

**STC METROPOLITAN DISTRICT NO. 1**

141 Union Boulevard, Suite 150  
Lakewood, Colorado 80228-1898  
Tel: 303-987-0835 • 800-741-3254  
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<https://www.colorado.gov/pacific/stcmd>

**NOTICE OF SPECIAL MEETING AND AGENDA**

<u>Board of Directors:</u>	<u>Office:</u>	<u>Term/Expires:</u>
James A. Brzostowicz	President	2027/May 2027
Terry Willis	Treasurer	2027/May 2027
Guy Harrigan		2027/May 2025
<i>VACANT</i>		2025/May 2025
<i>VACANT</i>		2025/May 2025

Peggy Ripko Secretary

DATE: October 11, 2023

TIME: 9:00 A.M.

LOCATION: Zoom Meeting

Join Zoom Meeting

<https://us02web.zoom.us/j/86267550643?pwd=V3RnRGRtWkRyUIZZc1VMWTJFZjFHdz09>

Phone Number: 1 (719) 359-4580

Meeting ID: 862 6755 0643

Passcode: 987572

Please email Peggy Ripko if there are any issues ([pripko@sdmsi.com](mailto:pripko@sdmsi.com)).

I. ADMINISTRATIVE MATTERS

- A. Call to Order/Confirm Quorum. Present Disclosures of Potential Conflicts of Interest.  

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- B. Approve Agenda; confirm location of the meeting and posting of meeting notice.  

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- C. Review and approve Minutes of the October 11, 2022 Special Meeting (enclosure).  

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- D. Discuss Board vacancies. Consider the appointment of an eligible elector to fill vacancies on the Board of Directors. Candidate is Geoffrey Weathers. NOTE: Newly-appointed directors may not take any action until their signed Oath of Director is filed with the Boulder County Clerk and Recorder.  

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E. Consider appointment of Officers:

President \_\_\_\_\_  
Treasurer \_\_\_\_\_  
Secretary \_\_\_\_\_  
Asst. Secretary \_\_\_\_\_  
Asst. Secretary \_\_\_\_\_

II. PUBLIC COMMENTS

A. \_\_\_\_\_

IV. LEGAL MATTERS

A. Legislative Report.

1. 2023 Legislative Memorandum (enclosure).  
\_\_\_\_\_

V. OTHER BUSINESS MATTERS

A. \_\_\_\_\_

VI. ADJOURNMENT **THE NEXT REGULAR MEETING IS SCHEDULED FOR  
NOVEMBER 1, 2023- BUDGET HEARING.**

## RECORD OF PROCEEDINGS

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### MINUTES OF A SPECIAL MEETING OF THE BOARD OF DIRECTORS OF THE STC METROPOLITAN DISTRICT NO. 1 HELD OCTOBER 19, 2022

A Special Meeting of the Board of Directors (referred to hereafter as the "Board") of the STC Metropolitan District No. 1 (referred to hereafter as the "District") was convened on Wednesday, the 19<sup>th</sup> day of October, 2022, at 9:00 A.M. This District Board meeting was held by Zoom at: <https://us02web.zoom.us/j/89797364658?pwd=SHJkTkdyUmVxYjBYUDcvcHNmN3I0dz09>; Meeting ID: 897 9736 4658, Passcode: 115782 and via telephone conference at: 1-253-215-8782. The meeting was open to the public.

#### ATTENDANCE

##### Directors In Attendance Were:

James A. Brzostowicz, President  
Lea Maxwell, Assistant Secretary  
Terry Willis, Assistant Secretary

Following discussion, upon motion duly made by Director Brzostowicz, seconded by Director Maxwell and, upon vote, unanimously carried, the absences of Director Harrigan was excused.

##### Also In Attendance Were:

Peggy Ripko and Larry Loften; Special District Management Services, Inc. ("SDMS")

Jennifer L. Ivey, Esq.; Icenogle Seaver Pogue, P.C.

Sonia Chin and William Jencks; Ranch Capital, LLC

#### DISCLOSURE OF POTENTIAL CONFLICTS OF INTEREST

**Disclosure of Potential Conflicts of Interest:** The Board noted it was in receipt of disclosures of potential conflicts of interest statements for each of the Directors and that the statements had been filed with the Secretary of State at least seventy-two hours in advance of the meeting. Ms. Ripko requested that the Directors review the Agenda for the meeting and advised the Board to disclose any new conflicts of interest which had not been previously disclosed. No further disclosures were made by Directors present at the meeting.

#### ADMINISTRATIVE MATTERS

**Confirm Quorum, Location of Meeting and Posting of Meeting Notices:** Ms. Ripko confirmed the presence of a quorum and that notice of the time, date and location/manner

## RECORD OF PROCEEDINGS

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of the meeting was duly posted and that that no objections to the virtual/telephonic manner of the meeting have been received.

**Agenda:** Ms. Ripko noted a quorum was present. The Board reviewed the proposed Agenda for the District's Special Meeting.

Following discussion, upon motion duly made by Director Brzostowicz, seconded by Director Maxwell and, upon vote, unanimously carried, the Board approved the Agenda, as presented.

**Minutes:** The Board reviewed the Minutes of the June 1, 2022 Special Meeting.

Following discussion, upon motion duly made by Director Brzostowicz, seconded by Director Maxwell and, upon vote, unanimously carried, the Board approved the Minutes of the June 1, 2022 Special Meeting.

**Resolution No. 2022-10-01 Annual Resolution:** The Board reviewed the Annual Resolution.

Following discussion, upon motion duly made by Director Brzostowicz, seconded by Director Maxwell and, upon vote, unanimously carried, the Board adopted the Resolution No. 2022-10-01 Annual Resolution.

**Resolution No. 2022-10-02 May 2, 2023 Election Resolution:** The Board discussed the upcoming election and Resolution No. 2022-10-02 Calling the May 2, 2023 Election.

