

Special District Association of Colorado

SDA NEWS

MARCH 2024

Supporting Community-Based Government

SDA Annual Regional Workshops

...Headed Your Way in June!





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225 East 16th Avenue
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(303) 863-1733
Toll Free (800) 886-1733
sdaco@sdaco.org
www.sdaco.org

Designed by Emmett Jordan

Dear SDA Members,

Have you thought about being a DEO? Or will you be a DEO for the first time in 2025? If you answered “yes,” then plan to join us on May 22 for a DEO Boot Camp designed especially for you!

As we look ahead to the upcoming special district election in 2025, you have an extraordinary opportunity to serve our local communities by becoming a Designated Election Official (DEO). The role of a DEO is not just a civic duty; it's a chance to actively contribute to the democratic process, ensuring that our communities thrive through well-managed and fair elections.

Why Become a DEO?

The special district election process is a crucial event that shapes the future of our local communities. It's a time when we, as responsible citizens, can step up and play a pivotal role in fostering transparency, integrity, and inclusivity in the election process. Serving as a DEO is not merely a task; it's a commitment to the ideals of democracy and community service.

Local Governance at Its Core

Special districts are the backbone of local governance, addressing specific community needs ranging from healthcare to public safety and beyond. By becoming a DEO, you become a key player in the successful election process in your community.

Local government is the closest form of governance to the people, allowing for more direct representation and responsiveness to the unique needs of our communities. As a DEO, you have the chance to contribute to this system by overseeing an election process that reflects the diverse voices and opinions within your district.

Democracy in Action

Becoming a DEO is not just a bureaucratic role; it's about embodying the spirit of democracy in action. You'll be on the front lines, ensuring that the electoral process is fair, transparent, and accessible to all eligible voters. Your role will be to facilitate the expression of the collective will of the community, making a tangible impact on the democratic fabric of your district.

Imagine the satisfaction of knowing that your efforts have contributed to the smooth functioning of an election that truly represents the wishes of your neighbors. By becoming a DEO, you are not just a spectator; you are an active participant in the democratic process, playing a crucial role in upholding the principles that define our great nation.

Building Community Connections

Serving as a DEO is also an excellent way to connect with your fellow community members. You'll work alongside like-minded individuals who share a passion for civic engagement. The bonds formed during the election process often extend beyond the polling station, creating a network of individuals dedicated to the betterment of the community.

By building connections within your community, you become part of a network that can collectively address local challenges, share ideas, and contribute to the overall well-being of your district. It's a chance to foster a sense of unity and shared responsibility, strengthening the social fabric that makes our communities resilient and vibrant.

Please stay tuned for more information to come on this special training event!

Sincerely,



CEO



Ann Terry, SDA CEO

Serving as a DEO is
not merely a task;
it's a
commitment
to the
ideals of
democracy
and
community
service.

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Mark Your Calendars and Plan to Join Us...

The SDA Annual Regional Workshops are Headed Your Way in June with a New Format and Information You Need!

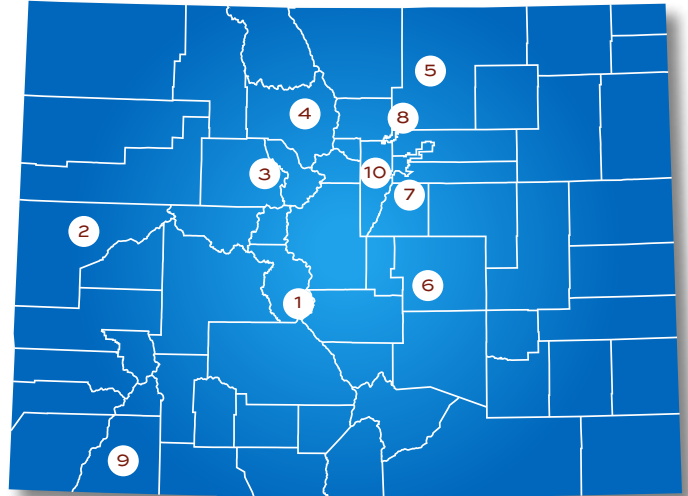
This year we are changing the format a bit to accommodate your needs! We are finalizing all of the details, but we are once again hitting the road during the month of June to bring you the ever-popular SDA Annual Regional Workshops!

