

Dear Committee Members:

[Industry position] I strongly urge a NO vote on SB 22-136. Colorado has a housing affordability crisis and special districts are an important tool that help to keep the cost of housing attainable.

[Resident position] In fact, metro districts increase, not decrease, the cost of housing. Metro district financing is the opposite of affordable housing.

That's why SB22-136 Concerning Special District Governance is so alarming. If passed, this measure will ultimately slow or stop the building of new homes and exacerbate Colorado's affordability challenge.

Providing citizen initiative / referendum and facilitating residents taking their rightful place on their boards will have no impact on the developers building homes. It will have an impact on holding the developers accountable for how they tax and spend the resident's money.

This proposal does not stop or hinder the organization or financing of metropolitan districts. To the contrary, it simply limits the most egregious and undemocratic "parting shot" developer abuses that rarely (but sometimes) occur when developers refuse to turn control of the districts to the residents and taxpayers who purchase homes.

To begin, the introduction of a new referendum process for special districts does not work because special districts DO NOT enact local ordinances or otherwise legislate. The same is true for school districts who also don't have this power. The powers of initiative and referendum that are reserved in the Colorado Constitution are for statewide and municipal electors acting in a legislative role, not special district electors.

This is not true. The initial ballot legislates a debt authorization and eliminates the right of the residents to vote on tax and bond debt. Virtually all metropolitan district boards legislate, such as adopting regulations for the use of facilities, adopting fee structures, entering into intergovernmental agreements with developer-controlled districts. Special districts issue resolutions for bonds, authorizing interest rates and the pledge of fees for repayment.

There is nothing in the Colorado Constitution prohibiting the application of the "initiative and referendum powers reserved to the people" to special districts.

The legislature has provided initiative and referendum rights to citizens in home rule counties (CRS 30-11-508), when counties adopt a sales tax (CRS 29-2-104) and as to local government development agreements (CRS 24-68-103(1)(c) and CRS 24-68-102(2)).

Moreover, the legislature has provided the right to developers to a citizen initiative as to the initial ballot. (CRS 32-1-803.5 and CRS 32-1-305) In this ballot initiative, the developer imposes extraordinary debt authority on the residents and eliminates their right to vote on tax and bond debt.

Can it be true that the legislature would give the developer the right to a citizen initiative in the initial ballot to restrict the actual resident taxpayers' rights and then deny the same right to the actual resident taxpayers when they finally arrive and face the oppressive impact of the developer's citizens' initiative?

Practically speaking, what the introduction of a costly, new referendum process at every turn means is that **the development of new homes will stop before it even starts** because you are inviting a referendum to potentially every board decision to finance or construct what a city or county has already approved. This creates uncertainty in the marketplace about the completion of the improvement or ability to provide the service.

This initiative and referendum process cannot affect city or county building plans, and cannot be in contravention of the service plan. In other words, citizens cannot restrict development applications or zoning. That is between the city and the developer.

The metro district is not created to provide financing to repay the developer until after the site plan and zoning approvals are granted to the developer.

The developer has the obligation to comply with the zoning and site plan approvals to build the infrastructure. However, under the metro district government, the citizens have the right to hold the developer accountable and determine HOW the developer will be compensated for the infrastructure costs through taxes, fees, etc. consistent with TABOR.

Secondly, this bill allows for the termination of a board director's seat mid-term if a resident files a self-nomination form. Therefore, a duly elected board director will be disenfranchised mid-term and is blatantly undemocratic. Under current law, if eligible electors want a board director removed, they can exercise their rights at the next election or use the recall election process. Electors in special districts have the same options available to voters in *all other types of elected government in Colorado*. This provision also fails to recognize an original board member of the district as a duly elected officer even though they own property and pay taxes in the district like any other property owner

This bill only affects those directors who otherwise would NOT have been eligible to be on the board because they did not live in the district or own property in the district, but qualified as electors solely because of the exception in CRS 32-1-808 whereby someone can qualify as an elector to fill a vacancy or if there are insufficient candidates for an election seat.

These developer-affiliates qualified only because there were insufficient candidates. When there are sufficient candidates, the exception no longer applies and their eligibility to fill the seat should expire. This is nothing different than a director who sells property or moves outside the district in mid-term who has to forfeit his or her seat.

Finally, the exorbitant mandate that districts print and mail their monthly board packets to all residents is shocking given that we all live in the "touchless" Digital Age. I question whether printing a 300-page board packet and sending it by mail to all residents the most effective, efficient, or environmentally friendly way to ensure residents know what is happening in their district? What happened to posting on a website, like cities and counties do all over our state and as currently provided for in Colorado law?

We agree this should be modified so that notice is given in the same manner as the district distributes/publishes its agenda via email, electronic posting on the district web site, etc.

For these reasons and more, I urge a **NO vote on SB 22-136**. This is bad policy that will have the unintended consequence of slowing or stopping the development of new homes in Colorado which will exacerbate the affordability challenges that need to be resolved.