

Note: This document contains **MOST** of CRS Section 32 it **DOES NOT** include all Sections

## **32-1-101. Short title.**

This article shall be known and may be cited as the "Special District Act".

## **32-1-102. Legislative declaration.**

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

(2) The general assembly further declares that the procedures contained in part 2 of this article are necessary for the coordinated and orderly creation of special districts and for the logical extension of special district services throughout the state. It is the purpose of part 2 of this article to prevent unnecessary proliferation and fragmentation of local government and to avoid excessive diffusion of local tax sources.

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

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

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

## **32-1-103. Definitions.**

As used in this article, unless the context otherwise requires:

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

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

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

(2.5) "Depository institution" means:

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

(b) A trust company or other institution that is authorized by federal or state law to exercise fiduciary powers of the type that a national bank is permitted to exercise under the authority of the comptroller of the currency and that is supervised and examined by an official or agency of a state or the United States. The term does not include an insurance company or other organization primarily engaged in the insurance business.

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

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

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

(I) Who has been a resident of the special district or the area to be included in the special district for not less than thirty days; or

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

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

(c) Repealed.

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

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

(6) Repealed.

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

(a) A depository institution;

(b) An insurance company;

(c) A separate account of an insurance company;

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

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

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

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

(h) An entity, but not an individual, a substantial part of whose business activities consists of investing, purchasing, selling, or trading in securities of more than one issuer and not of its own issue and that has total assets in excess of five million dollars as of the end of its last fiscal year; and

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

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

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

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

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

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

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

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

(a) Fire protection;

(b) Mosquito control;

(c) Parks and recreation;

(d) Safety protection;

(e) Sanitation;

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

(g) Street improvement;

(h) Television relay and translation;

(i) Transportation;

(j) Water.

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

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

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

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

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

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

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

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

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

(18) "Sanitation district" means a special district that provides for storm or sanitary sewers, or both, flood and surface drainage, treatment and disposal works and facilities, or solid waste disposal

facilities or waste services, and all necessary or proper equipment and appurtenances incident thereto.

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

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

(20) "Special district" means any quasi-municipal corporation and political subdivision organized or acting pursuant to the provisions of this article. "Special district" does not include any entity organized or acting pursuant to the provisions of article 8 of title 29, article 20 of title 30, article 25 of title 31, or articles 41 to 48 of title 37, C.R.S.

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

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

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

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

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

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

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

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

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

### **32-1-104. Establishment of a special districts file.**

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

(2) On or before January 15 of each year, a special district shall notify the board of county commissioners, the county assessor, the county treasurer, and the county clerk and recorder of each county in which the special district is located, the governing body of any municipality in which the special district is located, and the division of the name of the chairman of the board, the contact person, the telephone number, and the business address of the special district. If such persons and address are not located within the special district, the special district shall notify each such county clerk and recorder and municipality's governing body of the name, address, and telephone number of a contact person located within the special district, if such person is available.

### **32-1-105. Notice of organization, dissolution, or boundary change.**

No organization, dissolution, or change in the boundaries of any special district shall be effective until the decree or order confirming such action, together with a description of the area concerned, is recorded by the county clerk and recorder of the county in which the organization, dissolution, or change in the boundaries took place. The county clerk and recorder shall notify the county assessor of any such action. A certified copy of such notice shall also be filed with the division by the county clerk and recorder.32-1-106. Repetitioning of elections - time limits.

(1) If, after any election for the organization or dissolution of any special district or for the inclusion of territory into a special district pursuant to section 32-1-401(2) or for the exclusion of property within a municipality from a special district pursuant to section 32-1-502, it appears that

the proposal was defeated, no new petition for the organization or dissolution, as the case may be, of such a special district embracing the same or substantially the same area and no new petition for inclusion or exclusion, as the case may be, of territory pursuant to sections 32-1-401(2) and 32-1-502 shall be submitted again until the expiration of eight months after the date of the election at which the proposal was defeated.

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

## **32-1-107. Service area of special districts.**

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

(2) Except as provided in subsection(3) of this section, no special district may be organized wholly or partly within an existing special district providing the same service. Nothing in this subsection(2) shall prevent a special district providing different services from organizing wholly or partly within an existing special district. Except as provided in subsection

(3) of this section, a metropolitan district may be organized wholly or partly within an existing special district, but a metropolitan district shall not provide the same service as the existing special district.

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

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

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

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

(III) The improvements or facilities to be financed, established, or operated by the overlapping special district for the provision of the same service as the existing special or metropolitan district



do not duplicate or interfere with any other improvements or facilities already constructed or planned to be constructed within the portion of the existing special or metropolitan district that the overlapping special district overlaps or will overlap; and

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

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

### **32-1-108. Correction of faulty notices.**

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

### **32-1-109. Early hearings.**

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

### **32-1-110. Construction of other laws.**

If any provisions of this article are inconsistent with the provisions of any other law, the provisions of this article shall be controlling.

### **32-1-111. Validation of special districts - bonds.**

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

### **32-1-112. Validation of boundaries of metropolitan districts.**

All changes or purported changes to the corporate boundaries of existing metropolitan districts, which changes were initiated prior to March 1, 1981, and are completed prior to July 1, 1981, are

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

### **32-1-113. Liberal construction.**

This article, being necessary to secure the public health, safety, convenience, and welfare, shall be liberally construed to effect its purposes.

# PART 2

## CONTROL ACT

### **32-1-201. Applicability.**

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

32-1-202. Filing of service plan required - report of filing - contents - fee.

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

(b) Notwithstanding the requirements of paragraph (a) of this subsection

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

(2) The service plan shall contain the following:

(a) A description of the proposed services;

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

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

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

(e) A general description of the facilities to be constructed and the standards of such construction, including a statement of how the facility and service standards of the proposed special district are compatible with facility and service standards of any county within which all or any portion of the proposed special district is to be located, and of municipalities and special districts which are interested parties pursuant to section 32-1-204(1);

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

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

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

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

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

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

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

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

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

### **32-1-203. Action on service plan - criteria.**

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

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

(b) To disapprove the service plan submitted;

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

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

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

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

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

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

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

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

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

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

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

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

(3) The board of county commissioners may conditionally approve the service plan of a proposed special district upon satisfactory evidence that it does not comply with one or more of the criteria enumerated in subsection (2) of this section. Final approval shall be contingent upon modification of the service plan to include such changes or additional information as shall be specifically stated in the findings of the board of county commissioners.

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

Any request for exclusion shall be acted upon before final action of the county commissioners under section 32-1-205.

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

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

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

#### 32-1-204. Public hearing on service plan - procedures - decision.

(1) The board of county commissioners shall provide written notice of the date, time, and location of the hearing to the petitioners and the governing body of any existing municipality or special district that has levied an ad valorem tax within the next preceding tax year and that has boundaries within a radius of three miles of the proposed special district boundaries, which governmental units shall be interested parties for the purposes of this part 2. The board of county commissioners shall make publication of the date, time, location, and purpose of the hearing, the first of which shall be at least twenty days prior to the hearing date. The board of county commissioners shall include in the notice a general description of the land contained within the boundaries of the proposed special district and information outlining methods and procedures pursuant to section 32-1-203(3.5) concerning the filing of a petition for exclusion of territory; except that, if the hearing is to review a service plan for a health service district or health assurance district, the notice shall not include information regarding filing a petition for exclusion of territory. The publications shall constitute constructive notice to the residents and property owners within the proposed special district who shall also be interested parties at the hearing.

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

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

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

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

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

## **32-1-204.5. Approval by municipality.**

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

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

(b) To disapprove the service plan submitted;



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

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

### **32-1-204.7. Approval by an annexing municipality.**

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

(2) Upon the adoption of the resolution by the governing body of any municipality pursuant to subsection (1) of this section, all powers and authorities vested in the board of county commissioners pursuant to this article shall be transferred to the governing body of the municipality, which shall constitute the approving authority for the special district for all purposes under this article. 32-1-205. Resolution of approval required.

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

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

(1) If the petitioners for the organization of a proposed special district fail to secure such resolution of approval in the first instance or on remand from any board of county commissioners or, where required pursuant to section 32-1-204.5, from the governing body of any municipality, the

petitioners may request the court to review such action. If the court determines such action to be arbitrary, capricious, or unreasonable, the court shall remand the matter back to the board of county commissioners or to the governing board of the municipality for further action with specific direction as necessary to avoid the arbitrary, capricious, or unreasonable result. Another public hearing shall be held with notice to interested parties as defined in section 32-1-204(1).

