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Designed by Emmett Jordan



Ann Terry

Dear SDA Members,

As we look at 2020 in the rearview mirror, we are hopeful and inspired by the coming year that lies fresh in front of us. The tragedies and challenges of COVID-19 have touched us all.

As you prepare for the future, remember there will always be challenges. However, if 2020 has taught us anything, it has led us to be adaptive, flexible, creative, and reflective.

The global pandemic created chaos in every corner of the world. Grief and fear flooded our minds and lives. Throughout everything, you have provided structure, leadership, and resiliency to your district. Your ability to persevere and not give up is an example of your endurance and ability to lead. Your unwavering commitment demonstrates that hope still exists and is inspiring to all.

I am grateful for the opportunity to work alongside such resilient and creative members of SDA.

This past year has provided challenges unforeseen by us all. And we have all had to rise to the occasion. Thank you for your dedication and support as well as your ability to change course and remain vigilant.

Together with your enduring leadership, the collaboration between our local government partners in Colorado and nationwide are the building blocks to move forward with strength and the knowledge that we can get through anything together.

Sincerely,

Ann Terry

Ann Terry
Executive Director





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? Ask Evan



Evan Goulding, Consultant and former SDA Executive Director.

Q: As we begin a new year, what duties must a special district Board take care of entering 2021?

A: There are several important statutory duties that must be performed around the rollover of the annual calendar.

1. At the first Board meeting of each year, the Board must adopt a resolution designating the posting location for the district's 24-hour meeting notices. The location for posting the Board meeting notices should be a public place which is accessible by the public. Most districts are now posting Board meeting notices on their websites, which is probably more effective than a physical posting, but does not eliminate the need to adopt this notice.

Note: With the health emergency now in effect, many Board meetings are being held by electronic or telephonic means, which some experts believe don't fit neatly into the existing statutory notice and attendance requirements. Attorneys representing districts in holding such meetings are working to make sure that the meetings meet basic principles of transparency and accessibility. Legislation will likely be adopted in this year's Legislative Session to conform these rules to current conditions.

2. By January 1, the district must file a current, accurate map of district boundaries (according to Division of Local Government standards) with the County Assessor, the Clerk and Recorder of each county in which the district is located, and the Division of Local Government. This map should include any inclusions or exclusions of property that affect district boundaries.
3. Between November 16 and January 15, the district must file an updated Notice to Electors (Transparency Notice) (32-1-809, C.R.S.). This is a detailed listing of vital information about the district. SDA members have the option of filing their Transparency Notice on the SDA website at www.sdaco.org.
4. The budget process, which begins with the appointment of a budget officer prior to October 15, normally ends when the adopted budget, with a budget resolution and certified mill levy, are filed with the Division of Local Government. 🍌

Bonus "Ask Evan" on page 7





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? Ask Evan

BONUS QUESTION

Editor's Note: There were two good topics for January that we wanted to share with you so we are pleased to provide a Bonus Ask Evan this month!

Q • Can you please provide a refresher on the use of executive sessions?

A • Since the use of executive sessions is somewhat technical and frequently not understood, a brief reminder for the beginning of the new year is a good idea.

The Open Meetings Law is the Colorado statutory enactment of the principle that government business is the public's business and should be conducted in full and open view of the public. The authority for special district Boards, as well as other local government entities, to consider certain issues in closed session is a tightly limited and closely guarded exception to open meetings. Its use is a right granted by the state Legislature, which is always subject to further limitations if the right is abused by local governments.

The critical steps in using an executive session are as follows:

- » The posted agenda of a meeting should include notice that an executive session will be held during the meeting and should list the subject matter, including reference to the statutory section that covers the subject matter. The description should be as complete as possible without disclosing the actual facts of the subject.
- » The executive session can only be held as part of a regular or special meeting of the Board.
- » When the item comes up in the meeting, the executive session must be called by a motion, which must be approved by a two-thirds majority. **CAUTION:** In a five-member Board, three out of five does *not* constitute 2/3. Three out of five is only 60%, while 2/3 requires at least 66%.
- » The motion must include an exact reference to the statutory section that covers the discussion. Most districts have ready access to the six statutory sections, and good practice is to read the exact words of the relevant section. **NOTE:** *The statutory sections can be supplied by the district's legal counsel as well as by reference in the SDA Board Member Manual.*

