium or to construct a new stadium and that the renovation of Mile High stadium or the construction of a new stadium is more cost effective and economically viable than maintaining and repairing Mile High stadium, the board shall then determine whether it is more cost effective and economically viable to renovate Mile High stadium or to construct a new stadium, after which the board shall adopt a resolution that, in addition to the statements required by section 32-15-107 (1)(b), includes, but shall not be limited to, the following declarations:

(I) That the board has reviewed the reports and studies pertaining to the costs of repairing and maintaining Mile High stadium, the costs of renovating Mile High stadium, and the costs of building a new stadium and has made a determination that there is a need to renovate Mile High stadium or to construct a new stadium and that the renovation of Mile High stadium or the construction of a new stadium is more cost effective and economically viable than maintaining and repairing Mile High stadium;

(I.5) That it is more cost effective and economically viable to renovate Mile High stadium or that it is more cost effective and economically viable to construct a new stadium;

(II) That the board has received adequate documentation assuring the board that the franchise has been or will be released from its existing lease for use of a stadium before a lease between the district and the franchise for use of the renovated or new stadium commences;

(III) That the district has entered into an agreement with the franchise that requires the franchise to provide twenty-five percent of the actual construction costs of the stadium, including but not limited to professional fees, site acquisition costs, and materials and labor costs and that requires the franchise to pay for twenty-five percent of all costs in excess of the anticipated construction costs;

(III.5) That the board, if it has determined that it is more cost effective and economically viable to renovate Mile High stadium than to build a new stadium, has entered into a conditional or option contract or otherwise assured the acquisition of Mile High stadium, including any lands and interests in real and personal property commonly used for parking facilities, stadium facilities, and stadium site access, plus any additional lands and interests in real property as may be necessary for parking facilities, stadium facilities, and stadium site access;

(IV) If the board has determined that it is more cost effective and economically viable to build a new stadium, that the commission has selected a site for construction of the stadium, a statement of the location of the site, and that the board has entered into a conditional or option contract or otherwise assured the acquisition of the selected stadium site and such other lands and interests in real and personal property as may be necessary for parking facilities, stadium facilities, and stadium site access;

(V) That the district has entered into a lease of Mile High stadium if it is renovated or the new stadium with the franchise for the use of the stadium that meets the requirements set forth in section 32-15-122; and

(VI) That the board will provide the counties within the district and the city and county of Denver with a benefit from the revenues, other than sales tax revenues and admissions tax revenues, derived from the operation of Mile High stadium if it is renovated or the new stadium during the period of time the district is collecting the sales tax or the admissions tax or such longer period as the board may determine appropriate;

(f.5) If the board has determined that it is more cost effective and economically viable to renovate Mile High stadium, to enter into a conditional or option contract on behalf of the district or otherwise assure the acquisition of Mile High stadium, and such other lands and interests in real and personal property commonly used for parking facilities, stadium facilities, and stadium site access, plus any additional lands and interests in real property as may be necessary for parking facilities, stadium facilities, and stadium site access;

(g) If the board has determined that it is more cost effective and economically viable to construct a new stadium, to enter into a conditional or option contract on behalf of the district or otherwise assure the acquisition of the selected site for the new stadium and such other lands and interests in real and personal property as may be necessary for parking facilities, stadium facilities, and stadium site access;

(g.5) In designing and constructing a new stadium, to arrange and coordinate the provision of mass transit, including light rail, buses, and other forms of public transportation to service such stadium with the regional transportation district;

(h) To fix the time and place at which its regular and special meetings shall be held within the geographical boundaries of the district;

(i) To adopt and, from time to time, amend or repeal rules of procedure and bylaws not in conflict with the constitution and laws of the state;

(j) To hire such permanent and temporary staff as may be necessary to assist the board in its duties;

(k) To sue and be sued;

(l) To maintain an office at such place as it may designate within the geographical boundaries of the district;

(m) To exercise all powers necessary and requisite for the accomplishment of the purposes for which the district is organized and capable of being delegated by the general assembly; and no enumeration of particular powers granted shall be construed to impair any general grant of power contained in this article or to limit any such grant to powers of the same class as those so enumerated;

(n) To enter into and execute all contracts, leases, intergovernmental agreements, and other instruments in writing necessary or proper to the accomplishment of the purposes of this article, including, but not limited to, intergovernmental agreements concerning revenue sharing;

(o) To engage the services of private consultants and legal counsel to render professional and technical assistance and advice in carrying out the purposes of this article;

(p) To receive and accept from any source aid or contributions of money, property, labor, or other things of value to be held, used, and applied to carry out the purposes of this article subject to the conditions upon which the grants or contributions are made; except that no public moneys from the state, any city, town, city and county, or county, and any department, agency, or instrumentality of the United States of America shall be accepted or expended for any purpose set forth in this article. Notwithstanding any provision set forth in this paragraph (p), the board shall not be prohibited from receiving public moneys from the economic development commission created pursuant to section 24-46-102 (2), C.R.S., that are paid from the economic development fund created pursuant to section 24-46-105, C.R.S.

(2) After the board has completed the review and negotiations set forth in paragraphs (a) to (e) of subsection (1) of this section and if the board has received notice from the secretary of state stating that a valid petition has been filed and verified and has adopted a resolution pursuant to paragraph (f) of subsection (1) of this section, in addition to any powers granted to the board in subsection (1) of this section or in this article, the board shall have the following powers and duties:

(a) To submit the question specified in section 32-15-107 (1) to the registered electors within the geographical boundaries of the district at the 1998 general election;

(b) To contract for the planning, design, renovation, equipment, preservation, operation, maintenance, and public transportation to Mile High stadium, if it is renovated, or the planning, design, construction, equipment, preservation, operation, maintenance, and public transportation to a new stadium and all necessary works incidental thereto;

(c) Repealed.

(d) To enter into such contracts as may be authorized in this article including, but not limited to, contracts for the lease and sale of a stadium;

(e) To establish criteria for the renovation of Mile High stadium or for the construction and design of a new stadium including, but not limited to, a requirement that the new stadium have a seating capacity at least equivalent to the seating capacity of Mile High stadium;

(f) To acquire on behalf of the district the selected stadium site for a new stadium, or Mile High stadium if it is to be renovated, and such other lands and interests in real and personal property as may be necessary for parking facilities, stadium facilities, and stadium site access, by gift, contract, or other means; except that nothing in this paragraph (f) shall be construed to authorize the board to exercise the power of eminent domain pursuant to the applicable provisions of articles 1 to 7 of title 38, C.R.S.;

(g) (I) If Mile High stadium is to be renovated, to arrange with the City and County of Denver to plan, replan, zone, or rezone any part of the stadium site or any other lands or interests in real property acquired in connection with the acquisition, renovation, maintenance, and operation of the stadium by the district pursuant to the provisions of this article;

(II) If a new stadium is to be built, to arrange with the city, town, city and county, or county in which the selected stadium site is located to plan, replan, zone, or rezone any part of the selected stadium site, in connection with the acquisition, construction, maintenance, and operation of the stadium proposed or being undertaken by the district pursuant to the provisions of this article;

(h) (I) If Mile High stadium is to be renovated, to consult with the franchise and other potential users before acquiring the stadium, establishing criteria for the renovation and redesign of the stadium, or contracting for the renovation of the stadium;

(II) If a new stadium is to be built, to consult with the franchise before acquiring a stadium site, establishing criteria for the construction and design of a stadium, or contracting for the construction of a stadium;

(i) To borrow money, contract to borrow money for the purpose of issuing bond anticipation notes pursuant to article 14 of title 29, C.R.S., contract to borrow money for the purpose of issuing special obligation bonds, and issue obligations for any of its corporate purposes and to fund such obligations, to refinance such obligations even if, in the case of refinancing or refunding bond anticipation notes, such refinancing or refunding is at a higher interest rate, and to refund such obligations as provided in this article subject to the requirements of section 20 of article X of the state constitution;

(j) To procure insurance against any loss in connection with its property and other assets and liability for personal injury to or damage to property of others in such amounts and from such insurers as are necessary and reasonable for governmental entities owning similar facilities in the district;

(k) To procure insurance or guarantees from any public or private entity, including, but not limited to, the state, any city, town, city and county, or county or any department, agency, or instrumentality of the United States of America for payment of any obligations issued by the district, including the power to pay premiums on any such insurance;

(l) To acquire, dispose of, and encumber real and personal property including, without limitation, rights and interests in property, leases, and easements necessary to the functions or the operation of the district; except that nothing in this paragraph (l) shall be construed to authorize the board to exercise the power of eminent domain pursuant to the applicable provisions of articles 1 to 7 of title 38, C.R.S.;

(m) To fix and, from time to time, to increase or decrease fees, rentals, rates, tolls, penalties, or other charges for services, programs, or facilities furnished by the district in connection with the operation of Mile High stadium if it is renovated or the new stadium, and the board may pledge such revenues or any portion thereof for the payment of any indebtedness of the district as provided in this article;

(n) To levy and collect a sales tax pursuant to the provisions of this article, subject to the requirements of section 20 of article X of the state constitution, and the board may pledge such sales tax revenues or any portion thereof for the payment of any indebtedness of the district;

(n.5) To levy and collect, if the board so determines, a tax upon admissions to a new stadium constructed by the district pursuant to the provisions of this article, subject to the requirements of section 20 of article X of the state constitution;

(o) To invest moneys received by the district pursuant to the provisions of this article in accordance with the provisions of part 6 of article 75 of title 24, C.R.S.;

(p) To administer and use moneys received by the district in accordance with the provisions of this article;

(q) To develop reporting and review requirements governing the receipt and expenditures of any moneys received by the district pursuant to this article;

(r) To deposit any moneys of the district in any banking institution or savings and loan association within the state as authorized in section 24-75-603, C.R.S., and to appoint, for

purposes of making such deposits, one or more persons to act as custodians of the moneys of the district, who may be required to give surety bonds in such amounts and form and for such purposes as the board may require.

(3) If Mile High stadium is renovated or if a new stadium is built, the board may sell or lease the name of the stadium and any symbol or image of the general design, appearance, or configuration of the stadium, including trademarks, service marks, trade names, and logos. Prior to making a determination to sell or lease the name of the stadium, the board shall assess the costs and benefits of such sale or lease and specifically consider the public sentiment and any other benefits associated with retaining the name "Mile High stadium" or with using any other name that reflects the geographical, historical, cultural, spiritual, or other qualities of the state. All proceeds from such sale or lease, if any, shall be used by the board to pay the principal, interest, and prepayment premium, if any, on outstanding special obligation bonds issued by the board pursuant to the provisions of this article.

(4) The board shall not use any money received from the franchise to accomplish or exercise any powers and duties of the board prior to the holding of the election authorized pursuant to section 32-15-107.

(5) In carrying out its duties in connection with the operation of the stadium, the board shall duly consider:

(a) That all food and beverage concession contracts at the new stadium, or at Mile High stadium if it is renovated, be competitively bid in accordance with the provisions of article 103 of title 24, C.R.S.;

(b) That, for all food and beverage concession contracts, due consideration be given to persons or businesses that are authorized to transact business in Colorado and that:

(I) (A) Maintain their principal place of business in Colorado; or

(B) Maintain a place of business in Colorado and that have filed unemployment compensation reports in at least seventy-five percent of the eight quarters immediately before commencement of the contract; or

(II) Are minority-owned independent businesses; and

(c) That not less than fifteen percent of the total square footage allocated for food and beverage sales at Mile High stadium if it is renovated or at the new stadium shall be occupied, either directly or through subcontracts, by persons or businesses that maintain their principal place of business in Colorado.

(6) (a) The board shall study, consider, and pursue opportunities for privatizing the costs of acquiring Mile High stadium or acquiring a stadium site for a new stadium, the costs of renovating Mile High stadium or constructing a new stadium, or the costs of operating a stadium in order to minimize the use of sales tax revenues to the greatest extent possible for the purposes of this article. Such methods to be studied, considered, and pursued by the board in order to achieve such privatization shall include, but not be limited to, the following:

(I) Financial incentives from private sources, including landowners and developers, available to offset the cost of a stadium site and the construction of a new stadium, the cost of renovating Mile High stadium, and the cost of maintenance, and operation of a stadium, including, but not limited to: Contributions of money, goods, equipment, and services; lease-purchase agreements; sale-leaseback agreements; and joint venture proposals;

(II) The sale or lease of seat rights;

(III) The sale or lease of luxury suites, commonly referred to as sky boxes; and

(IV) The sale of long-term advertising, parking, and concession rights.

(b) The board shall study and consider whether it would be beneficial to use a tax other than the sales and use tax authorized in section 32-15-110 to fund all or a portion of any multiple-fiscal year financial obligations issued by the board.

(7) In designing and constructing a stadium pursuant to this article, the board may consider the technical and economic feasibility of including a retractable roof over such stadium; except that:

(a) No construction costs for a retractable dome shall be part of the ballot issue proposed, nor shall any such costs be paid by any bonds, taxes, or other revenues issued under this article; and

(b) The board shall not authorize the construction of a retractable roof without prior specific statutory authorization if any portion of the costs of construction of such retractable roof shall be paid or funded by any tax or other revenues of the district.

Source: L. 96: Entire article added, p. 1056, § 1, effective May 23. **L. 97:** Entire section amended, p. 1488, § 3, effective June 3. **L. 98:** (1)(c), (1)(e), (1)(f)(III), (1)(f)(VI), (1)(p), (2)(a), (2)(i), (3), and (5)(c) amended and (1)(g.5), (2)(n.5), and (7) added, pp. 500, 502, §§ 2, 3, effective April 22; (2)(c) repealed, p. 154, § 1, effective August 5.

32-15-107. Authorizing election. (1) (a) For purposes of complying with the provisions of section 20 (4) of article X of the state constitution and upon receipt of a notice from the secretary of state stating that a valid petition has been filed and verified and the adoption of a resolution by the board as set forth in section 32-15-106 (1)(f), the board may submit to the registered electors within the geographical boundaries of the district, at the 1998 general election, the question of whether the district shall be authorized:

(I) (A) To levy and collect, for a period commencing after the termination of the sales tax levied and collected by the Denver metropolitan major league baseball stadium district pursuant to section 32-14-105 and continuing for a period not to extend beyond January 1, 2012, a uniform sales tax throughout the district at a rate not to exceed one-tenth of one percent upon every transaction or other incident with respect to which a sales tax is levied by the state, pursuant to the provisions of article 26 of title 39, C.R.S.; except that such sales tax shall be levied on purchases of machinery or machine tools that are otherwise exempt pursuant to section 39-26-709 (1), C.R.S., to the extent that such purchases are subject to the sales tax levied by the regional transportation district pursuant to section 29-2-105 (1)(d), C.R.S., to be held and distributed pursuant to the provisions of section 32-15-111; and

(B) To levy and collect a tax upon admissions to a new stadium pursuant to section 32-15-110.5 for a period not to extend beyond January 1, 2012, and at a rate not to exceed ten percent upon every purchase of admission to such stadium, to be held and distributed pursuant to the provisions of section 32-15-111; and

(II) To incur multiple-fiscal year financial obligations to be repaid from other multiple-fiscal year financial obligations of the district or the revenues collected by the district, or both, and to refund and refinance the bond anticipation notes and special obligation bonds authorized without further approval of the voters even if, in the case of refinancing or refunding of bond anticipation notes, such refinancing or refunding is at a higher interest rate.

(b) The summary for such petition shall include, but shall not be limited to, the following statements:

(I) That the district will levy and collect the sales tax specified in paragraph (a) of this subsection (1) for a period of time commencing after the termination of the sales tax levied and collected by the Denver metropolitan major league baseball stadium district pursuant to section 32-14-105 and continuing for a period not to extend beyond January 1, 2012;

(II) The month, day, and year on which the sales tax levied and collected by the Denver metropolitan major league baseball stadium district is projected to terminate and the month, day, and year on which the sales tax levied and collected by the metropolitan football stadium district is projected to commence; and

(III) A statement that the maximum principal amount of moneys to be raised by the district for payment of costs of construction of the stadium through the issuance of multiple-fiscal year financial obligations is two hundred sixty-six million dollars.

(c) The board may submit the question set forth in paragraph (a) of this subsection (1) to the registered electors of the district:

(I) After being presented with a notice from the secretary of state stating that a valid petition requesting the submittal of the question that is signed by the registered electors within the geographical boundaries of the district in an amount equal to at least five percent of the total number of votes cast within the geographical boundaries of the district for all candidates for the office of secretary of state at the previous general election has been filed and stating that the signatures on the petition have been verified in accordance with subsections (2) and (3) of this section; and

(II) After the adoption of a resolution by the board as set forth in section 32-15-106 (1)(f).

(d) (I) Except as otherwise provided in subparagraph (III) of this paragraph (d), at the election, the question appearing on the ballot shall be determined as follows:

(A) In the event that the board has determined that it is more cost effective and economically viable to renovate Mile High stadium than to build a new stadium, the question appearing on the ballot shall be as follows:

"SHALL THE METROPOLITAN FOOTBALL STADIUM DISTRICT TAXES BE INCREASED (FIRST FULL FISCAL YEAR DOLLAR INCREASE) ANNUALLY AND BY WHATEVER ADDITIONAL AMOUNTS ARE RAISED ANNUALLY THEREAFTER FROM THE LEVY AND COLLECTION BY THE DISTRICT OF A ONE-TENTH OF ONE PERCENT SALES AND USE TAX FOR A PERIOD NOT TO EXTEND BEYOND JANUARY 1, 2012, OR UPON PAYMENT OF THE SPECIAL OBLIGATION BONDS, WHICHEVER OCCURS EARLIER, COMMENCING AFTER THE TERMINATION OF THE SALES AND USE TAX LEVIED AND COLLECTED BY THE DENVER METROPOLITAN MAJOR LEAGUE BASEBALL STADIUM DISTRICT, WITH ALL OF THE PROCEEDS TO BE USED AND SPENT, ALONG WITH FUNDS FROM OTHER SOURCES INCLUDING THE PRIVATE SECTOR, FOR THE COSTS RELATING TO THE RENOVATION OF MILE HIGH STADIUM; AND SHALL THE METROPOLITAN FOOTBALL STADIUM DISTRICT BE AUTHORIZED TO ISSUE MULTIPLE-FISCAL YEAR FINANCIAL OBLIGATIONS PAYABLE FROM THE PROCEEDS OF SAID ONE-TENTH OF ONE PERCENT SALES AND USE TAX AND SAID FUNDS FROM OTHER SOURCES, WHICH AUTHORIZATION

SHALL INCLUDE THE AUTHORITY TO REFUND SUCH MULTIPLE-FISCAL YEAR FINANCIAL OBLIGATIONS AND REFUNDING SPECIAL OBLIGATION BONDS WITHOUT ADDITIONAL VOTER APPROVAL?"

