1975-2025

SDA

2025 BOARD MEMBER MANUAL

A Reference Guide for Special Districts

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SDA Publications

SDA News

SDA's newsletter, *SDA News,* is published ten times a year. It contains a variety of helpful articles on everything from changes in labor laws to district success stories to information about upcoming SDA events, just to name a very few. In addition to hard copies which are mailed, a pdf of every issue is also available on the SDA website at www.sdaco.org. Past issues are archived on the SDA website as well.

SDA Board Member Manual

The SDA Board Member Manual is an invaluable resource and reference guide for the statutory responsibilities of special district Board members. Hard copies of the manual are provided to each district, and a pdf of the entire document is available on the SDA website at www.sdaco.org.

SDA Member Directory

The SDA Member Directory is a full listing of all of SDA's member districts, their Board members, and Managers. The directory also lists SDA associate members and their services. The directory is sorted by district type for district members and by service type for associate members. The entire directory is available on the SDA website at www.sdaco.org.

SDA's Guide to Special Districts

SDA's *Guide to Special Districts* provides an overview on how special districts were first created; the different types of districts within Colorado; the formation and governance of special districts; and the growth of districts in the state, among several other topics. A pdf of the *Guide* is available on the SDA website at www.sdaco.org.

Special District Board Member Manual

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SDA

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Supporting Community-Based Government

This manual is intended to be a general survey of statutory responsibilities for members of Boards of Directors of Colorado special districts. This manual is neither designed nor intended to be a legal analysis of the subjects contained herein. The passage of time, new Court decisions, and future legislation will cause portions of this manual to become outdated. Further, the answer to any particular legal question turns heavily on all of the facts specific to the issue. The reader is strongly encouraged to seek the advice and assistance of legal counsel experienced in special district matters as to any legal issues that arise.

This Board Member Manual was prepared as a public service by Collins Cole Winn & Ulmer, PLLC which claims a copyright for all of its contents. The information contained in this manual is for the benefit of the Special District Association of Colorado, its members, and the clients of Collins Cole Winn & Ulmer, PLLC.

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Preface

This reference guide primarily focuses on the legal duties, requirements, and procedures applicable to special districts organized under Colorado Revised Statutes ("C.R.S."). The Special District Association of Colorado ("SDA") includes many different types of local government entities authorized by Colorado law. While many SDA members are special districts under Title 32, C.R.S. ("the Special District Act"), many members are other types of local government entities. Although the focus of this reference guide is the duties, requirements, and procedures of special districts under Title 32, C.R.S., where possible, the reference guide recognizes important differences in the duties, requirements, and procedures of other types of local government entities that are members of SDA.

The following types of local government entities are members of SDA and regulated primarily by statutes outside of the Special District Act:

- Trustees of library districts and Directors of regional library authorities are subject to §§24-90-101 to 24-90-606, C.R.S., and, therefore, may have certain duties, requirements, and procedures that are different from those required for districts governed under Title 32, C.R.S.
- Supervisors of soil conservation districts are subject to §§35-70-101 to 35-70-122, C.R.S., and, therefore, may have certain duties, requirements, and procedures that are different from those required for districts governed under Title 32, C.R.S.
- Directors of water conservancy districts are subject to §§37-45-101 to 37-45-153, C.R.S., and, therefore, may have certain duties, requirements, and procedures that are different from those required for districts governed under Title 32, C.R.S.
- Directors of water conservation districts are subject to §§37-46-101 to 37-50-142, C.R.S., and, therefore, may have certain duties, requirements, and procedures that are different from those required for districts governed under Title 32, C.R.S.
- Directors of the Urban Drainage and Flood Control District are subject to §§32-11-101 to 32-11-817, C.R.S., and, therefore, may have certain duties, requirements, and procedures that are different from those required for other districts governed under Title 32, C.R.S.
- Directors of other types of governmental authorities and districts created by law and/or intergovernmental agreement are subject to the statutes; county and municipal home rule charters; resolutions; ordinances; and intergovernmental agreements under which the authorities and districts are created. The statutory provisions include, but are not limited to:
  - Cemetery districts under §§30-20-801 to 30-20-808, C.R.S.;
  - Downtown development authorities under §§31-25-801 to 31-25-822, C.R.S.;
  - Municipal energy finance authorities under §§31-25-901 to 31-25-909, C.R.S.;
  - Business improvement districts under §§31-25-1201 to 31-25-1228, C.R.S.; and
  - Regional transportation authorities under §§43-4-601 to 43-4-621, C.R.S.

New and Revised for 2025

Chapter I—Board Membership, District Filing Requirements, and Metro District Annual Meetings

- Page 1: Section B, Taking Office
  - Court Reporter who holds the registered professional reporter, certified verbatim reporter, or certified verbatim reporter-stenotype certification or higher was added to the list of qualified officials who can administer the oath or affirmation
- Page 3: Section on Recall Elections
  - This section was moved to page 47 in Chapter XV-Elections
- Page 3-4: Section K, Director Districts
  - The information in this section was reformatted into a bulleted list
- Page 4: Section L, Mandatory Website-Metropolitan Districts
  - Number 2 was added regarding additional information that needs to be included on a metropolitan district's website
  - Additional information was added to Number 6 regarding the annual meeting
  - Numbers 11 and 12 were added regarding additional information that needs to be provided on a metropolitan district's website
  - The paragraph immediately following Number 12 was added to specify certain information must be provided on the homepage of the website
- Page 5: Section O, Annual Meetings of Metropolitan Districts
  - Additional information was added to the first paragraph regarding how notice of the annual meeting must be provided
  - The last paragraph of this section is new
- Page 6: Filings and Postings Calendar, Annually for metropolitan districts organized after January 1, 2000
  - Additional information was added regarding items that need to be included on a metropolitan district's website
- Page 8: Filings and Postings Calendar, March 31 Requirements
  - The dollar amount in the first paragraph was updated

Chapter IV—Public Records

- Page 16: Section B, Fees
  - The dollar amount for the retrieval fee in Number 3 was updated

Chapter V—Service Plans

- Page 19: Section B, Amendment and Modification
  - A sentence was added to the first paragraph regarding statements of purpose
- Page 19: Section D, Metropolitan Districts-Maximum Mill Levy and Maximum Debt Must Be in Service Plan
  - The last paragraph of this section is new

Chapter VI—Boundary Issues

- Page 22: Section F, Service Outside District Boundaries
  - The second sentence of the first paragraph is new

Chapter VII—Property Issues

- Page 24: Section E, Relationship to County and Municipal Powers
  - Additional information was added to Number 3 regarding building codes

Chapter VIII—Financial Matters

- Page 25: Section B, Tap Fees
  - This section is new and contains existing information from 2024 as well as new information
- Page 26: Section C, Mill Levy
  - The last sentence of the second paragraph is new and replaces language that had been there previously

Chapter IX—TABOR

- Page 29: Section B, Financial Limitations-Number 2, Spending
  - The third paragraph of this section is new and replaces language that had been there previously

Chapter XI—Audits

- Page 33: Introductory Paragraph
  - The dollar amount in this paragraph was updated
- Page 33: Section B, Exemption from Audit
  - The dollar amounts in both paragraphs were updated

Chapter XIV—Personnel Matters

- Page 38: Section A, Federal and State Employment Laws
  - Additional information was added to Number 9 regarding requirements under the Colorado Equal Pay for Equal Work Act

Chapter XV—Elections

- Page 44: Section I, Conduct of Elections and Procedures-Number 3, Candidates
  - The paragraphs in this section were rearranged, but they contain the same information as before
- Page 47: Section I, Conduct of Elections and Procedures-Number 16, Cancellation
  - The third paragraph of this section regarding director districts is new
- Page 47: Section J, Recall
  - This section is new and contains the information that was moved from Chapter I

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Supporting Community-Based Government

Chapter I
Board Membership, District Filing Requirements, and Metro District Annual Meetings

The Board is the general governing body of the district, which oversees all aspects of the district and carries out the business of the district in public meetings.

A. Qualifications

To qualify as a Director of a special district, a person must be an "eligible elector" which is defined as a **registered voter** of Colorado **and either:**

1. **A resident** of the district, or
2. **The owner (or the spouse or civil union partner of the owner) of taxable real or personal property** situated in the district.

For the purposes of #2 above, a mobile or manufactured home qualifies as "real property," and a person who is under contract to purchase taxable property and is obligated to pay the taxes prior to closing shall be considered an "owner." *§32-1-103(5), Colorado Revised Statutes ("C.R.S.")*

Director qualifications must be met at the time of the execution of the self-nomination form or letter or at the time of appointment by the Board of Directors, if filling a vacancy, and must be maintained in order to remain qualified as a Director.

Property that is owned by a legal entity such as a corporation, LLC, partnership, or trust does not qualify a person as an eligible elector on the basis of property ownership.

B. Taking Office

1. **Oath or Affirmation:**
   Each Director, within 30 days after election or appointment, shall take an oath or affirmation of faithful performance. *§32-1-901(1), C.R.S.*

   The oath or affirmation must be administered by a qualified official (any person designated by the Board, any Officer of the Board, Notary Public, Judge, Clerk of the Court, Clerk and Recorder, or Court Reporter who holds the registered professional reporter, certified verbatim reporter, or certified verbatim reporter-stenotype certification or higher) and filed with the Clerk of the District Court that issued the district's organizational decree; the County Clerk and Recorder for the counties in which the district is situated; and the Division of Local Government. Before the person is fully seated as a Board member, the oath or affirmation must be filed with such County Clerk(s). If the choice is to swear an oath, the person taking the oath must raise their hand. *§§24-12-101, 24-12-103, and 32-1-901(1), C.R.S.; Art. XII, Sect. 9, Colo. Const.; HB25-1301.*

2. **Bond:**
   Along with the oath or affirmation, an individual, schedule, or blanket surety bond of not less than $1,000 must be filed for each Director with the Clerk of the Court and the Division of Local Government, conditioned upon the faithful performance of his/her duties as Director. *§32-1-901(2), C.R.S.*

   The Treasurer must file with the Clerk of the Court and the Division of Local Government a corporate fidelity bond of not less than $5,000. *§32-1-902(2), C.R.S.* The bond(s) shall be in amounts determined by the Board, and at the expense of the district. It is common for a district to obtain and file a single blanket position schedule bond, setting forth the required amounts for each of the positions of Director and the amount for the position of Treasurer. The surety bond and fidelity bond requirements are satisfied if the district buys crime coverage. *§24-14-102(2), C.R.S.*

3. **Commencement of Term:**
   A Director's regular term of office commences at the next meeting of the Board following the date of the organizational or regular election, upon administration of the oath or affirmation; filing the oath or affirmation with the County Clerk and Recorder(s); and posting the bond, but no later than 30 days following the survey of returns of election or date of regular election if the election has been cancelled. *§§1-13.5-112 and 24-12-101, C.R.S.*

C. Vacancies

A Director's office shall be deemed vacant upon the occurrence of any one of the following: *§32-1-905(1), C.R.S.*

1. Failure to meet the qualifications of Director;

2. Failure to satisfy the oath or affirmation and bond or insurance requirements;
3. Written resignation;
4. Failure to remain qualified for the office;
5. Conviction of a felony;
6. Removal from office or voidance of election by Court (subject to appeal);
7. Failure to attend three consecutive regular Board meetings, unless approval of absence is entered in the minutes, or absence is excused by temporary mental or physical disability or illness; or
8. Death.

Any vacancy shall be filled by appointment by the remaining Directors. If the Board fails to fill the vacancy within 60 days, the Board of County Commissioners may make the appointment. The Director appointed to fill a vacancy shall serve until the next regular election, at which time the vacancy shall be filled by election for the remainder, if any, of the originally vacated term. *§32-1-905(2)(a), C.R.S.*

Discussions regarding the appointment of a person and his or her qualifications to fill a vacancy on the Board must take place in a public meeting, not in executive session. The appointment must occur by official action of the Board at a properly convened meeting and must be recorded in the minutes of the Board meeting. A notice of appointment shall be delivered to the person appointed, and the notice along with the mailing address of the person so appointed must be filed with the Division of Local Government. *§32-1-905(3), C.R.S.*

Typically, there is no legal requirement to post or publish notice of a vacancy prior to the district Board appointing someone to fill it. However, prior to conveying title to taxable property in the name of another or entering into a contract to purchase or sell taxable property for the purpose of qualifying such person as an eligible elector in order to fill a vacancy, notice of such vacancy must be published and ten days must pass after the publication of such notice during which no otherwise qualified eligible elector files a letter of interest in filling such position with the Board. *§32-1-808(2)(a)(I), C.R.S.*

In contrast, vacancies on a cemetery district Board are filled by the Board of County Commissioners. A cemetery district Director may be removed by the Board of County Commissioners for cause, after notice and an opportunity to be heard. *§30-20-803, C.R.S.*

D. Election of Officers

After taking oaths/affirmations and filing bonds, the Board shall elect one of its members as Chair of the Board and President of the special district; one of its members as 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. *§32-1-902(1), C.R.S.*

E. Term Limits

Directors are limited to two consecutive terms of office, unless the voters of the district lengthen, shorten, or eliminate that limitation. *Art. XVIII, Sect. 11, Colo. Const.* The term-limited elected official cannot run again for election to the same body by moving to a new director district, redistricting, or a change in the at-large or specific district nature of the seat currently occupied. *Attorney General Opinion No. 2000-5 (July 10, 2000).* Also see *Attorney General Opinion No. 2005-4 (August 16, 2005).*

Term limits apply only to elected four-year terms (or three-year terms if elected in 2020 or 2022). Term limits do not apply to interim terms that arise due to a vacancy or to elected two-year terms (or one-year term if elected in 2022) that are created due to a vacancy. *Attorney General Opinion No. 2000-2 (February 9, 2000).*

F. Increasing Number of Board Members

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 a certified copy of the resolution shall be filed with the Board of County Commissioners or governing body of the municipality that approved the service plan of the special district. The Board shall consider the resolution at a public meeting after publication of notice of the public meeting. If after 45 days after filing the resolution the Board of County Commissioners or governing body of the municipality have not notified the district that such increase in the Board would be a material modification to the district's service plan, the Board shall file the resolution with the District Court that issued the district's organizational decree. The Court shall issue an Order establishing the increase in the number of Board members. A certified copy of such Order shall be recorded in the county in which the district was organized. A copy of the recorded Order shall be filed with the Division of Local Government.

Once the district increases to a seven-member Board, the district cannot return to a five-member Board. *§32-1-902.5, C.R.S.*

G. Fiduciary Obligations

1. **General:**
   A Director has a general, common-law fiduciary obligation to the district. *§24-18-103, C.R.S.* This obligation does not extend to each individual resident of the district, but rather to the district itself. As a fiduciary, the Director has the duty to exercise the utmost good faith, business sense, and astuteness on behalf of the district. A Director is prohibited from taking personal advantage of a situation to benefit himself or prejudice the district.

2. **Confidential Information:**
   Directors will likely become privy to confidential information about the district. When a district seeks legal counsel, the communications between the lawyer and the district are confidential and are protected by the attorney-client privilege. *The Colorado Rules of Professional Conduct, Rule 1.6; §13-90-107(1)(b), C.R.S.* Discussions regarding specific legal questions in executive sessions are "privileged." *Id.; Patricia C. Tisdale and Erin M. Smith, The Maverick Council Member: Protecting Privileged Attorney-Client Communications from Disclosure, 23 COLO. LAW. 63, 63 (1994).*

   The attorney-client privilege protects the content of communications with the district's attorney from disclosure in Court. This is an important protection for the district. Be careful, though, because the privilege can be lost by disclosing the confidential communications to a third party. Once the privilege is lost, the content of the communications is no longer considered confidential, and it can be used against the district in future lawsuits.

Keep in mind that the district holds the attorney-client privilege, not the individual Board members. *The Colorado Rules of Professional Conduct, Rule 1.13.* Therefore, only the district as a whole can waive the attorney-client privilege by an intentional, official act, such as adoption of a resolution. An inadvertent or unauthorized disclosure of confidential information by one Director does not constitute a waiver of the privilege, meaning the "leaked" information cannot be used against the district in Court. Still, it can be extremely damaging to the district if Directors discuss confidential information with people who are not on the Board, even if it seems harmless to you.

You can protect the district's confidential information by not discussing district affairs with anyone outside of Directors and the district's attorney. You also should not discuss matters discussed in executive session outside of the executive session, even with other Directors.

H. Compensation

1. **Limitations:**
   For Directors serving a term of office commencing after January 1, 2018, Directors may receive compensation not in excess of $2,400 per annum, not to exceed $100 per meeting attended. *§32-1-902(3)(a), C.R.S.* Any "perks" received by a Director may be considered compensation and subject to the limitations, unless they are in exchange for value actually received or are considered to be a valid expense otherwise subject to reimbursement. A study session is considered a special meeting for which compensation for attending is allowed, if all the conditions described in Chapter III, Paragraph J (Special Meetings/Study Sessions) are met.

   No Director shall receive any compensation as an employee of the district. *§32-1-902(3)(b), C.R.S.* Effective July 1, 2022, if a district offers PERA to employees and pays its Directors compensation of up to $100 per meeting, the district no longer has to take out a PERA contribution for Directors. *§24-51-310(1)(m), C.R.S.*

2. **Reimbursement:**
   Reimbursement of actual expenses for Directors shall not be considered compensation. *§32-1-902(3)(b), C.R.S.* Actual expenses may include mileage and out-of-pocket expenses incurred in service as a Director.

3. **Gifts:**
   The law regarding quarterly reports of gifts, honoraria, or other benefits received in connection with a Director's public service excludes special district Directors whose annual compensation does not exceed $2,400. *§24-6-203(1)(b)(I), C.R.S.*

   SDA does not believe it applies to special districts, however, Amendment 41, adopted in 2006, places further prohibitions on gifts with value exceeding $65 (adjusted every four years by inflation) given to county and municipal officials, employees of local governments, and their immediate family members. This gift ban is unrelated to any official action and is without regard to any intent to corrupt or influence. *Art. XXIX, Sect. 3, Colo. Const.*

   For a discussion of the rules surrounding gifts to Directors and conflicts of interest, see Chapter II — Conflicts of Interest.

I. Bylaws, Rules and Regulations, and Policies

The Board of Directors may adopt bylaws to govern other aspects of Board membership, and rules and regulations that are not in conflict with state law. *§32-1-1001(1)(m), C.R.S.* Bylaws can be helpful in maintaining order and providing a framework for the Board's actions. Rules and regulations are important to adopt as laws for the operation of the district. The Courts enforce adopted rules and regulations and often yield to the judgment and discretion of the district's Board of Directors in matters of interpretation and application. *Bennett Bear Creek Farm Water and Sanitation District v. City and County of Denver,* 928 P.2d 1254 (Colo. 1997). A Court will not imply rules and regulations if they have not been formally adopted by the Board.

Policies and procedures (usually for staff purposes) on personnel matters, handling of district money, investments, authorization to make contracts, etc. are also important for the efficient operation of the district.

J. Inactive Status for Certain Districts

A district that is in a predevelopment stage; has no business or commercial ventures or facilities in its boundaries; has not issued any general obligation or revenue debt; has not imposed a mill levy for collection; anticipates no revenue and has no planned expenditures; and has no operation or maintenance responsibility for any facilities may enter into "inactive status," during which time the district is relieved from compliance with certain statutory obligations and filings, such as boundary maps; annual notice to electors; noticing and conducting regular and special Board meetings; budgeting procedures; annual audits or applications for exemption; and property valuation and assessment and mill levy certification procedures.

A period of inactive status is commenced by the Board adopting a resolution of inactive status and filing (by December 15) a notice of inactive status with certain prescribed entities. A notice of continuing inactive status must be filed annually by December 15 until the district returns to active status. Permitted activities during this "time-out" period are conducting elections and undertaking the procedures necessary to implement a return to active status.

The district must come into compliance with all the legal requirements from which it has been exempt in order to return to active status. *§32-1-104(3)-(5), C.R.S.*

K. Director Districts

The Board may adopt a resolution to divide the district into director districts. The procedure and considerations for creating a director district is as follows:

1. The Board adopts a resolution dividing the district into director districts. A district with a five-member Board may be divided into five director districts and a district with a seven-member Board may be divided into seven director districts. Each director district must have, as nearly as possible, the same number of eligible electors and shall be as contiguous and compact as possible.
2. The Board shall then select from its members a representative of each director district, and if possible, the representative shall be an eligible elector from within a boundary of the director district they are selected to represent. Thereafter, Directors must be eligible electors of the director district that they represent.

3. If, after a reasonable time, the Board determines that it is in the best interest of the district to revert to a single district format, the Board may eliminate the director districts and thereafter operate as a single district by adopting a resolution.
4. If a Board divides a district into director districts, the Board shall also designate whether the Directors representing the director districts must be elected at large, or by the eligible electors within each director district. If, after a reasonable time, the Board determines that it is in the best interest of the district, the Board may reverse this designation by adopting a resolution. *§32-1-902.7, C.R.S.*

L. Mandatory Website—Metropolitan Districts

Within one year of the organization of a newly organized metropolitan district, the metropolitan district must establish, maintain, and annually update an official website in a form that is readily accessible to the public that contains the following information:

1. The names, terms, and contact information for the current Directors of the Board of the metropolitan district and of the Manager of the metropolitan district, if applicable;
2. A general explanation in plain, nontechnical language about what a metropolitan district is; the public improvements and services it provides; the amount of debt it can incur to provide and pay for public infrastructure; what revenue may be used to repay such debt; the maximum levy it may assess to repay such debt; and how a resident can serve on the Board of the metropolitan district;
3. The current fiscal year budget of the metropolitan district and, within 30 days of adoption, any amendments to the budget;
4. The prior year's audited financial statements, if applicable, or an application for exemption from an audit prepared in accordance with the "Colorado Local Government Audit Law," Part 6 of Article 1 of Title 29, within 30 days of the filing of the application with the State Auditor;
5. The annual report of the metropolitan district in accordance with §32-1-207 (3)(c), C.R.S.;
6. By January 30 of each year, the date, time, and location of scheduled regular meetings of the district's Board for the current fiscal year and the date, time, and location of the annual meeting, if applicable, required by Section 32-1-903(6), C.R.S.;
7. If required by §1-13.5-501(1.5), C.R.S. by no later than 75 days prior to a regular election for an election at which members of a Board of Directors for a metropolitan district will be considered, the call for nominations pursuant to §1-13.5-501(1), C.R.S.;
8. Not more than 30 days after an election, certified election results for an election conducted within the current fiscal year;
9. A current map depicting the boundaries of the metropolitan district as of January 1 of the current fiscal year;
10. Any other information deemed appropriate by the Board of Directors of the metropolitan district;
11. The name of the governmental entities that overlap the metropolitan district's boundaries; and
12. Information regarding the system or process for contacting someone associated with the metropolitan district during regular business hours and outside of regular business hours or when metropolitan district personnel are otherwise unavailable or unreachable as required by §32-1-104.5(4), C.R.S.

