

Document 1 of 1

Source:

Colorado Statutes/Colorado Revised Statutes /TITLE 29 GOVERNMENT - LOCAL/GENERAL PROVISIONS/ARTICLE 1 BUDGET AND SERVICES/PART 1 LOCAL GOVERNMENT BUDGET LAW OF COLORADO/29-1-101. Short title.

29-1-101. Short title.

This part 1 shall be known and may be cited as the "Local Government Budget Law of Colorado".

Source: L. 90: Entire part R&RE, p. 1429, § 1, effective January 1, 1991.

Editor's note: This section was contained in a part that was repealed and reenacted in 1990. This section, as it existed in 1990, is the same as 29-1-101 as said section existed in 1989, the year prior to the repeal and reenactment of this part.

ANNOTATION

Law reviews. For note, "The Effect of Land Use Legislation on the Common Law of Nuisance in Urban Areas", see 36 Dicta 414 (1959).

© 2007 by The Committee on Legal Services for the State of Colorado and Matthew Bender & Company, Inc., a member of the LexisNexis Group. All rights reserved. Use of this product is subject to the restrictions and terms and conditions of the Matthew Bender Master Agreement.

Document 1 of 1

Source:

Colorado Statutes/Colorado Revised Statutes /TITLE 29 GOVERNMENT - LOCAL/GENERAL PROVISIONS/ARTICLE 1 BUDGET AND SERVICES/PART 1 LOCAL GOVERNMENT BUDGET LAW OF COLORADO/29-1-102. Definitions.

29-1-102. Definitions.

As used in this part 1, unless the context otherwise requires:

(1) "Appropriation" means the authorization by ordinance or resolution of a spending limit for expenditures and obligations for specific purposes.

(2) "Basis of budgetary accounting" means any one of the following methods of measurement of timing when revenue and other financing sources and expenditures and other financing uses are recognized for budget purposes:

(a) Cash basis (when cash is received and disbursed);

(b) Modified accrual basis (when revenue and other financing sources are due and available and when obligations or liabilities are incurred for expenditures and other financing uses, except for certain stated items such as, but not limited to, prepaids, inventories of consumable goods, and interest payable in a future fiscal year); or

(c) Encumbrance basis (the modified accrual basis, but including the recognition of encumbrances).

(3) "Budget" means the complete estimated financial plan of the local government.

(4) "Budget year" means the ensuing fiscal year.

(5) "Certified" means a written statement by a member of the governing body or a person appointed by the governing body that the document being filed is a true and accurate copy of the action taken by the governing body.

(6) "Division" means the division of local government in the department of local affairs.

(7) "Encumbrance" means a commitment related to unperformed contracts for goods or services.

(8) (a) "Expenditure" means any use of financial resources of the local government consistent with its basis of accounting for budget purposes for the provision or acquisition of goods and services for operations, debt service, capital outlay, transfers, or other financial uses.

(b) "Expenditure" shall not include the payment or transfer of moneys by the office of the public trustee created in section [38-37-101](#), C.R.S., that are received from and required to be paid to another person or entity pursuant to the requirements of article 37, 38, or 39 of title [38](#), C.R.S., including, but not limited to, recording fees and publication costs pursuant to sections [38-38-101](#) and 38-39-102, C.R.S., and transfers of excess funds to the county treasurer made pursuant to section [38-37-104](#) (3), C.R.S.

(9) "Fiscal year" means the period commencing January 1 and ending December 31; except that "fiscal year" may mean the federal fiscal year for water conservancy districts which have contracts with the federal government.

(10) "Fund" means a fiscal and accounting entity with a self-balancing set of accounts in which cash and other financial resources, all related liabilities and residual equities or balances, and changes therein are recorded and segregated to carry on specific activities or to attain certain objectives in accordance with special regulations, restrictions, or limitations.

(11) "Fund balance" means the balance of total resources available for subsequent years' budgets consistent with the basis of accounting elected for budget purposes.

(12) "Governing body" means a board, council, or other elected or appointed body in which the legislative powers of the local government are vested.

(13) "Local government" means any authority, county, municipality, city and county, district, or other political subdivision of the state of Colorado; any institution, department, agency, or authority of any of the foregoing; and any other entity, organization, or corporation formed by intergovernmental agreement or other contract between or among any of the foregoing. The office of the county public trustee shall be deemed an agency of the county for the purposes of this part 1. "Local government" does not include the Colorado educational and cultural facilities authority, the university of Colorado hospital authority, collegeinvest, the Colorado health facilities authority, the Colorado housing and finance authority, the Colorado agricultural development authority, the Colorado sheep and wool authority, the Colorado beef council authority, the Colorado horse development authority, the fire and police pension association, any public entity insurance or investment pool formed pursuant to state law, any county or municipal housing authority, any association of political subdivisions formed pursuant to section [29-1-401](#), or any home rule city or town, home rule city and county, cities and towns operating under a territorial charter, school district, or junior college district.

