

An Act

SENATE BILL 12-031

BY SENATOR(S) White, Boyd, Brophy, Giron, Grantham, Guzman, Jahn, King S., Lundberg, Roberts, Schwartz, Spence, Tochtrop;
also REPRESENTATIVE(S) Bradford and Baumgardner, Barker, Brown, Coram, Gardner B., Gerou, Kerr J., Pace, Vigil, McNulty.

CONCERNING FEDERAL MINERAL LEASE DISTRICTS.

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

SECTION 1. In Colorado Revised Statutes, **amend** 30-20-1302 as follows:

30-20-1302. Legislative declaration. (1) The general assembly hereby finds, determines, and declares that IT IS COMMITTED TO MAKING SURE THAT ALL AVAILABLE FUNDING RECEIVED FROM FEDERAL MINERAL LEASING AND DISTRIBUTED AS SPECIFIED IN SECTION 34-63-102 (5.4) (c), C.R.S., IS USED TO ALLEVIATE SOCIAL, ECONOMIC, AND PUBLIC FINANCE IMPACTS RESULTING FROM THE DEVELOPMENT OF NATURAL RESOURCES IN THIS STATE, SUBJECT TO THE LIMITATIONS PROVIDED FOR IN THE FEDERAL ACT.

(a) ~~It is of statewide concern to maximize the amount of payment in lieu of taxes that counties in Colorado annually receive;~~

~~(b) Counties help manage thousands of acres of public lands in Colorado, and payment in lieu of taxes funding from the federal government defrays county public land management costs; and~~

~~(c) Counties would not be able to fund important services and programs for Colorado citizen enjoyment of public lands without maximizing payment in lieu of taxes funding to Colorado.~~

(2) The general assembly further finds and declares that ~~as a result of the United States department of the interior declaring that federal mineral lease payments to counties are to be counted as prior-year payments under the payment in lieu of taxes payment formula, as described in 31 U.S.C. sec. 6902, Colorado counties will lose millions of dollars otherwise dedicated to Colorado public land management~~ THE PURPOSE OF THIS LEGISLATION IS TO MAXIMIZE THE LONG-TERM BENEFIT OF FUNDING DERIVED FROM FEDERAL MINERAL LEASING BY AUTHORIZING THE CREATION OF FEDERAL MINERAL LEASE DISTRICTS AS FUNDING AND SERVICE DELIVERY MECHANISMS, WHICH WILL, CONSISTENT WITH SOUND FINANCIAL PRACTICES, RESULT IN THE GREATEST USE OF FINANCIAL RESOURCES FOR THE GREATEST NUMBER OF CITIZENS OF THIS STATE, WITH PRIORITY GIVEN TO THOSE COMMUNITIES DESIGNATED AS IMPACTED BY THE DEVELOPMENT OF NATURAL RESOURCES COVERED IN THE FEDERAL ACT.

(3) The general assembly further finds and declares that ~~in order to maximize the amount of payment in lieu of taxes funding Colorado receives, county federal mineral lease payments must be protected from the new federal prior-year payment method. To that end, counties should have the ability to collaborate with state and local stakeholders within the framework of a federal mineral lease district to ensure protection of payment in lieu of taxes funding dedicated to public land management in Colorado~~ FEDERAL MINERAL LEASE DISTRICTS PROVIDE AN EFFECTIVE MECHANISM TO EXPEDITE THE DISTRIBUTION OF FUNDING, WITHOUT THE USE OR INCREASE OF AD VALOREM AND OTHER TAXES, TO THOSE COMMUNITIES DESIGNATED AS IMPACTED BY THE DEVELOPMENT OF NATURAL RESOURCES COVERED BY THE FEDERAL ACT.

SECTION 2. In Colorado Revised Statutes, 30-20-1303, **add** (1.5) and (2.5) as follows:

30-20-1303. Definitions. As used in this part 13, unless the context otherwise requires:

(1.5) "DISTRIBUTE" MEANS TO GRANT, LOAN, COMMIT, OR OTHERWISE EXPEND AVAILABLE FUNDING TO ACHIEVE THE PURPOSES OF THE DISTRICT CONSISTENT WITH THIS PART 13.

(2.5) "FEDERAL ACT" MEANS SECTION 35 OF THE FEDERAL "MINERAL LANDS LEASING ACT" OF FEBRUARY 25, 1920, AS AMENDED.

SECTION 3. In Colorado Revised Statutes, 30-20-1304, **amend** (2) (c), (4), and (5); **repeal** (3); and **add** (6) as follows:

30-20-1304. Power to create federal mineral lease districts. (2) A board of county commissioners shall create a district by duly adopting, by majority vote, a resolution to that effect, and the resolution shall set forth:

(c) A description of the boundaries of the district, WHICH MAY INCLUDE ANY MUNICIPALITY WITHIN THE COUNTY CREATING THE DISTRICT;

~~(3) The governing body of a municipality may enact an ordinance proposing to join a district before the adoption of a resolution by a board of county commissioners pursuant to subsection (1) of this section.~~

(4) No later than the first business day after the adoption of a resolution, the county clerk and recorder shall transmit a certified copy of the resolution to THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OF LOCAL AFFAIRS, WHO SHALL, UPON RECEIPT OF THE CERTIFIED COPY OF THE RESOLUTION, ALLOCATE ALL FUTURE FUNDING DIRECTLY TO THE DISTRICT.

