Legislative Proposals - Special District Abuse

February 13, 2020

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Orientation resources:

<http://rooneyvalleynews.com/denver-post-special-district-series-plus-commentaries-and-letters-to-the-editor/>

<http://solterracommunity.org/index.php/2019/09/08/special-district-video/>

 **Executive Summary**

1.  **Right to Vote on Tax and Bond Debt - the developer takes away the right of future residents to vote on taxes and bond debt in the ballot issue in the first election - for 20 years.  They have no right to take away my constitutional right to vote on future debt.  No matter what folks think of Tabor, it is the law currently, and the only one who has a right to give up that right to vote on tax debt are the actual voters - me  - not the developer.  (P. 4 - 5)**

**2.  Citizen Initiative to Repeal Current Ballot Issue - the only way to get this right to vote back is to repeal the first ballot issue "voted" on by the developer's employees in the first election.   Right now, only the board has the power to put the issue on the ballot - there is no citizen initiative right for special districts.  Most boards are dominated by the developer and even if they are all residents, as in Solterra's case, they are still following the developer model and refuse to place the issue on the ballot.  Establishing a right for citizen initiative legislation for special districts is the only way to provide that check and balance.  (P. 6 - 7)**

**3.  Developer Appointments to the Boards - developers appoint their employees to the board when "there is no one else to run".  The statute first says they can't do this if the only reason is to get them on the board.  Then the statute in the next section says, they can do it when there are no other people to run.  There should be no "election" unless there are residents.**

**This is the Town Center issue.  We have people making taxing and spending decisions raising taxes and spending that money from people who don't even live in the district. The only way they get away with this is under this statute CRS 32-1-808 where giving the board an interest in the deed for the purpose of serving on the board can only happen if there is no one else to run - which is the case because the district was deliberately created so that there is no one in the district - to run.  (P 8 - 10)**

**4.  Disclosures Required As Part of Application to City/County for Service Plan Approval**

**This guarantees that the city / county see the critical documents.  The Service Plan is only the tip of the ice berg.  The real obligations imposed on the residents are in the ballot issues and the "agreements" which the city / county never see.**

**This will also provide the opportunity to police the documents to make sure prohibitions on eliminating the future residents' right to vote and single party agreements are enforced. (P. 11 )**

**5.  Disclosures to Prospective Homebuyers and Residents -  We need to disclose the real numbers from the documents buried in the pile of special district documents no one (including the city or county) ever sees.  The disclosures currently in place are not real disclosures - they say, at the most, go look for it yourself.  Disclosure should be made three times - first encounter, time of contract, time of closing.  (P. 12- 13)**

**6.  Transfer Fees - Developer boards are charging transfer fees and there is no authority to do so.  The developers will continue to do whatever they want to unless there is a check and balance.  The penalty provision provides that check and balance. (P. 14)**

**7.  Term Limits - Just as with the right to vote, the residents, not the developer have the only right to eliminate term limits.  (P. 15)**

**8.  Conflict of Interest - The developer cannot represent himself and the residents at the same time.  There is no enforcement penalty and no accountability. (P. 16)**

**9.  Oversight by the County / City - Provisions to strengthen the city/county's duty to enforce the statutes.   This is not telling the city / county what to do as much as it is spelling out with more practical application how to do it.**

**The cities and counties either don't believe or don't know that they have the power to regulate special districts until the residents assume control of the boards.  And the developer applicants always phrase their service plans in terms of limiting the city or county's power to regulate them.  It would help to have a more definitive statement.  (P. 17- 18).**

**10.  Limit on Debt / Valuation**

**The developers routinely take advantage of this "double speak" statute.  It initially limits the amount of debt as 50% of the valuation of all the homes.  Then the statute immediately creates so many exceptions that the rule is eliminated.   In a handbook DOLA warned of any valuation percentages higher than 30%.  Many districts are over 100%.**

**This means that when the market cycles down, many districts will go bankrupt - as did Castle Pines.  (P. 19 - 20)**

**11.   Junior Bonds - these need to be eliminated - another developer maneuver to add more profit directly to the developer (instead of the bond investors). (P. 21)**

**12.  Study Commission - there is substantial question as to whether or not special districts for residential development are in the public interest.  In the past - in Longmont where special districts were not permitted for residential development, and in most other parts of the country - the infrastructure is paid as part of the cost of the lot.  Once we get into the numbers and force the developers to disclose their financing models (which they are obligated to do if they are going to be a "government"), I expect we will see that they pay for the infrastructure with the cost of the lots and that the special district income is pure profit.  And even if that is not the case, the cost of financing infrastructure with two loans and interest on interest is, as one commercial developer explained, absolutely the most expensive way to finance infrastructure.  (P. 22)**

