

CASCADE METROPOLITAN DISTRICT NO. 1 NOTICE OF SPECIAL MEETING AND AGENDA

Tuesday, August 24, 2021
5:30 P.M.

Due to the threat posed by the COVID-19 coronavirus, this meeting will be held via teleconferencing and can be joined through the directions below:

Please join my meeting from your computer, tablet or smartphone.

<https://global.gotomeeting.com/join/808805133>

You can also dial in using your phone.

United States: [+1 \(408\) 650-3123](tel:+14086503123)

Access Code: 808-805-133

Public invited to attend

Board of Directors

Vacant	Term Expires May 2023
Mike Herr, Secretary/Treasurer	Term Expires May 2023
Troy Eason, Assistant Secretary	Term Expires May 2022
Susan Soloyanis, Assistant Secretary	Term Expires May 2023
James Borden, Assistant Secretary	Term Expires May 2022

AGENDA

- 1. Call to Order**
- 2. Declaration of Quorum/Director Qualifications/Reaffirmation of Disclosures**
- 3. Approval of Agenda**
- 4. Acceptance of Resignation from Director Whittemore Effective August 20, 2021 and Discussion of Vacant Director Position**
- 5. Election of Officers**
- 6. Consent Agenda Items** (These items are considered to be routine and will be approved by one motion. There will be no separate discussion of these items unless requested, in which event, the item will be removed from Consent Agenda and considered in the Regular Agenda)
 - a. Acknowledge Manager's Report (**enclosure**)
 - b. Approval of Board Meeting Minutes from the special meeting on June 22, 2021 (**enclosure**)
 - c. Ratification and Approval of Payables for the period ending July 31, 2021 (**enclosure**) in the amount of:

General Fund:	\$	13,711.79
Debt Service Fund:	\$	33,537.83
Total	\$	47,249.62
 - d. Acceptance of Unaudited Financial Statements as of July 31, 2021 the schedule of cash position updated as of July 31, 2021 and bank statements (**enclosure**)

4. Consideration of items removed from Consent Agenda

5. Management Matters

- a. Review of payment status and collections
 - i. Current billings
 - ii. Collections
- b. Discuss status of post-conversion requirements
- c. Plan and progress on Disposition of assets

6. Financial Matters

- a. 2022 budget planning – projected increase in fee
- b. 8126 Chipita Park Rd – Property Owner request to waive fees

7. Legal Matters

- a. Adopt Resolution 2021-08-01 – Designating the Location of Regular Meetings of the Board of Directors (enclosed)
- b. Overview of 2021 Legislation and Recent Case Law Affecting Special Districts, Municipalities, and Community Associations (enclosed)

8. Public Comment (Items Not on the Agenda Only. Comments limited to 3 minutes per person and taken in Order In Which They Appear on Sign-Up Sheet)

9. Other Business

- a. Next Meeting— Scheduled for October 26, 2021 at 5:30 PM

10. Adjournment

**MINUTES OF A BOARD MEETING OF
THE BOARD OF DIRECTORS OF THE
CASCADE METROPOLITAN DISTRICT NO. 1
HELD JUNE 22, 2021**

A ~~special~~ meeting of the Board of Directors (the "Board") of the Cascade Metropolitan District No. 1 (the "District") was duly held on Tuesday, the 22nd day of June 2021 at 5:30 p.m. The ~~special~~ meeting was held via teleconference due to the ~~threat posed by the COVID-19 coronavirus~~. The ~~special~~ meeting was open to the public.

Directors in Attendance Were:

Jim Borden
Susan Soloyanis
Troy Eason
Mike Herr, ~~Absence~~ Excused
Mike Whitmore, ~~Absence~~ Excused

Also in Attendance Were:

Heather Hartung, Esq., White Bear Ankele Hartung & Waldron, Attorneys at Law
Kevin Walker, Walker Schooler District Managers
Rebecca Hardekopf, Walker Schooler District Managers
Jeff Mandarich, BiggsKofford
Patricia Spencer, BiggsKofford

1. **Call to Order:** Mr. Walker called the meeting to order at 5:33 p.m.
2. **Declaration of Quorum/Director Qualifications/Reaffirmation of Disclosures:** Mr. Walker confirmed a quorum of the Board was present and that each Director had confirmed their qualifications to serve. Ms. Hartung confirmed the Director's conflicts of interest were properly filed.
3. **Approval of Agenda:** Mr. Walker requested the Board discuss item 7.b. Review Draft Audit before item 4. Director Soloyanis moved to approve the Agenda as amended; seconded by Director Borden. Motion passed unanimously. Director Soloyanis moved to excused Directors Whittemore and Herr; seconded by Director Borden. Motion passed unanimously.
4. **Consent Agenda Items:**
 - a. Acknowledge Manager's Report
 - b. Approval of Board Meeting Minutes from the special meeting on April 27, 2021
 - c. Ratification and Approval of Payables for the period ending May 31, 2021 in the amount of:

General Fund:	\$8,437.13
<u>Debt Service Fund:</u>	<u>\$ 33,537.83</u>
Total	\$ 41,974.96

Deleted: regular

Deleted: regular

Deleted: State of Emergency declared by Governor Polis and Public Health Orders implementing the Executive Orders issued by the Colorado Department of Public Health & Environment and the threat posed by the COVID-19 coronavirus.

Deleted: regular

- d. Acceptance of Unaudited Financial Statements as of May 31, 2021 the schedule of cash position updated as of May 31, 2021 and bank statements

Mr. Walker noted there was a new payable received today for the bond payment that is roughly \$32,000, so the Debt Service Fund needs to be amended. Mr. Walker reported that Director Herr reconciled the accounts, and everything was good. Director Eason moved to approve the Consent Agenda Items with the Debt Service Fund to be amended; seconded by Director Soloyanis. Motion passed unanimously.

Commented [HLH1]: My notes do not show this – was it a budget amendment? If yes, we need to prepare a resolution amending the budget and there needs to be a public hearing for the amendment and publication.

5. Consideration of items removed from Consent Agenda: None.

6. Management Matters

- a. Review of payment status and collections
 - i. Current billings: Mr. Walker discussed the current billings and payment status and noted less than 5% are late payments.
 - ii. Collections: Ms. Hartung reported they have collected over \$2,400 in the last few weeks, so they are making progress.
- b. Discuss status of post-conversion requirements: Mr. Walker discussed the May report from the City of Colorado Springs and noted they are still working through final valuations. Director Soloyanis reported they finished the new fire hydrants project.
- c. Plan and progress on Disposition of assets: Mr. Walker reported the truck was sold for \$5,050, and the smaller scrap metal was sold for \$1,450 and the costs associated with removal was \$1,600. He is waiting on a price to remove the larger pieces of scrap metal including the pipes and hydrants. Director Soloyanis noted the hydrant has value and is a collectible, but the attached pipe would need to be removed and is difficult. Mr. Walker is working on getting a special container for the water meters and they will be put on the market for auction. Mr. Walker discussed the sale of the Triangle Building and noted the District needs a title commitment and title research to prove ownership which would cost \$500 and could be 30 days delay.