These lively and educational trainings apply to all types of districts and are sure to provide a wealth of valuable information for your district. Whether you are a Board member or district employee, a seasoned professional or brand new to your position, we will have something for everyone.

We will cover a wide variety of important topics such as minutes, meeting formats, open meetings, conflicts of interests, public records, CSD Pool Programs to help your district be safer, and of course our 2024 legislative update, just to name a few. On top of all this, every attendee will receive a copy of the 2024 SDA Board Member Manual.

This year we will be visiting 10 locations around the state, and each workshop will run for approximately half a day in the morning.

We have many more details to come; watch your emails and the SDA website at www.sdaco.org for all the information as it becomes available. We will see you there!



- 1 **Salida**
Monday, June 10 (Morning)
- 2 **Clifton**
Tuesday, June 11 (Morning)
- 3 **Vail**
Wednesday, June 12 (Morning)
- 4 **Granby**
Thursday, June 13 (Morning)
- 5 **Eaton**
Friday, June 14 (Morning)
- 6 **Fountain**
Monday, June 17 (Morning)
- 7 **Parker**
Tuesday, June 18 (Morning)
- 8 **Frederick**
Thursday, June 20 (Morning)
- 9 **Durango**
Friday, June 21 (Morning)
- 10 **Evergreen**
Monday, June 24 (Morning)

Whether you are a Board member or district employee, a seasoned professional or brand new to your position, we will have something for everyone!



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Answers to Your Questions on the Bidding Process



Editor's Note: We have recently received a number of calls with questions about the bidding process so we thought this would be a great time to share some specific information on this process. The details below were originally written by our dear friend, Evan Goulding, and after a few tweaks for legislation that was passed last year, this information is as helpful today as it was in 2017 when it was originally published.

Question:

When is a district required to take competitive bids, and when must the invitation to bid be published?

Answer:

Special districts are only required to advertise and take bids on construction contracts for which the work or materials or both amount to \$120,000 or more. In such cases, some rules apply:

- » An invitation to bid must be published one time in a newspaper of general circulation within the district boundaries. Although the bidding requirements in Title 32 (*Special District Act*) do not indicate how far in advance of bid opening the invitation must be published, the Construction Bidding for Public Projects Act (24-92-101 *et seq.*) indicates that "Adequate public notice of the invitation for bids shall be given at least fourteen days prior to the date set forth therein for the opening of bids..." While special districts are not bound to comply with this Act, it is a good indicator of adequate practice.

- » The district is not required to accept the lowest bid, but rather, the lowest responsible and responsive bid. Thus, if a district determines that a bidder doesn't have the necessary skills, experience, or financial ability to complete the project, the next low bid from a responsible bidder can be accepted.
- » The district is allowed to reject all bids, and if it appears that the district can perform the work or secure material for less than the lowest bid, it may do so. (§32-1-1001(1), C.R.S.)
- » If the bids exceed the district's budget or resources, the district may reject all bids, and then negotiate with the lowest responsible and responsive bidder to see if the cost can be brought within the district's parameters.

No contract for work or material including a contract for services, regardless of the amount, shall be entered into between the special district and a member of the Board or between the special district and the owner of 25% or more of the

territory within the district unless a notice has been published for bids and such member or owner submits the lowest responsible and responsive bid. (§32-1-1001(1)(d), C.R.S.)

Although bidding may not be required for a contract that does not come within the conditions listed above, there may be other reasons that would make it important to take competitive bids, such as:

- » Assurance to the public that the district is not "playing favorites"
- » Not favoring a vendor or other supplier when competing vendors or suppliers will feel that they were not given the opportunity to earn the district's business

When bidding a project, it is recommended that an invitation for bids package be issued which includes a project description, all contractual terms and conditions, specifications, forms of bonds to be supplied, and other documents. (Please see the SDA Board Member Manual for additional information related to contracts and contracting in general.)