(14) "Object of expenditure" means the classification of fund data by character of expenditure. "Object of expenditure" includes, but is not limited to, personal services, purchased services, debt service, supplies, capital outlay, grants, and transfers.

(15) "Objection" means a written or oral protest filed by an elector of the local government.

(16) "Revenue" means all resources available to finance expenditures.

(17) "Spending agency", as designated by the local government, means any office, unit, department, board, commission, or institution which is responsible for any particular expenditures or revenues.

Source: **L. 90:** Entire part R&RE, p. 1429, § 1, effective January 1, 1991. **L. 91:** (13) amended, p. 588, § 11, effective October 1. **L. 93:** (13) amended, pp. 1846, 1855, §§ 3, 4, effective July 1. **L. 95:** (13) amended, p. 1001, § 2, effective July 1. **L. 98:** (13) amended, p. 610, § 18, effective May 4; (13) amended, p. 1262, § 8, effective June 1. **L. 2003:** (8) amended, p. 733, § 1, effective August 6. **L. 2004:** (13) amended, p. 576, § 34, effective July 1.

Editor's note: (1) Amendments to subsection (13) by Senate Bill 93-240 and Senate Bill 93-243 were harmonized.

(2) Amendments to subsection (13) by Senate Bill 98-082 and Senate Bill 98-188 were harmonized.

Cross references: For the legislative declaration contained in the act amending subsection (13) in 1991, see section 1 of chapter 99, Session Laws of Colorado 1991.

© 2007 by The Committee on Legal Services for the State of Colorado and Matthew Bender & Company, Inc., a member of the LexisNexis Group. All rights reserved. Use of this product is subject to the restrictions and terms and conditions of the Matthew Bender Master Agreement.

Document 1 of 1

Source:

Colorado Statutes/Colorado Revised Statutes /TITLE 29 GOVERNMENT - LOCAL/GENERAL PROVISIONS/ARTICLE 1 BUDGET AND SERVICES/PART 1 LOCAL GOVERNMENT BUDGET LAW OF COLORADO/29-1-103. Budgets required.

29-1-103. Budgets required.

(1) Each local government shall adopt an annual budget. To the extent that the financial activities of any local government are fully reported in the budget or budgets of a parent local government or governments, a separate budget is not required. Such budget shall present a complete financial plan by fund and by spending agency within each fund for the budget year and shall set forth the following:

(a) All proposed expenditures for administration, operations, maintenance, debt service, and capital projects to be undertaken or executed by any spending agency during the budget year;

(b) Anticipated revenues for the budget year;

(c) Estimated beginning and ending fund balances;

(d) The corresponding actual figures for the prior fiscal year and estimated figures projected through the end of the current fiscal year, including disclosure of all beginning and ending fund balances, consistent with the basis of accounting used to prepare the budget;

(e) A written budget message describing the important features of the proposed budget, including a statement of the budgetary basis of accounting used and a description of the services to be delivered during the budget year; and

(f) Explanatory schedules or statements classifying the expenditures by object and the revenues by source.

(2) No budget adopted pursuant to this section shall provide for expenditures in excess of available revenues and beginning fund balances.

(3) (a) The general assembly finds and declares that the use of lease-purchase agreements by local governments creates financial obligations of those governments and that the disclosure of such obligations is in the public interest and is a matter of statewide concern.

(b) In addition to the governmental entities included in the definition of "local government" in section [29-1-102](#), the provisions of this subsection (3) shall apply to every home rule city, home rule city and county, school district, and junior college district.

(c) As used in this subsection (3), "lease-purchase agreement" means any installment purchase agreement for the purchase of real or personal property which requires payments during more than one fiscal year or any agreement for the lease or rental of real or personal property which requires payments during more than one fiscal year and under which title to the property is transferred at the end of the term for nominal or no additional consideration.

(d) (I) The budget adopted by every local government shall separately set forth each of the following:

(A) The total amount to be expended during the ensuing fiscal year for payment obligations under all lease-purchase agreements involving real property;

(B) The total maximum payment liability of the local government under all lease-purchase agreements involving real property over the entire terms of such agreements, including all optional renewal terms;

(C) The total amount to be expended during the ensuing fiscal year for payment obligations under all lease-purchase agreements other than those involving real property;

(D) The total maximum payment liability of the local government under all lease-purchase agreements other than those involving real property over the entire terms of such agreements, including all optional renewal terms.

(II) Each budget required to be filed pursuant to section [29-1-113](#) shall include a supplemental schedule that contains the information described in this paragraph (d).

(e) (I) No local government shall enter into any lease-purchase agreement whose duration, including all optional renewal terms, exceeds the weighted average useful life of the assets being financed. In the case of a lease-purchase agreement involving both real property and other property, the lease-purchase agreement shall provide that the real property involved shall be amortized over a period not to exceed its weighted average useful life and the other property shall be separately amortized over a period not to exceed its weighted average useful life. This provision shall not prevent a local government from releasing property from a lease-purchase agreement pursuant to an amortization schedule reflecting the times when individual pieces of property have been amortized.

