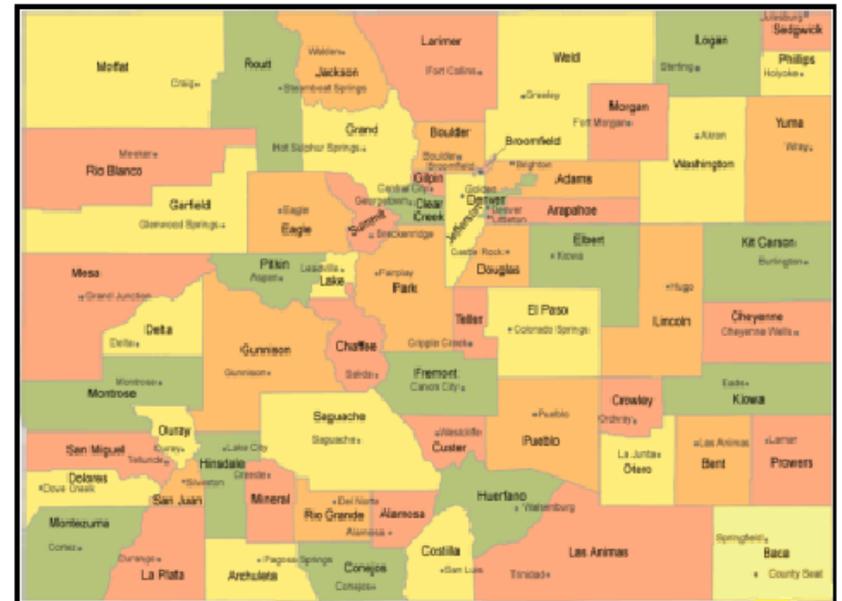


2011 Colorado Local Government Handbook



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December 2011

Introduction

This handbook is intended to serve as a resource guide on the role and responsibilities of local governments, including counties, municipalities, special districts, and school districts. It is divided into ten sections. Section 1 provides an overview of the Colorado Department of Local Affairs. Sections 2 through 4 describe county governments, municipal governments, and city and county governments. An overview of local government land use and planning powers is provided in Section 5. Sections 6 and 7 describe special districts and school districts. The initiative and referendum process for local governments is discussed in Section 8, and Section 9 describes the laws concerning the recall of local elected officials.

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SECTION I
OVERVIEW OF COLORADO DEPARTMENT OF LOCAL AFFAIRS

The Department of Local Affairs (DOLA) is responsible for supporting Colorado's local communities and building local government capacity through training, technical, and financial assistance to localities. The divisions of the department serve several purposes for local entities, including: disaster preparedness; emergency management; provision of affordable housing; property tax assessment and collection; training for local government issues; and distributing state and federal aid for community projects. The department is comprised of five sections: the Executive Director's Office, Division of Property Taxation, Division of Housing, Division of Local Governments, and Division of Emergency Management. Funding for this department consists of 2.9 percent General Fund, 62.9 percent cash funds, 2.0 percent reappropriated funds, and 32.3 percent federal funds.

**Department of Local Affairs
FY 2011-12 Appropriation (millions)**

Total Appropriation	General Fund	Cash Funds	Reappropriated Funds	Federal Funds
\$363.4	\$10.5	\$228.6	\$7.1	\$117.3
100%	3%	63%	2%	32%

Cash funds are separate funds received from taxes, fees, and fines that are earmarked for specific programs and typically related to the identified revenue source. For example, some of the largest cash funds in the department's budget come from the Local Government Severance Tax Fund, Local Government Mineral Impact Fund, Local Government Limited Gaming Impact Fund, Conservation Trust Fund, and the Property Tax Exemption Fund. The following section describes the functions of each division and Table 1 shows the FY 2011-12 appropriations to the department's divisions.

Division of Emergency Management. This division assists local, state, and private organizations in disaster preparedness, response, recovery, and impact mitigation. The division is responsible for preparing and maintaining a state disaster plan, as well as taking part in the development and revision of local and inter-jurisdictional disaster plans. The Colorado Emergency Planning Commission, within the division, is charged with designating local emergency planning districts pursuant to federal law, as well as assisting in the appropriate training of personnel to react to emergency response situations.

Division of Housing. The division assists local communities in meeting their housing goals, administers various state and federal affordable housing programs, and regulates the manufacture of factory-built residential and commercial buildings. The division provides financial and technical assistance to help communities provide affordable housing to low-income, elderly, and disabled individuals.

Division of Property Taxation. This division has three primary responsibilities. First, the division oversees the administration of property tax laws, including issuing appraisal standards and training county assessors. The division also grants tax exemptions for charities, religious organizations, and other eligible entities. Lastly, the division sets valuations for public utility and rail transportation companies. The division is managed by the property tax administrator, who is appointed by the State Board of Equalization. The division also provides funding for the State Board of Equalization, which supervises the administration of property tax laws by local county assessors.

Board of Assessment Appeals. The Board of Assessment Appeals is a quasi-judicial body that hears individual taxpayer appeals concerning the valuation of real and personal property, property tax abatements, and property tax exemptions.

Division of Local Government. The Division of Local Government provides information and training for local governments in budget development, purchasing, demographics, land use planning, community development, water and wastewater management, and regulatory issues. Lastly, the division distributes state and federal monies to assist local governments in capital construction and community services, including:

- Community Services Block Grants;
- Community Development Block Grants;
- Local Government Mineral and Energy Impact Grants;

- Local Government Severance Tax Fund;
- Limited Gaming Impact Grants; and
- Conservation Trust Fund distributions.

Table 1
Divisions within the Department of Local Affairs
FY 2011-12 Appropriation (millions)

Division	General Fund	Cash Fund	Reapprop Funds	Federal Funds	Total Appropriation	
Emergency Management	\$0.6	\$4.5	\$0.1	\$14.7	\$19.9	5%
Housing	2.4	0.8	0.2	85.2	\$88.6	24%
Property Taxation	1.3	1.0	1.1	0.0	\$3.4	1%
Local Government	4.9	221.9	3.2	16.4	\$246.4	68%
Director's Office	1.3	0.4	2.5	1.0	\$5.2	100%
Total Appropriation	\$10.5	\$228.6	\$7.1	\$117.3	\$363.4	

SECTION II COUNTY GOVERNMENTS

Organization and Structure

Colorado is divided into 64 counties. Counties are political subdivisions of state government, and may only exercise those powers specifically provided in state law. Generally, counties are responsible for law enforcement; provision of social services on behalf of the state; the construction, maintenance, and repair of roads and bridges; and control of and use in unincorporated areas. County boundaries are established in statute.

The Colorado Constitution establishes the following county officers: commissioners, treasurer, assessor, coroner, clerk and recorder, surveyor, and sheriff, with duties provided under state law. All counties in Colorado are assigned a "category" in state law for purposes of setting the salaries of elected county officials. Counties are also assigned a different "classification" in state law for the purpose of fixing fees collected by the county and county officers.

County Elected Officials

County commissioners. The board of county commissioners is the primary policy-making body in the county and is responsible for the county's administrative and budgetary functions. Most counties have three commissioners elected from districts by the voters of the whole county. However, any county with a population over 70,000 may expand its board from three to five commissioners by a vote of county electors.

The other county elected officers are the county clerk and recorder, county assessor, county treasurer, county sheriff, county coroner, and the county surveyor, who are elected to four-year terms under the state constitution. These other elected officials have specific powers and duties that are prescribed by law, and they function independently from each other and from the board of county commissioners. However, the board approves the budgets for all county departments. County officers must be qualified electors and have resided in the county for at least one year preceding election. The constitution also provides for a county

attorney who, by statute, is appointed by and reports to the county commissioners.

