

# *Overview of Metro Districts*

## **ACREP Development Council**

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- Overview
  - What is a special district
  - What is a metro district
  - Powers/Authority
  - Financing Capabilities
- Legal/Political Issues

## *Perspectives: Public v. Private*

- Increased/more sophisticated public demand for infrastructure and services
- Changes in tax policy → more public improvements financed by private developers
- Cities (and citizens) want development to pay its own way
- Result → More public/private partnerships, lines blurred



# *What is a special or metro district?*

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- Districts formed under Article 1 of Title 32 of Colorado Revised Statutes
  - Governmental entity
    - quasi-municipal not quasi-governmental
  - Political subdivision of the State
  - Subject to TABOR
- Special District – authorized for a single purpose under Title 32
- Metropolitan District – authorized for two or more purposes



# *Powers and Functions of Special Districts*

- Generally speaking, district may
  - finance
  - construct
  - own
  - operate
  - maintain
- public improvements
- Districts also have the power of eminent domain



- Ambulance
- Health Services
- Health Assurance
- Street Improvements
- Safety Protection Improvements
- Parks and Recreation Improvements
- Water Improvements
- Sanitary Sewer Improvements
- Transportation Improvements
- Fire Protection Improvements

# Governance

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- Self-governing
  - Unlike the other types of entities referenced, once formed, the municipality has limited control
- BUT
  - Must operate within **service plan**, electoral authorization and statute
  - Elected board manages daily business of district
- Additional municipal oversight can be provided via
  - annual reporting – service plan requirement
  - contract/IGA



# *Legal Issues*

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- Financing
- Transparency
  - Generally, districts are subject to the same transparency requirements as a municipality
- Elections
- Eminent Domain
- Cases
  - Landmark/Marin





# Financing



- District authorized to;
  - levy ad valorem tax (subject to TABOR and service plan limitations)
  - impose rates, tolls, fees and charges for services, facilities, programs and indebtedness
  - issue general and special revenue bonds as well as general obligation bonds (which may be limited obligations based upon mill levy limitation)
  - establish sub-districts
- Debt of district is not debt of the municipality
- Limits of district debt constrained by
  - State statute
  - Service plan



# *Transparency*

- Open Meetings

- Districts are subject to the Colorado Sunshine Act, C.R.S. §24-6-401
- All meetings with quorum members where formal action may be taken must be open
- All meetings with a majority or more of the members of the governing body present must be open
- Public notice required for meetings where formal action occurs OR quorum present

# *Transparency*



- Public Records
  - District subject to the Colorado Open Records Act (CORA), §§24-72-201 et seq.
    - All records, unless exception applies, subject to public inspection

# *Transparency*

- Transparency Notice

- Required by legislation (SB 09-87)
- Due by January 15 of each year
- Provides information on the special district's directors, taxing information and upcoming election information.
- Searchable database:

<https://www.sdaco.org/transparency/>

- Also, notice under 32-1-104.8 (Information Statement), recorded against district property when order and decree is recorded

# Transparency

- Financing

- Districts subject to Colorado Local Government Budget Act, C.R.S. §§29-1-101, *et seq.*
  - Must adopt annual budget after notice and public hearing
- Annual audit required, filed with state auditor (C.R.S. §29-1-603)
  - Must submit annual financial audits or audit exemptions (e.g. less than \$750K revenue/expenditures)



# Transparency

- Real Estate disclosures
  - Purchase contract – all caps language(C.R.S. §38-35.7-101)
  - Statement at closing for purchaser signature (C.R.S. §10-11-22)
- Both state generally that
  - property may be located in a special taxing district
  - taxes (mill levy) may increase as a result
  - further information is available from local government or county assessor



## *Elections*

- Follows Local Government Election Code (C.R.S. §§1-13.5-1101 *et seq.*)
- Required for taxing and debt authorizations (TABOR)
- Required for Board membership
  - Eligible Electors of the special district may be appointed and/or elected to the Board of Directors.
- Public notice required
- Regular special district elections – Tuesday following first Monday in May
- HB 18-1039 – changed from even year elections to odd year elections



# *Mill Levy Caps*

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- Debt Service v. Operations & Maintenance
  - Remember that service plan sets outer limit; District Board decides on actual amount
  - Impact of Gallagher on residential v. commercial districts
- Can vary wildly, but most common cap
  - 50 mills – debt
  - 10 mills – O & M
  - 60 mills combined



# Term Caps

- Why limit the maximum term of district debt?
  - Typically, formed to finance and construct a known package of public improvements. The total revenues needed can be estimated.
  - Once constructed, some municipalities want to ensure district must seek approval by municipality of service plan amendment ensure that district does not incur significant long-term debt, or continually refinance existing debt
  - Other checks and balances to limit term/amount of debt
    - regular district elections
    - debt capacity
    - unlimited authority to refinance once district board is resident controlled



# 2023 Legislation

## SB 23-110 (passed)

- Requires service plan to specify max debt and max mill levy (previously best practice not requirement)
- Requires annual meeting for residential districts
- Disclosures and independent financial opinion required for director debt
- Additional seller disclosures

## HB 23-1090 (killed)

- Would have prohibited director debt

## HB 23-1062 (passed)

- Authorizes sales tax for parks and rec programs, with voter approval

## HB 23-1105 (passed)

- Created Metro District Task Force to study issues and recommend legislation

## *Other Resources*

- Special District Association (SDA)
  - [www.sdaco.org](http://www.sdaco.org)
- Colorado Department of Local Affairs (DOLA)
  - <https://www.colorado.gov/pacific/dola/special-districts>
- Metro District Education Coalition (MDEC)
  - <https://www.metrodistricteducation.com/>





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