(II) Nothing contained in this paragraph (e) shall be construed to apply to any lease-purchase agreement entered into prior to April 9, 1990.

Source: L. 90: Entire part R&RE and (3) added, pp. 1431, 1289, §§ 1, 4, effective January 1, 1991.

Editor's note: This section was contained in a part that was repealed and reenacted in 1990. This section, as it existed in 1990, is the same as 29-1-104 as said section existed in 1989, the year prior to the repeal and reenactment of this part.

ANNOTATION

Am. Jur.2d. See 56 Am. Jur.2d, Municipal Corporations, Etc., § 535.

C.J.S. See 20 C.J.S., Counties, § 189; 64 C.J.S., Municipal Corporations, § 1885.

Law reviews. For article, "Lease-Purchase Financing: The Local Government Budget Law of Colorado", see 20 Colo. Law. 63 (1991).

© 2007 by The Committee on Legal Services for the State of Colorado and Matthew Bender & Company, Inc., a member of the LexisNexis Group. All rights reserved. Use of this product is subject to the restrictions and terms and conditions of the Matthew Bender Master Agreement.

Document 1 of 1

Source:

Colorado Statutes/Colorado Revised Statutes /TITLE 29 GOVERNMENT - LOCAL/GENERAL PROVISIONS/ARTICLE 1 BUDGET AND SERVICES/PART 1 LOCAL GOVERNMENT BUDGET LAW OF COLORADO/29-1-104. By whom budget prepared.

29-1-104. By whom budget prepared.

The governing body of each local government shall designate or appoint a person to prepare the budget and submit the same to the governing body.

Source: L. 90: Entire part R&RE, p. 1431, § 1, effective January 1, 1991.

Editor's note: This section was contained in a part that was repealed and reenacted in 1990. This section, as it existed in 1990, is the same as 29-1-105 as said section existed in 1989, the year prior to the repeal and reenactment of this part.

ANNOTATION

Law reviews. For article, "Lease-Purchase Financing: The Local Government Budget Law of Colorado", see 20 Colo. Law. 63 (1991).

Applied in *Tihonovich v. Williams*, 196 Colo. 144, 582 P.2d 1051 (1978) (decided under § [29-1-105](#) as it existed prior to the 1990 repeal and reenactment of this part 1).

© 2007 by The Committee on Legal Services for the State of Colorado and Matthew Bender & Company, Inc., a member of the LexisNexis Group. All rights reserved. Use of this product is subject to the restrictions and terms and conditions of the Matthew Bender Master Agreement.

Document 1 of 1

Source:

Colorado Statutes/Colorado Revised Statutes /TITLE 29 GOVERNMENT - LOCAL/GENERAL PROVISIONS/ARTICLE 1 BUDGET AND SERVICES/PART 1 LOCAL GOVERNMENT BUDGET LAW OF COLORADO/29-1-105. Budget estimates.

29-1-105. Budget estimates.

On or before a date to be determined by the governing body of each local government, all spending agencies shall prepare and submit to the person appointed to prepare the budget estimates of their expenditure requirements and their estimated revenues for the budget year, and, in connection therewith, the spending agency shall submit the corresponding actual figures for the last completed fiscal year and the estimated figures projected through the end of the current fiscal year and an explanatory schedule or statement classifying the expenditures by object and the revenues by source. In addition to the other information required by this section, every office, department, board, commission, and other spending agency of any local government shall prepare and submit to the person appointed to prepare the budget the information required by section [29-1-103](#) (3) (d). No later than October 15 of each year, the person appointed to prepare the budget shall submit such budget to the governing body.

Source: L. 90: Entire part R&RE and entire section amended, pp. 1431, 1290, §§ 1, 5, effective January 1, 1991.

Editor's note: This section was contained in a part that was repealed and reenacted in 1990. This section, as it existed in 1990, is similar to 29-1-106 as said section existed in 1989, the year prior to the repeal and reenactment of this part.

© 2007 by The Committee on Legal Services for the State of Colorado and Matthew Bender & Company, Inc., a member of the LexisNexis Group. All rights reserved. Use of this product is subject to the restrictions and terms and conditions of the Matthew Bender Master Agreement.

Document 1 of 1

Source:

Colorado Statutes/Colorado Revised Statutes /TITLE 29 GOVERNMENT - LOCAL/GENERAL PROVISIONS/ARTICLE 1 BUDGET AND SERVICES/PART 1 LOCAL GOVERNMENT BUDGET LAW OF COLORADO/29-1-106. Notice of budget.

29-1-106. Notice of budget.

(1) Upon receipt of the proposed budget, the governing body shall cause to be published a notice containing the following information:

(a) The date and time of the hearing at which the adoption of the proposed budget will be considered;

(b) A statement that the proposed budget is available for inspection by the public at a designated public office located within the boundaries of the local government, or, if no public office is located within such boundaries, the nearest public office where the budget is available; and

(c) A statement that any interested elector of the local government may file any objections to the proposed budget at any time prior to the final adoption of the budget by the governing body.

