

**First Regular Session
Sixty-eighth General Assembly
STATE OF COLORADO**

PREAMENDED

*This Unofficial Version Includes Committee
Amendments Not Yet Adopted on Second Reading*

LLS NO. 11-0534.01 Esther van Mourik

HOUSE BILL 11-1218

HOUSE SPONSORSHIP

Baumgardner,

SENATE SPONSORSHIP

White,

House Committees

Agriculture, Livestock, & Natural Resources

Senate Committees

A BILL FOR AN ACT

101 **CONCERNING A COUNTY POWER TO CREATE A FEDERAL MINERAL**
102 **LEASE DISTRICT FOR PURPOSES OF RECEIVING MONEYS**
103 **DISTRIBUTED BY THE DEPARTMENT OF LOCAL AFFAIRS FROM**
104 **THE LOCAL GOVERNMENT MINERAL IMPACT FUND.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://www.leg.state.co.us/billsummaries>.)

The bill allows a county to create a federal mineral lease district (district) for purposes of receiving moneys distributed to the county by

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
*Capital letters indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.*

the department of local affairs from the local government mineral impact fund. The bill specifies requirements for the creation of the district, minimum requirements for establishment of the board of directors of the district, how the district's service plan is to be approved, and the powers and duties of the board of directors of the district.

1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1.** Article 20 of title 30, Colorado Revised Statutes, is
3 amended BY THE ADDITION OF A NEW PART to read:

4 PART 13

5 FEDERAL MINERAL LEASE DISTRICTS

6 **30-20-1301. Short title.** THIS PART 13 SHALL BE KNOWN AND
7 MAY BE CITED AS THE "FEDERAL MINERAL LEASE DISTRICT ACT".

8 **30-20-1302. Legislative declaration.** (1) THE GENERAL
9 ASSEMBLY HEREBY FINDS, DETERMINES, AND DECLARES THAT:

10 (a) IT IS OF STATEWIDE CONCERN TO MAXIMIZE THE AMOUNT OF
11 PAYMENT IN LIEU OF TAXES THAT COUNTIES IN COLORADO ANNUALLY
12 RECEIVE;

13 (b) COUNTIES HELP MANAGE THOUSANDS OF ACRES OF PUBLIC
14 LANDS IN COLORADO, AND PAYMENT IN LIEU OF TAXES FUNDING FROM THE
15 FEDERAL GOVERNMENT DEFRAYS COUNTY PUBLIC LAND MANAGEMENT
16 COSTS; AND

17 (c) COUNTIES WOULD NOT BE ABLE TO FUND IMPORTANT SERVICES
18 AND PROGRAMS FOR COLORADO CITIZEN ENJOYMENT OF PUBLIC LANDS
19 WITHOUT MAXIMIZING PAYMENT IN LIEU OF TAXES FUNDING TO
20 COLORADO.

21 (2) THE GENERAL ASSEMBLY FURTHER FINDS AND DECLARES THAT
22 AS A RESULT OF THE UNITED STATES DEPARTMENT OF THE INTERIOR
23 DECLARING THAT FEDERAL MINERAL LEASE PAYMENTS TO COUNTIES ARE

1 TO BE COUNTED AS PRIOR-YEAR PAYMENTS UNDER THE PAYMENT IN LIEU
2 OF TAXES PAYMENT FORMULA, AS DESCRIBED IN 31 U.S.C. SEC. 6902,
3 COLORADO COUNTIES WILL LOSE MILLIONS OF DOLLARS OTHERWISE
4 DEDICATED TO COLORADO PUBLIC LAND MANAGEMENT.

5 (3) THE GENERAL ASSEMBLY FURTHER FINDS AND DECLARES THAT
6 IN ORDER TO MAXIMIZE THE AMOUNT OF PAYMENT IN LIEU OF TAXES
7 FUNDING COLORADO RECEIVES, COUNTY FEDERAL MINERAL LEASE
8 PAYMENTS MUST BE PROTECTED FROM THE NEW FEDERAL PRIOR-YEAR
9 PAYMENT METHOD. TO THAT END, COUNTIES SHOULD HAVE THE ABILITY
10 TO COLLABORATE WITH STATE AND LOCAL STAKEHOLDERS WITHIN THE
11 FRAMEWORK OF A FEDERAL MINERAL LEASE DISTRICT TO ENSURE
12 PROTECTION OF PAYMENT IN LIEU OF TAXES FUNDING DEDICATED TO
13 PUBLIC LAND MANAGEMENT IN COLORADO.