Supporting Community-Based Government

New Executive Director Joins Colorado Counties, Inc.

Please join us in welcoming Kelly Flenniken as the new Executive Director of Colorado Counties, Inc. (CCI)! Kelly has nearly 20 years of experience in

public policy and government relations, and we look forward to working with her and continuing our strong partnership with CCI.

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2024 Website Accessibility Checklist

Guest article by Streamline

Congratulations on your commitment to ensuring that your district's website is accessible to your entire community, including those with disabilities. This checklist will help you ensure compliance with **House Bill 21-1110** and **8 CCR 1501-11** by the **July 1, 2024 deadline**.

Before You Begin

- » Review the latest Technology Accessibility Rules from Colorado's Office of Information Technology
- » Perform an initial scan to check for known issues using checkmydistrict.org or another tool
- » Have your website provider's contact information to report any issues

One-Time Actions

Examples available at getstreamline.com/accessibility-policy

- 1. Designate an accessibility officer:** We have designated one staff member to be the accessibility officer who will be the go-to contact for accessibility issues.
- 2. Approve an accessibility policy and technology access transition plan:** Our Board has approved an accessibility policy that includes the level of accessibility you are adhering to, like WCAG 2.1 AA. (Stay tuned for more information and a special district template for the required technology accessibility transition plan.)
- 3. Create and post an accessibility page:** We have created a dedicated accessibility website page to house all accessibility-related content, including the policy and plan.
- 4. Create a process for community concerns:** We have a process in place where a community member can submit a concern via form, phone number, and/or email address.
- 5. Enable closed captions on your videos:** Our videos all have closed captions, and we have a process for including closed captions in future videos. YouTube includes this for free, when enabled.

Ongoing Actions

Recommended once per month

- 1. Scan your website pages each month:** We have scanned every page of our website, every page has a score and list of issues to remediate. Free tools include checkmydistrict.org, Google Chrome Lighthouse (F12 will activate), and wave.webaim.org. Insist that your web developer address any issues that arise.
- 2. Check your attachments:** We have checked all of our attachments and written a disclaimer for any third-party attachments that we do not have the ability to remediate. Note: 8 CCR 1501-11 provides an "undue burden" clause that could apply for archived PDFs, although we recommend fixing popular PDFs.
- 3. Perform remediations:** We have taken action to fix issues detected by a scan/reported by our community.

Other Actions to Consider

- » **Third-party ADA audit:** Larger districts should consider hiring an outside firm to conduct an audit. Manual testing by users with disabilities is the gold standard to ensure access.
- » Choosing a platform or insurance that indemnifies or insures you against the risk of fines

Updated January 24, 2024 for the latest recommendations to comply with the Americans with Disabilities Act (ADA) / WCAG 2.1 AA / Section 508 / HB 21-1110 (CO) and 8 CCR 1501-11. Download the latest at getstreamline.com/co-ada-checklist. Learn more about accessibility for special districts at www.nationalspecialdistricts.org/ada



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Colorado State Conservation Board

Supporting Community-Driven Conservation

By Susan M. Thornton, MS

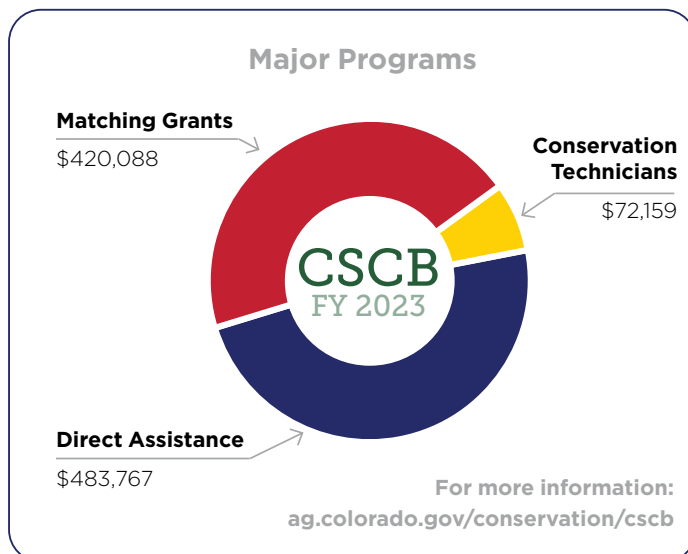
As Coloradans, we all cherish the remarkable and varied landscapes that define our state. The Colorado State Conservation Board, a unit of the Conservation Services Division at the State Department of Agriculture, works to enhance the capacity of Colorado's 74 conservation districts.