(2) If the governing body has submitted or intends to submit a request for increased property tax revenues to the division pursuant to section [29-1-302](#) (1), the amount of the increased property tax revenues resulting from such request shall be stated in such notice or in a subsequent notice in the manner provided in subsection (3) of this section.

(3) (a) For any local government whose proposed budget is more than fifty thousand dollars, the notice required by subsection (1) of this section shall be published one time in a newspaper having general circulation in the local government.

(b) Any local government whose proposed budget is fifty thousand dollars or less shall cause copies of the notice required by subsection (1) of this section to be posted in three public places within the jurisdiction of such local government in lieu of such publication.

Source: L. 90: Entire part R&RE, p. 1432, § 1, effective January 1, 1991.

Editor's note: This section was contained in a part that was repealed and reenacted in 1990. This section, as it existed in 1990, is similar to 29-1-108 as said section existed in 1989, the year prior to the repeal and reenactment of this part.

© 2007 by The Committee on Legal Services for the State of Colorado and Matthew Bender & Company, Inc., a member of the LexisNexis Group. All rights reserved. Use of this product is subject to the restrictions and terms and conditions of the Matthew Bender Master Agreement.

Document 1 of 1

Source:

Colorado Statutes/Colorado Revised Statutes /TITLE 29 GOVERNMENT - LOCAL/GENERAL PROVISIONS/ARTICLE 1 BUDGET AND SERVICES/PART 1 LOCAL GOVERNMENT BUDGET LAW OF COLORADO/29-1-107. Objections to budget.

29-1-107. Objections to budget.

Any elector of the local government has the right to file or register his protest with the governing body prior to the time of the adoption of the budget.

Source: L. 90: Entire part R&RE, p. 1432, § 1, effective January 1, 1991.

Editor's note: This section was contained in a part that was repealed and reenacted in 1990. This section, as it existed in 1990, is the same as 29-1-109 as said section existed in 1989, the year prior to the repeal and reenactment of this part.

© 2007 by The Committee on Legal Services for the State of Colorado and Matthew Bender & Company, Inc., a member of the LexisNexis Group. All rights reserved. Use of this product is subject to the restrictions and terms and conditions of the Matthew Bender Master Agreement.

Document 1 of 1

Source:

Colorado Statutes/Colorado Revised Statutes /TITLE 29 GOVERNMENT - LOCAL/GENERAL PROVISIONS/ARTICLE 1 BUDGET AND SERVICES/PART 1 LOCAL GOVERNMENT BUDGET LAW OF COLORADO/29-1-108. Adoption of budget - appropriations - failure to adopt.

29-1-108. Adoption of budget - appropriations - failure to adopt.

(1) The governing body of the local government shall hold a hearing to consider the adoption of the proposed budget, at which time objections of the electors of the local government shall be considered. The governing body shall revise, alter, increase, or decrease the items as it deems necessary in view of the needs of the various spending agencies and the anticipated revenue of the local government. Adoption of the proposed budget shall be effective only upon an affirmative vote of a majority of the members of the governing body.

(2) Before the mill levy is certified pursuant to section [39-1-111](#) or 39-5-128, C.R.S., the governing body shall enact an ordinance or resolution adopting the budget and making appropriations for the budget year. The amounts appropriated shall not exceed the expenditures specified in the budget. Appropriations shall be made by fund or by spending agencies within a fund, as determined by the governing body. Changes to the adopted budget or appropriation shall be made in accordance with the provisions of section [29-1-109](#).

(3) If the governing body fails to adopt a budget before certification of the mill levy as provided for in subsection (2) of this section, then ninety percent of the amounts appropriated in the current fiscal year for operation and maintenance expenses shall be deemed reappropriated for the purposes specified in such last appropriation ordinance or resolution.

(4) If the appropriations for the budget year have not been made by December 31 of the current fiscal year, then ninety percent of the amount appropriated in the current fiscal year for operation and maintenance expenses shall be deemed reappropriated for the budget year.

(5) Notwithstanding any other provision of law, the adoption of the budget, the appropriation of funds, and the certification of the mill levy shall be effective upon adoption.

(6) All unexpended appropriations, or unencumbered appropriations if the encumbrance basis of budgetary accounting is adopted, expire at the end of the fiscal year.

Source: L. 90: Entire part R&RE, p. 1432, § 1, effective January 1, 1991.

Editor's note: This section was contained in a part that was repealed and reenacted in 1990. This section, as it existed in 1990, is similar to 29-1-110 and 29-1-111 as said sections existed in 1989, the year prior to the repeal and reenactment of this part.

ANNOTATION

C.J.S. See 64 C.J.S., Municipal Corporations, § 1886.

Annotator's note. Since § [29-1-108](#) is similar to §§ [29-1-110](#) and 29-1-111 as they existed prior to the 1990 repeal and reenactment of this part 1, relevant cases construing those provisions have been included in the annotations to this section.