Following discussion, upon motion duly made by Director Brzostowicz, seconded by Director Maxwell and, upon vote, unanimously carried, the Board adopted Resolution No. 2022-10-02 Calling the May 2, 2023 Election and appointed Peggy Ripko as the Designated Election Official and authorized her to perform all tasks required for the May 2, 2023 Regular Election of the Board of Directors for the conduct of a mail ballot election. A copy of the adopted Resolution is attached hereto and incorporated herein by this reference.

### **PUBLIC COMMENTS**

There were no public comments.

### **FINANCIAL MATTERS**

**Unaudited Financial Statements:** The Board reviewed the unaudited financial statements through the period ending August 31, 2022.

Following review and discussion, upon motion duly made by Director Brzostowicz, seconded by Director Maxwell and, upon vote, unanimously carried, the Board accepted the unaudited financial statements through the period ending August 31, 2022.

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**2022 Audit:** The Board discussed the engagement of Dazzio & Associates, PC for preparation of 2022 Audit.

Following discussion, upon motion duly made by Director Brzostowicz, seconded by Director Maxwell and, upon vote, unanimously carried, the Board approved the engagement of Dazzio & Associates, PC for preparation of 2022 Audit, for an amount not to exceed \$4,200.

### **2021 Budget Amendment Hearing:**

*2021 Budget Second Amendment Hearing:* Director Brzostowicz opened the public hearing to consider the Resolution for Second Amendment the 2021 Budget and discuss related issues.

It was noted that publication of Notice stating that the Board would consider adoption of a Resolution to Amend the 2021 Budget and the date, time and place of the public hearing was made in a newspaper having general circulation within the District. No written objections were received prior to or at this public hearing. No public comments were received, and the President closed the public hearing.

Following discussion and review, upon motion duly made by Director Brzostowicz, seconded by Director Maxwell and, upon vote, unanimously carried, the Board adopted Resolution No. 2022-10-03 to Amend the 2021 Budget. A copy of the adopted Resolution is attached hereto and incorporated herein by this reference.

### **2022 Budget Amendment Hearing:**

*2022 Budget Amendment Hearing:* Director Brzostowicz opened the public hearing to consider the Resolution to Amend the 2022 Budget and discuss related issues.

It was noted that publication of Notice stating that the Board would consider adoption of a Resolution to Amend the 2022 Budget and the date, time and place of the public hearing was made in a newspaper having general circulation within the District. No written objections were received prior to or at this public hearing. No public comments were received, and the President closed the public hearing.

Following discussion and review, upon motion duly made by Director Brzostowicz, seconded by Director Maxwell and, upon vote, unanimously carried, the Board adopted Resolution No. 2022-10-04 to Amend the 2022 Budget. A copy of the adopted Resolution is attached hereto and incorporated herein by this reference.

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**2023 Budget Hearing:** Director Brzostowicz opened the public hearing to consider the proposed 2023 Budget and discuss related issues.

It was noted that publication of Notice stating that the Board would consider adoption of the 2022 Budget and the date, time and place of the public hearing was made in a newspaper having general circulation within the District. No written objections were received prior to or at this public hearing. No public comments were received, and the President closed the public hearing.

Ms. Ripko reviewed the estimated year-end 2022 revenues and expenditures and the proposed 2023 estimated revenues and expenditures.

Following discussion, the Board considered the adoption of Resolution No. 2022-10-05 to Adopt the 2023 Budget and Appropriate Sums of Money and to Set Mill Levies (for the General Fund at 11.133 mills and the Debt Service Fund at 55.664 mills, for a total of 66.797 mills). Upon motion duly made by Director Brzostowicz, seconded by Director Maxwell and, upon vote, unanimously carried, the Resolutions were adopted, as discussed, and execution of the Certification of Budget and Certification of Mill Levies was authorized, subject to receipt of final Certification of Assessed Valuation from the County on or before December 10, 2022. Ms. Ripko was authorized to transmit the Certification of Mill Levies to the Board of County Commissioners of Boulder County and the Division of Local Government not later than December 15, 2022. Ms. Ripko was also authorized to transmit the Certification of Budget to the Division of Local Government not later than January 30, 2023. Copies of the adopted Resolutions are attached hereto and incorporated herein by this reference.

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### **LEGAL MATTERS**    **2022 Legislative Report:**

*SB 21-262 Website Compliance:* Attorney Ivey proved an update to the Board on SB 21-262 Website Compliance.

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### **OTHER MATTERS**    **November 2, 2022 Regular Meeting:** The Board discussed cancelling the November 2, 2022 Regular Meeting.

Following discussion and review, upon motion duly made by Director Brzostowicz, seconded by Director Maxwell and, upon vote, unanimously carried, the Board approved the cancellation of the cancelling the November 2, 2022 Regular Meeting

## RECORD OF PROCEEDINGS

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### **ADJOURNMENT**

There being no further business to come before the Board at this time, upon motion duly made by Director Brzostowicz, seconded by Director Maxwell and, upon vote, unanimously carried, the meeting was adjourned.

Respectfully submitted,

By \_\_\_\_\_  
Secretary for the Meeting



# ICENOGL SEAVR POGUE

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## **MEMORANDUM**

**TO:** Board of Directors, Managers, and other District Representatives

**FROM:** Icenogle Seaver Pogue, P.C.

**DATE:** July 21, 2023

**RE:** Summary of 2023 Legislation

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## **INTRODUCTION**

The First Regular Session of the Seventy-Fourth General Assembly of the State of Colorado (the “General Assembly”) convened on January 9, 2023, and adjourned on May 8, 2023. This memorandum summarizes certain bills enacted into law in 2023 that may impact special districts, either directly or indirectly. The Colorado Revised Statutes (“C.R.S.”) should be consulted for the complete statutory requirements of the legislation discussed herein.

