March 20, 2023
HOA Background and 2023 HOA Bills Update
Submitted by Julie Evans

Background on Metro Districts – Dec. 2019, The Denver Post reported that the 1800 metro districts in Colorado lack: 1. the usual oversight of voters, 2. ethics oversights related to conflicts of interests and 3. checks and balances to ensure communities don't spiral into insolvency.

The Post report continues, "By law property owners must vote on any new tax. The only voters when a Metro District is created are the developers, their spouses, and a few business associates. There are incidents where as few as two or three people created a metro district, then approved millions of dollars of tax obligations for communities of hundreds of homes that didn't yet exist but who would be on the hook to pay for decades."

The Denver Post also found a recurring practice of developers buying the very public financing bonds they first approved – which is a conflict of interest that they acknowledge by filing statements with the Colorado Secretary of State's office. The bonds that developers buy known as junior bonds are designed to remain unpaid for decades with interest compounding while ballooning their investment returns.

At least a dozen large metro districts in Colorado are dangerously underwater with hundreds of millions of dollars of debt leaving homeowners with hefty property tax bills. The debt obligations are so much higher than the assessed value of the homes leveraged to repay them, some as much as 200 percent higher – they are unlikely to ever catch up.

The amount of debt that developer-controlled metro districts have authorized statewide already sits at nearly 100 times Colorado's state government debt of $17 billion. By 2015 those districts had already issued $19 billion of that, with another $1.2 trillion in borrowing waiting to be sold. The number grows each time a new metro district is formed.

Information about future property taxes is often not provided to buyers in new developments, minimal warnings about the general risks of a special taxing district are buried deep in a stack of mortgage paperwork, complex tax advisories and transparency notices are filed with relatively unknown government offices rather than given to homeowners they are intended to inform.

SB23- 110 – Transparency for Metro Districts

CCA (Amend)

March 20- Update

Latest action – This bill already passed the Senate. On 3/07 Passed out of House committee no amendments, 3/10 House Second Reading Laid Over Daily- no amendments.

Background: CCA Members voted to urge the committee to strike Section 4 which would have codified the current practice of issuing debt and profiting from the debt. This section merely requires Metro Board members disclose their debt and receive a statement from a registered municipal advisor.

The Committee chose to keep Section 4. Sponsors expressed the belief that a statement of a registered municipal advisor certifying specified criteria regarding the interest rate of the debt was sufficient protection against abusive practices by directors.

- **Section 4** specifies that prior to issuing debt to a director of a metropolitan district or to an entity with respect to which a **director of a metropolitan district must make a disclosure pursuant to current law, the board is required to receive a statement of a registered municipal advisor certifying specified criteria regarding the interest rate of the debt.**

HB23-1065 – Local Government Independent Ethics Commission (established 2006)

CCA Supports

March 20- Update

Latest Action – STILL PENDING APPROPRIATIONS HEARING

- Recap -The Independent Ethic Commission covers municipalities and other local government entities this bill would bring Special Districts, including residential Metro Districts and elected School Board members under the jurisdiction of the Independent Ethics Commission. There would be a place to file complaints, currently the attorney general receives complaints, but their workload hinders investigations. Metro district board members and other covered individuals would be disallowed from improperly benefitting financially from their public employment.
- Referred to Appropriations by a 9-4 vote, hearing has not yet been scheduled.

HB 23-1090 Limits Metro District Director Conflicts - Rep Weismann

CCA Supports

March 20 UPDATE

LATEST ACTION- March 28 Hearing scheduled for Senate – Local Government and Housing Committee 2 pm. Already passed the House.

- Bill Recap - This bill intends to address conflict of interest issues related to developers, attorneys and others serving on Metro District Board who currently are allowed to profit from debt issued by the District. The amended version passed out of committee on a 7-5 vote.
- The bill limits Metro District Conflicts in 3 ways.
  1. It places a prohibition on entities and/or directors who serve on the Metro District Board from purchasing debt issued by a Metro District because of the conflict of interest.
  2. County Commissioners must disapprove a service plan in a residential district if the plan fails to prohibit debt issued by the District from being purchased by those serving on the Board.
  3. No Court in Colorado shall consider a petition for the organization of a Metro District unless the service plan prohibits debt issued by the District from being purchased by an entity or Board Member that has a conflict of interest.

HB23-1105 Homeowners' Association And Metropolitan District Homeowners' Rights Task Forces - Rep. Titone and Parenti Bill

Establishes Two Task Forces – One to examine issues affecting Homeowners living in HOAs and a second to explore issues affecting homeowners living in Metro Districts

CCA Supports

March 20 Update – Still Pending Appropriations Hearing

- Bill Recap - The HOA Task Force would have 3 homeowners, 2-3 Industry Reps. and 8 other Representatives, including a facilitator, an ex-Officio Member, DOLA, DORA, the Department of Law, a Senator and a Representative from the appropriate committees.
- ***Coloradans for Metro District Reform are EXTREMELY upset that the Task Force for Metro Districts will be heavily weighted towards the developers.
- **THE BILL PASSED UNANIMOUSLY 11-0, referred to Appropriations Committee**

NEW DEVELOPMENT

REP. RICKS soon will be introducing a "clean-up" bill for last year's HB22-1137 Homeowners' Association Board Accountability And Transparency which addressed notifications for fines and foreclosures within HOAs.

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