

February 2010, Issue 1

Legislative Issues Update

The Special District Association is proposing two bills for Legislative consideration in this current legislative session, both relating to conditions arising due to the current economic condition of the State;

Metropolitan District Transportation Powers:

House Bill 10-1243, by Representative McFadyen and Senator Gibbs, provides new possibilities for funding and managing badly needed street improvement, safety protection or transportation needs in certain areas of Colorado.

SECTION 1: Allows a metropolitan district that is authorized by its approved service plan to provide street improvement, safety protection or transportation within the district, to levy, with voter approval, a uniform sales tax in any part of the district that does not overlap an incorporated city or town.

The metropolitan district must have authorization to provide safety protection, street improvement, or transportation. In order to levy any such sales tax, must have approval of the registered electors in the district that are not in a part of the district that overlaps a city or town, in a TABOR election, and the net revenues can only be used to fund safety protection, street improvement, or transportation.

SECTION 2: Allows a metropolitan district that is authorized by its approved service plan to provide street improvement, safety protection or transportation within the district, to join with counties and/or municipalities to form a Regional Transportation Authority, or to join a Regional Transportation Authority that includes municipalities and/or counties.

Background: The Regional Transportation Authority Law, 43-4-601 et. seq., C.R.S., was enacted in 2005, allowing for a combination of municipalities, counties, or municipalities and counties, to join together by intergovernmental agreement (IGA), for the purpose of financing, constructing, operating, or maintaining regional transportation systems or facilities. The act enumerates the structure, governance, and powers of an RTA, and the oversight and limitations that are included.

In the RTA Law as originally enacted, special districts were not included as an allowable member of a combination. In several areas of the state, where there is no incorporated municipality, a metropolitan district may be the primary unit of government providing many of the services to the residents. The metropolitan district may have a funding source and revenues to bring to the RTA, for the purpose of constructing or maintaining much-needed transportation facilities, that otherwise would not be able to be utilized in a regional context.

Inactive Status for Certain Metropolitan Districts:

During the past three or four years, a significant number of new special districts have been formed in rapidly growing areas of the state, to finance the infrastructure to support the significant population growth and demand for housing. Unfortunately,

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before some of these new districts were able to get started with financing and construction of their infrastructure, the recession hit, foreclosures started flooding the market, and the demand for new houses has greatly diminished.

This proposed bill creates a formal process by which such a district can be declared inactive, and until activity is ready to begin again, certain annual statutory duties will be suspended, since there is no activity to be reported. The general provisions of the bill are as follows:

In order to qualify as an inactive district, the district must be in the pre-development stage; have no residents, or business or commercial ventures existing in the district; have issued no general obligation or revenue debt, and have adopted no mill levy.

The district board of directors must adopt a resolution affirming that the above conditions are true. This resolution then must be filed with the County commissioners and city council of every county and city that approved the district's service plan; County assessor, treasurer, and clerk and recorder in each county where located; The District Court that ordered the formation election of the district;

The State Auditor; and The Division Of Local Government

At such time as the district board determines that the district is ready to resume activity, it must adopt a resolution that it is ending its inactive status, and file this resolution with all the same offices as listed above. Once this resolution is filed, all of the required filings and functions must be resumed in full effect.

During the period when the district is inactive, the following restrictions will apply:

- a. The district will be prohibited from imposing a mill levy, or issuing any debt;
- b. The district will be exempt from compliance with the following statutory requirements;
 - Adopting and filing an annual budget;
 - Entering into intergovernmental agreements;
 - annually filing a certified audit;
 - valuation of property for property taxation purposes;
 - annual filing of the boundary map of the district;
 - the holding of regular board meetings

These are all administrative and reporting actions, and since there is no activity within the district, these filings are unnecessary, and costly for the district, which in a condition such as this, probably has no funds with which to pay for the performance of these acts. Once the district becomes active again, all these requirements are reinstated.

Prompt Pay in Construction Contracting—Again:

Every year for the past five years, the contracting and subcontracting representatives have introduced at least one major bill restructuring the rules for construction contracting. This year two bills have been introduced, one relating to change orders and the other relating to retainage in contracting.