(B) In the event that the board has determined that it is more cost effective and economically viable to build a new stadium than to renovate Mile High stadium, the question appearing on the ballot shall be as follows:

"SHALL THE METROPOLITAN FOOTBALL STADIUM DISTRICT DEBT BE INCREASED (PRINCIPAL AMOUNT), WITH A REPAYMENT COST OF (MAXIMUM TOTAL DISTRICT COSTS) AND SHALL DISTRICT TAXES BE INCREASED (FIRST FULL FISCAL YEAR DOLLAR INCREASE) ANNUALLY AND BY WHATEVER ADDITIONAL AMOUNTS ARE RAISED ANNUALLY THEREAFTER FROM THE LEVY AND COLLECTION BY THE DISTRICT OF [A (____) PERCENT ADMISSIONS TAX AND FROM THE LEVY AND COLLECTION OF] [THIS CLAUSE TO BE INSERTED IF DETERMINED TO BE APPROPRIATE BY THE DISTRICT] A ONE-TENTH OF ONE PERCENT SALES AND USE TAX WITH ALL OF THE PROCEEDS OF SUCH DEBT AND TAXES TO BE USED AND SPENT, TOGETHER WITH FUNDS FROM OTHER SOURCES INCLUDING THE PRIVATE SECTOR, FOR THE COSTS RELATING TO THE CONSTRUCTION OF A NEW FOOTBALL STADIUM TO BE LOCATED WITHIN THE DISTRICT SUBJECT TO THE FOLLOWING LIMITATIONS:

- THE SALES AND USE TAX SHALL COMMENCE AFTER THE TERMINATION OF THE SALES AND USE TAX LEVIED AND COLLECTED BY THE DENVER METROPOLITAN MAJOR LEAGUE BASEBALL STADIUM DISTRICT AND SHALL NOT EXTEND BEYOND JANUARY 1, 2012, OR THE PAYMENT IN FULL OF SUCH DEBT, WHICHEVER OCCURS EARLIER;

- [THE DEBT SHALL BE EVIDENCED BY NOTES, BONDS, OR CONTRACTS INCLUDING NOTES, BONDS, OR CONTRACTS TO REFUND OTHER NOTES, BONDS, OR CONTRACTS EVEN IF THE REFUNDING IS AT A HIGHER RATE OF INTEREST;] [THIS PARAGRAPH TO BE INSERTED IF DETERMINED TO BE APPROPRIATE BY THE DISTRICT]

- THE DEBT SHALL BE PAYABLE FROM THE PROCEEDS OF SUCH TAX, INVESTMENT INCOME, AND SUCH OTHER DISTRICT REVENUES AS THE BOARD OF DIRECTORS MAY PLEDGE FOR SUCH PAYMENT;

- THE DEBT SHALL HAVE SUCH TERMS AND CONDITIONS AS THE BOARD OF DIRECTORS OF THE DISTRICT MAY DETERMINE, INCLUDING PROVISIONS FOR REDEMPTION PRIOR TO MATURITY WITH OR WITHOUT PAYMENT OF THE PREMIUM;

- [THE ADMISSIONS TAX SHALL NOT EXTEND BEYOND JANUARY 1, 2012, OR THE PAYMENT IN FULL OF SUCH DEBT, WHICHEVER OCCURS EARLIER;] [THIS

PARAGRAPH TO BE INSERTED IF DETERMINED TO BE APPROPRIATE BY THE DISTRICT]

AND SHALL THE PROCEEDS OF SUCH DEBT AND TAXES AND ANY INVESTMENT INCOME THEREFROM AND ANY OTHER REVENUES OF THE DISTRICT BE COLLECTED AND SPENT WITHOUT LIMITATION OR CONDITION, AS A VOTER-APPROVED REVENUE CHANGE UNDER SECTION 20 OF ARTICLE X OF THE COLORADO CONSTITUTION OR ANY OTHER LAW?"

(II) Except as otherwise provided in subparagraph (III) of this paragraph (d), the ballot title shall be a statement of the language included in the question set forth in sub-subparagraph (B) of subparagraph (I) of this paragraph (d); except that the title shall substitute the words "THE METROPOLITAN FOOTBALL STADIUM DISTRICT DEBT SHALL BE INCREASED" for "SHALL THE METROPOLITAN FOOTBALL STADIUM DISTRICT DEBT BE INCREASED", shall substitute the words "DISTRICT TAXES SHALL BE INCREASED" for the words "SHALL DISTRICT TAXES BE INCREASED", and shall substitute the words "THE PROCEEDS OF SUCH DEBT AND TAXES AND ANY INVESTMENT INCOME THEREFROM AND ANY OTHER REVENUES OF THE DISTRICT SHALL BE" for the words "SHALL THE PROCEEDS OF SUCH DEBT AND TAXES AND ANY INVESTMENT INCOME THEREFROM AND ANY OTHER REVENUES OF THE DISTRICT BE", and the title shall end with a period instead of a question mark.

(III) The ballot question specified in subparagraph (I) of this paragraph (d) may be modified by the proponents of a petition or by the district to the extent necessary to conform to the legal requirements for ballot questions and titles.

(IV) If at any election a majority of the registered electors within the geographical boundaries of the district voting on the question vote affirmatively on the question specified in paragraph (d) of this subsection (1), then the sales tax and the admissions tax shall be levied, collected, and distributed as provided for in this article.

(2) The provisions of article 40 of title 1, C.R.S., regarding the following subject matter shall apply to petitions that may be submitted pursuant to subsection (1) of this section: Form requirements and approval; circulation of petitions; elector information and signatures on petitions; affidavits and requirements of circulators of petitions; and verification of signatures, including, but not limited to, cure of an insufficiency of signatures and protests regarding sufficiency statements and procedures for hearings or further appeals regarding such protests. The provisions of article 40 of title 1, C.R.S., regarding review and comment, the setting of a ballot title, including, but not limited to, the duties of the title board, rehearings and appeals, and the number of signatures required shall not apply to petitions that may be submitted pursuant to subsection (1) of this section.

(3) Any petition shall be filed with the secretary of state at least ninety days before the 1998 general election. Any petition shall be valid only for the 1998 general election. Notice of any question to be submitted to the registered electors within the geographical boundaries of the district after verification of the signatures on any petition filed with the secretary of state and at which election such question shall be submitted shall be filed by the board in the office of the secretary of state prior to fifty-five days before such election.

(4) (a) For purposes of complying with the provisions of section 20 of article X of the state constitution and upon the adoption of a resolution by the board, the board may submit to

the registered electors within the geographical boundaries of the district, at a general election or at an election held on the first Tuesday in November of an odd-numbered year, the question of whether the district is authorized to collect and spend revenues in excess of the fiscal year spending limitation of the district.

(b) If at any such election a majority of the registered electors within the geographical boundaries of the district voting on the question vote affirmatively on the question of whether the district is authorized to collect and spend excess revenues, then the district shall collect and spend such revenues as provided for in this article.

(5) The provisions of subsection (1) of this section concerning the sales tax shall not be applicable if the authority of the district to levy and collect any sales tax approved by the registered electors has expired pursuant to the provisions of this article. The provisions of subsection (1) of this section concerning the admissions tax shall not be applicable if the authority of the district to levy and collect any admissions tax approved by the registered electors has expired pursuant to the provisions of this article.

(6) Prior to the general election at which any question is to be submitted to the registered electors pursuant to subsection (1) of this section, the board shall hold at least two public hearings in each of the counties included, in whole or in part, within the district.

(7) No public moneys from the state, any city, town, city and county, or county shall be expended by the public entity or by any private entity or private person to advertise, promote, or purchase commercial promotion or advertisement to urge electors to vote in favor of or against any question submitted at an election pursuant to the provisions of this article.

(8) Prior to submitting a question to the registered electors of the district pursuant to this section, the district shall enter into an agreement with the franchise requiring the franchise to pay for all costs of the district associated with the election at which the question is submitted to the voters pursuant to this section.

Source: L. 96: Entire article added, p. 1063, § 1, effective May 23. **L. 97:** (1)(d)(I) amended, p. 1494, § 4, effective June 3. **L. 98:** (1)(a), (1)(b)(III), (1)(d)(I)(B), (1)(d)(II), (1)(d)(III), (1)(d)(IV), (3), (5), and (6) amended and (8) added, p. 503, § 4, effective April 22. **L. 2004:** (1)(a)(I)(A) amended, p. 1043, § 11, effective July 1.

Editor's note: The measure regarding the new football stadium contained in subsection (1)(d)(I)(B) was approved by the people at the general election held November 3, 1998, and the vote count was as follows:

FOR:	399,064
AGAINST:	303,327

32-15-108. Position of trust - conflicts of interest. (1) The position of director, employee, adviser, or agent of the district is declared to be a position of public trust, and, therefore, in order to ensure the confidence of the people of the state in the integrity of the district and the board, the directors, employees, advisers, and agents of the district shall be subject to this section. While serving as director, employee, adviser, or agent of the district, no person or any member of such person's family shall be interested directly or indirectly in any contract, subcontract, or transaction with the district or in the profits thereof.

(2) For purposes of this section, "family" means a person's spouse, child, parent, or sibling.

(3) No director, employee, adviser, or agent of the district shall accept employment with the franchise within one year after the director, employee, adviser, or agent of the district has terminated service with the district.

Source: L. 96: Entire article added, p. 1066, § 1, effective May 23.

32-15-109. Records of board - audits - legislative oversight - powers and duties of state auditor. (1) All resolutions and orders shall be recorded and authenticated by the signature of the chairperson of the board and the secretary. Every legislative act of the board of a general or permanent nature shall be by resolution. The book of resolutions and orders shall be a public record. A record shall also be made of all other proceedings of the board, minutes of the meetings, certificates, contracts, bonds given by directors, employees, and any other agents of the district, and all corporate acts, and said record shall be a public record. The board shall keep an account of all moneys received by and disbursed on behalf of the district, and said account shall also be a public record. Any public record of the district shall be open for inspection by any registered elector of the district, by any official representative of the state, or by any official representative of any county, city and county, city, or town included, in whole or in part, within the district. All records shall be subject to audit as provided by part 6 of article 1 of title 29, C.R.S., for political subdivisions.

(2) (a) In addition to the audit authorized in subsection (1) of this section, upon the affirmative vote of a majority of the members of the legislative audit committee created pursuant to section 2-3-101, C.R.S., it shall be the duty of the state auditor to conduct or cause to be conducted audits of the district.

(b) In conducting an audit pursuant to paragraph (a) of this subsection (2), the state auditor or the state auditor's designated representative shall have access at all times, except as otherwise provided in sections 39-1-116, 39-4-103, and 39-5-120, C.R.S., to all of the books, accounts, reports, including confidential reports, vouchers, or other records or information of the district. Nothing in this paragraph (b) shall be construed as authorizing or permitting the publication of information prohibited by law. Any director, employee, or agent who fails or who interferes in any way with such examination commits a class 2 misdemeanor and shall be punished as provided in section 18-1.3-501, C.R.S.

(c) In verifying any of the audits made, the state auditor shall have the right to ascertain the amounts on deposit in any bank or other depository belonging to the district. In addition, the state auditor shall have the right to audit said account or the books of any such bank or depository. No bank or other depository shall be liable for making available to the state auditor any of the information required pursuant to the provisions of this paragraph (c).

Source: L. 96: Entire article added, p. 1066, § 1, effective May 23. **L. 2002:** (2)(a) amended, p. 867, § 6, effective August 7; (2)(b) amended, p. 1543, § 291, effective October 1.

Cross references: For the legislative declaration contained in the 2002 act amending subsection (2)(b), see section 1 of chapter 318, Session Laws of Colorado 2002.

32-15-110. Sales tax imposed - collection - administration of tax - discontinuance. (1) Upon the approval of the registered electors pursuant to the provisions of section 32-15-107, the board shall have the power to levy such uniform sales tax upon the adoption of a resolution for a period commencing after the termination of the sales tax levied and collected by the Denver metropolitan major league baseball stadium district pursuant to section 32-14-105 and continuing for a period not to extend beyond January 1, 2012, throughout the district created in section 32-15-104 upon every transaction or other incident with respect to which a sales tax is levied by the state, pursuant to the provisions of article 26 of title 39, C.R.S.; except that such sales tax shall not be levied on the sale of cigarettes and shall be levied on:

(a) Purchases of machinery or machine tools that are otherwise exempt pursuant to section 39-26-709 (1), C.R.S., to the extent that such sales and purchases are subject to the sales tax levied by the regional transportation district pursuant to section 29-2-105 (1)(d), C.R.S.;

(b) Sales of low-emitting motor vehicles, power sources, or parts used for converting such power sources as specified in section 39-26-719 (1), C.R.S.; and

(c) Vending machine sales of food that are otherwise exempt pursuant to section 39-26-714 (2), C.R.S.

(2) (a) The collection, administration, and enforcement of the sales tax shall be performed by the executive director of the department of revenue in the same manner as that for the collection, administration, and enforcement of the state sales tax imposed pursuant to article 26 of title 39, C.R.S., including, without limitation, the retention by a vendor of the percentage of the amount remitted to cover the vendor's expense in the collection and remittance of the sales tax as provided in section 39-26-105, C.R.S. The executive director shall make monthly distributions of such sales tax collections to the district. The district shall pay the net incremental cost incurred by the department of revenue in the administration and collection of such sales tax.

(b) (I) A qualified purchaser may provide a direct payment permit number issued pursuant to section 39-26-103.5, C.R.S., to any vendor or retailer that is liable and responsible for collecting and remitting any sales tax levied on any sale made to the qualified purchaser pursuant to the provisions of this article. A vendor or retailer that has received in good faith from a qualified purchaser a direct payment permit number shall not be liable or responsible for collection and remittance of any sales tax imposed on such sale that is paid for directly from such qualified purchaser's funds and not the personal funds of any individual.

(II) A qualified purchaser that provides a direct payment permit number to a vendor or retailer shall be liable and responsible for the amount of sales tax levied on any sale made to the qualified purchaser pursuant to the provisions of this article in the same manner as liability would be imposed on a qualified purchaser for state sales tax pursuant to section 39-26-105 (3), C.R.S.

(3) If the board levies such uniform sales tax as authorized in subsection (1) of this section, the board shall transmit to the executive director of the department of revenue not later than five days after the adoption of the resolution imposing such sales tax a certified copy of said resolution, whereupon said executive director shall proceed to collect, administer, and enforce such sales tax pursuant to the provisions of subsection (2) of this section until January 1, 2012, unless the executive director of the department of revenue receives from the board notification of discontinuance of the levy of such sales tax pursuant to the provisions of subsection (4) of this section.

(4) At such time, prior to January 1, 2012, that the board determines that the levy of the sales tax is no longer necessary for the purposes set forth in this article, the board shall transmit to the executive director of the department of revenue not later than five days after the adoption of the resolution discontinuing the levy of such sales tax a certified copy of said resolution, whereupon said executive director shall discontinue the collection of said sales tax on the January 1, April 1, July 1, or October 1 immediately following the adoption of said resolution, whichever occurs first. Upon the adoption of said resolution discontinuing the sales tax levy, the board shall have no further authority to levy such sales tax on and after the January 1, April 1, July 1, or October 1 immediately following the adoption of said resolution, as applicable.

(5) In no case shall the sales tax authorized by this section be levied for a period of time longer than is necessary to generate revenues sufficient to pay the principal, interest, and prepayment premium, if any, on outstanding special obligation bonds issued by the board pursuant to the provisions of this article and for such other purposes specified in section 32-15-111. Unless ended earlier, such sales tax shall not continue beyond January 1, 2012.

(6) Notwithstanding anything in this section to the contrary, the sales and use tax to be collected pursuant to this article shall not exceed an amount necessary to:

(a) Pay up to two hundred sixty-six million dollars for the principal amount of special obligation bonds, plus interest and prepayment penalty, if any, for such bonds, plus an amount the net present value of which shall not exceed seventy-five million dollars, which net present value shall be calculated as of January 1, 2001, based on an eight percent discount rate; and

(b) Provide coverage ratios for the bonds and the net present value amount as determined by the board to be most advantageous to the district and the taxpayers.

Source: L. 96: Entire article added, p. 1067, § 1, effective May 23. **L. 98:** (6) added, p. 507, § 5, effective April 22. **L. 99:** (1) amended, p. 983, § 8, effective May 28; (1) amended, p. 1358, § 9, effective January 1, 2000; (2) amended, p. 16, § 10, effective January 1, 2000. **L. 2004:** (1) amended, p. 1043, § 12, effective July 1. **L. 2009:** IP(1) amended, (HB 09-1342), ch. 354, p. 1849, § 10, effective July 1.

Editor's note: Amendments to subsection (1) by House Bill 99-1015 and House Bill 99-1271 were harmonized.

32-15-110.5. Admissions tax imposed - collection - discontinuance. (1) (a) Upon the approval of the registered electors pursuant to the provisions of section 32-15-107, the board shall have the power to levy an admissions tax upon the adoption of a resolution for a period not to extend beyond January 1, 2012, upon every purchase of an admission to a new stadium constructed by the district pursuant to this article. The amount of the tax shall not exceed ten percent of the price of each admission. The board shall have the authority to determine whether to levy an admissions tax pursuant to this section, and nothing in this article shall be construed to require the district to levy such a tax.