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

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

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

(2) After the organization of a special district pursuant to the provisions of this part 2 and part 3 of this article, material modifications of the service plan as originally approved may be made by the governing body of such special district only by petition to and approval by the board of county commissioners or the governing body of the municipality that has adopted a resolution of approval of the special district pursuant to section 32-1-204.5 or 32-1-204.7 in substantially the same manner as is provided for the approval of an original service plan; but the processing fee for such modification procedure shall not exceed two hundred fifty dollars. Such approval of modifications shall be required only with regard to changes of a basic or essential nature, including but not limited to the following: Any addition to the types of services provided by the special district; a decrease in the level of services; a decrease in the financial ability of the district to discharge the existing or proposed indebtedness; or a decrease in the existing or projected need for organized service in the area. Approval for modification shall not be required for changes necessary only for the execution of the original service plan or for changes in the boundary of the special district; except that the inclusion of property that is located in a county or municipality with no other territory within the special district may constitute a material modification of the service plan or the statement of purposes of the special district as set forth in section 32-1-208. In the event that a special district changes its boundaries to include territory located in a county or municipality with no other territory within the special district, the special district shall notify the board of county commissioners of such county or the governing body of the municipality of such inclusion. The board of county commissioners or the governing body of the municipality may review such inclusion and, if it determines that the inclusion constitutes a material modification, may require the governing body of such special district to file a modification of its service plan in accordance with the provisions of this subsection(2).

(3)(a) Any material departure from the service plan as originally approved or, if the same has been modified, from the service plan as modified, which constitutes a material modification thereof as set forth in subsection(2) of this section, may be enjoined by the court approving the organization

of such special district upon its own motion, upon the motion of the board of county commissioners or governing body of a municipality from which a resolution of approval is required by this part 2, or upon the motion of any interested party as defined in section 32-1-204(1).

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

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

(d) Any special district created on or after July 1, 1991, shall annually file the report specified in paragraph (c) of this subsection (3) with the board of county commissioners or the governing body of the municipality that has adopted a resolution of approval of the special district pursuant to section 32-1-204.5 or 32-1-204.7 for five years after its organization and for succeeding annual periods, if so requested by the board of county commissioners or the governing body of the municipality. The annual report shall also be filed with the division and with the state auditor. The state auditor shall review the annual report and report any apparent decrease in the financial ability of the district to discharge its existing or proposed indebtedness in accordance with the service plan to the division. In such event, the division shall confer with the board of the special district and the board of county commissioners or the governing body of the municipality regarding such condition.

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

## **32-1-208. Statement of purposes - districts without service plans.**

(1) On or before July 1, 1986, any special district which does not have a service plan approved pursuant to this part 2 shall file a statement of purposes in the form set forth in subsection (2) of this section with the board of county commissioners of each county and governing body of each municipality which has territory included within the boundaries of the special district and with the division. The statement of purposes shall be accepted by such board of county commissioners and by such governing body of each municipality without any requirement for hearing thereon. The following documents shall be deemed to be the statement of purposes required by this section for any special district which does not have a service plan approved pursuant to this part 2 because it was at the time of organization confined exclusively within the boundaries of a municipality, and no new statement of purposes need be filed by the special district except as required by subsection (3) of this section:

- (a) The petition for organization;
- (b) The resolution or ordinance of the governing body of the municipality approving the special district;
- (c) Any agreements between the municipality and the district; and
- (d) Any plans filed with the municipality describing the services to be provided by the special district.

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

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

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

### 32-1-209. Submission of information.

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

district and authorize the county treasurer to prohibit release of any such moneys until the special district complies with such requirements

# PART 3

## ORGANIZATION

### **32-1-301. Petition for organization.**

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

(2) The petition shall set forth:

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

(I) Ambulance district;

(I.1) Fire protection district;

(II) Health service district;

(III) Metropolitan district;

(IV) Park and recreation district;

(V) Sanitation district;

(VI) Water and sanitation district;

(VII) Water district;

(VIII) Tunnel district;

(IX) Mental health care service district;

(X) Health assurance district.

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

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

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

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

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

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

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

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

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

## **PART 4**

### **INCLUSION OF TERRITORY**

#### **32-1-401. Inclusion of territory - procedure.**

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

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

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

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

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



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

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

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

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

(d) If the petition is granted or the resolution finally adopted, the board shall make an order to that effect and file the same with the clerk of the court. A municipality or county which has filed a written objection to the inclusion and which can provide adequate service to the real property described in the petition within a reasonable time and on a comparable basis may bring an action in the court, commenced within thirty days after entry of the order of the board, to determine whether the action of the board granting the inclusion was arbitrary, capricious, or unreasonable. The court shall direct that the question of inclusion of the area within the special district be submitted to the eligible electors of the area to be included and shall order the secretary to give published notice, as provided in part 2 of article 5 of title 1, C.R.S., of the time and place of the election and of the question to be submitted, together with a summary of any conditions attached to the proposed inclusion. The election shall be held within the area sought to be included and shall be held and conducted, and the results thereof determined, in the manner provided in title 1, C.R.S. The ballot shall be prepared by the designated election official and shall contain the following words:

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

(Insert description of area)

(Insert accurate summary of conditions)

For inclusion .....

Against inclusion ....."

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

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

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

(3) Not more than thirty days nor less than twenty days prior to a meeting of the board held pursuant to paragraph (b) of subsection (1) of this section or paragraph (b) of subsection (2) of this section, the secretary of the special district shall send letter notification of the meeting to the property owners within the area proposed to be included within the special district as listed on the records of the county assessor on the date requested unless the petitioners represent one hundred percent of the property owners. The notification shall indicate that it is a notice of a meeting for consideration of the inclusion of real property within a special district and shall indicate the date, time, location, and purpose of the meeting, a reference to the type of special district proposed for inclusion, the maximum mill levy, if any, or stating that there is no maximum that may be imposed if the proposed area is included within the special district, and procedures for the filing of a petition for exclusion pursuant to section 32-1-203 (3.5). Except as provided in this subsection

(3), the mailing of the letter notification to all addresses or post office box addresses within the area proposed to be included within the special district shall constitute a good-faith effort to comply with this section, and failure to notify all electors thereby shall not provide grounds for a challenge to the meeting being held.

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

adopted or waiver so given shall be appended to any petition filed pursuant to paragraph (a) of subsection (1) of this section or subparagraph (I) of paragraph (a) of subsection (2) of this section.

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

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

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

32-1-402. Effect of inclusion order.

(1) The following shall be applicable to any proceeding for inclusion accomplished pursuant to this part 4:

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

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

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

special district with respect to the fees, charges, terms, and conditions on which such property may be included.

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

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

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

## **PART 5**

### **EXCLUSION OF TERRITORY**

#### **32-1-501. Exclusion of property by fee owners or board - procedure.**

(1) The boundaries of a special district, except health service districts, may be altered by the exclusion of real property by the fee owner or owners of one hundred percent of any real property situate in the special district filing with the board a petition requesting that such real property of the fee owner or owners be excluded and taken from the special district. The petition shall set forth a legal description of the property, shall state that assent to the exclusion of the property from the special district is given by the fee owner or owners thereof, and shall be acknowledged by the fee owner or owners in the same manner as required for conveyance of land. The petition shall be accompanied by a deposit of money sufficient to pay all costs of the exclusion proceedings.

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

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

(II) The letter notification shall indicate that it is a notice of a meeting required to be held pursuant to subsection

(2) of this section concerning the exclusion of the property from the district, shall indicate the date, time, and location of the meeting, and shall contain both a reference to the fire protection district or county fire improvement district proposed for inclusion and the current mill levy of the district, if any.

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

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

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

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

(I) The property to be excluded;

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

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

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

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

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

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

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

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

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

(4)(a)(I) Except as provided in subparagraph(II) of this paragraph(a) and if the board, after considering all of the factors set forth in subsection (3) of this section, determines that the property

described in the petition or resolution or some portion thereof should be excluded from the special district, it shall order that the petition be granted or that the resolution be finally adopted, in whole or in part.

