Report to the Colorado General Assembly:

REGIONAL SERVICE AUTHORITIES

COLORADO LEGISLATIVE COUNCIL

RESEARCH PUBLICATION NO. 176

November, 1971

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REGIONAL SERVICE AUTHORITIES

Legislative Council

Report to the

Colorado General Assembly

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COLORADO GENERAL ASSEMBLY

LEGISLATIVE COUNCIL
ROOM 46 STATE CAPITOL
DENVER, COLORADO 80203
892-2285
AREA CODE 303

November 8, 1971

To Members of the Second Regular Session of the Forty-eighth Colorado General Assembly:

In accordance with the provisions of House Joint Resolution 1033, 1971 Session, the Legislative Council herewith submits the accompanying report and recommendations of its interim Committee on Local Government.

The report of the Committee on Local Government appointed to carry out this study was accepted by the Legislative Council for transmittal to the Governor and the Second Regular Session of the Forty-eighth Colorado General Assembly.

Respectfully submitted,

/s/ Representative C. P. (Doc) Lamb
Chairman

CPL/mp

COLORADO GENERAL ASSEMBLY

LEGISLATIVE COUNCIL
ROOM 46 STATE CAPITOL
DENVER, COLORADO 80203
892-2285
AREA CODE 303

November 5, 1971

Representative C. P. (Doc) Lamb
Chairman
Colorado Legislative Council
Room 46, State Capitol
Denver, Colorado 80203

Dear Mr. Chairman:

Pursuant to the provisions of House Joint Resolution 1033, 1971 Session, the Committee on Local Government submits the following report for consideration by the Legislative Council.

The Committee recommends that the Governor include a regional service authority bill and legislation providing a penalty for not reapportioning county commissioner districts with the items to be considered by the Second Regular Session of the Forty-eighth General Assembly.

Respectfully submitted,

/s/ Representative Ronald H. Strahle
Chairman
Committee on Local Government

RHS/mp

FOREWORD

Pursuant to House Joint Resolution No. 1033, 1971 Session a committee was named by the Legislative Council to undertake a study of local government. The following members of the General Assembly were appointed to serve as members of the Committee on Local Government:

Rep. Ronald H. Strahle, Chairman
Sen. Leslie R. Fowler, Vice Chairman
Sen. George L. Brown
Sen. Raymond P. Kogovsek
Sen. Joseph B. Schieffelin
Sen. Joe Shoemaker
Sen. Ted L. Strickland
Rep. Durant Davidson
Rep. Charles J. DeMoulin
Rep. Betty Ann Dittemore
Rep. Robert Johnson
Rep. Bob Leon Kirscht
Rep. Edward I. Newman
Rep. Clarence Quinlan
Rep. Hubert M. Safran
Rep. Carl E. Showalter
Rep. Phil Stonebraker

The Committee determined at the outset of the study to develop and herein recommends legislation to implement Article XIV, Section 17 of the Colorado Constitution, which requires the General Assembly to "provide by statute for the organization, structure, functions, services, facilities and powers of service authorities".

The Committee also recommends a bill to penalize county commissioners for failure to equally apportion county commissioner districts after each decennial census.

Many individuals and groups offered aid and advice during the course of the Committee's deliberations for which the Committee expresses its deep appreciation. Included among them were representatives of the Department of Local Affairs, Colorado Municipal League, The League of Women Voters, Denver Regional Council of Governments, Colorado State Association of County Commissioners, Denver Regional Transportation District, Urban Drainage and Flood Control District, Metropolitan Denver Sewage Disposal District No. 1, the Denver Water Board, Southern Colorado Economic Development District, Summit County, Boulder County, El Paso County, City and County of Denver, City of Aspen, San Luis Valley Regional Development and Planning Commission, Pikes Peak Area Council of Governments, Highland Hills and South Suburban Recreation Districts, the Bancroft Fire Department, the Colorado Public Expenditures Council, the Department of Natural Resources, and the Colorado State Planning Office.

Particular credit is given to the efforts and contributions of Ken Bueche, Colorado Municipal League, and J. D. Arehart, Division of Local Government. After the Committee completed its recommendations, bond counsel, particularly Robert M. Johnson, submitted helpful suggestions, many of which have been incorporated into staff comments contained in the accompanying report.

Vince Hogan, Legislative Drafting Office, provided bill drafting and legal assistance to the Committee. Preparation of the report and Council staff assistance to the Committee was provided by Dave Morrissey, Assistant Director, Wallace Pulliam, Research Associate, and Brent Slatten, Research Assistant.

November, 1971

Lyle C. Kyle
Director

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COMMITTEE FINDINGS AND RECOMMENDATIONS

In November of 1970, the voters of Colorado approved Amendment No. 3 to the Colorado Constitution, the so-called "Local Government Reform Amendment". A major concept contained in this amendment (section 17) is an authorization for the General Assembly to provide enabling legislation for the formation of service authorities. Fundamentally, the service authority portion of the amendment would permit a single unit of government to provide more than one function on a regional basis, or multi-county basis, if approved by a vote of the local electorate.

Study Methodology

Two bills were introduced in the Colorado General Assembly during the 1971 session to implement the service authority portion of Amendment No. 3 -- S.B. 323 and S.B. 324. These bills provided a point of departure for the Committee's study. Furthermore, a considerable portion of the language of the accompanying committee bill is taken from Senate Bills 323 and 324.

Following analysis of a comparison of the aforementioned bills and after hearing extensive testimony from a cross section of persons on suggestions or concepts to be included in legislation for regional service authorities, the Committee voted on and approved a variety of alternative approaches for inclusion in an initial draft bill. Thus, prior to reviewing a specific draft, the Committee formulated policy with respect to the following major areas of concern:

(1) the types of services that could be administered by a service authority;

(2) the relationship of administration of such services to similar programs of local government;

(3) the assumption of existing single purpose regional government by service authorities;

(4) establishment of organizational commissions, composed of municipal and county officials, to formulate local programs for respective service authorities based on needs of a particular region;

(5) election of the governing board on a partisan basis;

(6) methods of financing, including types of taxes and the use of special taxing districts and local improvement districts;

(7) boundary limitations; and

(8) powers.

Following development of a concept for service authorities, the Committee directed the Council staff, in conjunction with the Legislative Drafting Office, to prepare a draft bill.

The Committee then began the difficult task of section by section analysis of draft language. The drafts were made available to the general public and the Committee had the benefit of considerable input from persons in attendance at the committee meetings.

Objectives of the Committee Bill

Flexibility for Individual Regions

Perhaps the most difficult problem to be resolved by the Committee in developing legislation for service authorities was to prepare a bill that would not only meet the needs of the Denver urban area, but would be flexible enough to provide a framework for regional government in other areas. Compounding the problem for the Committee was the conflicting testimony as to the extent and scope of services that should be provided or would be feasible for administration by service authorities. The practical politics of one community, for example, might preclude the establishment of a service authority in its particular area if it is to be charged with the administration of a certain service. On the other hand, for another region, the local communities might give strong support for such a service to be performed at a regional level.

The Committee believes that it has developed a workable approach to solving conflicting needs for regional governmental services. First of all, the Committee bill authorizes an extensive list of services that may be performed by a regional service authority. (Amendment No. 3 requires the General Assembly to designate by statute the functions, services, and facilities to be performed by any service authority.)

Secondly, the Committee provides for the appointment of a service authority organizational commission composed of elected municipal and county officials to select a list of services to be submitted to the voters of the proposed service authority for their approval or rejection. This commission would be utilized in all regions of the state. The one exception, described below, would be the four-county Denver area -- Denver, Adams, Arapahoe, and Jefferson counties.

Thirdly, for the Denver area, the Committee believes that the best chance of obtaining voter approval of a service authority in this community would be to limit services, at the time of formation, to those functions now provided by the Denver Regional Council of Governments (DRCOG), the Regional Transportation District (RTD), the Metropolitan Denver Sewage Disposal District No. 1, and the Urban Drainage and Flood Control District. Furthermore, the Committee proposes that a vote on formation of such an authority be placed before the qualified electors of the Denver area at the 1972 general election. The latter approach could eliminate much of the divisiveness that might develop with respect to the selection of additional services to be performed, as well as to reduce the time required for organizing a service authority in the Denver area. However, once the service authority is formed, the board could submit additional services to the voters for their approval.

Limitation on Proliferation of Service Authorities

To begin with, the Committee attempted to provide a limitation on the number of service authorities by utilizing the boundaries of the twelve planning regions developed by the old State Planning Office (now the Division of Planning, Department of Local Affairs). Testimony to the Committee revealed that these regions were too inflexible, and the Committee revised its recommendations to provide that a service authority must include two or more counties. Of course, an exception is made for the Denver Area as provided by the constitutional amendment. The Committee is concerned that a limitation must be placed on the formation of service authorities if the problems of local government in the Denver area are not to be repeated in other communities in the state. That is, the excessive number of competing jurisdictions in the Denver area has resulted in high governmental costs for administration, the inability of local governments to meet area-wide service and utility needs, the creation of tax islands, and an unfair distribution of tax burden, etc. These problems even magnify further "defensive incorporations" and the creation of numerous special districts that add to the

complexity and total cost of government. It is the concern of the Committee that this new level of government is not used indiscriminately or as a competitive layer of government, rather, the service authority concept should only be used to solve problems that cannot be solved within the traditional framework of county and municipal government.

Authorized Services. Senate Bill 323 suggested that the number of services authorized by statute be limited, while S.B. 324 suggested that all local government functions be authorized. The concept of a limited number of functions appealed to some members when the issue first came before the Committee. But, even among the members who concurred with this approach, there was no agreement as to which services should be included and which should be left out. Thus, rather than attempt to select a list of services that would solve problems for each region, the Committee focused its attention on the elimination of services that the Committee did not believe should be included as possible items for administration on a regional basis. In some instances, services were rejected as being matters of state concern, such as air pollution control, while for others, such as law enforcement, the Committee elected to keep the service as close to the local community as possible.

It is the belief of the Committee that all services to be administered by a service authority, at the time of formation, should be administered on a concurrent basis. That is, jurisdiction or responsibility for administration would be vested with both the service authority and other local governments. However, the Committee also recognized that the people in a local community may find that a service could be administered more economically if the service authority is given exclusive jurisdiction for the performance of the service. Therefore, the Committee recommends that the electorate should be given authority to make such a decision. Thus, after a service authority has been approved and has developed administrative experience, the service authority board could submit a proposition to the voters asking for exclusive jurisdiction over administration of a given service. The provision for administration of a service on an exclusive basis would have to be approved at a general election.

Finances and Administration

The Committee recognizes that a regional government, whether providing for a sewer system or transportation, will have to have sufficient flexibility to provide for a variety of levels of service throughout the region. For this reason, the Committee believes that a large proportion of the finances

of the service authority will be raised through service charges or special taxing districts. The latter approach is a new means of financing services that was not available prior to the passage of Amendment No. 3. That is, Article X, Section 3, requires that "All taxes shall be uniform upon each of the various classes of real and personal property located within the territorial limits of the authority levying the tax..." (emphasis added). Section 18 (1) (d) of Article XIV now permits counties, municipalities, and service authorities to by-pass the uniformity requirement through the special taxing district measure.

In addition to the special taxing district, the Committee proposes that a service authority be able to utilize the mechanism of local improvement districts. Local improvement districts would confer special benefits to real property within a specific area. In general, the difference between the special taxing district and the local improvement district is that the former would be utilized to finance services of a general nature that individual residents may or may not use, while the local improvement district, which has long been available to some local governments, would only benefit specific real property.

Methods of Taxation. Taxation, as always, is a difficult issue to deal with. In considering the tax question, the Committee again emphasizes that service charges will play a dominant role in financing service authorities. Nevertheless, a basic tax structure will be needed and the Committee chose the property tax for two reasons despite the desire of individual members to minimize this method of taxation:

(1) The existing metropolitan-wide special districts such as the Regional Transportation District and the Urban Drainage District, as well as the various urban services districts organized under Chapter 89 of the Colorado Revised Statutes of 1963 -- fire, water and sanitation, park and recreation, etc. -- utilize the property tax as a basic means of financing services. The inclusion of these services by a service authority would not change this structure of financing existing programs.

(2) The Committee also believes that any major changes in the tax structure affect all levels of government and should be developed through a committee charged with this particular assignment rather than by a committee attempting to establish enabling legislation for service authorities. Provision is made, however, in the Committee bill, for participation in any state-collected locally-shared tax that the General Assembly may develop for assistance to service authorities and other local governments.

General Powers

With respect to general powers of service authorities, the Committee considered the language contained in Senate Bill 323 and Senate Bill 324. It is the understanding of the Committee that this language is similar to that contained in the proposed codification of special district legislation considered by the General Assembly in 1971 -- Senate Bills 80 and 363. Basically, the powers are common to those contained in present special district law.

It was the consensus of the Committee that if a service authority is formed in any area that it be given responsibility for regional planning. Furthermore, the Committee believed that planning should be considered a power and not a service. Thus, if a service authority is approved by the electorate, but services are defeated by concurrent vote as required by Amendment No. 3, the board would proceed with a program of regional planning.

It was pointed out to the Committee that existing special districts encounter some difficulty in enforcing rules and regulations. The Committee recommends a section on ancillary powers. This, for example, simply means that if the service authority administers a park program, park personnel could be utilized to protect property and enforce regulations. Violations of regulations would be prosecuted by the district attorney and enforced by the county court in which the violation occurred.

Relationship to Special Districts

Again, for the Denver Metro Area, the Committee recommends that the area-wide services presently offered by DRCOG, RTD, Metro Sewer, and Urban Drainage, be phased into the proposed Denver Area Service Authority beginning January 1, 1973. The Committee believes that this can best be accomplished during the first six months of calendar 1973 with the least disruption to services and programs now being offered.

The Denver Regional Council of Governments, the Denver Metropolitan Sewer District No. 1, and the Urban Drainage and Flood Control District, did not express any reservation about being included in a regional service authority at the time of its formation. The Regional Transportation District is concerned that the boundaries of the proposed Denver Area Service Authority would not encompass territory now included in the RTD. Furthermore, the RTD is in the middle of a planning process which will be the basis for submitting a proposal to the voters for a bond issue to finance a regional transporta-

tion system for the Northern Front Range. The RTD testified to the Committee that:

> RTD feels there is a danger that momentum already gained, and the planning efforts now under way, will be substantially impeded, if not altogether lost, by a transfer of responsibility before the plan is presented to the voters.

The Committee is concerned, however, with the following questions:

(1) What will be the effect of planning for the RTD which does not focus on the area which is to be served by the regional government?

(2) What are the merits of planning transportation for the Northern Front Range corridor without including the needs of El Paso and Pueblo Counties?

(3) If the recommendations of the RTD are approved by the electorate, what problems will be encountered in bringing the RTD into the proposed Denver Area Service Authority at that time?

In viewing these questions, it was the consensus of the Committee that this program should be brought into the Denver Area Service Authority as quickly as possible. The Committee believes that the complexity of assuming these programs will increase, rather than diminish, with time.

Small Urban Service Districts. Water and sanitation districts and other small urban service districts organized pursuant to Chapter 89, C.R.S. 1963, have been of concern to the General Assembly for a number of years. In 1965, the General Assembly adopted the "Special District Control Act" (Article 18 of Chapter 89, C.R.S. 1963, as amended), the first major step in attempting to reduce the proliferation of these districts. The Committee believes that with the development of service authorities, the formation of new special districts should be prohibited. Of course, the prohibition should apply only in those instances where a service authority is providing the same or a similar service to that which would be provided by the proposed new special district.