## **SPECIAL DISTRICTS GENERALLY**

### **Special District Construction Contracts**

**HB 23-1023**

Under current law, a special district is only required to publish a notice for bids on all construction contracts for work, material, or both if the expense is equal to or in excess of \$60,000. House Bill (“HB”) 23-1023, increases the dollar amount threshold from \$60,000 to \$120,000. In addition, this amount shall be adjusted accounting for inflation on July 1, 2028, and every five years thereafter. HB 23-1023 will take effect on August 7, 2023, unless a referendum petition is filed.

### **Remedies Person with Disabilities**

**HB 23-1032**

This bill prohibits an individual with a disability from being excluded from participation in, or denied the benefits of services, programs, or activities provided by a public entity or a “place of public accommodation.”<sup>1</sup> The bill establishes that a person alleging discrimination on the basis of a disability in employment, housing, or discriminatory advertising must first exhaust available administrative proceedings and remedies before filing an action in district court. In the case of alleged discrimination in a place of public accommodation, an individual may file an action directly with the court. In certain civil suits, the

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<sup>1</sup> “Place of public accommodation” means any place of business engaged in any sales to the public and any place offering services, facilities, privileges, advantages, or accommodations to the public, including but not limited to... any sporting or recreational area and facility; any public transportation facility; ... swimming pool, ..., gymnasium, or other establishment conducted to serve the health, appearance, or physical condition of a person; ... or any public building, park, arena, theater, hall, auditorium, museum, library, exhibit, or public facility of any kind whether indoor or outdoor. C.R.S. § 24-34-601(1).



bill permits a court to require compliance with applicable provisions and award either actual monetary damages or levy a statutory fine. This bill took effect on May 25, 2023, upon signature of the Governor.

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**Homeowners' Association + Metropolitan District Homeowners' Rights Task Forces      HB 23-1105**

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HB 23-1105 creates two task forces: the Homeowners Association Homeowner's Rights Task Force ("HOA Task Force"), and the Metropolitan District Homeowner's Rights Task Force ("Metro Task Force"). Among other things, the HOA Task Force has the authority to investigate Homeowners' Association (HOA) fining authority and practices, foreclosure practices, and communications between HOA and HOA homeowners. The Metro Task Force will be comprised of the State Director of the Division of Housing and the Director of the Division of Real Estate, both *ex officio* members, and two homeowners residing in a metropolitan district, an elected member of a city council, a Colorado licensed attorney who primarily represents homeowners in legal proceedings against metropolitan districts, a representative of a nonprofit organization that represents the affordable housing community, a member of the House of Representatives, a member of the Senate, a Colorado licensed attorney who specializes in metropolitan district law, an elected County Commissioner, a representative of a developer, a representative recommended by a statewide nonprofit organization that represents metropolitan districts in a coalition. Appointments to the Metro Task Force will be made on or before November 1, 2023. The Metro Task Force has the authority to investigate metropolitan district tax levying authority and practices, foreclosure practices, communications between homeowners and metropolitan districts, and metropolitan district governance policies (including voting and elections). The Metro Task Force shall also examine how a metropolitan district that enforces covenants could be transitioned into a common interest community. For purposes of HB 23-1105 a "metropolitan district" is limited to metropolitan districts that were created to finance infrastructure to support a housing subdivision, as such, commercial metropolitan districts would not fall within the purview of HB 23-1105. A metropolitan district shall notify its residents about the task force before the task force holds its first meeting. The Metro Task Force shall prepare an interim report on or before March 1, 2024, and a final report on or before June 15, 2024. HB 23-1105 took effect on May 26, 2023.

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**Transparency for Metropolitan Districts      SB 23-110**

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Starting on January 1, 2024, all metropolitan district service plans submitted to one or more county commissioners or municipalities must set the maximum mill levy for general obligation indebtedness that may be levied and the maximum debt that may be issued by the metropolitan district. SB 23-110 also requires that beginning in 2023 any metropolitan district with residential units within its boundaries that was organized after January 1, 2000 and is not in inactive status, hold an annual meeting at which no official action will be taken, that includes a presentation regarding the current public infrastructure projects within the metropolitan district and outstanding bonds, a review of unaudited financial statements showing year-to-date revenues and expenditures, and an opportunity for members of the public to ask questions. This meeting must be held in person, virtually, or in person and virtually, provided that, an annual meeting that is held solely in person must be held at a physical location that is within the boundaries of the metropolitan district, within the boundaries of any county in which the metropolitan district is located, in whole or in part, or within any other county so long as the location does not exceed five miles from the metropolitan district's boundaries. In addition, at a meeting at which the board adopts the annual budget for the metropolitan district, the board must provide a public comment period during the meeting. SB 23-110 also requires, that prior to issuing debt to a metropolitan district director or any entity with respect to which a director must make disclosure pursuant to Section 24-18-109, C.R.S., the metropolitan district must receive a statement from a registered municipal advisor certifying that the interest rate satisfies certain statutory requirements set forth in SB 23-110. Finally, SB 23-110 also requires that on or after January 1, 2024, a seller of residential real property within a metropolitan district organized on or after January 1, 2000, must provide the purchaser of the property with the metropolitan district's official website, which will be

provided as part of the Colorado Real Estate Commission approved seller's property disclosure or other concurrent writing . SB 23-110 will take effect on August 7, 2023, unless a referendum petition is filed.