7. Financial Matters

- a. 2022 budget planning – projected increase in fee: Mr. Walker discussed the 2022 budget planning and noted the projected increase in fee of 4% that would take the fee to \$94. He is still working on analyzing the District's expenses and will keep the Board updated. Director Borden requested this item remain on the Agenda as a recurring item for discussion.
- b. Review draft audit: Mr. Mandarich presented the draft audit to the Board and noted they anticipate issuing a clean audit opinion. He discussed that the District conveyed a majority of their assets to Colorado Springs Utilities during the year which had a significant impact on the financial statements. He noted the negative net position is a common occurrence for metro districts due to the building of infrastructure and conveying of assets but still holding the debt. He confirmed it should not affect the District's ability to refinance debt because it is

based on pledged revenues. Mr. Mandarich noted the District still has some assets, but they determined the value of the assets were not materially significant. Director Soloyanis moved to accept the draft audit subject to legal review; seconded by Director Borden. Motion passed unanimously.

8. Legal Matters Consider for Adoption Resolution 2021-06-01, First Amendment to the Resolution Concerning the Imposition of Various Fees, Rates, Penalties and Charges – Adoption of New Fee Schedule: Ms. Hartung presented the Resolution 2021-06-01. She noted information was added to address and clarify the fee was imposed on each residential unit, commercial unit, and each developable lot. Ms. Hartung confirmed proper notice of intent was posted by Mr. Walker. Director Borden moved to adopt Resolution 2021-06-01, First Amendment to the Resolution Concerning the Imposition of Various Fees, Rates, Penalties and Charges – Adoption of New Fee Schedule; seconded by Director Eason. Motion passed unanimously.

9. Public Comment: There was no public comment.

10. Other Business: Next Meeting Scheduled for July 27, 2021 at 5:30 p.m. Director Soloyanis moved to cancel the July 27, 2021 meeting and move future meetings to every 2 months; seconded by Director Borden. Motion passed unanimously.

11. Adjournment: The Board adjourned the meeting at 6:05 p.m.

Respectfully submitted,

By: _____

Secretary for the Meeting

THESE MINUTES ARE APPROVED AS THE OFFICIAL JUNE 22, 2021 MINUTES OF THE CASCADE METROPOLITAN DISTRICT NO. 1 BY THE BOARD OF DIRECTORS SIGNING BELOW:

Troy Eason

James Borden

Susan Soloyanis

Deleted: Mike Whittemore

¶

Mike Herr

Cascade Metropolitan District

PAYMENT REQUEST

8/16/2021

GENERAL FUND ACCOUNT

Company	Invoice	Date	Amount	Comments
Biggs Kofford	104105	8/26/2021	8,400.00	
Donnis Shipley	568934	7/29/2021	55	
Mailing Services Inc	15428	7/12/2021	167.81	
Mailing Services Inc	15485	7/27/2021	259.11	
Walker Schooler District Managers	6847	7/31/2021	2,936.32	
Waste Connections Of Co Inc	3995006	8/1/2021	100	
White Bear Ankele Tanaka & Waldron	17147	7/31/2021	702.55	
White Bear Ankele Tanaka & Waldron	17444	7/31/2021	1,091.00	
TOTAL			\$ 13,711.79	

BOND FUND ACCOUNT

Description	Date	Amount	Comments
UMB Bank - Series 2015A & 2015B Intere	9/1/2021	\$ 33,537.83	August
TOTAL		\$ 33,537.83	

TOTAL FOR ALL FUNDS

\$ 47,249.62

_____, President

Cascade Metropolitan District No. 1

Balance Sheet

As of July 31, 2021

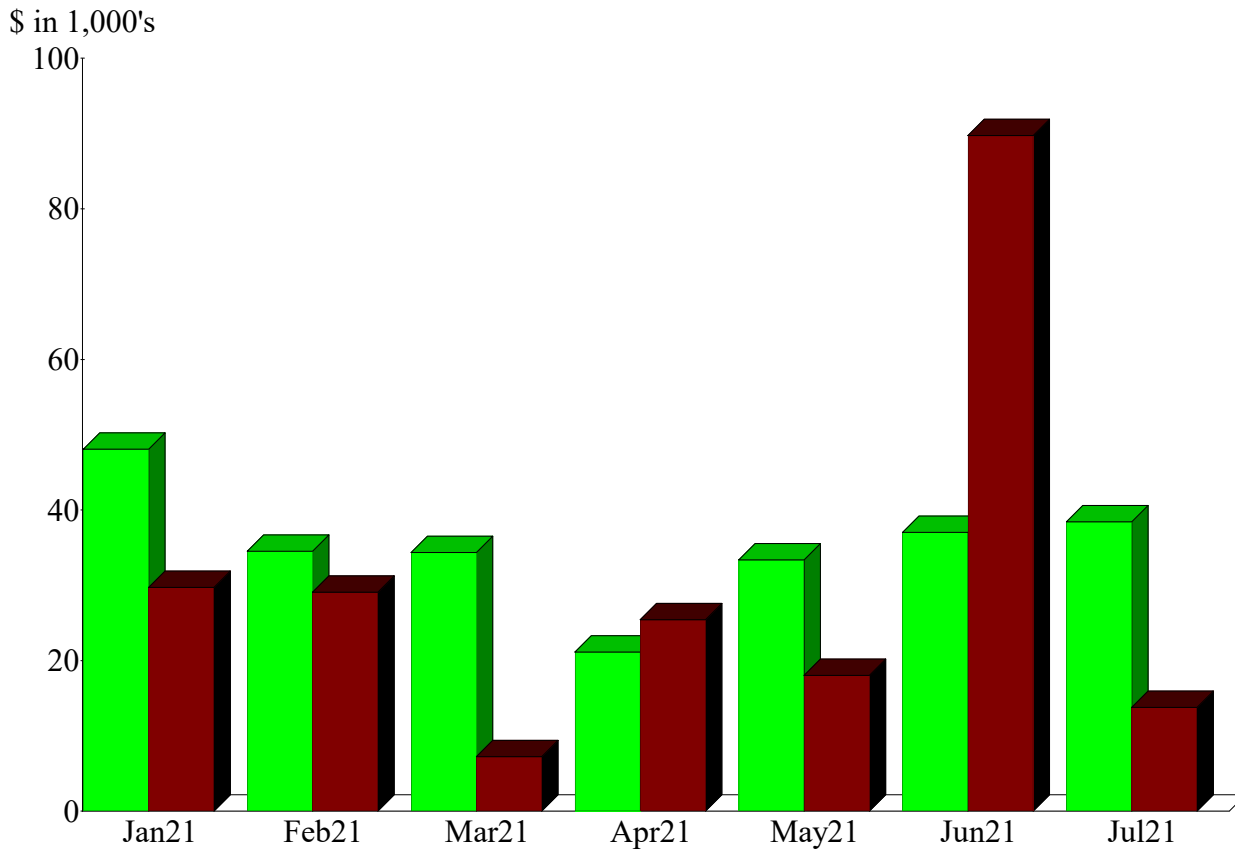
	Jul 31, 21
ASSETS	
Current Assets	
Checking/Savings	
1995 Checking	52,755.54
2002 Savings	162,756.50
2-1050 · UMB Interest 143222.1	79,616.50
2-1055 · UMB Reserve 143222.3	367,723.78
2-1060 · UMB Principal 143222.2	21,670.79
Total Checking/Savings	684,523.11
Accounts Receivable	
1-1200 · Accounts Receivable	43,978.82
1-1210 · Allowance for Doubtful Accounts	-5,000.00
Total Accounts Receivable	38,978.82
Total Current Assets	723,501.93
TOTAL ASSETS	723,501.93
LIABILITIES & EQUITY	
Liabilities	
Current Liabilities	
Accounts Payable	
20000 · Accounts Payable	55,203.99
Total Accounts Payable	55,203.99
Other Current Liabilities	
1-320 · Prepaid Charges	5,706.16
Total Other Current Liabilities	5,706.16
Total Current Liabilities	60,910.15
Long Term Liabilities	
Bonds Payable 2015A	3,360,000.00
Bonds Payable 2015B	1,445,000.00
Total Long Term Liabilities	4,805,000.00
Total Liabilities	4,865,910.15
Equity	
3-3200 · Invested in Capital Assets	-4,192,805.87
30000 · Opening Balance Equity	-180,464.08
32000 · Retained Earnings	196,910.40
Net Income	33,951.33
Total Equity	-4,142,408.22
TOTAL LIABILITIES & EQUITY	723,501.93