(b) Every vendor making a sale to a purchaser that is taxable under the provisions of this section is required at the time of making such sale to collect the tax imposed by this section from the purchaser. The tax to be collected as provided in this section shall be conspicuously, indelibly, and separately stated and charged from the sales price on the ticket or card evidencing the sale and shown separately from the sales price on any record made thereof at the time of the

sale or at the time when evidence of the sale is first issued or employed by the vendor; except that, when added, such tax shall constitute a part of such purchase or charge and shall be a debt from the purchaser to the vendor until paid and shall be recoverable at law in the same manner as other debts. The tax shall be paid by the purchaser to the vendor who, as trustee for and on account of the district, shall be liable to the district for the collection and return thereof.

(c) The district may prescribe forms and procedures in conformity with this section for the adding of the admissions tax to the purchase price of an admission, for the making of returns, for the ascertainment, assessment, and collection of the tax imposed pursuant to this section, and for the proper administration and enforcement thereof.

(2) In no case shall the admissions tax authorized by this section be levied for a period of time longer than is necessary to generate revenues sufficient to pay the principal, interest, and prepayment premium, if any, on outstanding special obligation bonds issued by the board pursuant to the provisions of this article and for such other purposes specified in section 32-15-111. Unless ended earlier, such admissions tax shall not continue beyond January 1, 2012.

Source: L. 98: Entire section added, p. 507, § 6, effective April 22.

32-15-111. Sales tax and admissions tax revenues - use. (1) Sales tax revenues and admissions tax revenues levied and collected pursuant to the provisions of sections 32-15-110 and 32-15-110.5 shall be used by the board for the following purposes:

(a) To pay the principal, interest, and prepayment premium, if any, on outstanding special obligation bonds issued by the board pursuant to the provisions of this article;

(b) Upon the approval of the registered electors of the ballot question set forth in section 32-15-107 (1)(d)(I)(B), to acquire a site within the district that shall be suitable for construction of a stadium;

(c) To plan, design, and renovate Mile High stadium or to plan, design, and construct a stadium and all facilities incidental thereto;

(d) To reimburse the board for the day-to-day operating costs incurred in the administration of the district; however, such costs shall not exceed three-fourths of one percent of the amount of sales tax and admissions tax revenues collected annually;

(e) To reimburse the board for any loans made to the board or any direct out-of-pocket expenses incurred by the board on and after May 23, 1996, for matters directly related to the duties of the board prior to the time that sales tax or admissions tax revenues were available for use by the board;

(f) To reimburse the commission for expenses incurred on and after May 23, 1996, in the investigation, study, evaluation, and selection of a stadium site;

(g) To reimburse the board for preconstruction planning of the design and renovation of Mile High stadium or the construction of a new stadium and for the hiring of professionals to assist in these and other related activities.

(2) If sales tax revenues and admissions tax revenues levied and collected pursuant to the provisions of sections 32-15-110 and 32-15-110.5 and the operating revenues generated by the district are insufficient for all of the purposes set forth in subsection (1) of this section, the purpose set forth in paragraph (a) of said subsection (1) shall have first priority of such sales and admissions tax revenues.

Source: L. 96: Entire article added, p. 1069, § 1, effective May 23. **L. 97:** (1)(b), (1)(c), and (1)(g) amended, p. 1496, § 5, effective June 3. **L. 98:** IP(1), (1)(d), (1)(e), and (2) amended, p. 508, § 7, effective April 22.

32-15-112. Operating revenues - use. (1) Any operating revenues generated by the district, including, but not limited to, lease payments, fees, rentals, rates, tolls, penalties, and charges for services, programs, or facilities furnished by the district, shall be used by the board for the following purposes:

(a) To pay the principal, interest, and prepayment premium, if any, on outstanding special obligation bonds issued by the board pursuant to the provisions of this article;

(b) To pay for the expenses incurred by the board in the general operation of the stadium;

(c) To provide for the repair and maintenance of the stadium;

(d) To provide for capital improvements to the stadium;

(e) To provide the counties within the district and the city and county of Denver with a benefit from the revenues, other than sales tax revenues or admissions tax revenues, derived from the operation of the stadium during the period of time the district is collecting the sales tax.

(2) If operating revenues and sales tax revenues are insufficient for all of the purposes set forth in subsection (1) of this section, the purpose set forth in paragraph (a) of said subsection (1) shall have first priority of such operating revenues if such operating revenues are pledged to secure the payment of the special obligation bonds.

Source: L. 96: Entire article added, p. 1069, § 1, effective May 23. **L. 98:** (1)(e) amended, p. 508, § 8, effective April 22.

32-15-113. Issuance of special obligation bonds. (1) Upon the approval of the registered electors pursuant to the provisions of section 32-15-107, the district may borrow money in anticipation of the revenues generated from the operation of a stadium and sales tax revenues and from admissions tax revenues, if any, of the district and may issue special obligation bonds in the maximum principal amount of two hundred sixty-six million dollars to evidence the amount so borrowed.

(2) Special obligation bonds issued pursuant to the provisions of this section shall satisfy the terms, conditions, and requirements as set forth in any resolution adopted by the board authorizing the issuance of such special obligation bonds or in any trust indenture entered into between the board and any commercial bank or trust company having full trust powers that are not inconsistent with the provisions of this article. Such terms, conditions, and requirements may include, but are not limited to, the following:

(a) The execution and delivery of such special obligation bonds by the district and the times of such execution and delivery;

(b) The form and denominations of such special obligation bonds, including the terms and maturities;

(c) Whether such special obligation bonds are subject to optional or mandatory redemption prior to maturity with or without a premium;

(d) Whether such special obligation bonds are in fully registered form or bearer form registrable as to principal or interest, or both;

(e) Whether such special obligation bonds may bear conversion privileges and, if so, such conversion privileges;

(f) Whether such special obligation bonds are payable in installments and, if so, the times of such installment payments; however, the period of time during which such payments may be made shall not extend beyond January 1, 2012;

(g) The place or places, within or without the state, at which such special obligation bonds may be paid;

(h) The terms and timing of payment of interest and the interest rate or rates which such special obligation bonds bear per annum and that may be fixed or may vary according to index, procedure, formula, or such other method as determined by the district or its agents, without regard to any interest rate limitation specified by the laws of this state;

(i) Whether such special obligation bonds are subject to purchase at the option of the holder or the district;

(j) The manner of evidencing such special obligation bonds;

(k) Whether such special obligations may be executed by the officers of the district, including the use of one or more facsimile signatures so long as at least one manual signature of an officer of the district, or of any agent authenticating the same, appears on the special obligations bonds; and

(l) Whether such special obligation bonds are in the form of coupon bonds that have attached interest coupons bearing a manual or facsimile signature of an officer of the district.

Source: L. 96: Entire article added, p. 1070, § 1, effective May 23. **L. 98:** (1) amended, p. 509, § 9, effective April 22.

32-15-114. Pledge of sales and admissions tax revenues and net operating revenues. The payment of special obligation bonds may be secured by the specific pledge of sales tax revenues and admissions tax revenues of the district, operating revenues of the district, or moneys or assets of the district held in escrow, as the board, in its discretion, may determine. Operating revenues, sales tax revenues, admissions tax revenues, or moneys or assets held in escrow pledged for the payment of any special obligation bonds, as received by the district, shall immediately be subject to the lien of such pledge, without any physical delivery thereof, any filing, or further act, and the lien of such pledge and the obligation to perform the contractual provisions made in the authorizing resolution or other instrument relating thereto shall have priority over all other obligations and liabilities of the district, except as may be otherwise provided in this article or in such resolution or instrument, and subject to any prior pledges and liens previously created. The lien of such pledge shall be valid and binding as against all persons having claims of any kind in tort, contract, or otherwise against the district, regardless of whether such persons have notice thereof.

Source: L. 96: Entire article added, p. 1071, § 1, effective May 23. **L. 98:** Entire section amended, p. 509, § 10, effective April 22.

32-15-115. Payment, recital, and securities. Special obligation bonds issued pursuant to the provisions of this article and constituting special obligations shall recite in substance that the obligations and the interest thereon are payable solely from operating revenues of the district,

sales tax revenues of the district, admissions tax revenues of the district, or moneys or assets of the district held in escrow, as the case may be, pledged to the payment thereof.

Source: L. 96: Entire article added, p. 1072, § 1, effective May 23. **L. 98:** Entire section amended, p. 509, § 11, effective April 22.

32-15-116. Incontestable recital in securities. Any authorizing resolution, or other instrument relating thereto pursuant to the provisions of this article, may provide that each security therein designated shall recite that it is issued pursuant to the authority of this article. Such recital shall conclusively impart full compliance with all of the provisions of this article, and all securities issued containing such recital shall be incontestable for any cause whatsoever after their delivery for value.

Source: L. 96: Entire article added, p. 1072, § 1, effective May 23.

32-15-117. Limitation upon payment. The payment of special obligation bonds shall not be secured by any encumbrance, mortgage, or other pledge of property of the district, other than operating revenues, sales tax revenues, admissions tax revenues, or moneys or assets held in escrow. No property of the district, subject to this exception, shall be liable to be forfeited or taken in payment of the special obligation bonds.

Source: L. 96: Entire article added, p. 1072, § 1, effective May 23. **L. 98:** Entire section amended, p. 509, § 12, effective April 22.

32-15-118. Negotiability. Subject to the payment provisions specifically provided in this article, any special obligation bonds shall be fully negotiable within the meaning of and for all the purposes of article 8 of title 4, C.R.S., except as the board may otherwise provide.

Source: L. 96: Entire article added, p. 1072, § 1, effective May 23.

32-15-119. Sale of special obligation bonds. (1) Any special obligation bonds issued pursuant to this article shall be sold at public or private sale for not less than the principal amount thereof and accrued interest, or at the option of the board, below par, at a discount not exceeding seven percent of the principal amount thereof, but such special obligation bonds shall never be sold at a price such that the net effective interest rate exceeds the maximum net effective interest rate authorized.

(2) No discount, except as provided in subsection (1) of this section, or commission shall be allowed or paid on or for any sale to any purchaser or bidder, directly or indirectly.

Source: L. 96: Entire article added, p. 1072, § 1, effective May 23.

32-15-120. Contracts. The board shall award contracts in excess of three thousand dollars on a fair and competitive basis for the renovation or construction of any works, facility, or project, or portion thereof, or for the performance or furnishing of any labor, material, personal or real property, services, or supplies.

Source: L. 96: Entire article added, p. 1072, § 1, effective May 23. **L. 97:** Entire section amended, p. 1496, § 6, effective June 3.

32-15-121. Management agreement - operation of stadium. Upon the approval of the registered electors pursuant to the provisions of section 32-15-107, the board shall negotiate and enter into one or more management agreements for the management and operation of the stadium upon such terms and conditions that the board deems reasonable and necessary. Such agreements shall be legally binding contracts between the district and management organizations that shall contain appropriate and reasonable provisions with respect to termination, default, and legal remedies.

Source: L. 96: Entire article added, p. 1073, § 1, effective May 23.

32-15-122. Lease of stadium. (1) Any lease agreement entered into by the district and the franchise shall include, but is not limited to, the following:

(a) A lease term that is, at a minimum, for the same length of time as the length of time the sales tax is levied and collected by the district;

(b) A provision requiring the franchise and its successors and assigns to conduct its complete regular home season schedule and any home play-off events in the stadium for a period of at least twenty years and that such provision shall be specifically enforceable against the franchise and its successors and assigns;

(c) A provision requiring the franchise to advertise and promote events it conducts at the stadium;

(d) A provision requiring the franchise to not unreasonably withhold permission for the holding of other events in the stadium;

(e) A provision requiring the franchise to agree that, during the lease term, the franchise will not limit the broadcast of any game to a pay-per-view broadcast; except that this provision may be waived if the board deems it would violate national football league requirements and except that, if the board waives this provision, the lease agreement shall include a provision requiring the franchise, in addition to the lease payments otherwise required, to pay an amount equal to the amount received by the franchise as a result of any pay-per-view broadcast;

(f) A provision requiring the franchise to guarantee that two thousand tickets for each game held at the stadium are available for sale to the general public. The tickets for preseason and regular season games shall be made available at a cost equal to fifty-percent of the regular ticket price;

(g) A provision requiring the franchise to purchase, or cause to be purchased, any unsold tickets to any football game played by the franchise in the stadium;

(h) A provision requiring the franchise, upon the sale of the franchise or eighty percent of the beneficial interest in the entity owning the franchise, to pay to the district, as a one-time payment, an amount equal to the sharing amount to be used for youth activity programs. As used in this paragraph (h), "sharing amount" means an amount equal to two percent of the net profit realized by the franchise or the persons or entities selling interests, as the case may be, not to be less than one million dollars. Net profit means the gross proceeds of the sale less capital contributions to the franchise (or capital contributions of the person's selling interests), plus six percent imputed annual return on such capital contributions, and less franchise debt if such debt

is not assumed or paid by the purchasing entity. Individual sales of the franchise's beneficial interests will not trigger this profit-sharing provision if such sales do not, over a one-year period, result in the sale of eighty percent or more of the beneficial interests of the franchise to a person or entity or related persons or entities that have not been beneficial owners of interests of this franchise.

Source: L. 96: Entire article added, p. 1073, § 1, effective May 23. **L. 98:** (1)(b) amended and (1)(h) added, p. 510, § 16, effective April 22.

32-15-123. Revenue sharing. After all the principal, interest, and premium, if any, of the special obligation bonds issued pursuant to this article are paid in full and the levy and collection of sales tax and admissions tax revenues by the district is discontinued, but prior to the repeal of this article, any funds collected by the district that are, in the sole discretion of the board, deemed not to be necessary for the anticipated expenses and reserves of the district shall be credited at least annually to the general fund of each county, city and county, city, and town which is included, in whole or in part, in the district based upon the proportion of the total amount of sales tax revenues collected pursuant to section 32-15-110 within such county, city and county, city, and town to the total amount of sales tax revenues collected pursuant to section 32-15-110 within the district. For purposes of this section, the total amount of sales tax revenues collected within a county shall not include any sales tax revenues collected in any city or town located within such county. In addition, in computing said proportion, any sales tax revenues collected in any county, city, or town which is not included, in whole or in part, within the geographical boundaries of the district shall not be included in the total amount of sales tax revenues collected within the district.

Source: L. 96: Entire article added, p. 1073, § 1, effective May 23. **L. 98:** Entire section amended, p. 509, § 13, effective April 22.

32-15-124. Report. (Repealed)

Source: L. 96: Entire article added, p. 1074, § 1, effective May 23. **L. 98:** Entire section amended, p. 510, § 14, effective April 22. **L. 2001:** Entire section repealed, p. 1180, § 20, effective August 8.

32-15-125. Limitations upon liabilities. Neither the directors nor any person executing any obligations issued pursuant to the provisions of this article shall be personally liable on the obligations by reason of the issuance thereof. Obligations issued pursuant to this article shall not in any way create or constitute any indebtedness, liability, or obligation of the state or of any political subdivision thereof, except the district, and nothing in this article shall be construed to authorize the district to incur any indebtedness on behalf of or in any way to obligate the state or any political subdivision thereof, except the district, and nothing in this article shall be construed to authorize the district to incur any indebtedness on behalf of or in any way to obligate the state or any political subdivision thereof, except as specifically provided in this article.

Source: L. 96: Entire article added, p. 1074, § 1, effective May 23.

32-15-125.5. No action maintainable. An action or proceeding, at law or in equity, to review any act, resolution, or proceeding or to question the validity or to enjoin the performance of any act, resolution, or proceeding related to the issuance of any bonds or for any other relief against or from any act, resolution, or proceeding done under this article with respect to the financing of the stadium, the election provided in this article, or the actions of the board pursuant to section 32-15-106 (1)(a) to (1)(g), (3), or (5), section 32-15-107, or sections 32-15-110 to 32-15-113, or the validity or execution of the management agreement pursuant to section 32-15-121 or the validity or execution of the lease pursuant to section 32-15-122, whether based upon irregularities or jurisdictional defects, shall not be maintained, unless commenced within thirty days after the performance of the act, resolution, or proceeding or after the effective date thereof, whichever is earlier, and shall be thereafter perpetually barred.

Source: L. 98: Entire section added, p. 511, § 17, effective April 22.

32-15-126. Sale of real and personal property of district. Upon completion of the renovation of Mile High stadium or the construction of a new stadium pursuant to the provisions of this article, the board shall make a good faith effort to sell the real and personal property of the district, including the stadium, to any qualified buyer subject to the leasehold interest and other contract rights of the franchise. The board shall establish criteria to determine qualified buyers. The board shall not accept any offer from any qualified buyer for such real and personal property of the district for an amount less than the total amount of outstanding obligations of the district or the amount of sales tax revenues used by the board to acquire a site for the stadium and to construct the stadium, whichever is greater. Notwithstanding any other provision of this section to the contrary, the district shall not be required to sell the real and personal property of the district if such sale would adversely affect the federal tax exempt status of the interest on the special obligation bonds issued by the district pursuant to this article.

Source: L. 96: Entire article added, p. 1074, § 1, effective May 23. **L. 97:** Entire section amended, p. 1496, § 7, effective June 3. **L. 98:** Entire section amended, p. 510, § 15, effective April 22.

32-15-127. Limitations upon promotional activities. No moneys of the district shall be used for promotion of the passage of any question submitted to the voters pursuant to the provisions of this article.

Source: L. 96: Entire article added, p. 1075, § 1, effective May 23.

32-15-128. Football stadium site selection commission - creation - membership. (1) There is hereby created the football stadium site selection commission which shall consist of eighteen commissioners. The commission shall be a body corporate and a political subdivision of the state, shall not be an agency of state government, and shall not be subject to administrative direction by any department, commission, board, bureau, or agency of the state or by the district or the board. Initial appointments to the commission shall be made within forty-five days after August 6, 1996.

(2) (a) Three commissioners shall be appointed by the governor.

(b) One commissioner shall be appointed by the speaker of the house of representatives.

(c) One commissioner shall be appointed by the president of the senate.

(d) Eleven commissioners shall be appointed as follows:

(I) Two commissioners shall be appointed by the boards of county commissioners of the five counties in the district; and

(II) One commissioner shall be appointed by the mayor and the city council of the city and county of Denver.

