

New Legislation in the Books

Although the 2018 Legislative Session is not over at the time of this writing, there are some bills that have been signed by the Governor and will become law upon their effective dates. The following bills include provisions that will directly impact some, if not all, special districts.

House Bill 18-1039, Changing the Date of Regular Special District Elections

Regular special district elections have traditionally been held on the Tuesday following the first Monday of May of even years, pursuant to 32-1-103(17) and 1-13.5-111(1) C.R.S. However, due to the addition of primary elections and other election-related duties falling on County Clerks and Recorders preparatory to November elections in even years, HB18-1039 was introduced and passed, changing the regular elections of special districts to the Tuesday following the first Monday of May of odd years.

Special district Board terms are to be staggered, with two seats up for election one year and three seats up for election in the next election. Reducing each term by one year as it comes up, for one term only, completes the transition in five years.

The orderly transition to this new schedule will begin with the regular election held in May of 2020, when the full terms of office that are up for election will be for three years instead of four, for that one term only. At the regular election held in May of 2022, the full terms of office that are up for election will be for three years instead of four, for one term only. At the conclusion of those terms, the next elections, to be held in May of 2023 and 2025, will be on the new schedule of May of odd years.

House Bill 18-1268, Procedure for Recall of Directors

When the Local Government Election Code (Title 1, Article 13.5 of C.R.S.) was being debated, it provided little in the way of procedures for recall elections, partly because recall elections had been so rare over the years. The bill referenced the procedure included in the Municipal Elections Code. It was quickly apparent that the terminology and procedures there, however, do not translate easily to special district terminology. A second bill was adopted

in 2017 clarifying some of the terms that should apply to special district elections.

With recall elections being held more frequently than anyone can remember, Designated Election Officials (DEOs) have been left trying to understand and adapt procedures from the Municipal Code, since the procedures are so sparse and unclear. Consequently, a draft was put forward clearly explaining and harmonizing special district election procedures with the special provisions surrounding recall elections. HB 18-1268 is the product of efforts by DEOs and attorneys to provide a clear path to follow in conducting a recall election.

Senate Bill 18-088, Sales Tax On Medical Marijuana

In a series of gaffes and regaffes, the General Assembly eliminated, then tried to restore, then eliminated the ability of any special district that hadn't been collecting sales tax on retail marijuana to ever do so in the future. Of course, the only special districts that have statutory authority to levy sales taxes are health service (hospital) districts, as authorized by 32-19-112(1)(a) C.R.S., and metropolitan districts that are able to provide transportation, highway safety and road maintenance pursuant to 32-1-1106(1).

In an amendment proffered and supported by SDA, Senate Bill 18-088 was amended to restore the authority for those districts, through a vote of their eligible electors, to levy a sales tax on the retail sale of marijuana. Although only one hospital district is collecting the sales tax on retail sales of marijuana at this time, the possibility for others to do so in the future has been restored. The bill has been signed by the Governor and applies to retail marijuana sales occurring on and after July 1, 2017.

More to Come

The 2018 Legislative Session is scheduled to adjourn on May 9 so stay tuned for more updates on any additional new legislation.

And don't miss our legislative wrap-up webinar on Wednesday, May 16 at 10:00 am where we will provide a summary of everything that happened this Session and take a peek at what may be in store for 2019 (please see page 26 for more details)! ♥