County clerk and recorder. As the primary administrative officer of the county, the county clerk and recorder records deeds in the county and serves as the clerk to the board. The clerk is also the agent of the state Department of Revenue and is charged with the administration of certain state laws relating to motor vehicles, certification of automobile titles, and motor vehicle registration. The clerk administers all primary, general, and special elections held in the county, overseeing voter registration, publishing notices of elections, appointing election judges, and ensuring the printing and distribution of ballots. The board has a duty to supervise the conduct of general and special elections, and is expected to consult and coordinate with the clerk and recorder on rendering decisions and interpreting state election code. The clerk and recorder also issues marriage licenses, maintains records and books for the board of commissioners, collects license fees and charges required by the state, maintains property ownership records, and provides deed abstracts upon request.

County treasurer. The county treasurer is responsible for the receipt, custody, and disbursement of county funds. The treasurer collects some state taxes and all property taxes in the county, including those for other units of local government, minus a statutory collection fee. The treasurer also conducts sales of property for delinquent taxes. County treasurers serve as the public trustees in medium and smaller counties that are in Class II through Class VI; however, the public trustee is appointed by the Governor in larger Class I and Class II counties.

County assessor. The county assessor is responsible for discovering, listing, classifying, and valuing all property in the county in accordance with state laws. It is the assessor's duty to determine the equitable value of property to ensure that the tax burden is distributed fairly and equitably among all property owners. Real property is revalued every odd-numbered year, and personal property is revalued every year. The assessor is required to send out a notice of valuation each year to property owners, which reflects the owner's property value and the amount of property taxes due to the county treasurer.

Qualifications for county assessors are addressed by the Real Estate Appraiser's Act. The act requires, among other things, that real estate appraisers meet state licensing requirements and that county assessors comply with the licensing requirements within two years after taking office.

County sheriff. Counties are responsible for law enforcement, which includes supporting the court system and the district attorney function, as well as providing jail facilities through the sheriff. The county sheriff is the chief law enforcement officer of the unincorporated areas of a county and is responsible for maintaining the peace and enforcing the criminal laws of the state. The sheriff supports the county court system and is required to serve and execute processes, subpoenas, writs, and orders as directed by the court. The sheriff oversees the operation of the county jail, and must maintain and feed prisoners. The sheriff is also the fire warden for prairie or forest fires in the county and is responsible for county search and rescue functions. County sheriffs can also provide law enforcement for, or share jurisdiction with, a municipality through a contract for services or an intergovernmental agreement (IGA).

State law specifies that any candidate for county sheriff must:

- be a citizen of the United States;
- be a resident of the state of Colorado;
- be a resident of the county in which the person will hold the office;
- have a high school diploma or a college degree;
- complete a criminal history record check; and
- provide a complete set of fingerprints to a qualified law enforcement agency.

Any person who has been convicted of any federal or state felony charge is unqualified for the office of sheriff unless the person has been pardoned.

County coroner. The county coroner is responsible for investigating the cause and manner of deaths, issuing death certificates, and requesting autopsies. The coroner is the only county official empowered to arrest the county sheriff, or to fill the position of interim county sheriff in the event of a vacancy. Similar to the requirements for county sheriff, state law specifies that any candidate for county coroner must:

- be a citizen of the United States;
- be a resident of the state of Colorado;
- be a resident of the county in which the person will hold the office;
- have a high school diploma or a college degree;
- complete a criminal history record check;

- provide a complete set of fingerprints to a qualified law enforcement agency according to state law; and
- possess knowledge and experience concerning the medical-legal investigation of death.

Additionally, any person who has been convicted of any federal or state felony charge is unqualified for the office of county coroner unless he or she has been pardoned.

A constitutional amendment, passed in 2002, authorizes the General Assembly to require that coroners receive minimum training upon their election to office. State law requires that a person who is elected or appointed to the office of coroner for the first time to attend a training course for at least 40 hours using the curriculum developed by the Colorado Coroners Standards and Training (CCST) Board, which is overseen by the Department of Public Health and Environment. Within one year of taking office, any person who is elected or appointed to the office of coroner for the first time must obtain certification in basic medical-legal death investigation from the Colorado Coroners Association or another training provider approved by the CCST Board. State law also requires each coroner to complete a minimum of 16 hours of in-service training provided by the Colorado Coroners Association or by another training provider approved by the CCST Board during each year of the coroner's term. The CCST Board has the authority to grant an extension of up to one year to obtain certification or determine that a combination of education, experience, and training satisfies the requirement to complete 16 hours of in-service training annually.

County surveyor. The county surveyor is responsible for any surveying duties pertaining to the county and for settling boundary disputes when directed by a court or when requested by interested parties. The county surveyor establishes the boundaries of county property, including road rights-of-way, and supervises construction surveys that impact the county. County surveyors also create survey markers and monuments, and conduct surveys relating to toll roads and reservoirs. State law requires that county surveyors meet the requirements to qualify as a professional land surveyor and requires surveyors to file an official bond with the county clerk and recorder for the sum of \$1,000.

Salaries of County Officials

The Colorado Constitution requires the General Assembly to set the salary levels for county commissioners, sheriffs, treasurers, assessors, clerk and recorders, and coroners. The General Assembly is required to consider specific factors when fixing the compensation of county officers and must set a level of compensation that reflects variations in the workloads and responsibilities of each county officer.

The state constitution also provides that county officers cannot have their compensation changed during their terms of office. Further, any change in compensation may occur only when the compensation of all county officers within the same county is adjusted, or when the compensation for the same county office in all of the counties of the state is increased or decreased.

County Elected Officials' Salary Commission. Under state law, an independent commission must make recommendations to the General Assembly on the equitable and proper salaries to be paid to county elected officials. The County Elected Officials' Salary Commission is required to study and submit salary recommendations for elected county officials to the local government committees of the General Assembly every two years. The report is due by the first day of odd-numbered legislative sessions.

County categorization. All Colorado counties are assigned a category (I through VI) for the purpose of setting the salaries of elected county officials. In general, the counties in the lower categories (I through III) are larger counties that are required to pay higher salaries than counties in categories IV through VI. The category assignments are based on factors including population, the number of persons residing in the unincorporated areas of the county, assessed valuation, motor vehicle registration, building permits, and other factors reflecting the workloads and responsibilities of county officers. These categories are subject to change, based on issues like population growth or property valuation. The salary schedule does not affect city and counties or home rule counties that choose to set their own compensation rates. The current county categories for the purpose of setting elected county officials' salaries are summarized in Table 2.

**Table 2
Categories of Counties
to Set Salaries of County Officials**

County Category	Counties
Category I	Adams, Arapahoe, Boulder, Douglas, El Paso, Jefferson, Larimer, Pueblo, and Weld*
Category II	Eagle, Fremont, Garfield, La Plata, Mesa, Pitkin*, and Summit
Category III	Alamosa, Archuleta, Chaffee, Clear Creek, Delta, Gilpin, Grand, Gunnison, Las Animas, Logan, Moffat, Montezuma, Montrose, Morgan, Otero, Park, Rio Blanco, Routt, San Miguel, and Teller
Category IV	Custer, Elbert, Huerfano, Kit Carson, Lake, Ouray, Prowers, Rio Grande, Washington, and Yuma
Category V	Baca, Bent, Cheyenne, Conejos, Costilla, Crowley, Hinsdale, Lincoln, Phillips, Saguache, and San Juan
Category VI	Dolores, Jackson, Kiowa, Mineral, and Sedgwick

Source: Section 30-2102, C.R.S.

* Home rule counties.