- » As the Board goes into executive session, only the Board and individuals who have specific relevance to the discussion should be in the meeting.
- » The discussion must be limited to the announced subject, and no action can be taken in the meeting. Beware of straw votes or other indicia of how the Board will act when the formal action comes up after returning to the public meeting.
- » The executive session must be electronically recorded, and the recording must be kept for 90 days during which time members of the public may make an open records request.
EXCEPTION: If the district's counsel determines that the discussion is covered by attorney-client privilege, the attorney will so state, and the recording can be turned off during that part of the discussion.
- » If an open records request is denied, the requestor can ask that the record be heard by a district court. The judge will review the record in private and determine whether the Board discussed items other than what was in the announcement of the session and whether anything indicates that an action was taken, either formally or by wink-wink inference. If so, the judge can require that the record be made public.
- » The discussion within the executive session is confidential and revealing the discussion is a serious breach of a fiduciary duty, unless the reason for confidentiality has passed.

There are other provisions governing the conducting of an executive session, which legal counsel will make clear to a Board seeking an executive session. Failure to follow the rules can have consequences and should not be taken lightly. 🍋

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SIPA: A State Authority that Saves Special Districts Money and Time

By Susan M. Thornton, MS



Ajay Bagal, Executive Director, SIPA

A little-known authority of the State of Colorado is helping special districts, cities, counties, and state agencies save time and money; improve interactions with their communities or customers; and operate more safely and securely.

The Colorado Statewide Internet Portal Authority (SIPA) helps local governments meet residents' demands for instant access to government services.

Although it was established by the State Legislature in 2004, SIPA receives no funding from taxpayer dollars. Instead, it is self-funded.

New Executive Director with Diverse Skills
SIPA's new Executive Director, Ajay Bagal, was appointed to lead SIPA in October of 2020.

Bagal says SIPA offers unique services to the local governments that are working so hard to meet residents' needs. Leaders of Colorado's special districts, he says, are a "very dedicated and giving-oriented group of folks," and he wants SIPA to be at the center of the help that special districts provide.

Bagal holds a bachelor's degree in Economics from Boston University, a master's degree in Management and Organization from the University of Colorado, and successfully completed a Negotiation Master Class at Harvard Law School.

This and extensive experience in the private sector make Bagal well-suited to lead an organization that is meeting local governments' increasing need for efficient, cost-saving online technologies to connect them with their constituents.

No-Cost Websites on the Official Colorado.gov Portal

One popular SIPA service involves partnering with local governments to enable them to develop and host secure websites at no cost.

Bagal says that SIPA is currently working with 154 special districts to ensure that their 508-compliant websites are accessible to all Colorado residents and are secure and mobile-and user-friendly.

In addition, he says, there are many more

local governments "in the queue" seeking SIPA's help with website services.

No-Cost Payment Processing Setup

SIPA also offers secure payment processing to local governments.

Bagal says that SIPA is currently working with more than 80 organizations across the state to provide this service.

For example, SIPA can enable special districts to accept online payments of fees, and in some cases those payments can be integrated with the district's accounting system.

Savings of Time and Money with Procurement

Another popular service offered by SIPA is the procurement of technology platforms and services.

By offering a procurement channel that is authorized by the Legislature, SIPA is able to help districts save time and energy with the process of purchasing technology platforms or services.

Bagal says that SIPA very carefully evaluates technology vendors so that local governments do not have to spend time studying vendors' track records. "Special district leaders know their area of service inside out," he says, "but not all of them have the technical knowledge or time to investigate vendors in depth."

Governments can take comfort in knowing that SIPA has the expertise to ensure that only top-rated vendors are included

Continued on page 11

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Watch for Micro-Grant Information for 2021!

The online micro-grant applications are due at the end of December each year so if you are interested, make sure to mark your calendar to apply in 2021! All the information can be found at <https://sipa.colorado.gov/micro-grant>

in its service offerings, he says, adding that SIPA has “done the research to select very high-quality vendors.”

In addition, there is no need for governments to haggle with vendors when they use SIPA’s services, Bagal adds. SIPA gets low prices from vendors because, in essence, it is purchasing “at scale” and can pass the savings along to special districts and other governmental organizations.

Prevention of Cyber Attacks

Cyber attacks are becoming more serious across the U.S., damaging even the very largest corporations. Larger governments like the State of Colorado have teams of experts to help prevent cyber attacks. But smaller special districts and local governments are more vulnerable to attacks, and recovering data that has been compromised can be extremely expensive.

SIPA currently has two vendors that provide cyber security assessments and remediation services to special districts and other governmental organizations. Bagal says these vendors can help alleviate ransomware attacks and develop procedures to prevent or react to such attacks. They can also do “penetration testing” to ensure that technology resources are secure and to remediate issues that are discovered during testing.

