

First Regular Session
Sixty-eighth General Assembly
STATE OF COLORADO

INTRODUCED

LLS NO. 11-0349.01 Gregg Fraser

HOUSE BILL 11-1137

HOUSE SPONSORSHIP

Hullinghorst,

SENATE SPONSORSHIP

Heath,

House Committees
Local Government

Senate Committees

A BILL FOR AN ACT

101 CONCERNING THE AUTHORITY OF A LOCAL IMPROVEMENT 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>.)

Current law allows a county to create a local improvement district (district) in order to construct and fund certain improvements within the boundaries of the district with the affirmative vote of affected property owners. Some of these improvements can be funded by imposing a sales tax throughout the district or by using a combination of assessments and a sales tax. **Section 1** of the bill allows a district to also use these funding mechanisms to provide certain services.

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.

Current law prohibits a district that levies a sales tax from having separate, noncontiguous areas within a county. **Section 2** of the bill would eliminate this prohibition, allowing a district to impose a sales tax in noncontiguous areas of a county. Section 2 also authorizes a district to use marketing or advertising of events to promote the general development of business within the district.

Section 3 of the bill allows all districts in which a sales tax is levied to provide transportation services, vehicles, equipment, and improvements in the district.

Section 4 authorizes the owners of real property to petition to have their property included within the boundaries of a district that levies a sales tax. The bill specifies procedures for hearing and then granting or denying the petition.

Sections 5 and 6 of the bill make conforming amendments.

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

2 **SECTION 1.** 30-20-601, Colorado Revised Statutes, is amended
3 to read:

4 **30-20-601. Power to make local improvements.** Except as
5 otherwise provided in this part 6, any county in this state may construct
6 any of the local improvements mentioned in this part 6 and fund such
7 improvements by assessing the cost thereof, wholly or in part, upon the
8 property especially benefited by such improvements or, for the funding
9 of improvements AND SERVICES authorized by section 30-20-603 (1) (a),
10 (1) (a.5), ~~and~~ (1) (c), AND (1) (d), by imposing a sales tax throughout the
11 district or by utilizing a combination of such assessments and tax. The
12 improvements shall be authorized by resolution duly adopted and shall be
13 constructed under the direction of the county engineer or other officer
14 having similar duties or under the direction of the board in accordance
15 with plans and specifications adopted by the board.

16 **SECTION 2.** 30-20-602 (2) and (2.9), Colorado Revised Statutes,
17 are amended, and the said 30-20-602 is further amended BY THE

1 ADDITION OF A NEW SUBSECTION, to read:

2 **30-20-602. Definitions.** As used in this part 6, unless the context
3 otherwise requires:

4 (2) "District" means the geographical division of the county or
5 counties within which any local improvements are made or proposed,
6 when so declared by resolution of the board. ~~Except for a district in the~~
7 ~~unincorporated area of a county in which a sales tax is levied pursuant to~~
8 ~~section 30-20-604.5,~~ There may be noncontiguous parts or sections of a
9 county included in one district, but no district shall include territory that
10 is included in an undissolved district that was formed for the same type
11 of improvement. Notwithstanding any other provision of this part 6 and
12 except in the case of a district formed prior to December 31, 2002, by a
13 city that has been authorized to become a city and county pursuant to an
14 amendment to the state constitution that has been approved by the
15 registered electors of the state of Colorado, no district in which a sales tax
16 is levied pursuant to section 30-20-604.5 shall be formed that includes
17 territory within a municipality, and any such district shall be as compact
18 as possible. Except as provided in section 30-20-603 (11.5) (b) (I), no
19 district that crosses county boundaries may be formed by
20 intergovernmental agreement or otherwise. A DISTRICT THAT IS
21 AUTHORIZED TO IMPOSE AND COLLECT A SALES TAX MAY INCREASE THE
22 TERRITORY WITHIN ITS BOUNDARIES IN ACCORDANCE WITH THE
23 PROCEDURES SET FORTH IN SECTION 30-20-603.5.