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

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

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

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

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

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

(Insert general description of area)

(Insert accurate summary of conditions)

For exclusion from \_\_\_\_\_ district and inclusion  
in \_\_\_\_\_ district \_\_\_\_\_  
Against exclusion from \_\_\_\_\_ district \_\_\_\_\_ "

(II) If a majority of the votes cast at the election pursuant to subparagraph(I) of this paragraph (c) are in favor of exclusion to become a part of another district and the court determines the election was held in accordance with title 1, C.R.S., the court shall enter an order with any conditions so prescribed excluding the area from the special district and including it in the fire protection district or county fire improvement district with a higher mill levy. The validity of the exclusion to become a part of another district may not be questioned directly or indirectly in any suit, action, or proceeding, except as provided in article 11 of title 1, C.R.S.(d) The order of exclusion entered pursuant to paragraph (b) or (c) of this subsection (4) shall recite in the findings a description of any bonded indebtedness in existence immediately preceding the effective date of the order for which the excluded property is liable and the date that the bonded indebtedness is then scheduled to be retired. After July 1, 1993, failure of the order for exclusion to recite the existence and scheduled retirement date of the indebtedness, when due to error or omission by the special district, shall not constitute grounds for correction of the omission of a levy on the excluded property from the assessment roll pursuant to section 39-5-125, C.R.S.(5) (a) If the board, after considering all of the factors set forth in subsection (3) of this section, determines that the property described in the petition or resolution should not be excluded from the special district, it shall order that the petition be denied or that the resolution be rescinded.

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

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

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

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

## **32-1-502. Exclusion of property within municipality - procedure.**



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

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

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

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

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

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

(c) The governing body of the municipality and the board shall each submit a plan for the disposition of assets and continuation of services to all areas of the district. Said plans shall include, if applicable, provisions for the maintenance and continuity of facilities to be utilized by the territories both within and without the municipal boundaries and of services to all territories served or previously served by the special district. If the municipality and the special district agree upon a single plan and enter into a contract incorporating its provisions, the court shall review such contract, and if it finds the contract to be fair and equitable, the court shall approve the contract and incorporate its provisions into its exclusion order. The court's review of the provisions of the contract shall include, but not be limited to, consideration of the amount of the special district's outstanding bonds, the discharge by the municipality or the territory excluded from the special district of that portion of the special district's indebtedness incurred to serve the territory proposed for exclusion, the fair market value and source of special district facilities located within the territory proposed for exclusion, the facilities to be transferred which are necessary to serve the territory proposed for exclusion, the adequacy of the facilities retained by the special district to serve the remaining territory of the special district, the availability of the facilities transferred to the municipality for use, in whole or in part, in the remaining territory of the special district, the effect which the transfer of the facilities and assumption of indebtedness will have upon the service provided by the special district in territory which is not part of the exclusion, and the extent to

which the exclusion reduces the services or facilities or increases the costs to users in the remaining territory of the special district.

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

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

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

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

(b) If an election in a water, sanitation, or water and sanitation district or a metropolitan district providing water or sanitation services or both has been held pursuant to subsection (7) of this section and the majority of votes cast favor the municipality providing the service, the municipality and such district shall enter into a contract for the municipality to assume full responsibility for the operation and maintenance of the entire system or systems of such district and to integrate said system or systems with those of the municipality to the largest extent possible. The terms and conditions of service and the rates to be charged by the municipality for said service under the contract shall be uniform with the terms, conditions, and rates for similar service provided by said municipality to other users within the municipality.

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

(5) (a) After the filing of a petition for exclusion under subsection (1) of this section, ten percent or one hundred of the eligible electors of the special district territory proposed for exclusion, whichever number is less, may petition the court for a special election to be held within the special district territory proposed for exclusion on the question of exclusion of the territory described in the petition for exclusion. If a petition for a special election is filed with the court and complies with this subsection (5), the court shall order a special election to be held only after it finds the conditions of paragraphs (a), (c), and (d) of subsection (2) and, if applicable, of subsection (3) or (4) of this section are met. The election shall be held and conducted, and the results thereof determined, in the manner provided in articles 1 to 13 of title 1, C.R.S. The special district shall bear the costs of the election.

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

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

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

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

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

(b) If a majority of the electors voting at such election approve the question requiring the municipality to provide such service, the court shall request the governing body of the municipality and the board to enter into a contract which will govern the providing of the service. The terms and conditions of the contract shall be reviewed and approved by the court, but in no event shall the

terms, rates, and conditions be less equitable than for services supplied by a municipality to any other users within the municipality. The court's review of the contract or, if the municipality and the special district after good faith negotiations are unable to agree upon a contract, the court's order shall be in accordance with the criteria set forth in paragraphs (b), (c), and (d) of subsection (2) of this section. The special district shall continue in existence for the purpose of fulfilling any obligation imposed upon it by the contract with the municipality or otherwise.

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

### **32-1-503. Effect of exclusion order.**

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

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

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

# **PART 6**

## **CONSOLIDATION**

### **32-1-601. Definitions.**

As used in this part 6, unless the context otherwise requires:

- (1) "Concurring resolution" means a resolution passed in accordance with this part 6 by the board of any special district for the purpose of accepting the consolidation resolution.
- (2) "Consolidated district" means a quasi-municipal corporation of this state resulting from the consolidation of two or more special districts; or resulting from the consolidation of one or more of the services of two or more special districts, one of which is not a metropolitan district, which consolidation of services may include the consolidation of all services of a special district with only specified services of one or more special districts; or resulting from the consolidation of one or more of the services of two or more metropolitan districts and may include the consolidation of all services of a metropolitan district with only specified services of another metropolitan district. If a district which provides a single service or water and sanitation services consolidates its service or services with another single service district, no new separate district may be formed.
- (3) "Consolidation resolution" means a resolution passed in accordance with this part 6 by a board of any special district for the purpose of initiating the consolidation of two or more such special districts into a single and consolidated district, the consolidation of one or more of the services of two or more special districts, one of which is not a metropolitan district, or the consolidation of one or more of the services of two or more metropolitan districts.

### **32-1-602. Procedure for consolidation.**

- (1) (a) Two or more special districts may be consolidated into a single consolidated district, and such consolidation may occur between or among such districts whether or not they were originally organized for the same purpose and whether or not such districts are contiguous.  
  
(b) Two or more special districts may consolidate one or more of their services whether or not they were originally organized for the same purpose and whether or not such districts are contiguous.
- (2) Consolidation may be accomplished in the following manner:
  - (a) The board of any special district shall pass a consolidation resolution declaring that such district and any specified special district or districts are so situated that all such districts may operate or that one or more specified services of each of the districts may be operated effectively and

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

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

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

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

of the proposed consolidated district or the provision of new and unwanted service to the petitioner's property by the proposed consolidated district. The court shall hear the petition and all objections to it at the time of the hearing on the consolidation resolution and the concurring resolutions and shall determine whether, in the general public interest and subject to the requirements of section 32-1-503, the property should be excluded or included in the proposed consolidated district.

(e) At the hearing, if the court finds that the consolidation resolution and the concurring resolutions have been properly filed and that the board of each special district desiring to be consolidated or desiring to have specified services consolidated has proceeded in accordance with this part 6, the court shall enter an order ex parte setting an election within each of the consolidating special districts for the approval of the consolidated district by the eligible electors affected by the consolidation at the next regular special district or special election, which shall be held and conducted pursuant to the provisions of articles 1 to 13 of title 1, C.R.S. The order shall require publication of notice as required by section 1-5-207, C.R.S., specifying the name of the consolidated district; the names of the special districts to be consolidated or the name of the district into which specific services are to be consolidated and the names of the special districts presently empowered to provide the services; a summary of any special conditions that may attach to the consolidated district, including any preconsolidation agreements and the provisions included therein regarding the assumption of debt and the approval of any financial obligation, including accrued unfunded pension liability, as debt to remain payable by the taxpayers of the consolidating special district which incurred the obligation or maintained the pension plan to which the accrued unfunded liability attaches; if the consolidated district may be granted the powers of a metropolitan district, the effect of the change and the services a metropolitan district may provide, including any change in maximum mill levies set forth in section 32-1-1101 (1), or, if the mill levy is unlimited, the fact that there is no mill levy limit established by statute; and the area to be included within the consolidated district, which shall be all of the area originally contained within the organization order for each individual special district, together with all areas contained in any inclusions, the consolidated area not to include any area excluded by any special district being so consolidated or by the court pursuant to paragraph (d) of this subsection (2). If two or more districts are to be consolidated and if the consolidated district is to assume metropolitan district powers, the court shall order that the eligible electors vote separately on the question of consolidation and the question of granting the consolidated district the powers of a metropolitan district. If the eligible electors approve consolidation but reject the granting of metropolitan district powers, the consolidated district shall have only those powers granted single-purpose districts providing the same services. If all or part of the outstanding bonded indebtedness of all of the consolidating special districts is to be assumed by the consolidated district, the court shall also order that the eligible electors vote separately on the question of consolidation and the question of assuming the indebtedness at the consolidation election. If the eligible electors approve consolidation but reject the assumption of indebtedness by the consolidated district, the outstanding bonded indebtedness shall remain the obligation of the special district which incurred the bonded indebtedness and shall be paid and discharged by the taxpayers having taxable property within the boundaries of the indebted special district. If a preconsolidation agreement provides that the consolidation shall be contingent upon assumption of debt by the consolidated district, then the consolidation shall not be approved unless the assumption of indebtedness is approved by the eligible electors. If any financial obligation of one or more of