The Committee also suggests language to encourage service authorities and special district boards to initiate the dissolution of special districts under Article 22 of Chapter 89 -- the so-called "Dissolution Act". Again, the Committee believes that these steps will encourage simplicity in gov-

ernment organization and make government more visible and more responsive to the people.

Equity

In the course of the provision of services on a regional basis, the Committee proposes that a service authority may assume, either through contract or because it has been given exclusive jurisdiction, the rights, title, and interest in any facilty of a county, city, or special district. In the assumption of such services, the Committee debated the question as to whether there would be any instances in which a local community would be entitled to receive any equity for its investment at the time such facility is transferred to the service authority.

The Committee visualizes instances whereby a community has built a facility that is designed to serve long-range needs of areas outside of its boundaries. Such facilities may have been built at considerable expense to the local residents, and service charges to adjacent areas may be higher than those for residents. If such residents were charged a higher rate, upon the assumption of the facility by the service authority, there would be little incentive for the community to participate in the regional program. Therefore, the Committee bill contains a provision to permit the board of a service authority to negotiate with local government to provide a credit against ad valorem taxes or service charges, for a period not to exceed 30 years, to the residents of any such community. A final determination as to the amount of such credit would be at the discretion of the board subject to appeal to the courts.

Summary of Bill

(1) A service authority could be formed in any two or more counties (for Denver, the four-county area of Adams, Arapahoe, Denver, and Jefferson counties must be included in the proposed service authority).

(2) The question of formation of a service authority in the Denver area limited to the functions of planning, sewage treatment, urban drainage, and transportation would be placed on a ballot in November, 1972.

(3) The Regional Transportation District, Metropolitan Denver Sewage Disposal District No. 1, Denver Regional Council of Governments, and the Urban Drainage and Flood Con-

trol District are to be absorbed by any service authority formed in the Denver area.

(4) In other regions of the state, formation of a service authority may be initiated by petition of the electorate or by resolution adopted by a majority of the governing bodies of cities and counties.

(5) Except for Denver, as noted above, the initial services to be provided would be selected by a service authority organizational commission which would be appointed by the court subsequent to the petition for formation.

(6) The Committee developed a list of services that may be provided by a service authority if approved by the electorate. At the time of formation, services would be provided on a concurrent basis with existing units of local government. After a service authority is formed, the board may, subject to the approval of the electorate, assume exclusive responsibility for providing specific services. Authorized services include: urban drainage; sewage treatment and disposal; public surface transportation; solid waste disposal; parks and recreation; libraries; fire protection; hospital, and other health and medical services; cultural facilities (museums, art galleries, etc.); housing; weed and pest control; central purchasing, and any other management services; local gas and electric utilities; jails, and rehabilitation; and land and soil preservation. Planning is classified as a power and would be provided by a service authority regardless of what services are approved by the electorate.

(7) Special districts shall not be permitted to form in an area in which a service authority is providing the same function. Also, a service authority could initiate dissolution of existing special districts located within its boundaries, subject to approval of the voters.

(8) The service authority may establish special taxing districts and special assessment districts.

(9) Elections to the service authority board may be on a partisan basis and are to be conducted at the General Elections. For the first five years the board may be composed of elected officials from existing county and municipal governments. This provision expires January 1, 1980.

(10) Service authorities may levy ad valorem taxes and service charges and be eligible for any state-collected locally-shared tax that might be forthcoming.

(11) A service authority is granted powers similar to those now authorized to special districts. However, a service authority is also granted so-called "ancillary powers" allowing it limited authority to make, and through the district attorney enforce, necessary regulations -- an example might be rules of conduct for its parks.

(12) The service authority is authorized to negotiate, in certain instances, with local governments to assure equity -- in the form of tax credits -- if the authority assumes the rights, title and interest in any local government property.

RECOMMENDATION NO. 2

Apportionment of County Commissioner Districts

In addition to the service authority bill, the Committee recommends that section 35-3-6, C.R.S. 1963, relating to the apportionment of county commissioner districts, be amended by the addition of a penalty provision. This recommended provision provides that if any Board of County Commissioners fails to reapportion their election districts on a population basis by April 15, 1972 and in subsequent years by January 1, of the first general election year after the publication of each federal census they shall not be entitled to receive any compensation for their services, nor shall they be eligible to succeed themselves in office. The law now requires such reapportionment, but in the absence of any penalties, some counties have apparently been lax in following the law.

DISSENTING COMMENTS ON CERTAIN PORTIONS OF THE COMMITTEE'S PROPOSED SERVICE AUTHORITY BILL

Senator George Brown, and
Representatives Durant Davidson,
Charles J. DeMoulin, Bob Kirscht
and Hubert M. Safran

We, the undersigned members of the Legislative Council Committee on Local Government, submit the following items of dissent to certain portions of the Committee's draft legislation establishing service authorities. We wish to emphasize that we are in support of the draft legislation but believe that the following items that were proposed during the Committee's hearings, yet not adopted by close Committee vote, would strengthen the bill and should be included in the final legislation.

First, a service authority should be able to provide any service approved by a concurrent majority of the voters within its boundaries. The Committee draft allows a service authority to select from a maximum list of seventeen services. This is too limiting. The list of services contained in the Committee bill, however, is a good start. But, we believe that items such as air pollution control definitely need to be included as an optional service to be administered on a regional basis. Therefor, as an alternative, we suggest, because Amendment No. 3 requires that the General Assembly specify the services that may be provided, that the final legislation specifically allow a service authority to provide all of the services now granted to statutory cities. As an alternative to this blanket grant of services, a service authority could be limited at the time of formation to the list of seventeen services. After formation, a service authority would be empowered to provide any additional services approved by the voters -- again using those allowed statutory cities.

Secondly, we agree that the Committee is correct in attempting to limit the number of service authorities. Originally, the Committee established the 12 state planning regions as the boundaries for service authorities. We also are concerned that perhaps these areas would not provide enough flexibility in the formation of regional government. But, rather than the two-county minimum established in the Committee bill, we urge that the 12 regions be retained in the act as a goal. Subsequently, petitioners for any proposed service authority that did not conform to any of the 12 established regions would have to file a service plan with a

"Service Authority Council", composed of the Governor, the Chairman of the Land Use Commission, the Director of the Department of Local Affairs, and the Director of the Planning Division. The service plan would contain data demonstrating why it would not be feasible to provide service throughout a given planning region; why existing units of government cannot provide proposed services on an adequate basis; and why the proposal would not lead to a proliferation of governments; as well as to provide other financial and economic information required by the proposed council. The council would make a determination as to the adequacy of the plan and could establish minimum requirements for boundaries of the service authority prior to submission to a vote of the electorate.

Thirdly, we urge that the tax base of a service authority be made as flexible as possible. At a time when pressures on the property tax are continually mounting, the power of a service authority to utilize the income tax, for example, could provide an incentive for county and municipal officials and other community leaders to encourage the formation of service authorities.

Finally, we believe that tax assessments should be uniform throughout the service authority. Past experience with the existing county administered assessment structure suggests that uniformity is not possible unless the service authority is empowered to assume the responsibility for assessment. Of course, the best approach would be for the state to assume the responsibility for tax assessment.

Respectfully submitted,

Representative Durant Davidson

/s/ Senator George Brown

Representative Charles DeMoulin

Representative Bob Kirscht

Representative Hubert Safran

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TEXT

A BILL FOR AN ACT

AUTHORIZING THE CREATION AND OPERATION OF SERVICE AUTHORITIES PURSUANT TO SECTION 17 OF ARTICLE XIV OF THE CONSTITUTION OF THE STATE OF COLORADO.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. Chapter 89, Colorado Revised Statutes 1963, is amended BY THE ADDITION OF A NEW ARTICLE to read:

ARTICLE 25

SERVICE AUTHORITIES

89-25-1. Short title. This article shall be known and may be cited as the "Service Authority Act of 1972".

89-25-2. Legislative declaration. The general assembly hereby declares that the purpose of this article is to implement the provisions of section 17 of article XIV of the Colorado constitution, adopted at the 1970 general election, by providing for and facilitating the formation and operation of a limited number of service authorities in the state of Colorado. It is further declared that the orderly formation and operation of regional service authorities providing authorized functions, services, and facilities, and exercising powers granted by this article will serve a public use and will promote the health, safety, security, and general welfare of the inhabitants thereof and the people of the state of Colorado. It is further declared to be the policy of the state of Colorado to encourage the utilization of single service authorities to provide those functions, services, and facilities which transcend local government boundaries, thus reducing the duplication, proliferation, and fragmentation of local governments, and encouraging establishment of efficient, effective, and responsive regional government. To these ends, this article shall be liberally construed.

STAFF COMMENT

Section 17 of Article XIV of the Colorado Constitution, referred to in this section, was a part of the so-called "Local Government Reform Amendment" -- Amendment No. 3. A copy of the Amendment is included in Attachment A.

TEXT

89-25-3. Definitions. (1) As used in this article, unless the context otherwise requires:

(2) "Board" means the board of directors of a service authority.

(3) "County" means a home rule or statutory county, and includes a city and county.

(4) "Local government" means a county, city and county, municipality, or special district, organized pursuant to chapter 89, Colorado Revised Statutes 1963, other than a special improvement district organized under articles 2 and 4 of said chapter 89.

(5) "Municipality" means a home rule or statutory city or town, or a city and county.

(6) "Population" means the population as estimated by the court, commission, secretary of state, or board, as the case may be, based upon census tract data or other officially compiled data.

(7) "President" means the president of the board.

(8) "Publication" or "publish" means at least one publication in at least one newspaper of general circulation in the service authority. If there is no such newspaper, publication shall be by posting in at least three public places within the service authority.

(9) "Qualified elector" or "elector" of a service authority means an individual who resides within the service authority and is registered and otherwise qualified to vote in county elections in a county which is located within the service authority.

(10) "General election" means the election held on the first Tuesday after the first Monday of November in every even-numbered year, as provided in section 49-2-1 C.R.S. 1963, for the purpose of electing members of the board and for submission of other public questions, if any.

STAFF COMMENT

The City and County of Denver is included in the definitions of county, municipality, and local government.

Bond counsel suggests that either the definition of "general election" (subsection 10) or "special election" (subsection 13) should include the primary election held in September. However, the Committee's decision was that

TEXT	STAFF COMMENT
	major policy questions -- adoption of services, election of board members, etc., should only be made at the November general election when there is maximum voter response. Special elections would be for the purpose of issuing bonds and other minor referenda which could be at the time of primary elections.
(11) "Secretary" means the secretary of the board.	
(12) "Service" means a function, service, or facility which a service authority is authorized to provide in accordance with this article.	
(13) "Special election" means any election called by the board for submission of public questions, such election to be held on a Tuesday other than a general election day.	The bill does not prohibit the board from submitting questions at primary elections. Bond counsel also suggests that a limitation be added to the definition of "special election" to prevent a service authority from conducting a special election at the same time as any regular election of any city, town or school district which is located within the boundaries of the service authority.
(14) "Service authority" means a body corporate and political subdivision of the state formed pursuant to the provisions of section 17 of article XIV of the constitution of the state of Colorado for the purpose of providing certain functions, services, and facilities in the manner and within the limitations provided in this article.	
(15) "Concurrent", when used in regard to the provision of a service by a service authority, means that a service may be provided by a service authority in accordance with the provisions of this article, but the administration of such service shall not preclude counties and municipalities from providing the same or similar service. This definition does not prohibit counties and municipalities from contracting with each other or with a service authority for the provision of a local service, nor does it prohibit	At the time of formation, all services submitted for the approval of the electorate would be provided on a concurrent basis. This simply means that the service authority would attempt to meet demands which are not being met by local government or in which local government requests the assistance of the authority to provide the service or a

TEXT	STAFF COMMENT
counties and municipalities from relinquishing control of a local service, by agreement with a service authority or by vesting exclusive jurisdiction for the provision of a given service with the service authority.	certain aspect of the service.
(16) "Exclusive", when used in regard to the provision of a service by a service authority, means that the service authority shall have sole responsibility and authority for the provision of such service within its boundaries, but this definition shall not prohibit a service authority from contracting with counties and municipalities for the provision of any aspect of such services to the residents therein.	The voters of the service authority could vest policy making powers with respect to the provision of an authorized service with the service authority. This would allow the service authority to assume the assets and liabilities of specific local government programs and to administer these programs.
(17) "Special taxing district" means a geographical area within a service authority designated and delineated by the board to facilitate the furnishing of services and the collection of ad valorem taxes and charges for such services.	
(18) "Local improvement district" means an area within a service authority in which the real property is specially benefited and constitutes the basis of assessment for all or part of the cost of the construction or installation of designated improvements within such area.	
89-25-4. Formation of a service authority in the four-county Denver metropolitan area. (1) At the 1972 general election the secretary of state shall provide for an election on the question of the formation of a service authority in the metropolitan area composed of the city and county of Denver and Adams, Arapahoe, and Jefferson counties. The question on formation of such service authority shall be submitted to all qualified electors residing within such metropolitan area except those residing within a municipality having territory both within and without said area, in which case the provisions of section 89-25-5 (3) are applicable.	This section mandates a vote on formation of a service authority in the four-county Denver area at the 1972 General Election. Services would be limited at the time of formation to planning, regional transportation, sewage disposal, and urban drainage and flood control. Because these services are provided to at least portions of all of the four counties in the Denver area, approval of a concurrent majority is not required. (See section 17, paragraph (3)(e) of Amendment No. 3). Also, mandating the election will reduce the time required for organizing

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(2) Each qualified elector voting at said election and desirous of voting for or against formation of the service authority as provided in subsection (1) of this section shall cast his vote either "yes" or "no" for the proposition: "There shall be created a service authority within the metropolitan area composed of the city and county of Denver, and Adams, Arapahoe, and Jefferson counties."

(3) The votes cast for the adoption or rejection of said proposition shall be canvassed and the results determined as provided by law for canvassing votes for representatives in congress and if a majority of the votes cast are "yes", a service authority shall be formed and commence operation on or before December 1, 1972, and shall have all powers, duties, and responsibilities, of a service authority under this article including the power to add services at a later date.

(4) The proposed formation of the service authority shall be certified by the secretary of state to the county clerks at least thirty days before the election and the secretary of state shall provide for publication of the proposed formation in two issues of two newspapers of opposite political parties having general circulation in the proposed service authority. This publication shall be made at least one week apart and not less than three nor more than five weeks before said election and shall include the names of candidates for the first board of directors.

(5) The qualified electors of the proposed service authority shall also elect the requisite number of candidates as required in section 89-25-11 to serve as the board of directors of the service authority. At least ninety days prior to the election provided for in

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a service authority in the Denver area and help provide a mechanism to coordinate the four existing services. Should the voters defeat this proposal in 1972, a service authority could be formed in the Denver area at a later date in the same manner as any other service authority.

subsection (1) of this section, the secretary of state shall divide the area contained in the proposed service authority into eight compact districts of as nearly equal population as possible for the purpose of electing members to the board.

(6) Nominations for office shall be filed with the secretary of state. The secretary of state shall provide for the election on the proposed formation of the service authority and the election of candidates, insofar as practicable, in the manner provided for in this article, but the secretary of state may appoint an organizational commission to recommend the eight election districts and make a determination of area population and he may appoint an election committee pursuant to section 89-25-8. Specifically, the election shall be conducted for the purpose of formation of the proposed service authority and election of members of the board. Certification of results, challenges to formation, and the financing of the election, shall be in the manner provided in section 89-25-10 (4) to (7). The secretary of state is hereby prohibited from submitting a list of services to be considered by the voters at said election. If the service authority is approved by the voters, it shall assume the services specified in section 89-25-12 (1) (c), (d), and (e), and the planning powers specified in section 89-25-15 in the manner and within the time specified in section 89-25-44.