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Senate Bill 116, sponsored by Senator Kopp, R., Littleton, provides that for any form of order or directive by a public entity requiring additional compensable work to be performed, a clause that requires the public entity to reimburse the contractor for the contractor's costs on a periodic basis, as those terms are defined in the contract, for all additional directed work performed until a change order is finalized. In no instance shall the periodic reimbursement be required before the contractor has submitted an estimate of cost to the public entity for the additional compensable work to be performed. SDA is seeking a clarifying amendment to this bill.

House Bill 1162, sponsored by Representative Soper, D., Thornton, amends existing law relating to allowable retainage in a construction contract. The bill reduces allowable retainage from 10 percent to 5 percent until the contract is fifty percent completed, then reduces retainage from 5 percent to two and one half percent for the remainder of the contract period. It also requires that the retainage be placed in escrow with a bank or escrow account, requires fifteen percent penalty interest for any retainage that isn't paid over on time. SDA strongly objects to the terms of this bill, and along with representatives of other public entities and the private sector owners and contractors, is opposing it.

Tax Increment Financing:

When cities form Urban Renewal Authorities, and then designate an area for Tax Increment Financing (TIF), any special districts that overlap that area are likely to have their property tax revenues frozen at the amount produced when the TIF was instituted. This can create a significant hardship on some districts, especially fire protection districts, and to some degree for water and sanitation districts and park and recreation districts.

Bills concerning TIF financing have been on the legislative agenda for several years as well. SDA has been actively involved in seeking amendments to current law that would give affected special districts some ability to protect their fiscal interests when they will be expected to provide vital services while their revenues are frozen. This year is no exception.

HB 1107, sponsored by Representative Fischer, D., Fort Collins, deals primarily with TIF arrangements when undeveloped agricultural lands, referred to as "greenfields," are included in the TIF area. The bill allows such ag lands to be included only under certain conditions, including with the agreement of the affected taxing entities (special districts, school districts, and counties), or when the ag land is an enclave within a city, or has major contiguity to the city. It also requires that the base (beginning) valuation of the land when the TIF is formed shall be the land's actual value, rather than the significantly lower value of the land under an ag land classification.

This bill passed the House, and is awaiting hearing in a Senate Committee. An amendment in the House changed the effective date from upon the Governor's signature, to ninety days after the end of the legislative session (May 12 this year). It was argued that there are some major redevelopment projects on the drawing board that can become effective prior to this later effective date, but would possibly be unable to be effective by the mid-May date.

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Bill #	Comments	Sponsors	Short Title	Calendar Notification	Most Recent Status
HB10-1012	oppose	PACE / CARROLL M.	Limit Surveillance Workers' Comp Claims	NOT ON CALENDAR	02/11/2010 House Committee on Judiciary Refer Amended to Appropriations
HB10-1016	passive support	WALLER / TOCHTROP	FPPA Retired Bd Member Term Extension	NOT ON CALENDAR	02/09/2010 Introduced In Senate - Assigned to Business, Labor and Technology
HB10-1023	active support	WALLER / HUDAK	Employer Liability Negligent Hiring	Bill HB10-1023 - WALLER / HUDAK Employer Liability Negligent Hiring Wednesday, February 24 2010 JUDICIARY COMMITTEE 1:30 P.M. SCR 352 <i>(1) in senate calendar</i>	02/09/2010 Introduced In Senate - Assigned to Judiciary
HB10-1051	oppose unless amended to satisfaction of W.C.	POMMER / WHITEHEAD	Water Efficiency Plans Annual Reports	Bill HB10-1051 - POMMER / WHITEHEAD Water Efficiency Plans Annual Reports Wednesday, February 24 2010 Agriculture, Livestock, & Natural Resources 1:30 p.m. Room 0107 (1) in house calendar.	01/13/2010 Introduced In House - Assigned to Agriculture, Livestock, & Natural Resources
HB10-1056	passive support	FRANGAS / CARROLL M.	ID Theft Disposal Of Records	NOT ON CALENDAR	01/13/2010 Introduced In House - Assigned to Judiciary
HB10-1062	Monitor the bill	SCHAFFER S. / HODGE	Gov Crime Ins Coverage Of Cnty Officers	Bill HB10-1062 - SCHAFFER S. / HODGE Gov Crime Ins Coverage Of Cnty Officers Tuesday, February 23 2010 ADVISORY COMMITTEE for terms expiring August 24, 2013: (2) in senate calendar.	02/04/2010 Introduced In Senate - Assigned to Local Government and Energy
HB10-1063	Good idea but SD's do not fit under this title.	TODD / GIBBS	Newspaper For Municipal Legal Notice	NOT ON CALENDAR	02/01/2010 Introduced In Senate - Assigned to State, Veterans & Military Affairs