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**Waterwise Landscaping****SB 23-178**

SB 23-178 clarifies existing laws and establishes new laws relating to waterwise landscaping in associations, common interest communities, and special districts by allowing homeowners to use non-vegetative landscaping. SB 23-178 also allows an association (or, "unit owners' association"), as defined in Section 38-33.3-301, C.R.S. to adopt and enforce design or aesthetic guidelines. SB 23-178 also clarifies that any restrictive covenant, bylaws, or rules or regulations of a common interest community, as defined by Section 38-33.3-103, C.R.S.; or any rules or policy of a special district, as defined in Section 32-1-103, C.R.S.; that prohibits waterwise landscaping is contrary to public policy and is unenforceable. In addition to an association, a common interest community or special district may adopt design or aesthetic guidelines, provided that they do not: (1) prohibit non-vegetative turf grass from being used in the backyard of a unit owner's property; (2) unreasonably mandate the use of hardscape for more than 20% of landscaping in a unit; (3) prohibit vegetable gardens anywhere in the yard of a unit owner; and (4) prohibit property owners from having the option of utilizing at least 80% drought tolerant plantings. In addition, an association must select at least 3 preplanned and preapproved waterwise garden designs for front yards within each individual common interest community. In order to qualify for preapproval, any design must conform to the waterwise design principles laid out in Section 37-60-135(2)(1), C.R.S. Preapproved designs may be selected from The Colorado State University Extension Plant Select Organization's design list. Through Section 38-33-106.5(1)(i)(I)(A), and Section 37-60-126 (11)(a)(III), C.R.S., the laws adopted by SB 23-178 apply to both detached single family homes and attached single family homes sharing one or more walls with another unit, albeit through different statutory provisions. SB 23-178 does not apply to condominiums.

For every unit owner within an association affected by a violation, the unit owner may bring a civil action so as to prevent further violations and may recover actual damages plus \$500.00, costs, and reasonable attorney's fees. A unit owner must also give an association 45 days' notice to cure any violation before filing suit. SB 23-178 will take on effect on August 7, 2023, unless a referendum petition is filed.

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**EMPLOYMENT**

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**Worker's Compensation****HB 23-1076**

Under current law, if a worker's compensation claim arises out of mental impairment, a claimant is limited to 12 weeks of benefits. HB 23-1076 allows a claimant to claim 36 weeks of benefits. HB 23-1076 also clarifies that, within 45 days of an insurer or self-insured employer terminating an employee's "temporary total disability benefits" as defined in Section 8-42-105(3)(c), C.R.S. an employee may apply for an expedited hearing on any issues stated in Sections 8-42-105(5)(a)(I) – (III), C.R.S. HB 23-1076 also clarifies that all permanent partial disability benefits are not limited to a specific medical treatment. Lastly, HB 23-1076 also clarifies the rules regarding the allocation of costs for an independent medical examination as well as the rules regarding costs and hearings in front of an administrative judge adjudicating worker's compensation disputes. HB 23-1076 will take effect on August 7, 2023, unless a referendum petition is filed.

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**Additional Uses of Paid Sick Leave****SB 23-017**

SB 23-017 expands the Colorado Healthy Families and Workplaces Act to allow an employee to use sick leave for: grieving, attending a funeral or memorial service, or to deal with financial and/or legal matters incidental to the death of a family member; if an employee needs to care for a family member whose school or place of care has been closed due to inclement weather, loss of power, loss of heating, loss of water, or other unexpected occurrence; or if an employee needs to evacuate their place of residence due to inclement

weather, loss of power, loss of heating, loss of water, or other unexpected occurrence.<sup>2</sup> SB 23-017 will take effect on August 7, 2023, unless a referendum petition is filed.

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**Average Weekly Wage Paid Benefits Leave****SB 23-046**

SB 23-046 modifies the calculation of an individual's weekly leave benefits under the Colorado Paid Family and Medical Leave Insurance (FAMLI) Act by allowing all jobs worked to be included in the calculation. Under the law prior to SB 23-046, only the individual's average weekly wage from the job or jobs from which the individual was taking leave were included in the calculation. SB 23-046 took effect on March 23, 2023.

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**Fairness in Job Applications****SB 23-058**

SB 23-058 created the Job Application Fairness Act, which, on or after July 1, 2024, prohibits employers from requesting or requiring, on an initial job application, that an applicant disclose their age, date of birth, and/or their dates of attendance/graduation from an educational institution. An employer may request that an applicant provide additional application materials such as certifications, transcripts, and/or other materials, provided that the employer notifies the applicant they may redact the information outlined above. An employer may also request that an individual verify their compliance with age requirements if required by an occupational qualification and/or federal/state law or regulation, provided verification does not violate the nondisclosure requirements outlined above by, for example, asking for the specific age of the individual. SB 23-058 will take effect on August 7, 2023, unless a referendum petition is filed.

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**Ensure Equal Pay for Equal Work****SB 23-105**

SB 23-105 amends the Colorado Equal Pay for Equal Work Act. Section 2 of SB 23-105 directs the Director of the Division of Labor and Statistics to adopt new processes for the mediation of complaints of alleged violations of Section 8-5-102, C.R.S., promulgate rules for enforcement and, when violations are founds, to order compliance and/or other relief. SB 23-105 also increases the allowance for back pay from three to six years. Section 3 of SB 23-105 requires an employer to disclose, on every job posting: the date the application window closes, in addition to the already required inclusion of the hourly or salary compensation or range thereof and description of the job's benefits and other compensation. SB 23-105 also requires that within 30 calendar days of a candidate beginning work, the employer must make reasonable efforts to provide employees whom the employer intends the selected candidate to work with: the selected candidate's name, the selected candidate's former job title if the selected candidate was already employed by the employer, the selected candidate's new job title, and information on how employees may show interest in similar job opportunities should they arise. Additional requirements are applicable for positions with career progression. Nothing in SB 23-105 requires an employer to identify an employee in a way that violates their privacy rights under local, state, or federal law. SB 23-105 will take effect on January 1, 2024, unless a referendum petition is filed.

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**Public Employees Workplace Protection****SB 23-111**

SB 23-111 creates the "Protections for Public Workers Act," Sections 29-33-101, C.R.S., *et. seq.* and adds labor protections for public employees within Colorado, which is defined to include employees of special districts. Under SB 23-111 a public employee has the right to: discuss or express their views regarding public employee representation, workplace issues, or the rights granted to the public employee in Protections for Public Workers Act; engage in protected, concentrated activity for the purpose of mutual aid or protection; fully participate in the political process while off duty and/or not in uniform, including the ability to speak with members of the public employer's governing body on matters related to

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<sup>2</sup> For a more detailed explanation, please consult §§ 8-13.3-404(1)(a)(IV), (e), (f), C.R.S.

employment or a matter of public concern and the ability to engage in other political activities in the same manner as others in Colorado; and organize, form, join, or assist or refrain from, organizing, forming, joining, or assisting an employee organization. Provided, however, an employer may limit these rights to the extent necessary to maintain the nonpartisan role of the employer.