(7) If the proposition for the formation of a service authority in said metropolitan area as provided in section 89-25-4 is defeated, the question of forming the same or another service authority within the territorial requirements specified in section 89-25-5 (2) (b) may be initiated at a later date in the manner specified in section 89-25-6.

89-25-5. Territorial requirements for service authorities. (1) No territory shall be included within the boundaries of more than one service authority.

(2) (a) A service authority shall include all of the territory of at least two counties, and may include such additional entire counties as may be proposed, if each county has some contiguity with

For the most part, the boundary requirements established in this section are those specified in section 17 (1)(b) of Amendment No. 3. The Committee, however, added two additional limitations. First of all, any service authority formed must include at least two entire counties. That is, a county cannot,

another county within the service authority and does not result in the formation of an enclave.

(b) In no event shall any service authority be formed in the metropolitan area composed of the city and county of Denver, and Adams, Arapahoe and Jefferson counties, which does not include all of the city and county of Denver and all of Adams, Arapahoe, and Jefferson counties, but an additional county or additional counties may be included.

(3) (a) No county may be divided upon formation of a service authority or thereafter except in the case of a municipality having territory in two counties which are not within the same service authority, either proposed or formed, in which event the municipality may be included in either of two service authorities without regard to county boundary lines, as provided in paragraph (b) of this subsection.

(b) Neither the governing body nor the residents of any such municipality shall participate in any of the procedures by which the service authority is originally formed, but, after a service authority is formed which includes the territory of either county, such municipality may be included in the service authority to which it directs its request for inclusion, in the manner provided in section 89-25-32.

(4) The boundaries of any service authority shall not be such as to create any enclave.

89-25-6. Petition or resolution for formation. (1) The formation of a service authority shall be initiated by a petition signed by qualified electors of the proposed service authority in number not less than five percent of the votes cast in the proposed service authority for all candidates for the office of governor at the preceding general election, or by resolution adopted by a majority of the governing bodies of the counties and municipalities having territory within the boundaries of the proposed service authority. Such petition or resolution shall be filed with the district court of

except as noted below, be split at the time of formation or thereafter. The provision for whole counties is one way of assuring that service authorities would be regional (multi-county) entities. Of course, local government should be able to provide services for areas smaller than a region.

Secondly, subsection (3) requires the exclusion of a municipality which has territory in two or more counties -- if one of the counties is not included within a proposed service authority -- at the time of formation. Since Amendment No. 3 prohibits the division of a municipality, a situation could arise in which only a handfull of voters could exercise a veto power over the designation of services because of the requirement in Amendment No. 3 that services be approved by a concurrent majority of the people from the included parts of each county.

A proposal to form a service authority (other than the election mandated for the Denver area) may be initiated by: (1) a petition of the electorate; or (2) a resolution of a majority of the governing bodies -- counties and municipalities -- of the area proposed to be included. The petition is then filed with the district court. The court's role is limited to ruling on the validity of the peti-

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the county within the service authority which has the largest population. (2) (a) The petition or resolution shall state the name proposed for the service authority and list the counties to be included within the service authority, and any municipality to be excluded from the authority pursuant to section 89-25-5. (b) Upon filing of such petition or resolution, the court shall fix a time not less than twenty nor more than forty days after the petition or resolution is filed for a hearing thereon. At least seven days prior to the hearing date, the clerk of said court shall give notice by publication of the pendency of the petition or resolution and of the time and place of hearing thereon. At the hearing, the court shall determine whether the requisite number of qualified electors has signed said petition or whether a resolution has been adopted by the requisite number of counties and municipalities. No petition with the requisite signatures, or any resolution passed by the requisite number of counties and municipalities, shall be declared void on account of minor defects and the court may at any time permit the petition or resolution to be amended to conform to the facts by correcting such defects. (3) If it shall appear at the conclusion of the hearings that the petition or resolution conforms with the requirements of section 17 of article XIV of the state constitution and this article, the court, by order entered of record, shall appoint an organizational commission according to the procedures required under section 89-25-8.	tion or resolution and appointing an organizational commission and an election committee.
89-25-7. Priority of petition or resolution. (1) When the district court receives a resolution adopted by a majority of the governing bodies of the counties and municipalities, or a petition signed by the requisite number of qualified electors, pursuant to section 89-25-6, for the initiation of formation of a service authority, no other proceedings shall be commenced or prosecuted in that or any other court for the creation of another service authority involving all or any one of the same counties until the question of formation of such authority pursuant to such resolution or petition	Under section 17 (1)(c) of Amendment No. 3 no more than one service authority may be formed in any single area. This section is designed to assure this. The Committee concluded that a service authority initiated by resolution of the local governments shall be given precedence over a petition.

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has been finally determined, unless such later filing is allowed under subsection (2) of this section.

(2) A resolution filed within ten days of the date of the filing of a petition under the circumstances set forth in subsection (1) shall take precedence over the petition, and shall proceed to final determination before the petition may be further considered.

89-25-8. Court appoints an organizational commission and election committee. (1) (a) For a service authority which is to be established in an area having a total population of less than five hundred thousand, the court shall appoint nine organizational commission members selected from the membership of the governing bodies of the counties and municipalities having territory within the boundaries of the proposed service authority, subject to the following limitation:

(b) No more than five members of the organizational commission shall be residents of any one county or any one municipality and at least one member shall be appointed from every county.

(2) (a) Subject to the limitations in paragraph (b) of this subsection, for a service authority which is to be established in an area having a total population of five hundred thousand or more, the court shall appoint fifteen organizational commission members selected from the membership of the governing bodies of the counties and municipalities having territory within the boundaries of the proposed service authority.

(b) (i) To the extent feasible, the membership on the organizational commission shall be allocated:

(ii) Between counties in proportion to the population of each county within the service authority, but each county shall have at least one member on the commission; and

(iii) Between county commissioners and members of the governing bodies of municipalities within each county in proportion to the

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In order that each region would have flexibility in the kinds of services provided by any proposed service authority, the bill provides for the appointment of an organizational commission. The main purpose of the commission is to select services which are most appropriate for administration by the proposed service authority. Theoretically, the local officials of the region serving on any commission would be familiar with the problems encountered by local government and would be in the best position to select services to be provided on a regional basis.

Membership on the commission is divided among municipal and county officials to prevent the domination of interests of either municipalities or unincorporated areas. Each county is to be represented because service approval requires the support of all the counties of a service authority.

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population of the incorporated and unincorporated areas of the counties.	
(3) (a) At the hearing specified in section 89-25-6 (2) (b), the court shall appoint the county clerks of each county within the service authority as members of an election committee to administer the election provided for in the formation of such service authority and shall within seven days of such designation notify said clerks of their appointment.	The bill emphasizes, for the most part, that service authority elections are to be conducted at the time of general elections; thus the county clerks were designated the election committee in this bill.
(b) A majority of the clerks shall constitute a quorum. A chairman shall be elected by the clerks at their first meeting, who may call additional meetings as necessary to accomplish the purposes of the election committee.	
89-25-9. Service authority organizational commission. (1) The service authority organization commission appointed pursuant to section 89-25-8 shall meet within twenty days after its appointment on a date designated by the district court. The service authority organizational commission shall elect a chairman and a vice-chairman from among its membership. Further meetings of the commission shall be held upon call of the chairman or a majority of the members of the commission. All meetings shall be open to the public. A majority of the commission shall constitute a quorum. The commission may adopt such other rules for its operations and proceedings as it deems necessary or desirable. Members of the commission shall receive no compensation but shall be reimbursed for necessary expenses pursuant to law.	The Organizational Commission has four basic responsibilities: (1) develop a list of proposed services for submission to the voters; (2) determine whether the services will be submitted to the voters individually or as a package; (3) divide the proposed service authority into compact districts for the election of board members; and (4) set a date for the election. (This can be either a special election or be held at the same time as the general election depending on the date the organizational commission completes its work.)
(2) (a) The service authority organizational commission shall determine which services listed in section 89-25-12 are to be administered by the proposed service authority upon its formation, subject to the approval of the qualified electors as provided in section 17 of article XIV of the state constitution.	What happens if the organizational commission cannot reach agreement? Should another commission be appointed? The words "organization" or "organizational" need to be standardized in the text.
(b) The service authority organizational commission shall determine the manner in which the services are to be submitted for consideration by the qualified electors at the formation election to	Section 17 (3)(c) of Amendment No. 3 states: "All propositions to provide functions, services or facilities shall be submitted,

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be called by the district court, as provided in section 89-25-10. The commission may provide that each service shall be voted on separately or in combination with one or more other services.

(3) (a) Within ninety days after its initial meeting, the commission shall present to the district court a report listing services to be considered by the voters in each county included in the service authority. A majority vote of the members of the service authority commission shall determine the services that shall be presented to the voters for their approval or rejection.

(b) The commission report shall also divide the service authority into compact districts of approximately equal population in accordance with the provisions of section 89-25-11, for the purpose of electing candidates to the service authority board. The number of districts shall equal the number of board members to be elected from districts.

(c) The commission shall specify the date for a special election for formation of the service authority, but if the organization commission's report is completed not more than one hundred and eighty days and not less than seventy days before the next general election, said election shall be held jointly with the next general election.

(d) The service authority organizational commission shall be dissolved as of the day on which the election is held pursuant to section 89-25-10.

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either individually or jointly, to the qualified electors in the manner and form prescribed by law." To assure that the last sentence of this paragraph (b) was in conformity with this provision, the Committee asked the attorney general for an interpretation of, and received a confirming opinion on, its applicability. The text of the opinion is included at the end of this draft as attachment B.

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89-25-10. Election for formation, selection of services, and initial board of directors. (1) (a) Within seven days after receipt of the organizational commission's report, the district court shall direct the election committee as provided in section 89-25-8 (3), to conduct an election on the date designated by the organizational commission for the purpose of deciding whether a service authority is to be formed, and to provide an opportunity for the voters to approve services of the service authority and to elect the board of directors of the service authority.

(b) The court shall direct the election committee to publish notice thereof within seven days of such directive and at least sixty days prior to the election setting forth the list of proposed services and the requirements for nomination to the board. Independent candidates may be nominated by filing with the election committee on forms supplied by the committee a nomination petition signed by at least twenty-five qualified electors of the district in which the candidate resides, for a district office, and by at least fifty qualified electors of the service authority, for an at-large office. Said petitions shall be filed at least thirty days before the election. Nothing in this article shall be construed to restrict a political party from making nominations to the board of directors of the service authority, by conventions of delegates or by primary election, or both. Nominations for independent candidates in service authorities shall be made pursuant to the provisions of this section and section 49-7-1, C.R.S. 1963.

(2) A second notice of the election shall be published between ten and twenty days before the election by the election committee and shall include the names of the candidates nominated for the first board of directors, and shall again list the services to be decided upon.

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At this election, the voters are asked to: (1) approve or reject the proposed service authority; (2) approve or reject the suggested services; and (3) elect members of the board of directors. Of course, if the first question is defeated, the remaining two have no validity. Of particular interest may be the provision in paragraph (b) of subsection (1) which allows elections to be on a partisan basis.

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(3) At the election, qualified electors shall cast ballots "for" or "against" formation of the service authority, shall "approve" or "disapprove" the services proposed to be administered by the service authority, and shall elect candidates to serve on the board of directors of the service authority. The candidates receiving the highest number of votes within each district, and the requisite number of at-large candidates receiving the highest number of votes, shall be elected. In the event of tie votes for the last available vacancy or vacancies for the board of directors, the committee shall determine by lot the person, or persons, who shall be elected. The question of the formation of the service authority must receive the approval of a majority of votes cast, but, except as provided in section 89-25-44, no service may be authorized unless approved by a majority of the qualified electors voting thereon in each county within the service authority.	The formation of a service authority, unlike approval of services, does not require a concurrent majority of the electors in each county voting thereon; it only requires a simple majority of the electors of the service authority. See Section 17 (1)(b) of Amendment No. 3 -- Attachment A.
(4) Within seven days following the election, the committee shall certify the results of the election to the court. If a majority of the qualified electors voting thereon vote "for" formation, the court shall declare, by order entered of record, that the service authority is formed in the corporate name designated in the petition or resolution, and shall designate those services, if any, which were authorized by a majority of the qualified electors voting thereon in each county at said election. Upon the filing with the court of the oath of office of members elected to the board, the court, by order entered of record, shall declare the members of the board elected and qualified and the formation shall be complete, and at such time the election committee shall be dissolved. The board shall be charged with administering those approved services in accordance with this article.	
(5) The entry of an order forming a service authority shall finally and conclusively establish its regular formation against all persons except the state of Colorado, in an action in the nature of	

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quo warranto, commenced by the attorney general within thirty days after entry of such order, and not otherwise. The formation of the service authority shall not be directly or collaterally questioned in any suit, action, or proceeding except as expressly authorized in this section.

(6) All necessary expenses for the elections and other proceedings conducted pursuant to sections 89-25-4, 89-25-8, 89-25-9, and 89-25-10, including the expenses and reimbursements for the organizational commission, shall be paid by the counties within or partly within the service authority in proportion to the population of the respective counties or portions thereof within the service authority, and the governing bodies thereof shall enact any necessary supplemental appropriation.

(7) Within fifteen days of the entry of the order forming a service authority, the clerk of the court shall file a copy of the decree with the board of county commissioners and the assessor of each county within the service authority, and with the division of local government.

89-25-11. Board of directors. (1) The governing body of the service authority shall be a board of directors in which all legislative power of the service authority shall be vested. In those service authorities having a population in excess of five hundred thousand, the board shall consist of fifteen members, eight of whom shall reside in and be elected by the qualified electors of the respective districts, and seven of whom shall be elected at large. In those service authorities having a population of at least fifty thousand but not more than five hundred thousand, the board shall consist of nine members, five of whom shall reside in and be elected by the qualified electors of the respective districts, and four of whom shall be elected at large. In those service authorities having population of less than fifty thousand, the board shall consist of five members, three of whom shall reside in and be elected by the qualified electors of the respective districts, and two of whom shall be elected at large. Members shall be elected by the qualified electors to serve four-year overlapping terms, except that at the

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The size of the board of directors varies according to population: in service authorities over 500,000 -- fifteen members; from 50,000 to 500,000 -- nine members; and less than 50,000 -- five members. In each instance a simple majority of the board would be elected from districts; the remaining members would be elected at large.

District representation should help assure that the interests of particular sections of the authority are represented, while at-large representation may help attain a regional balance.

The powers and duties of the board contained in subsections (3) through (11) are essen-

election for formation, those members elected from districts shall serve until the next general election and those elected at large shall serve until the second general election. For the first five years after formation of any service authority or until January 1, 1980, whichever occurs first, the members shall be qualified electors of the service authority and shall be elected from among the mayors, councilmen, trustees, and county commissioners holding office at the time of their election in municipalities and counties within or partially within the authority. Thereafter, any qualified elector of the service authority shall be eligible to hold office. Notwithstanding any provision in the charter of any municipality or county to the contrary, mayors, councilmen, trustees, and county commissioners may additionally hold elective office with the service authority and be compensated as provided in this section.

tially those proposed in S.B. 324, 1971 Session.

(2) At least ninety days prior to the first general election after the formation of the service authority, the board may change the boundary of any board of director district within the service authority. Thereafter such boundaries may be changed no more frequently than every four years or after announcement of the results of a decennial census. The board shall redistrict only by resolution passed by a majority of the members elected to the board and any such redistricting shall be such as to provide compact districts of approximately equal population. No redistricting shall extend or shorten the term of office of any member of the board.