The information contained in numbers 1, 6, 7, 11, and 12 above must be provided on the homepage of the metropolitan district's website. *§32-1-104.5(3)(a.5), C.R.S.; HB25-1219.*

Notwithstanding any other provision of law, a notice of meeting containing the information set forth in §24-6-402(2)(c)(iii), C.R.S. and posted on the metropolitan district's website no less than 24 hours prior to such meeting satisfies the requirements of §24-6-402 (2)(c)(iii), C.R.S. *§32-1-104.5(3)(a), C.R.S.*

On or after January 1, 2024, owners of residential real property located within a metropolitan district organized on or after January 1, 2000 must provide the purchaser of the property with the official website established by the metropolitan district on the Colorado Real Estate Commission approved seller's property disclosure or another concurrent writing. *§38-35.7-111, C.R.S.; SB23-110.*

M. Website Accessibility Requirements

District websites will need to comply with accessibility standards adopted by the Colorado Office of Information Technology ("OIT"). Districts will need to adopt an accessibility plan for their websites based on use of the OIT accessibility standards. The accessibility standards can be found on the OIT website at oit.colorado.gov. *§§24-34-802(1)(c) and 24-85-103(2.5), C.R.S.; 8 CCR 1501-11.* July 1, 2024 was the implementation deadline, but the Colorado General Assembly provided a one-year extension of immunity from liability for failure to comply to July 1, 2025, if a district demonstrates good faith efforts toward compliance or toward resolution of any complaint of noncompliance. *HB24-1454.*

N. Annual Report

Any special district created after July 1, 2000 shall file an annual report for the preceding calendar year (unless the requirement is waived or otherwise requested by an earlier date by the governing body of the county and/or municipality in which a district is wholly or partially located). The annual report must be provided in accordance with §32-1-207(3)(c), C.R.S. by October 1 of each year. The annual report must be electronically filed with the governing body that approved the service plan or, if the jurisdiction has changed due to annexation into a municipality, the current governing body with jurisdiction over the special district, the Division, and the State Auditor, and such report must be electronically filed with the County Clerk and Recorder for public inspection, and a copy of the report must be made available by the special district on the district's website pursuant to §32-1-104.5(3), C.R.S.

The report required by §32-1-207(3)(c), C.R.S. must include, as applicable for the reporting year, but shall not be limited to:

1. Boundary changes made;
2. Intergovernmental agreements entered into or terminated with other governmental entities;
3. Access information to obtain a copy of rules and regulations adopted by the Board;

4. A summary of litigation involving public improvements owned by the district;
5. The status of the construction of public improvements by the district;
6. A list of facilities or improvements constructed by the district that were conveyed or dedicated to the county or municipality;
7. The final assessed valuation of the district as of December 31 of the reporting year;
8. A copy of the current year's budget;
9. A copy of the audited financial statements, if required by the "Colorado Local Government Audit Law," Part 6 of Article 1 of Title 29, or the application for exemption from audit, as applicable;
10. Notice of any uncured defaults existing for more than 90 days under any debt instrument of the district; and
11. Any inability of the district to pay its obligations as they come due under any obligation which continues beyond a 90 day period.

Special districts operating under a consolidated service plan or serving the same community may file a consolidated annual report setting forth the information required for each special district. *§32-1-207(3)(c), C.R.S.*

O. Annual Meetings of Metropolitan Districts

The Board of any metropolitan district organized after January 1, 2000 with residential units in its boundaries and not on inactive status, must conduct an annual meeting in addition to other Board meetings. No official action may be taken at the annual meeting, which shall include a presentation from the district on the status of infrastructure projects and outstanding bonds, if any; a review of unaudited financial statements showing the year-to-date revenue and expenditures of the district in relation to its adopted budget; and an opportunity for members of the public to ask questions about the district. Notice of the time/location of an annual meeting must be provided and posted on the homepage of the district's website. Notice must also be given by either mailing notice to each address of eligible electors within the district as listed by the County Assessor no more than 90 days prior to the annual meeting or by email to any email addresses of eligible electors that have been provided to the district. The annual meeting must be held in person, virtually, or in person and virtually. If held only in person, the meeting must be at a physical location within the boundaries of the district, within any county in which the district is located, or within any other county so long as the physical location does not exceed five miles from the district's boundaries. *§32-1-903(6), C.R.S.; SB23-110; HB25-1219.*

If the annual meeting is held in person and in the year prior to a regular district election, self-nomination and acceptance forms should be made available to residents in paper form at the meeting. Additionally, the district should inform residents that self-nomination and acceptance forms are to be filed with the Designated Election Official or, if none has been designated, with the presiding Officer or Secretary of the Board no earlier than January 1 and no later than the normal close of business on the 67th day before the date of the election. *§32-1-903(6)(a.5), C.R.S.; HB25-1219.*

P. Filings and Postings

Directors are responsible for ensuring that mandatory filings are made and actions are taken. The following schedule includes the primary statutory filings required.

Date	Filings and Postings
At the time of recording organizational decree or order of inclusion for any district	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: 1. The name of the district; 2. The powers of the district as authorized by Section 32-1-1004, C.R.S. and the district's service plan or, as appropriate, the district's statement of purpose as described in Section 32-1-208, C.R.S., current as of the time of the filing; 3. 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, C.R.S., 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 of Local Government; and 4. 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. *§32-1-104.8, C.R.S.*

Date	Filings and Postings
Annually for metropolitan districts organized after January 1, 2000	Establish, maintain, and annually update, unless otherwise required, an official website that is readily accessible to the public which contains the following information: 1. The names, terms, and contact information for the current Board members and of the District Manager, if applicable; 2. A general explanation in plain, nontechnical language about what a metropolitan district is; the public improvements and services it provides; the amount of debt it can incur to provide and pay for public infrastructure; what revenue may be used to repay such debt; and how a resident can serve on the Board of the metropolitan district; 3. The current fiscal year budget and, within 30 days of adoption, any amendments to the budget; 4. The audited financial statements, if applicable, or the application for exemption from an audit, within 30 days of the filing of the application with the State Auditor; 5. The annual report filed in accordance with §32-1-207(3)(c), C.R.S.; 6. By January 30 of each year, the date, time, and location of scheduled regular meetings of the district's Board for the current fiscal year and the date, time, and location of the annual meeting, if applicable, required by Section 32-1-903(6), C.R.S.; 7. If required by §1-13.5-501(1.5), C.R.S. by no later than 75 days prior to a regular election, the call for nominations pursuant to §1-13.5-501(1), C.R.S.; 8. Not more than 30 days after an election, certified election results for an election conducted within the current fiscal year; 9. A current district boundary map as of January 1 of the current fiscal year; 10. Any other information deemed appropriate by the Board of Directors; 11. The name of the governmental entities that overlap the district's boundaries; and 12. Information regarding the system or process for contacting someone associated with the district during regular business hours and outside of regular business hours or when district personnel are otherwise unavailable or unreachable as required by §32-1-104.5(4), C.R.S. The information contained in numbers 1, 6, 7, 11, and 12 must be provided on the homepage of the district's website. A metropolitan district returning to active status shall comply within 90 days of adoption of a resolution returning to active status. *§§32-1-104.5(3)(a) and (d), C.R.S; HB25-1219.*
Annually for metropolitan districts organized after January 1, 2000 that have residential units within their boundaries	Conduct annual meeting to include: 1. Presentation on status of public infrastructure projects and outstanding bonds. 2. A review of unaudited financial statements. 3. An opportunity for members of the public to ask questions about the metropolitan district. No official action may be taken by the Board at the annual meeting. *§§32-1-903(6) and (7), C.R.S.*
Annually	1. At least once annually, the district is required to publish on its website a clear, concise, and user-friendly summary providing an accounting of land development charges. In this context, land development charges include tap fees, system development fees, capital improvement fees, plant investment fees, and similar charges regardless of what they are called related to a capital expenditure imposed as a prerequisite for obtaining service for an improvement, facility, or equipment necessitated by construction, reconstruction, or redevelopment resulting in an increase in the number of service units required. The accounting must include for the most recent fiscal year dollar amounts of each land development charge collected, average interest rates, and total amount disbursed. *§§29-1-802 and 29-1-803(1), C.R.S.* 2. An annual inventory of real and personal property having an original cost that equals or exceeds an amount established by the district, unless the amount is established by the State. *§29-1-506(1), C.R.S.*
First Board meeting of each year	Board adopts resolution designating the posting location for the district's 24-hour agenda notice. *§24-6-402(2)(c), C.R.S.*
Meeting notice posting requirements	For an electronic notice, a district shall be deemed to have given full and timely notice of a public meeting if the district posts the notice, with specific agenda information if available, on a public website of the district no less than 24 hours prior to holding the meeting. The notice must be accessible at no charge to the public. A district that posts notices on a public website may in its discretion also post a notice by any other means, but it is not required to do so. *§24-6-402(2)(c)(III), C.R.S.* For a non-electronic notice, a district shall be deemed to have given full and timely notice if the notice of the meeting is posted in a designated public place within the district no less than 24 hours prior to the holding of the meeting. The public place or places for posting such notice shall be designated annually at the district's first regular meeting of each calendar year. The 24-hour notice must include specific agenda information when possible. *§24-6-402(2)(c)(I), C.R.S.* Special meetings must be posted in one of the ways discussed above.

Date	Filings and Postings
30-day notice prior to fixing/ increasing water or sewer rates	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 30 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: 1. Mailing the notice separately to each customer of the service on the billing rolls of the district; 2. 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; 3. 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 of Local Government; or 4. For any district that is a member of a statewide association of special districts formed pursuant to Section 29-1-401, C.R.S. (such as SDA), 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. *§32-1-1001(2), C.R.S.*
January 1 Update map	Deadline to file a current, accurate map of district boundaries prepared according to Division of Local Government standards with the County Assessor, the Clerk and Recorder of each county in which the district is located, and the Division of Local Government. For map specification information, contact the Division of Local Government at 303-864-7720 or go to the Division of Local Government's website. *§32-1-306, C.R.S.*
January 15 Notice to Electors (not earlier than November 16)	Deadline for Notice to Electors (Transparency Notice), and no more than 60 days preceding. 1. The notice shall contain the following: a. The address and telephone number of the principal business office of the district; b. Name and business telephone number of the Manager or primary contact person; c. The names of and contact information for the members of the Board, the name of the Board Chair, and the name of each Director whose office will be on the ballot at the next regular 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 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. The address of any website on which the special district's election results will be posted; and i. Information on the procedure for an eligible elector to apply for permanent absentee voter status as described in Section 1-13.5-1003, C.R.S. with the special district. 2. The notice shall be made in one or more of the following ways: a. Mailing the notice separately to each household where one or more eligible elector resides; b. Including the notice as 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 district's official website, if there is a link to the district's website on the official website of the Division of Local Government; 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. (such as SDA), 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 district with less than 1,000 eligible electors that is wholly located in a county with a population of less than 30,000, posting the notice in at least three public places within the limits of the special district and at the office of the County Clerk and Recorder. Such notice shall remain posted until the Tuesday succeeding the first Monday of the following May. 3. Each district shall file the notice with the Board of County Commissioners, the County Assessor, the County Treasurer, and the County Clerk and Recorder of each county in which the district is located, any governing body of any municipality in which the district is located, and with the Division of Local Government, and make a copy of the notice 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 subsection 2(a), so long as the information regarding each district is separately displayed and identified. *§§32-1-809 and 32-1-104(2), C.R.S.* **County or Municipal Withhold** If a district fails to file any information required in Section 32-1-104 (2), C.R.S. (Notice to Electors) or within nine months of the date of the request for such information, the Board of County Commissioners or the municipal 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 the release of any such moneys until the district complies with such requirement. *§32-1-209, C.R.S.*

Date	Filings and Postings
January 30 Budget due	A certified copy of the adopted budget, which includes the budget message, for the current fiscal year, must be filed with the Division of Local Government no later than this date. The resolution(s) to adopt the budget, set mill levies, and appropriate funds shall accompany the copy of the certified budget. For more information, see the Budget Calendar on the Division of Local Government's website. **PENALTY: The Division of Local Government may authorize the County Treasurer to withhold distribution of tax revenues to the district if the budget is not filed.** *§29-1-113(1), C.R.S.*
February Special election	Special election for non-TABOR questions may be conducted on the first Tuesday after the first Monday. *§1-13.5-111, C.R.S.*
March 1	If a special district has securities outstanding which are non-rated and which were issued to the public, for an amount of not less than $1 million, and for a term of more than one year payable beyond the next year, then that district must file an annual report on form DLG 30 with the Division of Local Government. This report must be filed within 60 days following the end of the fiscal year. *§11-58-105, C.R.S.*
March 31	Deadline for qualifying entities to request exemption from audit from the State Auditor using Application for Exemption from Audit. For information call Local Government Audits, Office of State Auditor, at 303-869-3000. The ceiling amount for a local government to qualify for exemption from audit is $1,000,000. *§29-1-604(3), C.R.S.* If the district has authorized but unissued general obligation debt as of the end of the fiscal year, a copy of the Application for Exemption from Audit must be filed with the Board of County Commissioners for each county in which the district is located or the governing body of the municipality that approved the service plan. *§29-1-606(7), C.R.S.*
May Regular or special election	Regular election (election for members of Board of Directors) must be held in odd-numbered years. TABOR elections may be held on the regular election date. Special election for non-TABOR questions may be held on the first Tuesday following the first Monday in May that is not a regular election date. If a TABOR issue will be included as part of the May regular election, it must be conducted as an independent mail ballot election pursuant to Section 1-13.5-1101, *et seq.,* C.R.S. *§§32-1-103(17) and (21), and 1-13.5-111, C.R.S.*
June	Each Director, within 30 days after his/her election or appointment, must be administered the oath of office or affirmation. The signed oath or affirmation and bond (public officials' performance bond) must be filed with the District Court Clerk and with the Division of Local Government. Directors' bond must be not less than $1,000; the Treasurer's bond must be not less than $5,000. Bond requirements can be satisfied by purchase of crime coverage. A copy of each signed oath or affirmation must be filed with the Clerk and Recorder before the Director is fully seated. *§§32-1-901, 24-12-101, and 24-14-102(2), C.R.S.; Art. XII, Sect. 9, Colo. Const.*
June 30	Statutory deadline for local government auditor to submit audit report to special district governing Board. *§29-1-606(1)(a), C.R.S.*
July 30	Deadline for submitting annual audit report or request for extension to State Auditor. District audit must be forwarded to State Auditor's Office within 30 days of receipt from auditor. *§29-1-606(3), C.R.S.* **PENALTY: If an audit is not filed (when an exemption has not been granted), the County Treasurer may be ordered to withhold district tax revenues.** *§§29-1-606(5)(a) and (b), C.R.S.* If the district has authorized but unissued general obligation debt as of the end of the fiscal year, a copy of the audit report must be filed with the Board of County Commissioners for each county in which the district is located or the governing body of municipality that approved the service plan. *§29-1-606(7), C.R.S.*
August 25	Deadline for Assessors to certify to all taxing entities and the Division of Local Government the total assessed valuation and real property values of all taxable property and the amounts for the various factors used to compute the statutory property tax revenue limit and the constitutional property tax revenue limit. *§39-5-128, C.R.S.*
September 30	If State Auditor has granted extension (received prior to July 30 filing deadline), this is the final date an audit may be filed. *§29-1-606(4), C.R.S.* **PENALTY: If an audit is not filed (when an exemption has not been granted) the County Treasurer may be ordered to withhold district tax revenues.** *§§29-1-606(5)(a) and (b), C.R.S.*

Date	Filings and Postings
October 1	Any special district created after July 1, 2000 shall file not more than once a year an annual report for the preceding calendar year, unless the requirement is waived or otherwise requested by an earlier date by the current governing body with jurisdiction over the district. The annual report must be electronically filed with the governing body with jurisdiction over the district, the Division, State Auditor, and County Clerk and Recorder for each county in which the district is located. For metropolitan districts organized after January 1, 2000, a copy of the report must be posted on the district's website. The report must include, as applicable for the reporting year, but shall not be limited to: 1. Boundary changes made; 2. Intergovernmental agreements entered into or terminated with other governmental entities; 3. Access information to obtain a copy of rules and regulations adopted by the Board; 4. A summary of litigation involving public improvements owned by the district; 5. The status of the construction of public improvements by the district; 6. A list of facilities or improvements constructed by the district that were conveyed or dedicated to the county or municipality; 7. The final assessed valuation of the district as of December 31 of the reporting year; 8. A copy of the current year's budget; 9. A copy of the audited financial statements or the application for exemption from audit, as applicable; 10. Notice of any uncured defaults existing for more than 90 days under any debt instrument of the district; and 11. Any inability of the district to pay its obligations as they come due under any obligation which continues beyond a 90-day period. Special districts operating under a consolidated service plan or serving the same community may file a consolidated annual report setting forth the information required for each special district. *§32-1-207(3)(c), C.R.S*
October Special election	Special election for non-TABOR questions may be conducted on the first Tuesday after the first Monday. *§1-13.5-111, C.R.S.*
October 15	Statutory deadline for budget officer to submit the proposed budget to Board of Directors. *§29-1-105, C.R.S.* "Notice of Budget Hearing" to be published upon Board's receipt of proposed budget. *§29-1-106, C.R.S* Notice of budget hearing must state that the budget is available for inspection by the public at a designated office, give the date and time of the budget hearing, and state that any interested elector may file objections any time prior to its adoption. For districts with a total annual budget of less than $50,000, posting of the notice in three public places is permitted in lieu of publication. See §29-1-103, C.R.S. for budget content and format requirements. Contact the Division of Local Government for further information and assistance in order to be in compliance with the budget law.
November	TABOR ballot issues and non-TABOR ballot questions may be referred to the voters the first Tuesday after the first Monday of even-numbered years, or the first Tuesday in odd-numbered years. A TABOR election that is not part of an organizational election must be conducted either as part of a coordinated election or as an independent mail ballot election pursuant to Section 1-13.5-1101, *et seq.,* C.R.S. If the district determines to not coordinate the election with the County Clerk, such election must be conducted as an independent mail ballot election. *§§1-7-116(1) and 1-13.5-111(2), C.R.S.*
December Special election	Special election for non-TABOR questions may be conducted on the first Tuesday after the first Monday. *§1-13.5-111, C.R.S.*
December 10	Assessors must recertify property value, one time only, no later than December 10, to the district. *§39-1-111(5), C.R.S.*
December 15	Deadline for certification of mill levies to the Board of County Commissioners. *§39-5-128(1), C.R.S.* Note: Districts levying a property tax must adopt their budgets before certifying levies to the county. *§29-1-108(2), C.R.S.* **PENALTY: If the budget is not adopted by certification deadline, 90% of the amounts appropriated for operating and maintenance expenses in the current fiscal year shall be deemed re-appropriated.** *§29-1-108(3), C.R.S*
December 15	For inactive special districts, deadline for filing Notice of Continuing Inactive Status with the Division of Local Government and the State Auditor. *§32-1-104(4), C.R.S.*
December 31	Districts not levying property tax must adopt budget by this date. *§29-1-108, C.R.S.* By this date Board shall enact "Resolution to Appropriate Funds" for ensuing fiscal year. *§29-1-108(4), C.R.S.* **PENALTY: District is restricted to 90% of its current year's appropriation for operation and maintenance expenses if Board fails to enact a resolution to make appropriations by this date.** *§29-1-108(4), C.R.S.*

Date	Filings and Postings
	NOTE: If a district: • **Has failed** to hold or properly cancel a regular special district election, • **Has failed** to adopt a budget for two consecutive years, • **Has failed** to submit to an audit (or be granted exemption from audit) for two consecutive years; or • **Has not provided or attempted to provide** any of the service(s) or facilities for which the district was organized for two consecutive years; ***and*** • **Has no** outstanding financial obligations, **then,** the Division of Local Government may initiate statutory proceedings to administratively dissolve the district. *§32-1-710, C.R.S.*

Chapter II
Conflicts of Interest

The Colorado statutes establish a code of ethics for all local government officials and the Special District Act adds standards of conduct that apply only to special district Directors. Public officials can look to these in order to determine whether certain official actions are proper or improper. The holding of a public office is a "public trust" and Directors must carry out their duties for the benefit of the people, not for their own self-interest. The statutory code of ethics attempts to balance the conflicts of a private interest with the public duty.

A. Disclosure Required

Any Director shall disqualify himself/herself from voting on any issue in which he/she has a conflict of interest, unless such Director has disclosed the conflict of interest as required by law to the Secretary of State and to the Board, *§32-1-902(3)(b), C.R.S.,* and then only to vote if his/her participation is necessary to obtain a quorum or otherwise enable the Board to act. *§24-18-109(3)(b), C.R.S.*

A Director with a conflict who does not vote shall also refrain from attempting to influence the decisions of other members of the Board in voting on the matter. It is best practice to have the conflicted Board member step out of the meeting during the discussion. *§24-18-109(3)(a), C.R.S.*

A Director is guilty of failing to disclose a conflict of interest if he/she exercises any substantial discretionary function in connection with a government contract without having given 72 hours' actual advance written notice to the Secretary of State and to the district Board of the existence of a known potential conflicting interest. *§18-8-308(1), C.R.S.* Failure to disclose a conflict of interest is a class 2 misdemeanor. *§18-8-308(3), C.R.S.*

B. Proscribed Acts Constituting a Conflict of Interest

A potential conflict of interest exists when the Director is an executive officer or owns or controls, directly or indirectly, a substantial interest in any nongovernmental entity participating in the transaction. *§18-8-308(2), C.R.S.*

A district Board member, as a local government official (elected or appointed), or a district employee, shall not:

1. Disclose or use confidential information acquired in the course of his/her official duties in order to further his/her personal financial interests.
2. Accept gifts of substantial value or of substantial economic benefit tantamount to a gift of substantial value, which would tend to improperly influence a "reasonable person" in his/her public position to depart from the faithful and impartial discharge of his/her public duties or which he/she knows or which a reasonable person in his/her position should know under the circumstances is primarily for the purpose of rewarding him/her for official action he/she has taken.
3. Engage in a substantial financial transaction for his/her private business purposes with a person whom he/she inspects or supervises in the course of his/her official duties.
4. Perform an official act directly and substantially affecting its economic benefit, a business or other undertaking in which he/she either has a substantial financial interest or is engaged as counsel, consultant, representative, or agent.
5. Be interested in any contract made in his/her official capacity or by any body, agency, or Board of which he/she is a member or employee.
6. Be a purchaser at any sale or vendor at any purchase made by him/her in his/her official capacity. *§§24-18-104, 24-18-109, 24-18-201, and 24-18-202, C.R.S.*

The following exceptions exist which are *not* considered to be conflicts of interest:

1. A Director holding a minority interest in a corporation contracting with the district is not considered "interested" in such contract; *§24-18-201(1)(a), C.R.S.*
2. Contracts in which the Director has disclosed a personal interest and has not voted thereon; and
3. A Director may vote, notwithstanding any other prohibition, if participation is necessary to obtain a quorum or otherwise enable the Board to act, and if the Director complies with voluntary disclosure procedures. *§24-18-109(3)(b), C.R.S.*

Note All of these exceptions must be very carefully scrutinized for legal compliance purposes. Perhaps no area offers greater potential exposure to liability than the area of conflicts of interest. Before a Director takes any action which may involve a potential

conflict of interest, all legal implications as well as the policy implications and appearance of impropriety should be considered.