With a staff of seven and a programs budget of \$1.2 million for fiscal year 2024, the all-volunteer Board is composed of eight representatives, who also serve on their local conservation district boards and are elected by their local watershed associations, along with one member appointed by Colorado's Governor. The Board is entrusted with the responsibility of:

- » Disbursing state grants to conservation districts
- » Developing training tools for planning, budgeting, and following of laws
- » Acting as a board of appeals for private landowners
- » Undertaking watershed planning studies
- » Developing, implementing, and administering watershed flood prevention and underground water storage
- » Facilitating local conservation programs that improve soil health, water quality and conservation, wildlife habitat, forest health, plant communities, and energy conservation

Three Major Programs

The Board oversees three major programs, including matching grants, provision of district technicians to conservation districts across the state, and the Direct Assistance program.



Matching Grants 2023

\$420,088 in CSCB Grants
\$645,208 in Matching Funds
\$1,065,296 In Conservation Activities

Sample Impacts



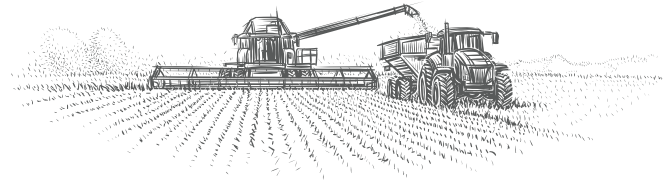
415,799 Acres Improved by New or Enhanced Conservation Practices



2,675
Landowners
Assisted



5,066
Youth
Reached



18,388' of New Irrigation Pipe to Improve Water Efficiency

First Major Program Matching Grants

One of the Board's most popular programs involves providing matching grants to help conservation districts pay for conservation projects and educational activities. Funded by revenues from Colorado's Oil and Gas Severance Tax, approximately \$450,000 is awarded each year to conservation districts, who apply for and administer locally developed projects.

Matching Grants of up to \$25,000 are made for such things as water improvements to enhance grazing management; control of noxious weeds; irrigation and dam improvements; forestry-thinning projects; and educational workshops.

In 2023, the local conservation districts across the State were able to leverage the funding to create more than a million dollars in completed conservation efforts.

Continued on page 12



The Colorado State Conservation Board generally meets four times a year. The meetings are held in different locations across the State to give Board members a chance to see innovative conservation projects on the ground. In fall of 2023, the Board visited Mancos, Colorado and Nike Noaln, Mountain Roots Produce (above).

Requests Greatly Outpace Funding

Nikki Brinson, who has been with the Board for 17 years and now serves as its Program Manager, says the projects are wide-ranging and based on local needs. Requests for the grants from conservation districts consistently outpace what the Board has available, Brinson says, and requests totaled around \$1 million last year.

It's disappointing, she states, to have to turn down so many worthwhile requests, including those addressing water quality and quantity; forest and soil health; invasive species; grazing management; and drought management. With only \$450,000 in funding for grants in 2023, the Board was forced to turn away half of the requests that came from conservation districts and their partners.

Leveraging Partnerships

Grants from the Board require a 50% match in cash or in-kind services from conservation districts and their partners.

The local conservation districts are mostly all housed in U.S. Department of Agriculture field offices, and the federal USDA may be a matching grant donor for the districts, Brinson states.

Other partners may also include landowners, water districts, local counties, the Colorado Association

of Conservation Districts, and/or educational groups, Brinson says.

They can also partner with fire districts to provide expertise in monitoring slash burning and conduct educational workshops with homeowners and their associations. Together with their partners, the districts can enhance wildfire risk management on private land and leverage local, state, and federal dollars to improve their communities.