County Home Rule

The Colorado Constitution enables the voters of a county to adopt a home rule charter providing for the organization and structure of their county. A county charter may establish, either at the outset or by subsequent amendment, its own structure of county government. This includes the number, terms, qualification, duties, compensation, and method of selection of county officials and employees. A county home rule charter does not provide the “functional” home rule powers found in municipal charters, and, as subdivisions of the state, a home rule county must continue to provide the county services required by law. Thus, state statute determines the functions, services, and facilities provided by home rule counties. Currently, there are two home rule counties in Colorado: Weld and Pitkin. Denver and Broomfield are also “home rule,” but have unique dual city/county status and specific constitutional provisions.

County Powers and Responsibilities

Mandatory services. Counties have the powers, duties, and authorities that are explicitly conferred upon them by state law. Specific statutory responsibilities include the provision of jails, weed control, and establishment of a county or district public health agency to provide, at minimum, health and human services mandated by the state.

Discretionary powers. Counties also have several discretionary powers to provide certain services or control certain activities. Listed below are other commonly used powers or services that a board of county commissioners is authorized to implement. Under state law, counties have the authority to:

- provide veteran services;
- operate emergency telephone services;
- provide ambulance services;
- conduct law enforcement;
- operate mass transit systems;
- build and maintain roads and bridges;
- construct and maintain airports;
- lease or sell county-owned mineral and oil and gas rights;
- provide water and sewer services;
- control wildfire planning and response;
- promote agriculture research and protect agricultural operations;
- administer pest control; and
- operate districts for irrigation, cemeteries, libraries, recreation, solid waste and disposal, and various types of improvement districts.

Under state law, a board is also authorized to control specific activities through police powers or through licensing requirements. Some of the most common county powers are used to regulate activities such as medical marijuana, trash removal, animal control, disturbances and riots, and the discharge of firearms in unincorporated areas of urban counties. In other areas, such as liquor licenses, landfills, and pest control, counties and the state share authority.

County Revenue Sources

Counties have the power to collect property and sales and use taxes, as well as to incur debt, enter into contracts, and receive grants

and gifts. While property taxes are the main source of county revenue, counties may also collect other sources of revenue at the local level and receive state and federal dollars.

County property taxes. Under Colorado law, property taxes, also called ad valorem taxes, may only be assessed for local government services. Property taxes are the primary source of revenue for county governments. A property tax is determined by multiplying a property's value by a mill levy. A mill is one-tenth of a cent; or \$1 of taxes for each \$1,000 of assessed value. County property tax levies are restricted by the 5.5 percent limit on annual growth of revenue in state law, and the mill levy rate limit and the property tax revenue limit under the Taxpayer's Bill of Rights (TABOR). According to the Department of Local Affairs' Division of Property Taxation, the largest share of property tax revenue (49.4 percent) goes to support the state's public schools. County governments claim the next largest share (25.4 percent), followed by special districts (18.7 percent), municipal governments (5.1 percent), and junior colleges (1.4 percent).

Debt. Counties can incur either revenue debt, based solely upon a specified revenue stream, or general obligation debt, which constitutes a general obligation of the local government to repay the debt. Counties may also enter into lease-purchase arrangements (as an alternative to debt financing) to build major facilities such as justice centers.

Sales taxes. Sales taxes are levied in most counties. The tax is collected at no charge by the state Department of Revenue and remitted monthly to the county.

Use taxes. Counties may also collect a use tax. A use tax is levied on the retail price of certain tangible personal property purchased outside a tax district jurisdiction, but stored, used, or consumed within that jurisdiction. Counties are limited to collecting a use tax on construction and building materials and motor vehicles. The purpose of a use tax is to equalize competition between in-county and out-of-county vendors making wholesale purchases. If a county has a use tax on construction and building materials, for example, a vendor is required to pay use tax on the building materials purchased outside of the county and used within the county. When this circumstance occurs, the county sales tax is not collected.

Table 3 on page 14 identifies the various sources of local, state, and federal revenue available to counties.

**Table 3
County Revenue Sources**

Local Revenue Sources	Local / State Revenue Sources	Revenue Collected by the State and Allocated to Counties	Other Revenue Allocated to Counties
County property taxes (Article X, Section 3, Colorado Constitution)	Specific ownership tax from vehicle registration (Article X, Section 7, Colorado Constitution)	Cigarette tax (Article X, Section 21 (5) (e), Colorado Constitution)	State severance taxes (Section 39-29-110 <i>et. seq.</i> , C.R.S.)
Debt: • general obligation bonds; • revenue bonds; and • lease-purchase agreements (Section 30-11-307 (1) (e) <i>et. seq.</i> , C.R.S.)	Law enforcement activities such as: • fees pertaining to drunk driving fines and convictions; and • allocations from the Law Enforcement Assistance Fund. (Section 43-4-401 <i>et. seq.</i> , C.R.S.)	Gaming Impact Fund (Section 12-47.1-1601 <i>et. seq.</i> , C.R.S.)	Federal mineral leasing funds (Section 30-20-1301 <i>et. seq.</i> , C.R.S.)
Sales taxes (Section 30-11-107.9 (2) and 30-26-301 (1), C.R.S.)		Lottery grants from the Great Outdoors Colorado Trust Fund (Article XXVII, Section 5 (1) (a) (IV), Colorado Constitution)	Federal mineral revenues to local governments (Section 30-20-1301 <i>et. seq.</i> , and 34-63-102, <i>et. seq.</i> , C.R.S.)
Use taxes (Section 30-26-301 (1), C.R.S.)		Highway Users Tax Fund (Section 43-4-205 <i>et. seq.</i> , C.R.S.)	
Lodging taxes (Section 30-11-107.5, C.R.S.)		Payment-in-lieu-of taxes from state entities (Article XXVII, Section 10, Colorado Constitution and Section 33-60-104.5, C.R.S.)	Payment in lieu of taxes from federal entities (Section 30-29-101, C.R.S.)
Interest and Fees (Section 30-1-101 <i>et. seq.</i> , C.R.S.)			
Anticipation Warrants (Section 30-20-303 <i>et. seq.</i> , C.R.S.)			

SECTION III MUNICIPAL GOVERNMENTS

Overview. There are 272 municipalities in Colorado, including 100 home rule municipalities, 171 statutory municipalities, and 1 territorial charter municipality. There are also two city and county governments. A brief description of each type of government follows.

Statutory Towns and Cities

Formation. Residents of unincorporated areas may form a municipal corporation under the authority of state statutes. Municipalities formed under these laws, called statutory cities and towns, are limited to exercising powers specifically granted to them by state law. In general, ordinances of statutory towns and cities that conflict with state laws are invalid. Residents in areas with 2,000 or fewer persons may form a statutory town, and residents in areas with more than 2,000 persons may form a statutory city. There are 12 statutory cities and 159 statutory towns in Colorado. The small number of statutory cities reflect the preference of city residents for constitutional home rule authority over statutory powers.

The process for forming a statutory town or city is similar. Residents must first file a petition for incorporation with the district court of the county in which the municipality is to be located. The petition must be signed by at least 150 registered electors who are landowners and residents of the area to be incorporated. However, if the area is located in a county with a population of less than 25,000, 40 signatures are required. The court reviews the petition to determine whether the proposed municipality satisfies statutory requirements. For example, the law prohibits an incorporation election if the proposed area includes, on average, fewer than 50 persons per square mile. The court will order an incorporation election after it determines that the proposed area for incorporation satisfies statutory requirements. Incorporation occurs if a majority of the registered electors vote to approve the incorporation.

If the area of proposed incorporation includes fewer than 500 registered electors, the board of county commissioners may refuse to permit an incorporation election if it determines the proposal fails to satisfy

certain statutory requirements. For example, the board may refuse to permit an incorporation election if the proposed incorporation is inconsistent with a county or regional comprehensive plan.