The board may change boundaries of election districts.. Should the board be required to reapportion the election districts after a decennial census?

(3) The board shall have power, by appointment, to fill all vacancies in the board, and the person so appointed shall hold office until the next general election and until his successor is elected and qualified. Any person so appointed shall reside in the district, if any, in which the vacancy occurred. If the term of the member creating the vacancy was to extend beyond the next general election, said election shall be for the unexpired term.

(4) The board shall elect a president, vice-president, secretary, and such other officers as it may deem necessary. The president and vice-president must be members of the board. The board may appoint a chief administrator, who shall serve at the pleasure of

the board. The board shall prescribe by resolution the duties of said officers pursuant to the powers granted in this article. In addition to other powers provided by resolution, the president shall preside over meetings of the board and shall vote as a member of the board.

(5) The board may provide by resolution for the compensation of its members in the amount of fifty dollars for each day a member is necessarily engaged in the business of the authority, in addition to the reasonable and necessary expenses incurred by each member while so engaged. Except for the initial board, the compensation of a member shall not be increased nor diminished during his term of office.

(6) Except as specifically provided otherwise, a majority of board members shall constitute a quorum and a majority of a quorum may act.

(7) In addition to any acts of the board specifically required to be accomplished by resolution, any action adopting or revising a budget, appropriating funds, establishing the administrative organization and structure, or promulgating regulations enforceable by fine or penalty, shall be passed by resolution. At least six days shall elapse between introduction and final passage of a resolution. Such resolution shall not take effect and be enforced until the expiration of thirty days after final passage except resolutions calling for special elections or those necessary to the immediate preservation of the public health, or safety, which shall contain the reasons making the same necessary in a separate section. The excepted resolution shall take effect in five days, if passed by an affirmative vote of three-fourths of the members voting thereon. All other actions of the board may be accomplished by motion.

(8) Any board member may be recalled from office pursuant to the provisions and subject to the conditions of section 89-17-7, C.R.S. 1963.

The reference in this subsection (8) is to the procedures for recall of special district officers.

(9) Any resolution may be referred to or initiated by the qualified electors in accordance with the provisions and subject to the conditions of sections 70-1-15 and 70-1-16, C.R.S. 1963.

The reference in this subsection (9) is to the procedures governing the initiative and referenda in municipalities. Bond counsel

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(10) It shall be the duty of the board of directors to comply with the provisions of articles 1, 5, and 6 of chapter 88, C.R.S. 1963. It shall be the further duty of the board of directors to publish the results of its annual audit statement or report which shall be certified by the person making the audit, or by the governing body, if unaudited, in one issue of a newspaper of general circulation in the service authority. Such publication shall be no later than thirty days following completion of the audit statement or report.

(11) The fiscal and budget year for all service authorities organized or operating under the provisions of this article shall be from January 1 through December 31 of each year.

89-25-12. Designation of services. (1) (a) Subject to local authorization as provided in section 89-25-13, the service authority organizational commission prior to formation, or the board after formation, may, by resolution, initiate one or more of the following services or combinations thereof:

(b) Domestic water collection, treatment, and distribution;

(c) Urban drainage and flood control;

(d) Sewage collection, treatment, and disposal;

(e) Public surface transportation;

(f) Collection and disposal of solid waste;

(g) Parks and recreation;

(h) Libraries;

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suggests that this subsection be expanded to include some limitations on the type of questions to which the initiative and referendum may apply.

The references in subsection (10) are to the local government audit, accounting, and budget laws.

Section 17 (3)(a) of Article XIV requires the General Assembly to designate services to be administered by a service authority. In developing a list of services, the Committee reviewed various functions performed by local government. The Committee deleted certain items from inclusion in this section which it regarded as either matters of local concern only, or matters of state concern only. Perhaps the major reason for an extensive list of services is to provide flexibility to meet a variety of needs of both urban and rural areas.

Planning is not considered a service and is not listed in this section. A service authority may be formed without provision of any service. Theoretically, the board would simply administer a regional planning program in such an event.

(i) Fire protection;

(j) Hospitals, including convalescent nursing home, and any other health and medical care facilities or services, and ambulance services;

(k) Museums, zoos, art galleries, theatres, and other cultural facilities or services;

(l) Housing;

(m) Weed and pest control;

(n) (i) Central purchasing, computer services, equipment pool, and any other management services for local governments, including:

(ii) Procurement of supplies; acquisition, management, maintenance, and disposal of property and equipment; legal services; special communication systems; or any other similar services to local governments which are directly related to improving the efficiency or operation of local governments;

(o) Local gas and electric utilities;

(p) Jails and rehabilitation; and

(q) Land and soil preservation.

(2) The services provided by a service authority pursuant to authorization at the time of formation of the service authority shall be provided on a concurrent basis with local jurisdictions. This shall not prohibit a board from contracting with local governments or state government for the provision, construction, or operation of any service by the service authority or state or local government, nor does it prohibit any local government from voluntarily vesting exclusive jurisdiction for the provision of a given service with the service authority.

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89-25-13. Local authorization of functions, services, and facilities. (1) (a) Except as provided in sections 89-25-4 and 89-25-44, no service designated in section 89-25-12 shall be provided by a service authority unless such service shall have been submitted to and authorized by a majority of the qualified electors voting thereon in each county within the service authority.	
(b) Any service or services submitted to the qualified electors for their approval or rejection may be designated in general terms without limitation on concurrent or contractual arrangements among the various local governments; but if such service is to be provided on an exclusive basis, as provided in subsection (2) of this section, the proposition submitted to the voters shall state that such service is to be provided on an exclusive basis.	The language is designed to provide flexibility and to eliminate voter approval of the details of how a program is to be administered.
(c) Any such proposition initiated after formation of the service authority shall be submitted by resolution of the board of the service authority, by resolution of a majority of the governing boards of counties and municipalities, or by a petition signed by qualified electors of the service authority in number not less than five percent of the votes cast in the service authority for all candidates for the office of governor at the preceding general election.	Perhaps one reason for inclusion of this language is to avoid situations in which the board of a service authority would elect to provide only those services which are easiest to finance and have the most public support. If need exists, local governments or the voters could request the service authority to administer less rewarding programs.
(2) (a) At any general election following formation of a service authority, the board of such service authority may submit a proposal to the qualified electors providing that any one or more services designated in section 89-25-12 shall be provided concurrently or exclusively by said service authority.	After developing experience in the administration of a program, the board may find that the service could be provided on a more economical basis for the region as a whole if the service is provided on an exclusive basis.
(b) If a majority of the qualified electors voting at any general election approve the designation of one or more services as exclusive, the service authority board shall be responsible and shall	If the voters approve the proposal that the service authority be the exclusive agent to provide any service; counties, municipalities

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have final authority for the provision of such service or services within its boundaries. Counties, municipalities, and special districts organized pursuant to articles 1, 3, 5, 6, 7, 11, 12, 13, 14, and 18 of this chapter, shall be prohibited from providing said services within the boundaries of the service authority. Such designation shall not preclude a service authority from contracting with local governments or the state government for any service; nor shall such designation relieve local governments from the responsibility of providing such service for a period of two years or until such time that the board of the service authority can provide for the orderly transfer of assets, liabilities, and obligations of such local governments to the service authority.

and special districts could not, except through contracts with the service authority, continue to provide that service. A two-year phase-in provision is included to allow a service authority time to fully assume the exclusive responsibility. Additional provisions on assumption of services and transfer of assets and liabilities are contained in sections 89-25-39 and 89-25-40 of this bill.

89-25-14. General powers. (1) The service authority shall be a body corporate and a political subdivision of the state and the board shall have the following general powers and duties:

The general powers are somewhat similar to those common to most special districts. The intent is that the board shall have these powers in the administration of all of its programs including the establishment of special taxing and improvement areas.

(2) To have and use a corporate seal.

(3) To sue and be sued, and be a party to suits, actions, and proceedings. The provisions of the "Colorado Governmental Immunity Act" as set forth in article 11 of chapter 130, C.R.S. 1963, shall be applicable to any service authority formed under this article.

The Colorado Governmental Immunity Act was adopted in 1971. (See Chapter 323, Session Laws of Colorado 1971.)

(4) To enter into contracts and agreements affecting the affairs of the service authority, and accept all funds resulting therefrom pursuant to the provisions and limitations of article 2 of chapter 88, C.R.S. 1963.

The reference is to the law governing local government contracts -- Article 2 of Chapter 88 was repealed and re-enacted by Chapter 234, Session Laws of Colorado 1971.

(5) To contract, and accept all funds and obligations resulting therefrom, with private persons, associations, or corporations, for the provision of any service within or without its boundaries.

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(6) To borrow money and incur indebtedness and other obligations and evidence the same by certificates, notes, or debentures, and to issue general obligation or revenue bonds, or any combinations thereof, in accordance with the provisions of this article.

(7) To refund any bonded or other indebtedness or special obligations of the service authority without an election in accordance with the provisions and limitations of this article.

(8) To acquire, dispose of, and encumber real and personal property including, without limitation, rights and interests in property, including leases and easements, necessary to accomplish the purposes of the service authority.

(9) To acquire, construct, equip, operate, and maintain facilities to accomplish the purposes of the service authority.

(10) To have the management, control, and supervision of all the business affairs and properties of the service authority.

(11) To hire and retain agents, employees, engineers, attorneys, and financial or other consultants, and to provide for the powers, duties, qualifications, and terms of tenure thereof.

(12) To have and exercise the powers of eminent domain to take any private property necessary to the exercise of the powers granted, both within and without the service authority, in the manner provided by law for the condemnation of private property for public use.

(13) To construct, establish, and maintain works and facilities in, across, or along any easement dedicated to a public use, or any public street, road, or highway, subject to the provisions of section 89-25-17, and in, upon, or over any vacant public lands, which public lands are now, or may become, the property of the state of Colorado,

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The intent of this subsection is to provide broad powers for indebtedness, however, bond counsel suggests that direct reference to the types of obligations may be needed, e.g., short-term indebtedness is implied by the terms "certificates, notes, or debentures" but not clearly specified.

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and to construct, establish, and maintain works and facilities in, across, or along any stream of water or watercourse.	
(14) (a) To provide for the revenues and ad valorem taxes needed to finance the services of the service authority, and to fix and from time to time increase or decrease, and collect rates, fees, tolls, and other service charges pertaining to the services of the service authority, including without limitation minimum charges and charges for availability of the facilities or services relating thereto; to pledge such revenues for the payment of securities; and to enforce the collection of such revenues by civil action or by any other means authorized by law.	The proposal specifies the ad valorem tax as the basic tax revenue source for financing service authorities. Of course, service fees and charges would be an important source of revenue. Perhaps one reason the ad valorem tax was selected is that this is the basic tax for special districts and the tax used for the area-wide districts in the Denver Area. Does this paragraph (14a) imply that a service authority would not have authority to provide for an ad valorem tax or revenues unless such charges were directly related to a service? With planning designated as a power (and not a service) could a service authority finance its planning responsibility under this language? Is there need to strike the words "the services of"?
(b) To levy, collect, and cause to be collected ad valorem taxes and other revenues, including rates, fees, tolls, and charges, fixed within the boundaries of any special taxing district within the service authority as provided in this article.	Specific reference is made in this paragraph (b) to the new technique for financing governmental services permitted by Amendment No. 3. That is, taxes no longer need to be uniform throughout a governmental entity. If a specific service is only being provided for a given portion of the service authority, taxes to finance such services may be levied in such area.
(c) To levy, collect, and cause to be collected special assessments fixed against specially benefited real property in any improvement district within the service authority as provided in this article.	The draft differentiates between special taxing areas and special improvement districts. The former is in regard to general benefit, while the latter is of benefit to specific property only. See sections 89-25-33 to 36.

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(15) To adopt and amend bylaws setting forth rules of procedure for the conduct of its affairs and providing for the administrative organization and structure, including provisions for delegation of powers and functions, of the service authority, consistent with section 17 of article XIV of the state constitution, and with this article.	
(16) To adopt by resolution, and enforce pursuant to section 89-25-16, regulations not inconsistent with state law which are necessary, appropriate, or incidental to any authorized service provided by the service authority.	
(17) (a) To plan for the territory within the service authority, including the review of all comprehensive plans of local governments located within the boundaries of the service authority.	If a service authority is formed, it automatically performs regional planning for the area included. Planning is not designated as a service, however.
(b) To review all capital construction or other federal grant-in-aid projects proposed by any local governmental entity within the boundaries of the service authority and for which review is required by federal or state law.	
(18) To appoint citizen advisory committees to assist and advise with respect to services and powers of the service authority.	
(19) To accept on behalf of the service authority gifts, grants, and conveyances upon such terms and conditions as the board may approve.	
(20) To have and exercise all rights and powers necessary or incidental to or implied from the powers granted in this article.	
89-25-15. Duties related to planning powers. (1) To provide for comprehensive planning to promote the orderly and efficient development of the physical, social, and economic elements of the service authority, and to encourage and assist local governments within the boundaries of the service authority to plan for the future, the board shall prepare and adopt, after study and such public hearings as it deems necessary, a comprehensive development guide for	The provisions in this section are based upon Section 106-2-1 et seq., C.R.S. 1963, relating to county and regional planning.

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the service authority area, consisting of a compilation of policy statements, goals, standards, programs, maps, and those future developments which will have an impact on the entire area, including but not limited to such matters as land use, parks and open space land needs, transportation facilities, public hospitals and health facilities, libraries, schools, other public buildings, and the delivery and distribution of social services to residents of the service authority. Upon adoption of said comprehensive development guide, the board shall prepare and file, with the Colorado land use commission or any successor thereto, an environmental impact statement outlining the impact of the service authority's plans upon the environment of its area.	
(2) The board shall review all comprehensive plans of each commission, board, or agency of the state of Colorado, or any local government within the service authority area, if such plan is determined by the board to affect the development of the service authority. Each such plan shall be submitted to the board for such determination before any action is taken, and if the board finds that a plan or any part thereof is inconsistent with its comprehensive development guide for the service authority area, is detrimental to the orderly and economic development of the authority's area or will cause inefficient or uneconomic delivery of services to inhabitants of the area, it shall, within sixty days after the filing of the plan with the service authority, notify the respective state agency or local government of noncompliance with the regional plan. If no agreement can be obtained between the board and a state agency or local government within ninety days after such notice of noncompliance, the board shall indicate the noncompliance of any such plan on the service authority's comprehensive development guide, and said plan shall take effect.	For purposes of consistency and clarification, the plan of the service authority may need to be referred to as the "regional guide". Such reference may eliminate confusion with "plans" of other governmental units.
(3) The board shall review all applications of any local government in the service authority area for a loan or grant from a state or federal agency, if review by a regional or areawide agency is required by federal law, by the federal agency, or by state law. Each commission, board, or agency, before submitting such application to the United States, or any agency thereof, or to the state, or any	The board would be the local review agency for all local requests for financial assistance, where review of such plans are required by federal or state law or regulation.

agency thereof, shall first transmit the application to the board of the service authority for its comments and recommendations with respect to whether or not the project proposed is consistent with the comprehensive development guide for the service authority area. The comments and recommendations made by the board of the service authority shall then become a part of the application and if submitted to a state or federal agency such comments and recommendations shall also be submitted.

89-25-16. Ancillary powers. (1) The board of any service authority shall have the power to adopt by resolution and enforce regulations not inconsistent with state law which are necessary, appropriate, or incidental to any authorized services provided by the service authority.