A public employer shall not: discriminate or threaten to discriminate against, coerce, intimidate, interfere with, or impose reprisals against a public employee exercising these rights; interfere in the administration of an employee organization; discharge or discriminate against a public employee because they have filed an affidavit, petition, or complaint or given any information or testimony pursuant to the Protections for Public Workers Act or because they formed, joined, assisted, or chosen to be represented by an employee organization.

Section 29-33-105(3), C.R.S. which grants the Division of Labor Standards the authority to adjudicate unfair labor practices, will take effect on July 1, 2024. The remainder will take effect on August 7, 2023, unless a referendum petition is filed.

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**Protecting Opportunities and Workers' Rights (POWR) Act****SB 23-172**

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SB 23-172 amends the Colorado Anti-Discrimination Act by defining “harassment” as “unwelcome conduct or communication related to an individual’s membership in a protected class where submission to the conduct is a condition of the individual’s employment, is used as a basis for employment decisions or interferes with the individual’s work, or is objectively offensive to a reasonable person in the same protected class.” SB 23-172 specifies that (1) harassment does not need to be severe or pervasive to constitute a discriminatory or unfair practice; (2) petty slights or annoyances or lack of good manners do not constitute harassment unless it meets the totality of the circumstances and the standards in the bill; and (3) various factors are considered under the totality of the circumstances. This bill makes additional changes to anti-discrimination laws including but not limited to the following: adding protections for individuals based on their marital status; eliminating the ability of an employer to assert that an individual’s disability has a significant impact on the job as the rationale for being unable to accommodate an individual who is otherwise qualified for the job; requiring employers to preserve records of complaints related to discriminatory or unfair labor practices for at least five years and include certain information in the complaint repository; and establishing an affirmative defense for an employer if the employer meets certain requirements, including a harassment prevention program. A harassment prevention program satisfies the affirmative defense if the employer promptly investigates complaints and takes reasonable remedial actions when warranted. Additionally, under SB 23-172 a nondisclosure provision in a contract preventing the disclosure of an alleged discriminatory or unfair employment practice is void unless: it provision applies equally to all parties; clearly states that it does not restrain an employee or prospective employee from disclosing the underlying facts of alleged practices, which includes disclosing the existence and terms of a settlement to the people, peoples, groups, agencies, governments, or any other purpose as required by law as listed in Sections 24-34-407(1)(b)(I) – (IV), C.R.S. SB 23-172 also states that any disclosure under (1)(b) of this section is not disparagement; and that if a nondisparagement provision is included in a contract, and if the employer disparages the employee or prospective employee, the employer may not seek enforcement or damages.

Under SB 23-172, an employer must preserve any employment or personal record that the employer made, received, or kept for at least five years after the latter of: the date the employer made or received the record or the date of the personnel action about which the record relates to, or to the final disposition of the issue. SB 23-172 will take effect on August 7, 2023, unless a referendum petition is filed.

## HOUSING

### **Regulating Local Housing Growth Restrictions**

**HB 23-1255**

HB 23-1255 prohibits a governmental entity (inclusive of special districts) from enacting or enforcing an anti-growth law affecting non-publicly owned property, except in certain circumstances. HB 23-1255 defines an “anti-growth law” as “a land use law that explicitly limits either the growth of the population in the governmental entity's jurisdiction or the number of development permits or building permit applications for residential development or the residential component of any mixed-use development submitted to, reviewed by, approved by, or issued by a governmental entity for any calendar or fiscal year.” HB 23-1255 provides a number of exceptions allowing for the enactment of temporary, nonrenewable anti-growth laws which may not be effective for more than twenty-four months in any given five-year period. HB 23-1255 will take effect on August 7, 2023, unless a referendum petition is filed.

## ELECTIONS

### **Modifications to Laws Regarding Elections**

**SB 23-276**

SB 23-276 contains various additions, amendments, and repeals regarding Colorado Election Law. Many sections of this bill do not apply to special districts, only those sections that apply are outlined below.

- Section 1 amends the definition of identification to include any form of identification as specified in Sections 1-1-104(19.5)(a)(I) -19.5(a)(XIII), C.R.S. that is in a digital format.
- Section 2 repeals certain language regarding the determination of residence for purposes of voting in an election.
- Section 18 adds that for any coordinated election, the County who will conduct the coordinated election on behalf of a special district shall enter into an agreement sharing the county’s reasonable costs in relation to the coordinated election that are not otherwise reimbursed by the state. Section 27 also clarifies that special districts are only responsible for the actual costs of a coordinated election and not costs such as overhead costs or other costs listed in Section 1-7-116 (b), C.R.S.
- Section 19 removes language requiring that nothing within this section shall be construed to mean that a special district replace a voting system in use prior to May 28, 2004.
- Section 26 lays out requirements for (“Watchers”), as defined in Section 1-1-104 (51), C.R.S., and directs a County Clerk or Designated Election Official to revoke the certificate of a Watcher who takes or records pictures or videos in places where election activity occurs or places where confidential or personally identifiable information is in view.
- Section 28 clarifies that an elector may take a mobile phone or other electronic device into a voter service or polling center provided they do not make or receive any phone calls, except for calls to or from the Multilingual Ballot Hotline. In addition, an elector may not take any pictures or videos of any item in a voter service or polling center other than pictures or videos of their own ballot.
- Section 29 clarifies that only an election judge can examine an electromechanical voting system component to determine if the system or any of its components have been defaced or damaged. Such may be necessary to determine if any wrongdoing has occurred.
- Section 30 clarifies that a bipartisan group of election judges shall create a true duplicate copy of a damaged ballot so that said ballot can be read by an electronic voting system.
- Section 34 clarifies rules for signature verification and the curing of a deficiencies in ballots. In addition, this section also sets the timeline for the update of the Statewide Voter Registration System so as to reflect that a voter has cured a deficiency in their ballot.
- Section 39 states that any recount of coordinated election be in accordance with Section 1-10.5-102, C.R.S. Section 40 further clarifies that for any recount not required by law or regulation, an

interested party may submit a “notarized written request” in accordance with Section 1-10.4-102, C.R.S. Section 40 also lays out the requirements and timeline for the filing of a recount request.