Cascade Metropolitan District No. 1
Profit & Loss Budget vs. Actual
January through July 2021

	TOTAL				
	Jul 21	Jan - Jul 21	Budget	\$ Over Budget	% of Budget
Ordinary Income/Expense					
Income					
1-505 · Water Sales	-67.60	3,179.58			
1-506 · Operations Administrative Fee	5,003.68	37,930.15	41,382.00	-3,451.85	91.66%
1-507 · Bulk Water Sales	0.00	-9,921.31			
1-509 · Revenue-Collection Charges	0.00	0.00	5,000.00	-5,000.00	0.0%
1-510 · Late Fees	748.68	3,871.62	250.00	3,621.62	1,548.65%
1-516 · Backflow Noncompliance Fee	0.00	54.45			
1-560 · Interest Income	1.30	20.29			
1-575 · Miscellaneous Income	0.00	275.20			
2-510 · Debt Service Fee	33,537.83	175,405.31	346,715.52	-171,310.21	50.59%
2-515 · AOS Fee	0.00	1,161.30			
2-530 · Malcom Restitution	0.00	797.44			
2-560 · Interest Income-Debt	11.65	162.51	4,000.00	-3,837.49	4.06%
Total Income	39,235.54	212,936.54	397,347.52	-184,410.98	53.59%
Expense					
1-614 · Billing and Customer Service	2,000.00	14,000.00	24,000.00	-10,000.00	58.33%
1-615 · Audit	8,400.00	8,400.00	8,500.00	-100.00	98.82%
1-618 · Bank Fees	158.81	1,054.97	100.00	954.97	1,054.97%
1-670 · Insurance/SDA Dues	0.00	3,428.02	1,000.00	2,428.02	342.8%
1-672 · Dues, Fees & Subscriptions	0.00	250.00	250.00	0.00	100.0%
1-675 · Legal	1,793.55	15,607.37	20,000.00	-4,392.63	78.04%
1-680 · Management	625.00	4,375.00	7,500.00	-3,125.00	58.33%
1-683 · Accounting/ Bookkeeping	166.67	1,166.69	2,000.00	-833.31	58.34%
1-684 · Expense-Collection Charges	0.00	0.00	5,000.00	-5,000.00	0.0%
1-685 · Miscellaneous	0.00	2,172.82			
1-693 · Payroll Taxes	0.00	55.84			
1-715 · Operation Labor	0.00	730.00			
1-720 · Repairs and Maintenance	0.00	106.32			
1-725 · Telephone/Utilities	0.00	57.37			
1-729 · CSU Settlement	0.00	0.00	35,000.00	-35,000.00	0.0%
1-735 · Water Purchase	0.00	42,044.40			
1-760 · Office Supplies/Postage	571.57	2,597.22			
2-617 · Bank Fees - Debt Service	0.00	43.81			
2-900 · Interest Expense CMD A 2015	0.00	80,437.50	193,050.00	-112,612.50	41.67%
2-905 · Interest Expense CMD B 2015	0.00	33,114.58	79,475.00	-46,360.42	41.67%
3-617 · Bank Fees - Capital	0.00	3,000.00	4,500.00	-1,500.00	66.67%
3-680 · Utilities	0.00	400.00			
3-770 · Inspections	55.00	55.00			
Total Expense	13,770.60	213,096.91	380,375.00	-167,278.09	56.02%
Net Ordinary Income	25,464.94	-160.37	16,972.52	-17,132.89	-0.95%
Other Income/Expense					
Other Income					
Other Income					
Gain on Sale of Assets	5,050.00	6,482.52			
2-511 · Reserve - Debt Service Fee	-5,831.29	27,629.18			
Total Other Income	-781.29	34,111.70			
Total Other Income	-781.29	34,111.70			
Other Expense					
Suspense Account - Bond Payment	0.01	0.00			
3-771 · Other Expense	0.00	0.00	10,000.00	-10,000.00	0.0%
Total Other Expense	0.01	0.00	10,000.00	-10,000.00	0.0%
Net Other Income	-781.30	34,111.70	-10,000.00	44,111.70	-341.12%
Net Income	24,683.64	33,951.33	6,972.52	26,978.81	486.93%

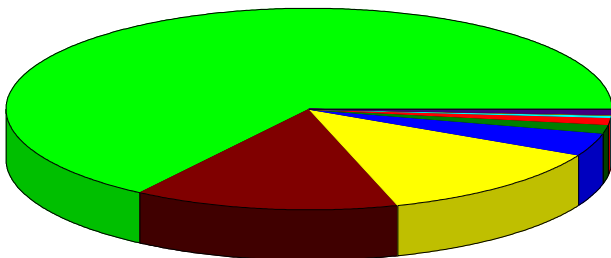
Income and Expense by Month January through July 2021