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

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

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

### **32-1-602.5. Consolidation and review by administrative action.**

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

### **32-1-603. Procedure after consolidation election.**



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

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

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

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

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

(3) After making such determinations, the organizational board shall promptly file in the court having jurisdiction as provided in section 32-1-602 (2)

(c) a petition stating the name of the consolidated district, the name and address of each member of the first board of the consolidated district, the term of each member thereof, the amount of the

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

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

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

### **32-1-604. Advisory board members.**

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

### **32-1-605. Special election provisions for consolidated districts.**

(1) The first election of the consolidated district shall be the next regular special district election. Except as otherwise provided in this part 6, nominations and elections for the consolidated district shall be governed by the provisions of article 4 of title 1, C.R.S. (2) (a) For those consolidated districts having seven directors on the board, beginning with the first regular special district election and continuing with each regular special district election thereafter, members of the consolidated board shall be eligible electors of the director district which they represent.

Nominations for a director shall be signed by eligible electors from the director district which the director to be elected is to represent.

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

### **32-1-606. Bonded indebtedness of consolidated districts.**

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

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

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

## **32-1-606.5. Elector approval of financial obligations of consolidating districts.**

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

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

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

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

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

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

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

(3) If approved as debt by the electors at the consolidation election, the financial obligation of the consolidating special district, which becomes part of a consolidated district, shall be paid and discharged by the taxpayers having taxable property within the boundaries of the consolidating special district which incurred the obligation or maintained the pension plan to which the accrued unfunded liability attaches. The board of the consolidated district shall levy a general property tax annually for so long as may be necessary to retire the elector-approved debt.

(4) Nothing in this section shall prevent a consolidated district from being bound by preconsolidation agreements which have been entered into between or among consolidating districts and which have become part of the terms and conditions of consolidation as set forth in the court order under section 32-1-603 (4) including the assumption of any or all of the financial obligations of the consolidating special districts by the consolidated special district.  
32-1-607. Powers.

(1) Subject to the provisions of section 32-1-602 (2) (e), a consolidated district has all of the rights, powers, and authorities which were granted by statute to each of the special districts which are

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

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

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

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

(5) Except as provided in this part 6, any special district which consolidates less than all of its services into a consolidated district may remain in existence and not be affected by the

consolidation proceeding or may, on motion of the board after notice to the court and after providing for the payment of any outstanding indebtedness, be dissolved. If the special district remains in existence, such special district shall no longer possess the power to provide the services so consolidated. If such special district is authorized to provide only a single remaining service, it shall have only those rights, powers, and authorities granted and shall be subject to the limitations applicable to other single-purpose special districts providing a similar service.

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

32-1-608. Subsequent consolidations.

Any consolidated district may initiate proceedings for the consolidation of one consolidated district with another special district, whether or not a consolidated district, as provided in section 32-1-602. Such proceedings shall proceed in accordance with this part 6 without regard to the fact that the districts have been previously consolidated.

# **PART 8**

## **ELECTIONS**

### **32-1-801. Legislative declaration - applicability.**

It is hereby declared that the orderly conduct of elections of special districts will serve a public use and will promote the health, safety, security, and general welfare of the people of the state of Colorado. Therefore, all elections shall be held pursuant to the provisions of articles 1 to 13 of title 1, C.R.S., unless otherwise provided.32-1-802. Acts and elections conducted pursuant to provisions which refer to qualified electors.

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

### **32-1-803. Acts and elections conducted pursuant to provisions which refer to registered electors.**

Any elections and any acts relating to those elections, carried out under this part 8 which were conducted prior to July 1, 1992, and which were valid when conducted, shall be held to be legal and valid in all respects.

### **32-1-803.5. Organizational election - new special district.**

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

### **32-1-804. Board to conduct elections - combined election - time for special election.**

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

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

32-1-804.1. Call for nominations.

Not less than seventy-five days nor more than ninety days before a regular special district election, the designated election official shall provide notice by publication of a call for nominations for the election. The call shall state the special district director offices to be voted upon at the election, where a self-nomination and acceptance form may be obtained, the deadline for submitting the self-nomination and acceptance form to the designated election official, and information on obtaining an absentee ballot.

### **32-1-804.3. Candidates for director - self-nomination and acceptance form.**

(1) Not less than sixty-seven days before the date of the regular special district election, any person who desires to be a candidate for the office of a special district director shall file a self-nomination and acceptance form or letter signed by the candidate and by a registered elector as a witness to the signature of the candidate.

(2) On the date of signing the self-nomination and acceptance form or letter, a candidate for director shall be an eligible elector of the special district, if the district is divided into director districts established pursuant to section 32-1-301 (2) (f), the candidate shall be an eligible elector within the boundaries of the director district in which the candidate is running for office.

(3) A self-nomination and acceptance form that is not sufficient may be amended once at any time prior to 3 p.m. on the sixty-seventh day before the election.

(4) The self-nomination and acceptance form or letter shall state the name of the special district in which the election will be held, the special district director office sought by the candidate, the term of office sought if more than one length of a director's term is to be voted upon at the election, the date of the election, and the full name of the candidate as it is to appear on the ballot. Unless physically unable, all candidates and witnesses shall sign their own signature and shall print their names, their respective residence addresses, including the street number and name, the city or town,



the county, telephone number, and the date of signature on the self-nomination and acceptance form or letter.

(5) The self-nomination and acceptance form or letter shall be filed with the designated election official or, if none has been designated, the presiding officer or the secretary of the board of directors of the special district in which the election will be held.

(6) The self-nomination and acceptance form or letter shall be verified and processed substantially as provided in section 1-4-908, C.R.S. A protest on such a form or letter shall be determined substantially as provided in sections 1-4-909 and 1-4-911, C.R.S. Cure of such a form or letter shall be allowed substantially as provided for in section 1-4-912, C.R.S.

### **32-1-805. Time for holding elections - type of election - manner of election.**

(1) Except as otherwise provided in subsection (4) of this section, regular special district elections shall be held on the Tuesday succeeding the first Monday of May in every even-numbered year.

(2) Special elections may be held on the first Tuesday after the first Monday in February, May, October, or December, except for ballot issue elections, which may be held only in a state general election, biennial local district election, or on the first Tuesday in November of odd-numbered years. A ballot issue election that is not part of an organizational election shall be conducted either as part of a coordinated election or in accordance with the provisions of the "Mail Ballot Election Act", article 7.5 of title 1, C.R.S.

(3) Whenever the date of a regular special district election is identical to the date set for a municipal or another special district election in any municipality or other special district having boundaries coterminous with the special district, the election may be held jointly with the municipal or other special district election.

(4) Any election for the organization of a new health assurance or health service district shall be held on the date of the general election or on the first Tuesday in November of an odd-numbered year, and any election on the proposal of a health assurance or health service district shall be conducted by the county clerk and recorder in which the proposed district will be located as part of a coordinated election in accordance with the provisions of section 1-7-116, C.R.S.

### **32-1-805.5. Ranked voting methods.**

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

(2) A special district conducting an election using a ranked voting method may adapt the requirements of the "Uniform Election Code of 1992", articles 1 to 13 of title 1, C.R.S., including requirements concerning the form of the ballot, the method of marking the ballot, the procedure for counting ballots, and the form of the election judges' certificate, as necessary for compatibility with the ranked voting method.

## **32-1-806. Persons entitled to vote at special district elections.**

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

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

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

\_\_\_\_\_ A resident of the district or area to be included in the district for not less than thirty days; or

\_\_\_\_\_ The owner of taxable real or personal property situated within the boundaries of the special district or area to be included within the special district; or

\_\_\_\_\_ A person who is obligated to pay taxes under a contract to purchase taxable property in the special district or the area to be included within the special district; or

\_\_\_\_\_ The spouse of (name of spouse) who is the owner of taxable real or personal property situated within the boundaries of the special district or area to be included within the special district. I have not voted previously at this election.