Like all special districts in Colorado, the local conservation districts are bound by the Taxpayer's Bill of Rights (TABOR) and raising property taxes must be approved by taxpayers. However, Brinson states that 62 of the 74 conservation districts in Colorado don't have a mill levy and, as a result, have limited revenues.

Second Major Program Direct Assistance

The Direct Assistance program plays a pivotal role in the Board's conservation investment by serving as a catalyst for local conservation efforts. Conservation districts in good standing receive an annual grant of approximately \$6,500. This funding serves as seed money, enabling districts to leverage additional resources for the development of educational,



Laura Pardee

Larimer Conservation District DCT Matt Mueller working on a forestry project in Larimer County.

technical, or on-the-ground programs that may not have been feasible otherwise.

Third Major Program Conservation Technicians

The Board also partners with the United States Department of Agriculture, Natural Resources Conservation Service, and local

Center & Rio Grande Conservation Districts Partner to Test Large-Scale Conservation Irrigation Practices

In 2012, Center and Rio Grande conservation districts partnered in the joint purchase of 120 acres with center-pivot irrigation to test large-scale conservation practices. Prior to purchasing the property, the districts had partnered in mutual projects and shared an education coordinator through the Rio Grande Watershed Conservation & Education Initiative (RGWCEI). The districts partnered with Trinchera Ranch and its Trinchera-Tercio Foundation to purchase the property and a USDA Service Center building was constructed shortly after. Currently, the USDA Service Center houses the Mineral, Rio Grande, and Saguache counties' FSA and NRCS offices, as well as the Center and Rio Grande conservation districts.

The property also includes a six-acre mini-pivot for conservation research projects.

To conduct large-scale conservation practices on the farm, the districts lease the irrigated circle in three-year intervals to local producers. To determine which producer(s) receive the lease, a blind bidding process is used to ascertain which producer(s) are the most suitable for the districts' soil and water conservation management goals.

The mini-pivot has previously been utilized for soil conservation projects for Sargent School's FFA students; however, in 2024 the six acres will be managed by Adams State University (ASU) students to conduct drought-resiliency rotation trials through 2026. The current project plan



includes a drought-tolerant cover crop, followed by a drought-resilient alternative crop in year two (rye, millet, black oats, etc.), then a cash crop in year three. ASU students will also partner with the Colorado State University Research Farm in Center, Colorado to learn first-hand management practices. The districts are encouraging ASU students to record the following variable data, where results will then be presented to local producers with recommendations for large-scale practices: soil health via soil tests, water usage, soil moisture content, weather patterns and precipitation, crop yield and quality, market prices, project expenditures and revenues, and other pertinent information. The mini-pivot project will investigate utilizing CSCB funding in the future to assist with costs associated with ASU student project presentations and extending the project beyond its original three years.

—Article courtesy of Mattea Freel,
Center & Rio Grande Conservation Districts

conservation districts across the state to employ 37.5 FTE technicians, who are all local district employees. Conservation districts must provide 20% of the technicians' salaries.

The technicians spend approximately 80% of their time focused on the Federal Farm Bill or Inflation Reduction Act Climate programs and visiting landowners to help explore and plan their conservation needs. These may range from the need for irrigation supplies to soil health and water quality to a wide variety of other issues.

The technicians then connect those producers to various federal, state, or non-governmental funding resources to implement best practices.

Enthusiasm for the Work of SDA

The Board is a long-time member of SDA, according to Brinson. "We have been impressed by the valuable educational services" SDA provides to special districts, she says, citing education about such complicated issues as employment law and paid family leave.

Most of the local conservation districts also happily take advantage of the insurance offered through the Colorado Special Districts Property and Liability Pool, she notes.

Brinson also mentions the Board's long-standing partnership with the National Association of Conservation Districts (NACD), which is based in Washington, D.C. and lobbies Congress on behalf of conservation districts across the U.S.