- Section 47 clarifies rules on contribution limits to candidate committees or groups that donate to candidate committees, such as an issue committee or small-scale committee. In particular the bill prohibits an issue committee or small-scale committee from donating to a candidate committee. In addition, the bill also clarifies the date that a candidate committee must be terminated, depending on whether a candidate is elected or not elected. Sections 1-45-103.7 (12)(a)(I), (II), C.R.S.
- Section 52 clarifies that no special district may expend any money from any source or make any contributions to urge electors to vote in favor of or against any referred measure, as defined in Section 1-1-104(34.5), C.R.S. passed by the General Assembly or the governing body of any political subdivision with authorization to refer matters to voters or recall measure for the recall of any officer that that has been submitted for approval for circulation on an approved petition form.
- Section 54 clarifies that any County Clerk or Designated Election Official shall not use any state or federal money to pay for advertising expenses that “predominantly features a person who is a declared candidate for a federal, state or local office.” Section 25-75-115(1), C.R.S. Advertising does not include official notices, communications required by law or ongoing/routine communications.

SB 23-276 took effect on June 6, 2023. Section 18 will take effect on July 1, 2024.

## **PUBLIC RECORDS**

### **Access to Government Records**

### **SB 23-286**

SB 23-286 makes the following changes to the Colorado Open Records Act (“CORA”):

- Prohibits the custodian of public records from requiring a requester to provide identification in order to request or inspect a public record, except as required by Section 24-72-204(3.5)(g), C.R.S. or when a record requested is confidential and accessible only on the basis that the requester the person in interest.
- For any public record that is stored in a searchable digital format, a custodian shall provide a digital copy of the public record, unless otherwise requested, via email or another mutually agreed method if the records are too large for an email. Unless required by Section 24-72-204(3.5)(b), C.R.S., no digital record shall be made into a non-searchable non-digital record before production in response to a request.
- Addition of the ability of the custodian to deny access to telephone numbers and home addresses that are provided by a person to an elected official or special district for the purpose of communications from the elected official or special district.
- Unless disclosure is otherwise prohibited and notwithstanding Sections 2-3-511 and 24-72-203(3)(a)(X), (X.5), C.R.S., any public records relating to “sexual harassment complaints made against an elected official and the results or report of investigations regarding alleged sexual harassment by an elected official conducted by or for that official's government” shall be made available for inspection if the investigation concluded that the elected official is culpable for any act of sexual harassment; except that the identity of any accuser, accused who is not an elected official, victim, or witness and any other information that would identify any such person, and any other portion not subject to disclosure under Section 24-72-204(2), C.R.S. must be redacted.
- A custodian shall not charge a per-page fee basis for digital records.
- Should a custodian allow the public to pay for other services/products with a credit card or other electronic payment method, the custodian shall allow the requester to pay any fee or deposit associated with a record request via a credit card or other electronic payment method. A custodian may charge a requestor any service fee charged by a credit card company.

SB 23-286 will take effect on August 7, 2023, unless a referendum petition is filed.

## **PUBLIC SAFETY**

### **Wildfire Evacuation and Clearance Time Modeling**

**HB 23-1075**

HB 23-1075 directs the State Office of Emergency Management to study the efficacy and feasibility of local or jurisdictional emergency management agencies with jurisdiction in a wildfire risk area to integrate evacuation and clearance time modeling into their emergency management plans. HB 23-1075 took effect on May 12, 2023.

### **Inclusive Languages in Emergency Situations**

**HB 23-1237**

HB 23-1237 directs the University of Colorado’s Natural Hazards Center (“Hazards Center”) to determine what fire districts and local 911 agencies need to provide emergency alerts in languages other than English by July 1, 2024. In addition, the Hazards Center shall determine what local 911 agencies must provide language interpretation in 911 calls by July 1, 2024. HB 23-1237 took effect on May 12, 2023.

### **Establishment of a Wildfire Resiliency Code Board**

**SB 23-166**

SB 23-166 concerns the establishment of Wildfire Resiliency Code Board (“Board”) adopt model codes and standards for the mitigation of damage from wildfires in wildland-urban interface areas. The bill also requires that local governments, which includes fire protection districts, which have the authority to adopt building of fire codes, shall adopt codes that meet or exceed the model code set by the Board. HB 23-1237 took effect on May 12, 2023.

## **TAX**

### **Electronic Sales and Use Tax Simplification System**

**HB 23-1017**

HB 23-1017 concerns updates to the State’s Electronic Sales and Use Tax Simplification System (“System”). Of note to special districts collecting sales and use taxes, is the addition of a filtering option to sort retailers and create exportable spreadsheet reports. The Department of Revenue shall not charge any convenience or similar fee for use of the System nor shall it deduct an amount from moneys distributed to local taxing jurisdictions in lieu of any convenience or similar fee. HB 23-1017 will take effect on August 7, 2023, unless a referendum petition is filed.

### **Metropolitan District Tax for Parks and Recreation**

**HB 23-1062**

HB 23-1062 extends the ability of a metropolitan district to levy a uniform sales tax for purposes of parks or recreational facilities or programs. The tax is only effective in areas of the district that are not also within the boundaries of an incorporated municipality. The net revenues of any such tax that is levied are limited to being used on parks or recreational facilities or programs. HB 23-1062 will take effect on August 7, 2023, unless a referendum petition is filed.