C. Guides to Conduct Regarding Ethical Principles

The following principles are intended as guides to conduct; they do not constitute violations of the public trust or employment in local government unless circumstances would otherwise so indicate:

1. A local government official or employee should not acquire or hold an interest in any business or undertaking which he/she has reason to believe may be directly and substantially affected to its economic benefit by official action to be taken by the local government agency over which he/she has substantive authority.
2. A local government official or employee should not, within six months following the termination of his/her office or employment, obtain employment in which he/she will take direct advantage, unavailable to others, of matters with which he/she was directly involved during his/her term of employment.
3. A local government official or employee should not perform an official act directly and substantially affecting a business or other undertaking to its economic detriment when he/she has a substantial financial interest in a competing firm or undertaking. *§24-18-105(4), C.R.S.*

D. Conflicts Involving Developer Districts

A Director who owns undeveloped land constituting at least 20% of the district's territory must disclose such ownership by giving 72-hours' advance written notice to the Secretary of State and the Board before each meeting of the Board, and such disclosure must be entered in the minutes. "Undeveloped land" means real property which has not been subdivided or on which no improvements have been constructed, excluding dedicated parks, recreation areas, or open spaces. *§32-1-902(4), C.R.S.*

No contract for work or material including a contract for services, regardless of amount, may be entered into between a district and a Board member or a person owning 25% or more of the territory within the district unless notice for bids is published and the Board member or owner submits the lowest responsible and responsive bid. *§32-1-1001(1)(d)(II), C.R.S.*

E. Effect of Existence of Potential Conflict of Interest

Failing to disclose a potential conflict of interest is a criminal misdemeanor and could result in prosecution. *§18-8-308(3), C.R.S.*

Any contract, vote, or other official act in which a Director had a potential conflict, not cured by disclosure, may result in the act or contract being voided.

Chapter III
Board Meetings

The district's business is conducted in meetings of the Board of Directors, which the public must be given notice of and allowed to attend, with some very limited exceptions.

A. Calling the Meeting

1. **Designation of Time and Place:**
   The Board must designate and post the time and place for all Board meetings, and also designate a place to post the required 24-hour agenda notices of the meetings. The best practice is for the Board to adopt a resolution at its first regular meeting each calendar year designating where required 24-hour agenda notices will be posted. *§§32-1-903(1)-(2) and 24-6-402(2)(c), C.R.S.*

   a. **Electronic Notice:**
      A district shall be deemed to have given full and timely notice of a public meeting if the district posts the notice, with specific agenda information if available, no less than 24 hours prior to holding the meeting on a public website of the district. The notice must be accessible at no charge to the public. The district shall, to the extent feasible, make the notices searchable by type of meeting; date and time of meeting; agenda contents; and any other category deemed appropriate by the district, and shall consider linking the notices to any appropriate social media accounts of the district. A district that provides notice on a website shall provide the address of the website to the Department of Local Affairs. A district that posts notices on a public website may in its discretion also post a notice by any other means, but is not required to do so. If a district is unable to post a notice on a public website, the district shall post its meeting notices in compliance with Paragraph A.1.b below. *§24-6-402(2)(c)(III), C.R.S.*

   Special notice must be included in the notice of the decision to undertake any of the following acts: *§32-1-903(3), C.R.S.*

   i. Making a final determination to issue or refund general obligation indebtedness;
   ii. Consolidating the district;
   iii. Dissolving the district;
   iv. Filing a plan for adjustment of debt under federal bankruptcy law;
   v. Entering a private contract with a Director; or
   vi. Not making a scheduled bond payment.

   b. **24-Hour Notice (Non-Electronic):**
      In addition to any other means of full and timely notice, a local public body (district) shall be deemed to have given full and timely notice if the notice of the meeting is posted in a designated public place within the district no less than 24 hours prior to the holding of the meeting. The public place or places for posting such notice shall be designated annually at the local public body's first regular meeting of each calendar year. The 24-hour notice must include specific agenda information when possible. *§24-6-402(2)(c)(I), C.R.S.* (Note: This 24-hour posting can be utilized in addition to or in place of posting on a public website. However, this posting of notice is not required if the district posts its meeting notices on its website.) *§24-6-402(2)(c)(III), C.R.S.*

   c. **Requested Notice:**
      The district must keep a list of all persons requesting notice of all meetings or of meetings when certain specified policies will be discussed, and provide reasonable advance notice to such persons. Once a person has requested individualized notice, they are to be included on the list for two years. What constitutes "reasonable" notice is left to the discretion of the district. Inadvertent failure to provide notice to a listed person will not invalidate the meeting or actions taken at such meeting. *§24-6-402(7), C.R.S.*

   d. **Change of Regular Meeting and Scheduling of Special Meetings:**
      When the time, date, or location of a regularly scheduled meeting is changed, or when a special meeting is scheduled, notice of the new meeting time, date, or place must be posted in one of the ways discussed above. *§32-1-903(2), C.R.S.*

2. **Notice to Directors:**
   All Directors must be notified of any regular or special meeting of the Board. *§32-1-903(1), C.R.S.*

B. Location of Meetings

With the exception of telephonic or electronic as described below, all special and regular Board meetings must be held at locations within the district boundaries, or within the boundaries of any county or counties in which the district is located, or, if outside the county, at a location not greater than 20 miles from the district boundaries, unless (i) the Board adopts a resolution stating the reason for holding the meeting at an alternate location and the date, time, and place of the meeting; and (ii) the proposed change of location appears on the meeting agenda for the meeting at which the resolution is considered. *§32-1-903(1), C.R.S.*

C. Telephonic or Electronic Meetings

"Location" means the physical, telephonic, electronic or other virtual place, or combination of such means, where a meeting can be attended. Consequently, special and regular Board meetings can be held in a physical location, or by telephonic or other electronic means. *§32-1-903(5), C.R.S.*

The meeting notice of all meetings of the Board that are held telephonically, electronically, or by other means not including physical presence must include the method or procedure, including the conference number or link, by which members of the public can attend the meeting. *§32-1-903(3), C.R.S.*

D. Open to the Public

All meetings of a quorum, or three or more members (whichever is fewer), of the Board of Directors at which public business is discussed or formal Board action may be taken must be open to the public.

"Meeting" means any kind of gathering convened to discuss public business in person, by telephone, electronically, or by other means of communication. *§24-6-402(2)(b), C.R.S.*

Open meeting requirements apply to formal meetings of the Board and study sessions. Such requirements do not apply to staff meetings where a quorum of the Board is not present, chance meetings, or social gatherings at which discussion of public business is not the central purpose.

Open meetings must be open to all members of the public, including reporters, attorneys, and any other representatives.

The use of recording devices at open meetings is neither prohibited nor permitted by the Colorado statutes. Many attorneys believe that the Board must allow for video and audio recording of its meetings, but may prescribe rules for the use of recording devices, such as specifying the location where recorders must be positioned and restricting recordings which interrupt or interfere with the conduct of the meeting.

E. Rules of Procedure

The Board may adopt standard rules of procedure to govern how Board meetings are conducted. Such rules provide desirable order and efficiency and may be included within the district bylaws.

F. Voting

A quorum (more than one-half of the number of Directors serving on the Board) of the Board must be present before the district may take any official act or vote. A majority of the quorum in attendance is required to pass a measure. *§§32-1-103(16) and 32-1-903(2), C.R.S.*

A Director is required to devote his/her personal attention to matters of the district. Such attention requires a Director's own individual vote; proxy voting is not permissible.

The Chairman/President can make motions and is required to vote.

G. Attendance

A Director is required to attend Board meetings. Attendance may be made via telephone conference or other electronic means. As long as the Director is able to hear and be heard, electronic attendance satisfies the attendance requirement. *§24-6-402(1)(b), C.R.S*

Any absences should be noted and excused (where appropriate) in the minutes of the meeting.

A Director's office shall be deemed to be vacant if the Director 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. *§32-1-905(1)(g), C.R.S.*

H. Minutes

The Secretary of the Board must keep accurate minutes of all Board meetings. *§32-1-902(1), C.R.S.*

The minutes shall be kept in a visual text format that may be transmitted electronically and shall be open to public inspection upon request. Districts must keep their Board minutes indefinitely. *§§32-1-902(1) and 24-6-402(2)(d)(II), C.R.S.*

I. Executive Sessions

An executive or "closed" session may only be called at a regular or special meeting of the Board (not at a study session) by an affirmative vote of two-thirds of the quorum present. *§24-6-402(4), C.R.S.*

Executive sessions should be noted on the agenda for all meetings whenever possible.

The Chairman of the Board must announce, and the minutes reflect, one of the following topics of discussion for a valid executive session:

1. Purchase, acquisition, lease, transfer, or sale of any property interest. *(Note: Not available where a member of the Board has a personal interest in the transaction.) §24-6-402(4)(a), C.R.S.*
2. Conferences with the district's attorney regarding legal advice on specific legal questions. *(Notes: The mere presence or participation of an attorney is not sufficient to satisfy this requirement. State the topic of the legal questions in as much detail as possible without disclosing confidential information.) §24-6-402(4)(b), C.R.S.*
3. Confidential matters pursuant to state or federal law. *(Note: Must announce specific citation to the applicable law.) §24-6-402(4)(c), C.R.S.*
4. Security arrangements or investigations. *§24-6-402(4)(d), C.R.S.*
5. Negotiations. *§24-6-402(4)(e), C.R.S.*
6. Personnel matters, identifying the person or position to be discussed, except if the employee who is the subject of the executive session has requested an open meeting; or

if the personnel matter involves more than one employee, all of the employees must request an open meeting. *(Note: Not available to discuss general personnel policies in executive session.)* *§24-6-402(4)(f), C.R.S.*

7. Items concerning mandatory nondisclosure under the Open Records Act. *§24-6-402(4)(g), C.R.S.*
8. Discussion of individual students where public disclosure would adversely affect the person. *§24-6-402(4)(h), C.R.S.*

Discussions that occur in an executive session shall be electronically recorded, including the specific citation to the Colorado Revised Statutes that authorizes the Board to meet in an executive session and the actual contents of the discussion during the session. *§24-6-402(2)(d.5)(II)(A), C.R.S.*

Executive session discussions between the Board and the district's attorney regarding specific legal questions are confidential and protected by attorney-client privilege. Therefore, they need not be recorded, electronically or otherwise. If they are not recorded, the attorney must attest that the portion of the discussion not recorded constituted privileged attorney-client communications, either by stating so on the tape or providing a signed statement which will be added to the minutes. *§24-6-402(2)(d.5)(II)(B), C.R.S.; The Colorado Rules of Professional Conduct, Rule 1.6.*

No formal action (vote) may be taken while in executive session. *§24-6-402(4), C.R.S.*

The district must retain the record of any executive session for at least 90 days. *§24-6-402(2)(d.5)(II)(E), C.R.S.*

J. Special Meetings/Study Sessions

Special meetings may include study sessions at which information is presented to the Board, but no official action can be taken by the Board. Special meetings may also be meetings, set outside of the regular Board meeting schedule, at which the Board takes official action. Special meetings may be conducted after posting notice at least 24 hours before the meeting and must be conducted with a quorum of Directors in attendance. *§24-6-402(2)(c)(I), C.R.S.* Minutes must be promptly recorded for any meeting at which any formal action occurs or could occur, or at which an executive session occurs, and the minutes are open to public inspection. *§24-6-402(2)(d)(II), C.R.S.* You may want to check with your legal counsel about the recording of minutes for study sessions.

K. Meetings—Exchange of Emails

If a quorum of the Board of Directors exchanges electronic mail to discuss pending legislation or other public business among themselves, the electronic mail is subject to the requirements of the Open Meetings Act. Electronic mail communication between the Directors that ***does not*** relate to the merits or substance of pending legislation or other public business, including electronic mail communication regarding scheduling and availability or electronic mail communication that is sent by a Director for the purpose of forwarding information; responding to an inquiry from an individual who is not a member of the Board of Directors; or posing a question for later discussion by the Board, shall not be considered a "meeting" within the meaning of the Open Meetings Act. *§24-6-402(2)(d)(III), C.R.S.*

L. Resolutions and Motions

Official action of the Board may be taken in an open meeting through the adoption of a resolution, or by a motion duly made and passed by a majority vote of the Directors present at the meeting and recorded in the minutes.

M. Public Comment Required at Metropolitan District Budget Meetings

The Board of a metropolitan district must provide a public comment period during the meeting at which the Board adopts the annual budget for the district under the Local Government Budget Law of Colorado. *§32-1-903(7), C.R.S.; SB23-110.*

Chapter IV
Public Records

The "Open Records Act," §24-72-201, *et seq.,* C.R.S., applies to almost all levels of Colorado governmental entities and requires records to be available to the public, although it takes into account the burdens that may be placed on local governments to respond to requests for public records and incorporates a reasonableness standard for the time and cost of producing the materials.

A. Public Right of Access

Colorado statutes have established as public policy that all public records should be open for inspection by any person at reasonable times, except as provided by law. *§24-72-201, C.R.S.*

"Public records" is broadly defined to include most documentation maintained by the district and the correspondence of elected officials, including email, whether maintained in hard copy or electronically in digital media. *§24-72-202(6), C.R.S.*

The "official custodian" (the district officer or employee responsible for the maintenance, care, and keeping of public records) may establish rules regarding the inspection procedures for such records. *§24-72-203(1)(a), C.R.S.* Such rules are advisable to maintain a manageable order regarding records and inspection. In practice, typically the Board adopts by resolution a policy for responding to records requests.

The person requesting inspection is entitled to copies or printouts of the district's public records.

Special rules apply to records that are kept digitally:

1. If a public record is stored in a digital format that is neither searchable nor sortable, the custodian shall provide a copy of the public record in a digital format.
2. If a public record is stored in a digital format that is searchable, the custodian shall provide a copy of the public record in a searchable format unless otherwise requested by the requester.
3. If a public record is stored in a digital format that is sortable, the custodian shall provide a copy of the public record in a sortable format. *§24-72-203(3.5), C.R.S.*
4. If a public record is available in a digital format, the custodian shall transmit a digital copy of the public record in a digital format by electronic mail or by another mutually-agreed upon transmission method if the size of the record prevents transmission by electronic communication. Except if not technologically feasible, a custodian shall not convert a digital public record into a non-searchable format before transmission. *§24-72-203(3.5), C.R.S.*

B. Fees

1. A copying fee not to exceed 25¢ per standard page may be assessed, unless actual costs exceed that amount. But, no per-page copying fee may be charged for providing records in digital or electronic format. *§24-72-205(5)(a), C.R.S.*
2. If the copying or printout is generated from a computer output other than word processing, the cost of building and maintaining that information system may be offset by charging a reasonable allocation to the person requesting the record. However, the district is not required to have or obtain new software solely to accommodate records requests. *§24-72-205(4), C.R.S.*
3. A reasonable research and retrieval fee may be charged, but only if the district has adopted and published on their website, or elsewhere, a written policy that includes a specific research and retrieval fee. The fee may not exceed $41.37 per hour, and no charge may be imposed for the first hour of research and retrieval of public records. *§24-72-205(6)(a)(b), C.R.S.*
4. Within three working days of receiving the request, the custodian shall notify the record requester that a copy of the record is available but will only be sent once the custodian either receives payment or makes arrangements for receiving payment for all costs and fees associated with the request for and transmission of the public record, unless the custodian has waived all or some of the fees. A custodian of public records must allow the requester to pay with a credit card or electronic payment if the custodian allows the public to pay for any other service or product provided by the custodian by credit card or electronic payment. The custodian may require a requester to pay any service charge or fee imposed by a credit card or electronic payment processor. *§§24-72-205(1)(b) and (7), C.R.S.*

C. Transmission of Records

Upon request, the custodian shall transmit a copy of the requested public record by U.S. mail, other delivery service, facsimile, or email. The district cannot charge a transmission fee for transmitting public records via email.

D. Response Time

1. Records must be provided within three working days, or the custodian must provide the requester with written notice that extenuating circumstances exist and the records cannot be provided within three working days. *§24-72-203(3)(b), C.R.S.*
2. Extenuating circumstances for which the response period can be extended an additional seven working days include:
    a. The request is broadly stated, encompasses a large category of records, and is without sufficient specificity;
    b. The request is broadly stated, encompasses a large category of records, and the district is unable to gather the records within three working days because it needs to devote all or substantially all of its resources to meeting an impending deadline or period of peak demand that is unique or not predicted to recur more frequently than once a month; or
    c. The request involves such a large volume of records that the custodian cannot gather the records without substantially interfering with his/her other public duties. *§§24-72-203(3)(b)(I) to (III), C.R.S.*

E. Denial of Access

The Open Records Act permits (and in some cases requires) the official custodian to deny public access and disallow inspection of the following documents or under the following circumstances: *§24-72-204(1), C.R.S.*

1. If inspection would be contrary to any state statute;
2. If inspection would be contrary to any federal statute or regulation;
3. If inspection is prohibited by rules promulgated by the Supreme Court or by the Order of any Court;
4. Examinations for employment (except as made available for inspection by the party in interest);
5. Records submitted for applicants or candidates for employment, other than those submitted by applicants or candidates who are finalists for chief executive officer positions (if there are three or fewer applicants or candidates for a chief executive officer position who possess the minimum qualifications, they are all finalists and access to their submitted records may not be denied).
6. Real estate appraisals, until the subject property has been transferred;
7. Email addresses provided by a person to the district;
8. Specialized details of security arrangements or investigations and records of expenditures on security arrangements or the physical and cyber assets of critical infrastructure;
9. Medical, mental health, sociological, and scholastic achievement data (except as made available for inspection by the party in interest);
10. Personnel files (except as made available for inspection by the party in interest and the district official or employee who has direct supervisory capacity);
11. Trade secrets, privileged information, and confidential information or data;
12. Library records disclosing the identity of a user;
13. Names, home addresses, electronic mail addresses, telephone numbers, and personal financial information of past or present users of public utilities, public facilities, or recreational or cultural services;
14. Election records of any person; or
15. Where disclosure or public access would do substantial injury to public interest. *§24-72-204(6)(a), C.R.S.*

Except for limited circumstances involving requests for confidentiality of certain information in public records, a custodian may not require a requester to provide any form of identification to request or inspect public records. *§24-72-203(1)(a), C.R.S.*

If, after having made reasonable inquiries, it is not technologically or practically feasible to permanently remove information that the custodian is required or allowed to withhold within the requested format; it is not technologically or practically feasible to provide a copy of the record in a searchable or sortable format; or if the custodian would be required to purchase software or create additional programming or functionality in its existing software to remove the information, a custodian is not required to produce a public record in a searchable or sortable format. *§24-72-203(3.5), C.R.S.*

The determination of whether a document falls within an enumerated exception can be a difficult task. If denial of access is based upon injury to the public interest, the district may apply to the Court for an Order permitting the district to restrict disclosure. A person seeking permission to examine the document has the right to appear in the Court proceeding. The attorney fees provisions of the "Open Records Act" described in Paragraph F of this chapter do not apply if the Court finds that the custodian in good faith was unable to determine if disclosure was prohibited without a ruling by the Court. *§24-72-204(6)(a), C.R.S.*

Any person denied access may request a written statement of the grounds for denial, which statement shall be furnished forthwith and cite the law or regulation under which access is denied. *§24-72-204(4), C.R.S.* Such person may also apply to the Court for an Order compelling inspection*, but must provide at least 14 days written notice prior to filing with the Court. During this 14-day period the official custodian who has denied access must meet with or speak by telephone with the person requesting access to determine if the dispute may be resolved without applying to Court. The meeting may include recourse to any method of dispute resolution agreeable to both parties, with the parties sharing common expenses equally. No meeting to determine whether the dispute can be resolved without applying to Court needs to be held if the person requesting access requires expedited access and provides written notice to the district of the expedited need, with factual basis, at least three business days prior to applying to Court. §24-72-204(5), C.R.S.*

F. Reasonable Attorney Fees and Costs

If a person denied access successfully obtains a Court Order compelling inspection, the district shall be ordered to pay Court costs and reasonable attorneys' fees in an amount determined by the Court. *§24-72-204(5), C.R.S.*

In the event the Court finds that the denial of the right of inspection was proper, the Court shall award Court costs and reasonable attorney fees to the custodian if the Court finds that the action was frivolous, vexatious, or groundless.

G. Email Policy

Any district that operates or maintains an electronic mail communications system must adopt a written policy on any monitoring of electronic mail communications and the circumstances under which it will be conducted. The policy must include a statement that employee emails may be a public record and may be subject to public inspection. *§24-72-204.5, C.R.S.*

*Arguably, if a district utilizes text messaging for district business, they should adopt a similar policy.

Chapter V
Service Plans

Since 1965, special districts have been required to prepare and receive approval for a service plan from the county or municipality within which the district is located. A service plan is a district's controlling document and contains information specific to the district, including the proposed services, a boundary map, general description of the facilities, and any proposed indebtedness, among other items.