Income
Expense



Income Summary January through July 2021

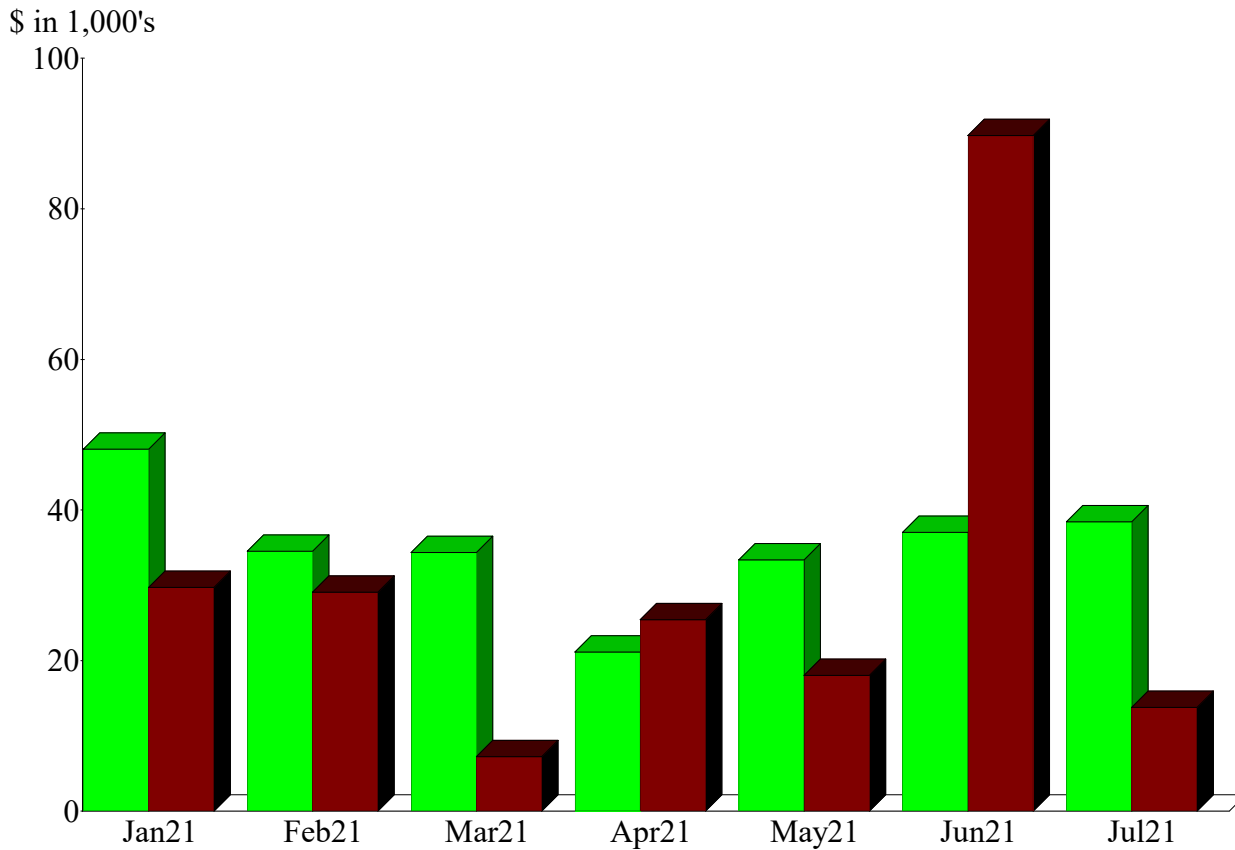
2-510 · Debt Service Fee	68.26%
1-506 · Operations Administrative Fee	14.76
Other Income	13.27
1-507 · Bulk Water Sales	\$-9,921.31
1-510 · Late Fees	1.51
1-505 · Water Sales	1.24
2-515 · AOS Fee	0.45
2-530 · Malcom Restitution	0.31
1-575 · Miscellaneous Income	0.11
2-560 · Interest Income-Debt	0.06
Other	0.03
Sub-Total	\$247,048.24



By Account

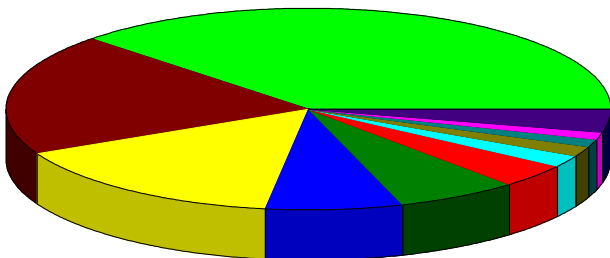
Income and Expense by Month January through July 2021

Income
Expense



Expense Summary January through July 2021

2-900 · Interest Expense CMD A 2015	37.75%
1-735 · Water Purchase	19.73
2-905 · Interest Expense CMD B 2015	15.54
1-675 · Legal	7.32
1-614 · Billing and Customer Service	6.57
1-615 · Audit	3.94
1-680 · Management	2.05
1-670 · Insurance/SDA Dues	1.61
3-617 · Bank Fees - Capital	1.41
1-760 · Office Supplies/Postage	1.22
Other	2.86
Total	\$213,096.91



By Account

RESOLUTION 2021-08-01

**RESOLUTION
OF THE BOARD OF DIRECTORS OF THE
CASCADE METROPOLITAN DISTRICT NO.1**

**DESIGNATING THE LOCATION OF REGULAR MEETINGS OF THE BOARD OF
DIRECTORS**

WHEREAS, the Cascade Metropolitan District No. 1 (the “**District**”) is a quasi-municipal corporation and political subdivision of the State of Colorado; and

WHEREAS, the Board of Directors of the District (“**Board**”) previously adopted Resolution No. 2020-04-01 Declaring Emergency Procedures and Authorizing Teleconferencing for Regular and Special Meetings (the “**Emergency Resolution**”); and

WHEREAS, pursuant to the Emergency Resolution, any actions, including, but not limited to the adoption of the Emergency Resolution, taken at a regular or special meeting held by teleconference platform shall be ratified at the first regular or special in-person Board meeting that takes place after adoption of the Emergency Resolution; and

WHEREAS, pursuant to § 32-1-903(1), C.R.S., the Board shall meet regularly at a time and in a location to be designated by the Board; and

WHEREAS, the Colorado Legislature enacted House Bill 21-1278 amending § 32-1-903, C.R.S., to clarify what qualifies as a meeting location for purposes of special district board meetings; and

WHEREAS, pursuant to § 32-1-903(5)(a), C.R.S., “location” means the physical, telephonic, electronic, or other virtual place, or combination of such means where a meeting can be attended; and

WHEREAS, § 32-1-903(4), C.R.S., provides that the method of conducting any meeting held prior to the effective date of this section, as amended, by telephonic, electronic, or other virtual means is validated, ratified, confirmed, and may not be challenged; and

WHEREAS, the Board desires to repeal the Emergency Resolution; and

WHEREAS, the Board desires to designate the location for regular meetings of the Board.

NOW, THEREFORE, the Board hereby RESOLVES as follows:

1. **Ratification of Prior Actions.** The Board hereby finds and determines that, pursuant to § 32-1-903(4), C.R.S., actions taken by the Board before July 7, 2021, are automatically validated, ratified and confirmed and cannot be challenged. All actions taken by the Board in meetings on or after July 7, 2021, and prior to the date of this resolution, are hereby ratified by the Board.

2. **Designation of Regular Meeting Location.** As of the date hereof, all regular meetings of the Board will be held at the following locations:

By telephonic, electronic, or other virtual means, and notice of all meetings of the Board shall include the method or procedure, including the conference number or link, by which members of the public can attend the meeting.

AND/OR

Physical Meeting Location: 8015 Severy Road
Cascade, Colorado

3. **Notice of Meetings Location.** All notices of meetings shall designate whether such meeting will be held by electronic means, at a physical location, or both, and notices of electronic meetings shall include the method or procedure, including the conference number or link, by which members of the public can attend the meeting.