Date \_\_\_\_\_

Signature of elector \_\_\_\_\_."

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

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

## **32-1-807. Nonapplicability of criminal penalties.**

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

## **32-1-808. Transfer of property title to qualify electors - limitations.**

(1) (a) No person shall knowingly take or place title to taxable property in the name of another or enter into a contract to purchase or sell taxable property for the purpose of attempting to qualify such person as an eligible elector at any special district election. Any ballot cast in violation of this subsection (1) as determined in an election contest conducted pursuant to part 2 of article 11 of title 1, C.R.S., shall be void.

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

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

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

(II) In any organizational election at which there are more than ten eligible electors, on or after the second day before the filing deadline for self-nomination and acceptance forms or letters pursuant to section 32-1-305.5

(4), the number of otherwise qualified eligible electors who have filed such self-nomination and acceptance forms or letters is less than the number of special district director offices to be voted upon at such election;

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

(IV) On or after the day after the filing deadline for self-nomination and acceptance forms or letters pursuant to section 32-1-804.3, before any regular special district election, the number of otherwise qualified eligible electors who have filed self-nomination and acceptance forms or letters pursuant to section 32-1-804.3 is less than the number of special district director offices to be voted upon at the election.

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

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

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

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

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

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

(5) Any person elected to a board whose qualification as an eligible elector is not challenged and overturned in accordance with the requirements specified in part 2 of article 11 of title 1, C.R.S., shall not be subject to further challenge based upon qualification as a property owner under this section for the remainder of the director's term in office.

## **PART 9**

### **DIRECTORS - ORGANIZATION OF BOARD**

#### **32-1-901. Oath and bond of directors.**

(1) Each director, within thirty days after his or her election or appointment to fill a vacancy, except for good cause shown, shall appear before an officer authorized to administer oaths and take an oath that he or she will faithfully perform the duties of his or her office as required by law and will support the constitution of the United States, the constitution of the state of Colorado, and the laws made pursuant thereto. When an election is cancelled in whole or in part pursuant to section 1-5-208 (1.5), C.R.S., each director who was declared elected shall take the oath required by this subsection (1) within thirty days after the date of the regular election, except for good cause shown. The oath may be administered by the county clerk and recorder, by the clerk of the court, by any person authorized to administer oaths in this state, or by the chairman of the board and shall be filed with the clerk of the court and with the division.

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

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

#### **32-1-902. Organization of board - compensation - disclosure.**

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

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

(3) (a) (I) For directors serving a term of office commencing prior to July 1, 2005, each director may receive as compensation for the director's service a sum not in excess of one thousand two hundred dollars per annum, payable not to exceed seventy-five dollars per meeting attended.

(II) For directors serving a term of office commencing on or after July 1, 2005, each director may receive as compensation for the director's service a sum not in excess of one thousand six hundred dollars per annum, payable not to exceed one hundred dollars per meeting attended.

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

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

### **32-1-903. Meetings.**

(1) The board shall meet regularly at a time and in a place to be designated by the board. Special meetings may be held as often as the needs of the special district require, upon notice to each director. All special and regular meetings of the board shall be held at locations which are within the boundaries of the district or which are within the boundaries of any county in which the district is located, in whole or in part, or in any county so long as the meeting location does not exceed twenty miles from the district boundaries. The provisions of this subsection (1) governing the location of meetings may be waived only if the following criteria are met:

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

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

(2) Notice of time and place designated for all regular meetings shall be posted in at least three public places within the limits of the special district, and, in addition, one such notice shall be posted in the office of the county clerk and recorder in the county or counties in which the special

district is located. Such notices shall remain posted and shall be changed in the event that the time or place of such regular meetings is changed.

Special meetings may be called by any director by informing the other directors of the date, time, and place of such special meeting, and the purpose for which it is called, and by posting notice as provided in this section at least three days prior to said meeting.

All official business of the board shall be conducted only during said regular or special meetings at which a quorum is present, and all said meetings shall be open to the public.

(3) The notice posted pursuant to subsection (2) of this section for any regular or special meeting at which the board intends to make a final determination to issue or refund general obligation indebtedness, to consolidate the special district with another special district, to dissolve the special district, to file a plan for the adjustment of debt under federal bankruptcy law, or to enter into a private contract with a director, or not to make a scheduled bond payment, shall set forth such proposed action.32-1-904.

Office.

The office of the special district shall be at some fixed place to be determined by the board.

## **32-1-905. Vacancies.**

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

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

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

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

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

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

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

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

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

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

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

(2.5) If there are no duly elected directors and if the failure to appoint a new board will result in the interruption of services that are being provided by the district, then the board of county commissioners of the county or counties which approved the organizational petition may appoint all directors from the pool of duly qualified, willing candidates. The board appointed pursuant to this subsection (2.5) shall call a special election within six months after their appointment, which special election is to be held in accordance with the provisions of section 32-1-305.5 and articles 1 to 13 of title 1, C.R.S.; except that the question of the organization shall not be presented at the election. In the event a district is wholly within the boundaries of a municipality, the governing body of the municipality may appoint directors.

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

## **32-1-906. Directors subject to recall.**

(1) Any director elected to the board of any special district who has actually held office for at least six months may be recalled from office by the eligible electors of the special district. A petition signed by the lesser of three hundred eligible electors or forty percent of the eligible electors demanding the recall of any director named in the petition shall be filed in the court. Any recall shall be governed by the provisions of part 1 of article 12 of title 1, C.R.S.

## **32-1-907. Recall election - resignation.**



(1) If a director subject to a recall petition offers a resignation, it shall be accepted, and the vacancy caused by the resignation, or from any other cause, shall be filled as provided by section 32-1-905

(2). If the director does not resign within five days after the sufficiency of the recall petition has been sustained, the board shall order that a recall election be held pursuant to the provisions of part 1 of article 12 of title 1, C.R.S.

# PART 10

## GENERAL POWERS

### **32-1-1001. Common powers - definitions.**

(1) For and on behalf of the special district the board has the following powers:

(a) To have perpetual existence;

(b) To have and use a corporate seal;

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

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

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

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

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

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

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

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

(j)

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

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

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

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

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

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

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

## **32-1-1002. Fire protection districts - additional powers and duties.**

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

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

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

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

(d) To adopt and enforce fire codes, as the board deems necessary, but no such code shall apply within any municipality or the unincorporated portion of any county unless the governing body of the municipality or county, as the case may be, adopts a resolution stating that such code or specific portions thereof shall be applicable within the fire protection district's boundaries; except that nothing in this paragraph (d) shall be construed to affect any fire codes existing on June 30, 1981, which have been adopted by the governing body of a municipality or county. Notwithstanding any other provision of this section, no fire protection district shall prohibit the sale of permissible fireworks, as defined in section 12-28-101 (8), C.R.S., within its jurisdiction.

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

(I) For ambulance or emergency medical services;

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

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

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

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

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

(2) (a) A fire protection district's civil service system shall not cover employees of a fire department that renders fire protection service to the fire protection district under contract. The question of establishing a system of civil service shall be submitted at any regular special district election or special election of the fire protection district and shall not become effective unless approved as required for authorization of indebtedness. In establishing a system of civil service, the board may provide for the exclusion of supervisory and administrative personnel from the system. The board shall appropriate such funds as are necessary for the regular special district election or special election from the general funds of the fire protection district, and the election shall be held and conducted as provided in articles 1 to 13 of title 1, C.R.S. (b) (I) (A) Except as provided in sub-subparagraph (B) of this subparagraph (I), the board of any fire protection district establishing a system of civil service for its paid employees may appoint three electors residing in the district to serve as a civil service committee, referred to in this subsection (2) as the "committee". Of those initially appointed, one member of the committee shall be appointed for a term of two years, one for four years, and one for six years; thereafter, each member shall be appointed for a term of six years.

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

(I), and the board shall appoint any other member for a term of six years. Thereafter, each member shall be appointed for a term of six years.

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

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

(II) The committee shall elect from among its members a president. The secretary of the board shall serve as the secretary of the committee but shall have no vote on the committee. The secretary shall

keep a record of the minutes of all proceedings of the committee in a bound book separate and apart from the records of the board. The secretary is the only member of the board who may be a member of the committee.

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

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

(c) The committee shall:

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

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

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

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

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

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

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

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

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

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

(i) Any fire protection district which has established a system of civil service for its paid employees pursuant to this section shall not terminate the system unless the question of termination is submitted at an election. The election shall be conducted pursuant to the provisions of articles 1 to 13 of title 1, C.R.S.