1. **Right to Vote on Tax and Bond Debt**

In every special district the developer eliminates the right of the future residents to vote on tax and bond debt and gives that power to the developer board

The state legislation facilitates this maneuver in CRS 32-1-1101 (2):

**(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 13.5 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.**

The developer implements this maneuver by having an "election" where the only voters are the developer and his employees. **Exhibits A and B**. The "voters" pass the ballot issue that gives the power to issue bond debt to the district board. **Exhibit B**

The developer then monopolizes the district board for anywhere from 5 to 20 years. In Solterra, 11 years. In Ebert District 20 years.

*Proposal:*

*Be it Resolved that the number "five years" and "twenty years" in CRS 32-1-1101 (2) be changed in both cases to "six months".*

It will not take longer than six months to process the decision to issue tax or bond debt. Once that time expires, the board must return to the voters for permission to issue new debt.

The current practice of the developer employee "voters" voting in their "election" to give the developer board authority to issue bond debt for up to 20 years will end.

Since the bond investors will not buy bonds until the residents arrive and the value of the homes (and property taxes) reaches a satisfactory level, there will not be a 6 month time period authorized by an election of the residents that won't include the residents.

Right now the value of the homes and the presence of tax paying residents happens typically 5 - 20 years after the vote, not 6 months.

Which is why the statute, apparently influenced by the developers, gives them 20 years to issue debt "voted" on by the developer's employees and 20 years to sell that debt before the residents have a chance to object.

2. **Citizen Initiative to Repeal Current Ballot Issues**

Reforming the legislation in paragraph 1 above will restore the residents' right to vote on future debt in future special districts. What about the 1000+ current special districts.

The current ballot issues taking away the right to vote on future tax debt can be repealed.

But there is currently only one way to repeal the first ballot issue - the board must place the question on the next ballot.

Most boards are still controlled by the developer. And even where residents control the boards, some resident boards are still following the developer's model. This is the case in Solterra where the current board was initially appointed by the board's appointees. They refuse to put the issue on the ballot.

And there is **no citizen initiative available in special districts**. In Solterra, for example, the attorney representing the board will not recognize a citizen initiative.

The Colorado Constitution, Article V, Section 1, paragraph 9 states:

**"9)  The initiative and referendum powers reserved to the people by this section are hereby further reserved to the registered electors of every city, town, and municipality as to all local, special, and municipal legislation of every character in or for their respective municipalities. The manner of exercising said powers shall be prescribed by general laws; except that cities, towns, and municipalities may provide for the manner of exercising the initiative and referendum powers as to their municipal legislation. Not more than ten percent of the registered electors may be required to order the referendum, nor more than fifteen percent to propose any measure by the initiative in any city, town, or municipality.**

**(10)  This section of the constitution shall be in all respects self-executing; except that the form of the initiative or referendum petition may be prescribed pursuant to law."**

In the annotations to case decisions there is this entry: "BUT THERE ARE NO CONSTITUTIONAL **INITIATIVE POWERS reserved to the people over countywide legislation." Bd. of County Comm'rs v. County Road Users Ass'n, 11 P.3d 432 (Colo. 2000).**

While a plain reading of the constitution would include county legislation and special district legislation even though they are not expressly included, the Colorado Supreme Court held in the above case that since it was not expressly included, there is no citizen initiative for counties. Many counties have since included that power. Although there are good arguments that special district ballot issues regarding Tabor would be included - because it is a Tabor issue and because the district's powers flow from the city/county that created it, **without state legislation**, that power would be decided after protracted and expensive litigation.

*Proposal:*

*Be it Resolved that the authority for citizen initiatives as set forth in the Colorado Constitution Article V, Section 1 shall be available to the citizens and residents of special districts. The procedure for citizen intiatives shall be the procedure provided for by the municipality, city or county that created the special district. The designated election official for a citizen initiative in a special district shall be the designated election official for the municipality, city or county that created the special district.*

This will restore the right of citizens to enact legislation for the most local and invasive of all local governments - special districts.

3. **Developer Appointments to the Boards**

The state legislation initially prohibited developers from appointing themselves and their employees to boards of directors for special districts when they did not own property or pay taxes for the districts.

But in the same breadth they created a loophole. If there were no other people in the district to vote, the developer could appoint himself and his employees to run the boards.

So of course, they created the districts . . . when there was no one else in the districts.

There is no reason for there to be any votes when there are no people to vote. This loophole must be closed. There is no reason to create a Disrict when there are no people and no money.