(e) One commissioner from state representative district 4 shall be appointed by the mayor of the city and county of Denver after consultation with the members of the general assembly representing state senatorial district 34 and state representative district 4.

(f) One commissioner from state representative district 5 shall be appointed by the mayor of the city and county of Denver after consultation with the members of the general assembly representing state senatorial district 34 and state representative district 5.

(3) No more than three commissioners shall reside in any one county within the district and no more than three commissioners shall reside in the city and county of Denver.

(4) No commissioner shall also serve as a director of the board of the district.

(5) All commissioners appointed pursuant to the provisions of subsection (2) of this section shall reside within the geographical boundaries of the district.

(6) Any appointed commissioner may be removed at any time at the pleasure of the person or governing body who appointed such commissioner. If any appointed commissioner vacates the office, a vacancy on the commission shall exist, and the person or governing body who appointed such commissioner vacating the office shall fill such vacancy by appointment.

(7) The appointed commissioners shall elect such officers as deemed necessary and appropriate from among the appointed membership of the commission.

(8) Commissioners shall receive no compensation for their services but may be reimbursed for their actual and necessary expenses while serving as commissioners.

Source: L. 96: Entire article added, p. 1075, § 1, effective May 23.

32-15-129. Commission - powers and duties. (1) The commission shall have the following powers and duties:

(a) To advise and make recommendations to the board concerning the performance of the duties of the board as set forth in this article;

(b) To establish criteria for selection of a site for a new stadium, including the present Mile High stadium site;

(c) To conduct such investigations and studies as may be necessary in order to evaluate sites within the district that may be suitable for the construction of a stadium, including, without limitation, a study of sports facilities in other cities. In connection with such evaluation process, the commission shall consult with representatives of any city, town, city and county, or county included, in whole or in part, in the district, the chambers of commerce located within the district, the board of directors of the Denver metropolitan major league baseball stadium district, the Colorado baseball commission, and any other individuals, groups of individuals, or entities that may provide any relevant expertise concerning the evaluation of sites for a new stadium. In addition, the commission shall consult with the urban land institute pursuant to the provisions of section 32-15-132 concerning the evaluation of sites, including Mile High stadium.

(d) To select a single site within the district for the location of a new stadium or the Mile High stadium site after consideration of the results of the investigations, studies, evaluation, and consultations set forth in paragraph (c) of this subsection (1);

(e) To prepare and transmit a report notifying the board of the site selected by the commission;

(f) To formulate and adopt an annual budget to govern the expenses of the commission in undertaking its activities;

(g) To adopt, and from time to time amend or repeal, such bylaws and rules and regulations as it may consider to be necessary or advisable and to keep a record of its proceedings, which record shall be open to inspection by the public at all reasonable times;

(h) To contract for those services, including services for necessary personnel, and materials required by the activities of the commission;

(i) To administer and use moneys received by the commission in accordance with the provisions of this section;

(j) To receive and expend donations or grants from any private source or from any department, agency, or instrumentality of the United States government to be held, used, and applied to carry out the purposes of this section subject to the conditions upon which the donations or grants are made; however, nothing in this paragraph (j) shall authorize the commission to accept or expend public moneys, whether as gifts, grants, or other forms of contribution, from the state, the board, the franchise, any city, town, city and county, or county;

(k) To deposit any moneys received by the commission pursuant to the provisions of this section in any banking institution within the state or in any depository authorized in section 24-75-603, C.R.S., and to appoint, for purposes of making such deposits, one or more persons to act as custodians of the moneys of the commission, who may be required to give surety bonds in such amounts and form and for such purposes as the board may require; and

(l) To develop reporting and review requirements governing the receipt and expenditures of any moneys received by the commission pursuant to the provisions of this section. The account of all moneys received by and expended by the commission shall be a public record and shall be open for inspection by the public at all reasonable times.

Source: L. 96: Entire article added, p. 1076, § 1, effective May 23. **L. 97:** (1)(b) to (1)(d) amended, p. 1496, § 8, effective June 3; (1)(c) amended, p. 1028, § 60, effective August 6.

Editor's note: Amendments to subsection (1)(c) by House Bill 97-1220 and Senate Bill 97-230 were harmonized.

32-15-130. Conflicts of interest prohibited. No commissioner may vote in favor of a specific stadium site if such commissioner or any member of the immediate family of such commissioner has any direct or indirect financial interest in the real property on which the stadium would be located or any real property which would be significantly benefited by the construction of a stadium. No commissioner shall accept employment with the franchise within a one-year period after the commissioner has terminated service as a member of the site selection commission.

Source: L. 96: Entire article added, p. 1077, § 1, effective May 23.

32-15-131. Criteria - stadium site - stadium. (1) The commission shall establish criteria for any stadium site. In establishing such criteria, the commission shall consider factors that it deems relevant, including, but not limited to:

(a) The need for access to the site by motor vehicles, pedestrians, and others using the stadium, including the proximity to highways, the capacity of surrounding streets and highways to handle traffic, the proximity to actual and proposed public transportation, and the overall convenience to the citizens of the district;

(b) The extent to which financial incentives from private sources, including landowners and developers, may be maximized in order to reduce the amount of public moneys required to be expended for a stadium site;

(c) The extent to which the economic potential resulting from the location of a stadium may be maximized, including the compatibility of a stadium with other actual or proposed development;

(d) The compatibility of a stadium with surrounding neighborhoods;

(e) The existence of readily available fire and police protection services;

(f) The existence or the potential for the existence of adequate parking facilities for motor vehicles in the immediately surrounding area.

(2) Any incentive offered by a city, city and county, county, or other local government to induce the commission to select a site within such city, city and county, county, or other local government shall be binding and enforceable against the city, city and county, county, or other local government if the commission selects a site located within the boundaries of such city, city and county, county, or other local government.

(3) The commission shall not select a site located within the jurisdiction of a governmental entity having the authority to impose any construction- or land development-related permits and fees unless such governmental entity agrees to waive such permits and fees to the extent the charge for such permits and fees exceeds the actual cost incurred by the governmental entity for the service provided by the governmental entity in connection with such permits and fees.

Source: L. 96: Entire article added, p. 1077, § 1, effective May 23. **L. 97:** IP(1) amended, p. 1497, § 9, effective June 3.

32-15-132. Consultation with urban land institute - consideration of recommendations. The commission shall consult with and shall consider any recommendations made by the urban land institute in regard to the duty of the commission to select a stadium site.

Source: L. 96: Entire article added, p. 1078, § 1, effective May 23.

32-15-133. Repeal of article. (1) This article is repealed, effective as of the earliest occurrence of the following:

(a) Five years after July 1, 2003, if the board has not submitted the question set forth in section 32-15-107 (1) to the registered electors within the geographic boundaries of the district pursuant to the provisions of said section; or

(b) At such time as a majority of the registered electors within the geographical boundaries of the district vote negatively on the question set forth in section 32-15-107 (1) and

the board has adopted a resolution declaring that the affairs of the district have been wound up or ninety days have passed since such negative vote, whichever occurs first; or

(c) Upon the completion of the sale of the stadium by the board to any qualified buyer pursuant to the provisions of section 32-15-126.

(2) Upon repeal of this article, any funds collected by the district but not used for the purposes set forth in this article shall be credited to the general fund of each county, city and county, city, and town that is included, in whole or in part, in the district based upon the proportion of the total amount of sales tax revenues collected pursuant to section 32-15-110 within such county, city and county, city, and town to the total amount of sales tax revenues collected pursuant to section 32-15-110 within the district. For purposes of this subsection (2), the total amount of sales tax revenues collected within a county shall not include any sales tax revenues collected in any city or town located within such county. In addition, in computing said proportion, any sales tax revenues collected in any county, city, or town that is not included, in whole or in part, within the geographical boundaries of the district shall not be included in the total amount of sales tax revenues collected within the district.

Source: L. 96: Entire article added, p. 1078, § 1, effective May 23. **L. 98:** (1)(b) amended, p. 511, § 18, effective April 22.

Editor's note: This article remains in effect since the question of authorizing the district to levy and collect a sales tax was approved on November 3, 1998, by a majority of the registered electors, and the sale of the stadium by the board has not taken place.

ARTICLE 16

Colorado Intermountain
Fixed Guideway Authority

32-16-101 to 32-16-109. (Repealed)

Editor's note: (1) This article was added in 1998. For amendments to this article prior to its repeal in 2004, consult the Colorado statutory research explanatory note beginning on page vii in the front of this volume.

(2) Section 32-16-109 provided for the repeal of this article, effective January 1, 2004. (See L. 1998, p. 913.)

ARTICLE 17

Mental Health Care
Service Districts

32-17-101. Short title. This article shall be known and may be cited as the "Mental Health Care Service District Act".

Source: L. 2005: Entire article added, p. 1036, § 4, effective June 2.

32-17-102. Legislative declaration. (1) The general assembly finds, determines, and declares that, although the state of Colorado has dedicated financial resources to the diagnosis and treatment of behavioral or mental health disorders for specific populations in this state, many adults, children, and families who do not qualify for or cannot obtain these state- and federally-funded services have behavioral or mental health care needs that are not being addressed, and lack of behavioral or mental health care services often results in increased taxpayer costs for law enforcement, schools, health facilities, hospitals, social services, corrections, and health insurance.

(2) The general assembly also finds and declares that local residents and local governments are best able to determine whether it is desirable to authorize the creation of mental health care service districts for the purpose of generating tax revenues to be used to address the mental health care needs of adults, children, and families in their communities.

Source: L. 2005: Entire article added, p. 1036, § 4, effective June 2. **L. 2017:** (1) amended, (SB 17-242), ch. 263, p. 1379, § 302, effective May 25.

Cross references: For the legislative declaration in SB 17-242, see section 1 of chapter 263, Session Laws of Colorado 2017.

32-17-103. Definitions. As used in this article, unless the context otherwise requires:

(1) "District" means a mental health care service district created pursuant to this article to provide, directly or indirectly, mental health care services to residents of the district who are in need of mental health care services and to family members of such residents.

(2) "Eligible elector" means a person who, at the designated time or event, is registered to vote pursuant to the "Uniform Election Code of 1992", articles 1 to 13 of title 1, C.R.S.

(3) "Interested party" means a resident or eligible elector of the district and a municipality located in the district.

Source: L. 2005: Entire article added, p. 1036, § 4, effective June 2.

32-17-104. Applicability of "Special District Act". (1) Except as provided in this article, a mental health care service district created pursuant to this article shall be governed by the applicable provisions of the "Special District Act", article 1 of this title, including, but not limited to:

(a) Part 1 of article 1 of this title containing general provisions;

(b) Parts 2 and 3 of article 1 of this title concerning the organization of a special district;

(c) Part 6 of article 1 of this title concerning the consolidation of special districts;

(d) Part 7 of article 1 of this title concerning the dissolution of special districts;

(e) Part 8 of article 1 of this title concerning elections;

(f) Parts 9, 10, and 11 of article 1 of this title concerning the board of directors for a special district and the board's general and financial powers; and

(g) Parts 13 and 14 of article 1 of this title concerning refunding of bonds and special district indebtedness.

(2) The following provisions shall not apply to a mental health care service district created pursuant to this article:

(a) Parts 4 and 5 of article 1 of this title concerning the inclusion and exclusion of territory in a special district;

(b) Part 12 of article 1 of this title concerning the levy and collection of ad valorem taxes; and

(c) Part 16 of article 1 of this title concerning certification and notice of special district taxes for general obligation indebtedness.

Source: L. 2005: Entire article added, p. 1037, § 4, effective June 2.

32-17-105. Special districts file - notice of organization or dissolution. (1) For purposes of complying with section 32-1-104 (2), a mental health care service district created pursuant to this article shall provide the required notice to the department of revenue instead of the county assessor.

(2) For purposes of complying with section 32-1-105, the county clerk and recorder shall file a certified copy of the decree or order confirming the organization or dissolution of a mental health care service district created pursuant to this article with the department of revenue instead of notifying the county assessor of the action.

Source: L. 2005: Entire article added, p. 1037, § 4, effective June 2.

32-17-106. Service area of district - governmental immunity. (1) A mental health care service district may include all of the territory of one or more municipalities or counties, as may be proposed. The district shall be a body corporate and politic and a political subdivision of the state.

(2) Each of the directors, officers, and employees of the district shall be a public employee for purposes of the "Colorado Governmental Immunity Act", article 10 of title 24, C.R.S.

Source: L. 2005: Entire article added, p. 1037, § 4, effective June 2.

32-17-107. Service plan required - contents - action on plan. (1) Persons proposing the organization of a mental health care service district, except for a district that is contained entirely within the boundaries of a municipality and subject to the provisions of section 32-17-108, shall submit a service plan in accordance with the requirements of section 32-1-202 (1) and shall pay any fee required pursuant to section 32-1-202 (3).

(2) Notwithstanding the provisions of section 32-1-202 (2), the service plan for the district shall contain the following information:

(a) A description of the proposed mental health services to be provided and the persons who will be eligible to receive those services;

(b) Quality assurance measures;

(c) A financial plan showing how the proposed services are to be financed, including the proposed operating revenue derived from sales taxes for the first budget year of the district, which shall not be materially exceeded except as authorized pursuant to section 32-1-207. All proposed indebtedness for the district shall be displayed together with a schedule indicating the year or years in which the debt is scheduled to be issued. The board of directors of the district

shall notify the board of county commissioners or the governing body of the municipality, whichever is applicable, of any alteration or revision of the proposed schedule of debt issuance set forth in the financial plan.

(d) A map of the proposed district boundaries;

(e) If the district plans to construct facilities, a general description of the facilities to be constructed and the standards of such construction, including a statement of how the facility and service standards of the proposed district are compatible with facility and service standards of any county or municipality within which all or any portion of the proposed district is to be located;

(f) If applicable, a general description of the estimated cost of acquiring or leasing land or facilities, acquiring engineering, legal, and administrative services, initial proposed indebtedness and estimated proposed maximum interest rates and discounts, and other major expenses related to the organization and initial operation of the district;

(g) A description of any arrangement or proposed agreement with any political subdivision for the performance of any services between the proposed district and such other political subdivision, and, if the form contract to be used is available, it shall be attached to the service plan;

(h) Information, along with other evidence presented at the hearing, satisfactory to establish that each of the criteria set forth in section 32-1-203, if applicable, is met; and

(i) Such additional information as the board of county commissioners or the governing body of the municipality, whichever is applicable, may require on which to base its findings pursuant to section 32-1-203.

(3) Except as provided in section 32-17-108, the board of county commissioners of each county that has territory included within the proposed district shall constitute the approving authority for the proposed district and shall review any service plan filed by the petitioners of a proposed district in accordance with the provisions of section 32-1-203. The provisions of section 32-1-203 (3.5) shall not apply to a mental health care service district proposed pursuant to this article.

Source: L. 2005: Entire article added, p. 1038, § 4, effective June 2.

32-17-108. Approval by municipality. If the boundaries of a mental health care service district proposed pursuant to this article are wholly contained within the boundaries of a municipality, the persons proposing the organization of the district shall comply with the provisions of section 32-1-204.5; except that the service plan submitted to each governing body shall contain the information required by section 32-17-107 (2). The governing body of each municipality shall have the authority set forth in section 32-1-204.5 with regard to the review of the service plan.

Source: L. 2005: Entire article added, p. 1039, § 4, effective June 2.

32-17-109. Public hearing on service plan - procedures - decision - judicial review - modifications - enforcement. (1) For purposes of section 32-1-204 (1) and (1.5), the board of county commissioners or the governing body of the municipality, whichever is applicable, shall be deemed to have complied with such provisions if the board or governing body provides

written notice of the date, time, and location of the hearing to the petitioners and, at least twenty days prior to the hearing date, publishes notice of the date, time, location, and purpose of the hearing. The published notice shall constitute constructive notice to the interested parties in the proposed district.

(2) The provisions of section 32-1-204 (2) shall not apply to a mental health care service district proposed pursuant to this article.

(3) The board of county commissioners or the governing body of the municipality, whichever is applicable, shall conduct the hearing and make its decision in accordance with the requirements of section 32-1-204 (3) and (4). The decision of the board of county commissioners or the governing body of the municipality, whichever is applicable, is subject to judicial review in accordance with section 32-1-206; except that, for purposes of judicial review, "interested party" shall have the same meaning as set forth in section 32-17-103 (3).

(4) Upon final approval by the court for the organization of a mental health care service district, the district shall conform as much as possible to the approved service plan, and any material modifications to the plan shall be approved in accordance with section 32-1-207 (2). Any material departure from the approved service plan may be enjoined in accordance with section 32-1-207 (3); except that, for purposes of enforcement of the plan, "interested party" shall have the same meaning as set forth in section 32-17-103 (3).

Source: L. 2005: Entire article added, p. 1039, § 4, effective June 2.

32-17-110. Organization. (1) Except as provided in this section, the organization of a mental health care service district pursuant to this article shall be governed by the provisions of part 3 of article 1 of this title.

(2) For purposes of complying with the provisions of section 32-1-301 (1), a petition for the organization of a district proposed pursuant to this article shall be signed by not less than thirty percent or two hundred eligible electors of the proposed district, whichever number is smaller.

(3) For purposes of complying with the provisions of section 32-1-301 (2)(d.1), the petition for organization shall set forth the estimated sales tax revenues for the district's first budget year.

(4) For purposes of complying with the provisions of section 32-1-304, when the court with whom a petition for organization of a mental health care service district has been filed sets a hearing date, the clerk of court shall publish notice of the hearing and mail the required notice to the appropriate board of county commissioners or governing body of the municipality, but the clerk of court shall not be required to mail notice of the hearing to all interested parties.

(5) For purposes of complying with the provisions of section 32-1-305 (1), the court shall determine whether the required number of eligible electors of the proposed district have signed the petition.

(6) For purposes of the filing requirements in section 32-1-306, instead of filing a map of the district with the county assessor, the district shall file a certified copy of the findings and order of the court organizing the district with the department of revenue.

Source: L. 2005: Entire article added, p. 1040, § 4, effective June 2.