14 **30-20-1303. Definitions.** AS USED IN THIS PART 13, UNLESS THE
15 CONTEXT OTHERWISE REQUIRES:

16 (1) "COUNTY" MEANS A HOME RULE OR STATUTORY COUNTY IN
17 THIS STATE AND INCLUDES A CITY AND COUNTY.

18 (2) "DISTRICT" MEANS A FEDERAL MINERAL LEASE DISTRICT
19 CREATED PURSUANT TO THIS PART 13.

20 (3) "FUNDING" MEANS THE DIRECT DISTRIBUTION OF MONEYS
21 FROM THE LOCAL GOVERNMENT MINERAL IMPACT FUND TO COUNTIES AS
22 DESCRIBED IN SECTION 34-63-102 (5.4) (c), C.R.S.

23 (4) "RESOLUTION" MEANS A RESOLUTION INITIATED AND ADOPTED
24 BY A BOARD OF COUNTY COMMISSIONERS OF A COUNTY TO CREATE A
25 FEDERAL MINERAL LEASE DISTRICT AS DESCRIBED IN SECTION 30-20-1304
26 (2).

27 **30-20-1304. Power to create federal mineral lease districts.**

1 (1) EXCEPT AS OTHERWISE PROVIDED IN THIS PART 13, ANY COUNTY MAY
2 CREATE A DISTRICT, SO LONG AS THE DISTRICT IS CREATED THROUGH A
3 RESOLUTION ADOPTED AS SPECIFIED IN SUBSECTION (2) OF THIS SECTION
4 NO LATER THAN JUNE 30, 2011, AND EACH JUNE 1 OF EVERY YEAR
5 THEREAFTER.

6 (2) A BOARD OF COUNTY COMMISSIONERS SHALL CREATE A
7 DISTRICT BY DULY ADOPTING, BY MAJORITY VOTE, A RESOLUTION TO THAT
8 EFFECT, AND THE RESOLUTION SHALL SET FORTH:

9 (a) THE NAME OF THE COUNTY CREATING THE DISTRICT;

10 (b) THE NAMES OF ANY MUNICIPALITIES TO BE INCLUDED IN THE
11 PROPOSED DISTRICT IF SUCH MUNICIPALITIES HAVE ENACTED ORDINANCES
12 AS SPECIFIED IN SUBSECTION (3) OF THIS SECTION;

13 (c) A DESCRIPTION OF THE BOUNDARIES OF THE DISTRICT;

14 (d) THE NAME OF THE DISTRICT; AND

15 (e) THE NUMBER OF DIRECTORS OF THE DISTRICT. THERE SHALL BE
16 NO FEWER THAN THREE DIRECTORS FOR A DISTRICT, AND THE TOTAL
17 NUMBER OF DIRECTORS SHALL BE AN ODD NUMBER.

18 (3) THE GOVERNING BODY OF A MUNICIPALITY MAY ENACT AN
19 ORDINANCE PROPOSING TO JOIN A DISTRICT BEFORE THE ADOPTION OF A
20 RESOLUTION BY A BOARD OF COUNTY COMMISSIONERS PURSUANT TO
21 SUBSECTION (1) OF THIS SECTION.

22 (4) NO LATER THAN THE FIRST BUSINESS DAY AFTER THE ADOPTION
23 OF A RESOLUTION, THE COUNTY CLERK AND RECORDER SHALL TRANSMIT
24 A CERTIFIED COPY OF THE RESOLUTION TO:

25 (a) THE GOVERNING BODY OF EACH MUNICIPALITY NAMED IN THE
26 RESOLUTION; AND

27 (b) THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OF LOCAL

1 AFFAIRS, WHO SHALL, UPON RECEIPT OF THE CERTIFIED COPY OF THE
2 RESOLUTION, ALLOCATE ALL FUTURE FUNDING DIRECTLY TO THE DISTRICT.

3 (5) A DISTRICT SHALL BE ACTIVE FOR TWO YEARS FROM THE DATE
4 OF THE RESOLUTION CREATING THE DISTRICT. PRIOR TO THE END OF THE
5 TWO-YEAR PERIOD, THE BOARD OF COUNTY COMMISSIONERS MAY PASS A
6 REAUTHORIZING RESOLUTION TO CONTINUE THE EXISTENCE OF THE
7 DISTRICT FOR ANOTHER TWO YEARS.

8 **30-20-1305. Approval of service plan.** (1) THE BOARD OF
9 COUNTY COMMISSIONERS OF A COUNTY THAT CREATES A DISTRICT SHALL
10 CONSTITUTE THE APPROVING AUTHORITY FOR THE DISTRICT SERVICE PLAN.