The Town Center Metro District (Ebert) is a perfect example. The directors are not elected by the residents. They are appointed based upon the developer placing their name on a deed. They pay no taxes. They own no property. Yet they are making decisions on taxes, bond debt and spending that money. Money paid by disenfranchised residents.

Here is the statute:

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

**(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 article 13.5 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 1-13.5-303, C.R.S., 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 1-13.5-303, C.R.S., 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 article 13.5 of title 1, C.R.S., shall not be subject to further challenge based upon qualification as a property owner under this section.**

**(6)  (a) Notwithstanding any provision of law to the contrary:**

**(I)  The qualification of any person appointed or elected to a board prior to April 21, 2016, is hereby validated, ratified, and confirmed and may not be challenged, except as provided in this subsection (6), unless a contest was initiated prior to April 21, 2016.**

**(II)  The qualification of any person appointed or elected to a board on May 3, 2016, is hereby validated, ratified, and confirmed and may not be challenged, except as provided in this subsection (6), unless a contest was initiated within the time period specified in section 1-11-213 or 1-13.5-1403, C.R.S., as applicable.**

**(b)  Except where a contest to the qualifications of a person to serve on a board has been timely initiated as described in this subsection (6), this subsection (6) validates, ratifies, and confirms the qualifications of any person appointed or elected to a board prior to May 3, 2016, notwithstanding any defects and irregularities in such qualifications. All actions undertaken by any board member who may not have been qualified to serve on the board when appointed or elected on or before May 3, 2016, shall be considered as actions of a de facto officer and director and as valid and effective.**

**(c)  Nothing in this subsection (6) is intended to limit challenges by legal proceedings in the nature of quo warranto to the continuing service of persons appointed or elected to a board who may no longer be eligible to serve in accordance with section 32-1-905 together with challenges to the actions of such board taken after initiation of those legal proceedings.**

Section 1 says the developer can't appoint non-residents to the board. Section 2 says he can. When there isn't anyone else around.

Section 6 says all the decisions of board members prior to 2016 who did not qualify as electors are legislatively ratified as valid decisions.

*Proposal:*

*Be it Resolved that Paragraphs (2), (3), (4), and (5) of CRS 32-1-808 are hereby repealed.*

This will close the loophole. No one may vote or serve on the board unless they own property, pay taxes or live in the district. There will be no elections unless there are people in the district to vote.

Here is the definition of an "elector":

CRS 32-1-103

**(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 is a resident of the special district or the area to be included in the special district; or**

**(II)  Who, or whose spouse or civil union partner, 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).**

**. . . [other sections not applicable].**

4. **Disclosures Required as Part of Application to City/County for Service Plan Approval**

There are three critical documents. The Service Plan. The initial ballots. The agreements between the developer and himself as the developer and districts.

The only document that the developer must currently disclose to the City/County/public is the proposed Service Plan.

*Proposal:*

*Be It Resolved that CRS 32-1-202 (2) shall be amended to include the following:*

*(A.1) a complete set of all the ballot issues that will be voted on in the first election*

*(A.2) no service plan shall be approved if the ballot issues for the first election include a provision that compromises or reassigns in any manner or degree the right of the future residents to vote on taxes or bond debt as provided for in the Taxpayer Bill of Rights, Colorado Constitution, Article X, Section 20. No ballot issue for an approved special district may compromise or reassign in any manner or degree the right of the residents to vote on taxes or bond debt until the residential development is built out - all the residences have been constructed - and the board of directors are all eligible electors.*

*(A.3) a complete set of all the agreements between the developer and himself as the district(s)*

*(A.4) no service plan shall be approved where the developer enters into single party agreements with himself, an employee, contractor, relative, or any person whose personal or business interests are dependent upon or influenced by those of the developer, or whose personal or business interests are in conflict with the personal or business interests of the future residents, which single party agreements obligate future residents to pay money to the district or the developer.*

These amendments will insure that the City or County receive all three critical documents and that the City or County and public may police the prohibition on ballot issues which eliminate the right of future residents to vote on taxes and bond debt and the prohibition on single party contracts which are legally invalid and unenforceable.

5. **Disclosure to Prospective Homebuyers and Residents**

The typical disclosure to the prospective homebuyer and resident occurs only at the time of closing and essentially makes a vague reference to a special district and directs the person to "look it up".

In addition, the salespersons at communities with special districts typically provide false information regarding the financial impact and the right to vote.

In Solterra, for example, residents were instructed for 11 years that they did not have a right to vote or serve on the board until the community was built out 75%. A similar instruction was offered by a sales person in the Brighton area during the week of January 27, 2020.