The bill does not grant service authorities the police powers that are available to a general government such as a municipality. In other words, the board of a service authority could not establish a dog leash requirement for the entire service authority area. However, under the ancillary powers section, the board could establish regulations requiring a dog to be on a leash in any park or recreation facility that might be under the jurisdiction of the service authority.

(2) Said regulations shall be compiled and kept by the secretary so as to be readily available for public inspection and shall be enforced by the peace officers of any municipality or county located within or partly within the boundaries of the service authority.

(3) Violations of such regulations shall be prosecuted by the district attorney or other person designated by the board and shall be enforceable in the county court of the county in which the violation occurred by a fine not exceeding three hundred dollars or by imprisonment in the county jail not exceeding ninety days or by both such fine and imprisonment.

89-25-17. Powers to be exercised without franchise - condition. (1) The board shall have authority, without the necessity of a franchise, to cut into or excavate, and use any easements dedicated to a public use, or any public street, road, or highway pursuant to the construction, maintenance, or provision of any service authorized to be provided by the service authority.

The provisions contained in sections 89-25-17 through 89-25-31 are similar to those commonly applicable to special districts under Chapter 89, C.R.S. 1963.

(2) The legislative body or other authority having jurisdiction over any such public street, road, or highway shall have authority to make such reasonable rules as it deems necessary in regard to any such work or use, and may require the payment of such reasonable fees by

the service authority as may be fixed by said body to insure proper restoration of such streets, roads, or highways.

(3) When any such fee is paid by the service authority, it shall be the responsibility of the legislative body or other authority to promptly restore such street, road, or highway. If such fee is not fixed or paid, the service authority shall promptly restore any such street, road, or highway to its former condition, as nearly as possible.

(4) In the course of such construction, the service authority shall not impair the normal use of any street, road, or highway more than is reasonably necessary.

89-25-18. Revenues of service authority - collection. (1) In any service authority, all rates, fees, tolls, and charges shall constitute a perpetual lien on and against the property served until paid, and any such lien may be enforced and foreclosed, by certification of the delinquent amounts due, within one hundred twenty days after the due date of such rates, fees, tolls, or charges, to the board of county commissioners of the county in which said property is located. The officials of said county shall collect and remit such delinquent amounts to the service authority in the manner provided by law for the collection of general property taxes.

It is expected that the service authorities will utilize the service charge mechanism to a large degree. The enforcement of collections in the manner provided in this section was first suggested in S.B. 80, 1971 Session. The provision in S.B. 80 applied to water and sanitation districts only. Existing law for water and sanitation districts provides that charges shall constitute a perpetual lien, but shall be foreclosed in the same manner as mechanics' liens.

(2) The board may discontinue service for delinquencies in the payment of such rates, tolls, or charges, or in the payment of taxes levied pursuant to this article, and shall prescribe and enforce rules and regulations for the connection with and the disconnection from the facilities of the service authority.

89-25-19. Levy and collection of taxes. (1) To provide for the levy and collection of taxes the board shall determine, in each year, the amount of money necessary to be raised by taxation, taking into consideration other sources of revenue of the service authority, and shall fix a rate of levy, which, when levied upon every dollar of assessed valuation of taxable property within the service authority, and together with other revenues, will raise the amount required by

the service authority annually to supply funds for paying expenses of organization and the costs of constructing, operating and maintaining the services, of the service authority, and promptly to pay in full, when due, all interest on and principal of bonds and other obligations of the service authority payable from taxes, and in the event of accruing defaults or deficiencies, an additional levy may be made as provided in section 89-25-20.

(2) The board may apply a portion of such taxes and other revenues for the purpose of creating a reserve fund, or funds, in such amount as the board may determine, which may be used to meet the obligations of the service authority, for maintenance, operating expenses, depreciation, and extension and improvement of the facilities of the service authority.

(3) The board, not later than the fifteenth day of October of each year, shall certify to the board of county commissioners of each county within the service authority or having a portion of its territory within the service authority, the rate so fixed in order that, at the time and in the manner required by law for levying taxes, such board of county commissioners shall levy such tax upon the assessed valuation of all taxable property which is located within the county and the service authority.

(4) All taxes levied under this article, together with interest thereon and penalties for default in payment thereof, and all costs of collecting same, shall constitute, until paid, a perpetual lien on and against the property, and such lien shall be on a parity with the tax lien of other general ad valorem taxes.

(5) Property taxes provided for in this article shall be levied, assessed, collected, remitted, and accounted for in the manner provided for other general ad valorem taxes.

(6) The board may accept on behalf of the service authority any state-collected locally-shared taxes of whatever nature or kind if such taxes are approved and enacted by the general assembly.

In subsection (6) the "door is left open" for the possibility of utilizing other sources of revenue for service authorities. Some Committee members commented that the service authority bill should not be the vehicle to revamp the state tax structure.

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(7) The board shall have the power to invest surplus funds in the manner and form it determines to be most advantageous; but, said investments must meet the requirements and limitations of sections 83-1-1 through 83-1-5, C.R.S. 1963.	The reference in this subsection (7) is to the law governing legal governmental investments and deposits.
(8) The board shall have the power to accept on behalf of the service authority all funds tendered it from the state, the federal government, or any political subdivision or agency of either, which funds are specifically intended as incentive to, or assistance in, the formation, operation, or extension of service authority activities.	
(9) No service authority shall levy a tax for the entire authority or for any special taxing district or special assessment district for the calendar year during which it shall have been formed unless, prior to the fifteenth day of October of such year, the assessor and board of county commissioners of each county within the service authority shall have received from the board a map and a legal description of such service authority, special taxing district, or special assessment district, and a copy of a budget of such service authority or district as provided by section 88-1-17, C.R.S. 1963.	The reference in this subsection (9) is to the section governing the filing of budgets under the local government budget law.
89-25-20. Levies to cover deficiencies. The board, in certifying annual levies, shall take into account the maturing indebtedness for the ensuing year as provided in its contract, maturing bonds and interest on bonds, and deficiencies and defaults of prior years, and shall make ample provision for the payment thereof. In case the moneys produced from such levies, together with other revenues of the service authority, are not sufficient to pay punctually the annual installments on its contracts or bonds, and interest thereon, and to pay defaults and deficiencies, the board shall make such additional levies of taxes as may be necessary for such purposes, and such taxes shall be made and continue to be levied until the indebtedness of the service authority shall be fully paid.	
89-25-21. Power to issue revenue bonds - terms. To carry out the purposes of this article, the board is hereby authorized to issue negotiable coupon bonds payable solely from the revenues derived, or	Bond counsel is of the opinion that the thirty-year limit on length of issuance of revenue bonds is too short. Fifty years is

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to be derived, from the facility or combined facilities of the service authority. The terms, conditions, and details of said bonds, the procedures related thereto, and the refunding thereof, shall be substantially the same as those provided in article 52 of chapter 139, C.R.S. 1963, relating to water and sewer revenue bonds, except that the purposes for which the same may be issued shall not be so limited. Revenue bonds issued under this article shall not constitute an indebtedness within the meaning of any constitutional or statutory limitation or other provision. Each bond issued under this section shall recite in substance that said bond, including the interest thereon, is payable solely from the revenue pledged for the payment thereof, and that said bond does not constitute a debt of the service authority within the meaning of any constitutional or statutory limitations or provisions. Such revenue bonds may be issued to mature at such time or times not exceeding the estimated life of the facility to be acquired with the bond proceeds, as determined by the board, but in no event beyond thirty years from their respective dates.	suggested.
89-25-22. Power to incur indebtedness - interest - maturity - denominations. (1) To carry out the purposes of this article, the board is hereby authorized to issue general obligation negotiable coupon bonds of the service authority. Said bonds shall bear interest at a rate or rates such that the net effective interest rate of the issue of said bonds does not exceed that maximum net effective interest rate authorized, and shall be due and payable serially, either annually or semiannually, commencing not later than three years and extending not more than thirty years from date of issuance. The form and terms of said bonds, including provisions for their payment and redemption, shall be determined by the board. If the board so determines, said bonds may be redeemable prior to maturity with or without payment of a premium, not exceeding three percent of the principal thereof. In any event, said bonds shall be subject to call not later than fifteen years from date. Said bonds shall be executed in the name and on behalf of the service authority and signed by the chairman of the board with the seal of the service authority affixed thereto and attested by the secretary of the board. Said bonds shall be issued in such denominations as the board shall determine and the bonds and coupons thereto attached shall be payable to bearer.	

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Interest coupons shall bear the original or facsimile signature of the president of the board.

(2) Bonds voted for different purposes by separate propositions submitted at the same or different bond elections may, at the discretion of the board, be combined and issued as a single issue of bonds so long as the security therefor is the same.

Bond counsel suggests that the words "and any debt limitations" be inserted after the word "security", in the fourth line of this subsection.

89-25-23. Debt question submitted to voters - resolution. (1) Whenever the board shall determine by resolution, that the interest of the service authority and the public interest or necessity demand the acquisition, construction, installation, or completion of any work or other improvements or facilities, the making of any contract to carry out the objects or purposes of said service authority, or requires the creation of any indebtedness in the service authority, said board shall order the submission of the proposition of incurring such indebtedness to the qualified electors of the service authority at an election held for that purpose. Any such election may be held separately, or may be consolidated and held concurrently with any other election authorized by this article.

(2) The declaration of public interest or necessity required and the provision for the holding of such election may be included within one and the same resolution, which resolution, in addition to such declaration of public interest or necessity, shall recite the objects and purposes for which the indebtedness is proposed to be incurred, the estimated cost of the works or improvements, as the case may be, the principal amount of the indebtedness to be incurred therefor, and the maximum net effective interest rate to be paid on such indebtedness. Such resolution shall also fix the date upon which such election shall be held, the manner of holding the same, and the method of voting for or against the incurring of the proposed indebtedness.

(3) In accordance with the provisions of section 6 (3) of article XI of the state constitution, general obligation debts contracted by a service authority for the purpose of supplying water shall be exempted from the provisions of this section.

The constitution (Amendment No. 3) provides that debts for supplying water need not be submitted to the voters. Bond counsel suggests that a proviso be added to this subsection requiring that the board establish by

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89-25-24. Effect - subsequent elections. If any proposition authorized by section 89-25-23 shall be approved by the electors, the service authority shall thereupon be authorized to incur such indebtedness or obligations, enter into such contracts, or issue and sell such bonds of the service authority, as the case may be, all for the purposes and objects provided for in the proposition submitted under said section, in the amount so provided, and at a price or prices and at rate or rates of interest such that the maximum net effective interest rate recited in the resolution is not exceeded. Submission of the proposition of incurring such obligation or bonded or other indebtedness at such an election shall not prevent or prohibit submission of the same or other propositions at subsequent elections called for such purpose, but no new election creating an indebtedness may be held within one hundred twenty days after the date of the election at which a proposal was defeated. No more than two such elections may be held within any twelve-month period.

89-25-25. Correction of faulty notices. In any case where a notice is provided for in this article, if the court or the board reviewing the proceedings finds for any reason that due notice was not given, said body shall not thereby lose jurisdiction, and the proceedings in question shall not thereby be void or be abated, but said body shall order due notice to be given, and shall continue the proceeding until such time as notice shall be properly given, and thereupon shall proceed as though notice had been properly given in the first instance.

89-25-26. Refunding bonds. Any general obligation bonds issued by any service authority may be refunded without an election, by the service authority issuing them, or by any successor thereof, in the

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resolution the net effective interest rate prior to the time any debt, for the purpose of supplying water, is incurred. A similar restriction was included in the debt limitation amendments to special district law enacted in 1970 (see 89-5-24 (2), Chapter 71, 1970 Session Laws).

Bond counsel suggests that authorization be included to allow the refunding of revenue bonds.

name of the service authority which issued the bonds being refunded, but subject to provisions concerning their payment and to any other contractual limitations in the proceedings authorizing their issuance or otherwise appertaining thereto, by the issuance of bonds to refund, pay, and discharge all or any part of such outstanding bonds, including any interest on said bonds in arrears or about to become due, and for the purpose of avoiding or terminating any default in the payment of interest on and principal of said bonds, reducing interest costs or affecting other economics, or modifying or eliminating restrictive contractual limitations appertaining to the issuance of additional bonds or to any system appertaining thereto, or for any combination of the foregoing purposes. Refunding bonds may be delivered in exchange for the outstanding bonds refunded or may be sold as provided in this article for an original issue of bonds.

89-25-27. Limitations upon issuance. No general obligation bonds may be refunded unless the holders thereof voluntarily surrender them for exchange or payment, or unless they either mature or are callable for prior redemption under their terms within ten years from the date of issuance of the refunding bonds. Provision shall be made for paying the bonds refunded within said period of time. No maturity of any bond refunded may be extended over fifteen years. The interest rate or rates on such refunding bonds shall be determined by the board. The principal amount of the refunding bonds may exceed the principal amount of the refunded bonds if the aggregate principal and interest costs of the refunding bonds do not exceed such unaccrued costs of the bonds refunded, except to the extent any interest on the bonds refunded in arrears or about to become due is capitalized with the proceeds of refunding bonds. The principal amount of the refunding bonds may also be less than or the same as the principal amount of the bonds being refunded so long as provision is duly and sufficiently made for the payment of the refunded bonds.

89-25-28. Use of proceeds of refunding bonds. The proceeds of refunding general obligation bonds shall either be immediately applied to the retirement of the bonds being refunded or be placed in escrow in any state or national bank within the state which is a member of the federal deposit insurance corporation, to be applied to the

payment of the bonds being refunded upon their presentation therefor, but, to the extent any incidental expenses have been capitalized, such refunding bond proceeds may be used to defray such expenses; and any accrued interest and any premium appertaining to a sale of refunding bonds may be applied to the payment of the interest thereon and the principal thereof, or both interest and principal, or may be deposited in a reserve therefor, as the board may determine. Any such escrow shall not necessarily be limited to proceeds of refunding bonds but may include other moneys available for the escrow's purpose. Any moneys in escrow, pending such use, may be invested or reinvested in federal securities. Such moneys and investments in escrow together with any interest to be derived from any such investment, shall be in an amount at all times sufficient as to principal, interest, any prior redemption premium due, and any charges of the escrow agent payable therefrom, to pay the bonds being refunded as they become due at their respective maturities or due at any designated prior redemption date or dates in connection with which the board shall exercise a prior redemption option. Any purchaser of any refunding bond issued under sections 89-25-26 to 89-25-28 shall in no manner be responsible for the application of the proceeds thereof by the service authority or any of its officers, agents, or employees.

89-25-29. Combination of refunding and other bonds. General obligation bonds for refunding and general obligation bonds for any purpose authorized in this article may be issued separately or issued in combination in one series or more by any service authority.

89-25-30. Board's determination final. The determination of the board that the limitations under sections 89-25-26 to 89-25-29 imposed upon the issuance of refunding bonds have been met shall be conclusive in the absence of fraud or unless it can be shown that the board acted in an arbitrary or capricious manner.

89-25-31. Anticipation warrants. The board may defray any costs of the service authority by the issuance of notes or warrants to evidence the amount due therefor, in anticipation of taxes or revenues or both. Interest on such notes or warrants shall be governed by the provisions of section 73-1-4, C.R.S. 1963. Notes and warrants may

The reference in this section is to the law governing interest rates on notes and warrants.

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mature at such time or times not exceeding one year from their date of issuance as the board may determine. If such notes or warrants are not paid during the fiscal year in which they are issued, the board shall, at the end of its fiscal year, budget the amount or amounts necessary to pay in full the amount or amounts of notes and warrants outstanding and due during the next fiscal year.