"Many of our districts don't

understand the difference between what the different associations, National Association of Conservation Districts, the Colorado Association of Conservation Districts, and SDA provide," Brinson says. "We are hoping to make a big push this year to help them understand the support they have amongst them and to be able to use these three organizations as the valuable resources they are." 🍌

Editor's note: In 1937, the Colorado State legislature passed the Colorado Soil Conservation Act establishing conservation districts as special districts in Colorado to represent private and public landowners' interests in conservation planning and practices.

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Making the Most of Your CSD Pool Membership With...

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Guest article by the Colorado Special Districts Property and Liability Pool

The Colorado Special Districts Property and Liability Pool (CSD Pool) remains committed to our more than 2,500 public entities as *Your Risk Management Partner*. Each month, we are focusing on a different program or service we offer our membership, either at no-cost or at a discounted rate. This month's highlight is on our cybersecurity resources.

eRisk Hub

eRisk Hub, powered by one of the leaders in cybersecurity, NetDiligence, is a web-based portal that assembles a broad toolbox of resources designed to help your organization's cybersecurity. Whether your district is preparing for future threats or responding to an attack, having access to eRisk Hub is absolutely critical to the safety of your district, its reputation, and its digital security.

The top feature included in eRisk Hub is the "Incident Roadmap." This tool is a checklist complete with everything a special district needs to respond, react, and recover from a cyberattack, including:

- » Cyber Breach Coaches: One half-hour of free consultation with a representative at Norton Rose Fulbright
- » Breach and Incident Response Guides
- » Regional FBI Contact Maps
- » State Law Summaries and Guides

Beyond the "Incident Roadmap," eRisk Hub offers training for supervisors and staff to fend off cyberattacks as bad actors try to access your network. These include:

- » Ransomware Defense Best Practices
- » Ransomware Attack and Hacking Simulations
- » Free Third-Party Resources from CISA, FTC, and more
- » News Center with weekly updates

This resource is **free to members**, and every employee at your organization can have their own login. To sign up, visit csdpool.org/cyber or email info@csdpool.org.



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If you are worried about the security of your network, NetDiligence offers our members a discounted rate for three different levels of cyber assessments to ensure your cybersecurity. These include:

- » Health Check Assessment—A Best Practices conversation
- » Vulnerability Scan—Test your public facing presence for weaknesses
- » CFO Assessment—A combination of Health Check Assessment and Vulnerability Scan

For members that complete a Health Check or CFO assessment and meet certain criteria, the CSD Pool offers a higher sublimit at no additional cost. This results in an increase from \$200K to \$1M.

This year, we're offering a limited number of grants to cover the costs of a NetDiligence QuietAudit Health Check Assessment. If you are interested in applying, you can visit csdpool.org/cyber and fill out a grant request form.

As *Your Risk Management Partner*, we remain committed to providing specialized coverages tailored for public entities, exemplary claims support, and safety and loss prevention services to ensure everyone within the organization—from Board members to supervisors and staff—has the tools they need to succeed. If you have any questions about the resources mentioned here, please visit **csdpool.org** or email us at **info@csdpool.com**. 🍌



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Court of Appeals Decision on Executive Sessions and Attorney-Client Communications

By Dianne Criswell, SDA Chief Counsel

This article provides an update on litigation relating to executive sessions, waiver of attorney-client privilege, and the opportunity to cure open meetings procedural violations.

Context

As background, Colorado's Open Meetings Law (OML) includes many procedural steps to ensure that public business is conducted publicly, rather than in secret. §24-6-401, C.R.S. Both the statutory procedures and court cases construing these laws apply these principles broadly.

Executive sessions are an exception to the open and public process set forth in the rest of the OML. Such sessions are closed to the public, limited to specific topics or purposes only, and must be conducted in procedural compliance with the OML. For example, no formal action may be taken in an executive session. §24-6-402(4), C.R.S. Further, the body holding an executive session must identify the specific statutory reference to the limited purpose of the session and to provide an "identification of the particular matter to be discussed in as much detail as possible without compromising the purpose for which the executive session is authorized." *Id.*

In 2020, the Colorado Court of Appeals analyzed the requirement of a body to "identify the matter to be discussed in as much detail as possible" in an OML challenge brought against a town council that held an executive session for legal advice and personnel matters without providing a specific announcement for these topics. The Court disagreed with the trial court's conclusion that the town council did not need to provide any details in its announcement because of the nature of the attorney-client privilege and the employee's privacy interests; instead, the Court held that it was possible to describe at least the subject matter of the session. Without that description of the topic of the executive session, the Court held that the town council did not comply with the OML statutory requirements. *Guy v. Whitsitt*, 469 P.3d 546 (Colo. App. 2020).