4. **Effect of Resolution.** The above location shall remain in effect until contrary action is taken by the Board, which action must comply with §32-1-903(1), C.R.S., or §§ 32-1-903(1)(a) - 32-1-903(1)(b), C.R.S.

[Remainder of page intentionally left blank.]

ADOPTED this 24th day of August, 2021.

CASCADE METROPOLITAN DISTRICT NO. 1

Officer of the District

ATTEST:

APPROVED AS TO FORM:

WHITE BEAR ANKELE TANAKA & WALDRON
Attorneys at Law

General Counsel to the District

WILLIAM P. ANKELE, JR.
JENNIFER GRUBER TANAKA
CLINT C. WALDRON
KRISTIN BOWERS TOMPKINS
ROBERT G. ROGERS
BLAIR M. DICKHONER
GEORGE M. ROWLEY

OF COUNSEL:
KRISTEN D. BEAR
K. SEAN ALLEN
TRISHA K. HARRIS



ZACHARY P. WHITE
HEATHER L. HARTUNG
MEGAN J. MURPHY
EVE M.G. VELASCO
LAURA S. HEINRICH
AUDREY G. JOHNSON
CAREY S. SMITH V
ERIN K. STUTZ

MEMORANDUM

FROM: WHITE BEAR ANKELE TANAKA & WALDRON

DATE: June 14, 2021

RE: Overview of 2021 Legislation and Recent Case Law Affecting Special Districts, Municipalities, and Community Associations

This year's Legislative Session officially wrapped up on June 8, 2021. As in past years we are providing a summary of the pertinent legislation impacting special districts, municipalities, and community associations. This year, we have also included a section on case law updates. If you would like more detailed information on any of the information contained herein, please let us know.

Those bills which have already been signed into law by the Governor are indicated below. Those bills which have not yet been signed by the Governor but which are included below have passed both chambers and will go to the Governor for his signature who has 30 days to sign the bill into law. The Governor can sign the bill (making it law); not sign the bill and allow it to become law without his approval; or veto the bill. The last day for the Governor to act on bills from the 2021 session is July 8, 2021. Any bills not signed or vetoed by that date will become law at 12:01 a.m. on July 9, 2021.

SPECIAL DISTRICTS AND/OR MUNICIPALITIES LEGISLATION

SB21-020 – Energy Equipment and Facility Property Tax Valuation (Signed by the Governor).

This bill is to ensure that clean energy resources and energy storage systems used to store electricity are assessed for valuation for property tax purposes in a manner similar to renewable energy facility property used to generate or deliver electricity.

The law takes effect September 6, 2021, if no referendum petition against it is filed.

SB21-064 – Retaliation Against an Elected Official (Signed by the Governor)

Under current law, there is a crime of retaliation against a judge if an individual makes a threat or commits an act of harassment or harm or injury as retaliation against a judge. This bill adds elected officials (which would include special district board members) and their families as persons against whom retaliation is a crime. Retaliation against an elected official is a class 1 misdemeanor unless committed by means of a credible threat, then it is a class 6 felony.

The law takes effect July 1, 2021, and applies to offenses committed on or after that date.

SB21-088 – Child Sexual Abuse Accountability Act

This bill creates a cause of action for minor victims of sexual assault against the actor who committed the sexual misconduct. A cause of action may also be brought against an organization that operates or manages a youth-related activity program. An organization will be liable if the sexual misconduct took place when the minor was participating in the youth-related activity program, and the organization knew or should have known that the actor who is an employee of the organization posed a risk and the organization failed to take action to address the risk. The cause of action created applies to public employees and public entities. It further applies retroactively and is available to a victim of sexual misconduct that occurred before, on, or after January 1, 2022.

If signed, the effective date is January 1, 2022.

SB21-252—Community Revitalization Grant Program

This bill establishes the community revitalization grant program to provide money awards to finance various projects across the state that are intended to create or revitalize mixed-use commercial centers to support creative projects in these commercial centers. The grant program is intended to support creative projects in these commercial centers for projects such as flexible live-work spaces for entrepreneurs, artists and people employed in creative industries; performance spaces; mixed-use retail and workforce housing partnerships; meeting spaces for community events; the renovation or refurbishment of vacant or blighted property for creative industries, economic development or historic preservation purposes; and child care centers. The Division of Creative Industries will administer the grant program in consultation with the Division of Local Government (DLG) in the Department of Local Affairs.

The bill also creates the community revitalization fund in the state treasury. On the effective date of the bill, the state treasurer is required to transfer \$65 million from the general fund to the community revitalization fund. All money transferred is to be used for either grant awards or the costs of administering the grant program.

The effective date will either be the date of the Governor's signature or July 9, 2021.

SB21-262—Special District Transparency

This bill addresses transparency for special districts by making the following amendments to various statutory provisions:

- Call for Nominations: Except for metropolitan districts organized after January 1, 2000, the bill requires local governments to provide notice of a call for nominations by publication and by one of the four (4) additional methods: mailing the notice to the address of the registered electors; including the notice as part of a newsletter, annual report, billing, or other informational mailing sent by the local government; posting on the official website of the local government; or for a local government with a population that meets a specific criteria, posting in at least three (3) public places and at the office of the county's clerk and recorder.
- In the case of any metropolitan district that was organized after January 1, 2000, the bill requires the notice of the call for nominations to be made by emailing the notice to each active registered elector of the metropolitan district as specified in the registration list provided by the county clerk and recorder as of the date that is 150 days prior to the date of the regular local government election. Where the active registered elector does not have an e-mail address on file for such purpose with the county clerk and recorder as of that date, the public notice must be made by mailing the notice, at the lowest cost option, to each address at which one or more active registered electors of the metropolitan district resides as specified in the registration list provided by the county clerk and recorder as of that date.
- In addition to the means of providing public notice of the call for nominations that is required under the bill, the bill also requires the designated election official to additionally provide public notice by any one of 4 alternate means as specified in the bill.
- Mandated Website: Requires, within 1 year of organization, a new metropolitan district to establish, maintain, and annually update an official website in a form that is readily accessible to the public that contains information including the names, terms and contact information for current directors; the current budget; the prior years' audited financial statements; the annual report; information regarding meetings; certified election results, posted no more than thirty (30) days after an election; current boundaries; and call for nominations. For any metropolitan district organized after January 1, 2000, but before January 1, 2022, the deadline to establish the website is January 1, 2023. Inactive special districts are exempt from the new requirements concerning maintenance of a district's website and a district's annual report, but shall comply with this section within ninety (90) days of the adoption of a resolution returning to active status
- Mandated Annual Report: Requires special districts to final a report by October 1 of each year containing the following information for the report year: boundary changes; intergovernmental agreements; information regarding rules and regulations; summary of litigation involving public improvements; status of construction of public improvements; the final assessed valuation as of December 31 of the reporting year; list of facilities conveyed to the County or Municipality; copy of audited financial statements; notice of uncured defaults; and information regarding any inability of the special district to pay its obligations.
- Limitation on Power of Dominant Eminent Domain: No metropolitan district may exercise its power of dominant eminent domain outside of the boundaries of the approving local

jurisdiction's boundaries without a written resolution from the jurisdiction where the property is located.