While special districts could hire other vendors to conduct comprehensive cyber security assessments, Bagal says, such vendors would typically be very expensive. The vendor partners that SIPA works with

understand the needs of government and can scale their offerings to make them affordable for special districts.

Popular Micro-Grants for Technology

In addition, each year SIPA offers popular micro-grants that help Colorado governments with technology development.

Since 2010, SIPA has issued 250 micro-grants totaling more than \$1.1 million.

In 2020 alone, micro-grant awards ranged from \$300 to \$6,500. SIPA received 97 applications for the grants and awarded grants to 35 applicants, including \$27,800 to seven special districts.

For example, the Littleton Thompson Water District received \$3,500 to update its website. Ragged Mountain Fire Protection District was awarded \$3,250 to ensure that its website could offer high-quality services to its taxpayers.

Genesee Fire Protection District received \$4,250 to create a new interactive website, and Fruita Sanitation District received \$3,500 to transition its data to a secure cloud platform.

The Impact of COVID-19

Despite the growing demand for its services, SIPA was impacted like all Colorado governmental agencies when the coronavirus pandemic caused shut downs across the state.

All counter-based services were stopped. And yet, as Bagal points out, some governmental services are required, even during a pandemic.

For example, vehicle registration can be done in person or online, and during the pandemic, many Colorado residents have opted to perform these types of transactions online.

Bagal predicts that the impacts of COVID-19 will continue for the near future, making SIPA’s online services even more important than before.

Future Goals

Bagal has several goals as he takes over leadership of SIPA.

One is to add new services that would be beneficial to special districts. Another is to provide services in the most effective way possible. And a third is to make SIPA better-known to special districts and other Colorado governments.

SIPA currently has agreements with 742 local governments. A total of 424 of the agreements are with special districts, including 86 water and sanitation districts; 37 fire rescue districts; 19 library districts; and 10 park and recreation districts. The most growth in requests for SIPA services, Bagal says, has been among metropolitan districts.

More than 424 special districts is a lot to serve, but Bagal believes that SIPA can serve even more.

Given all the advantages that SIPA offers, he believes that additional special districts and other local governments should become involved. As he says, “We just have to get the word out. I think SIPA is one of the best-hidden secrets of our government.” 🍌

Parliamentary Procedures

at a Glance

As the new year begins, we thought it would be helpful to include an easy to follow guide on parliamentary procedures. The first chart lists motions and/or points in established order of precedence while the motions in the second chart have no established order.

To Do This ¹	You Say This	May You Interrupt Speaker?	Must You Be Seconded?	Is the Motion Debatable?	Is the Motion Amendable?	What Vote is Required?
Adjourn the meeting (before all business is complete)	"I move that we adjourn."	May not interrupt speaker	Must be seconded	Not debatable	Not amendable	Majority vote required
Recess the meeting	"I move that we recess until..."	May not interrupt speaker	Must be seconded	Not debatable	Amendable	Majority vote required
Complain about noise, room temperature, etc.	"Point of privilege."	May interrupt speaker	No second needed	Not debatable ²	Not amendable	No vote required ³
Suspend further consideration of something	"I move we table it."	May not interrupt speaker	Must be seconded	Not debatable	Not amendable	Majority vote required
End debate	"I move the previous question."	May not interrupt speaker	Must be seconded	Debatable	Amendable	Two-thirds vote required
Postpone consideration of something	"I move we postpone this matter until..."	May not interrupt speaker	Must be seconded	Debatable	Amendable	Two-thirds vote required
Have something studied further	"I move we refer this matter to a committee."	May not interrupt speaker	Must be seconded	Debatable	Amendable	Majority vote required
Amend a motion	"I move that this motion be amended by..."	May not interrupt speaker	Must be seconded	Debatable	Amendable	Majority vote required
Introduce business (a primary motion)	"I move that..."	May not interrupt speaker	Must be seconded	Debatable	Amendable	Majority vote required



