

# LOCAL GOVERNMENT

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## Business Incentives

Several bills considered during the 2013 legislative session addressed incentives to encourage economic growth in local jurisdictions of Colorado.

Local improvement districts (LIDs) are created by counties to fund infrastructure and other improvements for a specific geographic district. Currently, there are 57 active LIDs; six of these collect sales tax. **House Bill 13-1036** allows LIDs to include noncontiguous territory in unincorporated areas of the county, provided that noncontiguous areas in certain LIDs are included in the district based on a property owner petition. LIDs are authorized to use sales tax revenue to conduct public events. The bill establishes a procedure for property owners to petition the county government for inclusion in, or exclusion from, an LID, including published notice, public hearings, and specific findings to be made by the board of county commissioners in their decision on the petition. The bill also clarifies that noncontiguous areas of a LID may not be in different counties.

**House Bill 13-1206** modifies the cap for business incentive agreements (BIAs) in counties, municipalities, and special districts. Currently, BIAs may be enacted using either constitutional or statutory authority, depending on the type and scope of the agreement. Under the Taxpayer's Bill of Rights (TABOR), state or local governments may enact exemptions or credits to reduce or end business personal property taxes. This provision is the basis for many existing BIAs. Under current law, when a taxpayer has established a new or expanded business facility, local governments may, for a term of up to 10 years, enter a BIA that provides a taxpayer an incentive payment or credit up to the amount of the taxpayer's personal property tax liability. The bill adds authority for such BIAs

to be formed with any taxpayer whose business the local government determines is at risk of relocating outside of Colorado.

**House Bill 13-1212**, which was postponed indefinitely, would have authorized the formation of job creation districts as a means to generate the capital needed to attract employers and create new jobs. Districts could have been created by a municipality or a county for a commercial area that met certain criteria, with minimum thresholds for plant investment, number of jobs created, and pay levels for jobs. Local job creation authorities would have overseen the operation of the districts. Under the proposed bill, a local job creation authority could obligate up to 90 percent of increased tax revenue from participating entities in a district to finance public improvements or provide payments to taxing entities or private entities in the district that met the bill's job creation criteria. The bill's mechanism worked similar to tax increment financing (TIF) and allowed voluntary participation at whatever percentage of revenue a participant wished to contribute.

## County Governance

**Public trustees.** In Colorado, the public trustee is a statutory office created to release, foreclose upon, and take other action related to deeds of trust, usually serving as security in real estate loans. Public trustees also perform other duties established by law, such as escrowing funds in certain real estate transactions and serving as trustee for certain private trusts or corporations where all trustees or directors, respectively, are deceased. Under current law, in 52 of Colorado's 64 counties, the county treasurer serves a concurrent term as the public trustee. In 10 counties (Adams, Arapahoe, Boulder, Douglas, El Paso, Jefferson, Larimer, Mesa, Pueblo, and Weld), the public trustee is appointed to a four-year term by the Governor. In the state's two remaining city and counties, Broomfield and Denver, current law permits Broomfield to provide for an equivalent officer to serve as public trustee, and Denver's charter directs the Denver Clerk and Recorder to serve as the public trustee.

**Senate Bill 13-022**, which was postponed indefinitely, would have eliminated the Governor's authority to appoint public trustees in certain Colorado counties. Under the bill, by February 1, 2015, the county treasurer would serve as the public trustee in all Colorado counties other than Broomfield and Denver. In Broomfield and Denver, an equivalent officer identified by the city and county charter or code would have served as public trustee. The bill also would have repealed current statutory salary provisions and provides for a uniform salary of \$12,500 per year for all public trustees in the state.

**House Bill 13-1051** aligns state statute with the home rule charter of the City and County of Denver by requiring the Denver Clerk and Recorder to serve as the city's public trustee, thereby repealing the Governor's discretionary ability to appoint Denver's public trustee.

**House Bill 13-1072** authorizes counties to purchase crime insurance for a public trustee in lieu of a performance bond. Current law requires public trustees to execute a performance bond valued at \$10,000, or \$25,000 in counties where the public trustee is appointed by the Governor.

**Coroners.** **House Bill 13-1097** codifies current practices for coroners and law enforcement when a person dies under circumstance that may require an investigation. Under the new law, coroners will be responsible for the following:

- doing postmortem work previously done by a physician;
- notifying law enforcement of a death if the coroner is the first to know;
- taking custody of suicide notes;
- notifying next of kin in certain circumstances;

- taking custody of, and properly documenting, prescription medications found at a scene;
- sealing the premises and safeguarding property in noncriminal investigations; and
- responding to the Colorado Department of Public Health and Environment (CDPHE) and the Colorado Department of Transportation (CDOT) when information is requested.