- **Property Disclosure:** Owners selling newly constructed residences within a metropolitan district must, concurrently with or prior to the execution of a contract, provide a written disclosure to the potential purchaser relating to information on the metropolitan district, including the service plan and associated mill levies authorized by the plan as well as the estimated future property taxes.

The law takes effect September 6, 2021, if no referendum petition against it is filed.

SB21-281—State Severance Tax Trust Fund Allocation

This bill requires metropolitan districts created after July 1, 2021, to annually pay the state an amount equal to the total of all severance tax ad valorem credits claimed for property taxes that are imposed by the metropolitan district. The bill further requires the office of state planning and budgeting and the departments of revenue, natural resources, education, and local affairs to review the state severance tax and to establish a stakeholder group to assist in preparation of recommendations for any changes to the severance tax. **SB21-293—Property Tax Classification and Assessment Rates**

This bill concerns property taxation and establishes subclasses of residential and nonresidential property.

Section 1 of the bill repeals a moratorium on changing a ratio for valuation for assessment (assessment rate), which is the percentage applied to a property's actual value to determine the taxable amount upon which a mill levy is imposed.

Section 2 of the bill addresses agricultural property, lodging property, and renewable energy production property. The bill creates new subclasses of nonresidential property for these categories. The assessment rate for agricultural property and renewable energy production property is temporarily reduced from 29% to 26.4% for the next two (2) property tax years. As to lodging property, the law provides that if Initiative 27, the initiated measure to reduce the assessment rate for nonresidential property is approved by voters, then it would only apply to lodging property.

Section 3 of the bill classifies multi-family residential real property as a new subclass of residential real property. Again, it would restructure the law such that if Initiative 27, the initiated measure to reduce the residential assessment rate is approved by voters, then it would only apply to multi-family real property. If the initiative initiated measure fails or is not on the ballot, then, under Section 4, the assessment rate for multi-family residential real property is temporarily reduced from 7.15% to 6.8% for the next two (2) property tax years.

The assessment rate for all residential real property other than multi-family residential real property is temporarily reduced from 7.15% to 6.95% for the next two (2) property tax years.

Sections 5 through 8 expand the property tax deferral program to allow any person to defer the payment of the portion of real property taxes that exceed the tax-growth cap, which is an amount

equal to the average of the person's real property taxes paid for the preceding two (2) property tax years for the same homestead, increased by 4.6%. The minimum amount a taxpayer may defer at one time under this authorization is \$100, and the total taxes that a taxpayer may defer is \$10,000. The taxpayer is treated like a person called into military service for purposes of the equity the person must have in the homestead to qualify for deferral and surviving-spouse eligibility.

Under Section 9, the governor's office, in consultation with the treasurer, is required to commission a study on the property tax deferral program and make recommendations for possible changes to the general assembly by January 1, 2022. Section 10 requires assessors to include information about the assessment rates that apply to the various classes of property, which is prepared by the property tax administrator, along with the notices of valuation that are sent in 2022. Sections 11 through 13 make conforming amendments related to the new classifications or assessment rates.

The proposed bill addresses the potential effects of Initiative 27 (discussed below). If Initiative 27 is approved, then pursuant to this bill, it would only lower the property tax rate for lodging and multi-family buildings, instead of lowering taxes for all residential properties.

HB21-1025 – Nonsubstantive Emails and Open Meetings Law (Signed by the Governor)

This bill clarifies that e-mail communication between elected officials (such as e-mails between board members of a special district) that do not relate to the merits of pending legislation or other public business is not a meeting for open meeting law purposes. Likewise, e-mails regarding scheduling and availability, and e-mails from an elected official forwarding information, responding to an inquiry from someone who is not a member of the public body (i.e., not a member of the board of directors), or posing a question for later discussion, are not meetings relative to the open meetings law. The bill defines the term "merits or substance" to mean any discussion, debate, or exchange of ideas, either generally or specifically, related to the essence of any public policy proposition, specific proposal, or any other matter being considered by the governing entity.

The law takes effect September 6, 2021, if no referendum petition against it is filed. The law applies to all electronic mail communication sent on or after the effective date.

HB21-1051 – Public Information Applicants for Public Employment (Signed by the Governor)

A state or local public body searching for a chief executive officer must name one or more candidates as finalists, and must make the list of such finalists public at least fourteen days prior to making an offer of employment. The application materials of any employment candidate (not just those applying for an executive position) who is not a finalist are not open to inspection under CORA. The bill repeals a provision requiring that, if three (3) or fewer candidates for an executive position meet the minimum requirements for the position, all of those candidates must be treated as finalists and their application materials are public records. The bill requires the disclosure of demographic data concerning the race and gender of a candidate who was interviewed but not named as a finalist for a chief executive officer position, if that information was legally requested and voluntarily provided.

The law takes effect September 6, 2021, if no referendum petition against it is filed.

This law was in response to the holding in *Prairie Mountain Publishing Co. LLP d/b/a Daily Camera v. Regents of the University of Colorado*, a case published on March 4, 2021, discussed in the Case Law Updates section below.

HB21-1061 – Residential Land Property Tax Classification (Signed by the Governor).

This bill modifies the definition of “residential land” for purposes of tax classification as the same relates to contiguous parcels of land under common ownership. As modified, a parcel of land will be deemed to be residential land if (1) it has the identical owner as a contiguous parcel of land and (2) has an improvement thereon that is essential to the use of a residential improvement located on the contiguous parcel.

The law takes effect September 6, 2021, if no referendum petition against it is filed.

HB21-1110 – Colorado Laws for Person with Disabilities

This bill provides that public entities, which are defined to include special districts, cannot exclude or deny benefits to persons with a disability in relation to services, programs, or activities of the public entity. Specifically, the bill requires websites of public entities to comply with accessibility guidelines established by the office of information technology for individuals with disabilities. The accessibility standards will use the most recent web content accessibility guidelines promulgated and published by the world wide web consortium web accessibility initiative or the international accessibility guidelines working group. The bill directs each public entity, on or before July 1, 2022, to submit its written accessibility plan to the office of information technology. Any public entity that is not in full compliance by July 1, 2024, is in violation of the state's laws concerning discrimination against individuals with a disability.

The effective date will either be the date of the Governor’s signature or July 9, 2021.

HB21-1168 – Historically Underutilized Businesses Local Government Procurement (Signed by the Governor).

This bill requires the Department of Local Affairs to establish a pilot program to help local governments identify perceptual and substantial barriers to entry for historically underutilized businesses in local government procurement no later than August 13, 2021. The bill defines a historically underutilized business as a business that is at least 51% owned and controlled, in both the management and day-to-day business decisions, by one or more individuals who are: members of a racial or ethnic minority group; non-Hispanic Caucasian women; persons with physical or mental disabilities; members of the lesbian, gay, bisexual, and transgender community; or Veterans. The Department of Local Affairs must include the summarized data from the pilot project with its committee of reference as a hearing held pursuant to the State Measurement for Accountable, Responsive, and Transparent (SMART) Government Act.