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To Do This ⁴	You Say This	May You Interrupt Speaker?	Must You Be Seconded?	Is the Motion Debatable?	Is the Motion Amendable?	What Vote is Required?
Object to procedure or to a personal affront	"Point of order."	May interrupt speaker	No second needed	Not debatable	Not amendable	No vote needed, Chair decides
Request information	"Point of information."	If urgent, may interrupt speaker	No second needed	Not debatable	Not amendable	No vote required
Ask for a vote by actual count to verify a voice count	"I call for a division of the house."	May not interrupt speaker ⁵	No second needed	Not debatable	Not amendable	No vote required unless someone objects ⁶
Object to considering some undiplomatic or improper matter	"I object to consideration of this question."	May interrupt speaker	No second needed	Not debatable	Not amendable	Two-thirds vote required
Take up a matter previously tabled	"I move we take from the table..."	May not interrupt speaker	Must be seconded	Not debatable	Not amendable	Majority required
Reconsider something already disposed of	"I move we now (or later) reconsider our action relative to..."	May interrupt speaker	Must be seconded	Debatable if original motion is debatable	Not amendable	Majority required
Consider something out of its scheduled order	"I move we suspend the rules and consider..."	May not interrupt speaker	Must be seconded	Not debatable	Not amendable	Two-thirds vote required
Vote on a ruling by the Chair	"I appeal the Chair's decision."	May interrupt speaker	Must be seconded	Debatable	Not amendable	Majority in the negative required to reverse Chair's decision

¹ These motions or points are listed in established order of precedence. When any one of them is pending, you may not introduce another that is listed below it, but you may introduce another that is listed above it.

² In this case, any resulting motion is debatable.

³ Chair decides.

⁴ These motions, points, and proposals have no established order of precedence. Any of them may be introduced at any time except when the meeting is considering one of the top three matters listed in the first chart (motion to adjourn, motion to recess, point of privilege.)

⁵ But division must be called for before another motion is started.

⁶ Then majority vote is required.



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SDA Policy Team Preview of the 2021 Colorado Legislative Session

The SDA Policy Team got together (remotely, of course) to share some thoughts about the upcoming Legislative Session that will convene on Wednesday, January 13, 2021. The SDA Policy Team is comprised of Evan Goulding, Mary Kay Hogan, Dianne Criswell, Anthoney Sandoval, and Michael Valdez. Of course, the ultimate vote on our team belongs to our fearless leader, SDA Executive Director Ann Terry.

In addition to the Policy Team's prognostications about the Session that starts in early January, this discussion outlines the legislation that SDA will prioritize for introduction and passage.

Question 1

Let's talk about the impact of the November elections: composition of the Legislature, leadership, Committee Chairpersons, etc.

Answer

In terms of numbers, the House Democrats will hold the same majority as in 2020, 41 to 24. That means committee membership will continue to be weighted heavily in favor of Democrats, who will have a two or three vote advantage over Republicans in each committee of reference.

Leadership in the House will change significantly, due in large part to term limits. Representative Alec Garnett (D-Denver) will serve as Speaker of the House, Representative Daneya Esgar (D-Pueblo) will serve as Majority Leader, and Representative Hugh McKean (R-Loveland) will serve as Minority Leader. In the Senate, the Democrats picked up one seat and now hold the majority by a ratio of 20 to 15. Leadership in the Senate remains largely the same as last Session.

The other notable change is on the six person Joint Budget Committee, where Representative Leslie Herod (D-Denver) will replace Representative Daneya Esgar, and Senator Chris Hansen (D-Denver) will replace Senator Rachel Zenzinger (D-Arvara).

Committee assignments are typically released in early December, but the Special Session called by Governor Polis has pushed that calendar back a few days. We do know that due to term limits and other shifts, there will be new Chairs of the following committees: House Business Affairs, House Finance, and House Public Health Care. In the Senate, we will see new Chairs of the Senate Business Affairs, Senate Education,

and Senate State Affairs. Additionally, the Speaker of the House and Senate President may choose to rearrange and rename committees.

Question 2

Discuss the difficulty of creating public policy in a COVID-19 environment: limited public participation in the process, remote testimony, text, and email communications, etc.

Answer

Mary Kay: We are unsure when the 2021 Session will begin in earnest. We do know that the Legislature must gavel, or convene, by January 13, 2021. However, as long as there is a state of emergency in place, they can gavel out until a later date, and preserve their right to meet for a total of 120 days in 2021. This will all depend on COVID-19 numbers, the Governor's emergency orders, and county public health directives.

Legislative leadership is also trying to improve both members' ability to participate in the process remotely and remote public testimony capabilities. However, in order to offer remote testimony to members of the public, there must be access to rooms that are equipped with the technology for this type of online participation. In the past, this has been done at community colleges and Colorado Mountain College facilities. If an outbreak renders these facilities unusable, it will be challenging to find a place where members of the public can go to testify outside the Capitol. Although Utah held part of its session on Zoom, it is highly unlikely that Colorado will completely pivot to a remote process in 2021.