32-17-111. Persons entitled to vote at mental health care service district elections. Notwithstanding the provisions of section 32-1-806, any person who is an eligible elector as defined in section 32-17-103 (2) shall be eligible to vote in an organizational election or any election conducted by the board of directors for a mental health care service district.

Source: L. 2005: Entire article added, p. 1040, § 4, effective June 2.

32-17-112. Financial powers. Notwithstanding the provisions of section 32-1-1101 (1)(a), a mental health care service district created pursuant to this article shall not be authorized to levy and collect ad valorem taxes. Such district shall have all other financial powers described in section 32-1-1101. The district shall also have the power, upon voter approval, to levy and collect a uniform sales tax throughout the entire geographical area of the district at a rate not to exceed one-fourth of one percent upon every transaction or other incident with respect to which a sales tax is levied by the state pursuant to the provisions of article 26 of title 39, C.R.S.; except that such sales tax shall not be levied on the sale of cigarettes. Any sales tax authorized pursuant to this section shall be levied and collected as provided in section 32-17-113.

Source: L. 2005: Entire article added, p. 1040, § 4, effective June 2. **L. 2009:** Entire section amended, (HB 09-1342), ch. 354, p. 1850, § 11, effective July 1.

32-17-113. Sales tax imposed - collection - administration of tax. (1) (a) Upon the approval of the eligible electors in the district at an election held in accordance with section 20 of article X of the state constitution and part 8 of article 1 of this title, the district shall have the power to levy such uniform sales tax throughout the entire geographical area of the district upon every transaction or other incident with respect to which a sales tax is levied by the state pursuant to the provisions of article 26 of title 39, C.R.S.

(b) The sales tax imposed pursuant to paragraph (a) of this subsection (1) shall also be levied on the following sales and purchases:

(I) Purchases of machinery or machine tools that are otherwise exempt pursuant to section 39-26-709 (1), C.R.S., to the extent that such sales and purchases are subject to the sales tax levied by the regional transportation district pursuant to section 29-2-105 (1)(d), C.R.S.;

(II) Sales of low-emitting motor vehicles, power sources, or parts used for converting such power sources as specified in section 39-26-719 (1), C.R.S.; and

(III) Vending machine sales of food that are otherwise exempt pursuant to section 39-26-714 (2), C.R.S.

(c) The sales tax imposed pursuant to paragraph (a) of this subsection (1) shall not be levied on:

(I) The sale of tangible personal property delivered by a retailer or a retailer's agent or to a common carrier for delivery to a destination outside the district;

(II) The sale of tangible personal property on which a specific ownership tax has been paid or is payable when such sale meets the following conditions:

(A) The purchaser does not reside in the district or the purchaser's principal place of business is outside the district; and

(B) The personal property is registered or required to be registered outside the geographical boundaries of the district under the laws of this state; and

(III) The sale of cigarettes.

(d) The sales tax imposed pursuant to paragraph (a) of this subsection (1) is in addition to any other sales or use tax imposed pursuant to law.

(2) (a) The collection, administration, and enforcement of the sales tax shall be performed by the executive director of the department of revenue in the same manner as that for the collection, administration, and enforcement of the state sales tax imposed pursuant to article 26 of title 39, C.R.S., including, without limitation, the retention by a vendor of the percentage of the amount remitted to cover the vendor's expense in the collection and remittance of the sales tax as provided in section 39-26-105, C.R.S. The executive director shall make monthly distributions of sales tax collections to the district. The district shall pay the net incremental cost incurred by the department of revenue in the administration and collection of the sales tax.

(b) (I) A qualified purchaser may provide a direct payment permit number issued pursuant to section 39-26-103.5, C.R.S., to any vendor or retailer that is liable and responsible for collecting and remitting any sales tax levied on any sale made to the qualified purchaser pursuant to the provisions of this article. A vendor or retailer that has received a direct payment permit number in good faith from a qualified purchaser shall not be liable or responsible for collection and remittance of any sales tax imposed on the sale that is paid for directly from the qualified purchaser's funds and not the personal funds of any individual.

(II) A qualified purchaser that provides a direct payment permit number to a vendor or retailer shall be liable and responsible for the amount of sales tax levied on any sale made to the qualified purchaser pursuant to the provisions of this article in the same manner as liability would be imposed on a qualified purchaser for state sales tax pursuant to section 39-26-105 (3), C.R.S.

Source: L. 2005: Entire article added, p. 1041, § 4, effective June 2. **L. 2008:** (1)(d) amended, p. 992, § 12, effective August 5. **L. 2009:** (1)(c)(I) and (1)(c)(II)(B) amended and (1)(c)(III) added, (HB 09-1342), ch. 354, p. 1850, § 12, effective July 1.

32-17-114. District revenues. Any revenues raised or generated by the district shall be in addition to and shall not be used to replace any state funding the counties in the district would otherwise be entitled to receive from the state.

Source: L. 2005: Entire article added, p. 1042, § 4, effective June 2.

ARTICLE 18

Forest Improvement Districts

32-18-101. Short title. This article shall be known and may be cited as the "Forest Improvement District Act".

Source: L. 2007: Entire article added, p. 425, § 2, effective April 9.

32-18-102. Definitions. As used in this article, unless the context otherwise requires:

(1) "Board" means the board of directors of a forest improvement district.

(2) "Director" means a member of the board of directors of a forest improvement district.

(3) "District" means a forest improvement district created pursuant to this article.

(4) "Eligible elector" has the same meaning as set forth in section 32-1-103 (5)(a).

Source: L. 2007: Entire article added, p. 425, § 2, effective April 9.

32-18-103. Creation. (1) A forest improvement district may be created in the following manner:

(a) The governing body of a municipality or county may enact an ordinance or resolution proposing the creation of a forest improvement district. The ordinance or resolution shall set forth the boundaries of the proposed district and the proposed name of the district.

(b) A governing body of a municipality or county that has territory within the boundaries of the district proposed in the ordinance or resolution may enact an ordinance or resolution proposing to join the district.

(c) The clerk of a governing body that enacts an ordinance or resolution pursuant to paragraph (a) or (b) of this subsection (1) shall transmit a certified copy to the governing body of each other municipality or county that has territory within the boundaries of the district proposed in the original ordinance to be a part of the proposed district.

(d) The governing body of a municipality or county that enacts an ordinance or resolution pursuant to paragraph (a) or (b) of this subsection (1) shall submit the question of the creation of a forest improvement district to the eligible electors of the municipality or county within the boundaries of the proposed district at a general or special election conducted in accordance with the "Uniform Election Code of 1992", articles 1 to 13 of title 1, C.R.S. The district shall be deemed created if a majority of the votes cast by the eligible electors within the boundaries of the proposed district in the election held in any municipality or county that has territory within the boundaries of the district proposed in the ordinance or resolution are in favor of the creation of the district. The territory of the district may comprise all or a portion of the territory of one or more municipalities or counties in which the eligible electors approve the creation of the district and may consist of noncontiguous tracts or parcels of property.

Source: L. 2007: Entire article added, p. 426, § 2, effective April 9. **L. 2010:** Entire section amended, (SB 10-046), ch. 21, p. 92, § 1, effective March 10.

32-18-104. Board of directors - appointment - removal. (1) The ordinance or resolution proposing the creation of a forest improvement district shall specify the number of directors of the district. A district shall have no fewer than seven directors. The governing body of each county or municipality in the district shall have the power to appoint and remove at least one director. The board shall include one director representing the Colorado state forest service, who shall be appointed and may be removed by the state forester. The board shall include at least one representative of an environmental protection organization, one representative of a conservation district created pursuant to article 70 of title 35, C.R.S., any part of which is within the proposed forest improvement district, one representative of a water conservancy district created pursuant to article 45 of title 37, C.R.S., any part of which is within the proposed forest improvement district, and one representative of a federal land management agency, to be

appointed and removed in the manner prescribed by the ordinance or resolution proposing the creation of the district.

(2) A director appointed to the board shall serve for a term of five years unless removed pursuant to subsection (1) of this section. A director may be appointed to additional terms without limitation.

Source: L. 2007: Entire article added, p. 426, § 2, effective April 9.

32-18-105. Board of directors - powers and duties. (1) In addition to the powers specified in section 32-1-1001, the board has the following powers for and on behalf of the district:

(a) To review any reports and studies made and to obtain any additional reports and studies it deems necessary pertaining to the cost and implementation of forest improvement projects;

(b) To receive and accept from any source aid or contributions of money, property, labor, or other things of value to be held, used, and applied to carry out the purposes of this article subject to the conditions upon which the grants or contributions are made;

(c) To develop reporting and review requirements governing the receipt and expenditures of moneys received by the district; and

(d) To review and take action on a landowner's application to claim the reimbursement authorized by section 32-18-109.

(2) In exercising its power under this article to enter into contracts on behalf of the district, the board shall:

(a) To the extent possible, use competitive bidding in accordance with article 103 of title 24, C.R.S.; and

(b) Give due consideration to persons and businesses that are authorized to transact business in Colorado.

Source: L. 2007: Entire article added, p. 427, § 2, effective April 9.

32-18-106. Financial powers. (1) In addition to the general financial powers specified in section 32-1-1101, the board has the power, for and on behalf of the district, to:

(a) Levy and collect a sales tax in accordance with section 32-18-107, subject to the requirements of section 20 of article X of the state constitution; and

(b) Pledge sales tax revenues or any portion thereof for the payment of any indebtedness of the district.

(2) The ordinance or resolution proposing the creation of a forest improvement district may specify a limit on the amount of revenue that a district may receive.

Source: L. 2007: Entire article added, p. 427, § 2, effective April 9.

32-18-107. Sales tax - collection - administration. (1) Upon the approval of the eligible electors in the district at an election held in accordance with section 20 of article X of the state constitution and part 8 of article 1 of this title, the district shall have the power to levy a uniform sales tax throughout the entire geographical area of the district upon every transaction or

other incident with respect to which a sales tax is levied by the state pursuant to the provisions of article 26 of title 39, C.R.S.; except that such sales tax shall not be levied on the sale of cigarettes. A sales tax levied by a district shall take effect on either January 1 or July 1 of the year specified in the ballot issue submitted to the eligible electors of the district.

(2) (a) The executive director of the department of revenue shall collect, administer, and enforce the sales tax authorized by this section in the same manner as the state sales tax imposed pursuant to article 26 of title 39, C.R.S., including, without limitation, the retention by a vendor of the percentage of the amount remitted to cover the vendor's expense in the collection and remittance of the sales tax as provided in section 39-26-105, C.R.S. The executive director shall distribute sales tax collections to the district monthly. The district shall pay the net incremental cost incurred by the department of revenue in the administration and collection of the sales tax.

(b) (I) A qualified purchaser, as defined in section 39-26-102 (7.5), C.R.S., may provide a direct payment permit number issued pursuant to section 39-26-103.5, C.R.S., to any vendor or retailer that is liable and responsible for collecting and remitting any sales tax levied on any sale made to the qualified purchaser pursuant to this section. A vendor or retailer that has received a direct payment permit number in good faith from a qualified purchaser shall not be liable or responsible for collection and remittance of any sales tax imposed on the sale that is paid for directly from the qualified purchaser's funds and not the personal funds of any individual.

(II) A qualified purchaser that provides a direct payment permit number to a vendor or retailer shall be liable and responsible for the amount of sales tax levied on any sale made to the qualified purchaser pursuant to the provisions of this article in the same manner as liability would be imposed on a qualified purchaser for state sales tax pursuant to section 39-26-105 (3), C.R.S.

(3) A sales tax levied in accordance with this section is in addition to any other sales or use tax imposed pursuant to law.

Source: L. 2007: Entire article added, p. 428, § 2, effective April 9. **L. 2008:** (3) amended, p. 992, § 13, effective August 5. **L. 2009:** (1) amended, (HB 09-1342), ch. 354, p. 1850, § 13, effective July 1.

32-18-108. Use of revenue. (1) The board may use the revenue received pursuant to section 32-18-106 to:

(a) Plan and implement forest improvement projects in wildland-urban interface areas, including projects to reduce hazardous fuels and protect communities, in cooperation with the state forest service, the division of parks and wildlife in the department of natural resources, conservation districts created pursuant to article 70 of title 35, C.R.S., the United States forest service, and the federal bureau of land management and other agencies in the United States department of the interior;

(b) Establish financial incentives for private landowners to mitigate wildfire risks on their property, including reimbursement of expenses pursuant to section 32-18-109;

(c) Establish incentives for local wood products industries to improve the use of or add value to small-diameter or beetle-infested trees;

(d) Match state and federal grants for bioheating conversion and infrastructure support for biomass collection and delivery; and

(e) Assist the state forest service in ensuring that all communities at risk of wildfire within the district have adopted a community wildfire protection plan and are using appropriate planning, education, and outreach tools.

Source: L. 2007: Entire article added, p. 429, § 2, effective April 9.

32-18-109. Wildfire mitigation measures - private land - reimbursement. (1) A landowner who performs wildfire mitigation measures on his or her land in a district in any year may request reimbursement from the district, in an amount not to exceed fifty percent of the landowner's direct costs of performing the wildfire mitigation measures in that year or ten thousand dollars, whichever is less.

(2) A landowner who performs wildfire mitigation measures on his or her land may request reimbursement from a district in accordance with this section if the wildfire mitigation measures are:

(a) Performed within the boundaries of the district;

(b) Performed in a wild land-urban interface area;

(c) Authorized by a community wildfire protection plan adopted by a local government within the district; and

(d) Approved by the board.

(3) A landowner who intends to request reimbursement from a district as authorized by this section shall file an application with the board in the form prescribed by the board. If the board determines that the wildfire mitigation measures performed by the landowner meet the requirements of this section, the board may reimburse the landowner in an amount determined by the board in its discretion; except that the amount of reimbursement paid to a landowner in any year shall not exceed fifty percent of the landowner's direct costs of performing the wildfire mitigation measures in that year or ten thousand dollars, whichever is less.

Source: L. 2007: Entire article added, p. 429, § 2, effective April 9.

ARTICLE 19

Health Assurance and Health Service Districts

32-19-101. Legislative declaration. The general assembly hereby finds, determines, and declares that access to health care services is an increasing problem in Colorado and that some Coloradans do not have access to a primary care provider. It is the intent of the general assembly to ease the strain on Coloradan's health care needs by allowing a special district to be created to provide health care services and facilities.

Source: L. 2007: Entire article added, p. 1194, § 15, effective July 1.

32-19-102. Definitions. As used in this article, unless the context otherwise requires:

(1) "Court" means the district court in any county in which the petition for organization of the district was originally filed and which entered the order organizing said district or the

district court to which the file pertaining to the district has been transferred pursuant to section 32-1-303 (1)(b).

(2) "District" means:

(a) A health assurance district created pursuant to this article to organize, operate, control, direct, manage, contract for, furnish, or provide, directly or indirectly, health care services to residents of the district who are in need of such services; or

(b) A health service district created pursuant to this article that may establish, maintain, or operate, directly or indirectly through lease to or from other parties or other arrangement, public hospitals, convalescent centers, nursing care facilities, intermediate care facilities, emergency facilities, community clinics, or other facilities providing health and personal care services and may organize, own, operate, control, direct, manage, contract for, or furnish ambulance service.

(3) "Eligible elector" means a person who, at the designated time or event, is registered to vote pursuant to the "Uniform Election Code of 1992", articles 1 to 13 of title 1, C.R.S.

(4) "Interested party" means a resident or eligible elector of the district or a municipality located in the district.

Source: L. 2007: Entire article added, p. 1194, § 15, effective July 1.

32-19-103. Applicability of "Special District Act". (1) Except as provided in this article, a district created pursuant to this article shall be governed by the applicable provisions of the "Special District Act", article 1 of this title, including, but not limited to:

(a) Part 1 of article 1 of this title containing general provisions;

(b) Parts 2 and 3 of article 1 of this title concerning the organization of a special district;

(c) Part 6 of article 1 of this title concerning the consolidation of special districts;

(d) Part 7 of article 1 of this title concerning the dissolution of special districts;

(e) Part 8 of article 1 of this title concerning elections;

(f) Parts 9, 10, and 11 of article 1 of this title concerning the board of directors for a special district and the board's general and financial powers; and

(g) Parts 13 and 14 of article 1 of this title concerning refunding of bonds and special district indebtedness.

(2) The following provisions shall not apply to a district created pursuant to this article:

(a) Parts 4 and 5 of article 1 of this title concerning the inclusion and exclusion of territory in a special district;

(b) Part 12 of article 1 of this title concerning the levy and collection of ad valorem taxes; and

(c) Part 16 of article 1 of this title concerning certification and notice of special district taxes for general obligation indebtedness.

Source: L. 2007: Entire article added, p. 1194, § 15, effective July 1.

32-19-104. Special districts file - notice of organization or dissolution. (1) For purposes of complying with section 32-1-104 (2), a district created pursuant to this article shall provide the required notice to the department of revenue instead of the county assessor.

(2) For purposes of complying with section 32-1-105, the county clerk and recorder shall file a certified copy of the decree or order confirming the organization or dissolution of a district created pursuant to this article with the department of revenue instead of notifying the county assessor of the action.

Source: L. 2007: Entire article added, p. 1195, § 15, effective July 1.

32-19-105. Service area of district - governmental immunity. (1) A district shall include all of the territory of one or more municipalities, counties, or other existing taxing entities, as may be proposed. The district shall be a body corporate and politic and a political subdivision of the state.

(2) Each of the directors, officers, and employees of the district shall be a public employee for purposes of the "Colorado Governmental Immunity Act", article 10 of title 24, C.R.S.

Source: L. 2007: Entire article added, p. 1195, § 15, effective July 1.

32-19-106. Service plan required - contents - action on plan. (1) Persons proposing the organization of a district, except for a district that is contained entirely within the boundaries of a municipality and subject to the provisions of section 32-19-107, shall submit a service plan in accordance with the requirements of section 32-1-202 (1) and shall pay any fee required pursuant to section 32-1-202 (3).