24 (2.9) "Informational products and materials" means any marketing
25 or advertising device OR EVENT used to promote the general development
26 of business within a district, but does not include any marketing or
27 advertising device OR EVENT used to promote a single store or company.

1 (4.9) "SERVICE" MEANS ANY SERVICE A DISTRICT IS AUTHORIZED
2 TO PROVIDE IN ACCORDANCE WITH THE PROVISIONS OF SECTION 30-20-603
3 (1) (a), (1) (a.5), (1) (c), (1) (d), OR (1) (g).

4 **SECTION 3.** 30-20-603 (1) (a.5) and (3) (a), Colorado Revised
5 Statutes, are amended to read:

6 **30-20-603. Improvements and funding authorized - how**
7 **instituted - conditions.** (1) (a.5) In a district ~~formed prior to December~~
8 ~~31, 2002, by a city that has been authorized to become a city and county~~
9 ~~pursuant to an amendment to the state constitution that has been approved~~
10 ~~by the registered electors of the state of Colorado and in which a sales tax~~
11 is levied pursuant to section 30-20-604.5, the improvements may also
12 consist of the provision of transportation services, vehicles, equipment,
13 parking, and improvements in the district. Transportation services may
14 be provided by the district in an area within the regional transportation
15 district as described in section 32-9-106.1, C.R.S., if the regional
16 transportation district consents to the provision of such services.

17 (3) (a) Except as to improvements initiated by the board as
18 authorized by subsection (2) of this section, no improvement shall be
19 ordered under this part 6 unless a petition for the same is first presented,
20 subscribed by the owners of property to be assessed for more than
21 one-half of the entire costs estimated by the board to be assessed, and,
22 except as specified in this section, nothing in this part 6 shall restrict the
23 right of such owners from securing any particular kind or variety of
24 improvements petitioned for. In any case where a proposed improvement
25 district includes two or more assessment units, the owners of property to
26 be assessed for more than one-half of the entire costs estimated by the
27 board to be assessed in each assessment unit shall petition as specified in

1 this part 6. In any case where a proposed improvement district ~~formed~~
2 ~~prior to December 31, 2002,~~ plans to provide transportation services and
3 improvements pursuant to paragraph (a.5) of subsection (1) of this section
4 and to levy a sales tax pursuant to section 30-20-604.5 to fund such
5 services and improvements, the owners of the taxable real and personal
6 property within the proposed improvement district having a valuation for
7 assessment of not less than fifty percent of the valuation for assessment
8 of all real or personal property within the district shall sign the petition
9 presented to the board.

10 **SECTION 4.** Part 6 of article 20 of title 30, Colorado Revised
11 Statutes, is amended BY THE ADDITION OF A NEW SECTION to
12 read:

13 **30-20-603.5. Inclusion of additional territory.** (1) THE
14 BOUNDARIES OF A DISTRICT THAT LEVIES A SALES TAX PURSUANT TO
15 SECTION 30-20-604.5 MAY BE ALTERED BY THE INCLUSION OF ADDITIONAL
16 REAL PROPERTY BY THE FEE OWNER OR OWNERS OF ONE HUNDRED
17 PERCENT OF ANY REAL PROPERTY CAPABLE OF BEING SERVED WITH
18 IMPROVEMENTS OR SERVICES OF THE DISTRICT BY FILING WITH THE BOARD
19 A PETITION IN WRITING REQUESTING THAT SUCH PROPERTY BE INCLUDED
20 IN THE SPECIAL DISTRICT. THE PETITION SHALL SET FORTH A LEGAL
21 DESCRIPTION OF THE PROPERTY, STATE THAT ASSENT TO THE INCLUSION OF
22 SUCH PROPERTY IN THE DISTRICT IS GIVEN BY THE FEE OWNER OR OWNERS
23 THEREOF, AND BE ACKNOWLEDGED BY THE FEE OWNER OR OWNERS IN THE
24 SAME MANNER AS REQUIRED FOR THE CONVEYANCE OF LAND.