89-25-32. Inclusion - counties - municipality - existing service authority - procedures. (1) Proceedings for inclusion of an additional county, counties, or a municipality which has territory in two or more counties, in a service authority shall be in accordance with the provisions of this section.

(2) (a) (i) Inclusion of any county or counties, or a municipality specified in subsection (1) of this section may be initiated by:

(ii) A petition signed by qualified electors in the respective county, counties, or municipality seeking to be included, in number not less than five percent of the votes cast in said county, counties, or municipality for the office of governor at the preceding general election;

(iii) By resolution adopted by said municipality or by a majority of the county commissioners in said county or counties; or

(iv) By resolution of a majority of the governing bodies of the municipalities within the territory of the county or counties seeking to be included.

(b) Proceedings for such inclusion shall be commenced by filing a verified petition or resolution with the board of directors of the service authority naming the county or counties or municipality to be included, and shall be accompanied by a deposit of money sufficient to pay all costs of the proceedings as estimated by the board.

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In order to assure the retention of the "whole county" concept, the procedure for the inclusion of territory encompassing whole counties and any entire municipality that was excluded at the time of formation because it was located in two or more counties, is included in this section. The "whole county" concept, and the excluded municipality problem, are discussed in section 89-25-5.

Additional deposits may be required from time to time should said original deposit be deemed by the board to be insufficient to pay all such costs.

(3) The secretary of the board shall cause notice of a hearing on said petition to be published throughout the county or municipality. Such notice shall also be mailed to the governing body of each county and the municipalities within the county, or to a municipality specified in subsection (1) of this section. The notice shall describe the nature of the petition and the purpose, date, time, and place of the hearing.

(4) At said hearing and any continuation thereof, all petitioners, county or municipal officials, and any qualified elector of the service authority or of the territory proposed for inclusion shall be interested parties and may present evidence for or against said petition.

(5) (a) Upon completion of said hearing, the board shall make the following determinations which shall be final, conclusive, and not subject to review except upon the grounds that the same are arbitrary or capricious:

(b) Whether the petition or resolution and all subsequent notices and proceedings comply with all of the requirements of this section;

(c) Whether said petition has been signed by the requisite number of persons, or whether the resolution was approved by the requisite number of the members of the board of county commissioners, or members of the governing body or bodies of municipalities within the county, having the proper qualifications; and

(d) Whether the granting of said petition or resolution, in whole or in part, is in the public interest and the interest of the service authority.

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(6) (a) Having made such determinations the board shall, by resolution, grant or deny the petition or resolution, in whole or in part, as follows:

(b) If any of the determinations required by this subsection (5) is in the negative the board shall deny the petition or resolution.

(c) If all such determinations required by subsection (5) of this section are in the affirmative, the board shall order the question of including said county or counties or municipality within the service authority to be submitted at a general or special county or municipal election, as the case may be, to a vote of the qualified electors of said county or counties or muncipality. Such election shall be held and conducted in the same manner as the election for formation of a service authority. If the inclusion is approved at said election, the board shall, by resolution, grant such petition, in whole or in part as the case may be, and shall file a true and correct copy of its resolution with the clerk of the district court which had jurisdiction over the initial formation of the service authority, or the secretary of state, the board of county commissioners and assessor of said county or counties, and the division of local government.

(7) The district court or the secretary of state shall enter an order of inclusion of the county or municipality, as the case may be, in the service authority which shall finally and conclusively establish such inclusion against all persons except the state of Colorado, in an action in the nature of quo warranto, commenced by the attorney general within thirty days after the adoption of the resolution and not otherwise. The inclusion of said county in the service authority shall not be directly or collaterally questioned in any suit, action, or proceeding except as expressly authorized in this section.

89-25-33. Special taxing districts authorized. (1) In accordance with the provisions of section 18 of article XIV of the state constitution, the board of a service authority may establish special taxing districts within the service authority to facilitate

Special taxing districts offer a new means of financing services that was not available prior to the adoption of Amendment No. 3. Section 18 (1)(d), Article XIV, of Amendment

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the furnishing of services and the collection of ad valorem taxes and charges for such services. (2) Such special taxing districts may be utilized when a service or level of service which a service authority is authorized to provide is to be provided in less than the entire area included within the service authority, and where resulting ad valorem taxes or charges may vary from those imposed in other areas within the service authority. (3) As long as the service is available to the included territory, a special taxing district may include any territory within a service authority. The included territory need not be contiguous, and the same territory may lie within more than one special taxing district. (4) In the management of a special taxing district, the board of the service authority shall [act] on behalf of any such special taxing district formed within its boundaries pursuant to this article, and for such purposes shall] have all powers granted to the board by this article. 89-25-34. Formation of special taxing districts. (1) Special taxing districts may be established pursuant to the provisions of this section. (2) The board may by resolution propose the formation of such district, which resolution shall designate the proposed boundaries thereof, specify the proposed service or services, and set forth the methods of financing proposed for such district. (3) The board shall present the proposal for public hearing to be held within sixty days after introduction of such resolution with notice thereof to be published not less than fifteen days before the date set for hearing. (4) At such hearing any qualified elector within the authority may be heard on the proposal, including questions of inclusion in or	No. 3, authorized the creation of such administrative areas as a means of allowing municipalities, counties, and service authorities to by-pass the former requirement that all ad valorem taxes must be uniform within the jurisdiction levying the tax. As such, special taxing districts, as included in this bill, are designed to be an administrative tool to finance any authorized service in any area of a service authority. The staff suggests that the language in brackets be deleted to clarify that a special taxing district, as provided in this section, is not intended to be a separate legal entity.

exclusion from the district, and all such objections shall be determined by the board on the basis of the public interest, taking into consideration the needs of the service authority and the availability of the service to the territory which is the subject of any such objection.

(5) The board may continue the hearing as necessary, and may, after the conclusion thereof, enact the proposed resolution, with or without amendments, or may reject the proposed resolution.

(6) Decisions of the board concerning the formation of a special taxing district are not subject to review unless action is instituted by a qualified elector to review such proceedings within forty-five days after passage of the resolution, and any such review shall extend only to the question of whether the board exceeded its jurisdiction or abused its discretion. If the court so finds it shall remand the matter to the board for further proceedings consistent with such findings.

(7) No restraining order or temporary injunction enjoining the formation, the inclusion or exclusion of territory, or the operation of the special taxing district may be issued pending final judgment of the district court. Any such final judgment which has the effect of enjoining the formation, the inclusion or exclusion of territory, or the operation of a special taxing district shall automatically be stayed upon the filing of any appeal of such decision, and no application for supersedeas shall be necessary. Such stay shall continue in full force and effect pending final disposition of the proceedings.

(8) Changes in the boundaries or major changes in services or financing of a special taxing district may be initiated by resolution of the board or by petition signed by five percent of the qualified electors of the district, and such proposals shall be considered in the same manner as provided in this section for proposals for the original formation of a district.

TEXT

89-25-35. Local improvement districts authorized. (1) The board of a service authority may establish local improvement districts within the service authority to facilitate the financing and construction or improvement of facilities within a portion or portions of a service authority.

(2) Such improvements shall be of a type to confer special benefits to real property within the boundaries of any such local improvement district and general benefits to the service authority at large or to a special taxing district within the service authority.

(3) In the management of a local improvement district, the board of the service authority shall [act] on behalf of any such local improvement district formed within its boundaries pursuant to this article, and for such purposes shall [have] all powers granted to the board by this article.

89-25-36. Procedures to establish local improvement districts. (1) Local improvement districts may be established pursuant to the provisions of this section.

(2) (a) The board of a service authority may establish local improvement districts within the boundaries of the service authority either by:

(b) Resolution of the board, subject to protest by the owners of a majority of all property benefited and constituting the basis of assessment as the board may determine; or

(c) Petition by the owners of a majority of all property benefited and constituting the basis of assessment in the proposed district.

(3) In either event, a public hearing shall be held at which all interested parties may appear and be heard. Right to protest and

STAFF COMMENT

Local improvement districts have long been utilized by some local governments to provide specific services of special benefit to real property in a given area. Briefly, the difference between a special taxing district and a local improvement district is that special taxing districts would be used to finance services of a general nature in which individual residents may or may not participate, while local improvement districts could only be used to finance service which benefited specific real property.

Again, as in the special taxing district section, the staff suggests deletion of bracketed language to clarify that such improvement districts are only an administrative financial tool and not a separate legal entity.

Bond counsel commented that sections 89-25-35 and 89-25-36 are written in broad terms much like a charter provision of a municipality. These sections do not delineate the procedure for the levy and collection of assessments, including the creation of a lien on specially benefited property and the method of lien foreclosure.

A question exists as to how much detail is necessary to obtain investor acceptance for special assessment securities?

TEXT	STAFF COMMENT
notice of public hearing shall be given as provided by the resolution of the board.	
(4) The board shall have the power by resolution to prescribe the method of making such improvements, of assessing the cost thereof, and of issuing bonds for cost of constructing or installing such improvements, including the costs incidental thereto.	
(5) Decisions of the board concerning the formation of a local improvement district are not subject to review unless action is instituted by a qualified elector of the service authority or owner of property within the local improvement district within forty-five days after passage of the resolution to form such improvement district, and any review shall extend only to the question of whether the board exceeded its jurisdiction or abused its discretion. If a court so finds, it shall remand the matter to the board for further proceedings consistent with such findings.	
(6) (a) Where all outstanding bonds of a local improvement district have been paid and any monies remain to the credit of such district, they shall be transferred to a special surplus and deficiency fund and whenever there is a deficiency in any local improvement district fund to meet the payments of outstanding bonds and interest due thereon, the deficiency shall be paid out of said surplus and deficiency fund.	
(b) Whenever a local improvement district has paid and cancelled three-fourths of its bonds issued, and for any reason the remaining assessments are not paid in time to retire the remaining bonds of the district and the interest due thereon, and there is not sufficient monies in the special surplus and deficiency fund, then the service authority shall pay said bonds when due and the interest due thereon, and reimburse itself by collecting the unpaid assessments due said local improvement district.	
(7) (a) In consideration of general benefits conferred on the service authority at large or on a special taxing district within the service authority, as the case may be, by the construction or	Bond counsel suggests that after the words "against the", on line 9 of this paragraph, the following be added: "property (other

installation of improvements in a local improvement district, the board may levy annual taxes on all taxable property within the service authority or within the special taxing district, as the case may be, at a rate not exceeding four mills in any one year, to be disbursed as determined by the board for the purpose of paying for such general benefits, for the payment of any assessment levied against the service authority or special taxing district, as the case may be, in connection with bonds issued for local improvement districts, or for the purpose of advancing monies to maintain current payments of interest and equal annual payments of the principal amount of bonds issued for any local improvement district hereafter created.

(b) The proceeds of such taxes shall be placed in a special fund and shall be disbursed only for the purposes specified herein, provided that in lieu of such tax levies, the board may annually transfer to such special fund any available monies of the service authority or of the special taxing district, as the case may be, but in no event shall the amount transferred in any one year exceed the amount which would result from a tax levied in such year as herein limited.

89-25-37. Special districts - transfer of responsibility. (1) The governing body of any special district organized pursuant to articles 1, 3, 5, 6, 7, 11, 12, 13, 14, and 18 of this chapter, may designate the board of directors of the service authority, in which the district is located, to thereafter be and act as the board of directors of said district in the manner and within the limitations hereinafter set forth, provided that said service authority is authorized to perform the same service or services as the district is performing. Such designation may be made notwithstanding any other provision of this chapter 89.

(2) Said designation shall be made by resolution adopted by a majority of the members of the governing board of said district. Prior to the adoption of said resolution, the district governing board shall hold a public hearing on such proposed designation giving all parties who are qualified electors of the district an opportunity to

than streets, highways, and other public rights-of-way) of the".

To encourage simplicity in governmental organizations, this section simply allows a special district, by its own action, to transfer the responsibility of providing its service to the service authority. Either the board of a special district or the electors may initiate the proceeding.

TEXT

be heard with regard to the proposal. Notice by publication of said hearing shall be given.

(3) Certified copies of any resolution approving said designation, if adopted, shall be filed, not later than thirty days after adoption, with the regional service authority board, the county clerk and recorder of each county within which the district is located, the clerk of the district court by order of which said district was organized, and the division of local government.

(4) Said resolution shall be effective upon completion of said filings, and said designation shall take effect upon the date set forth in said resolution, or, if none, then on the first day of the second calendar month following the effective date of said resolution, except as provided in subsection (5) of this section.

(5) If at least forty percent or two hundred of the qualified electors of the district, whichever is the lesser number, request, by a petition or petitions filed with the district governing board not more than twenty days after adoption of said resolution, that the question of approving said designation be submitted to a vote of the qualified electors of said district at the next regular election or at a special election for that purpose, said resolution and designation shall not take effect unless and until approved at such election. Said question shall be so submitted by the district governing board at the next regular election, if held not more than one hundred twenty days nor less than sixty days after the filing of said petition. If no regular election is to be held within said period, said question shall be so submitted at a special election called for that purpose to be held within ninety days of the filing of said petition.

(6) If approved by a majority of those qualified electors of the district voting thereon, said resolution shall be filed as required by subsection (3) of this section, and said designation shall become effective on the date set forth in said resolution, or if none on the first day of the second calendar month following the effective date of such resolution.

STAFF COMMENT

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(7) If at least forty percent or two hundred of the qualified electors of the district, whichever is the lesser number, request, by a petition or petitions filed with the district governing board, that the board adopt a resolution to designate the regional service authority to be and act as the board of directors, the district governing board shall, within sixty days, hold a hearing as provided in this section. Said board shall, within thirty days after said hearing, adopt such resolution and make such designation, or shall act to submit the question of approving said designation, in the same manner as provided in subsection (5) of this section.

89-25-38. Special districts - formation within service authority territory forbidden. (1) Once a service authority is established in any given area, no new special districts may be organized pursuant to articles 1, 3, 5, 6, 7, 11, 13, 14, and 18 of this chapter, within the territory or any portion thereof of said service authority if the service authority is authorized to provide the same or essentially the same service or services as the special district would be authorized to perform.

89-25-39. Transfer and assumption of services. (1) Unless another date is provided in this article or the proposition for assumption of a service by a service authority or agreed to by the board and any local governmental unit from which the service is to be transferred, those services being provided by and those rights, properties, and other assets and liabilities of, said local governmental unit incident to the service transferred and assumed shall be transferred to and assumed by the service authority on the second January 1 after authorization of the provision of said service.

(2) Where a local governmental unit providing part or all of the service being transferred to and assumed by the service authority is located partly within and partly without the service authority, the board, after notice by publication and hearing, shall determine which of the rights, properties, and other assets and liabilities shall be transferred to and assumed by the service authority. The board's

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It was the concensus of the Committee that special districts should not be formed within the territory of a service authority if the service authority is authorized to provide the same or similar service. Perhaps, consideration might be given to adding special districts formed under article 15 of chapter 89 (Metropolitan Sewer Districts) to the list of special districts which cannot be formed in such instances.

A service authority may assume, by contract by agreement with the local government, or because the voters granted it exclusive jurisdiction, the rights, title and interests in any facilities owned by an existing unit of government. This section spells out the procedures for such transfer. It also provides a mechanism for assumption of facilities owned by an entity which is located both within and without the service authority. To permit an orderly transfer, the final determination of the time and methods of such transfer is left to the service authority board subject to an appeal of its decision to the courts.

determination shall be based on a fair and equitable allocation of rights, properties, and other assets and liabilities. Adequate provision shall be made for payment of outstanding indebtedness as it becomes due, and no such transfer and assumption shall deprive residents of local government of any existing services necessary for their health, welfare, and safety.