In addition, we know there will be increased temperature and health checks

for members of the public entering the building, restrictions on the size of meetings regarding legislation, less space to congregate at the State Capitol, and increased COVID-19 testing for legislators and staff. However, precise details are a work in progress. We will know more as the new Session approaches.

Evan: I am in agreement with Mary Kay, and I am also hearing discussions of reducing the maximum number of bills any member of the Legislature can introduce from five to three. Other concerns include the opportunities and challenges in gaining access to "lobby" legislators one-on-one; i.e. nothing beats talking to a legislator in his or her office or catching him or her in the basement cafeteria. Traditional lobbying may be a thing of the past, and there will be a learning curve to develop protocols for the new normal: texting, social media, and TikTok.

Anthoney: In the time of COVID-19, the Legislature and staff will need to find ways to improve public participation, especially remote testimony. During the recent Special Session, the process allowed for public participation by way of remote testimony, submitted written testimony, and testifying in person. The remote testimony was conducted through WebEx and for the most part worked well. Loss of internet signal at the worst possible time led the list of challenges with "you are muted" coming in as a close second.

Question 3

What do you think will be the biggest issues facing the Colorado Legislature in 2021?

Answer

Mary Kay: In order of importance:

1. Economic recovery, especially in light of stimulus funds from Congress that are appropriated in the lame duck session of Congress or when they return in January.

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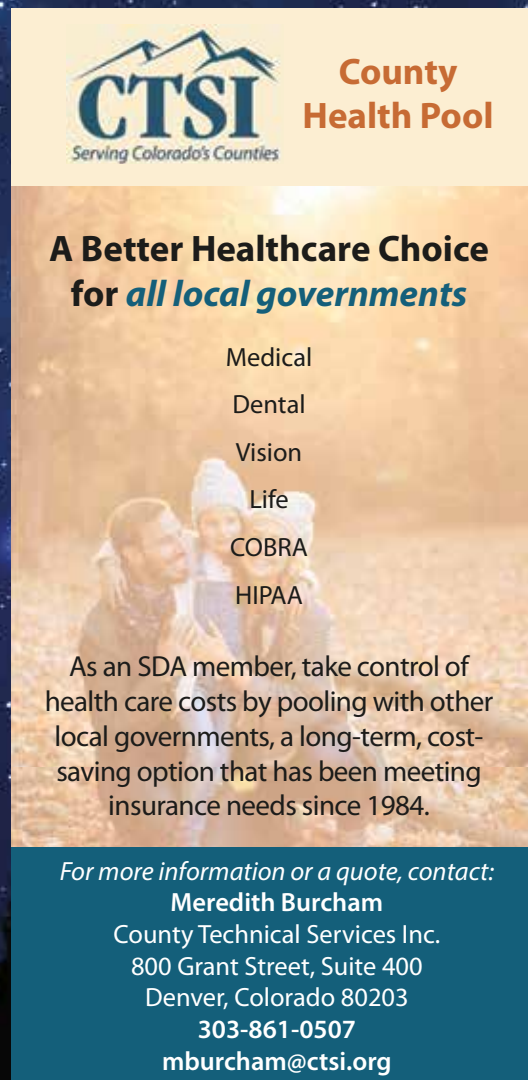
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2. The General Assembly will be discussing the implementation of ballot measures that passed in November of 2020, particularly the details of the Family and Medical Leave and the repeal of tax credits to backfill the losses to the General Fund from the reduction of the state income tax rate.
3. Backfilling losses from the FY 20/21 budget, particularly in the areas of education and human services, while balancing the need to budget prudently due to grim forecasts for tough years ahead.

Evan:

1. Similar to my colleague Mary Kay, the distribution of any new federal COVID-19 relief funds will be at or near the very top of the to-do list.
2. This might be the number one issue due to the size of the hole that is created in the tax reduction, but finding ways to make up the losses from the reduction of state income tax rate.
3. Also in agreement with Mary Kay, the implementation of statutory provisions for the Family and Medical Leave ballot issue. And finally,
4. The details and reach of the Voter Approval for Certain New State Enterprises activities ballot issue that was approved by voters in November 2020.

Anthony:

1. The top issue for me is the ability of the Legislature to pass legislation that stimulates Colorado's economy and strengthens revenues, which in turn will put the state budget back on solid footing.
2. Fracking continues to be a hot button topic and could become a discussion point during the Session.