A. Conformance

The district must conform, so far as practicable, to its adopted service plan. *§32-1-207(1), C.R.S.* For districts formed prior to 1965, a statement of purpose substitutes for a service plan. *§32-1-208, C.R.S.* The Colorado Court of Appeals has determined that provisions of a service plan stating that certain facilities "will" be built obligate the district to build those facilities, unless the district can demonstrate that compliance with the service plan is no longer "practicable." *Plains Metropolitan District v. Ken-Caryl Ranch Metropolitan District,* 250 P.3d 697 (Colo. App. 2010)*(cert. denied).*

Notice of a proposed district activity, published one time in a newspaper of general circulation, restricts certain injunctive actions which may be brought against the district for material departures from the service plan, unless such action is brought within 45 days after publication of such notice. Such notice must also be filed with the District Court and Board of County Commissioners or governing body of the municipality which approved the service plan. *§32-1-207(3)(b), C.R.S.*

B. Amendment and Modification

The service plan may, from time to time, be amended to conform to changed circumstances or conditions of the district. The requirements for modifications and amendments under this Section B apply to statements of purpose as well. *§32-1-208(3), C.R.S.*

Material modifications of the service plan may only be made by petition to, and approval of, the Board of County Commissioners or governing body of the municipality that approved the original service plan, in substantially the same manner as is provided for the approval of the original service plan, except that the processing fee shall not exceed $250. *§32-1-207(2), C.R.S.*

The following is a partial list of what may constitute a "material modification": *§32-1-207(2), C.R.S.*

1. Any addition to the types of services provided;
2. A decrease in the level of services;
3. A decrease in the financial ability of the district to discharge indebtedness;
4. A decrease in the need for organized service in the area; or
5. An inclusion of property into a new county or city, if so determined by the Board of County Commissioners or governing body of the municipality.

C. Transfer of Authority to Annexing Municipality

If a district originally approved by a Board of County Commissioners becomes wholly contained within a municipality, the district may petition the municipality to accept designation as the approving authority of the district. If the municipality adopts a resolution of approval, all powers and authority shall be transferred from the Board of County Commissioners to the governing body of the municipality. *§32-1-204.7, C.R.S.*

D. Metropolitan Districts—Maximum Mill Levy and Maximum Debt Must Be in Service Plan

On and after January 1, 2024, service plans filed by metropolitan districts with counties or cities must contain the maximum mill levy that may be imposed for payment of general obligation debt and the maximum debt that may be issued by the metropolitan district. *§§32-1-202(2) and 32-1-204.5(3), C.R.S.; SB23-110.*

On or after January 1, 2025, service plans filed by metropolitan districts with counties or cities must contain the maximum term for imposition of a debt service mill levy on any property developed for residential purposes after the initial year of imposition of such debt service mill levy. *§32-1-202(2)(o), C.R.S.; HB25-1219.*

Chapter VI
Boundary Issues

A district's initial boundaries are set forth in the service plan. Changes to the boundaries can be made only through specific statutory procedures which are discussed in this chapter.

A. Inclusion

1. **Petition for Inclusion:**
   The inclusion process (sometimes erroneously referred to as "annexation") is initiated by a petition for inclusion, which is a legal document containing a description of the property and must be signed by the property owners. A petition can be brought in one of the following three ways: *§32-1-401, C.R.S.*

   a. The fee owner(s) of 100% of any real property capable of being served by the district may file with the district Board a petition for inclusion of that property.; or *§32-1-401(1), C.R.S.*

   b. A petition for inclusion may be filed by the lesser of 20% or 200 of the taxpaying electors within a specified area. *§32-1-401(2)(a)(I), C.R.S.* (This alternative is seldom used since the statutes now provide that the Board may initiate the process.) This petition is also filed with the district Board.; or

   c. The Board of Directors may adopt a resolution proposing the inclusion of a specific area. *§32-1-401(2)(a)(II), C.R.S.* This is the most common method of initiating inclusion of an area with many property owners. No single tract or parcel constituting more than 50% of the total area to be included may be included without the consent of the owner of that parcel.

2. **Public Hearing:**
   The Board shall hear the petition or resolution at a public meeting after publication of notice of the hearing and, in the case of inclusion by election as discussed below, after mailing of notice to all property owners in the proposed inclusion area. *§§32-1-401(1)(b) and 32-1-401(2)(b), C.R.S.*

3. **Decision of Board:**
   The Board shall grant or deny the petition, or adopt the resolution, in whole or in part, and with or without conditions. *§§32-1-401(1)(c) and 32-1-401(2)(c), C.R.S.*

   The Board shall not grant the petition if a municipality or county has submitted a written objection to the inclusion and can provide the property with adequate service within a reasonable time and on a comparable basis. *§§32-1-401(1)(c) and 32-1-401(2)(c), C.R.S.*

   If the petition is granted, the Board shall make an Order to that effect and file the same with the Clerk of the District Court requesting issuance of a final Order of Inclusion. *§32-1-401(1)(c), C.R.S.*

4. **Election:**
   If the inclusion petition was either submitted by the lesser of 20% or 200 of the taxpaying electors, or initiated by the Board, upon granting of the petition or finally adopting the Board resolution, the Board shall make an Order to that effect and file it with the District Court. The District Court shall direct that the question of inclusion be submitted to the eligible electors of the area to be included. Any election shall be held within the area sought to be included. *§32-1-401(2)(d), C.R.S.*

   The timing of an inclusion election may be restricted by TABOR.

5. ***Note to Fire Protection Districts:***
   The owner of taxable personal property (i.e., leasehold interests in improvements and major equipment) that is situated on real property which has been excluded from a fire protection district may petition to have the personal property included in the fire district by following a series of steps including filing a petition, a public meeting after published notice, approval of the petition, an Order made by the Board, and a Court Order. *§32-1-401.5, C.R.S.*

6. **Recording and Filing of Order of Inclusion:**
   No inclusion is effective until a certified copy of the District Court's final Order of Inclusion is recorded in the county in which the subject property is located. A copy of the recorded Order shall be filed with the Division of Local Government and the County Assessor for the county in which the subject property is located. *§32-1-105, C.R.S.*

B. Exclusion

1. **Petition for Exclusion:**
   Except in the cases of fire protection districts or exclusions involving a municipality (both discussed below), the exclusion (erroneously referred to as "de-annexation") process can only

be initiated by a petition for exclusion submitted by the fee owner(s) of 100% of any real property in the district. *§32-1-501(1), C.R.S.*

The petition is to be accompanied by a deposit of money sufficient to pay all costs of the exclusion proceedings. *§32-1-501(1), C.R.S.*

2. **Public Hearing:**
The Board shall hear the petition for exclusion at a public meeting after publication of notice of the hearing. *§32-1-501(2), C.R.S.*

3. **Decision of Board:**
The Board shall order the exclusion petition granted or denied after consideration of the following factors:

   a. The best interests of the property seeking exclusion, the district, and the county in which the district is located;

   b. The relative cost/benefit analysis to the property;

   c. The district's ability to provide service to all property within the district, including the property to be excluded;

   d. The cost for which the district is able to provide service compared to that of other entities in the surrounding area;

   e. The effect that denying the petition would have on employment and other economic conditions within the district and surrounding area;

   f. The economic impact on the district, the region, and the state if the petition is denied or granted;

   g. Whether an economically feasible alternative service is available; and

   h. Additional cost to be levied on non-excluded property if the petition is granted. *§32-1-501(3), C.R.S.*

A public election is not required or allowed; the determination is to be made by the Board. *§32-1-501(4)(a), C.R.S.* The Board shall file with the District Court a certified copy of the Board Order excluding the property, and the District Court will then enter an Order of Exclusion based upon the decision of the Board. *§32-1-501(4)(b), C.R.S.* A denial of any petition for exclusion by the Board may be appealed to the Board of County Commissioners. *§32-1-501(5)(b), C.R.S.* The Board of County Commissioners shall consider all the factors set forth above and make its determination based on the record developed at the hearing before the district Board. The decision of the Board of County Commissioners may be appealed to the District Court, which shall consider all the factors set forth above in rendering a decision based on a review of the record. *§32-1-501(5)(c), C.R.S.*

4. **Exclusions Involving a Municipality:**
A municipality wherein territory within a district is located, a district with territory within a municipality, or 50% of property fee owners in an area of any municipality in which territory within a district is located may petition the District Court for exclusion from the district. *§32-1-502(1), C.R.S.* In the case of unilateral exclusion by a municipality, the district may be entitled to compensation.
Exclusion of property within the boundaries of a municipality can be a complicated and involved process.

5. **Exclusions from a Fire Protection District (and Inclusion into Another):**
A fire protection district may alter its boundaries through exclusion of a specific area if the area will be provided with the same service by another fire district and that district has agreed by resolution to include the property. In some cases, an election must first be held within such area. *§32-1-501(1.5), C.R.S.*

6. **Outstanding Indebtedness:**
Property that is excluded from the district remains subject to any existing bonded indebtedness. *§32-1-503, C.R.S.* The District Court Order of Exclusion must state the amount of the existing indebtedness and the date such indebtedness is scheduled to be retired. *§32-1-501(4)(d), C.R.S.*

7. ***Note to Health Service Districts:***
The foregoing discussion of the exclusion process does not apply to health service districts in the same manner. *§§32-1-501(1) and 32-1-502(1)(b), C.R.S.*

8. **Recording and Filing of Order of Exclusion:**
No exclusion is effective until a certified copy of the District Court's final Order of Exclusion is recorded in the county in which the subject property is located. A copy of the recorded Order shall be filed with the Division of Local Government and the County Assessor for the county in which the subject property is located. *§32-1-105, C.R.S.*

C. Consolidation

1. **Consolidation Resolution:**
If a district wishes to consolidate in its entirety or only specific services with another district, the Board shall adopt a consolidation resolution which sets forth the following:

   a. That each of the consolidating districts may be operated effectively and economically as a consolidated district;

   b. That the public health, safety, prosperity, and general welfare of the inhabitants of the district initiating the consolidation will be better served by the consolidation;

   c. Proposed name of the consolidated district;

   d. The districts and services of those districts to be consolidated;

   e. Whether the consolidated district will have a five-member or seven-member Board;

   f. Any conditions attached to consolidation; and

   g. The time limit within which the included districts must approve the consolidation resolution, which must be no later than six months after the date of such resolution. *§32-1-602(2)(a), C.R.S.*

2. **Concurring or Rejecting Resolution:**
The districts subject to the proposed consolidation each must file a concurring or rejecting resolution with the initiating district. *§§32-1-602(2)(b) and 32-1-602(2)(c), C.R.S.*

3. **Submission to Board of County Commissioners and District Court:**
   The initiating resolution, together with all concurring resolutions, shall be filed with the Board of County Commissioners and the District Court. Usually, very detailed pre-consolidation agreements are executed, and service plan amendments may be necessary.

4. **Hearing:**
   The District Court shall hold a hearing not less than 30 days nor more than 40 days after the resolutions are filed with the District Court. Notice of the filing of the resolutions and the hearing shall be published and written notice shall be provided to any municipality entitled. Any eligible elector, fee owner of real property, or county or municipality having territory within any special districts involved in the proposed consolidation may file a petition objecting to the consolidation. The District Court shall determine whether, in the general public interest, the property subject to objection should be excluded or included in the proposed consolidated district. *§32-1-602(2)(d), C.R.S.*

   If the consolidating resolution and concurring resolutions were properly filed, and the consolidating districts have proceeded in accordance with statute, the District Court will order an election. *§32-1-602(2)(e), C.R.S.*

5. **Election:**
   An election will be conducted within each consolidating district. The election shall be held at the next regular or special election date. Notice of the consolidation election must be published within each consolidating district. The electors must approve not only the question of consolidation, but also any financial obligation to be assumed as a result of the consolidation. *§32-1-602(2)(e), C.R.S.*

6. **Procedure After Consolidation Election:**
   Upon approval of the consolidation by a majority of the eligible electors voting in each consolidating district's election, the members of the Board of each consolidating district shall constitute the organizational Board of the consolidated district. *§32-1-603(1), C.R.S.*

   Within six months after the date of the consolidation election, the organizational Board shall:

   a. Determine the persons who shall serve on the first Board of Directors of the consolidated district from those persons elected to the Boards of the consolidating districts, and determine each of their terms of office;

   b. If the Board is to have seven Directors, divide the consolidated district into seven director districts and determine the Director who shall represent each director district; and

   c. Determine the amount of the bond for each Director and Treasurer. *§32-1-603(2), C.R.S.*

   After the organizational Board has made such determinations, a petition stating the name of the consolidated district; name and address of each member of the first Board and term thereof; amount of the surety bond (together with copies of the bond); and a description of the director districts, if any, shall be filed with the Court. *§32-1-603(3), C.R.S.*

   Upon filing the petition, the Court shall issue an Order creating the consolidated district, which shall be recorded with the County Clerk and Recorder in each county wherein the consolidated district is located. Copies of the recorded Order shall be filed with the County Assessor and Division of Local Government. *§32-1-603(4), C.R.S.*

D. Boundary Map

Whenever there has been a change to the boundaries of the district, a new map of the boundaries shall be prepared. A special district disclosure document and the current map shall be recorded in each county in which the district is located after each boundary change. No later than January 1 of each year, a current boundary map shall be filed with the Division of Local Government, the County Assessor, and the County Clerk and Recorder for each county in which the district is located. *§§32-1-104.8(2) and 32-1-306, C.R.S.*

E. Intergovernmental Agreements

See also Chapter XII, Section C, *Intergovernmental Agreements,* regarding the creation of water authorities, recreation authorities, and fire authorities.

F. Service Outside District Boundaries

Districts which desire to extend water or sanitation services into a county that has not approved the district's service plan may, depending on the circumstances, need to seek approval from that county's Board of County Commissioners. *§32-1-207(2), C.R.S.* Water and sanitation districts or water districts have a duty to provide water service if the district has the capacity to do so, unless the service provided is outside of the district's boundaries or service area, including as part of a contract. *§32-1-1006(9)(a), C.R.S.; HB25-1211.*

Districts providing domestic water or sanitary sewer services to customers outside the district boundaries may fix or increase fees, rates, tolls, penalties, or charges for such services only after consideration of the action at a public meeting held at least 30 days after providing notice to the customers of such services. The notice must state the date, time, and place of the meeting at which the action is being considered. *§32-1-1001(2)(a), C.R.S.*

Chapter VII
Property Issues

The range, number, and combination of property issues affecting special districts are vast. The following is merely an outline of potential property issues which a district may confront.

A. Acquisition Issues

1. **Title Insurance and Title Documents:**
   While not required in all instances, the purchase of adequate title insurance is usually recommended for the district's protection in acquisitions of real property. Further, a complete review of the effect of Title Documents (existing deeds of trust, easements, leases, covenants, restrictions, etc.) must be made.
2. **Payoff of Taxes:**
   As a governmental entity, a district is exempt from paying property taxes. There are a variety of means to effectuate this exemption, including an initial payoff of all outstanding taxes upon acquiring the real property, based on the previous year's rate of levy and the current assessed valuation. *§§39-3-131 and 39-3-133, C.R.S.*
3. **Financing:**
   A district has various means of financing an acquisition of real property which are available to both public and private entities. Lease-purchase agreements and revenue bonds are commonly used for financing.
4. **Environmental Audits:**
   While not required, an environmental audit is strongly recommended before the purchase or sale of any real property. Potential environmental liability can be quite expansive and potentially burdensome. A regulatory compliance-oriented review of historical operations on the property is a valuable tool in limiting present and future environmental liability.
5. **Surveys:**
   While not required, a survey of the property to be acquired may be recommended to identify issues with the legal description or potential encroachments, easements, etc.

B. Condemnation/Eminent Domain

Special districts have the power of eminent domain to utilize if the district is unable to negotiate and effectuate the purchase of a needed parcel of real property. *Art. II, Sect. 15, Colo. Const.; §38-1-101, et seq., C.R.S.*

Prior to a district condemning property, it must show that there is public need and necessity for the acquisition of land, and that there has been a failure to agree despite good faith negotiations with the landowner. *§38-1-102, C.R.S.*

The district must pay for the owner's appraiser if the property to be condemned has an estimated value of at least $5,000. *§38-1-121, C.R.S.*

Park and recreation districts are restricted in condemnation powers to the taking of property for purposes of television relay and translator facilities, or for easements and rights-of-way for access to park and recreational facilities operated by the district and only where no other access to such facilities exists or can be acquired. *§32-1-1005(c), C.R.S.*

Just compensation, which is neither too little nor too great, must be given for the condemned property. *Art. II, Sect. 15, Colo. Const.; §§38-1-101 and 38-1-114, C.R.S.*

Water rights are not subject to condemnation by special districts. *§32-1-1006(1)(f), C.R.S.*

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, 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 district and only where no other access to such facilities exists or can be acquired by other means. A metropolitan district shall not exercise its power of dominant eminent domain within a municipality or the unincorporated area of a county, other than within the boundaries of the jurisdiction that approved its service plan, without a written resolution approving the exercise of dominant eminent domain by the governing body of the municipality in connection with property that is located within an incorporated area or by the Board of County Commissioners of the county in connection with property that is located within an unincorporated area. *§32-1-1004(4), C.R.S.*

C. Easements, Leases, and Other Property Interests

Easements may be acquired by gift, purchase, condemnation, prescription, or acquiescence. In addition to the common rights-of-way and utility easements, various unique forms of easements exist, such as conservation easements wherein property can be preserved in a natural, scenic, or open condition. Conservation easements or other use restrictions may be used as a vehicle to preserve the open space or wildlife conditions of property.

A district may enter into leases, but may be limited by annual appropriation restrictions previously discussed.

Life estates are often retained by sellers, allowing the district to obtain full use only upon death of the seller. Licenses are sometimes used, which grant a property right that is severely limited by use or time.

D. Encroachment onto Public Property

Prescriptive rights cannot be acquired against a governmental entity. If a landowner encroaches upon district property, no property interest will be acquired which is adverse to the district regardless of the duration of the encroachment.

E. Relationship to County and Municipal Powers

The district is subject to the regulatory controls of the county or municipality within which the district lies. The following are the primary areas of county or municipal control:

1. **Zoning:**
   The district is subject to the applicable zoning plan. However, local governments, including special districts, have long been authorized to follow a separate procedure known as "location and extent" when seeking county or municipal approval of the district's construction of a new facility. The review of a location and extent application is limited to approval or disapproval, but disapproval by the county or municipality can be overruled by the district's Board of Directors. *§§30-28-110(1) and 31-23-209, C.R.S.* A county, at least, may not use its zoning authority to frustrate the efforts of the district to carry out its statutory duties.

   The Colorado Supreme Court has affirmed that a district's override authority applies equally to the Planned Unit Development Act and that the district is not required to seek a modification to the county's PUD designation prior to applying for location and extent review for the construction of a new fire station. *Board of County Commissioners v. Hygiene Fire Protection District,* 221 P.3d 1063 (Colo. 2009).

2. **Subdivisions:**
   The district is subject to the applicable subdivision regulations. The district may be exempt from some subdivision requirements pursuant to §30-28-101(10)(c)(II), C.R.S., allowing local governments to acquire property fewer than 35 acres in size without first subdividing the acquisition if the local government has the power to exercise eminent domain. Some county attorneys believe that provision requires districts to begin a condemnation action in order to avail themselves of the exemption, but that is not what the statute says.

3. **Building Codes and Permits:**
   The district is subject to the requirements imposed by a county or municipality relating to building codes and permits. Beginning January 1, 2026, a district that adopts or substantially amends a building code must meet or exceed the accessibility standards contained in the most recent versions of the International Building Codes. *§30-28-204(2), C.R.S; HB25-1030.*

Chapter VIII
Financial Matters

One of the roles of the Board of Directors is to manage the district's financial matters. Listed below is a summary of the financial issues that are most likely to come before the Board.

A. Fees, Rates, Tolls, and Charges

The Board has the power to fix, and from time to time increase or decrease fees, rates, tolls, penalties, or charges for services, programs, or facilities furnished by the district. *§32-1-1001(1)(j), C.R.S.* However, fees and charges must be justified either through internal evaluation of the district's costs for providing such services, programs, or facilities, or the determination of an outside consultant hired by the district that the fees are reasonable. *Nollan v. California Coastal Commission,* 483 U.S. 825 (1987); *Dolan v. City of Tigard,* 512 U.S. 374 (1994).

In 2024, the Colorado General Assembly authorized fire protection districts to set and impose impact fees on new construction without the need to participate with counties or municipalities in the same territory. *§§32-1-1001(1)(j)l) and 32-1-1002(1)(d.5), C.R.S.; SB24-194.*

Districts providing domestic water or sanitary sewer services directly to residents and property owners must consider the fees, rates, etc. at a public meeting held at least 30 days after giving notice of such meeting to the district's customers. *§32-1-1001(2)(a), C.R.S.*

In some instances, a charge for the availability of water or sewer service may be implemented. "Availability of Service" fees involve some complex legal issues. *§32-1-1006(1)(h), C.R.S.*

For further discussion regarding penalties and disconnection, see *Collection of Delinquencies and Assessment of Penalties* in Section D, below.

Any land development charges imposed as a condition of approval (i.e., tap fees) must be deposited in an interest-bearing account which clearly identifies the category, account, or fund of capital expenditure for which such charge was imposed. Land development charges, average annual interest rate on each account, and total amount disbursed from each account must also be posted on the district's website, if any, at least once annually. *§29-1-803, C.R.S.*

B. Tap Fees

In 2024, the Colorado General Assembly specified that a county or municipality sharing territory with a district may request a rate schedule for tap fees, system development fees, or other fees and charges relating to water or sanitation - as well as the professional analyses, methodologies, and written justification for the level of the fees set. The district must provide the required information within 30 days. *§32-1-1001(4)(a), C.R.S.; HB24-1463.*

In 2025, the Colorado General Assembly revisited tap fees and established a list of factors to consider when determining the amount for a tap fee. *§32-1-1006(9)(a)-(b), C.R.S.; HB25-1211.* In determining the amount of a tap fee, the Board of a water and sanitation district or water district must:

1. Ensure that the tap fee is reasonably related to all costs incurred by the district in funding and providing water or sanitation services. These costs may include costs relating to infrastructure construction and acquisition; permitted capacities for such infrastructure; and costs associated with water rights planning and the acquisition and development of water rights. These costs do not include costs related to ongoing operations, maintenance, and usage that is considered routine monthly billing.
2. Apply at least one of the following factors in supporting the calculation and settling of proportional or reduced fees:
    a. Expected long-term water usage, both indoor and outdoor, including the existence of nonnative turf grass and use of water-wise landscaping, with an emphasis on native plants;
    b. The square footage of the unit or the number of bedrooms in the unit;
    c. The square footage of the lot or the equivalent residential unit;
    d. The presence of low-water usage appliances, if applicable;
    e. Per-unit fixture counts in bathrooms, kitchen, and other spaces, interior and exterior, that provide water or sanitation service; and

f. The presence of greywater treatment works and as may be authorized within district boundaries.