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HB10-1075	Bill is dead	KAGAN &... / WILLIAMS &...	Credit Unions & Public Entities	NOT ON CALENDAR	02/12/2010 House Committee on Business Affairs and Labor Postpone Indefinitely
HB10-1076	Passive support	DELGROSSO / HEATH	Prop Tax Work-off Prog Particip Status	NOT ON CALENDAR	02/09/2010 House Third Reading Passed
HB10-1086	Bill dead	CURRY / HODGE	Ltd Liab Water Right Recreation Purposes	NOT ON CALENDAR	01/28/2010 House Committee on Judiciary Postpone Indefinitely
HB10-1091	Bill is dead	SUMMERS	Use Of Certain Docs As ID For Voting	NOT ON CALENDAR	01/21/2010 House Committee on State, Veterans, & Military Affairs Postpone Indefinitely
HB10-1107	Suupport bill. There may be amend'ts, need to see them but may not harrn the bill	FISCHER / CARROLL M.	Urban Renewal Area Ag Lands	NOT ON CALENDAR	03/03/2010 House Committee on Agriculture, Livestock, & Natural Resources Refer Amended to House Committee of the Whole
HB10-1116	May need to amend and also SDA asked for input from leg comm.	TODD / NEWELL	Revisions To CO Election Law	NOT ON CALENDAR	02/09/2010 Introduced In Senate - Assigned to State, Veterans & Military Affairs
HB10-1125	May support the bill. Need to know if it harms district.	HULLINGHORST / SCHWARTZ	Regulate Grease Collection & Disposal	Bill HB10-1125 - HULLINGHORST / SCHWARTZ Regulate Grease Collection & Disposal Thursday, February 25 2010 Transportation & Energy Upon adjournment Room 0107 <small>(A) in house calendar</small>	01/15/2010 Introduced In House - Assigned to Transportation & Energy
HB10-1152	Need more info about bill. may testify and oppose	FRANGAS	Unlawful Discriminatory Practice Disab	NOT ON CALENDAR	01/20/2010 Introduced In House - Assigned to Judiciary
HB10-1159		PACE / GIBBS	Mitigation For Water Exports	NOT ON CALENDAR	02/05/2010 House Second Reading Lost

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HB10-1162	Active opposition	SOPER / BACON	Retainage Construction Contracts	NOT ON CALENDAR	01/20/2010 Introduced In House - Assigned to Business Affairs and Labor
HB10-1197		FERRANDINO / HEATH	Reduce Conservation Easement Cap Amount	NOT ON CALENDAR	02/12/2010 House Third Reading Passed
HB10-1205		RYDEN / SPENCE	Local Land Use Planning For Mill Install	Bill HB10-1205 - RYDEN / SPENCE Local Land Use Planning For Mill Install Thursday, February 25 2010 State, Veterans, & Military Affairs Upon adjournment Room 0112	01/26/2010 Introduced In House - Assigned to State, Veterans, & Military Affairs
HB10-1243		MCFADYEN / GIBBS	Trans Related Powers Of Spec Dists	(2) In house calendar NOT ON CALENDAR	02/03/2010 Introduced In House - Assigned to Transportation & Energy
HB10-1257		GEROU / SCHEFFEL	Limit Prop Tax Exemption Reductions	Bill HB10-1257 - GEROU / SCHEFFEL Limit Prop Tax Exemption Reductions Friday, February 19 2010 Finance Upon adjournment Room LSB-A	02/03/2010 Introduced In House - Assigned to Finance + Appropriations
HB10-1266		FRANGAS	Health Ins For Local Gov & Small Bus	(1) In house calendar NOT ON CALENDAR	02/04/2010 Introduced In House - Assigned to Business Affairs and Labor
HB10-1267		KERR A. / ROMER	Prop Tax Of Indep Residential Solar	Bill HB10-1267 - KERR A. / ROMER Prop Tax Of Indep Residential Solar Friday, February 19 2010 Finance 1:30 p.m. Room LSB-A	02/04/2010 Introduced In House - Assigned to Finance
HB10-1269	Will review and watch.	LEVY / CARROLL M.	Workplace Fairness Civil Remedies Act	(1) In house calendar Bill HB10-1269 - LEVY / CARROLL M. Workplace Fairness Civil Remedies Act Monday, March 1 2010 Judiciary 1:30 p.m. Room 0107 (5) In house calendar	02/05/2010 Introduced In House - Assigned to Judiciary