Question 4

Talk about the impact of Gallagher and the potential for changes as well as the need to guard against changes to the RAR, etc.

Answer

Evan: There is nothing that needs to be done to implement the Gallagher repeal at this time. The process for going forward is in place, including the residential and nonresidential assessment rates. The Legislature will be unwilling to tamper with the moratorium set in Senate Bill 20-223.

Mary Kay: I think they leave the RAR alone in 2021.

Anthony: The question that arises is whether there will be any movement to reduce the commercial assessment rate to help businesses due to COVID-19.

Question 5

What do you think will happen with Family and Medical Leave in the 2021 Session?

Answer

Mary Kay: The Legislature will have to pass legislation to guide the Colorado Department of Labor and Employment (CDLE) on how to implement the ballot measure in November 2020. We may need to look at what role SDA should play in any clean up or technical corrections legislation.

Evan and Anthony: Yes, implementation language is necessary, however it will be controversial. At this time, it is not clear what will be needed and what will be advanced—those two concepts might be the same and they might not. SDA will lean hard into making the opt-out provision as easy as possible for special districts to utilize; i.e. not bogged down with CDLE administrative hoops. SDA will work with our fellow local government associations in hopes of forming a single voice on this topic.

Question 6

Talk about SDA legislative priorities for 2021.

Answer

Dianne and Michael: SDA will be spearheading several legislative priorities for the upcoming session. The special district election experts have assembled a number of technical or clean up items to correct statutory references and make sure

that the election statutes are consistent, accurate, and easy to understand.

Additionally, in the arena of organizing special districts, SDA will be asking the Legislature to give a district the authority to voluntarily organize itself into director districts. This concept is helpful where at least two special districts consolidate to form a single entity and geographical representation on a new Board can be achieved.

SDA is also working to convince key stakeholders that “data mining” through CORA requests by private commercial entities places an enormous burden on limited resources of governmental entities; thus a modification that allows for additional time to comply with a CORA request that is for commercial purposes, with the potential for a government to charge for the actual costs to comply with the request, would be helpful.

In addition, our business and work models have been transformed in a number of ways during the COVID-19 pandemic. One such adaptation has been the increased use of telephone and virtual video meetings. SDA will be seeking a clarification in the Special District Act that provides explicit authority for meetings to be held telephonically and over any number of virtual video platforms. The proposal will also validate any meetings that have been conducted virtually to protect the health and safety of the public, staff, and Board members.

Finally, SDA will be seeking a modification to the PERA statutes that clarifies that a special district Board member is not an employee of the special district for the purposes of determining participation in PERA. This issue stems from the compensation that a Board member receives for attending Board meetings. State statute already explicitly states that a Board member cannot be an employee of a special district; this change will bring the PERA statutes in line with that determination.

Conclusion

Only time will tell if the SDA crystal ball, Magic 8 Ball, and Ouija Board are close to their mark. The only thing that's for certain when the Legislature goes back in January is that those who are best able to adapt to the unexpected usually fare best. That said, we'll be ready when the fun begins on January 13. 🍀

SDA Legislative Briefings Set to Begin January 19!

The 2021 Legislative Session officially convenes on Wednesday, January 13 which means it's time to start making plans to join us for this year's SDA Legislative Briefings!

While it's still unclear exactly how the Legislative Session will look this year, we will still be able to hold our briefings in our usual virtual format.

The first briefing is scheduled for Tuesday, January 19 at 9:00 am. These briefings will take place via Zoom, and all SDA members are welcome to listen in for an update on the latest legislative issues for special districts. There will even be time for questions!

Following the first webinar on January 19, the schedule of briefings for the entire Session is as follows:

- » Monday, February 1 at 9:00 am
- » Tuesday, February 16 at 9:00 am
- » Monday, March 1 at 9:00 am
- » Monday, March 15 at 9:00 am
- » Monday, March 29 at 9:00 am
- » Monday, April 12 at 9:00 am
- » Monday, April 26 at 9:00 am



Please visit the SDA website at www.sdaco.org for more information and to register for the Zoom meetings. Whether you would like to listen in on every briefing or just once in a while, this is an easy way to stay informed on all the current issues.

In addition, you will also be able to access a wide variety of legislative information on the SDA website. Here you will find the full Legislative Briefing schedule, the bill tracker, and any other pertinent legislative update or reports, all in one easy-to-find place. This added convenience is a quick and helpful way for members to stay up-to-date with the Legislative Session.

As always, please contact the SDA office at 303-863-1733 and ask for Ann Terry or Michael Valdez if you have any questions.

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