11 (2) THE SERVICE PLAN SHALL BE SUBMITTED TO THE BOARD OF
12 COUNTY COMMISSIONERS FOR APPROVAL NO LATER THAN NINETY DAYS
13 AFTER THE DATE OF THE RESOLUTION CREATING THE DISTRICT.

14 (3) UPON SUBMISSION OF THE SERVICE PLAN, THE BOARD OF
15 COUNTY COMMISSIONERS MAY:

16 (a) APPROVE WITHOUT CONDITION OR MODIFICATION THE SERVICE
17 PLAN;

18 (b) DISAPPROVE THE SERVICE PLAN; OR

19 (c) CONDITIONALLY APPROVE THE SERVICE PLAN SUBJECT TO
20 SUBMISSION OF ADDITIONAL INFORMATION RELATING TO THE
21 MODIFICATION OF THE PROPOSED SERVICE PLAN.

22 **30-20-1306. Board of directors - appointment - removal.**

23 (1) (a) IMMEDIATELY AFTER THE CREATION OF A DISTRICT, THE BOARD OF
24 COUNTY COMMISSIONERS OF THE COUNTY SHALL, BY MAJORITY VOTE,
25 APPOINT A BOARD OF DIRECTORS FOR THE DISTRICT. THE NUMBER OF
26 DIRECTORS ON THE BOARD SHALL BE AS SET FORTH IN THE RESOLUTION
27 CREATING THE DISTRICT.

1 (b) AT LEAST ONE MEMBER OF THE BOARD OF DIRECTORS SHALL BE
2 A COUNTY COMMISSIONER FROM THE COUNTY THAT CREATED THE
3 DISTRICT. OTHER MEMBERS MAY BE REPRESENTATIVES OF THE
4 GOVERNING BODY OF MUNICIPALITIES INCLUDED IN THE DISTRICT OR
5 OTHER OFFICIALS REPRESENTING THE INTERESTS OF AREAS IMPACTED BY
6 MINERAL LEASE ACTIVITIES.

7 (c) COUNTY COMMISSIONERS FROM THE COUNTY THAT CREATES A
8 DISTRICT SERVING ON THE BOARD OF DIRECTORS SHALL NOT CONSTITUTE
9 A MAJORITY ON THE BOARD OF DIRECTORS.

10 (d) THE OFFICERS OF THE BOARD OF DIRECTORS SHALL BE THE
11 PRESIDENT AND A SECRETARY WHO SHALL BE ELECTED ANNUALLY BY THE
12 BOARD OF DIRECTORS FROM ITS OWN MEMBERS.

13 (e) THE TERM OF EACH MEMBER OF THE BOARD OF DIRECTORS
14 SHALL BE TWO YEARS UNLESS THE DISTRICT IS REAUTHORIZED PURSUANT
15 TO SECTION 30-20-1304 (5) AND THE MEMBER IS REAPPOINTED AS
16 SPECIFIED IN PARAGRAPH (a) OF THIS SUBSECTION (1).

17 (2) THE BOARD OF COUNTY COMMISSIONERS OF THE COUNTY THAT
18 CREATES A DISTRICT SHALL, BY MAJORITY VOTE, HAVE THE POWER TO
19 REMOVE ANY MEMBER OF THE BOARD OF DIRECTORS FOR THE DISTRICT.
20 VACANCIES ON THE BOARD OF DIRECTORS SHALL BE FILLED BY THE BOARD
21 OF COUNTY COMMISSIONERS.

22 (3) ALL SPECIAL AND REGULAR MEETINGS OF THE BOARD OF
23 DIRECTORS FOR A DISTRICT SHALL BE HELD AT LOCATIONS THAT ARE
24 WITHIN THE BOUNDARIES OF THE DISTRICT. THE PROVISIONS OF THIS
25 SUBSECTION (3) GOVERNING THE LOCATION OF MEETINGS MAY BE WAIVED
26 ONLY IF THE PROPOSED CHANGE OF LOCATION OF A MEETING OF THE
27 BOARD APPEARS ON THE AGENDA OF A REGULAR OR SPECIAL MEETING OF

1 THE BOARD AND IF A RESOLUTION IS ADOPTED BY THE BOARD STATING THE
2 REASON FOR WHICH A MEETING OF THE BOARD IS TO BE HELD IN A
3 LOCATION OTHER THAN UNDER THE PROVISIONS OF THIS SUBSECTION (3)
4 AND FURTHER STATING THE DATE, TIME, AND PLACE OF SUCH MEETING.