*Proposal:*

*CRS 32-1-202 (2)*

*(A.5). A disclosure to prospective homebuyers and residents which follows exactly the following format and content on a single piece of paper in 14 point font:*

*THIS IS A SPECIAL DISTRICT. THE COST OF FINANCING THE INFRASTRUCTURE WILL INCLUDE ADDITIONAL PROFIT AND INTEREST TO THE DEVELOPER AND BOND INVESTORS WHICH COSTS ARE NOT INCLUDED IN A NON-SPECIAL DISTRICT COMMUNITY*

*[Using Solterra's information as an example to fill in the blanks]*

*The total price paid by the developer for your lot is [$10,000]. The invoice and payment record for the cost of the land is available upon request from the City / County Clerk.*

*The total cost of the infrastructure for the development (including the developer's profit) is [$34,000,000]. The invoices and payments for the cost of the infrastructure are available upon request from the City / County Clerk*

*The total number of lots is [1,100]*

*The total cost of the land plus the total share of the cost of the infrastructure is [$41,000]*

*The total cost of your lot is [$100,000]*

*The developer has eliminated your right to vote on future taxes and future bond debt by a vote of himself and his employees in an "election" before there were any residents.*

*The developer will make every effort to control the governing board of directors which has the sole power to impose future taxes and bond debt.*

*As soon as you have a contract to purchase a home in this special district, you have the right to vote and to serve on the board(s).*

*The developer and his employees "voted" to authorize debt to be paid by you up to [$600,000,000].*

*The developer and his employees "voted" to authorize a maximum repayment cost by you (principal plus interest) up to [$4.9 billion].*

*In an average community of 1100 lots where the developer issued $29 million in bond debt to be paid by the residents' property taxes, the residents will pay over $2 million in taxes each year for 40 years - at an average cost of $2,000 - $3,000 per resident per year for 40 years. The bond debt is a loan with interest to repay another loan plus interest. Interest on interest.*

*The "mill rate" is the amount of taxes paid based upon the value of the property. For example, a "mill rate" is set for School District taxes, Fire District taxes, City taxes, County taxes and other taxes. The mill rate for the Special District taxes is also included in the total property tax bill. Here is the breakdown for this special district:*

*School District Fire District. City. County. Special District [43 mills]*

*Total:*

*A home for sale in a community that does not have a special district will not include the special district taxes. You should compare the "mill rate" for other communities.*

*(A.6). The disclosure set forth in (A.5) shall be delivered to the prospective homebuyer at the time they enter the sales office for a home builder or developer in the district, at the time a contract is signed for the purchase or construction of a home in the district and, separately, at the time of closing. Any failure to deliver the disclosure to the prospective homebuyer or resident at each of these three events shall be punishable as against both the developer and the home seller by each prospective homebuyer or resident in an action to recover actual damages times three and no less than $10,000 per person per event.*

*6.* ***Transfer Fees***

*Some districts (i.e. Ebert District) are charging a "transfer fee". It has been explained that this is money paid by the new homebuyer to the developer or District when they buy a home in a special district. It appears that this fee is charged at the time a home in a special district is sold subsequent to the original purchase from a developer or home builder.*

*There does not appear to be any authority for charging this fee.*

*Proposal:*

*32-1-1101*

*(7) Charging a "transfer fee" or any cost paid to the developer or district upon the resale of a home in a special district is strictly prohibited. Any incident of charging a "transfer fee" or any cost described in the foregoing sentence shall be punishable as against both the developer or district by each homebuyer in an action to recover actual damages times three and no less than $10,000 per person per event.*

This will eliminate transfer fees.

7. **Term Limits**

Most initial ballot issues "voted" on by the developer and his employees at the first "election" contain a ballot question eliminating term limits.

*Proposal:*

*32-1-808 Term Limits*

*No initial election to establish a special district may include a ballot issue eliminating term limits. Term limits for the board may only be eliminated at an election held after the community is built out - all residences planned for the community have been constructed - and the board is composed of only eligible electors.*

This will eliminate the maneuver to avoid having actual residents serve on the boards.

8. **Conflict of Interest**

Developers and their employees are routinely making decisions which impose significant financial obligations on unsuspecting and unknown future residents and which enrich the developer. These conflicts of interest are at the root of special district abuse and must cease.