(3) The plan of distribution provided for in subsection (2) of this section shall be final and conclusive against all persons unless an action is brought by the local government from which such rights, properties, and other assets and liabilities are to be transferred in the district court having jurisdiction over formation of the service authority within thirty days after adoption of said plan. All proceedings pursuant to this subsection shall be advanced as a matter of immediate public interest and concern and heard at the earliest practical moment. No such plan shall be directly or collaterally questioned in any suit, action, or proceeding, except as expressly authorized in this subsection (3).

(4) Where a service is to be provided by the service authority by contract with one or more other local governmental units, any transfer to and assumption by the service authority of any rights, properties, and other assets and liabilities shall be to the extent and as provided by contract between the board and the other local governmental unit or units.

89-25-40. Payments for facilities acquired by regional service authority - valuation. (1) For any service authorized and approved under this article, the board of directors may acquire rights, properties, and other assets and liabilities of counties, municipalities or special districts either through contract with the local government or upon resolution of the board, pursuant to section 89-22-2 (3), or upon the provision of any service on an exclusive basis as provided in section 89-25-13. Upon assuming the rights, title, and interest in any facility, the board shall become obligated to pay to the county, municipality or special district, as the case may be, an amount, when due, equivalent to that necessary for the payment of all outstanding bonds and obligations of said jurisdictions

In some instances, a local government may have built a facility that is designed to meet the long-range needs of areas outside of its boundaries. In order to relieve its residents of the entire burden of financing such facilities, the local government may have levied higher service charges in adjacent areas than it levies for its residents. As a means of providing the residents some incentive to participate in a service authority this section permits the board of a service authority to negotiate with such a

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for the acquisition, construction, and improvement of facilities acquired by the board.

(2) Upon the acquisition of facilities as provided in subsection (1) of this section, the board shall provide an offset of charges to the local jurisdiction either in service fees or ad valorem taxes in an amount equivalent to that which must be raised by the local governmental unit for the payment of outstanding obligations owed by such jurisdiction upon facilities acquired by the board.

(3) When any service authority board assumes the ownership of any existing facilities of a local government unit, the local governmental unit or units which paid part or all of the cost of such facilities, directly or by contract with another entity, may be entitled to receive a credit against any service charges or ad valorem taxes which may be apportioned or charged to the residents of such local governmental unit. Said credit may be spread over a period not exceeding thirty years. An additional credit equal to interest on the unused credit balance may be paid annually at a rate not exceeding four percent per annum. The amount of such credit shall not exceed the current value of the facilities. The board shall negotiate with the local government units in determining the value of any facility and the amount of credit to be granted, but the determination of the board shall be final subject to court review.

(4) In the event a local government believes that the board has been arbitrary or capricious in providing or not providing for a credit as permitted in this section, the governing board of such jurisdiction may commence an action in the district court. The court may dismiss the action or recommit the controversy to the board for further negotiation, if it determines that the action of the board was arbitrary or capricious.

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local government to provide a credit against the service authority's taxes and charges to local government residents. The final decision of the amount of such credit would be left to the service authority subject to review in the courts. 89-22-2 (3) refers to a suggested amendment to the Dissolution Act -- see Section 2 of this bill.

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89-25-41. Public transportation. For the purpose of providing public surface transportation, a service authority shall have, insofar as consistent with this article, any additional special powers applicable to the provision of that specific service as provided by article 20 of this chapter.	Sections 89-25-41 to 89-25-43 assure that proposed service authorities would have any other powers granted to the Regional Transportation District, the Metropolitan Denver Sewage Disposal District No. 1, and the Urban Drainage District which are not included in the general powers contained in this act.
89-25-42. Sewage collection, treatment, and disposal. (1) For the purpose of providing sewage collection, treatment, and disposal, a service authority shall have, insofar as consistent with this article, any additional special powers applicable to the provision of that specific service as provided in article 15 of this chapter. Any municipality as defined therein participating with the service authority shall have the additional powers provided municipalities in article 15 of this chapter.	See comment on 89-25-41.
(2) If the board finds that a sewer line connection is necessary for the protection of the public health, and if the sewer line or lines of the service authority are within four hundred feet of the nearest property line of such premise, the board may compel the owner of any business, dwelling, or other inhabited premises within the service authority to connect such premises, in accordance with the applicable plumbing code, to a sewer line. Notice to compel such connections shall be given to such owner by registered or certified mail, return receipt requested, to make such connection within twenty days after receipt of such notice, and if such connection has not begun within such period and completed with reasonable diligence by such owner, the board may thereupon make such connection and the service authority shall, upon completion, have a first and prior lien on the premises for the cost of such connection. Such liens shall be enforced in accordance with the provisions of section 89-25-18.	
89-25-43. Urban drainage and flood control. For the purpose of providing urban drainage and flood control, a service authority shall have, insofar as consistent with this article, any additional special powers applicable to the provision of that specific service as provided by article 21 of this chapter.	See comment on 89-25-41.

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89-25-44. Assumption of services by a service authority in the Denver metropolitan area. (1) (a) In accordance with section 17 (3) (e) of article XIV of the state constitution, after formation of a service authority in the metropolitan area composed of at least the city and county of Denver, and Adams, Arapahoe and Jefferson counties, those special powers, services, rights, properties and any assets and liabilities of the Denver regional council of governments as created under the provisions of section 106-2-4, C.R.S. 1963, the urban drainage and flood control district as created pursuant to article 21 of this chapter, the metropolitan Denver sewage disposal district no. 1 as created pursuant to article 15 of this chapter, and the regional transportation district as created pursuant to article 20 of this chapter, shall be transferred to and assumed by said service authority.

(b) If a service authority is formed in such metropolitan area pursuant to section 89-25-4, the services provided for in paragraph (a) of this subsection shall be transferred to and become the responsibility of said service authority on January 1, 1973. If,

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Subsection (3) (e) of Section 17 of Article XIV as adopted in Amendment No. 3, provides that "...where, upon formation of a service authority, any function, service, or facility is already being provided in at least four counties or portions thereof by a single special district, regional planning commission or metropolitan council, or an association of political subdivisions, the general assembly may provide, without a vote of the qualified electors, for assumption by one or more service authorities of such function, service or facility". The Denver Regional Council of Governments (DRCOG), the Urban Drainage and Flood Control District, the Metropolitan Denver Sewage Disposal District No. 1, and the Regional Transportation District qualify for such assumption under that provision. The bill provides that these programs be assumed by any service authority formed in the Denver metropolitan area. Representatives of DRCOG, Urban Drainage and Metro Sewer did not express any reservations about being included at the time of formation of a Denver area service authority. RTD expressed concern about completion of its planning process and the differences between its current boundaries and the four-county Denver area. Perhaps, because the complexity of assuming these programs will increase as time passes, the decision was to include these services as soon as possible.

As noted earlier, 89-25-4 requires an election in 1972 on the question of formation of a service authority in the Denver area to assume the abovementioned four services. This

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however, the service authority board believes that an orderly takeover of such services can best be accomplished if one or more of the entities performing such services continue to exist beyond said date, it may permit said entity or entities to do so, but the board may not extend such permission beyond July 1, 1973.	section provides a six-month phase-in period, to be exercised at the board's option, to allow for orderly assumption of these four services.
(c) If a service authority is not formed in such metropolitan area pursuant to section 89-25-4, but a proposal for formation is later initiated as provided in section 89-25-6, the proposal to form said service authority shall include as an integral part thereof provisions for the transfer provided for in paragraph (a) of this subsection. If such proposal is approved, said transfer shall be completed by the second January 1, after formation unless an earlier date is agreed to by the board of the service authority and the respective individual entities.	If formation of a service authority is defeated, at the 1972 general election, the four services would still be included in any service authority subsequently formed in the Denver area. In this instance, however, transfer of the four services would not have to be completed until the second January 1, after formation.
89-25-45. Dissolution. Except as otherwise provided in this article, a service authority may be dissolved in a manner pursuant, as nearly as practicable, to the provisions of article 22 of this chapter. Dissolution may be initiated by petitions signed by at least five percent of the qualified electors of the service authority or by resolution passed by at least three-fourths of the members of the board. No dissolution shall be effected unless approved by a majority of the qualified electors of the service authority voting thereon and unless satisfactory arrangements have been made for the continuation of any services essential for the health, welfare, and safety of residents of the dissolved service authority.	Amendment No. 3 requires the General Assembly to provide methods for dissolution of service authorities (Section 17 (2)(c), Article XIV).
89-25-46. Early hearings. All court actions involving the validity of any proceeding under this article which is a matter of immediate public interest and concern shall be advanced and heard at the earliest practical moment.	
89-25-47. Elections. (1) Subject to the specific provisions of subsections (2) and (3) of this section, elections shall be conducted as nearly as practicable in the manner provided for general elections.	Service authority elections shall be conducted as nearly as possible in the same manner as general elections; the regular election of a service authority is held at

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(2) The regular service authority election in each service authority shall be held on the date determined for general elections.	the same time as the November general election; the question of assuming exclusive jurisdiction can only be decided at a general election; and all regular service authority elections shall be paid for, as are general elections, by the counties within its boundaries.
(3) Any referral of a proposition to allow a service authority to assume exclusive jurisdiction over any service shall be voted upon only on the date determined for general elections.	
(4) All necessary expenses of any service authority general election subsequent to the organization of the service authority and other proceedings conducted pursuant to said election shall be paid by the counties within the service authority in proportion to the population of the respective counties within the service authority, and the governing bodies thereof shall enact any necessary supplemental appropriations. When the board calls a special election after formation of the service authority to be held at a time other than the general election, all necessary expenses for the election and other proceedings conducted pursuant to such elections shall be paid by the service authority.	
SECTION 2. 89-22-2, Colorado Revised Statutes 1963, as enacted by section 1 of chapter 3, Session Laws of Colorado 1970, is amended BY THE ADDITION OF THE FOLLOWING NEW SUBSECTIONS to read:	This section amends Article 22 of Chapter 89 -- the Special District Dissolution Act -- to allow service authorities to initiate the dissolution of special districts within their boundaries.
89-22-2. Petition for election for dissolution - application. (3) In the event that the territory encompassed by a special district lies wholly within the boundaries of a regional service authority, the board of directors of any such service authority may, by resolution, file an application for dissolution with the district court, provided such service authority is authorized to perform the same service or function as that provided by the special district.	
(4) If the territory encompassed by a special district lies within the boundaries of two or more service authorities, the two or more service authorities may, jointly, by resolution, file an application for dissolution with the district court, but said	

application must include the consent of the service authorities to assume the responsibilities for providing the service in their respective jurisdictions or the consent of one authority to provide the service on a contractual basis.

SECTION 3. 89-22-3 (1), and (4) (a), Colorado Revised Statutes 1963, as enacted by section 1 of chapter 73, Session Laws of Colorado 1970, is amended to read:

89-22-3. Requirements for dissolution application. (1) The application shall generally describe the territory embraced in the district, have a map showing the district, a current financial statement of the district, a plan for final disposition of the assets of the district and for payment of the financial obligations of the district, shall state whether or not the services of the district are to be continued, and, if so, by what means and whether the existing board or a portion thereof shall continue in office, subject to court appointment to fill vacancies. SAID APPLICATION MAY PROVIDE FOR THE SERVICE AUTHORITY BOARD TO ACT AS THE DISTRICT BOARD.

(4) (a) When services are to be continued, any plan for dissolution shall be accompanied by a copy of an agreement or agreements with one or more SERVICE AUTHORITIES, municipalities, or districts, or combination thereof, whereby responsibility for all services presently provided by the district will be assumed by such SERVICE AUTHORITIES, municipalities, or districts, and such agreement or agreements shall provide for the operation and maintenance of the system or facilities with those of the SERVICE AUTHORITY, municipality, or district, provisions for service, rates, and charges, and, if applicable, provisions concerning acquisition of the district's system or facilities, merger or inclusion of territory, procedures for contract modification, employee rights, and retirement benefits. Such agreement or agreements may include provisions for certification of levies by the dissolved district and the contracting SERVICE AUTHORITY, municipality or the district providing the services. Any agreement concerning fire districts, entered into pursuant to this subsection (4), shall include provision for the continuation of paid employees' rights, pursuant to section 89-6-46,

and the retirement benefits of paid and volunteer firemen as provided in article 50 of chapter 139, C.R.S. 1963.

SECTION 4. 89-22-5 (1), Colorado Revised Statutes 1963, as enacted by section 1 of chapter 73, Session Laws of Colorado 1970, is amended to read:

89-22-5. Conditions necessary for dissolution - permissible provisions - hearings - court powers. (1) Prior to the court hearing on dissolution, the governing body or board of any municipality, ~~or~~ other district, OR SERVICE AUTHORITY which is a party to an agreement to render services and is willing to provide those services to the district applying for dissolution shall submit such SERVICE AUTHORITY, municipality, or district to the jurisdiction of the court by a written entry of appearance.

SECTION 5. 89-22-10 (1), Colorado Revised Statutes 1963, as enacted by section 1 of chapter 73, Session Laws of Colorado 1970, is amended to read:

89-22-10. Disposition of remaining funds - unpaid tax - levies. (1) All funds remaining in the treasury of any district voted to be dissolved, in excess of indebtedness and upon completion of the requirements for dissolution, shall be utilized to reduce the rates, tolls, and charges fixed by the contracting municipality, ~~or~~ district, OR SERVICE AUTHORITY to finance the services continued in the district. If the services of the district are not continued, such funds shall be divided among the municipalities and counties in which the district exists, pro rata according to the valuation for assessment of taxable property in the parts of the district lying in each municipality and unincorporated portions of each county bears to the total valuation for assessment of the taxable property of the district as determined by the respective county assessors for the preceding tax year.

SECTION 6. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

RECOMMENDATION NO. 2

A BILL FOR AN ACT

CONCERNING COUNTY COMMISSIONER DISTRICTS.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. 35-3-6, Colorado Revised Statutes 1963, is amended to read:

35-3-6. Commissioners' districts - vacancies. (1) Each county shall be divided into as many compact districts by the county commissioners as there are county commissioners in the county; such districts to be as nearly equal in population as possible. They shall be numbered consecutively and shall not be subject to alteration oftener than once in two years. One commissioner shall be elected from each of such districts by the voters of the whole county. If any commissioner, during his term of office, ~~shall remove without~~ CHANGES HIS RESIDENCE TO A PLACE OUTSIDE OF the district in which he resided when elected, his office shall thereupon become vacant. All proceedings by the county commissioners in formation of such districts not inconsistent herewith are hereby confirmed and validated.

(2) ON OR BEFORE APRIL 15, 1972, AND ON OR BEFORE JANUARY 1 OF THE FIRST GENERAL ELECTION YEAR NEXT FOLLOWING OFFICIAL PUBLICATION OF EACH FEDERAL ENUMERATION OF THE POPULATION OF THE STATE, THE COUNTY COMMISSIONERS OF EACH COUNTY SHALL REVISE AND ALTER THE BOUNDARIES OF COUNTY COMMISSIONER DISTRICTS TO CAUSE SUCH DISTRICTS TO BE AS NEARLY EQUAL IN POPULATION AS POSSIBLE. THE MEMBERS OF ANY BOARD OF COUNTY COMMISSIONERS WHICH FAILS TO SO ADJUST SUCH BOUNDARIES WITHIN THE TIME SPECIFIED IN THIS SUBSECTION SHALL NOT, AFTER SUCH TIME, BE ENTITLED TO OR EARN ANY COMPENSATION FOR THEIR SERVICES OR RECEIVE ANY PAYMENT FOR SALARY OR EXPENSES NOR SHALL ANY SUCH MEMBER BE ELIGIBLE TO SUCCEED HIMSELF IN OFFICE, UNLESS AND UNTIL SUCH REVISION AND ALTERATION SHALL HAVE BEEN MADE.