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HB10-1292		MURRAY / HARVEY	Conditions On Land-use Approval	Bill HB10-1292 - MURRAY / HARVEY Conditions On Land-use Approval Tuesday, February 23 2010 Local Government 1:30 p.m. Room 0111 (2) in house calendar	02/05/2010 Introduced In House - Assigned to Local Government
SB10-001	Watch for some COLA issues.	SHAFFER B. & ... / KERR A.	Eliminate PERA's Unfunded Liability	Bill SB10-001 - SHAFFER B. & ... / KERR A. Eliminate PERA's Unfunded Liability Monday, February 15 2010 THIRD READING OF BILLS - FINAL PASSAGE (3) in house calendar. (2) in house calendar	02/12/2010 House Second Reading Special Order - Passed
SB10-011		CARROLL M. / MIKLOSI	Workers' Comp Conflicts Of Interest	NOT ON CALENDAR	01/13/2010 Introduced In Senate - Assigned to Judiciary
SB10-021		MORSE / LABUDA	Volunteer Firefighter Pension Plan	Bill SB10-021 - MORSE / LABUDA Volunteer Firefighter Pension Plan Wednesday, February 17 2010 GENERAL ORDERS -- SECOND READING OF BILLS (4) in house calendar	02/10/2010 House Committee on Business Affairs and Labor Refer Unamended to House Committee of the Whole
SB10-022		MORSE / RIESBERG & ...	FPPA Defined Benefit Member Contribution	Bill SB10-022 - MORSE / RIESBERG & ... FPPA Defined Benefit Member Contribution Wednesday, February 17 2010 GENERAL ORDERS -- SECOND READING OF BILLS (5) in house calendar.	02/10/2010 House Committee on Business Affairs and Labor Refer Unamended to House Committee of the Whole
SB10-023		WILLIAMS / RIESBERG & ...	Return To Work By FPPA Member	Bill SB10-023 - WILLIAMS / RIESBERG & ... Return To Work By FPPA Member Wednesday, February 17 2010 GENERAL ORDERS -- SECOND READING OF BILLS (6) in house calendar	02/10/2010 House Committee on Business Affairs and Labor Refer Unamended to House Committee of the Whole

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SB10-024		TOCHTROP / LABUDA	Eliminate FPPA Affiliated Local Plans	Bill SB10-024 - TOCHTROP / LABUDA Eliminate FPPA Affiliated Local Plans Wednesday, February 17 2010 GENERAL ORDERS -- SECOND READING OF BILLS <i>(7) in house calendar</i>	02/10/2010 House Committee on Business Affairs and Labor Refer Unamended to House Committee of the Whole
SB10-033		SCHULTHEIS / BAUMGARDNER	Fair Legal Employment Act	NOT ON CALENDAR <i>(7) in house calendar</i>	01/13/2010 Introduced In Senate - Assigned to State, Veterans & Military Affairs
SB10-041		BACON / NIKKEL	Campaign Finance Clean-up	NOT ON CALENDAR	02/04/2010 Introduced In House - Assigned to State, Veterans, & Military Affairs
SB10-053		FOSTER / ACREE	Metro Sewer Dist Bd Weighted Voting	Bill SB10-053 - FOSTER / ACREE Metro Sewer Dist Bd Weighted Voting Wednesday, February 17 2010 GENERAL ORDERS -- SECOND READING OF BILLS <i>(7) in house calendar</i>	02/12/2010 House Second Reading Laid Over to 02/17/2010
SB10-078	Passive support. Check with CML	HODGGE	Facilitate Use Of Reusable Effluent	NOT ON CALENDAR	02/11/2010 Senate Committee on Agriculture and Natural Resources Postpone Indefinitely
SB10-085	oppose	SCHEFFEL / PRIOLO	Exempt Personal Prop Tax Pilot Program	Bill SB10-085 - SCHEFFEL / PRIOLO Exempt Personal Prop Tax Pilot Program Wednesday, February 17 2010 STATE, VETERANS, & MILITARY AFFAIRS COMMITTEE 1:30 P.M. SCR 353 (3) in senate calendar.	01/20/2010 Introduced In Senate - Assigned to State, Veterans & Military Affairs