(2) Notwithstanding the provisions of section 32-1-202 (2), the service plan for the district shall contain the following information:

(a) (I) If the proposed district is a health assurance district, a description of the proposed health services to be provided and the persons who will be eligible to receive those services; or

(II) If the proposed district is a health service district, a description of the proposed facilities to be established, maintained, or operated;

(b) If the proposed district is a health assurance district, a description of the proposed health services to be provided in conjunction with a health service district, if any, and if the proposed district is a health service district, a description of the proposed health services to be provided in conjunction with a health assurance district;

(c) Quality assurance measures;

(d) A financial plan showing how the proposed services are to be financed, including the proposed operating revenue derived from sales taxes for the first budget year of the district, which shall not be materially exceeded except as authorized pursuant to section 32-1-207. All proposed indebtedness for the district shall be displayed together with a schedule indicating the year in which the debt is scheduled to be issued. The board of directors of the district shall notify the board of county commissioners of the county in which the district will be located or the governing body of the municipality in which the district will be located, whichever is applicable, of any alteration or revision of the proposed schedule of debt issuance set forth in the plan.

(e) A map of the proposed district boundaries;

(f) If the district plans to construct facilities, a general description of the facilities to be constructed and the standards of such construction, including a statement of how the facility and service standards of the proposed district are compatible with facility and service standards of

any county or municipality within which all or any portion of the proposed district is to be located;

(g) If applicable, a general description of the estimated cost of acquiring or leasing land or facilities, acquiring engineering, legal, and administrative services, initial proposed indebtedness and estimated proposed maximum interest rates and discounts, and other major expenses related to the organization and initial operation of the district;

(h) A description of any arrangement or proposed agreement with any political subdivision for the performance of any services between the proposed district and such other political subdivision, including the form contract to be used, if available;

(i) Information, along with other evidence presented at the hearing pursuant to section 32-1-204, satisfactory to establish that each of the criteria set forth in section 32-1-203, if applicable, is met; and

(j) Such additional information as the board of county commissioners of the county in which the district will be located or the governing body of the municipality in which the district will be located, whichever is applicable, may require on which to base its findings pursuant to section 32-1-203.

(3) Except as provided in section 32-19-107, the board of county commissioners of each county that has territory included within the proposed district shall constitute the approving authority for the proposed district and shall review any service plan filed by the petitioners of a proposed district in accordance with the provisions of section 32-1-203. The provisions of section 32-1-203 (3.5)(a) shall not apply to a district proposed pursuant to this article.

Source: L. 2007: Entire article added, p. 1195, § 15, effective July 1.

32-19-107. Approval by municipality. If the boundaries of a district proposed pursuant to this article are wholly contained within the boundaries of a municipality, the persons proposing the organization of the district shall comply with the provisions of section 32-1-204.5; except that the service plan submitted to each governing body of each municipality shall contain the information required by section 32-19-106 (2). The governing body shall have the authority set forth in section 32-1-204.5 with regard to the review of the service plan.

Source: L. 2007: Entire article added, p. 1197, § 15, effective July 1.

32-19-108. Public hearing on service plan - procedures - decision - judicial review - modifications - enforcement. (1) For purposes of section 32-1-204 (1) and (1.5), the board of county commissioners of the county in which the district will be located or the governing body of the municipality in which the district will be located, whichever is applicable, shall be deemed to have complied with the provisions of such section if the board or governing body provides written notice of the date, time, and location of the hearing to the petitioners and, at least twenty days prior to the hearing date, publishes notice of the date, time, location, and purpose of the hearing. The published notice shall constitute constructive notice to the interested parties in the proposed district.

(2) The provisions of section 32-1-204 (2)(a) shall not apply to a district proposed pursuant to this article.

(3) The board of county commissioners of the county in which the district will be located or the governing body of the municipality in which the district will be located, whichever is applicable, shall conduct the hearing pursuant to section 32-1-204 (1.5) and make its decision in accordance with the requirements of section 32-1-204 (3) and (4). The decision of the board or governing body, whichever is applicable, is subject to judicial review in accordance with section 32-1-206; except that, for purposes of judicial review, "interested party" shall have the same meaning as set forth in section 32-19-102 (4).

(4) Upon final approval by the court for the organization of a district pursuant to section 32-1-304.5, the district shall conform as much as possible to the approved service plan, and any material modifications to the plan shall be approved in accordance with section 32-1-207 (2). Any material departure from the plan may be enjoined in accordance with section 32-1-207 (3); except that, for purposes of enforcement of the plan, "interested party" shall have the same meaning as set forth in section 32-19-102 (4).

Source: L. 2007: Entire article added, p. 1197, § 15, effective July 1.

32-19-109. Organization. (1) Except as provided in this section, the organization of a district pursuant to this article shall be governed by the provisions of part 3 of article 1 of this title.

(2) For purposes of complying with the provisions of section 32-1-301 (1), a petition for the organization of a district proposed pursuant to this article shall be signed by not less than thirty percent or two hundred eligible electors of the proposed district, whichever number is smaller.

(3) For purposes of complying with the provisions of section 32-1-301 (2)(d.1), the petition for organization shall set forth the estimated sales tax revenues for the district's first budget year.

(4) For purposes of complying with the provisions of section 32-1-304.5 (2), the court shall determine whether the required number of eligible electors of the proposed district have signed the petition.

(5) For purposes of the filing requirements in section 32-1-306, instead of filing a map of the district with the county assessor, the district shall file a certified copy of the findings and order of the court organizing the district with the department of revenue.

Source: L. 2007: Entire article added, p. 1198, § 15, effective July 1.

32-19-110. Time for holding elections - persons entitled to vote at district elections. (1) For a district, regular special district elections shall be held on the date of the general election or on the first Tuesday in November of an odd-numbered year, and any election on the proposal shall be conducted by the county clerk and recorder as part of a coordinated election in accordance with the provisions of section 1-7-116, C.R.S.

(2) Notwithstanding the provisions of section 32-1-806, any person who is an eligible elector as defined in section 32-19-102 (3) shall be eligible to vote in an organizational election or any election conducted by the board of directors for a district.

Source: L. 2007: Entire article added, p. 1198, § 15, effective July 1.

32-19-111. Financial powers. Any district created pursuant to this article shall have all of the financial powers described in section 32-1-1101; except that the levy and collection of ad valorem taxes shall be subject to the provisions of section 32-19-115. The district shall also have the power, upon voter approval, to levy and collect a uniform sales tax throughout the entire geographical area of the district upon every transaction or other incident with respect to which a sales tax is levied by the state pursuant to the provisions of article 26 of title 39, C.R.S.; except that such sales tax shall not be levied on the sale of cigarettes. Any sales tax authorized pursuant to this section shall be levied and collected as provided in section 32-19-112.

Source: L. 2007: Entire article added, p. 1198, § 15, effective July 1. **L. 2009:** Entire section amended, (HB 09-1342), ch. 354, p. 1851, § 14, effective July 1.

32-19-112. Sales tax imposed - collection - administration of tax. (1) (a) Upon the approval of the eligible electors in the district at an election held in accordance with section 20 of article X of the state constitution and part 8 of article 1 of this title, the district shall have the power to levy a uniform sales tax throughout the entire geographical area of the district upon every transaction or other incident with respect to which a sales tax is levied by the state pursuant to the provisions of article 26 of title 39, C.R.S.; except that such sales tax shall not be levied on the sale of cigarettes.

(b) The sales tax imposed pursuant to paragraph (a) of this subsection (1) is in addition to any other sales tax imposed pursuant to law.

(2) (a) The collection, administration, and enforcement of the sales tax shall be performed by the executive director of the department of revenue in the same manner as that for the collection, administration, and enforcement of the state sales tax imposed pursuant to article 26 of title 39, C.R.S., including, without limitation, the retention by a vendor of the percentage of the amount remitted to cover the vendor's expense in the collection and remittance of the sales tax as provided in section 39-26-105, C.R.S. The executive director shall make monthly distributions of sales tax collections to the district. The district shall pay the net incremental cost incurred by the department in the administration and collection of the sales tax.

(b) (I) A qualified purchaser may provide a direct payment permit number issued pursuant to section 39-26-103.5, C.R.S., to a vendor or retailer that is liable and responsible for collecting and remitting any sales tax levied on a sale made to the qualified purchaser pursuant to the provisions of this article. A vendor or retailer that has received a direct payment permit number in good faith from a qualified purchaser shall not be liable or responsible for collection and remittance of a sales tax imposed on a sale that is paid for directly from the qualified purchaser's funds and not the personal funds of an individual.

(II) A qualified purchaser that provides a direct payment permit number to a vendor or retailer shall be liable and responsible for the amount of sales tax levied on a sale made to the qualified purchaser pursuant to the provisions of this article in the same manner as liability would be imposed on a qualified purchaser for state sales tax pursuant to section 39-26-105 (3), C.R.S.

Source: L. 2007: Entire article added, p. 1199, § 15, effective July 1. **L. 2008:** (1)(b) amended, p. 992, § 14, effective August 5. **L. 2009:** (1)(a) amended, (HB 09-1342), ch. 354, p. 1851, § 15, effective July 1.

32-19-113. District revenues. Any revenues raised or generated by the district shall be in addition to and shall not be used to replace any funding the counties in the district would otherwise be entitled to receive from the state or federal government.

Source: L. 2007: Entire article added, p. 1199, § 15, effective July 1.

32-19-114. Cooperation between districts or other existing providers permitted. A health assurance district and a health service district shall each have the authority to contract with or work cooperatively and in conjunction with another health assurance district or health service district, or any existing health care providers or services to provide health care services and facilities to the residents of such districts.

Source: L. 2007: Entire article, p. 1200, § 15, effective July 1.

32-19-115. Levy and collection of ad valorem taxes. (1) Any district that is created pursuant to this article shall have the power, upon approval by the eligible electors of the district, to levy and collect ad valorem taxes on and against all taxable property within the district subject to the following provisions:

(a) For purposes of this section, "eligible elector" shall have the same meaning as set forth in section 32-1-103 (5).

(b) The levy and collection of ad valorem taxes shall be subject to the applicable provisions of the "Special District Act", article 1 of this title.

Source: L. 2007: Entire article added, p. 1200, § 15, effective July 1.

ARTICLE 20

Colorado New Energy Improvement District

32-20-101. Short title. This article shall be known and may be cited as the "New Energy Jobs Creation Act of 2010".

Source: L. 2010: Entire article added, (HB 10-1328), ch. 426, p. 2201, § 1, effective June 11.

32-20-102. Legislative declaration. (1) The general assembly hereby finds and declares that:

(a) It is in the best interest of the state and its citizens and a public purpose to enable and encourage the owners of eligible real property to invest in new energy improvements, including energy efficiency improvements and renewable energy improvements, sooner rather than later by creating the Colorado new energy improvement district and authorizing the district to establish, develop, finance, implement, and administer a new energy improvement program that includes both energy efficiency improvements and renewable energy improvements to assist any such owners who choose to join the district in completing new energy improvements to their property because:

(I) New energy improvements, including energy efficiency improvements and renewable energy improvements, help protect owners of eligible real property from the financial impact of the rising cost of electricity produced from nonrenewable fuels and can even provide positive cash flow in many instances in which the costs of the improvements are spread out over a long enough time so that the owners' utility bill cost savings exceed the special assessments levied on the eligible real property to pay for the improvements;

(II) The inclusion of both energy efficiency improvements and renewable energy improvements in the new energy improvement program will help to promote informed choices and maximize the benefits of the program for both individual owners of eligible real property and society as a whole;

(III) Reduction in the amount of emissions of greenhouse gases and environmental pollutants resulting from decreased use of traditional nonrenewable fuels will improve air quality and may help to mitigate climate change;

(IV) New energy improvements, including energy efficiency improvements and renewable energy improvements, increase the value of the eligible real property improved;

(V) The commitment of a significant amount of sustainable funding for increased construction of new energy improvements will create jobs and stimulate the state economy:

(A) By directly creating jobs for contractors and other persons who complete new energy improvements; and

(B) By reinforcing the leadership role of the state in the Colorado energy economy and thereby attracting new energy manufacturing facilities and related jobs to the state; and

(VI) The new energy improvement program provides a meaningful, practical opportunity for average citizens to take action that will benefit their personal finances and the economy of the state, promote their own and the nation's energy independence and security, and help sustain the environment; and

(b) In many cases, the owner of eligible real property is unable to fund a new energy improvement because the owner does not have sufficient liquid assets to directly fund the improvement and is unable or unwilling to incur the negative net cash flow likely to result if the owner uses a typical home equity loan or line of credit or other loan to fund the improvement.

(2) The general assembly further finds and declares that it is necessary, appropriate, and legally permissible under section 20 of article X of the state constitution and all other constitutional provisions and laws to authorize the Colorado new energy improvement district, without voter approval in advance, to generate the capital needed to reimburse owners of eligible real property who voluntarily join the district for, or directly pay for all or a portion of the cost of, completing new energy improvements, including energy efficiency improvements and renewable energy improvements, to the property by levying special assessments and issuing special assessment bonds to be paid from the revenues generated by the special assessments because:

(a) Under the Colorado supreme court's decision in *Campbell v. Orchard Mesa Irrigation District,* 972 P.2d 1037 (Colo. 1998), the Colorado new energy improvement district is neither the state nor a local government and therefore is not a district, as defined in section 20 (2)(b) of article X of the state constitution, subject to the requirements of section 20 of article X of the state constitution because:

(I) The district is not authorized to levy general taxes;

(II) Although the district is a public corporation that serves the public purposes of promoting new energy improvements and creating jobs, it does not have elected board members and primarily exists to serve the interests of owners of eligible real property who voluntarily join the district in order to fund new energy improvements to the property; and

(III) The district is endowed by the state pursuant to this article with only the powers necessary to perform its predominantly private objective;

(b) There is no legal impediment to the imposition of special assessments and the issuance of special assessment bonds without an election by an entity like the Colorado new energy improvement district that is formed by law, has statewide jurisdiction, and is governed by an appointed board;

(c) The burden of a special assessment is voluntarily assumed by the owner of the eligible real property on which the special assessment is levied because:

(I) A special assessment may only be levied on eligible real property if the owner of the property has voluntarily joined the district, agreed to accept reimbursement or a direct payment, and consented to the levy of a special assessment; and

(II) A subsequent purchaser of eligible real property upon which a special assessment has been levied purchases the property with full knowledge of the special assessment; and

(d) Both an owner of eligible real property who joins the district and receives reimbursement or a direct payment and any subsequent owner of the property receive the special benefit of the new energy improvement for which the district has made reimbursement or a direct payment in proportion to or in excess of the amount of the special assessment paid.

Source: L. 2010: Entire article added, (HB 10-1328), ch. 426, p. 2202, § 1, effective June 11. **L. 2012:** (1)(a)(V)(B) amended, (HB 12-1315), ch. 224, p. 975, § 39, effective July 1.

32-20-103. Definitions. As used in this article, unless the context otherwise requires:

(1) "Board" means the board of directors of the district.

(1.5) "Commercial building" means any real property other than a residential building containing fewer than five dwelling units and includes any other improvement or connected land that is billed with the improvement for purposes of ad valorem property taxation.

(2) "District" means the Colorado new energy improvement district created in section 32-20-104 (1).

(3) "District member" means a qualified applicant whose application to join the district, receive reimbursement or a direct payment, and consent to the levying of a special assessment is approved by the district.

(4) "Eligible real property" means a residential or commercial building, located within a county in which the district has been authorized to conduct the program as required by section 32-20-105 (3), on which or in which a new energy improvement to be financed by the district has been or will be completed.

(5) "Energy efficiency improvement" means one or more installations or modifications to eligible real property that are designed to reduce the energy consumption of the property and includes, but is not limited to, the following:

(a) Insulation in walls, roofs, floors, and foundations and in heating and cooling distribution systems;

(b) Storm windows and doors, multiglazed windows and doors, heat-absorbing or heat-reflective glazed and coated window and door systems, additional glazing, reductions in glass area, and other window and door system modifications that reduce energy consumption;

(c) Automatic energy control systems;

(d) Heating, ventilating, or air conditioning and distribution system modifications or replacements in a building;

(e) Caulking and weatherstripping;

(f) Replacement or modification of lighting fixtures to increase the energy efficiency of the system;

(g) Energy recovery systems;

(h) Daylighting systems;

(i) Electric vehicle charging equipment added to the building or its associated parking area; and

(j) Any other modification, installation, or remodeling approved as a utility cost-savings measure by the district, including water conservation fixtures, both indoor and outdoor and for both hot and cold water.

(6) "Loan balance" means the outstanding principal balance of loans secured by a mortgage or deed of trust with a first or second lien on eligible real property.

(7) "New energy improvement" means one or more on-site energy efficiency improvements or renewable energy improvements, or both, made to eligible real property that will reduce the energy consumption of or add energy produced from renewable energy sources with regard to any portion of the eligible real property.

(8) "Program" means the new energy improvement program established by the district in accordance with section 32-20-105.

(9) "Program administrator" or "administrator" means an entity hired by the district to administer the program on behalf of the district to the extent specified in a contract between the district and the administrator. Neither the district nor its program administrator shall offer rebates for the purchase of renewable energy credits. The district's activities shall be limited to funding new energy improvements and to marketing that funding.

(10) "Qualified applicant" means a person who:

(a) Repealed.

(b) Timely submits to the district a complete application, which notes the existence of any first priority mortgage or deed of trust on the eligible real property and the identity of the holder thereof, to join the district, have the eligible real property included in the district's boundaries, receive reimbursement or a direct payment, and consent to the levying of a special assessment on the property. Within thirty days of a person's submission of an application to the district, the district shall provide written notice to the holder of any first priority mortgage or deed of trust on the eligible real property that the person is participating in the district.

(c) Meets any standard of credit-worthiness that the district may establish.

(11) "Reimbursement or a direct payment" means the payment by the district to a district member, or on behalf of a district member to a contractor that has completed a new energy improvement to the district member's eligible real property, of all or a portion of the cost of completing a new energy improvement. Utility rebates offered to program participants by a qualifying retail utility for the purpose of compliance with renewable energy targets established

in section 40-2-124, C.R.S., are subject to the retail rate impact cap established pursuant to section 40-2-124 (1)(g)(I), C.R.S.