This section requires the governing body of such subdivisions to enact an appropriation resolution for each fiscal year and further states that the amounts appropriated shall not exceed the amounts established by the budget as adopted. Shannon Water & San. Dist. v. Norris & Sons Drilling Co., 29 Colo. App. 48, 477 P.2d 476 (1970).

Taxpayers may demand refund of excess school taxation. If school directors, although proceeding in form as required by law, certify an amount to be raised by taxation greatly beyond the school requirements, they thereby supply a basis for a demand by taxpayers for a refund of the excess. Lowden v. Bd. of County Comm'rs, 101 Colo. 52, 69 P.2d 779 (1937).

Circumstances to be considered by governing body in determining reasonableness of salaries include the amount of revenue available, the needs of other county departments, and the ability of the county's taxpayers to fund additional requests, as well as the requesting department's need for the expenditures. Tihonovich v. Williams, 196 Colo. 144, 582 P.2d 1051 (1978).

Purpose of subsections (3) and (4) is to prevent collapse of governmental subdivision. These provisions were designed to insure that various governmental subdivisions regulated by the budget law would not collapse through failure to adopt a budget or to appropriate moneys; rather, under it, subdivisions failing to budget or appropriate are at least allowed to maintain themselves and to carry out essential functions of public service until such time as a proper budget is adopted and appropriations made. Shannon Water & San. Dist. v. Norris & Sons Drilling Co., 29 Colo. App. 48, 477 P.2d 476 (1970).

Certification of tax levy no substitute. Certification of the tax levy to the board of county commissioners does not correct a water and sanitation district's failure to adopt a budget and pass an appropriation resolution. Shannon Water & San. Dist. v. Norris & Sons Drilling Co., 29 Colo. App. 48, 477 P.2d 476 (1970).

This section does not permit initiation of new projects or capital expenditures. Shannon Water & San. Dist. v. Norris & Sons Drilling Co., 29 Colo. App. 48, 477 P.2d 476 (1970).

Applied in City of Englewood v. Ripple & Howe, Inc., 150 Colo. 434, 374 P.2d 360 (1962); Gude v. City of Lakewood, 636 P.2d 691 (Colo. 1981).

© 2007 by The Committee on Legal Services for the State of Colorado and Matthew Bender & Company, Inc., a member of the LexisNexis Group. All rights reserved. Use of this product is subject to the restrictions and terms and conditions of the Matthew Bender Master Agreement.

Document 1 of 1

Source:

Colorado Statutes/Colorado Revised Statutes /TITLE 29 GOVERNMENT - LOCAL/GENERAL PROVISIONS/ARTICLE 1 BUDGET AND SERVICES/PART 1 LOCAL GOVERNMENT BUDGET LAW OF COLORADO/29-1-109. Changes to budget - transfers - supplemental appropriations.

29-1-109. Changes to budget - transfers - supplemental appropriations.

(1) (a) If, after adopting the budget and making appropriations, the governing body of a local government deems it necessary, it may transfer appropriated moneys between funds or between spending agencies within a fund, as determined by the original appropriation level, in accordance with the procedures established in subsection (2) of this section.

(b) If, after adoption of the budget, the local government receives unanticipated revenues or revenues not assured at the time of the adoption of the budget from any source other than the local government's property tax mill levy, the governing body may authorize the expenditure of such funds by enacting a supplemental budget and appropriation.

(c) In the event that revenues are lower than anticipated in the adopted budget, the governing body may adopt a revised appropriation ordinance or resolution as provided in section [29-1-108](#).

(2) (a) Any transfer, supplemental appropriation, or revised appropriation made pursuant to this section shall be made only by ordinance or resolution which complies with the notice provisions of section [29-1-106](#).

(b) For transfers, such ordinance or resolution shall set forth in full the amounts to be transferred and shall be documented in detail in the minutes of the meeting of the governing body. A certified copy of such ordinance or resolution shall be transmitted immediately to the affected spending agencies and the officer or employee of the local government whose duty it is to draw warrants or orders for the payment of money and to keep the record of expenditures as required by section [29-1-114](#). A certified copy of such ordinance or resolution shall be filed with the division.

(c) For supplemental budgets and appropriations, such ordinance or resolution shall set forth in full the source and amount of such revenue, the purpose for which such revenues are being budgeted and appropriated, and the fund or spending agency which shall make such supplemental expenditure. A certified copy of such ordinance or resolution shall be filed with the division.

Source: L. 90: Entire part R&RE, p. 1433, § 1, effective January 1, 1991.

Editor's note: This section was contained in a part that was repealed and reenacted in 1990. This section, as it existed in 1990, is similar to 29-1-111.5 as said section existed in 1989, the year prior to the repeal and reenactment of this part.

© 2007 by The Committee on Legal Services for the State of Colorado and Matthew Bender & Company, Inc., a member of the LexisNexis Group. All rights reserved. Use of this product is subject to the restrictions and terms and conditions of the Matthew Bender Master Agreement.

Document 1 of 1

Source:

Colorado Statutes/Colorado Revised Statutes /TITLE 29 GOVERNMENT - LOCAL/GENERAL PROVISIONS/ARTICLE 1 BUDGET AND SERVICES/PART 1 LOCAL GOVERNMENT BUDGET LAW OF COLORADO/29-1-110. Expenditures not to exceed appropriation.