Municipal powers. State law provides statutory cities and towns a broad range of powers to address the needs of their denser populations through self government, including administrative, police, and financial powers. Administrative powers enable municipalities to fill vacancies in municipal offices, appoint a board of health, and provide ambulance, hospital, and other services. Police powers enable municipalities to enforce local laws, as well as enact measures to preserve and protect the safety, health, welfare, and morals of the community. These powers enable municipalities to prohibit offensive or unwholesome businesses within municipal limits or to compel such businesses to abate their impacts. For example, in 2010, the legislature authorized towns and cities to adopt a resolution or ordinance to license, regulate, or prohibit the cultivation and sale of medical marijuana within their boundaries. Statutes provide municipalities additional powers to finance municipal activities. Municipalities are also granted significant power to manage land use and growth.

Town governments. The legislative and corporate authority of statutory towns is vested in a board of trustees that consists of a mayor and up to six trustees. The mayor and members of the board of trustees are elected from the town at large. The mayor presides over board of trustees meetings and has the same voting powers as other board members. However, a town may adopt an ordinance that limits mayors to voting only when there is a tie vote of the board, provided the ordinance also authorizes the mayor to veto spending ordinances. This limit also provides that the veto may be overruled by a two-thirds vote of the board. The board of trustees is required to appoint a clerk, treasurer, and town attorney, or adopt an ordinance that provides for the election of these offices. The clerk is the custodian of municipal records. The board may also appoint a town administrator to oversee staff and the daily operations of the town. Terms of the mayor and trustees are two years unless an ordinance is adopted to extend the terms to four years. Because they lack specific authority, statutory towns may not adopt a city council-city manager form of municipal government.

City governments. The legislative and corporate authority of statutory cities is vested in a city council and a mayor. The mayor presides over board of trustees meetings and has the same voting powers as other board members. The mayor is responsible for supervising the conduct of municipal officers and investigating complaints against them.

As with statutory towns, cities may adopt an ordinance that limits mayors to voting only when there is a tie vote of the board. The ordinance must also authorize the mayor to veto spending ordinances that may be overruled by a two-thirds vote of the board. Mayors are elected from the city at large. Members of the council are elected to represent a specific ward. The city clerk and treasurer are elected from the city at large. However, city council may submit a proposal to the registered electors to change the city clerk and treasurer to appointive offices. If approved by the voters, the appointment of the city clerk and treasurer would be made by the city council. The city council may also submit a proposal to the registered electors to return these offices to elective offices.

City council-city manager governments. Most Colorado municipalities with over 5,000 residents are organized as city council-city manager municipalities. Under this form of government, the mayor and the council primarily address policy matters and a professional manager implements and administers the council's policies. At least 5 percent of a city's registered electors must sign a petition to cause an election to adopt a city council-city manager form of municipal government. This petition specifies whether the mayor will be elected from among the members of the city council or will be elected from the city at large. If the voters approve reorganizing as a city council-city manager form of municipal government, the council will appoint a city manager to supervise the administration of the city and to ensure that city ordinances are enforced. The council must choose a manager based on his or her executive and administrative qualifications, and he or she does not need be a resident of the city or state. The council may not appoint a sitting council member as city manager. The manager has the power to appoint and remove all officers and employees in the administrative service of the city. The council is prohibited from directing the hiring or removal of administrative officers and employees.

Home Rule Municipalities

Overview. The Colorado Constitution allows cities and towns to adopt a home rule charter. Home rule charters have been adopted by 96 municipalities in Colorado. A home rule charter provides a city or town with greater authority to regulate local and municipal matters than is available to statutory municipalities. Most home rule municipalities have adopted the city council-city manager form of municipal government.

Formation. The process for adopting, amending, and repealing home rule charters is specified in state statute. Under state law, at least 5 percent of the registered electors of a municipality may petition the municipality's governing body to hold a charter commission election. Alternatively, the governing body may adopt an ordinance to cause a charter commission election. If approved by the voters, the charter commission has 120 days to draft a home rule charter. The charter identifies the municipality's powers, governing structure, terms of elected offices, budget and election procedures, procedures for initiative and referendum of measures, and the process for the recall of officers.

Once approved by the commission, a charter must be submitted to the voters for their approval. If rejected by the voters, the commission may draft another charter for consideration at a future election. Rejection of the second charter by the voters results in the dissolution of the charter commission. Home rule charters may be amended or repealed through similar procedures as the creation of a charter. State law also provides a process for voters to adopt a home rule charter at the time of incorporation.

Powers. A home rule charter provides a city or town with greatest authority to regulate local and municipal matters. In general, a home rule city's ordinances pertaining to local matters supercede conflicting state laws. For example, the courts have determined that zoning is primarily a matter of local concern. Consequently, a home rule municipality may adopt its own procedures to rezone an area instead of following the statutory requirement pertaining to rezoning. State statute also grants home rule municipalities additional powers. For example, the Local Government Land Use Control Enabling Act allows home rule cities and towns to regulate activities that impact a community or surrounding area, to provide planned and orderly use of land, and to protect the environment.

Matters of local, state, and mixed concerns. State laws may take precedence over conflicting home rule ordinances when such issues are a matter of statewide concern. For example, the Colorado Supreme Court determined that a city ordinance imposing a total ban on oil and gas development within the City of Greeley was illegal because it conflicted with "the interest of the state in promoting the efficient and fair development, production, and utilization of oil and gas resources in the state."¹ According to a recent Colorado Supreme Court decision, a

standard test is not available for determining whether a matter is a local, state, or mixed concern. Rather, the court has made such a determination on an ad hoc basis, "considering the totality of circumstances."² For example, the court has identified several factors to be considered, including the need for statewide uniformity and the extraterritorial impacts of municipal legislation. The court may also consider whether the subject matter is traditionally governed by state or local government and any state constitutional provisions that specifically address the issue.

Annexation

Annexation is the process whereby land that is adjacent to a municipality is incorporated into the municipal boundaries. The Bill of Rights in the Colorado Constitution limits the authority of municipalities to annex lands.³ Annexation of an unincorporated area may not occur unless *one* of the following conditions is met:

- annexation has been approved by the majority vote of the landowners and the registered electors in the area proposed to be annexed;
- the annexing municipality has received a petition for annexation signed by more than 50 percent of landowners who own more than 50 percent of the area that is proposed to be annexed; or
- the area is entirely surrounded by, or is solely owned by, the annexing municipality.

The constitution allows the General Assembly to establish annexation procedures within the constitutional conditions. It has used this authority to create three annexation procedures: annexation initiative by petition of landowners; annexation by election; and annexation by ordinance. A brief description of these procedures follows.

Requirements of land to be annexed. State statutes limit the type of land that may be annexed. Such lands must be 1/6th contiguous with the existing municipal boundary. The land must also share a community of interest with the annexing municipality; be urban or likely to

¹ *Voss v. Lundvall Bros., Inc.*, 830 P.2d 1061 (Colo. 1992)

² *City and County of Denver v. State of Colorado*, 788 P.2d 764 (Colo 1990)

³ Article II, Section 30, Colorado Constitution

become urban; and be capable of being integrated with the annexing municipality. Consent of a land owner is required if his or her land will be divided by annexation. A school district may be required to approve the annexation if the annexation divides the district. Additionally, an annexation may not occur if it will extend a municipal boundary more than three miles in any one year. The law also establishes a process for annexing a parcel of land that is sought by different municipalities.