Litigation and Amicus Advocacy Update

In December 2023, the Court of Appeals issued its decision, *The Sentinel Colorado v. Rodriguez*, 2023 COA 118, addressing issues relating to OML procedures, executive sessions, and attorney-client privilege. While the announcement of a city council to go into executive session for the purpose of receiving legal advice cited the correct statutory grounds (§24-6-402(4)(b), C.R.S.), the Court concluded that the announcement did not comply with OML procedures because it did not describe any detail of the specific legal question to be discussed. Further, the Court held that:

- » The city council impermissibly took official action during the executive session by directing the attorney to end an investigation and enter into a stipulation agreement to dismiss charges;

- » A letter from the attorney providing a high-level overview of the executive session discussion, which was in the packet for the next meeting, constituted a waiver of attorney-client privilege; and
- » The motion that the city council adopted at the next meeting to approve the direction to the attorney given during the earlier executive session and the actions that the attorney took according to that direction did not cure the OML violations because The Sentinel was not trying to invalidate those actions, rather it wanted the recording of the executive session.

On January 31, 2024, SDA joined the brief of the Colorado Municipal League in support of its member, the City of Aurora, which seeks further review of these issues by the Colorado Supreme Court. The *amici curiae* parties' interests were based on the significant impacts that the Court of Appeals' decision may have on the appropriate use of executive sessions, including the impairment of providing necessary legal counsel to local government bodies.

The perspective shared with the Court in the *amici curiae* brief included:

- » While executive sessions must comply with the OML, the Court of Appeals decisions creates uncertainty in when and how these sessions for legal advice may be properly conducted;
- » The decision does not follow the OML statutes, which recognize that executive sessions may involve decisions on positions or strategies relative to negotiations—and to instruct negotiators;
- » The inclusion of a summary document in a subsequent meeting packet was not sufficient evidence of the City's intent to waive its attorney-client privilege; and
- » The issue of curing OML violations requires additional and careful analysis; the Court of Appeals' decision may be applied to restrict curing even the most minor or technical errors.

Conclusion

Regardless of the outcome of this litigation, special districts have and will continue to work in good faith to follow the requirements of the OML. In addition to the procedures and guidance your district may have developed to comply with the OML, SDA has resources and information for its members, including a "Beginning of the Year Refresher on Executive Sessions" article in the January 2024 SDA newsletter as well as additional details which can be found in Chapter III of the SDA Board Member Manual. 🍷

Don't Forget to Send Us Your Ideas for Speakers and Topics for the 2024 SDA Annual Conference!

Now's the perfect time to send us all your ideas for the 2024 SDA Annual Conference!

But, the deadline to submit is Friday, March 15 so don't delay!

As you are thinking about what should be included in this year's breakout sessions, here are a few things that might help get those ideas flowing:

- » What are the hot topics that districts need to know more about?
- » Are there successful projects or case studies from which others could learn?
- » Is there a general subject that you could use a refresher course on (and maybe others could, too)?

- » Are you an expert who has suggestions on important topics to present?

Whatever ideas you have, big or small, we want to hear from you!

And the best part is the process is super easy. Simply go to the SDA website at www.sdaco.org to share your suggestions for a breakout session, recommend a great speaker, or both!

As always, please call our office at 303-863-1733 if you have any questions.

And don't forget to mark your calendar to join us at the Keystone Conference Center, September 10-12!

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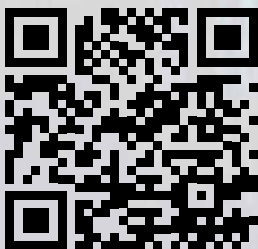
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