(12) "Renewable energy improvement" means one or more fixtures, products, systems, or devices, or an interacting group of fixtures, products, systems, or devices, that directly benefit eligible real property through a qualified community location, as defined in section 30-20-602 (4.3), C.R.S., enacted by Senate Bill 10-100, enacted in 2010, or that are installed behind the meter of any eligible real property and that produce energy from renewable resources, including but not limited to photovoltaic, solar thermal, small wind, low-impact hydroelectric, biomass, fuel cell, or geothermal systems such as ground source heat pumps, as may be approved by the district; except that no renewable energy improvement shall be authorized that interferes with a right held by a public utility under a certificate issued by the public utilities commission under article 5 of title 40, C.R.S. Nothing in this article shall limit the right of a public utility, subject to article 3 or 3.5 of title 40, C.R.S., or section 40-9.5-106, C.R.S., to assess fees for the use of its facilities or modify or expand the net metering limitations established in sections 40-9.5-118 and 40-2-124 (7), C.R.S. Primary jurisdiction to hear any disputes as to whether a renewable energy improvement interferes with such a right shall lie:

(a) In the case of a regulated utility, with the public utilities commission; and

(b) In the case of a municipally-owned electric utility, with the governing body of the municipality.

(13) "Residential building" means an improvement to real property that is designed for use predominantly as a place of residency. The term also includes any other improvement or connected land that is billed with the improvement for purposes of ad valorem property taxation.

(14) "Special assessment" or "assessment" means a charge levied by the district against eligible real property specially benefited by a new energy improvement for which the district has made or will make reimbursement or a direct payment that is proportional to the benefit received from the new energy improvement and does not exceed the estimated amount of special benefits received or the full cost of completing the new energy improvement.

(15) "Special assessment bond" or "bond" means any bond, note, interim certificate, loan agreement, contract, or other evidence of borrowing of the district issued by the district pursuant to this article that is payable, in whole or in part, from revenues generated by special assessments levied as authorized in this article and, at the discretion of the board, from any other legally available source of moneys lawfully pledged for their repayment.

Source: L. 2010: Entire article added, (HB 10-1328), ch. 426, p. 2204, § 1, effective June 11. **L. 2013:** (1.5) and (5)(j) added, (4), IP(5), (5)(f), (5)(h), (5)(i), (7), (11), IP(12), and (14) amended, and (10)(a) repealed, (SB 13-212), ch. 347, p. 2013, § 2, effective May 28. **L. 2014:** (5)(j) amended, (SB 14-171), ch. 195, p. 718, § 1, effective August 6.

Cross references: In 2013, subsections (1.5) and (5)(j) were added, subsection (4), the introductory portion to subsection (5), subsections (5)(f), (5)(h), (5)(i), (7), and (11), the introductory portion to subsection (12), and subsection (14) were amended, and subsection (10)(a) was repealed by the "New Energy Jobs Act of 2013". For the short title, see section 1 of chapter 347, Session Laws of Colorado 2013.

32-20-104. Colorado new energy improvement district - creation - board - meetings - quorum - expenses - records. (1) The Colorado new energy improvement district is hereby created as an independent public body corporate, and the boundaries of the district shall include the eligible real property that is owned by a person who has voluntarily joined the district. The district constitutes a public instrumentality, and its exercise of the powers conferred by this article shall be deemed and held to be the performance of an essential public function, but the district:

(a) Shall not be an agency of state government or of any local government;

(b) Shall not be subject to administrative direction by any department, commission, board, or agency of the state or any local government; and

(c) Shall not be a district, as defined in section 20 (2)(b) of article X of the state constitution, for purposes of section 20 of said article X.

(2) (a) The district is governed by a board of directors, which shall exercise the powers of the district, shall, by a majority vote of a quorum of its members, select from its membership a chair, vice-chair, and secretary, and is composed of seven members, including:

(I) The director of the Colorado energy office created in section 24-38.5-101 (1), C.R.S., or the director's designee;

(II) The following six members appointed by the governor:

(A) One member who has executive-level experience in commercial or residential real estate development;

(B) Two members who each have at least ten years of executive-level experience with one or more financial institutions, at least one of whom has had such experience with one or more financial institutions having total assets of less than one billion dollars;

(C) One member who has executive-level experience in the utility industry;

(D) One member who represents the energy efficiency industry; and

(E) One member who represents the renewable energy industry.

(III) to (VI) Repealed.

(b) The terms of the appointed members shall be four years; except that the terms of the members initially appointed by the governor, the speaker of the house of representatives, and the minority leader of the senate shall be two years.

(c) (I) Notwithstanding any other law, it is not a conflict of interest for a trustee, director, officer, or employee of any public utility, financial institution, investment banking firm, brokerage firm, commercial bank or trust company, insurance company, law firm, or other firm, corporation, or business entity to serve as a board member, the executive director of the district, or an employee of the district. However, a board member, executive director, or other employee who is also such a trustee, director, officer, or employee shall disclose his or her business affiliation to the board and shall abstain from voting or otherwise taking action in any instance in which his or her business affiliation is directly involved.

(II) A member of the board, any executive director of the district, and any employee of the district shall be immune from civil liability for any action taken in good faith in the course of the member's, director's, or employee's duties for the district.

(d) Members of the board shall receive no compensation for services but shall be entitled to the necessary expenses, including travel and lodging expenses, incurred in the discharge of their official duties. Any payments for compensation and expenses shall be paid from funds of the district.

(3) Four members of the board shall constitute a quorum for the purpose of conducting business and exercising the powers of the board. Action may be taken by the board upon the affirmative vote of at least four of its members. No vacancy in the membership of the board shall impair the right of a quorum to exercise all the rights and perform all the duties of the board.

(4) The district shall be subject to the open meetings provisions of the "Colorado Sunshine Act of 1972", part 4 of article 6 of title 24, C.R.S., and the "Colorado Open Records Act", part 2 of article 72 of title 24, C.R.S. The board shall also promulgate and adhere to policies and procedures that govern its conduct, provide meaningful opportunities for public input, and establish standards and procedures for calling emergency meetings. One or more members of the board may participate in a meeting of the board and may vote through the use of telecommunications devices, including, but not limited to, a conference telephone or similar communications equipment. Participation through telecommunications devices shall constitute presence in person at a meeting. The use of telecommunications devices shall not supersede any requirements for a public hearing otherwise provided by law.

(5) The district shall be subject to the "Local Government Budget Law of Colorado", part 1 of article 1 of title 29, C.R.S., and the "Colorado Local Government Audit Law", part 6 of article 1 of title 29, C.R.S.

(6) The district is a special district included within the definition of the state or any of its political subdivisions for purposes of and as set forth in section 2 (14.6) of article XXVIII of the state constitution and is, accordingly, subject to the sole source contracting provisions of sections 15 to 17 of said article XXVIII.

(7) Because the district is not a part of state government or a county or municipality, neither the district nor any member of the board, executive director of the district, or employee of the district shall be subject to the provisions of article XXIX of the state constitution.

Source: L. 2010: Entire article added, (HB 10-1328), ch. 426, p. 2207, § 1, effective June 11. **L. 2012:** (2)(a)(I)(A) amended, (HB 12-1315), ch. 224, p. 976, § 40, effective July 1. **L. 2013:** IP(2)(a), (2)(a)(I), (2)(a)(II), and (3) amended and (2)(a)(III), (2)(a)(IV), (2)(a)(V), and (2)(a)(VI) repealed, (SB 13-212), ch. 347, p. 2015, § 3, effective May 28. **L. 2016:** IP(2)(a)(II) and (6) amended, (SB 16-171), ch. 238, p. 974, § 1, effective August 10.

Editor's note: Sections 2 (14.6) and 15 to 17 of article XXVIII of the state constitution referenced in subsection (6) were declared unconstitutional. See *Dallman v. Ritter*, 225 P.3d 610 (Colo. 2010).

Cross references: In 2013, the introductory portion to subsection (2)(a) and subsections (2)(a)(I), (2)(a)(II), and (3) were amended and subsections (2)(a)(III), (2)(a)(IV), (2)(a)(V), and (2)(a)(VI) were repealed by the "New Energy Jobs Act of 2013". For the short title, see section 1 of chapter 347, Session Laws of Colorado 2013.

32-20-105. District - purpose - general powers and duties - new energy improvement program. (1) The purpose of the district is to help provide the special benefits of new energy improvements to owners of eligible real property who voluntarily join the district by establishing, developing, financing, and administering a new energy improvement program through which the district can provide assistance to such owners in completing new energy

improvements. The district may exercise any of the powers granted to the district in this article before any eligible real property is included within the boundaries of the district; except that the district shall exercise the powers to levy special assessments and issue special assessment bonds only after eligible real property is included within the boundaries of the district.

(2) In order to allow the district to achieve its purpose, in addition to any other powers and duties of the district specified in this article, the district shall have the following general powers and duties:

(a) To have perpetual existence;

(b) To have and use a corporate seal;

(c) To adopt bylaws for the regulation of its affairs and conduct of its business;

(d) To set an annual budget;

(e) To sue and be sued and to be a party to suits, actions, and proceedings;

(f) To enter into contracts and agreements needed for its functions or operations;

(g) To acquire, dispose of, and encumber real and personal property needed for its functions or operations;

(h) To borrow money for the purpose of defraying district expenses, including, but not limited to, the funding of appropriate loss reserves, or for any other purpose deemed appropriate by the board;

(i) To invest any moneys of the district in accordance with part 6 of article 75 of title 24, C.R.S.;

(j) (I) To hire and set the compensation of a program administrator and to appoint, hire, retain, and set the compensation of other agents and employees and contract for professional services.

(II) The board may delegate any of the powers and duties of the district that specifically pertain to the establishment, development, financing, and administration of the program to any program administrator the district hires; except that the district shall not delegate the power to establish assessment units, the power to determine the method of calculating special assessments, or the power to issue special assessment bonds.

(k) In accordance with sections 32-20-106 to 32-20-108, to establish special assessment units, levy and collect special assessments on eligible real property specially benefited by a renewable energy improvement for which the district made reimbursement or a direct payment, and issue special assessment bonds;

(l) To accept gifts and donations and apply for and accept grants upon such terms or conditions as the board may approve; and

(m) To have and exercise all rights and powers necessary or incidental to or implied from the specific powers granted to the district by this article. Such specific powers shall not be considered as a limitation upon any power necessary or appropriate to carry out the purposes and intent of this article.

(3) The district shall establish, develop, finance, and administer a new energy improvement program. However, the district may conduct the program within any given county only if the board of county commissioners of the county has adopted a resolution authorizing the district to conduct the program within the county. If a county adopts a resolution authorizing the district to conduct the program within the county, the county treasurer shall retain a collection fee as specified in section 30-1-102 (1)(c) for each special assessment that it collects as part of the program. The board of county commissioners of any county that has adopted a resolution

authorizing the district to conduct the program within the county may subsequently adopt a resolution deauthorizing the district from conducting the program within the county. However, if the county adopts a deauthorizing resolution, the county shall continue to meet all of its obligations under this article 20 as to program financing obligations existing on the effective date of the deauthorization until any and all special assessments within the county have been paid in full and remitted to the district. The district shall design the program to allow an owner of eligible real property to apply to join the district, receive reimbursement or a direct payment from the district, and consent to the levying of a special assessment on the eligible real property specially benefited by a new energy improvement for which the district makes reimbursement or a direct payment. The district shall establish an application process for the program that allows an owner of eligible real property to become a qualified applicant by submitting an application to the district and that may include one or more deadlines for the filing of an application. Except as specified in section 32-20-111, the application process must require the applicant to submit with the application a commitment of title insurance issued by a duly licensed Colorado title insurance company within thirty days before the date the application is submitted. The district may charge program application fees. In order to administer the program, the district, acting directly or through a program administrator or other agents, employees, or professionals as the district may appoint, hire, retain, or contract with, may aggregate qualified applicants into one or more bond issues and shall:

(a) Market the program to owners of eligible real property, encourage such owners to obtain the special benefits of completing new energy improvements to their property by providing more attractive and accessible means of funding the completion of new energy improvements, and accept and process program applications from any such owners who are qualified applicants;

(b) Specify the information to be included in a program application. The district shall require an owner of eligible real property who submits a program application to include, at a minimum, a postal address or electronic mail address at which the district may contact the owner, the name and postal or electronic mailing address of any person holding a lien against the eligible real property, and any information that the district requires to verify that the owner will complete a new energy improvement, verify the cost of completing the new energy improvement, determine the appropriate amount of reimbursement or a direct payment to be made to the applicant or a contractor after the new energy improvement has been completed, and estimate the value of the special benefit provided by the completed new energy improvement to the applicant's eligible real property.

(c) Establish such standards, guidelines, and procedures, including but not limited to standards of credit-worthiness for qualification of program applicants, as are necessary to ensure the financial stability of the program and otherwise prevent fraud and abuse;

(d) Encourage or require, as determined by the district, any qualified applicant to obtain an energy audit in order to ensure the efficient use of new energy improvement funding pursuant to this article;

(e) Inform prospective program applicants and qualified applicants of private financing options not provided by the district, including, as appropriate, home equity loans, home equity lines of credit, commercial loans, and commercial lines of credit that may, with respect to a particular applicant, represent viable alternatives for financing new energy improvements;

(f) Take appropriate steps to establish qualifications for the certification of contractors to construct or install new energy improvements; and

(g) Take appropriate steps to monitor the quality of new energy improvements for which the district has made reimbursement or a direct payment if deemed necessary by the board, measure the total energy savings achieved by the program, monitor the total number of program participants, the total amount paid to contractors, the number of jobs created by the program, the number of defaults by program participants, and the total losses from the defaults, and calculate the total amount of bonds issued by the district. On or before March 1, 2014, and on or before each subsequent March 1, the district shall report to the state, veterans, and military affairs committees of the general assembly, or any successor committees, regarding the information obtained as required by this paragraph (g);

(h) Develop program guidelines governing the terms and conditions under which private third-party financing, other than that obtained through issuance of a district bond, is available to qualified applicants through the program and, in connection therewith, may serve as an aggregating entity for the purpose of securing private third-party financing for new energy improvements pursuant to this article; and

(i) In connection with the financing of new energy improvements either by third parties pursuant to paragraph (h) of this subsection (3) or district bonds and in consultation with representatives from the banking industry and property owners, develop the processes to ensure that mortgage holder consent is obtained in all cases for all eligible real property participating in the program to subordinate the priority of such mortgages to the priority of the lien established in section 32-20-107.

(4) The district shall establish underwriting guidelines that consider program applicants' qualifications, credit-worthiness, home or commercial building equity, and other appropriate factors, including credit reports, credit scores, and loan-to-value ratios, consistent with good and customary lending practices, and as required in order for the district or third parties to obtain a bond rating necessary for a successful bond sale. The district shall also arrange for an appropriate loss reserve in order to obtain the necessary bond rating.

Source: L. 2010: Entire article added, (HB 10-1328), ch. 426, p. 2209, § 1, effective June 11. **L. 2013:** IP(3), (3)(d), (3)(e), (3)(g), and (4) amended and (3)(h) and (3)(i) added, (SB 13-212), ch. 347, p. 2016, § 4, effective May 28. **L. 2016:** IP(3) and (3)(i) amended, (SB 16-171), ch. 238, p. 974, § 2, effective August 10. **L. 2017:** IP(3) amended, (HB 17-1363), ch. 357, p. 1882, § 1, effective August 9.

Editor's note: Section 4 of chapter 357 (HB 17-1363), Session Laws of Colorado 2017, provides that the act changing this section applies to applications filed on or after August 9, 2017.

Cross references: In 2013, the introductory portion to subsection (3) and subsections (3)(d), (3)(e), (3)(g), and (4) were amended and subsections (3)(h) and (3)(i) were added by the "New Energy Jobs Act of 2013". For the short title, see section 1 of chapter 347, Session Laws of Colorado 2013.

32-20-106. Special assessments - determination of special benefits - notice and hearing requirements - certification of assessment roll - manner of collection. (1) The approval by the district of a program application shall establish the qualified applicant who submitted the application as a district member, include the qualified applicant's eligible real property within the boundaries of the district, entitle the district member to reimbursement or a direct payment, and, subject to the provisions of subsection (3) of this section, constitute the consent of the district member to the levying of a special assessment on the district member's eligible real property in an amount that does not exceed the value of:

(a) The special benefit provided to the eligible real property by the new energy improvement; or

(b) The eligible real property.

(2) For the purpose of determining the amount of the special assessment to be levied on a particular unit of eligible real property within the district, "special benefit" includes, but is not limited to:

(a) Repealed.

(b) Any cost of completing a new energy improvement that is defrayed by reimbursement or a direct payment; and

(c) Repealed.

(d) Any acknowledged value of a new energy improvement to a district member's eligible real property set forth in the program application submitted by the district member.

(3) (a) The district may levy a special assessment against eligible real property specially benefited by a new energy improvement based on the cost to the district of the new energy improvement. The district shall initiate the levy of any special assessment by the adoption of a resolution of the board that sets the special assessment, approves the preparation of a preliminary special assessment roll, and sets a date for a public hearing regarding the special assessment roll. The district shall prepare a preliminary special assessment roll listing all special assessments to be levied. The district may post notice of the hearing on the special assessment on any district internet website and shall, except as specified in section 32-20-111, send notice that the special assessment roll has been completed and notice of a hearing on the special assessment roll no later than thirty days before the hearing date to:

(I) Each district member at the postal address or electronic mail address, or both if both are specified, specified in the member's program application; and

(II) Each person, by first-class mail or electronic mail, who has a lien against a unit of eligible real property listed on the assessment roll.

(b) The notice required by paragraph (a) of this subsection (3) shall specify:

(I) The amount of the special assessment proposed to be levied on the unit of eligible real property owned by the district member or subjected to a lien by the lienholder to whom the notice is sent;

(II) That any complaints or objections that are made by a district member or lienholder in writing to the board, and filed in writing on or prior to the date of the hearing, will be heard and determined by the board before the passage of any resolution levying a special assessment; and

(III) The date when and place where the hearing will be held at which complaints or objections made in person will be heard.