Petition for annexation by landowners. Individuals comprising more than 50 percent of the landowners and owning more than 50 percent of an area of land may petition the governing body of a municipality to annex their land. The municipality's governing body must then determine if the proposed annexation satisfies statutory requirements. If the petition is found to be in compliance, the governing body establishes a date for a public hearing on the annexation. At least 25 days prior to that hearing, the municipality must prepare an impact report that includes maps, plans to finance the annexation, plans to extend municipal services to the area, and the effects of the annexation on local public school systems. After the public hearing, if the governing body determines that all statutory requirements have been met, it may annex the territory without an election.

Petition for annexation election. Annexation may also occur by election in the area proposed for annexation. Either 75 qualified electors or 10 percent of the qualified electors of an area, whichever is less, may petition the governing body of a municipality to hold an annexation election. The petition, maps, and statements regarding the area to be annexed must be filed with the municipal clerk. The petition is reviewed by the governing body to determine if it complies with state law. If the petition complies with all requirements, a public hearing is set and an impact report is created by the municipality. The governing body may then call the annexation election. Three commissioners are appointed by the district court to oversee the annexation election. Notice of the election must be published at designated polling places and once a week for four weeks in a newspaper of general circulation. All landowners, including corporate landowners, who are registered electors in the area proposed to be annexed may vote in the annexation election.

Annexation by ordinance. State law creates a streamlined process for annexing enclaves and lands that are owned by the municipality. An enclave is an unincorporated area entirely contained within the boundaries of a municipality. Once an enclave has existed for three years, it may be annexed by a municipal ordinance. Annexation may only occur after notice of the annexation is published in a newspaper

of general circulation in the area proposed to be annexed once a week for four weeks, with the first notice published at least 30 days prior to the adoption of the ordinance.

A municipality must satisfy additional requirements to annex an enclave with a population over 100 people and more than 50 acres. To annex such areas, the municipality must form a nine-member annexation transition committee to facilitate communication among the annexing municipality, affected counties, and residents, business owners, and property owners within the enclave. The committee must include two representatives of the annexing municipality, two representatives from the county or counties where the enclave is situated, and five members who live, own a business, or own real property within the enclave.

Discontinuance of Incorporation

Unless otherwise provided for in a home rule city's charter, state law outlines the process for how a city, home rule or statutory, may discontinue its incorporation. The proceedings for discontinuance of incorporation begin when a petition for discontinuance is filed with the district court of the county where the municipality exists. The petition must be signed by at least 25 percent of the registered electors of the municipality. Upon verification of the petition, the court will notify the electors of the municipality of a vote at the next regular election on whether or not to discontinue the incorporation of the municipality.

At least two-thirds of the electorate must vote to discontinue incorporation. After an affirmative vote of the electorate, the governing body of the municipality is to make sure that all of the debts of the municipality are paid and deposit any municipal documents or records with the county clerk and recorder for safekeeping. The county clerk and recorder must then certify the discontinuance of incorporation to the Secretary of State and provide notice within the county of the discontinuance.

Abandoned Municipalities

If a municipality has failed to hold elections or have any government for a period of five years, the county attorney may ask the Secretary of State to determine the town abandoned and discontinue its incorporation. If the Secretary of State determines that the town is abandoned, the county clerk and recorder of the county in which the

abandoned municipality is located must provide notice of its discontinuance within the county and maintain any of the municipality's documents for safekeeping.

Financial Powers of Municipalities

Overview. State law provides municipalities a variety of revenue-raising mechanisms to pay for municipal expenses and infrastructure improvements. Municipal revenue sources include sales and use taxes and property taxes. Municipalities also employ debt financing tools authorized in state law.

Major Municipal Taxes

Sales and use tax. Sales and use taxes are the primary revenue sources for Colorado municipalities. According to the Colorado Municipal League, statewide, municipalities generate more than \$5 from sales and use taxes for every \$1 of property taxes.

A sales tax is a tax levied on the sale of goods and services. A use tax is levied on the retail purchase price of certain tangible personal property outside a tax district jurisdiction but stored, used, or consumed within that jurisdiction. State law allows municipalities to collect a sales or use tax if approved by their residents at an election. Most municipalities that collect a sales tax also collect a use tax.

Property taxes. Most Colorado municipalities assess a property tax. According to the Department of Local Affairs' Division of Property Taxation, municipal governments collect 5.1 percent of the property tax collected in the state. A property tax is determined by multiplying a property's value by a mill levy. A mill is one-tenth of a cent; or \$1 of taxes for each \$1,000 of assessed value. County assessors determine property values, and municipalities set the mill levies.

Debt Financing

General obligation and revenue bonds. Municipalities may issue general obligation and revenue bonds to finance buildings, recreational facilities, and other public infrastructure improvements. General obligation bonds are secured by the municipality's authority to levy property taxes. In the event of default, holders of general obligation

bonds may compel a tax levy to satisfy the issuer's obligation on the defaulted bonds. Revenue bonds are used to pay for projects that generate income, such as a water infrastructure improvements. Revenue bonds are repaid using the income generated by the project. Municipalities may also issue sales and use tax revenue bonds. These bonds are special, limited obligations that are payable solely from the revenue derived from a municipality's sales and use tax. General obligation securities are considered more secure than revenue bonds because of the tax backing. Interest received from municipal bonds is exempt from federal and Colorado income tax.

Certificates of participation. Certificates of participation (COPs) may also be used by municipalities to pay for infrastructure improvements. COPs are a type of municipal debt which can be contracted by cities without voter approval. Courts have ruled that, because of their structure, COPs do not constitute long-term obligations of the issuing authority, and are therefore exempt from state and local laws that require voter approval of long-term debt. COPs are leases divided or "certificated" into shares. These shares are the certificates of participation that are sold to investors and represent a proportionate interest in the right to receive revenues paid by the lessee (a municipality) to the lessor/vendor. COPs, compared to other lease-purchases, are for a larger dollar amount, with a longer term, and are usually rated by bond rating agencies.

SECTION IV CITY AND COUNTY GOVERNMENTS

A city and county is a distinct entity established under Article XX of the state constitution that operates under a home rule charter and exercises the powers of municipal and county government. These entities have powers similar to home rule municipalities to regulate local and municipal matters. City and counties are also responsible for providing the services required of counties and county officers. Currently, Denver and Broomfield are the only city and counties in Colorado.

Establishment. The establishment of a city and county requires a constitutional amendment. The General Assembly may refer a constitutional amendment to the voters by passing a concurrent resolution, or citizens may place a measure on a statewide ballot through the initiative process. For example, state voters approved a referendum to form the City and County of Broomfield in 1998, which consolidated areas previously located in four counties: Adams, Boulder, Jefferson, and Weld.

SECTION V LOCAL GOVERNMENT LAND USE AND PLANNING POWERS

Overview. In general, home rule governments have greater authority over land use and other types of local matters than statutory governments. However, state statutes grant land use and planning powers to both home rule and statutory municipal and county governments. For example, state law grants both types of municipal and county governments the authority to regulate impacts of new developments that affect state interests such as large water projects and natural hazards, including flood planes and avalanche paths.

General Land Use and Planning Laws for Local Governments

Local Government Land Use Control Enabling Act. This act allows counties and municipalities to regulate activities that impact a community or surrounding area, to provide for the planned and orderly use of land, and to protect the environment. The law also allows a local government to provide for the phased development of services and regulate the location of activities and development that may cause significant changes in population density.⁴

House Bill 1041 powers. In 1974, the General Assembly enacted House Bill 1041, the Areas and Activities of State Interest Act⁵, to ensure that the impacts of new developments that affect state interests are considered and mitigated. Activities of state interest include the construction of major new domestic water and sewage treatment systems, waste disposal sites, and highways. Areas of state interest include natural hazards and significant historical, natural, or archeological resources. The act authorizes local governments to determine whether a development impacts an area or activity of state interest and to regulate the development of such projects according to legislatively defined

⁴ Section 29-20-101, *et. seq.*, C.R.S.