5 **30-20-1307. Board of directors - powers and duties.**

6 (1) (a) EXCEPT AS OTHERWISE PROVIDED IN PARAGRAPH (b) OF THIS
7 SUBSECTION (1), ON AN ANNUAL BASIS, THE BOARD OF DIRECTORS OF A
8 DISTRICT SHALL DISTRIBUTE ALL OF THE FUNDING THE DISTRICT RECEIVES
9 FROM THE DEPARTMENT OF LOCAL AFFAIRS TO AREAS WITHIN THE
10 DISTRICT THAT ARE SOCIALLY OR ECONOMICALLY IMPACTED BY THE
11 DEVELOPMENT, PROCESSING, OR ENERGY CONVERSION OF FUELS AND
12 MINERALS LEASED UNDER THE FEDERAL "MINERAL LANDS LEASING ACT"
13 OF FEBRUARY 25, 1920, AS AMENDED.

14 (b) THE DISTRICT MAY USE UP TO TEN PERCENT OF THE ANNUAL
15 FUNDING FOR ANY ADMINISTRATIVE COSTS OF THE DISTRICT.

16 (2) THE BOARD OF DIRECTORS MAY REVIEW ANY REPORTS OR
17 STUDIES MADE AND MAY SEEK ANY ADDITIONAL REPORTS OR STUDIES IT
18 DEEMS NECESSARY REGARDING THE DISTRIBUTION OF FUNDING IN THE
19 DISTRICT.

20 (3) A DISTRICT MAY COOPERATE OR CONTRACT WITH ANY OTHER
21 DISTRICT TO PROVIDE ANY FUNCTION OR SERVICE LAWFULLY AUTHORIZED
22 TO EACH OF THE COOPERATING OR CONTRACTING DISTRICTS, INCLUDING
23 THE SHARING OF COSTS, ONLY IF THE COOPERATION OR CONTRACTS ARE
24 AUTHORIZED BY EACH DISTRICT WITH THE APPROVAL OF EACH DISTRICT'S
25 BOARD OF DIRECTORS. ANY CONTRACT PROVIDING FOR THE SHARING OF
26 COSTS MAY BE ENTERED INTO FOR ANY PERIOD, NOT TO EXCEED THE
27 EXISTENCE OF THE DISTRICT AND NOTWITHSTANDING ANY PROVISION OF

1 LAW LIMITING THE LENGTH OF ANY FINANCIAL CONTRACTS OR
2 OBLIGATIONS OF GOVERNMENTS. ANY SUCH CONTRACT SHALL SET FORTH
3 FULLY THE PURPOSES, POWERS, RIGHTS, OBLIGATIONS, AND
4 RESPONSIBILITIES, FINANCIAL AND OTHERWISE, OF THE CONTRACTING
5 PARTIES. WHERE OTHER PROVISIONS OF LAW PROVIDE REQUIREMENTS FOR
6 SPECIAL TYPES OF INTERGOVERNMENTAL CONTRACTING OR COOPERATION,
7 THOSE SPECIAL PROVISIONS SHALL CONTROL.

8 **SECTION 2.** The introductory portions to 34-63-102 (5.4) (c) and
9 (5.4) (c) (I), Colorado Revised Statutes, are amended to read:

10 **34-63-102. Creation of mineral leasing fund - distribution -**
11 **advisory committee - local government permanent fund created -**
12 **definitions.** (5.4) Except as otherwise provided in subsection (5.5) of
13 this section, on and after July 1, 2008, all moneys other than bonus
14 payments, as defined in paragraph (b) of subsection (5.3) of this section,
15 credited to the mineral leasing fund created in subparagraph (I) of
16 paragraph (a) of subsection (1) of this section shall be distributed on a
17 quarterly basis for quarters beginning on July 1, October 1, January 1, and
18 April 1 of each state fiscal year as follows:

19 (c) The executive director of the department of local affairs shall
20 annually directly distribute the remaining fifty percent of the moneys
21 credited to the local government mineral impact fund pursuant to
22 paragraph (b) of this subsection (5.4) and any moneys appropriated by the
23 general assembly from the local government permanent fund to the
24 department pursuant to sub-subparagraph (B) of subparagraph (I) of
25 paragraph (a) of subsection (5.3) of this section to counties, FEDERAL
26 MINERAL LEASE DISTRICTS, and municipalities as follows:

27 (I) Except as otherwise provided in subparagraph (III) of this

1 paragraph (c), moneys shall be allocated to counties OR FEDERAL MINERAL
2 LEASE DISTRICTS for each fiscal year by August 31 of the following fiscal
3 year among those respective counties of the state from which the moneys
4 are derived based upon the following factors:

5 **SECTION 3. Safety clause.** The general assembly hereby finds,
6 determines, and declares that this act is necessary for the immediate
7 preservation of the public peace, health, and safety.