C. Mill Levy

The Board shall fix a rate of levy of taxes and shall certify that rate to the Board of County Commissioners by no later than December 15 of each year. *§§32-1-1201 and 39-5-128(1), C.R.S.*

Annual increases in general operating tax revenue are limited by Article X, Section 20 of the Colorado Constitution ("TABOR"), the 5.5% statutory limitation, *§29-1-301, C.R.S.*, unless a greater increase is approved at an election or, in some cases, by the Division of Local Government. Beginning January 1, 2025, an additional property tax limit of 5.25% multiplied by the number of property tax years in a reassessment cycle applies to general operating tax revenue collected after January 1, 2025, unless an exception applies or voters approve a temporary or permanent waiver of the limit. *§29-1-1703(1), C.R.S; SB24-233; HB24B-1001.*

The Board may assess a different water or sewer mill levy (or water or sewer service charge) against different properties within the district as long as the basis for differentiation is according to facilities or services furnished and is uniform among property owners similarly situated. Such differentiation must be established to avoid violation of the Constitutional provision of equal taxation. *§32-1-1006(1)(b), C.R.S.*

In 2023, the Colorado General Assembly expressly recognized that mills may be temporarily reduced or credited to provide property tax relief. *§39-1-111.5, C.R.S; SB23-108.*

D. Collection of Delinquencies and Assessment of Penalties

All unpaid fees, rates, tolls, penalties, and charges constitute a perpetual lien against the property served. *§32-1-1001(1)(j), C.R.S.* Such lien is entitled to priority over other encumbrances such as prior recorded deeds of trust (but not tax liens). *Wasson v. Hogenson,* 583 P.2d 914 (Colo. 1978); *North Washington Water and Sanitation District v. Majestic Savings and Loan Association,* 594 P.2d 599 (Colo. 1979).

A penalty may be assessed against all delinquencies in payment, together with the assessment of interest not to exceed one percent per month. Service may be discontinued against any property whose owner is delinquent in the payment of fees or charges. *§§31-35-402(1)(f) and 32-1-1006(1)(d), C.R.S.*

Prior to disconnecting service, due process requires that certain procedures be followed, including notice and an opportunity for a hearing before a designated employee or the Board. *Memphis Light, Gas and Water Division v. Craft,* 436 U.S. 1 (1978). The notice must be in writing and provided to the property owner and the property address (if different from the owner's address) prior to disconnecting service and must state the amount of the delinquency, the date of shut off, and that the customer has the right to a hearing to protest the threatened termination of service. If the customer then requests a hearing, directions to the hearing location must be provided.

For water, sewer, or water and sewer services only, in addition to disconnection of service (after proper notice) or foreclosure, the district may certify delinquent accounts to the County Treasurer for collection along with taxes. Such accounts may then be collected by the county and the proceeds distributed to the district. *§32-1-1101(1)(e), C.R.S.*

Districts are allowed to add delinquency charges to delinquent fees and assessments, but the amounts are limited by statute. The limitations are spelled out in the Local Government Delinquency Charges statute. *§29-1-1101, et seq., C.R.S.*

Small Claims Courts may also provide an alternative and cost-effective means by which to collect any amounts due to the district.

E. Budget

A district must adopt an annual budget prior to certifying the district's mill levy. *§§29-1-103(1) and 29-1-108(2), C.R.S.* Adoption of the budget must be considered after the conduct of a public hearing. *§29-1-108(1), C.R.S.*

The Board must designate a qualified person who shall prepare the budget and submit it to the Board on or before October 15 of each year. *§29-1-105, C.R.S.* The County Assessor shall certify the district's assessed valuation by August 25 of each year. *§39-5-128(1), C.R.S.* Any changes to assessed valuation must be provided by the County Assessor by December 10 of each year. *§39-1-111(5), C.R.S.*

Upon receipt of the proposed budget, the Board shall publish notice of the following, one time in a newspaper of general circulation: (i) the date, time, and place of a budget hearing; (ii) that the budget is open for public inspection and location where budget can be reviewed; and (iii) that interested parties may file objections any time prior to final adoption. *§29-1-106(1), C.R.S.* If the district's proposed budget is $50,000 or less, however, such notice shall be posted in three public places within the district in lieu of publication. *§29-1-106(3), C.R.S.*

A certified copy of the adopted budget, which includes the resolution to adopt the budget, set the mill levy rate(s) and appropriate funds, and the budget message must be filed with the Division of Local Government no later than 30 days following the beginning of the fiscal year of the budget (i.e., no later than January 30). *§29-1-113, C.R.S.*

Analyses of the following components (both short and long term) will be useful in preparation of the district's budget under TABOR: growth calculation, spending, revenues, emergency reserves, and refunds.

F. Appropriation

1. **Adoption of Budget and Appropriating Funds:**
   Before the mill levy is certified, the district must adopt a resolution adopting the budget and making appropriations for the budget year. The amounts appropriated shall not exceed the budgeted expenditures. *§29-1-108(2), C.R.S.* If the proposed budget is more than $50,000, notice of the date and time of the hearing at which adoption of the budget will be considered and where the proposed budget is available for inspection must be published one time; if the budget is $50,000 or less, the notice must be posted in three public places within the district in lieu of publication. *§29-1-106, C.R.S.*

   Any action or expenditure made beyond the appropriated sum is considered invalid and void. *§29-1-110, C.R.S.*

2. **Budget Amendments:**
   The amount of appropriated funds may be revised, sup-

plemented, transferred, or adjusted during the year by adoption at a public hearing of a resolution amending the budget. For supplemental budgets and appropriations, the resolution shall set forth in full the source and amount of the revenue being appropriated; the purpose for which the revenues are being budgeted and appropriated; and the fund or spending agency that will be making the supplemental expenditure. The notice provisions and requirements for adoption of budget amendments are the same as for adopting the budget. *§29-1-109, C.R.S.* The resolution amending the budget must be filed with the Division of Local Government. *§29-1-109(2), C.R.S.*

G. Donations or Gifts by Districts

Local governments are not permitted to make any donation or grant to, or in aid of, a private individual or entity without receiving value in return. However, "value" is a relative term and can be determined in many ways. For example, donating a round of golf to a charity for its silent auction can have marketing and public relations value for a district. *Art. XI, Sect. 2, Colo. Const.; In re House Bill 91S-1005,*814 P.2d 875 (Colo. 1991).

Special districts are allowed 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. *§32-1-1001(l), C.R.S.* Such contributions to the district are generally exempt from TABOR's revenue limits.

H. Public Funds

1. **Investments:**
   A district may invest public funds in an authorized investment vehicle. *§24-75-601, et seq., C.R.S.,* subject to rating categories and maturity dates. Types of available investments include:
   a. United States Treasury obligations;
   b. Certain United States Agency obligations;
   c. Repurchase agreements collateralized by appropriate United States Treasury or Agency obligations; and
   d. Colorado local government investment pools.

   Refer to §24-75-601, *et seq.,* C.R.S. for other legal investments.

2. **Public Deposit Protection Act ("PDPA"):**
   The PDPA, §11-10.5-101, *et seq.,* C.R.S., requires that deposits of public funds in banks or savings and loan associations may only be made in "eligible public depositories" which have been designated by the State. This does not include credit unions. *§11-10.5-111(1), C.R.S.*

   The "official custodian" (whoever has authority or control of public funds) must do the following:
   a. Inform the depository that district funds are subject to the PDPA;
   b. Maintain documents or other verification necessary to identify the public funds which are subject to the PDPA; and
   c. Apply to the State for an assignment of an account number for all accounts established with an eligible public depository.

   It is a misdemeanor for an official custodian or bank official to violate the provisions of the PDPA. *§§11-10.5-111(4)(b) and 11-10.5-111(4)(c), C.R.S.*

I. TABOR

TABOR imposes tax, debt, revenue, and spending limitations. All increases in taxes and other revenue subject to the spending limit are limited to a "growth and inflation factor," unless otherwise approved by district voters. TABOR applies to special districts, but "enterprises" are excluded from some TABOR provisions (See Chapter IX-TABOR).

J. Subdistricts and Special Improvement Districts ("SIDs")

Subdistricts and SIDs are special financing tools for financing public improvements that benefit a specific area of the district. Although they operate similarly, a subdistrict is organized as a separate governmental unit, while a SID exists only as a geographic area within which improvements are constructed and cannot operate as an independent governmental entity separate from the district. *§§32-1-1101(1)(f)(I) and 32-1-1101.7, C.R.S.*

Subdistricts may impose an additional levy on the properties within the subdistrict to pay for the acquisition, operation, and maintenance of services, facilities, and programs within the subdistrict and to pay for subdistrict debt or other financial obligations. Voter approval is required for the subdistrict's tax rate, any general obligation debt, or multi-year financial obligation. *§32-1-1101(1.5)(d), C.R.S.*

A SID may impose assessments on properties within the SID, but such assessments must be equitable based on the benefit received by the properties, such as based on the frontage area or zone of the property benefiting from the improvement. *§32-1-1101.7(2), C.R.S.* Costs of improvements within a SID are often financed through special assessment bonds issued by the special district on behalf of the SID. These bonds must be approved by the majority of the eligible electors voting, which are either the electors of the special district or the electors of the SID, as determined by the special district's Board. *§32-1-1101.7(3)(g), C.R.S.*

The name of a subdistrict or a special improvement district established after August 5, 2015 must include the name of the special district that established the subdistrict or special improvement district. *§§32-1-1101 and 32-1-1101.7, C.R.S.*

K. Sales Taxes

1. **Metropolitan Districts-Road and Transportation Purposes:**
   A metropolitan district with street improvement, safety protection, or transportation powers in its service plan may impose a sales tax for transportation projects, with voter approval within district territory that does not overlap any municipality. A metropolitan district with these powers may also join as a participant in regional transportation authorities, along with cities and counties, for regional transportation projects. *§32-1-1106, C.R.S.*

2. **Metropolitan Districts-Fire Protection:**
   A metropolitan district with fire protection powers in its service plan may impose a sales tax for fire protection services, with voter approval. *§32-1-1106, C.R.S.*

3. **Metropolitan Districts-Parks and Recreational Facilities or Programs:**
   A metropolitan district with parks and recreation powers in its service plan may impose a sales tax for parks and recreational facilities or programs, with voter approval. *§32-1-1106, C.R.S.; HB23-1062.*

4. **Health Service Districts:**
   With voter approval, a health service district may impose a sales tax throughout the entire geographical area of the district. *§32-19-112(1), C.R.S.* Health service districts are also authorized to levy a sales tax on the retail sales of marijuana following an election of the eligible electors. *§39-26-729(1)(b), C.R.S.*

5. **Fire Protection Districts and Ambulance Districts:**
   With voter approval, a fire protection district and an ambulance district may impose a sales tax throughout the entire geographical area of the district. *§§32-1-1107 and 32-1-1108, C.R.S.; SB24-194.*

L. Urban Renewal/Tax Increment Financing

In urban renewal districts formed after January 1, 2016, or substantially modified after that date, prior to imposing a tax increment financing plan, the urban renewal authority must include a special district representative on its Board of Directors, and negotiate with the district, as well as with county and school districts, the percentage of the tax increment to be taken by the urban renewal authority. *§31-25-104, C.R.S.*

Chapter IX
TABOR

TABOR is one of the most significant and complex laws that applies to special districts. TABOR is a provision of the Colorado Constitution that prohibits governmental entities, including special districts, from incurring multiple fiscal year financial obligations without voter approval, and also imposes tax, debt, revenue, and spending limitations.

A. Introduction

The Taxpayer's Bill of Rights ("TABOR"), which amended the Colorado Constitution by the addition of Article X, Section 20, has a tremendous impact on all Colorado local governments, including special districts. The interpretation and application of TABOR remains uncertain in many respects and continues to evolve through legislative and judicial interpretations. The General Assembly has attempted to clarify some of the confusion by adopting several laws interpreting the terms and provisions of TABOR. The Colorado Supreme Court has also attempted to resolve certain issues by delivering an opinion to interrogatories propounded by the General Assembly. The Colorado Court of Appeals and Colorado Supreme Court have determined certain TABOR issues. The validity of the TABOR related legislation, as well as other interpretive issues, will only be conclusively determined by future decisions of the Colorado Appellate Courts. Neither this chapter nor any other reference within this manual is intended to be a comprehensive legal analysis of TABOR. You are strongly encouraged to seek the assistance of qualified counsel regarding legal issues related to TABOR.

B. Financial Limitations

1. **Mill Levies:**
   TABOR requires voter approval to:

   a. Increase mill levies above the current mill levy rate, except in certain instances for debt service on general obligation bonds, pension payments, and final Court judgments. A Supreme Court decision has held that an election is not required to increase mill levies in order to make payments on outstanding debt that was approved by electors prior to the passage of TABOR.

   b. Increase district tax revenue over revenue collected in the prior year by more than the allowable rate of growth (rate of inflation + annual local growth).

      The Supreme Court has validated a ballot issue that exempts future revenue from TABOR limitations under the proper circumstances. *City of Aurora v. Acosta,* 892 P.2d 264 (Colo. 1995).

2. **Spending:**
   TABOR prohibits the district from increasing its fiscal year spending from the prior year by more than inflation plus local growth, unless exempted by the voter approval of a proper ballot issue. This fiscal year spending limitation is indirectly a revenue limitation because of refund requirements. Fiscal year spending does not include refunds in the current or next fiscal year; gifts; federal funds; collections for another government; pension contributions by employees and pension fund earnings; reserve transfers or expenditures; damage awards; and property sales.

   Unless waived by voter approval, the statutory limitation imposed by §29-1-301, C.R.S. providing that operational mill levy revenue may not be increased more than 5.5% annually (with certain adjustments) will still apply (i.e., in instances when inflation is greater than 5.5%, property tax revenues for operations may still only be increased by 5.5%).

   Beginning January 1, 2025, an additional property tax limit of 5.25% multiplied by the number of property tax years in a reassessment cycle applies to general operating tax revenue collected after January 1, 2025, unless an exception applies or voters approve a temporary or permanent waiver of the limit. *§29-1-1703(1), C.R.S.; SB24-233; HB24B-1001.*

3. **Debt:**
   TABOR requires advance voter approval to create new district debt or financial obligations that extend beyond the current fiscal year, including general obligation and revenue bonds.

   Voter approval is not required for refinancing debt at a lower interest rate; obligations with adequate present cash reserves pledged irrevocably and held for payments in future fiscal years; and qualifying lease-purchase agreements.

C. Election Requirements

The dates on which ballot issue elections may be held are limited by TABOR to the state general election, biennial regular district election, or on the first Tuesday in November of odd-numbered years.

The Court of Appeals has held that TABOR's election provisions apply only to fiscal matters of tax, spending, or revenue. Non-fiscal ballot questions are not subject to the date or notice provisions of TABOR.

All comments for and against a TABOR ballot issue shall be received by the Designated Election Official on or before the Friday before the 45th day prior to the election. The Designated Election Official shall compile a summary of all comments received and, for regular biennial special district elections or independent mail ballot elections conducted in November, ensure mailing of the summary and other required information (TABOR Notice) to all active registered voters at least 30 days before the election. Only comments addressing a specific ballot issue received from eligible electors may be summarized.

For November (coordinated) elections, the TABOR Notice shall be delivered to the County Clerk and Recorder 43 days prior to the election, and the County Clerk and Recorder shall mail the TABOR Notice to the district's electors residing within the county. The district will be responsible for mailing the TABOR Notice to its electors residing outside of the county.

D. Multiple Fiscal Year Financial Obligations

TABOR prohibits incurring multiple fiscal year financial obligations without voter approval, which greatly impacts the existing and future contractual relationships of the district. Interpreted conservatively, all multi-year contracts (including employment contracts) requiring the expenditure of district funds would require voter approval unless adequate cash reserves have been pledged and held to pay the obligation.

The Court of Appeals has determined that entering into a properly structured lease/purchase agreement without voter approval or adequate cash reserves does not violate TABOR. *Board of County Commissioners of Boulder County v. Dougherty, Dawkins, Strand & Bigelow,* 890 P.2d 199 (Colo. App. 1994). A clause making the lease/purchase obligation dependent on annual appropriations will, in many cases, prevent a TABOR violation.

E. Enterprise Exemption

An "enterprise" is expressly excluded from TABOR requirements and is defined as:

1. A government-owned business;
2. Authorized to issue its own revenue bonds; and
3. Receiving less than 10% of annual revenue in grants from all Colorado state and local governments combined.

Water service activities, including the water and/or wastewater service of a special district, are considered "water activity enterprises" under §37-45.1-102(4), C.R.S.

There are Colorado Appellate Court case law decisions on the subject of enterprises. The Courts applied the three-part test set forth above. The Colorado Supreme Court found that the E-470 Highway Authority was not an enterprise because it had the power to tax (although the power was not being exercised) and, therefore, was not exempt from the TABOR limitations. *Nicholl v. E-470 Public Highway Authority,* 896 P.2d 859 (Colo. 1995). In ruling upon interrogatories promulgated by the State, the Supreme Court found that the Great Outdoors Colorado Trust Fund Board was not an enterprise, because it did not have the authority to issue its own revenue bonds. *Submission of Interrogatories on Senate Bill 93-74,* 852 P.2d 1 (Colo. 1993).

Chapter X
Public Financing

To pay for public projects, special districts must save for the project, incur debt, or seek other financing. Special districts may borrow money and incur debt; however, TABOR imposes certain obligations on the district prior to incurring most kinds of debt. There are other types of financing options that are not considered debt and would allow the district to pay-as-you-go.

A. Authorization

A special district is authorized to enter into many types of financing agreements and is expressly authorized by statute to borrow money and incur indebtedness. *§§32-1-1001(1)(d)(I), (1)(e), and (1)(n), C.R.S.*

B. Types of Financing

1. **General Obligation Debt:**
   The full faith and credit of the district, including the general taxing and further borrowing powers, are used to secure the debt.
2. **Revenue Bonds:**
   Specifically identified revenues (not taxes) of the district are used as the source of bond repayment. The bonds may not be paid unless the revenue is available; furthermore, a higher risk will likely result in a corresponding higher interest rate.
3. **Enterprise Obligations:**
   The district may issue revenue bonds through an enterprise. In most cases, the district may create an enterprise if it has bonding capacity and receives less than 10% of its annual revenue in grants from Colorado state and local governments combined. Unlike general obligation and revenue debt, enterprise revenue bonds do not require an election. *Art. X, Sect. 20, Colo. Const.*
4. **Refunding Obligations:**
   Refunding bonds are used to restructure the payment of an existing debt obligation. Refunding obligations may sometimes be combined with new debt obligations.
5. **Lease/Purchase:**
   A lease-purchase agreement provides that portions of lease payments are applied to the ultimate purchase of certain property. These obligations are dependent upon the district appropriating money each year and are often secured by the item being purchased. Districts with lease-purchase obligations must comply with audit law reporting requirements. Properly structured lease-purchase agreements have been held by the Courts to be valid under TABOR without the need to hold an election. *Board of County Commissioners of Boulder County v. Dougherty, Dawkins, Strand & Bigelow,* 890 P.2d 199 (Colo. App. 1994). Certificates of Participation (COPs) are a variation of the lease-purchase arrangement.
6. **Tax Anticipation Note:**
   A tax anticipation note is a short-term obligation payable from the receipt of pending tax payments.
7. **Bond Anticipation Note:**
   A bond anticipation note is a short-term obligation issued in anticipation of redemption through the issuance of long-term bonds.
8. **Other:**
   There are other financing options occasionally used, but they generally fit into some variation or combination of the above categories.

C. Bankruptcy Protection

For those districts experiencing financial distress, bankruptcy protection may be available under Chapter 9 of the United States Bankruptcy Code.

D. Special Requirements

State statute and TABOR impose certain obligations upon districts. These include:

1. Conducting a debt authorization election for general obligation or revenue debt. *Art. X, Sect. 20, Colo. Const.*
2. Posting of a special 24-hour notice when issuing or refunding general obligation debt (or consolidating, dissolving, making a contract with a Director, filing for bankruptcy, or not making a bond payment). *§32-1-903(3), C.R.S.*
3. Compliance with Colorado Securities Commission filing and approval requirements.
4. For 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 debt must be certified and sent by certified mail to the Board of County

Commissioners or the governing body of the municipality no later than 30 days before issuing any new general obligation debt. *§32-1-1101.5(1), C.R.S.*

5. Filing results of a debt authorization election with the Board of County Commissioners or municipality that approved the service plan, and with the Division of Securities, within 45 days after the election. *§32-1-1101.5(1),C.R.S.*
6. Filing a report of outstanding unrated securities with the Division of Local Government by March 1 of each year. *§11-58-105, C.R.S.*
7. The district's audit report must include the amount of any authorized but unissued general obligation debt as well as current or anticipated plans to issue such debt. *§29-1-605, C.R.S.*

E. Disclosures Prior to Issuing Debt to Metropolitan District Directors

On and after January 1, 2024, prior to issuing debt to a Director of a metropolitan district or to an entity with respect to which a Director of a metropolitan district must make disclosure under the state ethics law, the Board must receive a statement of a registered municipal advisor certifying that the interest rate of the debt does not exceed the lesser of the municipal market data "AAA" general obligation, 30 year constant maturity, or a successor index, if replaced, plus 400 basis points with a final maturity of not more than 40 years from date of issuance or the current market rate for the debt based on criteria determined by the registered municipal advisor. *§32-1-1101(7), C.R.S.; SB23-110.*

Chapter XI
Audits

Each district must have an audit performed annually, unless the district's revenue and expenditures are less than $1,000,000 and the district obtains an audit exemption. While not required, forensic audits can be helpful to look at specific issues such as the district's handling of money or the issuance of contracts, or to just take a comprehensive look at the financial structure of the district.

A. Mandatory Financial Audit

Unless the district is exempt, the Board shall cause to be made an annual audit of the financial statements of the district as of the end of each fiscal year, or more frequently if determined by the Board. *§29-1-603, C.R.S.*

The audit report must be submitted to the Board by the auditor by June 30, and filed with the State Auditor within 30 days after the report is received by the district. *§29-1-606, C.R.S.* (See the Filings and Postings schedule in Chapter I of this manual). If the district has authorized but unissued general obligation debt as of the end of the fiscal year, send a copy of the audit report or a copy of its application for exemption from audit to the Board of County Commissioners for each county in which the district is located, or to the governing body of any municipality that approved the service plan.