⁵ Section 24-65.1-101, *et. seq.*, C.R.S.

criteria. The power to regulate areas and activities of state interest is granted to statutory and home rule municipalities and counties.

Municipal Land Use and Planning Powers

Statutory municipalities. Statutory municipalities are granted zoning and planning powers that are similar to those granted to counties. For example, a municipal government may divide the city into districts and regulate the location and use of buildings, structures, and land for trade, industry, and other purposes.

Home rule municipalities. The state constitution provides the authority for a home rule municipality to regulate local and municipal matters. State law further provides that a home rule city's ordinances pertaining to local matters supercede conflicting state laws, and the courts have determined that zoning is primarily a matter of local concern. Consequently, a home rule municipality may adopt its own procedures for zoning. In general, a home rule city's ordinances that conflict with matters of state interest may be invalid. For example, the courts have determined that the efficient production of oil and gas is a state interest and local government land use policies that interfere with this objective may be invalid.

County Land Use and Planning Powers

State law authorizes a county planning commission to enact a zoning plan for all or any part of the unincorporated territory within the county. County zoning regulations promulgated under the county planning code may include the classification of land uses and the distribution of land development. Zoning plans typically identify the type and intensity of use that is appropriate for a specific area. For example, a county may zone an area for agricultural activities. Other activities, such as a commercial development, would be required to obtain a special-use permit to be constructed in that area. Counties are prohibited from adopting an ordinance that is in conflict with any state statute; however, a county ordinance and statute may coexist as long as they do not contain express or implied conditions that are in conflict with each other. If a conflict does exist, the ordinance is preempted by state law.

Zoning. A board of county commissioners (BOCC) may establish zoning for all or part of the unincorporated area of a county by dividing and classifying land according to its intended use (e.g., residential,

commercial, or agricultural). This is accomplished by having the county planning commission recommend a zoning plan for consideration by a BOCC. Once a zoning plan is approved, a BOCC can amend any provision of the county zoning regulations after submitting changes to the planning commission for review and suggestions.

County comprehensive plans. A county comprehensive plan or "master plan" is a planning document intended to guide the growth and long-term development of the unincorporated areas of a county. County comprehensive plans are advisory documents only and cannot bind decisions made by a county planning commission or BOCC. State law requires counties to adopt master plans if the county has a population of 100,000 or more, or a population over 10,000 and a 10 percent growth rate in a five-year period. The advisory nature of a comprehensive plan does not prohibit a county from denying a specific development application based on noncompliance with the comprehensive plan, provided the plan is adopted legislatively by the BOCC and the plan is sufficiently specific to ensure consistent application. Additionally, a county comprehensive plan can be a binding document if a BOCC authorizes a comprehensive plan, or any part of the plan, binding through zoning, regulations, or land use codes.

SECTION VI SPECIAL DISTRICTS

Overview. Special districts are local governments that provide services or infrastructure to promote the health, safety, prosperity, security, and general welfare of the inhabitants of the district. The Special District Act, in Title 32, C.R.S., comprises the legal framework for many different types of special districts and specifies the services that may be provided. It also specifies the procedures to form a district and district funding sources, and it defines the composition of special district governing bodies.

There are several reasons why special districts are created. Typically, special districts are created to evenly divide the costs of services between all property owners and residents within the district. Special districts also provide the ability to finance larger infrastructure and public facility projects, and the costs are repaid over time as development occurs and property values increase. Lastly, special districts provide more autonomy than local improvement districts that are directly created by a county or municipality to address more short-term problems.

Initially, voters decide whether a special district should be formed and who will serve on the board of directors. Once a special district is created, the district's board may levy taxes, charge fees, and own property — consistent with the provisions of TABOR.

Types of Special Districts

State law provides for several types of special districts, both general and specific. Table 4 lists the general types of special districts with general authority under the Special District Act. There are also statutory districts that have been added to Title 32 to serve specific areas for a specific purpose outlined in state law. Table 5 lists these types of districts that have been legislatively created under Title 32.

Table 4
General Types of Special Districts
Under the Special District Act

General Types of Districts
Ambulance Districts
Fire Protection Districts
Health Service Districts
Metropolitan Districts
Park and Recreation Districts
Sanitation Districts
Water Districts
Water and Sanitation Districts
Health Assurance Districts
Mental Health Care Service Districts
Tunnel Districts

Metropolitan districts. A metropolitan district is a type of special district that provides at least two of the following services:

- fire protection;
- mosquito control;
- parks and recreation;
- safety protection;
- sanitation;
- solid waste disposal facilities or collection and transportation of solid waste;
- street improvement;
- television relay and translation;
- transportation; or
- water.

Currently, Colorado has over 1,240 metropolitan districts, with over 100 new metropolitan districts formed in each of the past three years. This growth mirrors the state's rapid population growth over the past decade.

Table 5
Other Statutory Special Districts Under the Special District Act

Special Statutory Districts	Statutory Authority
Moffat Tunnel Improvement District	Section 32-8-101, <i>et. seq.</i> , C.R.S.
Regional Transportation District	Section 32-9-101, <i>et. seq.</i> , C.R.S.
Three Lakes Water and Sanitation District	Section 32-10-101, <i>et. seq.</i> , C.R.S.
Urban Drainage and Flood Control District	Section 32-11-101, <i>et. seq.</i> , C.R.S.
Fountain Creek Watershed, Flood Control, and Greenway District	Section 32-11.5-101, <i>et. seq.</i> , C.R.S.
Forest Improvement Districts	Section 32-18-101, <i>et. seq.</i> , C.R.S.
Rail Districts	Section 32-12-101, <i>et. seq.</i> , C.R.S.
Scientific and Cultural Facilities District	Section 32-13-101, <i>et. seq.</i> , C.R.S.
Denver Metropolitan Major League Baseball Stadium District	Section 32-14-101, <i>et. seq.</i> , C.R.S.
Denver Metropolitan Football Stadium District	Section 32-15-101, <i>et. seq.</i> , C.R.S.
New Energy Improvement Districts	Section 32-20-101, <i>et. seq.</i> , C.R.S.

Organization and Oversight of Special Districts

Approval of service plans. Under state law, anyone interested in creating a special district must submit a service plan to any governing body that would be included in the district. A service plan outlines the proposed services, the plan for financing the services, estimated capital costs, and proposed indebtedness. The municipality or county where the proposed district is located is statutorily charged with reviewing and approving a district's service plan. The board of county commissioners or the governing body of the municipality, whichever is applicable, is required to conduct public hearings and make its decision in accordance with statutory requirements and if the decision is for approval, to adopt a resolution to approve the special district. A decision of a board of county

commissioners or a governing body of a municipality regarding a special district's service plan is subject to judicial review. Specifically, a service plan must include:

- a description of the proposed services;
- a financial plan showing how proposed services are to be financed, including the proposed operating revenue from property taxes for the first budget year;
- a schedule showing the years in which the district debt will be issued;
- a map of the district's boundaries;
- an estimate of population and valuation for assessment;
- a description of facilities to be constructed;
- an estimate of costs (land acquisition, engineering and legal services, administrative services, proposed debt and interest rates, and other organizational and operational expenses); and
- proposed intergovernmental agreements for services.

Once approved, the service plan is a binding agreement between the district and the approving local government that spans the life of the district. Any major modifications to the original service plan must be authorized by the approving local government.

Special district board meetings. Official business of a special district board of directors must be conducted in meetings that are open to the public and when a quorum of the board is present. Notice of board of director meetings must be posted in at least three public locations in the district and the office of the clerk and recorder in the county or counties where the district is located.