SECTION 2. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

ATTACHMENT A

SENATE CONCURRENT RESOLUTION No. 6

SENATE CONCURRENT RESOLUTION NO. 6
(Also referred to as Amendment No. 3)

(By Senators Armstrong, Dines, Anderson, Bermingham, Chance, Cisneros, DeBerard, Decker, Denny, Enstrom, H. Fowler, L. Fowler, Garnsey, Gill, Hodges, Jackson, Kemp, Locke, MacManus, Minister, Ohlson, Rockwell, Saunders, Schieffelin, Shoemaker, Stockton, Strickland, Taylor, Wagner, and Williams; also Representatives Vanderhoof, Safran, Arnold, Bain, Black, Bryant, Burch, Byerly, Calabrese, Cole, Cooper, DeMoulin, Dittemore, Edmonds, Farley, Fentress, Fuhr, Grace, Grant, Grimshaw, Hamilton, Hart, Hinman, Johnson, Koster, Lamb, Lamm, Massari, E. McCormick, H. McCormick, Moore, Mullen, Munson, E. Newman, Porter, Quinlan, Rose, Sack, Sanchez, Schafer, Schmidt, Schubert, Shoro, Showalter, Singer, Sonnenberg, Strahle, Younglund, Baer, Bastien, Braden, Coloroso, Jackson, Klein, Knox, Kogovsek, and Neal.)

SUBMITTING TO THE QUALIFIED ELECTORS OF THE STATE OF COLORADO AN AMENDMENT TO ARTICLES XI, XIV, AND XX OF THE CONSTITUTION OF THE STATE OF COLORADO, RELATING TO LOCAL GOVERNMENT, AND PROVIDING FOR HOME RULE AND SERVICE AUTHORITIES.

Be It Resolved by the Senate of the Forty-seventh General Assembly of the State of Colorado, the House of Representatives concurring herein:

Section 1. At the next general election for members of the general assembly, there shall be submitted to the qualified electors of the state of Colorado, for their approval or rejection, the following amendment to the constitution of the State of Colorado, to wit:

Article XIV of the constitution of the state of Colorado is amended BY THE ADDITION OF THE FOLLOWING NEW SECTIONS to read:

Section 16. County home rule.—(1) Notwithstanding the provisions of sections 6, 8, 9, 10, 12, and 15 of this article, the qualified electors of each county of the state are hereby vested with the power to adopt a home rule charter establishing the organization and structure of county government consistent with this article and statutes enacted pursuant hereto.

(2) The general assembly shall provide by statute procedures under which the qualified electors of any county may adopt, amend, and repeal a county home rule charter. Action to initiate home rule may be by petition, signed by not less than five per cent of the qualified electors of the county in which home rule is sought, or by any other procedure authorized by statute. No county home rule charter, amendment thereto, or repeal thereof, shall become effective until approved by a majority of the qualified electors of such county voting thereon.

(3) A home rule county shall provide all mandatory county functions, services, and facilities and shall exercise all mandatory powers as may be required by statute.

(4) A home rule county shall be empowered to provide such permissive functions, services, and facilities and to exercise such permissive powers as may be authorized by statute applicable to all home rule counties, except as may be otherwise prohibited or limited by charter or this constitution.

(5) The provisions of sections 6, 8, 9, 10, 12, and 15 of article XIV of this constitution shall apply to counties adopting a home rule charter only to such extent as may be provided in said charter.

Section 17. Service authorities.—(1) (a) The general assembly shall provide by statute for the organization, structure, functions, services, facilities, and powers of service authorities pursuant to the following requirements:

(b) A service authority may be formed only upon the approval of a majority of the qualified electors voting thereon in the territory to be included.

(c) The territory within a service authority may include all or part of one county or home rule county or all or part of two or more adjoining counties or home rule counties, but shall not include only a part of any city and county, home rule city or town, or statutory city or town at the time of formation of the service authority. No more than one service authority shall be established in any territory and, in no event, shall a service authority be formed in the metropolitan area composed of the city and county of Denver, and Adams, Arapahoe, and Jefferson counties which does not include all of the city and county of Denver and all or portions of Adams, Arapahoe, and Jefferson counties.

(d) The boundaries of any service authority shall not be such as to create any enclave.

(e) No territory shall be included within the boundaries of more than one service authority.

(2) (a) The general assembly shall also provide by statute for:

(b) The inclusion and exclusion of territory in or from a service authority;

(c) The dissolution of a service authority;

(d) The merger of all or a part of two or more adjacent service authorities, except that such merger shall require the approval of a majority of the qualified electors voting thereon in each of the affected service authorities; and,

(e) The boundaries of any service authority or any special taxing districts therein or the method by which such boundaries are to be determined or changed; and

(f) The method for payment of any election expenses.

(3) (a) The general assembly shall designate by statute the functions, services, and facilities which may be provided by a service authority, and the manner in which the members of the governing body of any service authority shall be elected from compact districts of approximately equal population by the qualified electors of the authority, including the terms and qualifications of such members; but for the first five years after formation of any service authority, the members of the governing body shall be elected by the qualified electors within the boundaries of the authority from among the mayors, councilmen, trustees, and county commissioners holding office at the time of their election in home rule and statutory cities, cities and counties, home rule and statutory towns, and home rule and statutory counties located within or partially within the authority. This restriction shall expire January 1, 1980. The general assembly may provide that members of the governing body may be elected by a vote of each compact district or by an at-large vote or combination thereof. Notwithstanding any provision in this constitution or the charter of any home rule city and county, city, town, or county to the contrary, mayors, councilmen, trustees, and county commissioners may additionally hold elective office with a service authority and serve therein either with or without compensation, as provided by statute.

(b) A service authority shall provide any function, service, or facility

designated by statute and authorized as provided in paragraphs (c) and (d) of this subsection.

(c) All propositions to provide functions, services, or facilities shall be submitted, either individually or jointly, to the qualified electors in the manner and form prescribed by law.

(d) Each such function, service, or facility shall be authorized if approved by a majority of the qualified electors of the authority voting thereon; but if the service authority includes territory in more than one county, approval shall also require a majority of the qualified electors of the authority voting thereon in those included portions of each of the affected counties.

(e) Notwithstanding the provisions of paragraphs (b), (c), and (d) of this subsection, where, upon formation of a service authority, any function, service, or facility is already being provided in at least four counties or portions thereof by a single special district, regional planning commission or metropolitan council, or an association of political subdivisions, the general assembly may provide, without a vote of the qualified electors, for assumption by one or more service authorities of such function, service, or facility.

(f) Notwithstanding the provisions of paragraphs (b), (c), and (d) of this subsection, a service authority may contract with any other political subdivision to provide or receive any function, service, or facility designated by statute; but a service authority shall not be invested with any taxing power as a consequence of such contract.

(4) (a) A service authority shall be a body corporate and a political subdivision of the state.

(b) Any other provision of this constitution to the contrary notwithstanding, any service authority formed under this article and the statutes pursuant thereto may exercise such powers to accomplish the purposes and to provide the authorized functions, services, and facilities of such authority as the general assembly may provide by statute.

(c) Notwithstanding the provisions of article XX of this constitution, any authorized function, service, or facility may be provided exclusively by the authority or concurrently with other jurisdictions as may be prescribed by statute, subject to the provisions of subsections (3) (c), (3) (d), (3) (e), and (3) (f) of this section.

Section 18. Intergovernmental relationships.—(1) (a) Any other provisions of this constitution to the contrary notwithstanding:

(b) The general assembly may provide by statute for the terms and conditions under which one or more service authorities may succeed to the rights, properties, and other assets and assume the obligations of any other political subdivision included partially or entirely within such authority, incident to the powers vested in, and the functions, services, and facilities authorized to be provided by the service authority, whether vested and authorized at the time of the formation of the service authority or subsequent thereto; and,

(c) The general assembly may provide by statute for the terms and conditions under which a county, home rule county, city and county, home rule city or town, statutory city or town, or quasi-municipal corporation, or any combination thereof may succeed to the rights, properties, and other

assets and assume the obligations of any quasi-municipal corporation located partially or entirely within its boundaries.

(d) The general assembly may provide by statute procedures whereby any county, home rule county, city and county, home rule city or town, statutory city or town, or service authority may establish special taxing districts.

(2) (a) Nothing in this constitution shall be construed to prohibit the state or any of its political subdivisions from cooperating or contracting with one another or with the government of the United States to provide any function, service, or facility lawfully authorized to each of the cooperating or contracting units, including the sharing of costs, the imposition of taxes, or the incurring of debt.

(b) Nothing in this constitution shall be construed to prohibit the authorization by statute of a separate governmental entity as an instrument to be used through voluntary participation by cooperating or contracting political subdivisions.

(c) Nothing in this constitution shall be construed to prohibit any political subdivision of the state from contracting with private persons, associations, or corporations for the provision of any legally authorized functions, services, or facilities within or without its boundaries.

(d) Nothing in this constitution shall be construed to prohibit the general assembly from providing by statute for state imposed and collected taxes to be shared with and distributed to political subdivisions of the state except that this provision shall not in any way limit the powers of home rule cities and towns.

Section 12 of article XIV of the constitution of the state of Colorado is REPEALED AND RE-ENACTED, WITH AMENDMENTS, to read:

Section 12. Other officers.—The general assembly shall provide for the election or appointment of such other county officers and such municipal officers of statutory cities and towns as public convenience may require; and their terms of office shall be as prescribed by statute.

Article XX of the constitution of the state of Colorado is amended BY THE ADDITION OF THE FOLLOWING NEW SECTION to read:

Section 9. Procedure and requirements for adoption.—(1) Notwithstanding any provision in sections 4, 5, and 6 of this article to the contrary, the qualified electors of each city and county, city, and town of the state are hereby vested with the power to adopt, amend, and repeal a home rule charter.

(2) The general assembly shall provide by statute procedures under which the qualified electors of any proposed or existing city and county, city, or town may adopt, amend, and repeal a municipal home rule charter. Action to initiate home rule shall be by petition, signed by not less than five per cent of the qualified electors of the proposed or existing city and county, city, or town, or by proper ordinance by the city council or board of trustees of a town, submitting the question of the adoption of a municipal home rule charter to the qualified electors of the city and county, city, or town. No municipal home rule charter, amendment thereto, or repeal thereof, shall become effective until approved by a majority of the qualified electors of such city and county, city, or town voting thereon. A new city or town may acquire home rule status at the time of its incorporation.

(3) The provisions of this article as they existed prior to the effective

date of this section, as they relate to procedures for the initial adoption of home rule charters and for the amendment of existing home rule charters, shall continue to apply until superseded by statute.

(4) It is the purpose of this section to afford to the people of all cities, cities and counties, and towns the right to home rule regardless of population, period of incorporation, or other limitation, and for this purpose this section shall be self-executing. It is the further purpose of this section to facilitate adoption and amendment of home rule through such procedures as may hereafter be enacted by the general assembly.

Sections 6, 7, 8, and 9 of article XI of the constitution of the state of Colorado are repealed and new sections 6 and 7 are enacted to read:

Section 6. Local government debt.—(1) No political subdivision of the state shall contract any general obligation debt by loan in any form, whether individually or by contract pursuant to article XIV, section 18 (2) (a) of this constitution except by adoption of a legislative measure which shall be irrepealable until the indebtedness therein provided for shall have been fully paid or discharged, specifying the purposes to which the funds to be raised shall be applied and providing for the levy of a tax which together with such other revenue, assets, or funds as may be pledged shall be sufficient to pay the interest and principal of such debt. Except as may be otherwise provided by the charter of a home rule city and county, city, or town for debt incurred by such city and county, city, or town, no such debt shall be created unless the question of incurring the same be submitted to and approved by a majority of the qualified taxpaying electors voting thereon, as the term "qualified taxpaying elector" shall be defined by statute.

(2) Except as may be otherwise provided by the charter of a home rule city and county, city, or town, the general assembly shall establish by statute limitations on the authority of any political subdivision to incur general obligation indebtedness in any form whether individually or by contract pursuant to article XIV, section 18 (2) (a) of this constitution.

(3) Debts contracted by a home rule city and county, city, or town, statutory city or town or service authority for the purposes of supplying water shall be excepted from the operation of this section.

Section 7. State and political subdivisions may give assistance to any political subdivision.—No provision of this constitution shall be construed to prevent the state or any political subdivision from giving direct or indirect financial support to any political subdivision as may be authorized by general statute.

This amendment shall take effect January 1, 1972, and the general assembly shall enact laws implementing the amendment prior to the effective date thereof, such laws to take effect January 1, 1972.

Section 2. Each elector voting at said election and desirous of voting for or against the said amendment shall cast his vote as provided by law either "Yes" or "No" on the proposition: "An amendment to articles XI, XIV, and XX of the constitution of the state of Colorado, relating to local government, and providing for home rule and service authorities."

Section 3. The votes cast for the adoption or rejection of said amendment shall be canvassed and the result determined in the manner provided by law for the canvassing of votes for representatives in Congress, and if a majority of the voters voting on the question shall have voted "Yes", the said amendment shall become a part of the state constitution.

ATTACHMENT B

71-4634

The State of Colorado

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JOHN P. MOORE
DEPUTY ATTORNEY GENERAL

November 30, 1971

Representative Ronald Strahle, Chairman
Committee on Local Government
Legislative Council
46 State Capitol
Denver, Colorado

Dear Representative Strahle:

This is in response to your recent request seeking my opinion on the following:

QUESTION: Whether a proposition submitting a combination of services proposed to be performed by a service authority to the electorate for approval is within the ambit of newly created Article XIV, Section 17(3) of the Colorado Constitution?

CONCLUSION: Yes.

ANALYSIS: Subsection (c) of Article XIV, Section 17(3) requires that all propositions to provide services "be submitted, either individually or jointly, to the qualified electors."

Webster's Third New International Dictionary defines "individually" as in an individual manner, one by one, singly, or separately. "Jointly" is there defined as in a joint manner, together, unitedly.

The word "or", which separates the two words individually and jointly, has been judicially interpreted in Colorado, the Supreme Court saying that "its ordinary and common sense meaning [is] to indicate alternative courses of action." (emphasis added) Denver Plastics, Inc. v. Snyder, 160 Colo. 232, 237, 416 P.2d 370, 373 (1966).

To preclude submitting a combination of services to the electorate as one single proposition for approval would be ignoring the constitutional provision that specifically allows such questions to be submitted jointly as an "alternative course of action" to submitting such questions individually. I submit that a conclusion of this nature would appear contrary to fundamental principles of statutory construction, for "[n]o rule of statutory construction has been more definitely stated or more often repeated than the cardinal rule that significance and effect shall, if possible, be accorded to every word."

Ex Parte Public Nat'l Bank, 278 U.S. 101, 104 (1928). See, also, Bulow v. Ward Terry & Co., 155 Colo. 560, 568, 396 P.2d 232, 236 (1964), and Sutherland, 2 Statutory Construction, §4705 pg. 339 (1943).

This opinion is limited to the narrow issue of whether submission of a combination of services is permissible under Article XIV, Section 17(3) of the Colorado Constitution. No opinion is expressed as to whether that provision conflicts with other provisions of the Colorado Constitution or the United States Constitution.

Very truly yours,

Duke W. Dunbar

DUKE W. DUNBAR
Attorney General

DWD:JPM:T