The law further repeals a provision that allows a coroner to ask a physician to make a scientific examination of a body, and repeals the provision that allows a physician to remove the pituitary gland of the deceased in the process of a post-mortem examination.

The General Assembly also considered, but ultimately postponed indefinitely, **House Bill 13-1141**. The bill would have transferred the Coroners Standards and Training Board from the CDPHE to the Department of Law.

## Local Governance

***Development permit approval process.*** Under current law, a local government may not approve an application for a development permit unless it determines that the applicant has satisfactorily demonstrated that the proposed water supply will be adequate. The term "adequate" is defined to mean a water supply that will be sufficient for build-out of the proposed development in terms of quality, quantity, dependability, and availability to provide a supply of water for the type of proposed development. A local government is permitted to make the adequacy determination only once during the development permit approval process. **Senate Bill 13-258** modifies the definition of the term "development permit" to clarify that the local government may determine the adequacy of water supply at the time of zoning, subdivision, site plan review, or other land use approval.

***Special districts.*** **House Bill 13-1186** requires a special district that provides domestic water or sewer service to conduct a public meeting prior to fixing or increasing fees, rates, tolls, penalties, or charges. Notice of the meeting must be provided at least 30 days in advance and may be provided by mailing a separate notice to each customer in the special district, by posting the notice on the special district's website if it is linked to the website of the Division of Local Government (DLG) in the Department of Local Affairs (DOLA), or by posting the notice on the Special District Association's (SDA) website. The bill also requires special districts to record a public disclosure document and a map of the boundaries of the district with the county clerk by December 31, 2014. A special district in inactive status may not regain active status unless it is in compliance with the disclosure requirement.

Under current law, multiple special districts that seek to consolidate as a single special district must amend their service plan and obtain approval from affected cities and towns whenever consolidation occurs within the boundaries of an existing municipality, or within a three-mile radius of the municipality. **House Bill 13-1302** requires that districts obtain approval only when the consolidation will provide new or different services entirely within the boundaries of a municipality, compared to the services currently provided by one or more of the consolidating districts.

## Property and Local Land Use

**Repurposing Fort Lyon.** In 2012, the Fort Lyon Correctional Facility closed due to a declining prison population. **House Bill 13-1261**, which was postponed indefinitely, was an effort to ameliorate the impact of the facility closing on the community in Las Animas. The bill would have repurposed the former Veterans Administration hospital within the Fort Lyon facility as a transient residential community for the homeless. The Division of Housing (DOH) within the Department of Local Affairs (DOLA) would have been required to contract with a private entity experienced in providing statewide integrated housing, health care, and support service programs for homeless individuals to establish the community with preference given to veterans. The property would have been leased to Bent County in exchange for the maintenance and operation of the property. The DOH would have been authorized to solicit and expend gifts, grants, and donations from public and private sources for the operation of the residential community. Any such moneys received would have been deposited in the newly created Fort Lyon Property Cash Fund, which would be continuously appropriated to the DOH for the direct and indirect costs of operating the residential community. **Senate Bill 13-210**, was amended to include provisions of the House bill including an appropriation of \$2.8 million for a residential community for the homeless at Fort Lyons.

**Pipeline right-of-ways.** The legislature considered and ultimately postponed indefinitely three bills that would have addressed the location of hazardous materials pipelines, such as pipelines that transport oil between states. **Senate Bill 13-021**, which was postponed indefinitely, would have clarified that pipeline companies that convey oil, gasoline, or other petroleum products may acquire rights-of-way by eminent domain. The bill would have overridden a 2012 Colorado Supreme Court decision which held that only pipeline companies in the business of transmitting electricity or natural gas can use the power of eminent domain. **Senate Bill 13-191**, which was postponed indefinitely, also would have clarified that pipeline companies that convey oil, gasoline, or other petroleum products may acquire rights-of-way by eminent domain. The bill would have reiterated the applicability of state constitutional provisions concerning just compensation for property taken by eminent domain, as well as federal pipeline safety regulations and other applicable current law. **Senate Bill 13-275**, which was postponed indefinitely, would have created the Interim Pipeline Safety Review Committee to address issues of pipeline safety and to review and propose legislation relating to such matters. The committee would have been required to meet up to six times during the interim to review and propose legislation and other policy changes about, safety regulations and regulatory structures with respect to oil and gas pipelines. The 11-member committee included 10 members of the General Assembly, with five members of the House of Representatives and five members of the Senate, and one member appointed by the Governor.