### **Allowing Temporary Reductions in Property Tax Due**

**SB 23-108**

SB 23-108 codifies the practice of certain local governments using a temporary mill levy reduction to provide property tax relief for purposes other than to effect a refund for any purpose required by TABOR. Concurrent with the certification of a levy to the county commissioners, a local government may certify the temporary property tax credit or mill levy reduction. A temporary reduction in property taxes for the purpose of tax relief is subject to annual renewal. SB 23-108 will take effect on August 7, 2023, unless a referendum petition is filed.

The passage of SB 23-303 is intended to address significant anticipated property tax increases for property owners in the forthcoming years. Most provisions of SB 23-303 will require voter approval to become effective and will be submitted to the Colorado voters as “Proposition HH” at the general election to be held on November 7, 2023. Proposition HH will read as follows: *Shall the state reduce property taxes for homes and businesses, including expanding property tax relief for seniors, and backfill counties, water districts, fire districts, ambulance and hospital districts, and other local governments and fund school districts by using a portion of the state surplus up to the proposition HH cap as defined in this measure?*

The passage of SB 22-238 last year resulted in the reduction of assessed valuations through 2024. Subject to a cap set forth in SB 22-238, the State is required to reimburse local government entities for property tax revenue lost as a result of those reduced assessed valuation calculations.

Pursuant to SB 23-303, assessed valuation calculations are further reduced for several classes of real property over a period of ten (10) years, as set forth in the chart below. This reduction will further impact property taxes collected by local governments. Under SB 23-303, the State will generate additional funds to reimburse local governments for lost property tax revenue by using a portion of the State’s TABOR surplus to backfill the lost property tax revenue. TABOR currently requires State surpluses to be refunded to the taxpayers, and further requires the State to obtain authorization from Colorado voters to reduce property taxes and to retain excess State tax revenues to backfill the revenue lost by local governments. As required by SB 23-303, the State will refer Proposition HH to the voters at the November 2023 election to obtain voter authorization to reduce property taxes and retain excess State tax revenues as set forth in SB 23-303. If Proposition HH passes, the State will be authorized to retain and spend all of the State surplus that is under the Proposition HH cap and the assessed valuation calculations set forth in the chart below will be in effect. If Proposition HH fails, the property tax reductions and local government backfill using excess State tax revenues will be repealed and will not go into effect, and the State’s current property tax law under SB 22-238 will continue to apply.

The chart below<sup>3</sup> compares the State’s current property tax law under SB 22-238 with the property tax laws enacted under SB 23-303, assuming Proposition HH is approved by the Colorado voters at the November 2023 election.

Current Law - SB22-238	SB23-303 (w/ ballot measure approved)
LODGING:	LODGING:
<u>2023 tax year</u> : 27.9% (no \$30K reduction)	<u>2023 tax year</u> : 27.85% of the actual property value, <i>minus</i> the lesser of \$30,000 or the amount that causes the assessed value to be \$1,000 (the “30K reduction”)
<u>2024 tax year and all subsequent years</u> : 29%	<u>2024 to 2026 tax years</u> : 27.85% (no \$30K reduction)

<sup>3</sup> Chart courtesy of BROWNSTEIN CLIENT ALERT, MAY 9, 2023 entitled *Major Property Tax Relief Passed by the Colorado Legislature, Now It’s Up to the Voters*.



	<p><u>2027 to 2028 tax years:</u> 27.65%</p> <p><u>2029 to 2030 tax years:</u> 26.9%</p> <p><u>2031 to 2032 tax years:</u></p> <p>a) 25.9%, <i>if</i> for the 2031 tax year, the average increase in assessed value for property within the 32 counties with the smallest increase in total valuation is <math>\geq 3.7\%</math> (“<i>Sufficient AV Growth</i>”)</p> <p>b) 26.9%, <i>if</i> for the 2031 tax year, the average increase in assessed value for property within the 32 counties with the smallest increase in total valuation is <math>&lt; 3.7\%</math> (“<i>Insufficient AV Growth</i>”)</p> <p><u>All tax years following 2032:</u> 29%</p>
<p>AGRICULTURE and RENEWABLE ENERGY-PRODUCING LAND:</p> <p><u>2023 and 2024 tax years:</u> 26.4% of the actual property value, <i>minus</i> the \$30K reduction</p> <p><u>All tax years following 2024:</u> 29%</p>	<p>AGRICULTURAL, RENEWABLE ENERGY PRODUCING LAND, and <u>NEW</u> RENEWABLE ENERGY AGRICULTURAL LAND:</p> <p>Agricultural <i>or</i> Renewable Energy:</p> <p><u>2023 to 2030 tax years:</u> 26.4% (<i>no \$30K reduction</i>)</p> <p><u>2031 to 2032 tax years:</u></p> <p>a) 25.9%, <i>if</i> for the 2031 tax year, there is Sufficient AV Growth</p> <p>b) 26.4%, <i>if</i> for the 2031 tax year, there is Insufficient AV Growth</p> <p><u>All tax years following 2032:</u> 29%</p> <p>Renewable Energy Agricultural Land:</p> <p><u>2023 tax year:</u> 26.4% (<i>no \$30K reduction</i>)</p> <p><u>2024 to 2032 tax years:</u> 21.9%</p> <p><u>All tax years following 2032:</u> 29%</p>
IMPROVED COMMERCIAL SUBCLASS:	IMPROVED COMMERCIAL SUBCLASS:

2023 tax year: 27.9% of the actual property value, *minus* the \$30K reduction.