If required, a request for extension of time to file the audit may be filed with the State Auditor no later than seven months following the end of the fiscal year (July 31). The amount of time requested shall not exceed 60 days. *§29-1-606(4), C.R.S.*

B. Exemption from Audit

If neither the district's revenues nor expenditures exceed $1,000,000 for the fiscal year, an audit exemption may be sought. To obtain an audit exemption, the district must file an application with the State Auditor within three months of the close of the fiscal year (by March 31). *§29-1-604(3), C.R.S.; SB25-023.*

For districts with neither revenues nor expenditures exceeding $200,000, the application must be prepared by a person skilled in governmental accounting. For districts with revenues or expenditures of at least $200,000 but not more than $1,000,000, the application must be prepared by an independent accountant with knowledge of governmental accounting. *§29-1-604, C.R.S.; SB25-023.*

C. Optional Performance Audits

In addition to the mandatory financial audit, the Board may determine to prepare additional internal audits in order to more efficiently and effectively perform its duties. Such optional audits may include the following:

1. **Investment and Purchasing Procedures:**
   Such an audit could include a compliance checklist regarding authorized investments, as well as a brief outline of the duties and responsibilities of each Board member and district staff member for investment, purchasing, and other handling of district money.
2. **Legal Audit:**
   This should be prepared in concert with the district's legal counsel in order to assure that the district is achieving various mandatory and desirable legal actions.
3. **Liability Audit:**
   A liability audit is often provided by the insurance company; it can locate safety and other liability exposures within the district.
4. **Management, Operations, and Maintenance Audits:**
   These audits review procedures for monitoring the effectiveness and efficiency of the tasks performed by the district.

Chapter XII
Contracting

Contracts that the district enters into, including construction contracts, must contain certain language and meet certain statutory requirements. Districts also have additional requirements, such as bidding, publication, retainage, etc., imposed on construction projects.

A. Construction Contracts

1. **Publication and Bid Requirements:**
   Statutes require that an invitation to bid must be published one time in a newspaper of general circulation within the district boundaries for all construction contracts for work or materials or both of at least $120,000. Beginning July 1, 2028, and each five years thereafter, this threshold amount will be adjusted by the rate of inflation. The district may reject any and all bids, and if it appears that the district can perform the work or secure material for less than the lowest bid, it may do so. *§32-1-1001(1)(d)(I), C.R.S.; HB23-1023.*

   It is recommended that an invitation for bids package be issued which includes a project description; all contractual terms and conditions; specifications; forms of bonds to be supplied; and other documents.

2. **Integrated Project Delivery ("IPD"):**
   Any special district may, as an alternative to §32-1-1001(1)(d)(I), C.R.S., award an IPD contract to 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 upon a determination that IPD represents a timely or cost effective alternative to a conventional bidding process for the public project. *§32-1-1804, C.R.S.* An IPD contract is awarded based on a Prequalification and/or a Request for Proposals ("RFP") process. Sections 32-1-1805 and 32-1-1806, C.R.S. require publication of notice which can be accomplished by publishing notice one time in a newspaper of general circulation within the district. The district may accept the proposal that represents the best value to the district. "Best value" does not necessarily mean the low bid. Performance of an IPD contract by the participating entity shall be in compliance with all laws applicable to public projects.

3. **Bonds and Retainage:**
   It is recommended that the district require a Bid Bond (usually in the amount of 5% of the bid amount) to avoid withdrawal of low bids. Bid Bonds are not, however, required by law.

   The law does require every contractor awarded a contract for more than $50,000 to execute a Penal (Payment) Bond, as well as a Performance Bond in the amount of at least one-half of the contract amount. *§§38-26-105 and 106, C.R.S.* Although not required by statute, a Maintenance Bond guaranteeing the warranty provision of the contract (usually one year) is also recommended and is usually able to be included into a single Performance, Payment, and Warranty Bond.

   If a construction contract exceeding $150,000 is awarded, the district may withhold payment for up to 5% of the value of the entire project. The retainage may be held until the contract is completed satisfactorily and final payment procedures are followed. *§24-91-103(1)(a), C.R.S.*

4. **Appropriations Clause:**
   The district may not contract for a public works project in an amount in excess of the amount appropriated by the district for the project. All construction contracts must contain clauses stating that the amount of money appropriated is equal to or in excess of the contract amount and, prior to issuing a change order, the district must appropriate funds to cover the costs of the additional work and such funds must be available for expenditure. *§24-91-103.6, C.R.S.*

5. **Final Payment and Claims:**
   If the amount of the contract awarded exceeds $150,000, the district shall, not later than ten days before the final settlement is made, publish a notice thereof at least twice in a newspaper of general circulation in any county where the work was contracted for or performed. The date of final settlement should be more than ten days after the second publication. Thereafter, if no claims are made, payment in full to the contractor may be made on the settlement date.

   At any time up to and including the time of final settlement for the work contracted to be done, any person that has furnished labor, materials, sustenance, or supplies used or con-

sumed by a contractor or subcontractor, whose claim has not been paid, may file with the district a verified statement of the amount due on account of the claim. Upon the filing of any such claim, the district shall withhold from all payments to said contractor sufficient funds to insure payment of said claim until the claim is withdrawn, paid, or 90 days have passed. *§38-26-107(2), C.R.S.*

If, within 90 days from the date of settlement, the claimant has not filed a lawsuit to enforce such claim, the funds withheld which are not the subject of suit shall be paid over to the contractor. *§38-26-107(3), C.R.S.* If a lawsuit is commenced, the district may be able to interplead the claims (deposit the money with the Court) to avoid becoming embroiled in litigation.

The district must make the final payment in accordance with the above procedures within 60 days after the contract is completed satisfactorily and finally accepted by the district. *§24-91-103(1)(b), C.R.S.*

B. Other Contracts

1. **Publication/Bid Process:**
   No contract for work or material including a contract for services, regardless of the amount, shall be entered into between the district and a Board member or between the district and the owner of 25% or more of the territory within the district unless an invitation to bid is published and such Board member or owner submits the lowest responsible and responsive bid. *§32-1-1001(1)(d)(II), C.R.S.*

   Other contracts for the purchase of vehicles, equipment, non-construction materials, real and other personal property, leases, and advisory and professional services are not subject to statutory publication or bidding requirements, although some comparative review is advisable.

2. **Contract Drafting or Review:**
   Someone in the district (not necessarily always your attorney) should review each contract and should usually have suggested changes, since contracts are normally tendered by the vendor and therefore slanted to their favor unless changes are requested. Assigning an experienced, capable person to review each contract will pay off over time.

C. Intergovernmental Agreements

Districts may enter into agreements with other special districts or other governmental entities for almost any lawful purpose. *Art. XIV, Sect. 18(2), Colo. Const; §29-1-201, et seq., C.R.S.* Such arrangements are becoming much more prevalent as the benefits and economies of scale have fostered a new era of intergovernmental cooperation.

1. **General Intergovernmental Cooperation:**
   Colorado local governments may cooperate or contract with one another to provide any function, service, or facility lawfully authorized to each of the parties. Such contracts must set forth the purposes, powers, rights, obligations, and responsibilities of the contracting parties. *§§29-1-203(1) and (2), C.R.S.* Examples are the joint purchase of equipment; construction of jointly owned fire stations; jointly owned water and sewage treatment facilities; the provision of management, bookkeeping, billing, and maintenance services; joint training facilities and programs; joint ownership of hazardous materials handling equipment; etc. Intergovernmental agreements are very common.

2. **Creating a Separate Legal Entity:**
   Local governments may establish separate legal entities through an intergovernmental agreement to provide for the joint exercise or operation of a function, service, or facility, as allowed pursuant to various provisions of Title 29, C.R.S. Regional water authorities, recreation authorities, and fire authorities provide services on a regional basis when consolidation of the special districts is not practically or politically acceptable, or when the service provided is a special regional addition to the underlying services still provided by the contracting entities.

3. **Mutual Aid Agreements:**
   Special provisions apply to a form of intergovernmental agreement most commonly utilized by districts providing fire protection and ambulance services. Liability associated with such agreements to mutually aid each other is governed by statute and usually attaches to the entity requesting the emergency aid, unless superseded by the agreement.

4. **IGA Reporting Requirements:**
   Within 30 days after receiving a written request from the Division of Local Government, the district must provide the Division of Local Government with a current list of all contracts in effect with other political subdivisions containing the name of the contracting entities, the nature of the contract, and the expiration date. *§29-1-205(1), C.R.S.*

   Within ten days after the execution of a contract establishing a separate governmental entity pursuant to §29-1-204, C.R.S., or an amendment or modification thereof, the district must file a copy with the Division of Local Government. *§29-1-205(2), C.R.S.*

Chapter XIII
Liability Issues

Special districts, along with other governmental entities in Colorado, have limited liability for most injuries or damages that result from acts of the district, its employees, Directors, and volunteers. However, there are still actions that the district should take to protect itself from lawsuits, including obtaining comprehensive liability insurance, agreeing to indemnify Directors and employees of the district, and requiring participants and volunteers to sign waivers when appropriate.

A. Potential Sources of Liability

1. **State Tort Actions:**
   "Torts" are actions (other than in contract) such as negligence, trespass, and conversion, involving damage to person or property. These actions are covered by the Colorado Governmental Immunity Act ("CGIA"). (See Section B, *Colorado Governmental Immunity Act,* below for more information)

2. **Federal Actions:**
   These actions are beyond the scope of the CGIA, although an argument does exist that the CGIA could offer protection from federal claims brought in the state Courts.

   The most common federal actions are in the areas of deprivation of Constitutional or statutory rights (Section 1983 cases), antitrust, securities violations, labor and wage actions, and environmental cases.

3. **Contract:**
   Contract claims are not protected by the CGIA. *§§24-10-105 and 106, C.R.S.* Public officials, however, are generally not personally liable for the contracts of the governmental entity.

4. **Criminal:**
   The CGIA offers no protection from criminal actions. Common potential areas of criminal exposure include the following:

   a. Entering into a prohibited transaction;

   b. Failing to disclose conflicts of interest;

   c. Misuse of official information;

   d. Malfeasance; and

   e. Issuing a false certificate or document. *§18-8-406, C.R.S.*

   You may want to consider purchasing crime coverage from the Colorado Special Districts Property and Liability Pool which covers certain damages and defense costs resulting from a lawsuit for a Director's alleged wrongful acts while acting in his or her official capacity.

B. Colorado Governmental Immunity Act (CGIA)

The CGIA limits the circumstances under which a public entity or public employee may be liable in state tort actions.

The CGIA creates immunity from liability for all tortious injuries committed by a governmental entity or its employees, except injuries resulting from the following:

1. The operation of a public hospital, correctional facility, or jail;
2. The operation of a publicly owned motor vehicle, except emergency vehicles;
3. A dangerous condition of a public building;
4. A dangerous condition of a public highway, road, street, or sidewalk;
5. A dangerous condition of any public facility located in any park or recreation area or any public water, gas, sanitation, electrical, power, or swimming facility;
6. The operation and maintenance by a public entity of any public water, gas, sanitation, electrical, power, or swimming facility; and
7. Civil actions for sexual misconduct against minors. *§24-10-106(1), C.R.S.*

Even for those actions where liability may attach, liability is limited by the CGIA to a maximum of $424,000 for injury to one person in any single occurrence, and $1,195,000 for injury to multiple persons in a single occurrence, except that no one person shall recover in excess of $424,000. The limits are adjusted for inflation every four years, and the above limits apply from January 1, 2022 to January 1, 2026. *§24-10-114, C.R.S.*

Someone with a claim must file a written notice within 182 days after the date of discovery of the injury, except for civil actions for sexual misconduct against minors. The CGIA imposes additional procedural requirements when filing a claim against the district, its Directors, or employees. If those procedures are not followed, a claim may be dismissed. The CGIA also requires each district to designate an official, or an office, as its official agent to be served

with legal notice of intent to file a claim against the district under the CGIA. *§24-10-109, C.R.S.*

C. Indemnification Resolution

A special district has certain duties to indemnify its Directors and employees. That indemnification is codified in the CGIA. *§24-10-110, C.R.S.*

The district may indemnify district Directors and employees beyond the protections of the CGIA to include federal, contract, and punitive acts. These issues should be discussed with the district's attorney.

D. Releases and Waivers

Releases and waivers may be used to limit potential liability against the district, its Directors and employees, and also third parties in applicable situations. These agreements are often used with volunteers and participants in district events.

For a release or waiver to be valid, there must be an express, knowledgeable assent to such release or waiver. The district must exercise great caution regarding the validity or adequacy of the release or waiver.

A parent may, on behalf of his/her child under the age of 18, release or waive the child's prospective claim for negligence, except claims for willful, wanton, reckless, or grossly negligent acts or omissions. *§§13-22-107(3) and (4), C.R.S.* Nonetheless, the best practice is for both the parent and minor to sign a waiver.

E. Insurance

Insurance is a primary and essential means of protecting the district, its Directors, and employees. The primary types of insurance are liability, property, workers' compensation, crime coverage, and errors and omissions.

The following methods of insurance could be considered:

1. **Standard Insurance Company:**
   Many insurance companies will provide insurance coverage to special districts. Make sure that your insurance provider understands governmental immunity and is familiar and has worked with the CGIA.
2. **Self-Insurance:**
   The CGIA permits a special district to adopt a policy of self-insurance. *§24-10-115(2)(a), C.R.S.* The CGIA imposes procedural requirements, and compliance is mandatory. The fund established for the purposes of self-insurance shall be kept separate from all other district funds, and may only be used to pay operating expenses of the fund and claims made against the district. *§24-10-115(3), C.R.S.*
3. **Insurance Pool:**
   An insurance pool can be a cost-efficient means by which to obtain insurance coverage. SDA offers such an insurance pool.

F. Constitutional Issues

When operating in the public realm, sensitivity to Constitutional issues must be maintained. All Constitutional issues should be discussed with a qualified attorney. Potential areas of Constitutional issues most commonly include the First Amendment rights of free speech, freedom of religion, and assembly; Fourteenth Amendment rights of equal protection; Fifth and Fourteenth Amendment rights of due process; and issues involving the "taking" of private property.

Chapter XIV
Personnel Matters

Special districts with employees must be aware of certain state and federal laws that govern the employer/employee relationship. Particular concern must be made to the hiring and firing of employees, as well as wage requirements.

A. Federal and State Employment Laws

The areas of labor, employment, and personnel issues are heavily regulated by the state and federal governments. The Acts of which a district should be aware include, but are not limited to:

1. **The Federal Fair Labor Standards Act** ("FLSA") regulates minimum wage, overtime pay, equal pay, record keeping, and child labor standards.
2. **The Federal Occupational Safety and Health Act** ("OSHA") regulates dangerous conditions in the workplace.
3. **The Federal Americans with Disabilities Act** ("ADA") prohibits discrimination in employment and in the provision of public services and accommodations based on a person's disability.
4. **The Federal Age Discrimination in Employment Act** ("ADEA") prohibits discrimination based on age in employment practices against persons over age 40.
5. **Title VII of the Federal Civil Rights Act** prohibits discrimination in employment based on race or color, religion, sex, pregnancy, national origin, or opposition to discriminatory practices.
6. **Section 1981 of the Federal Civil Rights Act** prohibits discrimination based on race or lineage.
7. **Section 1983 of the Federal Civil Rights Act** prohibits any person, under the color of statute, ordinance, or regulation from depriving another person of the privileges and immunities of the United States Constitution and laws.
8. **The Federal Equal Pay Act** prohibits wage discrimination on the basis of sex for jobs performed under similar working conditions.
9. **The Colorado Equal Pay for Equal Work Act** (Title 8, Article 5, Parts 1 and 2, C.R.S.) prohibits wage discrimination on the basis of gender for jobs performed under similar working conditions and requires transparency in pay and opportunities for promotion and advancement. Beginning January 1, 2024, the Colorado Department of Labor and Employment is authorized to investigate and take enforcement action regarding complaints alleging violations of state pay equity laws. Districts must also make reasonable efforts to announce any job opportunities to all employees. In their announcement, the district must include: the hourly/salary compensation or range of the hourly/salary compensation; a general description of the benefits and other compensation applicable to the job opportunity; and the date the application window is anticipated to close. Additionally, within 30 calendar days after the selected candidate begins working at the district, the district must announce to employees with whom the selected candidate will work with regularly: the name of the selected candidate; the selected candidate's former job title if they were already employed under the district; the selected candidate's new job title; and information on how employees can demonstrate interest in similar job opportunities in the future. *SB23-105.*
10. **The Consolidated Omnibus Budget Reconciliation Act** ("COBRA") generally requires employers to give departing employees the opportunity to continue their health insurance coverage for 18 months at the employee's cost.
11. **The Federal Family and Medical Leave Act of 1993** ("FMLA") imposes certain affirmative acts regarding employee leave on all employers, including public entities employing 50 or more persons.
12. **The Colorado Family Care Act** (Title 8, Article 13.3, Part 2, C.R.S.) defines the types of family relationships, including civil unions and domestic partnerships, for which an employee may be entitled to take leave to care for a family member, in addition to FMLA.
13. **The Colorado Healthy Families and Workplaces Act** ("HFWA") (Title 8, Article 13.3, Part 4, C.R.S.) requires that each Colorado employer provide paid sick leave for all employees at a rate of one hour per 30 hours worked by the employee, not to exceed 48 hours each year. In 2023, the Colorado General Assembly expanded HFWA to allow employees to use paid sick leave for bereavement leave or to care for a family member whose school, daycare, or similar facility is closed due to inclement weather. *SB23-017.*

14. **The Colorado Paid Family and Medical Leave Insurance Act** ("FAMLI") (Title 8, Article 13.3, Part 5, C.R.S.) requires employers to: participate in the FAMLI program to collect premiums starting in 2023 for family leave benefits of up to 12 weeks of paid family and medical leave starting in 2024; provide benefits using the same definitions and eligibility; or exercise the local government opt-out option.
15. **Worker Rights Related to a Public Health Emergency** ("PHEW") (Title 8, Article 14.4, C.R.S.) provides that an employer or a contractor shall not discriminate, take adverse action, or retaliate against any worker who raises any reasonable concern about workplace violations of government health or safety rules. PHEW was amended in 2022 to remove that the worker concern must be related to a public health emergency.
16. **The Uniformed Services Employment and Reemployment Rights Act** ("USERRA") provides employees who are called up for, or volunteer for, active military service with special employee benefits.
17. **The USA PATRIOT Act of 2001** removed previous legal barriers to the federal government conducting wiretapping surveillance of telephone lines and accessing stored voice and email messages.
18. **The Colorado Health Care Coverage Act** (Title 10, Article 16, C.R.S.), which is the state counterpart to COBRA, gives extended health insurance coverage of 180 days to terminated employees.
19. **The Colorado Anti-Discrimination Act** ("CADA") (Title 24, Article 34, Parts 3 through 8, C.R.S.) prohibits discrimination based on disability, race, creed, color, sex, age, marital status, national origin, sexual orientation, or ancestry in employment, housing, public accommodations, and advertising. CADA prohibits unfair employment practices, overlapping with federal law in several areas. There are, however, Colorado-only provisions, including that CADA applies to employers regardless of size and the definition of "employee" includes individuals in domestic service. *§§24-34-401(2) and (3), C.R.S.* In 2022, CADA was amended to extend the time to file a complaint to 300 days (increased from 180 days) and to allow state-based relief for age discrimination-only claims. In 2023, CADA was further amended to add an updated definition of "harassment" and to reject the severe or pervasive standard used to determine an employer's liability. *SB23-172.*
20. **The Colorado Youth Employment Opportunity Act of 1971** (Title 8, Article 12, C.R.S.) provides child labor standards.
21. **Colorado laws regarding wages and hours** (Title 8, Articles 4 through 6, and 13, C.R.S.).
22. **The Workers' Compensation Act of Colorado** (Title 8, Articles 40 to 47, C.R.S.) regulates disability and medical benefits of injured workers.
23. **The Colorado Employment Security Act** (Title 8, Articles 70 to 82, C.R.S.) provides for unemployment benefits.
24. **The Colorado Employment Opportunity Act** (§8-2-126, C.R.S.) prohibits the use of consumer credit information for employment purposes unless the information is substantially related to the employee's current or potential job.
25. **The Colorado Law on Effect of Criminal Conviction on Employment Rights** (§24-5-101, C.R.S.) regulates the use of criminal background history in public employment.
26. **In 2023, the Colorado General Assembly passed the Job Application Fairness Act.** Beginning July 1, 2024, employers are prohibited from inquiring about a prospective employee's age, date of birth, and dates of attendance at or date of graduation from an educational institution on an initial employment application. *§8-2-131, C.R.S.; SB23-058.*
27. **In 2023, the Colorado General Assembly passed the Protections for Public Workers Act** (Article 33 of Title 29, C.R.S.). Beginning July 1, 2024, new state statutory rights are granted to public employees of certain state and local government employers, including special districts. These protections include discussing or expressing views regarding public employee representation or workplace issues. The Colorado Department of Labor and Employment has rulemaking, enforcement, and adjudication authority. *SB23-111* The Protections for Public Workers Act was clarified by the Colorado General Assembly in 2024, expressly excluding the following from protected activities: recognition or negotiation of a collective bargaining agreement; some of the actions of managerial or confidential public employees; limitations necessary to maintain nonpartisan role of legislative, elections, or judicial staff; and actions that materially disrupt an employee's duties, the public employer's operations, or the delivery of public services. *SB24-232*.

B. Personnel Policy Manuals

A personnel policy manual can be a useful tool for dealing with reoccurring employment issues. Whether a specific policy is appropriate for a given district depends upon the size of the district, the district's existing policies and procedures, and the decisions made by the Board members. In smaller districts, some subjects addressed in these policies may be dealt with informally or not at all. In larger districts, the need for uniform treatment of a larger group of and the dissemination of correct information to all employees may dictate a more comprehensive selection of policies. Because personnel policy manuals have in some cases been construed by the Courts as constituting part of an employee's employment contract, they must be carefully drafted. Personnel policy manuals may be one type of employment record which, with other records, is useful to document compliance with state employment laws, such as the Equal Pay Act, HFWA, and FAMLI.

Typical personnel policy manuals include the following subjects:

1. Working conditions, including work week and hours, attendance, safety, and work environment.
2. Compensation and benefits.
3. Leave policies.
4. Employment, promotion, and evaluation practices.
5. Layoffs.
6. Rules of conduct.
7. Discipline.
8. Grievances.

9. Employee records.
10. Separation from employment.
11. Specific policies of concern to the district, including drug testing.