The effective date of the law is June 7, 2021.

HB21-1267—County Authority to Delegate Mill Levy Certification (Signed by the Governor)

This bill requires the board of county commissioners (“BOCC”) or other taxing authority to hold a formal hearing before the county assessor to certify levies against taxable property. The bill gives the BOCC the option to authorize the levies by written approval rather than by formal hearing and to delegate the certification process to staff or other authorized parties.

The law takes effect September 6, 2021, if no referendum petition against it is filed.

HB21-1278—Special District Meeting Requirements

This bill clarifies what qualifies as a meeting and a location for purposes of the special district board meetings. The bill also prohibits a challenge to special district board meetings which were held virtually before the effective date of the bill.

The bill provides that meetings may be held electronically by teleconferencing platform or other means and applies retroactively thus validating and ratifying virtual meetings conducted during the course of the pandemic.

The effective date will either be the date of the Governor’s signature or July 9, 2021.

COMMUNITY ASSOCIATIONS LEGISLATION

SB21-002 – Extending Limitations on Debt Collection Actions (Signed by the Governor)

Last year, the legislature passed a bill that placed limitations on the ability of creditors to take “extraordinary collection actions” (i.e., actions or proceedings in the nature of an attachment, garnishment, levy or execution) against debtors.

This law extended those limitations through June 1, 2021.

HB21-1229 – Home Owners’ Associations Governance Funding Record Keeping

This bill increases requirements for disclosure and transparency for homeowner associations. Among other things, this bill would require an HOA to maintain and keep available to unit owners, as part of its official records:

- A list of the HOA's current fees chargeable upon sale of a home in the community; and
- Other information currently required to be disclosed annually under existing law, including financial statements, reserve fund balances, insurance policies, and meeting minutes.

If access to the association records described above are not provided within 30 calendar days after a request was submitted by certified mail, the HOA is liable for a penalty of \$50 per day for not providing them.

The bill also addresses the requirement that HOAs allow installation of renewable energy generation devices (e.g., solar panels) subject to reasonable aesthetic guidelines by adding language that requires approval or denial of a completed application within 60 days and requiring

approval if imposition of the aesthetic guidelines would result in more than a 10% reduction in efficiency or a 10% increase in price.

The bill specifically includes non-vegetative turf grass (also known as artificial turf) among the types of drought-tolerant landscaping materials that the HOA may regulate but not prohibit in the backyard area of a unit.

If signed, the law will take effect September 6, 2021, provided no referendum petition against it is filed.

HB21-1310—Homeowners’ Association Regulation of Flags and Signs

This bill is intended to simplify the regulations and statutory criteria regarding the display of flags and political signs. The bill would require an HOA to permit the display of any noncommercial flag or sign at any time, subject only to reasonable, content-neutral limitations such as the number, size, or placement of the flags or signs.

If signed, the law will take effect September 6, 2021, provided no referendum petition against it is filed.

ELECTIONS LEGISLATION

SB21-160 – Modification to Local Government Election Code (Signed by the Governor).

This bill clarifies and cleans up several provisions in the current statutes related to special district elections, including:

- Specifying all instances in which a county assessor provides the list of property owners for an election
- Clarifying that, when computing time for any designated period of dates for a local government election, the first day of the period is excluded and the last day is included
- Specifying that a candidate’s self-nomination form must include the county where the special district is located
- Clarifying that the candidate’s and witness’ addresses and phone numbers and the candidate’s e-mail address on the self-nomination form need not be printed by the candidate and the witness
- Clarifying that ballots may be automatically sent to eligible electors who are qualified under purchase and sale contracts
- Setting forth a process for establishing director districts, which allows for members of a special district’s board of directors to be elected from each director district at large or by the electors within each director district.

The law takes effect September 6, 2021, if no referendum petition against it is filed.

SB21-188: Ballot Access for Voters with Disabilities (Signed by the Governor)

This bill allows a voter with a disability using an electronic voting device to either print a ballot or return the ballot by electronic transmission if printing the ballot is not feasible. Regardless of the method of return, the bill specifies that to be valid, a ballot must include a signed affidavit or a copy of an acceptable form of identification and must be received by the election official in the applicable jurisdiction before the close of polls on the day of the election. The bill also requires the secretary of state to establish an electronic transmission system through which a voter with a disability may request and return a ballot.

The law takes effect September 6, 2021, if no referendum petition against it is filed.

HB21-1011 – Multilingual Ballot Access for Voters

The bill requires the Secretary of State to establish a multilingual ballot hotline to provide access to translators or interpreters. Additionally, the Clerk and Recorder of a county must create a minority language sample ballot and provide in-person minority language ballots in minority languages spoken in the county meeting certain criteria.

The effective date will either be the date of the Governor's signature or July 9, 2021.

HB21-1071 – Ranked Choice Voting in Nonpartisan Elections

This bill allows a municipality to refer a municipal election using instant runoff voting (ranked choice voting) to be conducted as a coordinated election. The bill also addresses requirements that must be met for voting systems relative to the same.

If signed, the law would take effect July 1, 2022.

COVID-19 RELATED LEGISLATION

SB21-288—American Rescue Plan Act (Signed by the Governor)

The American Rescue Plan Act is federal legislation which includes \$360 billion in aid for states, territories, tribes, counties, and cities, all of which will have the authority to transfer relief funding to special districts. Funds can be used to, among other things, provide government services affected by a revenue reduction during the pandemic and to make necessary investments in water and sewer infrastructure.

SB21-291—Economic Recovery and Relief Cash Fund

This bill concerns the transfer of forty (40) million dollars to the Colorado economic development fund for the purpose of providing grants to businesses and for investing in economic development opportunities in response to the negative economic impacts of the COVID-19 pandemic.

The bill creates the economic recovery and relief cash fund (fund) which consists of money deposited in the fund from the "American Rescue Plan Act of 2021" cash fund. The bill allows the general assembly to appropriate or transfer money for specified uses. Of the \$40 million transferred

to the Colorado economic development fund, \$10 million will be used to incentivize small businesses to locate in rural Colorado as well as for the location neutral employment incentive program which provides cash incentives for remote employees hired by small businesses in designated rural areas of the state. The remaining appropriated money must be used to provide grants to small businesses or to undertake any other economic development activity in response to the negative economic impacts of the COVID-19 pandemic.

This act takes effect only if Senate Bill 21-288 becomes law, and, in which case, this act takes effect either 18 upon the effective date of this act or one day after the passage of Senate Bill 21-288, whichever is later.

HB21-1191 – Prohibit Discrimination COVID-19 Vaccine Status

This bill prohibits employers from taking adverse action against an employee or applicant for employment based on the person's COVID-19 immunization status. The bill also provides that the COVID-19 vaccine is not mandatory, and that government agencies and private businesses cannot discriminate against clients, patrons, or customers based on their COVID-19 vaccination status.

The effective date will either be the date of the Governor's signature or July 9, 2021.