2024 tax year and all subsequent years: 29%

2023 tax year: 27.85% of the actual property value, *minus* the \$30K reduction

2024 to 2026 tax years: 27.85% (*no \$30K reduction*)

2027 to 2028 tax years: 27.65%

2029 to 2030 tax years: 26.9%

2031 to 2031 tax years:

a) 25.9%, *if* for the 2031 tax year, there is Sufficient AV Growth

b) 26.9%, *if* for the 2031 tax year, there is Insufficient AV Growth

All tax years following 2032: 29%

ALL OTHER NONRESIDENTIAL (*that is not commercial, lodging, agriculture or renewable energy*):

2023 tax year: 27.9% (*no \$30K reduction*)

2024 tax year and all subsequent years: 29%

ALL OTHER NONRESIDENTIAL (*that is not commercial, lodging, agriculture, renewable energy, renewable energy agriculture, or is not under a vacant land subclass*):

2023 to 2026 tax year: 27.85% (*no \$30K reduction*)

2027 to 2028 tax years: 27.65%

2029 to 2030 tax years: 26.9%

2031 to 2031 tax years:

a) 25.9%, *if* for the 2031 tax year, there is Sufficient AV Growth

b) 26.9%, *if* for the 2031 tax year, there is Insufficient AV Growth

All tax years following 2032: 29%

MULTI-FAMILY:

2023 tax year: 6.765% of the actual property value, *minus* the lesser of \$15,000 or the amount that

MULTI-FAMILY:

2023 tax year: 6.7% of the actual property value, *minus* the lesser of \$50,000 or the amount

reduces the assessed value to \$1,000 (the “\$15K reduction”).

2024 tax year: 6.8%

All years following 2024 tax year: 7.15%

that reduces the assessed value to \$1,000 (the “\$50K reduction”).

2024 to 2032 tax year: 6.7% of the actual property value, *minus* the lesser of \$40,000 or the amount that reduces the assessed value to \$1,000 (the “\$40K reduction”).

All tax years following 2032: 7.15%

#### SINGLE FAMILY:

2023 tax year: 6.765% of the actual property value, *minus* the \$15K reduction

2024 tax year: To be temporarily established by the property tax administrator on or before March 21, 2024, the percentage necessary to generate an aggregate reduction of local government property tax revenue of \$700M in tax years 2023 and 2024

All years following 2024 tax year: 7.15%

#### SINGLE FAMILY:

2023 tax year: 6.7% of the actual property value, *minus* the \$50K reduction

2024 to 2024 tax years: 6.7% of the actual property value, *minus* the \$40K reduction

2025 to 2032 tax years: There is a split in Single Family tax rates between Primary Residence, Qualified-Senior Primary Residence and Non-primary Residence as follows:

· Primary Residence (including Multi-Family Primary Residence\*): 6.7% of the actual property value, *minus* the \$40K reduction.

· Qualified-Senior Prim. Residence: 6.7% of the actual property value, *minus* the lesser of \$140,000 or the amount that reduces the assessed value to \$1,000.

· Non-Primary Residence (All other residential that is not Multi-Family, Primary Residence or Qualified-Sr Prim Residence): 6.7% (no reduction)

All tax years following 2032: 7.15%

\*Definition of Multi-Family Primary Residence is discussed below.

Also, for tax years beginning in 2025, SB 22-303 also includes new subclasses of property as follows:

- Single-family residential class includes three subclasses: Primary Residence, Qualified-Senior Primary Resident, and all other residential that is not multi-family, primary residence or qualified-senior primary resident;
- Multi-Family Primary Residence subclass, and

- a Renewable Energy Agricultural Land subclass.

SB22-238, already required the state to reimburse local government entities (including water districts, fire districts, ambulance and hospital districts and school districts) for property tax revenue lost as a result of reductions in valuation, subject to a cap and a shorter duration. SB23-303 generates additional funds to reimburse local governments and certain special districts by dedicating a portion of the state TABOR surplus to the backfill and extending the backfill relief from 2024 through 2032. SB 23-303 is subject to statewide voter approval in the November 2023 General Election as Proposition HH. If Proposition HH passes, SB 23-303 will take effect on the date of the vote's official declaration by the governor. Given this timing, SB 23-303 also revises certain statutory deadlines for property tax year 2023 including the deadline for mill levy certification pursuant to Section 39-5-128, C.R.S., which is postponed from December 15, 2023 to January 5, 2024.

### **Property Tax Valuation**

**SB 23-304**

SB 23-304 concerns changes to the assessment and valuation of property tax. SB 23-304 requires a county assessor to take into consideration a property's current use; existing zoning, governmental, or environmental land use restrictions; multi-year leases or other contractual agreements affecting the use of or income from the property; easements and reservations of record; and covenants, conditions, and restrictions of record, in setting valuation of the property. In addition, SB 23-304 makes changes to some taxpayer protests processes and taxpayer data requests. SB 23-304 will take effect on August 7, 2023, unless a referendum petition is filed.

## **MISCELLANEOUS**

### **Requiring Labeling of Disposable Wipes**

**SB 23-150**

SB 23-150 requires that after December 31, 2023, packages of premoistened, nonwoven disposable wipes be labeled with the phrase "Do Not Flush." SB 23-150 will take effect on August 7, 2023, unless a referendum petition is filed.

### **Local Government Provision of Communication Services**

**SB 23-183**

SB 23-183 makes certain changes and clarifications regarding the provision of cable television, telecommunications, or broadband internet services. Under current law, special districts are prohibited from providing these services without voter approval. SB 23-183 removes the voter approval requirement and allows special districts to provide the above referenced services or enter into public-private partnership agreements without voter approval. It should be noted that advance voter approval may still be required for purposes of TABOR. SB 23-183 also allows local governments to provide middle mile infrastructure, as defined in 47 U.S.C. § 1741(a)(9). SB 23-183 took effect on May 1, 2023.

### **Water Quality Control Fee Setting by Rule**

**SB 23-274**

SB 23-274 requires the Water Quality Control Commission ("Commission"), after consultation with stakeholders, to set fees by rule for a variety of industries for pollution discharge and other water-related activities, by October 31, 2025. Existing fees remain in place until January 1, 2026, unless the Commission adopts rules to phase-in the new fees earlier. The commission must establish the fees by rule beginning July 1, 2026. SB 23-274 also updates the membership of the Commission. SB 23-274 took effect on May 17, 2023.