Elections. District board members must be eligible electors and are elected by other eligible electors of the special district. An eligible elector of a special district is a person who has been registered within the special district for at least 30 days. It also includes an individual, or his or her spouse, who owns taxable real or personal property within the boundaries of a special district. Eligible electors of special districts are entitled to sign the petition for organization, vote on the formation of the district, and be elected to the board of directors. District elections are nonpartisan, must be held on the Tuesday succeeding the first Monday of May in even-numbered years, and must be conducted pursuant to the provisions of Colorado election laws.

Term limits for special district boards of directors. Under term limit provisions in the Colorado Constitution, members of special district

boards of directors may not serve more than two consecutive four-year terms. In addition, state law provides that at least four years must pass before a previously elected board member can run again for the office. The voters of any political subdivision, including special districts, may lengthen, shorten, or eliminate the limitations on terms of office imposed by the constitution.

Recall of special district directors. A recall election lets voters remove and replace an elected official prior to the end of the official's term. A special district director must hold office for at least six months before being subject to a recall election. Recall elections for special district boards of directors are triggered when a petition is signed by the lesser of 300 eligible electors or 40 percent of the eligible electors demanding the recall of the board member named in the petition. The grounds for the recall are not open to judicial review.

Proponents have up to 60 days to gather signatures after a petition form is approved by the election official. The date of the recall election depends on when the petition is submitted and determined to be sufficient, taking into account whether a November election in an even-numbered year will occur within 90 days of the petition being determined to be sufficient.

Annual budget. Each special district must submit a budget to the Division of Local Government on an annual basis. The budget must contain revenues, expenditures, and fund balances. Each budget must also contain a message regarding the significant budget issues for the year, the basis of accounting, and a description of leases to which the district is a party. A draft budget must be presented to a district's board of directors by October 15, followed by a public hearing. The budget document must then be adopted by December 31 — or December 15 if the district levies a property tax — and submitted to the Division of Local Government by January 31 of the budget year. Special district budgets are available for review at the special district's office and at the Division of Local Government's Denver office.

Inactive districts. State law allows a special districts to become inactive and later reactivate. However, a special district may only designate itself as inactive if it is in a predevelopment stage and the district has no:

- residents within its boundaries, other than those living within the boundaries prior to the formation of the district;
- business or commercial ventures within its boundaries;

- general obligation or revenue debt;
- property tax mill levy in that fiscal year; or
- outstanding financial obligations or contracts.

During the period that a district is inactive, the district is exempt from certain requirements, such as submitting an annual budget, audit reports, and service plans to state and local entities. Under the bill, inactive districts may not issue any debt, impose a mill levy, or conduct any official business other than to conduct elections and to undertake procedures necessary to return to active status.

Dissolution of Special Districts

Dissolution by petition. Special district electors may petition the district's board of directors to hold an election to determine whether to dissolve the district. The petition must be signed by at least 5 percent of the district's eligible electors or 250 eligible electors, whichever is less. For districts with a population of at least 25,000, at least 3 percent of the eligible electors must sign the petition to cause a dissolution election. The court will issue an order dissolving the district if a majority of voters within the district approve the dissolution.

A majority of a special district's board of directors may also petition the court to dissolve the district. The court may enter an order dissolving the district without an election if the district lies wholly within the city limits of a municipality; has no financial obligations; and the board and governing body of the municipality consent to the dissolution. However, the court must order a dissolution election if the lesser of 10 percent or 100 voters within the district request an election. The court may also order a dissolution election for a district that has outstanding financial obligations if it determines that the plan for dissolution adequately provides for settlement of the outstanding debt.

Dissolution by administrative action. The Division of Local Government may initiate the dissolution of a special district that fails to perform its statutory or service responsibilities. If a district has no outstanding financial obligations, the division may initiate the dissolution of a district that fails to:

- hold or properly cancel a regular board of directors election;
- adopt a budget for two consecutive years;
- comply with the Local Government Audit Law for two consecutive years; or

- provide, or attempt to provide, any of the services for which the district was organized for two consecutive years.

If the district fails to demonstrate that it has satisfied its statutory or service responsibilities, the division must submit a declaration of dissolution to the district court. The court must determine whether to certify the district dissolved within 30 days of receiving the division's declaration.

Reporting Requirements

Annual report on implementation of the service plan. Special districts created after July 1, 1991, must file every year for five years after their organization a report about the implementation of the service plan with the local government that approved their service plans. A special district must continue to file an annual report for succeeding years if requested by the county or municipal governing body. The annual report must also be filed with the Division of Local Government in the Department of Local Affairs and the Office of the State Auditor. The State Auditor is required to review the annual report and report to the Division of Local Government any apparent decrease in the financial ability of the district to discharge its existing or proposed indebtedness in accordance with the service plan. The division must confer with the district and the county or municipal governing body regarding its financial condition.

Report to the State Auditor. Under the Local Government Audit Law, an annual audit of the financial affairs of a special district must be completed by June 30 of each year and filed with the Office of the State Auditor by July 31. This audit must include a financial statement that conforms with generally accepted governmental accounting principles.

Five-year report. State law allows an approving local government to request special districts to submit a detailed report on debt issuance and authorization activities every five years. This report is described in statute as the "application for a quinquennial finding of reasonable diligence." According to this law, an approving local government can prohibit a special district from issuing authorized debt by reviewing the five-year report and determining that the service plan will not result in the timely and reasonable discharge of the special district's general obligation debt.

Information provided to the electors of special districts. State law requires that audit, budget, and election information be posted on the

website of the Division of Local Government. Each year a special district is required to file a current and accurate map of its boundaries with the county clerk and recorder in each of the counties in which the special district is located. A board of any metropolitan district with more than \$25,000 of annual revenue or with total authorized debt of more than \$1,000 per elector must maintain a list of eligible electors of the district who have applied for permanent mail-in voter status. By January 15 of each year, the board of a special district must also provide notice to eligible electors that includes the following information:

- the address and telephone number of the principal business office of the special district;
- the name and business telephone number of the manager or other primary contact person of the special district;
- the names of the members of the special district board, indicating each member whose office will be on the ballot at the next regular special district election;
- the times and places designated for regularly scheduled meetings of the board during the year and the place where notice of board meetings is posted;
- the current mill levy of the special district and the total ad valorem tax revenue received by the district during the last year;
- the date of the next regular special district election at which members of the board will be elected;
- the procedure and time for an eligible elector of the special district to submit a self-nomination form for election to the board;
- a statement that an application to request permanent mail-in voter status can be obtained from the county clerk and recorder, or online from the Office of the Secretary of State, and can be returned to the county clerk and recorder of the county or counties in which the district is wholly or partially located; and
- the address of any website on which the special district's election results will be posted.

Other types of improvements districts. Special districts that are created under the Special District Act are often confused with other types of improvement districts formed by municipalities and counties to provide certain amenities, like sidewalks. Unlike improvement districts, special districts have political autonomy and may exist indefinitely while improvement districts are typically dissolved once the improvement is complete and any debt issued is paid off. For example, special

improvement districts (formed by municipalities) and local improvement districts (formed by counties) provide a particular amenity in a localized area, and the costs of the improvements are assessed directly against the benefitting property owners. A board of county commissioners or the city council serves as the governing body of an improvement district, and the district dissolves as soon as any debt issued by the county or municipality on behalf of the district is paid off.

Table 6 identifies improvement districts that are *not* governed by the Special District Act, but are often confused with special districts. Business improvement districts, downtown development authorities, and urban renewal authorities are formed as adjunct entities by municipalities. Cemetery districts, library districts, pest control districts, and weed control districts are formed by counties. Irrigation districts, water conservancy districts, and water conservation districts are formed and governed by landowners. All of these types of districts are governed by specific statutes and procedures distinct from the Special District Act.