OTHER LEGISLATION

SB21-054 – Transfers for Wildfire Mitigation and Response (Signed by the Governor)

This bill requires the State Treasurer to transfer certain amounts from the general fund to various cash funds to be used toward wildfire mitigation and response purposes.

The effective date is March 21, 2021.

SB21-113 – Firefighting Aircraft Wildfire Management and Response (Signed by the Governor)

This bill directs the State Treasurer to transfer funds to the Colorado firefighting air corps fund to the purchase and leasing of certain helicopters for wildfire mitigation purposes.

The effective date is March 21, 2021.

SB21-190—Protect Personal Data Privacy

This bill creates personal data privacy rights and applies to legal entities that conduct business or produce products or services that are intentionally targeted to Colorado residents and that either: control or process personal data of more than 100,000 consumers per year; or derive revenue from the sale of personal data. It does not apply to personal data governed by certain state and federal laws, activities or employment records. The bill gives consumers the right to opt out of the processing of their personal data; access, correct, or delete the data; or obtain a portable copy of

the data. The provisions of the bill may only be enforced by the attorney general or district attorneys.

If signed, the law would take effect July 1, 2023.

HB21-1008 – Forest Health Project Financing (Signed by the Governor)

This bill authorizes special districts, as well as other governmental entities, to participate in and finance forest health projects. It also allows legal governmental entities to create a separate legal entity via contract (special improvement district) to provide forest health projects, and to levy special assessments to provide such forest health project services.

The effective date is May 20, 2021.

HB21-1050 – Workers’ Compensation

This bill amends the Workers’ Compensation Act of Colorado by making changes that affect the timely payment of benefits, guardian ad litem and conservator services, benefit offsets related to the receipt of federal disability or retirement benefits, the reduction of benefits based on apportionment, the selection of independent medical examiners, limits on temporary disability and permanent partial disability payments, the withdrawal of admissions of liability, mileage expense reimbursement, the authority of prehearing administrative law judges, the reopening of permanent total disability awards, and petitions for review and appeals of orders.

If signed, the law will take effect September 6, 2021, provided no referendum petition against it is filed.

HB21-1108 – Gender Identity Expression Anti-Discrimination (Signed by the Governor)

This bill amends the definition of “sexual orientation” and adds definitions of the terms “gender expression” and “gender identity” to statutes prohibiting discrimination against members of a protected class, including statutes related to housing practices and places of public accommodation.

The law takes effect September 6, 2021, if no referendum petition against it is filed.

HB21-1117 – Local Government Authority Promote Affordable Housing Units (Signed by the Governor)

This bill clarifies that cities and counties have the ability, as part of the authority to plan and regulate the use of land, to regulate development and redevelopment to promote the construction of new affordable housing units. The bill also states that it should not be construed to authorize a local government to adopt or enforce any ordinance or regulation that would have the effect of controlling rent on any existing private residential housing unit in violation of the existing statutory prohibition on rent control.

If signed, the law will take effect September 6, 2021, provided no referendum petition against it is filed.

HB21-1224—Modification to Statutes Governing Foreclosure of Real Property (Signed by the Governor)

This bill requires that any overbid (i.e., excess amount above the value of the lien on the property) be paid to the person liable under the related evidence of debt constituting a mortgage loan or deed of trust.

The effective date is May 28, 2021.

HB21-1312—Insurance Premium Property Sales Severance Tax

This bill makes changes to several state and local government taxes. It would narrow the scope of the home office insurance premium tax rate reduction such that a company would have to have at least 2.5% of its total domestic workforce in the state in order for the company to be deemed to maintain a home office or regional home office. The bill would also narrow the tax exemption for annuities considerations to those that are purchased in connection with a qualified retirement plan, a Roth 401(k), or an individual retirement account. For the purpose of auditing a company's tax statement, the bill would authorize the commissioner of insurance to appoint an independent examiner to conduct an examination on behalf of the commissioner.

As to property tax, the bill would require the actual value of real property to reflect the value of the fee simple estate. And as to personal property, the actual value of personal property would be determined based on the property's value in use, which will be defined by the property tax administrator. For the next property tax cycle, the bill increases the exemption from property tax for business personal property from \$7,900 to \$50,000.

The bill would also codify the Department of Revenue's treatment of digital goods to mean "any item of tangible personal property that is delivered or stored by digital means, including but not limited to video, music, or electronic books." The bill further specifies that the state sales tax applies to amounts charged for mainframe computer access, photocopying, and packing and crating.

The bill eliminates the vendor fee (i.e., the compensation for the retailer's expenses incurred in collecting and remitting a sales tax) for any filing period that the retailer's total taxable sales were greater than \$1 million. In regard to the severance taxes on oil and gas, the bill limits the netback deductions to direct costs actually paid by the taxpayer.

Finally, on coal production, the bill would phase out the quarterly exemptions and tax credits.

If signed, the law will take effect July 1, 2021, except that section 11 will take effect on January 1, 2022.

HB21-HJR1002 – Water Projects Eligibility Lists (Signed by the Governor)

This resolution relates to the Drinking Water Revolving Fund (which provides financial assistance for certain drinking water supply projects) and the Water Pollution Control Revolving Fund (which provides financial assistance for certain water pollution control projects). Proposed projects must

be included on the applicable list in order to obtain funding. This resolution sets out proposed modifications and additions to the projects on each list.

The effective date is March 21, 2021.

PROPOSED BALLOT INITIATIVE

Initiative 2021-2022 #27-- Unofficially captioned "Property Tax Assessment Rate Reduction and Voter-Approved Revenue Change"

The text of Proposed Ballot Initiative 27 would reduce the residential property tax assessment rate from 7.15% to 6.5% and the non-residential property tax assessment rate from 29% to 26.4% with authorization to retain and spend 25 million per year for five (5) years credited to homestead exemptions.

CASE LAW UPDATES

Prairie Mountain Publishing Co. LLP, d/b/a Daily Camera v. Regents of the University of Colorado

This case involved a Colorado Open Records Act (CORA) request made by Prairie Mountain Publishing Company, LLP, d/b/s Daily Camera (the “Daily Camera”) to the University of Colorado (CU). CU was in the process of searching for and selecting someone to fill the position of CU’s president. CU received over one hundred applications for the position, and thereafter narrowed the potential candidates and conducted interviews. After the final round of interviews, which included six final candidates, CU publicly announced that there was only one finalist, who then went through a public vetting process and was ultimately appointed to the position by the CU Board of Regents.

CORA requires the disclosure of the “finalists” for executive positions of a state agency, institution or political subdivision or agency thereof, which finalists are a member of the final group of applicants or candidates made public pursuant to 24-6-204(3.5).

The Court held that a finalist is who the appointing entity says is the finalist, unless you have three or fewer applicants, then all.

HB21-1051 – Public Information Applicants for Public Employment addressed the issues analyzed in the *Prairie* case and revised the relevant statutory provisions so that under the new law a state or local public body searching for a chief executive officer must name one or more candidates as finalists, and must make the list of such finalists public at least fourteen days prior to making an offer of employment. Moreover, the law now provides that if three (3) or fewer candidates for an executive position meet the minimum requirements for the position, all of those candidates must be treated as finalists and their application materials are public records.