(c) Following the hearing required by paragraph (a) of this subsection (3) and notice pursuant to paragraphs (a) and (b) of this subsection (3), the board shall adopt a resolution resolving all complaints or objections made and levying the special assessments. A district member or lienholder whose complaint or objection is denied by the board shall have thirty days from the date of the denial to appeal the denial to a court of competent jurisdiction. Thereafter, the complaint or objection shall be perpetually barred.

(4) The board shall prepare or cause to be prepared a district special assessment roll in book form showing for each unit of eligible real property assessed, the total amount of special assessment, the amount of each installment of principal and interest if the special assessment is payable in installments, and the date when each installment will become due. The board shall deliver the special assessment roll, duly certified, under the corporate seal, for collection to the treasurer of each county in which the district has assessed eligible real property no later than December 1 of each year.

(5) All special assessments shall be due at the same time as and payable in the same manner as property taxes, as specified in section 39-10-104.5, C.R.S.

(6) Repealed.

(7) Failure to pay any installment on special assessments, whether of principal or interest, when due gives the district the right to declare the installments delinquent, and upon such a declaration the whole amount of the unpaid principal and accrued interest shall thereafter draw interest at the same rate as delinquent property taxes as specified in section 39-10-104.5 (3)(c), C.R.S. The county treasurer shall include the delinquent installment amount as part of the tax lien sale. At any time prior to the day of the tax lien sale, the district member may pay the amount of the delinquent installments, with interest at the penalty rate set by the assessing resolution, and all costs of collection accrued and shall thereupon be restored to the right thereafter to pay in installments in the same manner as if default had not occurred.

(8) (a) Payment of special assessments may be made to a county treasurer at any time after the county assessor has certified the tax roll and the county treasurer is prepared to accept payments for that property tax year, and the county treasurer shall remit all special assessments collected, less the collection fee required by section 32-20-105 (3), to the district in the same manner as taxes are distributed in accordance with section 39-10-107, C.R.S.

(b) Each owner of any divided or undivided interest in eligible real property assessed is jointly and severally liable for the full amount of any special assessment. A special assessment lien remains on the entire property assessed until the entire special assessment is paid, except as otherwise provided pursuant to section 32-20-107.

Source: L. 2010: Entire article added, (HB 10-1328), ch. 426, p. 2212, § 1, effective June 11. **L. 2013:** (1) and (2)(b) amended and (2)(a) and (2)(c) repealed, (SB 13-212), ch. 347, p. 2018, § 5, effective May 28. **L. 2016:** IP(3)(a), (4), (5), (7), and (8) amended and (6) repealed, (SB 16-171), ch. 238, p. 975, § 3, effective August 10. **L. 2017:** IP(3)(a) amended, (HB 17-1363), ch. 357, p. 1883, § 2, effective August 9.

Editor's note: Section 4 of chapter 357 (HB 17-1363), Session Laws of Colorado 2017, provides that the act changing this section applies to applications filed on or after August 9, 2017.

Cross references: In 2013, subsections (1) and (2)(b) were amended and subsections (2)(a) and (2)(c) were repealed by the "New Energy Jobs Act of 2013". For the short title, see section 1 of chapter 347, Session Laws of Colorado 2013.

32-20-107. Special assessment constitutes lien - filing - sale of property for nonpayment. (1) (a) A special assessment, together with all interest thereon and penalties for default in payment thereof, and associated collection costs constitutes, from the date of the recording of the assessing resolution and assessment roll pursuant to subsection (2) of this section, a perpetual lien in the amount assessed against the assessed eligible real property and has priority over all other liens; except that:

(I) General property tax liens have priority over district special assessment liens;

(II) A district special assessment lien has priority over preexisting liens only if each lienholder consents as specified in section 32-20-105 (3)(i) and each consent and the special assessment lien and special assessment roll are recorded in the real estate records of the county where the property is located. Before the recording of the special assessment lien and special assessment roll, the applicant must submit to the district:

(A) Written consent to the special assessment by all individuals or entities shown on a commitment of title insurance as holders of mortgages or deeds of trust encumbering the applicant's property; and

(B) Evidence that there are no delinquent taxes, special assessments, or water or sewer charges on the property; that the property is not subject to a trust deed or other lien on which there is a recorded notice of default, foreclosure, or delinquency that has not been cured; and that there are no involuntary liens, including a lien on real property or on the proceeds of a contract relating to real property, for services, labor, or materials furnished in connection with the construction or improvement of the property.

(III) Liens for assessments imposed by other governmental entities have coequal priority with district special assessment liens.

(b) Neither the sale of eligible real property or tax liens in the district to enforce the payment of general ad valorem taxes nor the issuance of a treasurer's deed in connection with the sale extinguishes the lien of a special assessment. If assessed eligible real property is subdivided, the board may apportion the special assessment lien in the manner provided in the assessing resolution.

(2) The district shall transmit to a county clerk and recorder of a county that includes eligible real property included in the district copies of the district's assessing resolution after its final adoption by the board and the assessment roll for recording on the land records of each unit of eligible real property assessed within the county as provided in article 30, 35, or 36 of title 38, C.R.S. The assessing resolution and assessment roll shall be indexed in the grantor index under the name of the district member and in the grantee index under the Colorado new energy improvement district. In addition, the county clerk and recorder shall file copies of the assessing resolution, after its final adoption by the board, and the assessment roll with the county assessor and the county treasurer. The county assessor is authorized to create separate schedules for each unit of eligible real property assessed within the county pursuant to the resolution.

(3) No delays, mistakes, errors, or irregularities in any act or proceeding authorized or required by this article shall prejudice or invalidate any final special assessment, and such mistakes, errors, or irregularities may be remedied by subsequent filings, amending acts, or

proceedings. A remedied special assessment takes effect as of the date of the original filing, act, or proceeding. If a court of competent jurisdiction sets aside any final assessment or if, for any other reason, the board determines it to be necessary to alter any final special assessment, the board, upon notice as required in the making of an original special assessment, may make a new special assessment in accordance with the provisions of this article.

(4) (a) In case of default in the payment of any installment of principal or interest when due, the county treasurer shall advertise and sell the assessed eligible real property tax lien defaulted upon for the payment of the whole of the unpaid installment of principal and interest. Advertisements and sales shall be made at the same times, in the same manner, under all the same conditions and penalties, and with the same effect as provided by general law for sales of real property tax liens in default of payment of the general property tax.

(b) At any tax lien sale by a county treasurer of any eligible real property, the board may participate in the tax lien sale auction by bidding on the lien for the district and receive certificates of purchase for the lien in the name of the district if it is the successful bidder. The certificates shall be received and credited at their face value, with all interest and penalties accrued, on account of the assessment installment in pursuance of which the sale was made. The board may thereafter sell the certificates at their face value, with all interest and penalties accrued, and assign the certificates to the purchaser in the name of the district. The board shall credit the proceeds of the sale to the fund created by resolution for the payment of the special assessments, respectively; except that, if the new energy improvements were financed under section 32-20-105 (3)(h), the board shall credit the proceeds of the tax lien sale to the private third party that financed the new energy improvements. If the district has repaid all special assessment bonds in full, the board may sell the certificates for the best price obtainable at public sale, at auction, or by sealed bids in the same manner and under the same conditions as provided in paragraph (d) of this subsection (4). Such assignments are without recourse, and the sale and assignments operate as a lien in favor of the purchaser and assignee as is provided by law in the case of sale of real estate in default of payment of the general property taxes.

(c) The board, as a purchaser of tax liens, has the right to apply for tax deeds on certificates of purchase at any time after three years from the date of issuance of the certificates in accordance with article 11 of title 39, C.R.S., and the deeds shall be issued as provided by law for issuance of tax deeds for the nonpayment of the general property taxes or special assessments.

(d) Cumulatively with all other remedies, the district, as the owner of property by virtue of a tax deed, may sell the property for the best price obtainable at public sale, at auction, or by sealed bids. A sale shall be held after public notice by the board to all persons having or claiming any interest in the eligible real property to be sold or in the proceeds of the sale by publication of the notice three times, a week apart, in a weekly or daily newspaper of general circulation within the county in which the property is located. The notice shall describe the property and state the time, place, and manner of receiving bids; except that the time fixed for the sale shall not be less than ten days after the last publication. The board may reject any and all bids. Any interested party, at any time within ten days after the receipt of bids for the sale of property, may file with the board a written protest as to the sufficiency of the amount of any bid made or the validity of the proceedings for the sale. If the protest is denied, the protestor, within ten days thereafter, shall commence an action in a court of competent jurisdiction to enjoin or restrain the board from completing the sale. If no such action is commenced, all protests or objections to the sale

shall be waived, and the board shall then convey the property to the successful bidder by quitclaim deed.

(e) Repealed.

(f) The board shall credit the proceeds of any sale of property to the appropriate special assessment fund; except that, if the new energy improvements were financed under section 32-20-105 (3)(h), the board shall credit the proceeds of the sale to the private third party that financed the new energy improvements. The district shall deduct from the appropriate special assessment fund the necessary expenses in securing deeds and taking proceedings for the sale or foreclosure.

(g) If a treasurer's deed is issued for a property that is included within the district pursuant to section 32-20-105 and upon which a priority special assessment lien has been placed, the district shall use its reserve account to satisfy special assessment obligations of the property on behalf of the holder of the treasurer's deed in accordance with the terms and duration specified in a written agreement between the county in which the property is located and the district.

(5) When the district has sold or conveyed at a fair market value certificates of purchase or property that the district has acquired in satisfaction or discharge of special assessment liens, the sales and conveyances are hereby validated and confirmed as against all parties having or claiming any interest in the property or sale proceeds.

Source: L. 2010: Entire article added, (HB 10-1328), ch. 426, p. 2215, § 1, effective June 11. **L. 2013:** (1), (2), (4)(b), and (4)(f) amended, (SB 13-212), ch. 347, p. 2018, § 6, effective May 28. **L. 2016:** (1)(a)(I), IP(1)(a)(II), (1)(a)(II)(A), (1)(b), (2), (3), (4)(a), (4)(b), (4)(c), and (4)(d) amended, (4)(e) repealed, and (4)(g) added, (SB 16-171), ch. 238, p. 977, § 4, effective August 10.

Cross references: In 2013, subsections (1), (2), (4)(b), and (4)(f) were amended by the "New Energy Jobs Act of 2013". For the short title, see section 1 of chapter 347, Session Laws of Colorado 2013.

32-20-108. Special assessment bonds - legal investment - exemption from taxation. (1) The district shall issue special assessment bonds in an aggregate principal amount of not more than eight hundred million dollars for the purpose of generating the moneys needed to make reimbursement or a direct payment to district members and to pay other costs of the district. The board shall issue the bonds pursuant to a resolution of the board or a trust indenture. The bonds must not be secured by an encumbrance, mortgage, or other pledge of real or personal property of the district and are payable from special assessments, other than those attributable to private third-party financing under section 32-20-105 (3)(h), and any other lawfully pledged district revenues unless the bond resolution or trust indenture specifically limits the source of district revenues from which the bonds are payable. The bonds do not constitute a debt or other financial obligation of the state. The board may adopt one or more resolutions creating special assessment units comprised of multiple units of eligible real property on which the board has levied a special assessment and may issue special assessment bonds payable from special assessments imposed within the entire district, other than those attributable to private third-party

financing under section 32-20-105 (3)(h), or from special assessments imposed only within one or more specified special assessment units.

(2) Bonds may be executed and delivered at such times; may be in such form and denominations and include such terms and maturities; may be subject to optional or mandatory redemption prior to maturity with or without a premium; may be in fully registered form or bearer form registrable as to principal or interest or both; may bear such conversion privileges; may be payable in such installments and at such times not exceeding twenty years from the date thereof; may be payable at such place or places whether within or without the state; may bear interest at such rate or rates per annum, which may be fixed or vary according to index, procedure, or formula or as determined by the district without regard to any interest rate limitation appearing in any other law of the state; may be subject to purchase at the option of the holder or the district; may be evidenced in such manner; may be executed by such officers of the district, including the use of one or more facsimile signatures so long as at least one manual signature appears on the bonds, which may be either of the chair of the board or of an agent of the district authenticating the same; may be in the form of coupon bonds that have attached interest coupons bearing a manual or facsimile signature of the chair or the agent; and may contain such provisions not inconsistent with this article, all as provided in the resolution of the board under which the bonds are authorized to be issued or as provided in a trust indenture between the district and any bank or trust company having full trust powers.

(3) Bonds may be sold at public or private sale at such price or prices, in such manner, and at such times as determined by the district, and the district may pay all fees, expenses, and commissions that it deems necessary or advantageous in connection with the sale of the bonds. The power to fix the date of sale of the bonds, to receive bids or proposals, to award and sell bonds, to fix interest rates, and to take all other action necessary to sell and deliver the bonds may be delegated to an officer or agent of the district. Any outstanding bonds may be refunded by the district pursuant to article 56 of title 11, C.R.S. All bonds and any interest coupons applicable thereto are declared to be negotiable instruments.

(4) The resolution or a trust indenture authorizing the issuance of the bonds may pledge all or a portion of any special fund created by the district, may contain such provisions for protecting and enforcing the rights and remedies of holders of any of the bonds as the district deems appropriate, may set forth the rights and remedies of the holders of any of the bonds, and may contain provisions that the district deems appropriate for the security of the holders of the bonds, including, but not limited to, provisions for letters of credit, insurance, standby credit agreements, or other forms of credit ensuring timely payment of the bonds, including the redemption price or the purchase price. The resolution or trust indenture shall contain a provision that states that the bonds do not constitute a debt or other financial obligation of the state, and the same or a similar provision shall also appear on the bonds.

(5) Any pledge of moneys or other property made by the district or by any person or governmental unit with which the district contracts shall be valid and binding from the time the pledge is made. The moneys or other property so pledged shall immediately be subject to the lien of the pledge without any physical delivery or further act, and the lien of the pledge shall be valid and binding against all parties having claims of any kind in tort, contract, or otherwise against the pledging party regardless of whether the claiming party has notice of the lien. The instrument by which the pledge is created need not be recorded or filed.

(6) No member of the board, employee, officer, or agent of the district, or other person executing bonds shall be liable personally on the bonds or subject to any personal liability by reason of the issuance thereof.

(7) The district may purchase its bonds out of any available moneys and may hold, pledge, cancel, or resell such bonds subject to and in accordance with agreements with the holders thereof.

(8) (a) The state hereby pledges and agrees with the holders of any bonds, private third parties that have financed new energy improvements under section 32-20-105 (3)(h), and those parties who enter into contracts with the district pursuant to this article that the state will not limit, alter, restrict, or impair the rights vested in the district or the rights or obligations of any person with which the district contracts to fulfill the terms of any agreements made pursuant to this article. The state further agrees that it will not in any way impair the rights or remedies of:

(I) The holders of bonds until the bonds have been paid or until adequate provision for payment has been made; or

(II) The private third parties that have financed new energy improvements under section 32-20-105 (3)(h).

(b) The district may include the provisions specified in paragraph (a) of this subsection (8) in its bonds or contracts with private third parties that have financed new energy improvements under section 32-20-105 (3)(h).

(9) Banks, trust companies, savings and loan associations, insurance companies, executors, administrators, guardians, trustees, and other fiduciaries may legally invest any moneys within their control in any bonds issued under this article. Public entities, as defined in section 24-75-601 (1), C.R.S., may invest public funds in bonds only if the bonds satisfy the investment requirements established in part 6 of article 75 of title 24, C.R.S.

(10) Bonds shall be exempt from all taxation and assessments in the state. In the resolution or indenture authorizing bonds, the district may waive the exemption from federal income taxation for interest on the bonds. Bonds shall be exempt from the provisions of article 51 of title 11, C.R.S. The board may elect to apply any or all of the provisions of the "Supplemental Public Securities Act", part 2 of article 57 of title 11, C.R.S.

Source: L. 2010: Entire article added, (HB 10-1328), ch. 426, p. 2218, § 1, effective June 11. **L. 2013:** (1) and (8) amended, (SB 13-212), ch. 347, p. 2020, § 7, effective May 28.

Cross references: In 2013, subsections (1) and (8) were amended by the "New Energy Jobs Act of 2013". For the short title, see section 1 of chapter 347, Session Laws of Colorado 2013.

32-20-109. Credit towards demand-side management goals for public utilities. For any gas utility or electric utility for which the public utilities commission has developed expenditure and natural gas savings targets pursuant to section 40-3.2-103, C.R.S., or established energy saving and peak demand reduction goals pursuant to section 40-3.2-104, C.R.S., the commission shall determine the extent to which the marketing, promotional, and other efforts of the utility have contributed to energy efficiency improvements funded by the district. To the extent that the commission finds that the utility's efforts have created energy savings, the commission shall allow the utility to count the related energy savings towards compliance with

the gas utility's expenditure and natural gas savings targets or with the electric utility's energy savings and peak demand reduction goals, as applicable, using any method deemed appropriate by the commission.

Source: L. 2010: Entire article added, (HB 10-1328), ch. 426, p. 2220, § 1, effective June 11.

32-20-110. Repeal of article - inapplicable if the district has outstanding bond obligations. (Repealed)

Source: L. 2010: Entire article added, (HB 10-1328), ch. 426, p. 2220, § 1, effective June 11. **L. 2013:** Entire section repealed, (SB 13-212), ch. 347, p. 2021, § 8, effective May 28.

Cross references: In 2013, this section was repealed by the "New Energy Jobs Act of 2013". For the short title, see section 1 of chapter 347, Session Laws of Colorado 2013.

32-20-111. Procedure if lien subordination not sought. The provisions of this article 20 pertaining to the requirement of title insurance contained in section 32-20-105 (3) and the provision of notice, objection, and appeal contained in section 32-20-106 (3)(a)(I), (3)(a)(II), (3)(b), and (3)(c), and all sections referencing these sections, do not apply to residential eligible real property if the property owner or private third party that is financing the improvements are not seeking to subordinate the priority of existing mortgages pursuant to section 32-20-105 (3)(i).

Source: L. 2017: Entire section added, (HB 17-1363), ch. 357, p. 1883, § 3, effective August 9.

Editor's note: Section 4 of chapter 357 (HB 17-1363), Session Laws of Colorado 2017, provides that the act adding this section applies to applications filed on or after August 9, 2017.