

Second Regular Session
Sixty-eighth General Assembly
STATE OF COLORADO

PREAMENDED

*This Unofficial Version Includes Committee
Amendments Not Yet Adopted on Second Reading*

LLS NO. 12-0468.01 Gregg Fraser x4325

HOUSE BILL 12-1157

HOUSE SPONSORSHIP

Vigil,

SENATE SPONSORSHIP

Guzman,

House Committees
Local Government

Senate Committees

A BILL FOR AN ACT

101 **CONCERNING THE COURT HEARING ON A PETITION FOR THE**
102 **ORGANIZATION OF A SPECIAL DISTRICT.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://www.leg.state.co.us/billsummaries>.)

If a service plan for a proposed special district is approved by a board of county commissioners, current law requires any interested party who appeared and objected to the plan to be given notice and have the right to appear at a court hearing on the petition to organize the district. **Section 1** of the bill would require the party to also be a taxpayer or

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

eligible elector of the proposed district in order to be given notice and have the right to appear at the hearing. **Section 2** requires the notice of court hearing to be sent by certified mail rather than registered mail.

Current law allows the court, in the order authorizing the organizational election, to name an eligible elector as the designated election official. **Section 3** allows the court, by any order of the court, to name a person experienced in conducting special district elections to serve as the designated election official.

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

2 **SECTION 1.** In Colorado Revised Statutes, 32-1-203, **amend**
3 (3.5) (a) as follows:

4 **32-1-203. Action on service plan - criteria.** (3.5) (a) The board
5 of county commissioners may exclude territory from a proposed special
6 district prior to approval of the service plan submitted by the petitioners
7 of a proposed special district. The petitioners shall have the burden of
8 proving that the exclusion of the property is not in the best interests of the
9 proposed special district. Any person owning property in the proposed
10 special district who requests that his or her property be excluded from the
11 special district prior to approval of the service plan shall submit the
12 request to the board of county commissioners no later than ten days prior
13 to the hearing held under section 32-1-204, but the board of county
14 commissioners shall not be limited in its action with respect to exclusion
15 of territory based upon the request. Any request for exclusion SHALL
16 INCLUDE A LEGAL DESCRIPTION OF THE PROPERTY SOUGHT TO BE
17 EXCLUDED AND shall be acted upon before final action of the county
18 commissioners under section 32-1-205.

19 **SECTION 2.** In Colorado Revised Statutes, 32-1-206, **amend** (2)
20 as follows:

21 **32-1-206. Judicial review.** (2) If the service plan is approved by

1 the board of county commissioners, any interested party as defined in
2 section 32-1-204 (1), ~~if such party had appeared and presented its~~
3 ~~objections before the board of county commissioners~~ WHO IS EITHER A
4 TAXPAYER OF THE PROPOSED SPECIAL DISTRICT OR AN ELIGIBLE ELECTOR
5 OF THE PROPOSED SPECIAL DISTRICT shall be given notice and have the
6 right to appear and be heard at the hearing on the court petition for the
7 organization of the special district, and the court may dismiss the court
8 petition upon a determination that the decision of the board of county
9 commissioners was arbitrary, capricious, or unreasonable.

10 **SECTION 3.** In Colorado Revised Statutes, **amend** 32-1-304 as
11 follows:

12 **32-1-304. Notice of court hearing.** Except as otherwise provided
13 in section 32-1-304.5, immediately after the filing of a petition, the court
14 wherein the petition is filed, by order, shall fix a place and time, not less
15 than twenty days nor more than forty days after the petition is filed, for
16 hearing thereon. Thereupon the clerk of the court shall cause notice by
17 publication to be made of the pendency of the petition, the purposes and
18 boundaries of the special district, and the time and place of hearing
19 thereon. The clerk of the court shall also forthwith cause a copy of the
20 notice to be mailed by United States ~~registered~~ CERTIFIED mail to the
21 board of county commissioners of each of the several counties and to
22 each party entitled to notice pursuant to section 32-1-206 (2). The notice
23 shall include a general description of the land contained within the
24 boundaries of the proposed special district and information explaining
25 methods and procedures for the filing of a petition for exclusion of
26 territory pursuant to section 32-1-305 (3).

27 **SECTION 4.** In Colorado Revised Statutes, 32-1-305, **amend** (3)

1 as follows:

2 **32-1-305. Court hearing - election - declaration of**
3 **organization.** (3) Except as otherwise provided in section 32-1-304.5,
4 anytime after the filing of the petition for the organization of a special
5 district but no later than ten days before the day fixed for the hearing
6 thereon, the owner of any real property within the proposed special
7 district may file a petition with the court stating reasons why said property
8 should not be included therein and requesting that said real property be
9 excluded therefrom. The petition shall be duly verified and shall describe
10 INCLUDE A LEGAL DESCRIPTION OF the property sought to be excluded.
11 The court shall hear the petition and all objections thereto at the time of
12 the hearing on the petition for organization and shall determine whether,
13 in the best public interest, the property should be excluded or included in
14 the proposed special district. The court shall exclude property located in
15 any home rule municipality in respect to which a petition for exclusion
16 has been filed by the municipality.

17 **SECTION 5.** In Colorado Revised Statutes, 32-1-305.5, **amend**
18 (1) as follows:

19 **32-1-305.5. Organizational election - new special district - first**
20 **directors.** (1) ~~In the order authorizing the election~~ BY ORDER, the court
21 shall name either the clerk and recorder of the county in which the district
22 is to be or another eligible elector PERSON EXPERIENCED IN CONDUCTING
23 SPECIAL DISTRICT ELECTIONS as the designated election official
24 responsible for the conducting of the election.

25 **SECTION 6.** In Colorado Revised Statutes, **amend** 32-1-803.5
26 as follows:

27 **32-1-803.5. Organizational election - new special district.** At

1 any election for the organization of a new special district, the court shall
2 also order the submission of the proposition of issuing general obligation
3 bonds or creating other general obligation indebtedness or any question
4 or questions necessary to implement the provisions of section 20 of article
5 X of the ~~Colorado~~ STATE constitution as applied to the new special
6 district, if the petition filed pursuant to section 32-1-301 requests that
7 such questions be submitted at the organizational election. The order of
8 the court shall make the determinations required by section 32-1-1101 (2)
9 and (3) (a) and require the ~~clerk of the court~~ DESIGNATED ELECTION
10 OFFICIAL, AS DETERMINED IN SECTION 32-1-305.5 (1), to conduct the
11 election in accordance with section 20 of article X of the ~~Colorado~~ STATE
12 constitution.

13 **SECTION 7. Act subject to petition - effective date.** This act
14 takes effect at 12:01 a.m. on the day following the expiration of the
15 ninety-day period after final adjournment of the general assembly (August
16 7, 2012, if adjournment sine die is on May 9, 2012); except that, if a
17 referendum petition is filed pursuant to section 1 (3) of article V of the
18 state constitution against this act or an item, section, or part of this act
19 within such period, then the act, item, section, or part will not take effect
20 unless approved by the people at the general election to be held in
21 November 2012 and, in such case, will take effect on the date of the
22 official declaration of the vote thereon by the governor.