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

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

(3) (a) The chief of the fire department in each fire protection district in the state of Colorado, by virtue of such office so held by him, shall have authority over the supervision of all fires within the district, except as otherwise provided by law, subject to the duties and obligations imposed by this

subsection (3), and shall be vested with such other express authority as is contained in this subsection (3), including commanding the fire department of such district.

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

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

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

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

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

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

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

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

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



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

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

(c) Whenever any chief, or any designated member of a fire department, finds, through inspection procedures as outlined in subparagraph (II) or (III) of paragraph (b) of this subsection (3), any building or other structure which, for want of repair or lack of or insufficient fire escapes, automatic or other fire alarm apparatus, or fire extinguishing equipment as may be required by law or for reasons of age, dilapidated condition, or any other cause, is especially liable to fire or is hazardous to the safety of the occupants thereof and which is so situated as to endanger other property, and whenever such officer finds in any building combustible or explosive matter or inflammable conditions, dangerous to the safety of such building or its occupants, the chief shall order the same to be removed or remedied, and such order shall forthwith be complied with by the owner, lessee, agent, or occupant of such premises or buildings. Any such owner, lessee, agent, or occupant who feels himself aggrieved by any such order may file, within five days after the making of any such order, a petition with the district court of the county in which such premises or building is located, requesting a review of such order, and it is the duty of such court to hear the same at the first convenient day and to make such order in the premises as justice may require, and such decision shall be final.

(d) Any owner, lessee, agent, or occupant of any building or premises maintaining any condition likely to cause fire or to constitute an additional fire hazard or any condition which impedes or prevents the egress of persons from such building or premises in violation of the provisions of this subsection (3) shall be deemed to be maintaining a fire hazard. Any person who violates any provision of this subsection (3) is guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of not less than fifty dollars nor more than two hundred fifty dollars. Each day in which such a violation occurs shall constitute a separate violation of this subsection (3).

(4) (a) Within any fire protection district organized under the provisions of this article, it is unlawful for any person:

(I) To willfully or maliciously give, make, or cause to be given or made a false alarm of fire, whether by the use of a fire alarm box, telephone call, or otherwise;

(II) To willfully or maliciously disconnect, cut, or sever any wire of the fire alarm telegraph or in any manner tamper with any part of such communication apparatus;

(III) To aid, abet, knowingly permit, or participate in the commission of any act prohibited by this paragraph (a).

(b) Any person who violates any provision of this subsection (4) is guilty of a misdemeanor and, upon conviction thereof, shall be punished for each offense by a fine of not more than three hundred dollars, or by imprisonment in the county jail for not more than ninety days, or by both such fine and imprisonment.

(c) The provisions of paragraphs (a) and (b) of this subsection (4) shall not limit the power of municipalities to enact ordinances covering the same or similar subject matter, but no person acquitted of, convicted of, or pleading guilty to a violation of a municipal ordinance shall be charged or tried in a state court for the same or a similar offense, and no person acquitted of, convicted of, or pleading guilty to a violation of paragraph (a) of this subsection (4) in a state court shall be charged or tried in a municipal court for the same or a similar offense.

(5) The district attorney in the judicial district in which the special district was organized shall prosecute any violation under subsection (3) or (4) of this section.

Cross references:

(1) For provisions in title 34 concerning storage of flammable liquids as referred to in subsection (3)(b)(IV), see article 64 of said title concerning underground storage of natural gas.

(2) For the legislative declaration contained in the 1995 act amending subsection (1)(g), see section 1 of chapter 254, Session Laws of Colorado 1995.

# PART 11

## FINANCIAL POWERS

### **32-1-1101. Common financial powers.**

(1) For and on behalf of the special district, the board has the following powers:

(a) To levy and collect ad valorem taxes on and against all taxable property within the special district, which shall not be limited except as provided in section 39-10-111 (11), C.R.S., and in part 3 of article 1 of title 29, C.R.S. Any election on the question of an increased levy pursuant to section 29-1-302, C.R.S., shall be conducted as a special election in accordance with articles 1 to 13 of title 1, C.R.S.

(b) To levy taxes and collect revenue, whenever any indebtedness has been incurred by a special district, for the purpose of creating one or more reserve funds in such amounts as the board may determine, which may be used to meet the obligations of the special district for bond interest repayment and for maintenance and operating charges and depreciation and to provide extensions of and replacements and improvements to the facilities and property of the special district;

(c) To issue negotiable coupon bonds of the special district. Bonds shall bear interest at a rate or rates such that the net effective interest rate of the issue of bonds does not exceed the maximum net effective interest rate authorized, payable semiannually, and shall be due and payable serially, either annually or semiannually, commencing not later than three years and extending not more than twenty years from date. The form and terms of said bonds, including provisions for their payment and redemption, shall be determined by the board. If the board so determines, such bonds may be redeemable prior to maturity upon payment of a premium, not exceeding three percent of the principal thereof. Said bonds shall be executed in the name of and on behalf of the district and signed by the president with the seal of the district affixed thereto and attested by the secretary. Said bonds shall be in such denominations as the board shall determine, and the bonds and coupons thereto attached shall be payable to bearer. Interest coupons shall bear the original or facsimile signature of the president.

(d) To issue revenue bonds authorized by action of the board without the approval of the eligible electors of the special district. The revenue bonds shall be issued in the manner provided in part 4 of article 35 of title 31, C.R.S., for the issuance of revenue bonds by municipalities; except that the revenue bonds may be sold in one or more series at par or below or above par at public or private sale, in such manner and for such price as the board, in its discretion, shall determine. The revenue bonds and interest coupons, if any, appurtenant thereto shall never constitute the debt or indebtedness of the special district within the meaning of any provision or limitation of the laws of Colorado or the state constitution and shall not constitute nor give rise to a pecuniary liability of the special district or charge against its general credit or taxing powers. The revenue bonds and the income therefrom are exempt from taxation, except inheritance, estate, and transfer taxes.

(e) In addition to any other means provided by law, to elect, by resolution, at a public meeting held after receipt of notice by the affected parties, including the property owner, to have certain delinquent fees, rates, tolls, penalties, charges, or assessments made or levied solely for water, sewer, or water and sewer services, certified to the treasurer of the county to be collected and paid over by the treasurer of the county in the same manner as taxes are authorized to be collected and paid over pursuant to section 39-10-107, C.R.S. The governing body of said special district shall pay to the county in which the affected property of the special district is located, at least once a year, an amount which shall be just and reasonable compensation for the extra labor imposed by this paragraph (e) and an amount for the special district's proportion of the expense of advertising the sale of lands for said delinquent fees, rates, tolls, penalties, charges, or assessments in each year, said amounts to be certified to the governing body of the special district by the county treasurer. Any such fee, rate, toll, penalty, charge, or assessment shall total at least one hundred fifty dollars per account and shall be at least six months delinquent. The treasurer of the county is also authorized to charge and retain a penalty at the rate of thirty percent, or thirty dollars, whichever is greater, on the delinquent sum due and owing to defray the costs of collection.

(f) (I) To divide the special district into one or more areas consistent with the services, programs, and facilities to be furnished therein. However, any facility operated by the special district within such area may be used by any resident of the special district for the same fee charged to persons residing within such area. Whenever the board divides the special district into one or more areas pursuant to this subparagraph (I), the board shall provide notification of such action to the board of county commissioners of each county that has territory included within the district and the governing body of any municipality that has adopted a resolution of approval of the district pursuant to section 32-1-204.5 or 32-1-204.7. Each board of county commissioners and municipal governing body that is entitled to such notification may elect, within thirty days after such notification, to treat the action as a material modification of the district service plan in accordance with section 32-1-207

(2).

(II) Any area created pursuant to this paragraph (f) shall be a subdistrict of the special district. A subdistrict shall be an independent quasi-municipal corporation, shall act pursuant to the provisions of this article, and shall possess all of the rights, privileges, and immunities of the special district. The subdistrict shall be subject to the service plan of the special district. The general assembly hereby finds and declares that any such division of the special district into one or more subdistricts shall provide for the fair and equitable taxation within the territorial limits of the authority levying the tax in conformity with the requirements of section 3 of article X of the state constitution.