Table 6
Types of Districts that are not Governed by
the Special District Act

Type of District	Statutory Authority
Business Improvement Districts	Part 12 of Article 25 of Title 31, C.R.S.
Cemetery Districts	Part 8 of Article 20 of Title 30, C.R.S.
Conservation Districts	Part 1 of Article 70 of Title 35, C.R.S.
Downtown Development Authorities	Part 8 of Article 25 of Title 31, C.R.S.
Irrigation Districts	Article 41 of Title 37, C.R.S.
Library Districts	Part 1 of Article 90 of Title 24, C.R.S.
Local Improvement Districts	Part 6 of Article 20 of Title 30, C.R.S.
Pest Control Districts	Article 5 of Title 35, C.R.S.
Public Improvement Districts	Part 5 of Article 20 of Title 30, C.R.S.
Special Improvement Districts	Part 5 of Article 25 of Title 31, C.R.S.
Water Conservancy Districts	Article 45 of Title 37, C.R.S.

SECTION VII SCHOOL DISTRICTS

School districts are local government entities that are created to provide the equal benefit of education throughout the state. The Colorado Constitution requires the General Assembly to provide for the establishment and maintenance of a thorough and uniform system of free public schools throughout the state for all residents between the ages of 6 and 21 years, and provides that one or more public schools must be maintained in each school district within the state for at least three months in each year. The General Assembly is required to provide for the organization of school districts of convenient size with an established board of education (school board) consisting of three or more directors to be elected by the qualified electors of the district. A school board determines the instruction in the public schools of its district. The "School District Organization Act of 1992" delineates the process by which school districts may consolidate, deconsolidate, dissolve, or annex. Currently, there are 178 school districts in the state.

School boards. Each school district is overseen by a school board that is elected by the voters of a school district to govern the activities of the school district. A school board performs duties and possesses powers established in state law. The specific duties of a school board include adopting policies and prescribing rules and regulations that are necessary and proper for the efficient administration of the affairs of the district. Specifically, school board members hire a superintendent to handle the administration of the school board's policies, and approve the annual budget of the district and submit it to the appropriate county in order for property taxes to be levied to meet the requirements of the annual budget. Except in some limited cases, school district boundaries are usually not contiguous with municipal or county boundaries.

Funding for school districts. School districts are funded from a combination of local and state sources. Local property taxes are levied to fund a portion of a school district's operations. In addition to any local school district mill levies, school districts are funded by the state according

to the School Finance Act of 1994⁶, based on a school district's enrollment. The school finance act contains a formula that calculates a per pupil funding amount for each school district based on the individual characteristics of the district, such as the cost to live in the district and the number of students enrolled. In FY 2010-11, local taxpayers contributed about 37 percent of total funding to school districts, while state sources accounted for the remaining 63 percent. These percentages vary widely among individual school districts, however, because districts have different amounts of property wealth and different tax rates. Under the act, each district's local portion is calculated first, and state aid makes up the difference between the local portion and total funding.

Organization of a school district. Under state law, the organization or reorganization of a school district requires a school organization planning committee to be appointed in order to study the school organization and develop a plan for the formation or reorganization of a school district. A committee is established when one or more school district boards of education file a request with the Commissioner of Education that a committee be appointed, when a petition is submitted to the Commissioner of Education and the county clerk of each affected county for the appointment of a committee, or when the state board declares that a school district is no longer accredited. The petition must contain a statement indicating which school districts would be involved, and must be signed by at least 15 percent of any school district's eligible electors.

A plan that contemplates the creation of a new school district must include an estimate of the maximum increase in the mill levy to be imposed within the new district and include the source of operating funds to be used by the new school district prior to receipt of state funds on July 1 of the district's first budget year. A plan of organization that establishes one or more school districts within the boundaries of an existing district may also include authorization for the school districts to enter into a revenue-sharing agreement and provide for the establishment of a joint taxation district.

Adoption of an organization plan. Once a plan of organization has been tentatively agreed upon by the committee, the plan, with a map and legal description of boundaries, must be filed with the Commissioner of Education and each affected board of education, and public hearings on the plan must be held. Following approval of a final plan by the

Commissioner and the committee, the committee must call for a special school district organization election for approval of the plan by eligible electors in each affected school district. If approved by the voters, a new school district is established under the final approved plan of organization. Any plan of organization approved by voters takes effect on July 1 following certification of the election results.

⁶ Section 22-54-101, *et. seq.*, C.R.S.

SECTION VIII INITIATIVE AND REFERENDUM PROCESS FOR LOCAL GOVERNMENTS

Municipal initiatives and referendum. The Colorado Constitution reserves the initiative and referendum powers for the registered electors of municipalities. Municipalities may regulate the process for exercising the initiative and referendum process. However, no more than 10 percent of the city's registered electors may be required to order a referendum, and no more than 15 percent of its electors may be required to propose an initiative. State statute regulates the form of petitions, petition circulation, protests, and other elements of the initiatives and referendum process. Case law has held that legislative actions are subject to initiative and referendum provisions, while actions that are administrative or quasi-judicial in nature are not.

County initiatives and referendum. The same initiative and referendum powers that are provided for cities and towns are not extended to Colorado counties. However, any county home rule charter is required to include initiative and referendum procedures for a home rule county. Additionally, state law specifically allows county voters, by initiative or referenda, to:

- determine whether a home rule charter commission should be elected;
- amend a county home rule charter;
- change the method of electing county commissioners in counties over 70,000 in population; or
- increase or decrease the number of county commissioners between three and five in counties over 70,000 in population.

A board of county commissioners may also refer questions to county voters regarding whether to prohibit the operation of medical marijuana centers, approve the creation of improvement districts within specific areas of a county, or to determine whether certain services, like a county library, should be provided. A board of county commissioners is also required to submit specific fiscal issues to county voters. For example, a board of county commissioners must seek voter approval on questions related to county debt and retaining excess revenue under the requirements of TABOR.

SECTION IX RECALL OF LOCAL ELECTED OFFICIALS

A recall election allows voters to remove and replace an elected official prior to the end of the official's term. Eligible electors of any political subdivision may initiate the recall of an elected official by signing a petition that calls for a recall and demands the election of a successor to the officer named in the petition. While any local and state elected official in Colorado may be recalled, recall elections occur mostly at the local level.

Under state law, a recall petition must contain a general statement explaining the reason for the recall, which is not open to review. Local elected officers are not subject to recall until they have held office for at least six months or if they are in the final six months of their term. Additionally, only one recall petition and election can be filed against the same official during his or her term unless a subsequent petition gathers enough signatures to equal 50 percent of the votes cast at the last preceding general election for all of the candidates for the office held by the current officer.

Recall elections are triggered when the required number of registered voters sign a recall petition. For county and municipal elected officials, the required number of signatures is 25 percent of the votes cast for candidates for that office in the preceding election. In the case of a recall of nonpartisan officers in other political subdivisions, such as special districts, a petition must be signed by the lesser of 300 eligible electors or 40 percent of the eligible electors of the political subdivision.

All recall proponents have up to 60 days to gather signatures after a petition form is approved by the appropriate election official. Signatures on petitions can be protested, which results in a hearing by the election official, but any protest hearing must be concluded within 30 days after the protest is filed.

In the case of recalling municipal officers, the governing body of a statutory city or town must set a date for a recall election between 30 to 90 days from when the petition is deemed sufficient. However, if a general election is to be held within 180 days after a petition is deemed sufficient, the recall election must be held as part of the general election.

Other local governing boards must set a date for a recall election between 45 to 75 days from when the petition is deemed sufficient. However, if a general election is to be held within 90 days after a petition is deemed sufficient, the recall election must be held as a part of the general election.