

Comments on Budget Approval: [HB 23-1131](#)
Provided by: Colorado HOA Forum www.coloradohoaforum.com

In brief, all homeowners, and not just a special group attending a meeting, should be able to vote on the HOA proposed budget and other highly important HOA governance issues. A vote should be an informed vote and not one cast in haste in an environment of unorganized debate and/or dissension at a meeting. The current issue with budget approval is that it is not based on full participation of the community, allows the few to decide for the whole and homeowners rarely get accurate, factual and comprehensive explanations about critical items within the budget prior to any vote. Today's HOA budget approval processes differ from HOA to HOA, there is no one standard as an HOA's governing documents can refine the process described in State HOA law. Some governing documents are written to assure passage of a budget regardless of who attends the budget presentation and approval meeting. Furthermore, a vote at a budget meeting is by definition exclusionary as not all homeowners can attend such a meeting for a multiple of reasons (see below). Vote by Mail (VBM), typical in most HOAs and used extensively in our democratic process, increases voter participation and a sense of community and is a proven and trusted means to approve or disapprove an HOA initiative or election.

The budget approval process is an issue that churns up divisiveness in the community. It is a process created in State law and in HOA governing documents that make little sense: ; homeowners don't have to approve but can reject a budget at an annual meeting; rejecting it requires mostly a vote at an HOA meeting by half those in attendance or by proxy (as few as 20-25% of homeowners decide what is good for all; the process of the importance of those able to attend a meeting is exclusionary by design. Those who are disabled, working at the time the vote takes place, are out of town or are on vacation or serving in the military and can't attend, those too ill to attend, those without a good means of transportation, bad weather conditions and other factors influence who can participate or not when they could otherwise easily VBM.

Homeowners are familiar with voting by mail (VBM) ballots and have a good degree of confidence in the process. Homeowners, regardless of the outcome of a referendum, can accept VBM outcomes as long as they are afforded an easy to understand, easy to participate and reliable process, know their vote counts as much as others, their vote is confidential and they have a clear explanation of what they are voting for. They want the right to vote on important issues or not in the privacy of their home. VBM solves these concerns. Homeowners don't like small groups or committees pushing through initiatives (and the budget) without their involvement or a public airing of the issues prior to a vote: VBM can thwart this practice. Homeowners understand a one vote for one home principle vs the odd approach described in CCIOA that has many versions throughout the State based on the different HOA governing documents. In particular, a budget process that involves a series of equations and percentages (percent for a quorum, percent of those attending a meeting required to veto a budget): where did this all come from to make the easy complicated?

Apathy is surely an issue in HOAs and only in part explains low HOA meeting attendance. Many homeowners have just been worn out and quit attending meeting due the happenings during a meeting: bully Boards unwilling to let homeowners voice their opinions, never getting their questions answered, the meetings become unruly,

and being insulted by the Board. Thus, homeowner apathy has risen and attending any meeting for any reason is met negatively. Then when solicited for attending a budget they feel the process is not only complicated but what the use of attending from past experiences. Thus, VBM solves this

I've never heard of an objection in an HOA to requiring a vote of all homeowners on highly impacting issues. A community vote on a budget is as important as two other issues requiring a community vote: changes to the Declaration and Board elections (construction defects law suits are also voted upon by homeowners). How did the budget approval get so complicated, divisive and exclusionary? Thus, a community three step budget process is appropriate: present, vote count.

A few comments on HB 23-1131 that justifies this Bill to advocate a community vote on the budget approval/rejection.

- The requirement for 50% of homeowners and proxies to be in attendance at the budget presentation meeting will result in a high number, if not most HOAs, not being able to meet the threshold and roadblock the approval or rejection process.
- The Bill should consider what happens when a budget is rejected: can changes be made and resubmitted (Board decision on this?) or explanation to homeowners why a special assessment or service cutback may occur and when and how much.
- The concept of accepting or rejecting a budget via a meeting vs referendum is rejected by our organization.
- The concept of a small percentage of homeowners deciding on approval or rejection of a budget is rejected and mimics the current process: only the equation percent in attendance and percent to reject changes.
- The process of valuing the vote of those in attendance over those who can't attend or proxy vote is part of the current problem and excludes a good segment homeowners through no fault of their own: the disabled, those on vacation and part-time residents, those who can't attend due to weather, those that would vote but will not attend a meeting based on previous experiences, military personnel out of state or country, landlords/rental owners not in the area, those at work when the meeting is conducted, those who must care for their children or others, outside investors (which are becoming more common), and others. This is not one vote for each housing unit one vote for those able to attend. A referendum "yes or no" includes all homeowners.
- A referendum on the budget would preclude the practice of proxy hoarding to sway a vote one way and end a policy of defaulting ballots and proxies that have been incorrectly completed to a Board member/President. This item should be addressed in any proposal.
- A three step VBM process, similar to that practiced in elections and governing document changes, will allow for an informed vote and explanation of budget items, a vote completed in the privacy of one's home, extend the franchise to all homeowners, increase participation and number involved (voting), and let the democratic process work and have such a budget approved or rejected without the possibility of vote manipulation with proxies or other manner. Step one is present and educate at a public forum explaining the budget and answering mandatory questions developed with this proposal. Step two, send

out ballots accompanied by a documented with the questions and answers presented at the budget meeting. Step three, count the votes.

- **Proposed manner to approve or disapprove a budget:** 1) conduct a budget meeting at which the Board presents the budget and provides explanations on line entries identified in item 2 and conducts a question-and-answer session and take proposals for changes. The only business to be conducted at this meeting is budget presentation and modifications. The budget presentation meeting date will be announced to homeowners no less than 14 days prior to the meeting via email and other communication available to the HOA. A quorum is not necessary for this meeting and no business or policy decisions will be conducted other than that allowed under this proposal. However, changes to the budget line items can be approved or rejected by the Board at this meeting requiring their majority vote. A majority of Board members must be present for this meeting or it shall be rescheduled. The presentation meeting will not involve any voting on the budget. 2) mail ballots (no proxy voting) to all homeowners accompanied by instructions for completion, critical dates for completion, explanation of how to vote (YES or NO), explanation of critical budget line items and mandatory items discussed below and the budget in a format developed by DORA with deviations allowed for line items not in the DORA template. Ballots mailed to all homeowners within 3 days after the budget meeting. Accompanying the ballot will be the following mandatory information: what happens if the budget is rejected: if the budget is rejected and the previous year's budget is used for the coming fiscal year what are the plans for any special assessment or service cuts; amount of next year's assessment based on proposed budget; main reason for any increase or decrease in assessments; explanation of all legal funding requirements; why any line item has gone up over 10%; explanation of the reserve funding level and plans to fund and a copy of the last reserve fund study and other items deemed mandatory by DORA. Homeowners have 2 weeks to send in or drop off ballots. 3) Votes are counted and the highest vote count, YES or NO, decides acceptance or rejection. If the budget is rejected the previous year's budget will be adopted. Steps 1, 2, 3, simple, clear, familiar and acceptable process without any complicated rules and all homeowners afforded the opportunity to participate. This process eliminates proxy hoarding on either side of the issue and a provision in the proposal should state that no ballot is defaulted to any Board member or other person. No provisions or policies or procedures in the budget approval/rejection process are needed to address alternative voting options such as Zoom voting because only VBM is acceptable. This proposal makes budget approval/rejection a mandatory standard operating procedure for all HOAs and replaces any processes in CCIOA or in an HOA's governing documents.

No general funds or taxpayer dollars required. DORA to provide a template for budget presentation and explanation