(III) The board of the special district shall constitute ex officio the board of directors of the subdistrict. The presiding officer of the board shall be ex officio the presiding officer of the subdistrict, the secretary of the board shall be ex officio the secretary of the subdistrict, and the treasurer of the board shall be ex officio the treasurer of the subdistrict. For the purposes of complying with the requirements of subsection ((6) of this section and article 59 of title 11, C.R.S., the debt of the subdistrict shall be treated separately from the debt of the special district and shall not be treated as debt of the special district. The total debt of the special district and all subdistricts shall not exceed any debt limits specified in the service plan of the special district.

(1.5) (a) The board shall make any determination specified in paragraph (f) of subsection (1) of this section by resolution adopted at a regular or special meeting of the board after publication of notice of the purpose of the public meeting and the place, time, and date of such meeting.

(b) No resolution dividing the special district into one or more areas shall be adopted by the board pursuant to paragraph (a) of this subsection (1.5) if a petition objecting to such division is signed by the owners of taxable real and personal property, which property equals more than fifty percent of the total valuation for assessment of all taxable real and personal property within the proposed area boundaries, and is filed with the special district no later than five days prior to the public meeting. However, the board may change the geographical boundaries of such area at the public meeting.

(c) Except as otherwise provided in this paragraph (c), no single parcel of land having a valuation for assessment constituting twenty-five percent or more of the total valuation of assessment of all real property within the boundaries of an area in a special district shall be included in such area without the written consent of the owner or owners of such real property. No single parcel of land owned by a corporate entity and having a valuation for assessment constituting five percent or more of the total valuation of assessment of all real property within the boundaries of an area in a special district shall be included in such area without the written consent of the owner of such real property. If, contrary to the provisions of this paragraph (c), such parcel of real property is included within the boundaries of such area, the owner or owners of such real property shall be entitled to petition the board to have such real property excluded from the area boundaries free and clear of any contract, obligation, debt, lien, or charge for which the owner or owners may otherwise be liable due to the inclusion of such real property in the area.

(d) If taxes are to be levied or debt is to be created within an area of the special district, the board shall submit a ballot issue approving such taxes or debt to the eligible electors within such area at a regular special district election or at a special election held on the Tuesday after the first Monday of November in an even-numbered year or the first Tuesday of November in an odd-numbered year conducted in accordance with the provisions of this article and section 20 of article X of the state constitution. In addition to any other matters, the ballot issue shall provide that the tax to be levied for services, programs, and facilities within such area is in addition to any other taxes imposed by the special district.

(e) Nothing in this subsection (1.5) or paragraph (f) of subsection (1) of this section shall repeal or affect any other law or any part thereof as it is the intent of the general assembly that this subsection (1.5) and paragraph (f) of subsection (1) of this section shall provide a separate but not an exclusive method of accomplishing the objectives of the general assembly.

(f) Nothing in this subsection (1.5) or in paragraph (f) of subsection (1) of this section shall impose any requirement contained in House Bill 02-1465, as enacted at the second regular session of the sixty-third general assembly, upon any area that was in existence prior to October 1, 2002; except that a district may, by resolution, elect to apply any of said requirements to such area.

(2) Whenever the board determines, by resolution, that the interest of the special district and the public interest or necessity demand the acquisition, construction, installation, or completion of any

works or other improvements or facilities or the making of any contract with the United States or other persons or corporations to carry out the objects or purposes of such district, requiring the creation of a general obligation indebtedness exceeding one and one-half percent of the valuation for assessment of the taxable property in the special district, the board shall order the submission of the proposition of issuing general obligation bonds or creating other general obligation indebtedness, except the issuing of revenue bonds, at an election held for that purpose. The resolution shall also fix the date upon which the election will be held. The election shall be held and conducted as provided in articles 1 to 13 of title

1, C.R.S. Any election may be held separately or may be held jointly or concurrently with any other election authorized by this article. If the issuance of general obligation bonds is approved at an election held pursuant to this subsection (2), the board shall be authorized to issue such bonds for a period not to exceed the later of five years following the date of the election or, subject to the provisions of section 32-1-1101.5, for a period not to exceed twenty years following the date of the election if the issuance of such bonds is in material compliance with the financial plan set forth in the service plan, as that plan is amended from time to time, or in material compliance with the statement of purposes of the special district. After the specified period has expired, the board shall not be authorized to issue bonds which were authorized but not issued after the initial election unless the issuance is approved at a subsequent election; except that nothing in this subsection (2) shall be construed as limiting the board's power to issue refunding bonds in accordance with statutory requirements.

(3) (a) The declaration of public interest or necessity required and the provision for the holding of such an election may be included within the same resolution, which resolution, in addition to such declaration of public interest or necessity, shall recite:

(I) The objects and purposes for which the indebtedness is proposed to be incurred;

(II) The estimated cost of the works or improvements, as the case may be;

(III) How much, if any, of said estimated cost is to be defrayed out of any state or federal grant;

(IV) The amount of principal of the indebtedness to be incurred therefor; and

(V) The maximum net effective interest rate to be paid on such indebtedness.

(b) Whenever the board determines that the district should incur indebtedness in an amount which does not require approval by the eligible electors of the special district under subsection (2) of this section, the board shall establish the maximum net effective interest rate prior to the time the debt is incurred or contracted.

(4) If any proposition is approved at an election provided for in subsection (2) of this section, the board shall thereupon be authorized to incur such indebtedness or obligations, enter into such contract, or issue and sell such bonds of the special district, as the case may be, all for the purposes and objects provided for in the proposition submitted and in the resolution therefor, in the amount so provided, at a price or prices and a rate or rates of interest such that the maximum net effective interest rate recited in such resolution is not exceeded. Except as provided in section 32-1-106

(2), submission of the proposition of incurring such obligation or bonded or other indebtedness at such an election shall not prevent or prohibit submission of the same or other propositions at subsequent elections called for such purpose.

(5) Whenever any special district organized pursuant to this article has moneys on hand which are not then needed in the conduct of its affairs, the special district may deposit such moneys in any state bank, national bank, or state or federal savings and loan association in Colorado in accordance with state law. For the purpose of making such deposits, the board may appoint, by written resolution, one or more persons to act as custodians of the special district's moneys, and such persons shall give surety bonds in such amount and form and for such purposes as the board may require. Subject to the requirements of part 7 of article 75 of title 24, C.R.S., the special district's moneys may be pooled for investment with the moneys of other local government entities.

(6) (a) The total principal amount of general obligation debt of a special district issued pursuant to subsection (2) of this section, which debt is issued on or after July 1, 1991, shall not at the time of issuance exceed the greater of two million dollars or fifty percent of the valuation for assessment of the taxable property in the special district, as certified by the assessor, except for debt which is:

(I) Rated in one of the four highest investment grade rating categories by one or more nationally recognized organizations which regularly rate such obligations;

(II) Determined by the board of any special district in which infrastructure is in place to be necessary to construct or otherwise provide additional improvements specifically ordered by a federal or state regulatory agency to bring the district into compliance with applicable federal or state laws or regulations for the protection of the public health or the environment if the proceeds raised as a result of such issue are limited solely to the direct and indirect costs of the construction or improvements mandated and are used solely for those purposes;

(III) Secured as to the payment of the principal and interest on the debt by a letter of credit, line of credit, or other credit enhancement, any of which must be irrevocable and unconditional, issued by a depository institution:

(A) With a net worth of not less than ten million dollars in excess of the obligation created by the issuance of the letter of credit, line of credit, or other credit enhancement;

(B) With the minimum regulatory capital as defined by the primary regulator of such depository institution to meet such obligation; and

(C) Where the obligation does not exceed ten percent of the total capital and surplus of the depository institution, as those terms are defined by the primary regulator of such depository institution; or

(IV) Issued to financial institutions or institutional investors.

(b) Nothing in this title shall prohibit a special district from issuing general obligation debt or other obligations which are either payable from a limited debt service mill levy, which mill levy shall not

exceed fifty mills, or which are refundings or restructurings of outstanding obligations, or which are obligations issued pursuant to part 14 of this article.

Editor's note: This section was contained in an article that was repealed and reenacted in 1981. Provisions of this section, as it existed in 1981, were contained in several sections in 1980, the year prior to the repeal and reenactment of this article. For a detailed comparison, see the table located in the back of the index.32-1-1101.5. Special district debt - quinquennial findings of reasonable diligence.