29-1-110. Expenditures not to exceed appropriation.

(1) During the fiscal year, no officer, employee, or other spending agency shall expend or contract to expend any money, or incur any liability, or enter into any contract which, by its terms, involves the expenditures of money in excess of the amounts appropriated. Any contract, verbal or written, made in violation of this section shall be void, and no moneys belonging to a local government shall be paid on such contract.

(2) Multiple-year contracts may be entered into where allowed by law or if subject to annual appropriation.

Source: L. 90: Entire part R&RE, p. 1434, § 1, effective January 1, 1991.

Editor's note: This section was contained in a part that was repealed and reenacted in 1990. This section, as it existed in 1990, is similar to 29-1-113 as said section existed in 1989, the year prior to the repeal and reenactment of this part.

ANNOTATION

C.J.S. See 20 C.J.S., Counties, §§ 150, 181.

Annotator's note. Since § [29-1-110](#) is similar to § [29-1-113](#) as it existed prior to the 1990 repeal and reenactment of this part 1, relevant cases construing that provision have been included in the annotations to this section.

The purposes of this section are to protect the taxpayer against improvident use of tax revenue, to encourage citizen participation and debate prior to the institution of public projects, to insure public disclosure of proposed spending, and to encourage prudence and thrift by those elected to direct expenditures of public funds. *Shannon Water & San. Dist. v. Norris & Sons Drilling Co.*, 29 Colo. App. 48, 477 P.2d 476 (1970).

Effect of no appropriation. Since there is an absolute prohibition against spending in excess of an appropriation, there can be no sum spent when there is no appropriation. *Shannon Water & San. Dist. v. Norris & Sons Drilling Co.*, 29 Colo. App. 48, 477 P.2d 476 (1970).

Specific project allocations not deemed appropriations. A contractor was allowed to collect for change orders over and above his original bid because the appropriation ordinance to the sewer fund by the town board prevailed over later specific allocations to projects by town officials which were not deemed appropriations. *R.L. Atkins, Inc. v. ARIX*, 675 P.2d 336 (Colo. App. 1983).

Required formalities. This section requires that certain formalities, such as public hearings and formal adoption of budgets, be complied with before public funds can be spent. *Shannon Water & San. Dist. v. Norris & Sons Drilling Co.*, 29 Colo. App. 48, 477 P.2d 476 (1970).

Recovery in specie where property furnished under unenforceable contract. Where property is furnished to a municipal corporation under an unenforceable contract and the municipality has not paid for the property, then the seller or person supplying the property may, upon equitable terms, recover it in specie. *F.J. Kent Corp. v. Town of Dillon*, 648 P.2d 669 (Colo. App. 1982).

But no recovery where property no longer in existence. There can be no recovery where the property is no longer in existence or identifiable, or where it cannot be restored to the plaintiff without serious damage to other property of the municipality. *F.J. Kent Corp. v. Town of Dillon*, 648 P.2d 669 (Colo. App. 1982).

Representations sheriff made to his deputies and clerks regarding cash compensation for overtime were made without approval of the board and, thus, are not binding on the county or the board. *Johnson v. Bd. of County Comm'rs*, 676 P.2d 1263 (Colo. App. 1984).

This section does not prohibit an award of attorney's fees pursuant to a remedy-granting provision in a contract between a municipality and a construction company. When a good faith dispute arises between a public entity and a contractor concerning the contractor's right to receive additional compensation under a remedy-granting provision of a public works contract, § [24-91-103.6](#) (4) precludes the use of the defense authorized by this section that no moneys have been appropriated as long as the contractor has complied with the provisions of the contract. *Town of Alma v. AZCO Constr., Inc.*, 10 P.3d 1256 (Colo. 2000).

Applied in *City of Englewood v. Ripple & Howe, Inc.*, 150 Colo. 434, 374 P.2d 360 (1962); *People v. Losavio*, 199 Colo. 212, 606 P.2d 856 (1980); *Gude v. City of Lakewood*, 636 P.2d 691 (Colo. 1981); *Groditsky v. Pinckney*, 661 P.2d 279 (Colo. 1983).

© 2007 by The Committee on Legal Services for the State of Colorado and Matthew Bender & Company, Inc., a member of the LexisNexis Group. All rights reserved. Use of this product is subject to the restrictions and terms and conditions of the Matthew Bender Master Agreement.

Document 1 of 1

Source:

Colorado Statutes/Colorado Revised Statutes /TITLE 29 GOVERNMENT - LOCAL/GENERAL PROVISIONS/ARTICLE 1 BUDGET AND SERVICES/PART 1 LOCAL GOVERNMENT BUDGET LAW OF COLORADO/29-1-111. Contingencies.

29-1-111. Contingencies.