25 (2) THE BOARD SHALL HEAR THE PETITION AT A PUBLIC MEETING
26 AFTER PUBLICATION OF NOTICE OF THE FILING OF SUCH PETITION, THE
27 PLACE, TIME, AND DATE OF SUCH MEETING, THE NAMES AND ADDRESSES

1 OF THE PETITIONERS, AND NOTICE THAT ALL PERSONS INTERESTED SHALL
2 APPEAR AT SUCH TIME AND PLACE AND SHOW CAUSE IN WRITING WHY THE
3 PETITION SHOULD NOT BE GRANTED. THE BOARD MAY CONTINUE SUCH
4 HEARING TO A SUBSEQUENT MEETING. THERE SHALL BE NO WITHDRAWAL
5 FROM A PETITION AFTER PUBLICATION OF NOTICE BY THE BOARD WITHOUT
6 THE CONSENT OF THE BOARD. THE FAILURE OF ANY PERSON IN THE
7 EXISTING DISTRICT TO FILE A WRITTEN OBJECTION SHALL BE TAKEN AS AN
8 ASSENT TO THE INCLUSION OF THE AREA DESCRIBED IN THE NOTICE.

9 (3) THE BOARD SHALL GRANT OR DENY THE PETITION, IN WHOLE OR
10 IN PART, WITH OR WITHOUT CONDITIONS, AND THE ACTION OF THE BOARD
11 SHALL BE FINAL AND CONCLUSIVE. IF A PETITION IS GRANTED AS TO ALL
12 OR ANY OF THE REAL PROPERTY THEREIN DESCRIBED, THE BOARD SHALL
13 MAKE AN ORDER TO THAT EFFECT BY RESOLUTION AND FILE THE SAME
14 WITH THE COUNTY CLERK AND RECORDER, AND THE PROPERTY SHALL
15 THEREUPON BE INCLUDED IN THE DISTRICT FOR THE PURPOSE OF THE LEVY,
16 IMPOSITION, AND COLLECTION OF THE DISTRICT'S SALES TAX. THE BOARD
17 SHALL ALSO CAUSE A COPY OF THE RESOLUTION TO BE SENT TO EACH
18 PROPERTY OWNER AND EACH CURRENTLY LICENSED
19 SALES-TAX-COLLECTING VENDOR IN THE AREA ADDED TO THE DISTRICT.

20 (4) SALES TAX SHALL BE LEVIED THROUGHOUT THE ADDITIONAL
21 PROPERTY INCLUDED WITHIN THE BOUNDARIES OF THE DISTRICT PURSUANT
22 TO THIS SECTION COMMENCING ON THE FIRST DAY OF THE MONTH
23 FOLLOWING THE ADOPTION BY THE BOARD OF THE RESOLUTION APPROVING
24 THE ADDITION OF THE PROPERTY TO THE DISTRICT'S BOUNDARIES.

25 **SECTION 5.** 30-20-604.5 (1), (5), and (6) (b), Colorado Revised
26 Statutes, are amended to read:

27 **30-20-604.5. District sales tax.** (1) The board of any county or

1 of any city that has been authorized to become a city and county pursuant
2 to an amendment to the state constitution that has been approved by the
3 registered electors of the state of Colorado and that subsequently becomes
4 a city and county for the purpose of funding all or a portion of the cost of
5 any improvements constructed or ~~transportation~~ services provided
6 ~~pursuant to section 30-20-603 (1) (a), (1) (a.5), and (1) (c)~~, may levy a
7 sales tax throughout the district upon every transaction or other incident
8 with respect to which a sales tax is authorized pursuant to section
9 29-2-105, C.R.S.; except that such tax may be levied only upon those
10 transactions specified in section 39-26-104 (1) (a), (1) (b), (1) (e), and (1)
11 (f), C.R.S. The board may, in its discretion, levy or continue to levy a
12 sales tax on the sales of low-emitting motor vehicles, power sources, or
13 parts used for converting such power sources as specified in section
14 39-26-719 (1), C.R.S.