(1) The results of special district ballot issue elections to incur general obligation indebtedness shall be certified by the special district by certified mail to the board of county commissioners of each county in which the special district is located or to the governing body of a municipality that has adopted a resolution of approval of the special district pursuant to section 32-1-204.5 or 32-1-204.7 within forty-five days after the election. For all special districts with authorized but unissued general obligation debt approved before July 1, 1995, the results of the election at which such approval was given and a statement of the principal amount of any general obligation debt that has been issued pursuant to such authorization shall be so certified by the special district on or before January 1, 1996. If for any reason certification required by this subsection (1) is not made, the special district shall certify such election results by certified mail no later than thirty days before issuing any general obligation debt to the board of county commissioners or the governing body of such municipality. The special district shall file a copy of any certification made under this subsection (1) with the division of securities created by section 11-51-701, C.R.S., within the applicable time period prescribed in this subsection (1). Whenever a special district incurs general obligation debt, the special district shall submit a copy of the notice required by section 32-1-1604 to the board of county commissioners of each county in which the district is located or the governing body of such municipality within thirty days after incurring the debt.

(1.5) In every fifth calendar year after the calendar year in which a special district's ballot issue to incur general obligation indebtedness was approved by its electors, the board of county commissioners or the governing body of the municipality that has adopted a resolution of approval of the special district pursuant to section 32-1-204.5 or 32-1-204.7 may require the board of such special district to file an application for a quinquennial finding of reasonable diligence. If the board of county commissioners or the governing body of such municipality requires such filing, it shall notify the special district in writing to file an application within sixty days after receipt of the notice. The application shall set forth the amount of the special district's authorized and unissued general obligation debt, any current or anticipated plan to issue such debt, a copy of the district's last audit or application for exemption from audit, and any other information required by the board of county commissioners or the governing body of such municipality relevant to making the determinations under subsection (2) of this section.

If required by the board of county commissioners or the governing body of such municipality, subsequent applications shall be filed within sixty days after receipt of such notice but no more frequently than every five years after the prior notice until all of the general obligation debt that was authorized by the election has been issued or abandoned. If a special district is wholly or partially located in a municipality that has not adopted a resolution of approval of such special district pursuant to section 32-1-



204.5 or 32-1-204.7, the board of the special district shall file a copy of any such application with the governing body of such municipality, and such municipality may submit comments thereon prior to the determination made under subsection (2) of this section.

(2) (a) Within thirty days after submittal of any application required under subsection (1.5) of this section, the board of county commissioners or the governing body of the municipality that has adopted a resolution of approval of the special district pursuant to section 32-1-204.5 or 32-1-204.7 shall accept such application without further action or shall conduct a public hearing within the next thirty days, with no less than ten days prior notice to the district, to consider whether the service plan and financial plan of the district are adequate to meet the debt financing requirements of the authorized and unissued general obligation debt based upon present conditions within the district. Within thirty days after such hearing, the board of county commissioners or the governing body of the municipality shall:

(I) Determine that the implementation of the service plan or financial plan will result in the timely and reasonable discharge of the special district's general obligation debt. If the board of county commissioners or the governing body of the municipality makes such a finding, it shall grant a continuation of the authority for the board of the special district to issue any remaining authorized general obligation debt.

(II) Determine that the implementation of the service plan or financial plan will not result in the timely and reasonable discharge of the special district's general obligation debt and that such implementation will place property owners at risk for excessive tax burdens to support the servicing of such debt. If the board of county commissioners or the governing body of the municipality makes such a finding, it shall deny a continuation of the authority of the board of the special district to issue any remaining authorized general obligation debt.

(III) Determine that the implementation of the service plan or financial plan will not result in the timely and reasonable discharge of general obligation debt and require the board of the special district to submit amendments or modifications to such plans as a precondition to a finding of reasonable diligence; except that nothing in this section shall be construed as limiting the board's power to issue refunding bonds in accordance with statutory requirements.

(b) The board of county commissioners or the governing body of such municipality shall have all available legal remedies to enforce its determination under paragraph (a) of this subsection (2).

(3) The provisions of this section shall apply to all authorized but unissued general obligation debt for each special district organized under this title. All such authorized but unissued debt shall be valid until the board of county commissioners or the governing body of the municipality has made the determination to deny the continuation of such authority pursuant to subsection (2) of this section.

(4) Any determination made pursuant to this section is subject to judicial review by a district court. If the court finds the determination is arbitrary, capricious, or unreasonable, the court shall remand the matter to the board of county commissioners or to the governing body of the municipality to

hold another hearing with no less than ten days prior notice to the district and for any other further action consistent with the court's direction to avoid the arbitrary, capricious, or unreasonable determination.

(5) Any action to enforce this section except an action brought under subsection (4) of this section shall be initiated only by the board of county commissioners or the governing body of a municipality that has adopted a resolution of approval of the special district pursuant to section 32-1-204.5 or 32-1-204.7 and before any bonds are issued as authorized by law.

(6) Any determination made under this section before July 1, 1995, is hereby validated, unless decided otherwise in a legal proceeding instituted to challenge the determination. Any application for a quinquennial finding of reasonable diligence filed by a special district that is pending on July 1, 1995, and any subsequent application filed by a special district on or after July 1, 1995, is subject to this section.

## **32-1-1102. Special financial provisions - fire protection districts.**

(Repealed)

Editor's note: Before its repeal, this section was contained in an article that was repealed and reenacted in 1981. Provisions of this section, as it existed in 1981, are similar to those contained in 32-5-317 (1) as said section existed in 1980, the year prior to the repeal and reenactment of this article.

## **PART 12**

### **LEVY AND COLLECTION OF TAXES**

#### **32-1-1201. Procedure.**

(1) Except as provided in subsection (2) of this section, the board shall determine in each year the amount of money necessary to be raised by taxation, taking into consideration other sources of revenue of the special district, and shall fix a rate of levy which, when levied upon every dollar of valuation for assessment of taxable property within the special district and together with other revenues, will raise the amount required by the special district annually to supply funds for paying expenses of organization and the costs of constructing, operating, and maintaining the facilities and improvements of the special district and to pay in full, promptly, when due, all interest on and principal of bonds and other obligations of the special district. In the event of accruing defaults or deficiencies, an additional levy may be made as provided in subsection (2) of this section.

(2) The board, in certifying annual levies, shall take into account the maturing indebtedness for the ensuing year as provided in its contracts, maturing bonds and interest on bonds, and deficiencies and defaults of prior years and shall make ample provision for the payment thereof. If the moneys produced from such levies, together with other revenues of the special district, are not sufficient to pay punctually the annual installments on its contracts or bonds, and interest thereon, and to pay defaults and deficiencies, the board shall make such additional levies of taxes as may be necessary for such purposes, and, notwithstanding any limitation provided in part 11 of this article, such taxes shall be made and continue to be levied until the indebtedness of the district is fully paid.

(3) In accordance with the schedule prescribed by section 39-5-128, C.R.S., the board shall certify to the board of county commissioners of each county within the special district, or having a portion of its territory within the district, the rate so fixed in order that, at the time and in the manner required by law for the levying of taxes, such board of county commissioners shall levy such tax upon the valuation for assessment of all taxable property within the special district. When necessary, a special district shall, with respect to an increased mill levy, comply with the requirements of part 3 of article 1 of title 29, C.R.S.

#### **32-1-1202. County officers to levy and collect - lien.**

It is the duty of the body having authority to levy taxes within each county to levy the taxes provided by section 32-1-1201 (1) and (2). It is the duty of all officials charged with the duty of collecting taxes to collect such taxes at the time and in the form and manner and with like interest and penalties as other taxes are collected and when collected to pay the same to the special district ordering the levy and collection. The payment of such collections shall be made monthly to the treasurer of the special district or paid into the depository thereof to the credit of the special district. All taxes levied under this part 12, together with interest thereon and penalties for default in

payment thereof, and all costs of collecting the same shall constitute, until paid, a perpetual lien on and against the property taxed, and such lien shall be on a parity with the tax lien of other general taxes.

### **32-1-1203. Sale for delinquencies.**

If the taxes levied are not paid, delinquent real property shall be sold at the regular tax sale for the payment of said taxes, interest, and penalties in the manner provided by the statutes of this state for selling real property for the nonpayment of general taxes. If there are no bids at said tax sale for the property so offered, said property shall be struck off to the county, and the county shall account to the special district in the same manner as provided by law for accounting for school, town, and city taxes. Delinquent personal property shall be distrained and sold as provided by law.

### **32-1-1204. Liability of property included or excluded from district.**

All real property included within, or excluded from, a special district shall thereafter be subject to the levy of taxes for the payment of its proportionate share of any indebtedness of the district outstanding at the time of inclusion or exclusion as provided in parts 4 and 5 of this article.