C. Drug and Alcohol Testing

The Federal Highway Administration ("FHA") adopted regulations requiring mandatory drug and alcohol testing for employed drivers with commercial driver's licenses. Drivers of firefighting equipment are exempt. Other organizations employing employees not governed by the FHA requirements may also adopt internal drug and alcohol policies. Qualified legal counsel or consultants should be contacted in formulating such testing policies.

Due to the Colorado Constitutional amendments authorizing the use of marijuana, policies should be carefully drafted with recognition of this as an area of evolving legal consideration.

D. Federal and State Posting Requirements

Both federal and state law require the posting of certain informational posters at a prominent location in the district's business office. Failure to make the requisite postings could subject the district to significant financial penalties. The following postings must be made:

1. Federal Equal Employment Opportunity Commission ("EEOC");
2. Federal Minimum Wage (Dept. of Labor);
3. Family and Medical Leave Act (Dept. of Labor);
4. State Fair Employment (Dept. of Labor);
5. State Minimum Wage (Dept. of Labor);
6. Healthy Families and Workplaces Act *(Paid Sick Leave)* (Dept. of Labor); and
7. Worker Rights Related to a Public Health Emergency *(Whistleblower)* (Dept. of Labor)

* The Federal Occupational Safety and Health Act ("OSHA") does not currently apply to local governments, although OSHA standards may constitute reasonable guidelines.

E. Volunteers

Volunteers present unique considerations for a district with respect to compensation, insurance, personnel policies, liability, releases, and indemnification. Please consult with your legal counsel when considering using volunteers.

F. TABOR

Most employees in Colorado are not employed under contracts. If, however, a contract is entered into with an employee, a multi-year employment contract may constitute a "multiple fiscal year financial obligation" subject to the limitations of TABOR.

G. Collective Bargaining for Firefighters

Pursuant to §29-5-201, *et seq.,* C.R.S., paid firefighters who work for a district or fire authority with two or more paid firefighters have certain collective bargaining rights, including:

1. If a collective bargaining agreement does not currently exist and if the employer has not voluntarily opted into collective bargaining, the paid firefighters or their employee organization can request a "meet and confer" with the district (or fire authority) to discuss safety and working conditions, but not compensation.
2. Paid firefighters can initiate a collective bargaining process by presenting a notice of intent to circulate a petition to the Board, signed by at least 75% of the paid firefighters, requesting recognition of the unit and a collective bargaining agreement. If 5% of the number of eligible electors who voted in the last district election sign a petition, the Board must put the following question on the ballot at the next election: "Should the firefighters employed by the [name of the district] be covered by the Colorado Firefighter Safety Act?". If a majority of those voting in the election vote in favor, the district must recognize the employee bargaining unit identified in the petition and enter into collective bargaining with the unit. *§29-5-206, C.R.S.*
3. Firefighters and employee organizations are prohibited from striking. *§29-5-211, C.R.S.*

H. Use of Credit Report Information and Employee Personal Passwords

Employers are prohibited from using credit information in employee hiring, evaluation, or discipline, unless the information is related to the person's present or potential job. Employers may not ask a current or prospective employee to provide access to credit reports or related information unless such information is directly related to the job, or the job is one that involves fiduciary relationships or the handling or accounting of funds. *§8-2-126, C.R.S.*

An employer may not suggest, request, or require an employee or applicant to disclose, or cause an employee or applicant to disclose, any username, password, or other means for accessing the employee's or applicant's personal account or service through the employee's or applicant's personal electronic communication device. Employers may not compel an employee or applicant to add anyone, including the employer or his or her agent, to the employee's or applicant's list of contacts associated with a social media account, or require, request, suggest, or cause an employee or applicant to change privacy settings associated with a social networking account. This does not prohibit employers from requiring employees to disclose usernames, passwords, and other means for accessing non-personal accounts or services that provide access to the employer's internal computer or information systems. *§8-2-127, C.R.S.*

I. Health Insurance

The Patient Protection and Affordable Care Act requires large employers to provide health coverage for its employees. Large employers are those who have 50 or more full-time equivalent employees. The requirements of the Act and the dates for compliance are varied. Your attorney or a knowledgeable health care broker can help the district navigate the requirements. *Public Law 111–148. 111th United States Congress.*

J. Paid Sick Leave

The Healthy Families and Workplaces Act requires that each Colorado employer provide paid sick leave for all employees at a rate of one hour per 30 hours worked by the employee, not to exceed 48 hours each year, unless the employer chooses to allow a higher annual limit. Effective January 1, 2022, all Colorado employers, including special districts, must comply with the law. The employee begins to accrue paid sick leave when employment with the employer begins and can use the sick leave as soon as it is accrued. In addition to the paid sick leave accrued pursuant to the above provisions, on the date a public health emergency is declared, each employer in the state shall supplement each employee's accrued sick leave to assure that the employee may take sick leave; for employees who normally work 40 or more hours in a week, at least 80 hours. Each covered employer shall notify its employees that they are entitled to be paid sick leave by supplying each employee with a written notice containing the information specified in the act, and by displaying a poster in a conspicuous and accessible location in each workplace. *§8-13.3-401, et seq., C.R.S.*

K. Searches for CEO-Level Employees

The process for searching for a chief executive level position (i.e., CEO, District Manager, Fire Chief) is different from that of other district employees and requires compliance with certain requirements of the Colorado Open Meetings Law, Part 4, Article 6 of Title 24, C.R.S., and the Public Records Act, Article 72 of Title 24, C.R.S. Please consult with your legal counsel regarding questions on any part of this process.

1. A search committee may be established to conduct the CEO search, but the search committee is still subject to certain transparency requirements. *§24-6-402(3.5), C.R.S.*
2. Fourteen days prior to appointing, employing, or offering the position to a finalist, the list of all finalists must be made public. The state or local body shall name one or more candidates as finalists for the position of chief executive officer. When there are three or fewer candidates, they are automatically defined as "finalists." *§24-6-402(3.5), C.R.S.*
3. The Board must select the top candidate and make an offer of employment in the open session of a public meeting, not in an executive session.
4. Specific contract negotiations about pay, benefits, etc., may occur in an executive session pursuant to §24-6-402(4)(e), C.R.S., but the Board must approve the contract in a public meeting.
5. Records of finalists are generally public records, except for these documents:
    a. Records of applicants who are not finalists; and
    b. The following records of finalists:
        i. Letters of reference;
        ii. Medical, psychological, or sociological data; and
        iii. Financial records (e.g., credit checks). *§24-72-204(3)(a)(XI)(A), C.R.S.*

Chapter XV
Elections

The Colorado Local Government Election Code (Article 13.5 of Title 1, C.R.S.) was adopted effective February 18, 2014. Certain provisions of the Uniform Election Code of 1992 (Articles 1 to 13 of Title 1, C.R.S.) also apply to special district elections and both the Local Government Election Code and the Uniform Election Code of 1992 should be read in conjunction with Part 8, Article 1 of Title 32, C.R.S. The following is an overview of the election requirements.

It is unlawful to threaten, coerce, or intimidate an election official with the intent to interfere or retaliate for the performance of the official's duties—including elections conducted under the Local Government Election Code. Further, the personal information of an election official (or their family) is prohibited from being published on the internet if the poster knows that doing so will pose an imminent and serious threat. An election worker may request to have personal information removed from public records available on the internet. *§§1-13-701, 18-9-313.5, and 24-72-204, C.R.S.*

The Legislature amends the election laws regularly. Before conducting an election, check the Election Codes for statutory changes enacted after the publication of this manual.

A. Coordinated Elections

1. **Applicability:**
   In a coordinated election, when more than one political subdivision with either overlapping boundaries or the same electors hold an election on the same day, the County Clerk and Recorder is the Coordinated Election Official. All November elections in which eligible electors are the same or boundaries overlap shall be coordinated elections, unless the election is to be conducted as an independent mail ballot election. *§§1-1-104(6.5), 1-1-111(3), and 1-7-116, C.R.S.*

   Regular elections, special elections, and Court-ordered elections conducted other than in November may be conducted as coordinated elections if (i) there is an overlap of electors or boundaries; (ii) the County Clerk and Recorder is the Coordinated Election Official; and (iii) the county, district, and other jurisdictions agree. *§§1-1-104(6.5), 1-1-111(3), and 1-7-116, C.R.S.*

2. **Intergovernmental Agreement:**
   At least 70 days prior to the November coordinated election, the district must enter into an intergovernmental agreement with the County Clerk and Recorder for the conduct of the election and/or mailing of the notice required by Article X, Section 20 of the Colorado Constitution ("TABOR Notice").

   The Agreement shall include, but not be limited to the following:

   a. An allocation of responsibilities between the district and the County Clerk and Recorder; and

   b. A provision for the sharing of expenses based upon "actual cost." *§1-7-116(2), C.R.S.*

B. Regular Elections

Special districts must hold regular elections on the first Tuesday after the first Monday in May in odd-numbered years for the purpose of electing Directors to the Board and, as applicable, for the submission of other ballot issues or questions. *§§1-13.5-111(1) and 32-1-103(17), C.R.S.*

C. Special Elections

Special elections may be held on the first Tuesday after the first Monday of February, May, October, or December; in November of even-numbered years; or on the first Tuesday in November of odd-numbered years. A Court having jurisdiction over the district may order a special election to be conducted on a different election date. *§§1-13.5-111(2) and (3), and 32-1-103(21), C.R.S.*

D. TABOR Elections

A TABOR ballot issue election must be conducted as either a coordinated election or as an independent mail ballot election. *§1-13.5-111(2),C.R.S.* TABOR elections can only be conducted at the regular special district election date, the general election date, or the first Tuesday in November of odd-numbered years. *Art. X, Sect. 20(3)(a), Colo. Const.*

E. Independent Mail Ballot Elections

The district, at the direction of the Board, may conduct an election by mail ballot that is not coordinated by the County Clerk and Recorder. The Designated Election Official must prepare a written plan on conducting a mail ballot election. The written plan must be on file at the office of the Designated Election Official at least 55 days prior to the election. *§§1-13.5-1101, 1-13.5-1102(1), and 1-13.5-1104(1), C.R.S.* The written plan is a public record, but does

not need to be filed with the Secretary of State, and does not require approval by the Secretary of State. *§1-13.5-1104(1), C.R.S.*

F. Designated and Coordinated Election Officials

For all November coordinated elections, the County Clerk and Recorder shall be the Coordinated Election Official responsible for coordinating and conducting the election on behalf of all political subdivisions that are part of the coordinated election, utilizing the mail ballot procedure set forth in Article 7.5 of Article 1, C.R.S. *§§1-1-104(6.5), 1-1-111(3), and 1-7-116, C.R.S.*

The district Board shall appoint a Designated Election Official to conduct non-coordinated elections and assist in the conduct of coordinated elections. The Designated Election Official does not have to be the District Secretary. *§§1-13.5-108 and 32-1-804(2), C.R.S.*

G. Requirements to Translate Election Materials into Spanish or Ute

1. **Federal Voting Rights Act:**
   The Federal Voting Rights Act and regulations of the United States Department of Justice and Federal Census Bureau require that election materials be translated into and available in Spanish for special district elections in Section 203-covered jurisdictions, which are updated every five years. For special district elections conducted from 2021 to 2025, the following is required: for voters in Adams County, Alamosa County, Conejos County, Costilla County, Denver County, and Saguache County whose primary language is Spanish, election materials must be translated into and available in Spanish; and, for voters in La Plata County and Montezuma County whose primary language is Ute, election materials must be translated into and available in Ute. The federal requirements apply broadly to any **registration or voting** notices, forms, instructions, assistance, or other materials or information relating to the electoral process, including ballots.

2. **Colorado Multilingual Ballot Access:**
   Colorado law requires that County Clerks and Recorders provide Spanish language ballots for general elections and statewide odd-year elections in the following counties: Adams, Alamosa, Arapahoe, Bent, Boulder, Conejos, Costilla, Denver, Eagle, El Paso, Fremont, Garfield, Jefferson, Lincoln, Montrose, Morgan, Prowers, Rio Grande, Saguache, and Weld. These state requirements only apply to County Clerks and Recorders and not to Designated Election Officials. *§1-5-201, et seq., C.R.S.*

H. Election Notices

1. **TABOR Notices:**
   TABOR requires the mailing of a notice for ballot issue elections. The TABOR Notice shall be sent as a package where the boundaries of political subdivisions, including all special districts with ballot issues, overlap. The TABOR Notice must be addressed to "All Registered Voters" and mailed to each address of one or more active registered electors of the district at least 30 days prior to the election. *Art. X, Sect. 20(3)(b), Colo. Const.*

   For coordinated elections, the district must provide the County Clerk and Recorder with all necessary TABOR Notice information at least 43 days prior to a November coordinated election. *§1-7-904, C.R.S.* The County Clerk and Recorder shall have the responsibility of mailing the TABOR Notice package to each address where any active district elector resides within such county, if the election is being conducted in November. The Designated Election Official shall mail such notice to addresses of active district electors who do not reside in the county. *§1-7-906, C.R.S.*

   For independent mail ballot elections, the district's Designated Election Official shall be responsible for the preparation and mailing of the district's TABOR Notice.

   The Designated Election Officials of special districts with overlapping boundaries that will be submitting ballot issues at the regular special district election shall confer at least 40 days prior to the election regarding the preparation and mailing of the TABOR Notice as a package. Such special districts must enter into an intergovernmental agreement for the preparation and mailing of the TABOR Notice. *§§1-13.5-503(1), 1-7-905(2), and 1-7-906(3), C.R.S.*

2. **Notice by Publication and Posting:**
   Notice of the specific election information, including the date and time of election; hours during which the polls will be open; the date ballots have or may be mailed if the election is conducted by mail ballot; mail ballot drop-off locations; names of the officers to be elected and any ballot issues and ballot questions to be voted upon; and the names of those candidates whose nominations have been certified to the Designated Election Official must be published in a newspaper of general circulation within the district boundaries at least 20 days prior to the date of the election. For independent mail ballot elections, the notice does not need to include the text of the ballot issues or ballot questions. *§§1-13.5-502(1), (2)(a), and (2)(b), C.R.S.*

   A copy of the notice must be posted in the office of the Designated Election Official at least 20 days prior to and until after the election, and mailed or emailed to the County Clerk and Recorder. *§§1-13.5-502(1) and (2)(a), C.R.S.*

   A district submitting a ballot issue concerning the creation of debt or other financial obligation shall post notice on the district's website or, if the district does not maintain a website, at the district's chief administrative office, no later than 20 days before the election. *§§1-7-908 and 1-13.5-503(2), C.R.S.*

I. Conduct of Elections and Procedures

The district's Designated Election Official should be aware of the following general requirements:

1. **Election Resolution:**
   The election process is initiated by Board adoption of an Election Resolution. Depending on whether the election is a regular special district election, a November election, or a special election, the Election Resolution may address the following, as applicable: the election of members to the Board of Directors; polling place or mail ballot format; the location(s) of the polling place(s) or mail ballot drop-off locations; any ballot issues/questions to be presented; whether the election will be conducted as a coordinated election with the county; and the appointment of the Designated Election Official.

2. **Call for Nominations:**
Not fewer than 75 days or more than 100 days prior to the regular election, a Call for Nominations must be published one time. The notice must set forth the Director offices to be voted upon at the election; where a self-nomination and acceptance form may be obtained; the deadline for filing such form; and information on obtaining an absentee ballot. *§1-13.5-501(1), C.R.S.*

For districts other than metropolitan districts organized after January 1, 2000, the public notice required by this section must be made by publication, as well as by any one of the following means:

a. Mailing the notice, at the lowest cost option, to each address at which one or more active registered elector of the district resides as specified in the registration list provided by the County Clerk and Recorder as of the date that is 150 days prior to the date of the regular local government election;

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 district to the eligible electors of the district;

c. Posting the information on the official website of the district; or

d. For a district with fewer than 1,000 eligible electors that is wholly located within a county the population of which is less than 30,000 people, posting the notice in at least three public places within the territorial boundaries of the district and, in addition, posting a notice in the office of the Clerk and Recorder of the county in which the district is located. Any such notices must remain posted until the day after the call for nominations closes.

For any metropolitan district that was organized after January 1, 2000, in accordance with Title 32, the notice must be made by emailing the notice to each active registered elector of the metropolitan district as specified in the registration list provided by the County Clerk and Recorder as of the date that is 150 days prior to the date of the regular local government election. Where the active registered elector does not have an email address on file for such purpose with the County Clerk and Recorder as of the date that is not later than 150 days prior to the date of the regular local government election, the public notice must be made by mailing the notice, at the lowest cost option, to each address at which one or more active registered elector of the metropolitan district resides as specified in the registration list provided by the County Clerk and Recorder as of the date that is 150 days prior to the date of the regular local government election. In addition, the Designated Election Official shall also provide public notice by any one of the following means:

a. Publication as defined in §1-13.5-501(2), C.R.S.

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 metropolitan district to the eligible electors of the metropolitan district;

c. Posting the information on the official website of the metropolitan district; or

d. For a metropolitan district with fewer than 1,000 eligible electors that is wholly located within a county, the population of which is less than 30,000 people, posting the notice in at least three public places within the territorial boundaries of the metropolitan district and, in addition, posting a notice in the office of the Clerk and Recorder of the county in which the special district is located. Any such notices must remain posted until the day after the call for nominations closes.
§§1-13.5-501(1.5) and (1.7), C.R.S.

3. **Candidates:**
The Designated Election Official shall provide copies of the self-nomination and acceptance forms and any affidavits of intent to be a write-in candidate to the Colorado Secretary of State no later than 60 days before the special district election. This does not apply if the district cancels its election. *Rule 16.1, Secretary of State Rules Concerning Campaign and Political Finance.*

A self-nomination and acceptance form signed by the candidate and one other registered voter of the state must be filed with the Designated Election Official no earlier than January 1 and no later than the normal close of business on the 67th day prior to the regular election. *§1-13.5-303(1), C.R.S.*

An affidavit of intent to be a write-in candidate must be filed with the Designated Election Official no later than 64 days prior to the date of election. *§1-13.5-305, C.R.S.*

4. **Polling Places:**
The Designated Election Official, with the approval of the Board, shall establish one or more polling places not fewer than 20 days prior to the election. *§1-13.5-504(2), C.R.S.* If there are no appropriate polling place locations within the district, a polling place may be designated outside of the district in a location that is convenient for the eligible electors of the district.

The Designated Election Officials of local governments with overlapping boundaries that hold elections the same day by polling place must meet, confer, and thereafter, if practical, hold such elections in a manner that permits an elector in the overlapping area to vote in all of such elections at one polling place. *§1-13.5-504(3), C.R.S.*

A polling place sign must be posted at each polling place at least 20 days prior to the date of election. *§1-13.5-502(3), C.R.S.*

Polls shall be open continuously from 7:00 a.m. until 7:00 p.m. on the date of the election. *§1-13.5-601, C.R.S.*

Carrying a firearm within any polling location or central count facility, or within 100 feet of a ballot drop box or any building in which a polling location or central count facility is located, is prohibited while an election or any related ongoing election administration activity is in progress. The Designated Election Official responsible for any central count facility, polling location, or drop box involved in that election cycle shall visibly place a sign notifying persons of the 100 foot no carry zone for firearms required pursuant to this section. *§1-13-724, C.R.S.* In 2024, the Colorado General Assembly added concealed weapons to these prohibitions. *SB24-131.*

5. **Judges:**
The Designated Election Official shall appoint Election Judges no later than 15 days prior to the date of election. *§1-13.5-401(1), C.R.S.*

Each Election Judge must be registered to vote in Colorado and at least eighteen years of age. Election Judges must be appointed without regard to party affiliation. Neither a current candidate for Director nor any immediate family member, to the second degree, of such candidate is eligible to serve as an Election Judge. *§§1-13.5-401(1) and (2), C.R.S.*

For polling place elections, the Designated Election Official shall appoint no fewer than two Election Judges for each local government election. The Designated Election Official may also appoint any additional Election Judges as deemed necessary and may appoint Counting Judges. *§1-13.5-402, C.R.S.*

For mail ballot elections, the Designated Election Official may appoint an appropriate number of Election Judges to receive the ballots after they are mailed; to handle "walk-in" balloting; check voter registrations; inspect, verify, and duplicate ballots when necessary; and count the ballots and certify results.

The Board must determine the amount of compensation to be paid to the Election Judges for their services. *§1-13.5-409, C.R.S.*

No more than 45 days prior to the date of election, each Election Judge shall attend an instruction class concerning the tasks of an Election Judge. *§1-13.5-408, C.R.S.*

6. **Property Owner and Voter Lists:**
The Designated Election Official shall order the voter registration and property owners lists no later than 40 days prior to the day of election. The Designated Election Official may order initial voter registration and property owners lists to be received 30 days prior to the day of election, with a supplementary list provided 20 days prior, or complete lists provided six days prior to the day of election. *§§1-13.5-203 and 204, and 1-13.5-1105(2)(a) and (2)(b), C.R.S.*

7. **Absentee Voters:**
Any eligible elector may cast an absentee voter's ballot in the manner provided in Part 10 of Article 13.5 of Title 1, C.R.S. Requests for an application for an absentee voter's ballot can be made orally or in writing. The application may be in the form of a letter and must be filed with the Designated Election Official not later than the close of business on the Tuesday preceding the election. Applications for absentee voters' ballots shall be filed in writing and personally signed by the applicant or a family member and include the applicant's printed name, residence, address, date of birth, and whether the applicant wishes to be designated as a permanent absentee voter. The Designated Election Official shall examine the application to verify the eligibility of the applicant to vote, and if the applicant is eligible, the Designated Election Official shall deliver as soon as practicable but not more than 72 hours after the blank ballots have been received, an absentee voter's ballot and packet. *§1-13.5-1002, C.R.S.*

8. **Permanent Absentee Voters (previously Permanent Mail-in Voters):**
Any eligible elector may apply for permanent absentee voter status. The application for permanent absentee voter status must be made in writing or by facsimile using an application form or letter furnished by the Designated Election Official. The application must contain the same information submitted in connection with an application for an absentee voter's ballot pursuant to §1-13.5-1002, C.R.S. If the Designated Election Official determines that the applicant is an eligible elector, the Designated Election Official shall place the eligible elector's name on the list of those eligible electors to whom an absentee voter's ballot is mailed every time there is an election conducted by the district. Information on the procedure to apply for a permanent absentee voter status should be included on the application for absentee ballot, and on the Notice to Electors required in §32-1-809, C.R.S.