*Proposal:*

*Be it Resolved that CRS 32-1-210 is added as follows:*

*32-1-210 Conflict of Interest*

*At no time shall a director on the board of a special district participate in the discussion of or vote upon an issue where the director has a conflict of interest. An example would include the director or a member of his/her family will benefit in some way personally or professionally by the outcome of the board's decision on a particular issue.*

*Any violation of this prohibition shall be punishable as against the director personally and against the director's employer by each prospective homebuyer or resident in an action to recover actual damages times three and no less than $50,000 per person per director per event.*

This should discourage the abuse.

9. **Oversight by County / City**

The cities and counties are hesitant to police special district abuse for a variety of reasons. Clarity on their duty to protect the interests of future residents in policing special district abuse is necessary.

*Proposal:*

*Be it Resolved that sections (d) and (e) are added to both CRS 32-1-203 (1) and CRS 32-1-204.5 (1)*

*(D) To conditionally approve a special district - where the applicant intends to build new residences - and to maintain monthly supervision over the management and affairs of the special district until the residences planned for the district are all built out and eligible electors serve on the district board(s).*

*During the time until the district is built out and eligible electors serve on the district board(s) the City / County shall require monthly reports from the applicant and developer. These monthly reports shall be available to the public. The reports shall contain, at a minimum, the following information.*

*Until the district is built out and the eligible electors serve on the district board(s), the City / County may at its sole discretion prohibit the district from imposing any fees, taxes, debt, issuing any bonds or entering into any agreements to facilitate those actions. The City /County may at its sole discretion revoke the conditional approval of the special district where the district is not being managed in the best interests of the residents or future residents as determined by the City / County. Reference in this section to City / County means a majority of the the governing board or council.*

*1. The cost of the land purchased by the developer, applicant or owner of the land that will be sold to prospective homebuyers. The bill of sale and payment receipt for the land.*

*2. The actual cost of infrastructure by geographic area, type of facility, type of service, type of equipment, cost of labor. The invoices and payment receipts for every cost.*

*3. The money received by the developer, applicant, or land owner from themselves, home builders and prospective homebuyers related in any way to the improvements or development of the land within the district.*

*4. The amount of profit charged by the developer, land owner, applicant for building the infrastructure.*

*5. The amount of profit charged by the developer, land owner, applicant for the lot sold to the home builder, developer or homebuyer.*

*6. The cost and profit for any loan created between the developer or applicant and the district.*

*7. The cost and profit for any loan created between the district and the future residents.*

*8. All the costs, profit and interest related to the issuance of any bonds before the district is built out and only eligible electors serve on the board(s).*

*(E). No bonds shall be issued by the district until the district is built out and only eligible electors serve on the district board(s).*

10. **Limit on Debt / Valuation**

The statute provides a limit on the total amount of "principal" debt at 50% of the valuation of the taxable property in the district. But then it creates so many exceptions that the limit is essentially eliminated. There are many districts at over 100% of the valuation of the taxable property.

The DOLA handbook on special districts for prospective homebuyers contained several warnings, including:

"What is the ratio of debt outstanding to the assessed valuation of the district? (Debt greater than 20% of assessed valuation may be considered a "red flag" to municipal bond analysts, although the district's specific circumstances must be evaluated in each case.)"

Here is what the current statute says:

CRS 32-1-1101

**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.**

Proposal:

Be it Resolved that CRS 32-1-1101 (6) is amended to substitute "twenty percent" for "fifty percent" in (a), delete "except for debt which is" and delete subsections (a)(I, II, III and IV)

This will reinstate the limit and set the limit at a healthy level.

11. **Junior Bonds**

Developers are issuing bonds to themselves. The potential for abuse is obvious.

Proposal:

Be it Resolved that CRS 32-1-1101 is amended to add "(7) No developer, builder, or district may issue junior bonds whereby the developer, builder or district sells bonds to the developer, builder or district and the repayment of the bonds is made through propert taxes of the residents either directly or indirectly."

12. **Study Commission**

There needs to be additional research and debate about whether or not special districts serve any public good.

Citizens in place organizing themselves to tax themselves for a particular purpose through a special district potentially serves the public good - as defined by those citizens.

A profit seeking developer creating a special district at a time and place where there are no citizens, to extort tax income from unsuspecting future residents through the elimination of their right to vote and suppression of public elections all in the name of collecting unearned unaccounted for excessive profits is not in the public interest.

Paying the cost of infrastructure for that development has historically been collected as part of the cost of the lot to the builder or homeowner. Countless examples in other parts of the country as well as locally in Colorado demonstrate that the developer makes a good profit, the cost to the homeowner is the same, but the taxes in special districts are exponentially higher and paid for longer periods of time than in non-special districts.

A potential outcome from such a rigorous and honest study will be that special districts should be prohibited for new construction which includes new residential construction.