In cases of emergency which could not have been reasonably foreseen at the time of adoption of the budget, the governing body may authorize the expenditure of funds in excess of the appropriation by ordinance or resolution duly adopted by a majority vote of such governing body at a public meeting. Such ordinance or resolution shall set forth the facts concerning such emergency and shall be documented in detail in the minutes of the meeting of such governing body at which such ordinance or resolution was adopted. A certified copy of such ordinance or resolution shall be filed with the division.

Source: L. 90: Entire part R&RE, p. 1434, § 1, effective January 1, 1991.

Editor's note: This section was contained in a part that was repealed and reenacted in 1990. This section, as it existed in 1990, is the same as 29-1-114 as said section existed in 1989, the year prior to the repeal and reenactment of this part.

ANNOTATION

Annotator's note. Since § [29-1-111](#) is similar to § [29-1-114](#) as it existed prior to the 1990 repeal and reenactment of this part 1, relevant cases construing that provision have been included in the annotations to this section.

Absent a contingency, contract in excess of appropriations void. A contract by a city for a survey and detailed study for a sewer system is void where no appropriation had been made, where there was no casualty, accident, or unforeseen contingency. *City of Englewood v. Ripple & Howe, Inc.*, 150 Colo. 434, 374 P.2d 360 (1962).

Failure to set forth facts is technical deficiency. A city resolution authorizing an unforeseeable expenditure which fails to set forth in full the facts necessitating a departure from the normal budgeting and appropriations process is a technical deficiency and does not justify striking down a contract. *Gude v. City of Lakewood*, 636 P.2d 691 (Colo. 1981).

© 2007 by The Committee on Legal Services for the State of Colorado and Matthew Bender & Company, Inc., a member of the LexisNexis Group. All rights reserved. Use of this product is subject to the restrictions and terms and conditions of the Matthew Bender Master Agreement.

Document 1 of 1

Source:

Colorado Statutes/Colorado Revised Statutes /TITLE 29 GOVERNMENT - LOCAL/GENERAL PROVISIONS/ARTICLE 1 BUDGET AND SERVICES/PART 1 LOCAL GOVERNMENT BUDGET LAW OF COLORADO/29-1-112. Payment for contingencies.

29-1-112. Payment for contingencies.

In case of an emergency and the passage of an ordinance or resolution authorizing additional expenditures in excess of the appropriation as provided in section [29-1-111](#) and if there is money available for such excess expenditure in some other fund or spending agency which will not be needed for expenditures during the balance of the fiscal year, the governing body shall transfer the available money from such fund to the

fund from which the excess expenditures are to be paid. If available money which can be so transferred is not sufficient to meet the authorized excess expenditure, then the governing body may obtain a temporary loan to provide for such excess expenditures. The total amount of the temporary loan shall not exceed the amount which can be raised by a two-mill levy on the total assessed valuation of the taxable property within the limits of the local government of such governing body.

Source: L. 90: Entire part R&RE, p. 1434, § 1, effective January 1, 1991.

Editor's note: This section was contained in a part that was repealed and reenacted in 1990. This section, as it existed in 1990, is the same as 29-1-115 as said section existed in 1989, the year prior to the repeal and reenactment of this part.

ANNOTATION

Annotator's note. Since § [29-1-112](#) is similar to § [29-1-115](#) as it existed prior to the 1990 repeal and reenactment of this part 1, relevant cases construing that provision have been included in the annotations to this section.

Counties may use contingency funds for aid to dependent children. The counties must produce their 20% of aid to dependent children whether it be from contingency funds, an excess levy, registered warrants, sales tax or otherwise. Colo. State Bd. of Soc. Serv. v. Billings, 175 Colo. 380, 487 P.2d 1110 (1971).

Transfer to road and bridge fund not authorized. This section does not authorize the transfer of general fund revenue to the road and bridge fund to avoid the requirement of a mill levy pursuant to §§ [43-2-202](#) and 43-2-203. City of Greeley v. Bd. of County Comm'rs, 644 P.2d 76 (Colo. App. 1981).

Section [30-25-106](#) (1) specifically prohibits the transfer of county general fund money for expenditures for roads and bridges. City of Colo. Springs v. Bd. of County Comm'rs, 648 P.2d 671 (Colo. App. 1982).

© 2007 by The Committee on Legal Services for the State of Colorado and Matthew Bender & Company, Inc., a member of the LexisNexis Group. All rights reserved. Use of this product is subject to the restrictions and terms and conditions of the Matthew Bender Master Agreement.

Document 1 of 1

Source:

Colorado Statutes/Colorado Revised Statutes /TITLE 29 GOVERNMENT - LOCAL/GENERAL PROVISIONS/ARTICLE 1 BUDGET AND SERVICES/PART 1 LOCAL GOVERNMENT BUDGET LAW OF COLORADO/29-1-113. Filing of budget.

29-1-113. Filing of budget.

(1) No later than thirty days following the beginning of the fiscal year of the budget adopted pursuant to section [29-1-108](#), the governing body shall cause a certified copy of such budget, including the budget message, to be filed in the office of the division. Copies of such budget and of ordinances or resolutions authorizing expenditures or the

transfer of funds shall be filed with the officer or employee of the local government whose duty it is to disburse moneys or issue orders for the payment of money.