An elector whose name appears on the permanent absentee voters list must be deleted from the permanent absentee voters list if: (a) the elector notifies the Designated Election Official that he or she no longer wishes to vote by absentee voter's ballot; or (b) the absentee voter's ballot sent to the elector is returned to the Designated Election Official as undeliverable; or (c) the elector has been deemed "inactive" pursuant to §1-2-605, C.R.S.; or (d) the person is no longer eligible to vote in the district. *§1-13.5-1004(2), C.R.S.*

If there is no Designated Election Official presently appointed in the local government, the Secretary of the local government shall process the application for permanent absentee status in accordance with §§1-13.5-1003(1) and (2), C.R.S.

9. **Watchers:**
Each candidate for office and any Issue Committee for the proponents and opponents of a ballot issue or ballot question are entitled to appoint one person to act as a Watcher in every polling place in which they are a candidate or in which the issue or question is on the ballot. The names of persons appointed to serve as Watchers shall be certified to the Designated Election Official on forms provided by the Designated Election Official. Watchers must be eligible electors of the district. *§1-13.5-602, C.R.S.*

Neither a current candidate for Director nor any immediate family member, to the second degree, of such candidate is eligible to serve as a Watcher for that candidate. *§1-13.5-602(1)(a)(I), C.R.S.*

10. **Ballots and Voting Machines:**
The Board may authorize the use of voting machines. *§1-13.5-701, C.R.S.*

The Designated Election Official must have available the printed ballots at least 30 days prior to the election. *§1-13.5-902(1)(a), C.R.S.*

The Designated Election Official shall prepare and deliver to the polling places sufficient equipment and ballots no later than the day before the election. *§§1-13.5-807 and 1-13.5-904, C.R.S.*

The Designated Election Official shall issue absentee ballots upon written request, and shall keep a record of: (i) name of each applicant; (ii) address to which the ballot is to be sent;

(iii) date of receipt of application; (iv) date absentee ballot was sent; (v) date of return of absentee ballot; and (vi) stub number of ballot sent. *§1-13.5-1004(1), C.R.S.*

Absentee ballots, sealed in return envelopes, shall be returned to the Designated Election Official or an Election Judge no later than 7:00 p.m. on the day of election. *§1-13.5-1006(1), C.R.S.*

11. **Eligible Electors:**
Any person desiring to vote at any election shall be required to sign a self-affirmation that he/she is an eligible elector of the district. *§§1-13.5-605(2)(a) and 32-1-806(2), C.R.S.*

An eligible elector for a special district election is a person who is **registered to vote** in the State of Colorado ***and is either:***

a. **A resident** within the district boundaries or area to be included within the district boundaries on Election Day; **or**

b. **The owner (or the spouse or civil union partner of the owner) of taxable real or personal property situated within the district** boundaries or area to be included within the district boundaries. *§§32-1-103(5)(a) and (b), C.R.S.*

A person who is obligated to pay taxes under a contract to purchase taxable property situated within the boundaries of the district or area to be included within the district boundaries is considered an owner for the purposes of 11b above.

The property owner must be a natural person, not a corporation, trust, partnership, etc.

12. **Transferring Property to Qualify Someone as an Eligible Elector:**
No person shall take or place 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, or to fill a vacancy on a Board, or to become a candidate for Director in a special district election except under the following circumstances:

a. A vacancy exists on the Board and no eligible elector files a letter of interest in filling such position within ten days after publication of a notice of such vacancy; or

b. There are more than ten eligible electors in a special district organizational election and, on or after the second day before the deadline for filing the self-nomination and acceptance forms, there are less candidates than the number of Director offices to be voted upon at such election; or

c. There are fewer than 11 eligible electors as of any date before a special district organizational election; or

d. In a regular special district election, on or after the day after the deadline for filing self-nomination and acceptance forms, there are fewer candidates than the number of Director offices to be voted upon at such regular election. *§32-1-808(2)(a), C.R.S.*

13. **Ballot Certification:**
No later than 60 days prior to an election, the Designated Election Official must certify the content of the ballot. For coordinated November elections only, the certification must be delivered to the County Clerk and Recorder of each county that has territory in the district. *§1-13.5-511, C.R.S.*

For elections where candidates will be elected to office, the ballot shall include the names of each candidate who filed a valid self-nomination and acceptance form. The order of the names on the ballot shall be determined by lot drawing. Each candidate shall be notified of the time and place of the lot drawing. *§§1-13.5-511 and 1-13.5-902(2), C.R.S.*

For elections where ballot issue(s) or ballot question(s) will be submitted to the electors, such ballot issue or ballot question must be printed on the ballot following the list of candidates (if any) and in the order of: issues to increase taxes, issues to increase debt, and any other referred measure. *§1-13.5-902(7), C.R.S.*

After the order of the ballot and ballot content has been certified, the Designated Election Official may recertify the ballot if a candidate withdraws from a race, and the withdrawal would not change the order that the candidate names appear on the ballot as previously determined by the lot or drawing, or there are technical revisions to a ballot issue or ballot question prior to the ballots being printed. *§1-13.5-511(2), C.R.S.*

14. **Election Returns and Canvass Board:**
For polling place elections, upon the close of the polls on Election Day (unless Counting Judges have been appointed), the Election Judges shall count the votes cast and prepare an abstract of the election results, which shall be immediately posted at each polling place until 48 hours after the election. For mail ballot elections, counting of the mail ballots may begin 15 days prior to the election. The Election Judges shall also issue a certification of election results and submit it to the Designated Election Official. *§§1-13.5-613, 1-13.5-615, and 1-13.5-1107, C.R.S.*

At least 15 days prior to an election that is not a coordinated election, the Designated Election Official shall appoint at least one Board member and at least one eligible elector who is not a Board member to assist the Designated Election Official in canvassing the votes. To the fullest extent possible, no member of the Canvass Board nor the member's spouse or civil union partner shall have a direct interest in the election. *§§1-13.5-1301(1) and (2), C.R.S.* For coordinated elections, the Canvass Board shall be appointed in accordance with the intergovernmental agreement between the governing bodies holding the election. Within 14 days after the election, the Canvass Board must meet to canvass the votes and issue the Official Abstract of Votes Cast. *§§1-13.5-1305(1) and (2), and 32-1-104(1), C.R.S.* Each member of the Canvass Board, except district Board members, shall receive a minimum fee of $15 for each day that person is acting in the capacity of a member of the Canvass Board. *§1-13.5-1301(4), C.R.S.*

The Designated Election Official shall notify the candidates of their election to office. The results of the election shall be certified to the Division of Local Government; along with the certification, the district shall also provide the business address and telephone number of the district, and the name of a contact person. *§§1-13.5-1305(2) and 32-1-104(1), C.R.S.*

For debt authorization elections, the election results must be certified within 45 days after the election to the Board of County Commissioners of each county in which the district is located or to the governing body of the municipality that approved the service plan, and to the Division of Securities. *§32-1-1101.5(1), C.R.S.*

The Board shall preserve all sealed ballots, election materials, and records for a period of at least 25 months after the election or until the time has expired for which the records are needed for any contest proceeding, whichever is later. *§1-13.5-616(1)C.R.S.* All other official records and forms shall be preserved for at least six months following the date when the polls closed. *§1-13.5-616(2), C.R.S.*

15. **Recounts and Contests:**
Automatic recounts are ordered by the Designated Election Official if the difference between the first and second place finishers are one-half of one percent or less. Automatic recounts must be completed no later than 28 days following the election or 40 days after the election, depending on whether the election is under the Colorado Local Government Election Code or the Uniform Election Code of 1992. Automatic recounts are paid for by the governing body. If an automatic recount is not required, an interested party can request a recount at the interested party's expense. Requests for a recount must be filed within 17 days after the election. *§§1-10.5-104 and 1-13.5-1306, C.R.S.* Election results may be contested in District Court if contests are filed within ten days after the official survey of returns, the expiration of the period within which a recount may be requested, or within ten days after the conclusion of a recount, whichever is later. *§§1-11-213 and 1-13.5-1403, C.R.S.*

16. **Cancellation:**
If the only matter before the electors is the election of Directors and if at the close of business on the 63rd day prior to the date of the regular special district election or at any time thereafter, there are not more candidates than offices to be filled, including candidates filing affidavits of intent, the election may be cancelled by the Designated Election Official if so instructed by resolution of the Board. The Designated Election Official shall declare the candidates elected to the Board. *§1-13.5-513(1), C.R.S.* Notice of the cancellation must be published one time prior to the election and posted at each polling place of the district and in the offices of the County Clerk and Recorder for each county in which the district is located, and in the office of the Designated Election Official. A copy of the notice shall be filed with the Division of Local Government. The candidates must be notified that the election was cancelled, that they were elected by acclamation, and that they take office after the election day. *§1-13.5-513(6), C.R.S.*

If the only matter before the electors is the consideration of ballot issue(s) or ballot question(s), the Board may cancel the election no later than 25 days prior to a coordinated November election or at any time prior to any other election. Notice of the cancellation must be published and posted as indicated above. *§1-13.5-513(6), C.R.S.*

If the Board of Directors has adopted a resolution to divide the special district into director districts and has designated that the Directors representing the director districts must be elected by eligible electors within each director district, then the Designated Election Official may cancel the election for one or more of the director districts. Each director district must contain the conditions listed in the first paragraph of this Number 16 and all ballot issues or questions, if any, must have been withdrawn from the ballot. *§1-13.5-513(3.5)(a), C.R.S.; SB25-172.*

No election may be cancelled in part. *§1-13.5-513(4), C.R.S.*

17. **Directors Take Office:**
The Designated Election Official shall notify the candidates of their election to office. After the oath or affirmation of office and any required bond are filed with the District Court having jurisdiction over the special district, the Division of Local Government, and the County Clerk and Recorder, the Designated Election Official shall make a formal certificate of election for each person who was elected and shall deliver the certificate to that person. *§1-13.5-1305(1) and (2), and 32-1-901, C.R.S.; Art. XII, Sect. 9, Colo. Const.*

The term of office of each newly elected person shall commence at the next meeting of the Board after the date of the election, but not later than 30 days after the date that the election results are certified pursuant to §1-13.5-1305, C.R.S., upon the signing of an oath or affirmation, filing such oath or affirmation with the County Clerk and Recorder of each County in which the district is located, and posting of a bond or policy of crime insurance. *§§24-12-101 and 24-14-102(2), C.R.S.*

If the election was cancelled, the term of office of the persons declared elected shall commence at the next meeting of the Board following the date of the election, but no later than 30 days following the date of the election, upon the signing of an oath or affirmation, filing such oath or affirmation with the County Clerk and Recorder of each county in which the district is located, and posting of a bond or policy of crime insurance. *§§1-13.5-112, 24-12-101, and 24-14-102(2), C.R.S.*

J. Recall

Any Director who has held office for at least six months may be subject to recall. *§32-1-906, C.R.S.*

In order to recall a Director, a petition signed by the lesser of 300 or 40% of eligible electors must be filed asserting the grounds for recall, and a recall election must be held pursuant to the provisions of Part 9 of Article 1, Title 32, C.R.S.

Part 9 of Article 1 of Title 32 establishes procedures for conducting a recall election. It clarifies the process for review and approval of recall petitions; the appointment of a Designated Election Official and the procedures and duties of the Designated Election Official; sets forth a timeline and deadlines for the completion of the recall process; scheduling and conducting the recall election; nomination of candidates to succeed the person being recalled and including the election of a successor on the same ballot; payment of costs of the election; and reimbursement of some costs.

If the District Court appoints a County Clerk as the Designated Election Official, the recall procedures and election must be conducted under Article 12 of Title 1, except certain provisions of Part 9 of Article 1 of Title 32 will still apply. *§32-1-909(2), C.R.S.*

The election of a successor is held at the same time as the recall election. *§32-1-911, C.R.S.*

K. Campaigning

Under the Fair Campaign Practices Act ("FCPA"), Article 45 of Title 1, C.R.S., districts may not make contributions or contributions in kind to campaigns involving the nomination, retention, or election of any person to any public office, or to urge electors to vote in favor of or against any issue before the electorate.

A Board member may expend not more than $50 of district funds on letters, telephone calls, or other activities incident to making statements or answering questions concerning the issue.

Districts may, however, expend public monies or make contributions in kind to dispense fair and balanced information on any issue of official concern before the electorate. This information must be factual; must include arguments both for and against the proposal; and cannot contain a conclusion or opinion in favor of or against any issue addressed.

The Board is permitted to adopt a resolution of advocacy on any ballot issue or referred measure, and report the adoption of the resolution by customary means other than paid advertising.

The statutes do not prohibit a public employee or Board member from working on a campaign or speaking out on an issue on his or her own time, or spending his or her own funds to urge electors to vote in favor of or against any issue before the electorate.

The statutes also restrict the activities of campaign committees and require the filing of certain reports. In 2022, SB22-237 amended the FCPA to clarify when an organization is considered to have made a contribution to a ballot measure campaign or issue committee that would trigger the requirement to file these reports, including that contributions are specific to the committee and the direct ballot issue or question, as well as that any person who spends $5,000 in a calendar year on a direct ballot issue or question must file a report and disclose their name in certain communications about the ballot issue or question.

L. Election Calendar

Date	Summary
To initiate election process	Adopt Election Resolution.
January 1	Earliest day to file self-nomination and acceptance form with Designated Election Official ("DEO").
150 days prior to regular special district election	Obtain list of registered voters from County Clerk and Recorder ("CCR") for purposes of mailing or emailing Call for Nominations.
100 days prior to coordinated election	Notify County Clerk and Recorder of participation in November coordinated election.
100-75 days prior to regular special district election	Publish Call for Nominations one time and one other authorized method. Metropolitan districts organized after January 1, 2000 must mail or email the notice and provide notice by one other authorized method.
70 days prior to coordinated election	Enter into intergovernmental agreement with CCR for November coordinated election.
67 days prior to regular special district election	Last day to file self-nomination and acceptance forms with DEO.
64 days prior to regular special district election	Last day to file affidavit of intent to be a write-in candidate with DEO.
63 days prior, after close of business	Regular special district election may be cancelled if there are no more candidates than positions to be filled, and there are no ballot issues or ballot questions.
60 days prior	Certify ballot content. Such certification shall be filed with the CCR for November coordinated elections.
55 days prior to independent mail ballot election	Mail ballot plan for an independent mail ballot election must be on file at the office of the DEO and available to the public.
Friday before 45th day prior at 12:00 p.m.	Deadline for acceptance of written comments for or against a TABOR ballot issue.
45 days prior	Earliest date to conduct Election Judge training. Mail, email, or fax absentee ballots to those eligible electors of the district who have applied for and are designated as a "covered voter" under the Uniform and Overseas Citizens Absentee Voting Act ("UOCAVA").
43 days prior	For November coordinated election, the DEO shall deliver the district's TABOR Notice to the CCR.
40 days prior	For elections not conducted in November, overlapping special districts conducting a ballot issue election shall confer regarding the preparation of the TABOR Notice and enter into an agreement for the preparation and mailing of the TABOR Notice to the addresses of all active registered electors in the overlapping area. The DEO shall order the voter registration and property owners lists.
30 days prior	Mail TABOR Notice to address of each active registered elector of district. If so requested, CCR shall certify and deliver an initial voter registration list. If so requested, County Assessor shall certify and deliver an initial list of all recorded owners of taxable real and personal property within the district. The DEO shall have printed ballots available.
72 hours after ballots received	Mail absentee ballot to each eligible elector listed on the district's permanent absentee voter list.

Date	Summary
Not sooner than 22 days prior	Begin mailing to each active eligible elector a mail ballot package. Mail ballots shall also be made available at the DEO's office for eligible electors.
20 days prior	Publish Notice of Election one time. Also post a copy of the notice in a conspicuous place in the DEO's office until after the election. Mail or email a copy of Notice of Election to the CCR of each county in which the district is located. If so requested, CCR shall certify supplemental or complete voter registration list. If so requested, County Assessor shall certify supplemental or complete property owners list. For debt obligation elections, post notice of additional financial information on district's website or in chief administrative office of the district if the district has no website. Post sign at each polling location.
15 days prior	Last day to mail a ballot package to each active eligible elector. Appoint Canvass Board. Last day to appoint Election Judges, certify list of Election Judges, and mail acceptance form to each person appointed. Counting of mail ballots may begin.
6 days prior	If so requested, CCR shall certify complete voter registration list. If so requested, County Assessor shall certify complete property owners list.
Tuesday preceding the election	Deadline for filing applications for absentee voter ballot.
Election Day	Counting Judges may begin counting anytime during the day. If there are no Counting Judges, as soon as the polls close, the Election Judges may proceed to count the ballots.
No later than 8 days after election	Last day to receive voted absentee ballot from UOCAVA eligible electors.
No later than 14 days after election	For elections not coordinated by the CCR, the Canvass Board shall meet, survey the returns, and certify the final election results. For regular special district elections, transmit a copy of the certified election results to each person declared elected. File the certification of election results with the Division of Local Government ("DLG").
No later than 22 days after election	For November coordinated elections, County Canvass Board shall finalize election results. File the certification of election results with DLG.
No later than 30 days after certification of election results, or 30 days after date of election if election is cancelled	Newly elected Directors take oath of office or affirmation.
No later than 45 days after election	If a debt authorization election was conducted, file election results with the Board of County Commissioners or the municipality that approved the service plan and with the Division of Securities.

Chapter XVI
Dissolution of a District

Dissolution of a special district may be initiated in a number of ways, including by the Board of Directors, or by application to the Board from the electors, the municipality, or a regional service authority providing the same services as the special district. A special district can also be dissolved by the Division of Local Government in certain circumstances. *§32-1-701, et seq., C.R.S.*

A. Dissolution Initiated by the Board of Directors

A majority of all members of the Board of Directors may initiate dissolution by filing a Petition for Dissolution with the District Court having jurisdiction over the special district. *§32-1-701(1)(a), C.R.S.*

The Board of Directors must hold a public hearing for residents in any unincorporated area of the district if any portion of the district is located within the boundaries of a municipality. This hearing must occur before the negotiation of any agreement for the continuation of such services. *§32-1-702(4)(b)(II), C.R.S.*

B. Dissolution Initiated by Electors

For special districts with 25,000 or fewer persons, 5% or 250 of the eligible electors (whichever is fewer) may file an application with the Board to dissolve the special district. For special districts with more than 25,000 persons, 3% of the eligible electors must sign the application. The application must meet the statutory requirements. *§§31-11-106 and 32-1-701(2)(b), C.R.S.*

C. Dissolution Initiated by Municipality, County, or Regional Service Authority

If 85% of the special district lies wholly within a municipality, the municipality's governing body may file an application with the Board of Directors to dissolve the special district. *§32-1-701(3), C.R.S.*

If the special district lies wholly within a county, the county's governing body may file an application with the Board of Directors to dissolve the special district. When the special district lies wholly within more than one county, two or more counties may jointly file the dissolution application with the Board of Directors. *§§32-1-701(3.5) and (3.7), C.R.S.*

If the special district lies wholly within a regional service authority and such service authority provides the same service provided by the special district, the service authority may file an application with the Board of Directors to dissolve the special district. When the special district lies wholly within more than one regional service authority, two or more service authorities may jointly file the dissolution application with the Board of Directors. *§§32-1-701(4) and (5), C.R.S.*

The petitioning entity must submit a cash bond of $300 to the Board of Directors with the dissolution application. *§32-1-701(6), C.R.S.*

D. Requirements for Petition for Dissolution

The Board of Directors must file a Petition for Dissolution with the District Court within 60 days of the filing of the application. The Petition for Dissolution must contain the following information:

1. A general description of and a map showing the boundaries and extent of the territory within the district;
2. A current financial statement of the district. If applicable, the financial statement must contain a certificate that the district has no financial obligations or outstanding bonds;
3. A plan for final disposition of the assets of the district and for the payment of the financial obligations and any outstanding bonds of the district;
4. A statement as to whether the services of the district are to be continued and, if so, by what means. If applicable, the Petition must include a plan specifically providing that the services are to be continued by another entity and an agreement for services with such entity; and
5. A statement as to whether the existing Board of Directors, or portion thereof, shall continue in office.
   §32-1-702, C.R.S.

E. District Court Hearing

The District Court must hold a hearing on the Petition and Plan for Dissolution within 50 days after the filing of the Petition. *§32-1-703(2), C.R.S.*

The District Court must publish notice of the hearing and mail notice 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. *§32-1-703, C.R.S.*

If services will be continued after dissolution, the entity assuming responsibility for the services must enter its appearance with the District Court. *§32-1-704(1), C.R.S.*

F. Dissolution Election

The District Court will order an election in the district on the question of dissolution if:

1. The district has no financial obligations or outstanding bonds, or the district's financial obligations and outstanding bonds will be adequately provided for prior to dissolution and an adequate Plan for Dissolution exists for continuation of services, if required; or
2. 10% or 100 of the eligible electors (whichever is fewer) petition the Court for a special election; or
3. An adequate Plan for Dissolution exists that provides for the payment of the financial obligations and outstanding bonds of the district and for the continuation of services, if required.

The District Court will enter an Order dissolving the district without an election if (i) the district lies wholly within the boundaries of a municipality or county; (ii) the district has no financial obligations or outstanding bonds; and (iii) the Board of Directors of the district and the governing body of the municipality or county consent to the dissolution. When 85% or more of the district lies within the corporate limits of one or more municipalities, the District Court will also enter an Order dissolving the district without an election if the governing bodies of the Board of Directors of the district, the governing body of the county, and the governing body of the municipality(ies) consent to the dissolution. *§32-1-704, C.R.S.*

G. Dissolution by Division of Local Government

The Division of Local Government may initiate the dissolution process by providing notice to a special district if the district has no outstanding debt and has failed to do any of the following: (i) to hold or properly cancel an election; (ii) to adopt a budget for two consecutive years; (iii) to meet the audit requirements of §29-1-601, *et seq.,* C.R.S., for two consecutive years; (iv) to provide or attempt to provide any of the services or facilities for which it was organized for two consecutive years. If a district does not respond within 30 days of the notice, the Division of Local Government may submit a declaration of dissolution to the District Court for approval. *§32-1-710, C.R.S.*

H. Recording and Filing of Order of Dissolution

No dissolution is effective until a certified copy of the District Court's final Order of Dissolution is recorded in each county in which the district is located. A copy of the recorded Order shall be filed with the Division of Local Government and the County Assessor for each county in which the district is located. *§§32-1-105 and 32-1-707(5), C.R.S.*

SDA

Supporting Community-Based Government

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SDA

2025 BOARD MEMBER MANUAL

A Reference Guide for Special Districts

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