15 (5) (a) Except as provided in paragraph (b) of this subsection (5),
16 all revenue collected from such sales tax TO BE EXPENDED FOR STREET
17 IMPROVEMENT PURPOSES, except the amounts retained under subsection
18 (2) of this section, shall be credited to a special fund designated as the
19 sales tax street improvement fund, such designation to include the name
20 or description of the district. The fund shall be used only to pay the costs
21 of the district improvements authorized by section 30-20-603 (1) (a) and
22 (1) (c), the costs of debt service on bonds issued pursuant to section
23 30-20-619 (4), if any, or both of such costs.

24 (b) In a district formed prior to December 31, 2002, by a city that
25 has been authorized to become a city and county pursuant to an
26 amendment to the state constitution that has been approved by the
27 registered electors of the state of Colorado, all revenue collected from

1 such sales tax TO BE EXPENDED FOR STREET IMPROVEMENT PURPOSES,
2 except the amounts retained under subsection (2) of this section, shall be
3 credited to a special fund designated as the sales tax street improvement
4 fund, such designation to include the name or description of the district.
5 The fund shall be used only to pay the costs of the district improvements
6 and transportation services authorized by section 30-20-603 (1) (a.5) and
7 (1) (c), the costs of debt service on bonds issued pursuant to section
8 30-20-619 (4), if any, the costs of operations, maintenance, and
9 replacement, and the costs of organization of the district.

10 (6) (b) Notwithstanding paragraph (a) of this subsection (6), if an
11 improvement includes the use of sales tax for the improvement's
12 operation or maintenance OR FOR THE PROVISION OF SERVICES, the board
13 shall continue to levy and collect the sales tax as specified in the
14 resolution authorizing such tax.

15 **SECTION 6.** 30-20-627, Colorado Revised Statutes, is amended
16 to read:

17 **30-20-627. Local improvements completed - dissolution.** When
18 the local improvements specified in the preliminary order referred to in
19 section 30-20-603 (5) and specified in the resolution authorizing the
20 improvements have been completed and any debt incurred or bonds
21 issued have been paid, the board shall take all steps necessary to dissolve
22 the district and, upon completion of such steps, shall declare, by
23 resolution, that the district is dissolved; except that this requirement does
24 not apply to a district formed for the purposes authorized in section
25 30-20-603 (11.5), NOR TO A DISTRICT LEVYING A SALES TAX FOR SERVICES
26 OR THE CONTINUING OPERATION AND MAINTENANCE OF IMPROVEMENTS
27 PURSUANT TO SECTION 30-20-604.5. Upon dissolution, any moneys

1 remaining to the credit of such district that have not been transferred to
2 a special surplus and deficiency fund as permitted in section 30-20-619
3 (3) may be used for any county purpose as determined by the board,
4 including, without limitation, the reimbursement to the county of any
5 county moneys spent to provide any portion of the costs of the local
6 improvements completed within the dissolved district.

7 **SECTION 7. Act subject to petition - effective date.** This act
8 shall take effect at 12:01 a.m. on the day following the expiration of the
9 ninety-day period after final adjournment of the general assembly (August
10 10, 2011, if adjournment sine die is on May 11, 2011); except that, if a
11 referendum petition is filed pursuant to section 1 (3) of article V of the
12 state constitution against this act or an item, section, or part of this act
13 within such period, then the act, item, section, or part shall not take effect
14 unless approved by the people at the general election to be held in
15 November 2012 and shall take effect on the date of the official
16 declaration of the vote thereon by the governor.