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SB10-086		SCHEFFEL / PRIOLA	Phased-in Fully Depreciated Prop Exempt	Bill SB10-086 - SCHEFFEL / PRIOLA Phased-in Fully Depreciated Prop Exempt Wednesday, February 17 2010 STATE, VETERANS, & MILITARY AFFAIRS COMMITTEE 1:30 P.M. SCR 353 (4) in senate calendar.	01/20/2010 Introduced In Senate - Assigned to State, Veterans & Military Affairs
SB10-098	possible issues on the fund.	TOCHTROP / SONNENBERG	Allocate Moneys Conserve Nat Resources	Bill SB10-098 - TOCHTROP / SONNENBERG Allocate Moneys Conserve Nat Resources Thursday, February 18 2010 AGRICULTURE AND NATURAL RESOURCES COMMITTEE 1:30 P.M. SCR 353 (3) in senate calendar.	01/20/2010 Introduced In Senate - Assigned to Agriculture and Natural Resources
SB10-109	Watch for employment issues if amended.	ROMER & ... / MASSEY & ...	Medical Marijuana Dr Patient Relations	Bill SB10-109 - ROMER & ... / MASSEY & ... Medical Marijuana Dr Patient Relations Friday, February 26 2010 GENERAL ORDERS -- SECOND READING OF BILLS (1) in house calendar.	02/12/2010 House Second Reading Laid Over to 02/26/2010
SB10-114	passive opposition.	CARROLL M. / WEISSMANN	Taxpayer Transparency Act Of 2010	Bill SB10-114 - CARROLL M. / WEISSMANN Taxpayer Transparency Act Of 2010 Monday, February 15 2010 GENERAL ORDERS - SECOND READING OF BILLS (1) in senate calendar.	02/05/2010 Senate Second Reading Laid Over Daily
SB10-116		KOPP / RICE & ...	Change Orders On Public Works Contracts	Bill SB10-116 - KOPP / RICE & ... Change Orders On Public Works Contracts Wednesday, February 17 2010 BUSINESS, LABOR, & TECHNOLOGY COMMITTEE 1:30 P.M. SCR 354 (1) in senate calendar.	01/28/2010 Introduced In Senate - Assigned to Business, Labor and Technology

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SB10-162	New bill	HEATH / HULLINGHORST	Modifications To Enterprise Zone Act	Bill SB10-162 - HEATH / HULLINGHORST Modifications To Enterprise Zone Act Thursday, February 18 2010 FINANCE COMMITTEE UPON ADJOURNMENT SCR 354 <small>(2) In senate calendar</small>	02/04/2010 Introduced In Senate - Assigned to Finance
SB10-163	New bill	TOCHTROP / KERR A.	Workers' Compensation Procedures	Bill SB10-163 - TOCHTROP / KERR A. Workers' Compensation Procedures Monday, February 15 2010 BUSINESS, LABOR, & TECHNOLOGY COMMITTEE 1:30 P.M. SCR 354 <small>(2) In senate calendar</small>	02/04/2010 Introduced In Senate - Assigned to Business, Labor and Technology
SJR10-008		MORSE / APUAN	Recognize EMS Providers	NOT ON CALENDAR	02/05/2010 Signed by the Speaker of the House