(2) Notwithstanding the provisions of section [29-1-102](#) (13), budgets shall be filed with the division by home rule cities, cities and counties, and towns and cities operating under a territorial charter for the purpose of information and research.

(3) If the governing body of a local government fails to file a certified copy of the budget with the division as required by this section, the division, after notice to the affected local government, may notify any county treasurer holding moneys of the local government generated pursuant to the taxing authority of such local government and authorize the county treasurer to prohibit release of any such moneys until the local government complies with the provisions of this section.

Source: L. 90: Entire part R&RE, p. 1434, § 1, effective January 1, 1991.

Editor's note: This section was contained in a part that was repealed and reenacted in 1990. This section, as it existed in 1990, is the same as 29-1-116 as said section existed in 1989, the year prior to the repeal and reenactment of this part.

© 2007 by The Committee on Legal Services for the State of Colorado and Matthew Bender & Company, Inc., a member of the LexisNexis Group. All rights reserved. Use of this product is subject to the restrictions and terms and conditions of the Matthew Bender Master Agreement.

Document 1 of 1

Source:

Colorado Statutes/Colorado Revised Statutes /TITLE 29 GOVERNMENT - LOCAL/GENERAL PROVISIONS/ARTICLE 1 BUDGET AND SERVICES/PART 1 LOCAL GOVERNMENT BUDGET LAW OF COLORADO/29-1-114. Record of expenditures.

29-1-114. Record of expenditures.

The officer or employee of the local government whose duty it is to disburse moneys or issue orders for the payment of money shall keep in his office a record showing the amounts authorized by the appropriation and the expenditures drawn against the same and also a record of the transfer of moneys from one fund to another and of any authorized additional expenditures as provided in section [29-1-111](#). Such record shall be kept so that it will show at all times the unexpended balance in each of the appropriated funds or spending agencies. Such officer or employee shall report on such record as may be required by the governing body. No such officer or employee shall disburse any moneys or issue orders for the payment of money in excess of the amount available as shown by said record or report.

Source: L. 90: Entire part R&RE, p. 1435, § 1, effective January 1, 1991.

Editor's note: This section was contained in a part that was repealed and reenacted in 1990. This section, as it existed in 1990, is the same as 29-1-117 as said section existed in 1989, the year prior to the repeal and reenactment of this part.

© 2007 by The Committee on Legal Services for the State of Colorado and Matthew Bender & Company, Inc., a member of the LexisNexis Group. All rights reserved. Use of this product is subject to the restrictions and terms and conditions of the Matthew Bender Master Agreement.

Document 1 of 1

Source:

Colorado Statutes/Colorado Revised Statutes /TITLE 29 GOVERNMENT - LOCAL/GENERAL PROVISIONS/ARTICLE 1 BUDGET AND SERVICES/PART 1 LOCAL GOVERNMENT BUDGET LAW OF COLORADO/29-1-115. Violation is malfeasance - removal.

29-1-115. Violation is malfeasance - removal.

Any member of the governing body of any local government or any officer, employee, or agent of any spending agency who knowingly or willfully fails to perform any of the duties imposed upon him by this part 1 or who knowingly and willfully violates any of its provisions is guilty of malfeasance in office, and, upon conviction thereof, the court shall enter judgment that such officer so convicted shall be removed from office. Any elector of the local government may file an affidavit regarding suspected malfeasance with the district attorney, who shall investigate the allegations and prosecute the violation if sufficient cause is found. It is the duty of the court rendering any such judgment to cause immediate notice of such removal to be given to the proper officer of the local government so that the vacancy thus caused may be filled.

Source: L. 90: Entire part R&RE, p. 1435, § 1, effective January 1, 1991.

Editor's note: This section was contained in a part that was repealed and reenacted in 1990. This section, as it existed in 1990, is the same as 29-1-118 as said section existed in 1989, the year prior to the repeal and reenactment of this part.

ANNOTATION

Am. Jur.2d. See 63C Am. Jur.2d, Public Officers and Employees, § 191.

C.J.S. See 67 C.J.S., Officers, § 154.

Annotator's note. Since § [29-1-115](#) is similar to § 29-1-118 as it existed prior to the 1990 repeal and reenactment of this part 1, relevant cases construing that provision have been included in the annotations to this section.

Applied in *People v. Pile*, 197 Colo. 146, 595 P.2d 222 (1979); *People ex rel. Losavio v. Gentry*, 199 Colo. 153, 606 P.2d 57 (1980); *People v. Losavio*, 199 Colo. 212, 606 P.2d 856 (1980); *Groditsky v. Pinckney*, 661 P.2d 279 (Colo. 1983).

© 2007 by The Committee on Legal Services for the State of Colorado and Matthew Bender & Company, Inc., a member of the LexisNexis Group. All rights reserved. Use of this product is subject to the restrictions and terms and conditions of the Matthew Bender Master Agreement.