~~(a) The governing body of each municipality named in the resolution; and~~

~~(b) The executive director of the department of local affairs, who shall, upon receipt of the certified copy of the resolution, allocate all future funding directly to the district.~~

~~(5) A district shall be active for two years from the date of the resolution creating the district. Prior to the end of the two-year period, the board of county commissioners may pass a reauthorizing resolution to~~

~~continue the existence of the district for another two years~~ ORGANIZED PURSUANT TO THIS PART 13 MAY BE DISSOLVED BY THE DISTRICT BOARD AFTER NOT LESS THAN FIFTEEN DAYS' NOTICE TO THE PUBLIC IS GIVEN AND A HEARING IS HELD. THE NOTICE SHALL BE PUBLISHED IN AT LEAST ONE NEWSPAPER OF GENERAL CIRCULATION IN THE COUNTY IN WHICH THE DISTRICT IS LOCATED. AFTER HEARING ANY PROTESTS AGAINST OR OBJECTIONS TO DISSOLUTION, IF A MAJORITY OF THE DISTRICT BOARD DETERMINES THAT IT IS IN THE BEST INTERESTS OF ALL CONCERNED TO DISSOLVE THE DISTRICT, THE DISTRICT BOARD SHALL SO PROVIDE BY RESOLUTION, AND VERIFIED COPIES OF THE RESOLUTION SHALL BE FILED WITHIN THREE BUSINESS DAYS WITH THE OFFICE OF THE COUNTY CLERK AND RECORDER IN THE COUNTY IN WHICH THE DISTRICT IS LOCATED AND WITH THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OF LOCAL AFFAIRS. UPON SUCH FILINGS, THE DISSOLUTION SHALL BE COMPLETE, EXCEPT THAT NO DISTRICT SHALL BE DISSOLVED UNTIL ALL FUNDING IS DISTRIBUTED CONSISTENT WITH THIS PART 13 AND HAS SATISFIED OR PAID IN FULL ALL OF ITS OUTSTANDING INDEBTEDNESS, OBLIGATIONS, AND LIABILITIES.

(6) NOTWITHSTANDING ANY OTHER PROVISION IN SUBSECTION (5) OF THIS SECTION, ANY BOARD OF COUNTY COMMISSIONERS OF A COUNTY THAT INITIATED AND PASSED A RESOLUTION TO CREATE A DISTRICT AS DESCRIBED IN SECTION 30-20-1304 (2) AS SUCH SECTION EXISTED BEFORE THE EFFECTIVE DATE OF THIS SUBSECTION (6) MAY, WITHIN NINETY DAYS OF THE EFFECTIVE DATE OF THIS SUBSECTION (6), INITIATE AND PASS A RESOLUTION TO DISSOLVE THE DISTRICT. FOR ANY DISTRICT DISSOLVED PURSUANT TO THIS SUBSECTION (6), ALL UNDISTRIBUTED FUNDING SHALL BE PAID OVER TO THE COUNTY.

SECTION 4. In Colorado Revised Statutes, **repeal** 30-20-1305 as follows:

30-20-1305. Approval of service plan. ~~(1) The board of county commissioners of a county that creates a district shall constitute the approving authority for the district service plan.~~

~~(2) (a) The service plan shall be submitted to the board of county commissioners for approval no later than ninety days after the date of the resolution creating the district.~~

~~(b) The service plan shall include requirements for annual audits of~~

~~all of the funding the district receives. Copies of the audits shall be sent annually to the state treasurer.~~

~~(3) Upon submission of the service plan, the board of county commissioners may:~~

~~(a) Approve without condition or modification the service plan;~~

~~(b) Disapprove the service plan; or~~

~~(c) Conditionally approve the service plan subject to submission of additional information relating to the modification of the proposed service plan.~~

SECTION 5. In Colorado Revised Statutes, **add** 30-20-1305.5 as follows:

30-20-1305.5. Powers of a district. (1) EACH DISTRICT FORMED PURSUANT TO THIS PART 13 IS AN INDEPENDENT PUBLIC BODY POLITIC AND CORPORATE. EACH DISTRICT IS A PUBLIC INSTRUMENTALITY, AND ITS EXERCISE OF THE POWERS SPECIFIED IN THIS PART 13 ARE DEEMED AND HELD TO BE THE PERFORMANCE OF AN ESSENTIAL PUBLIC FUNCTION. A DISTRICT IS NOT AN AGENCY OF COUNTY OR STATE GOVERNMENT AND IS NOT SUBJECT TO ADMINISTRATIVE DIRECTION BY ANY DEPARTMENT, COMMISSION, BOARD, OR AGENCY OF A COUNTY OR THE STATE.

(2) IN ADDITION TO ANY OTHER POWERS GRANTED TO A DISTRICT BY THIS PART 13, A DISTRICT HAS THE FOLLOWING POWERS:

(a) TO SUE AND BE SUED;

(b) TO ENTER INTO CONTRACTS AND AGREEMENTS INCLUDING THOSE DESCRIBED IN SECTION 29-1-201, C.R.S.;

(c) TO ACQUIRE REAL OR PERSONAL PROPERTY OR AN INTEREST IN REAL OR PERSONAL PROPERTY;

(d) TO SELL, CONVEY, LEASE, EXCHANGE, TRANSFER, OR OTHERWISE DISPOSE OF ALL OR ANY PART OF THE DISTRICT'S PROPERTY OR ASSETS;

(e) TO ENTER INTO GRANT OR LOAN AGREEMENTS;

(f) IN ORDER TO CARRY OUT THE PURPOSES OF THIS PART 13, TO BORROW MONEY AS EVIDENCED BY REVENUE BONDS, CERTIFICATES, WARRANTS, NOTES, AND DEBENTURES IN ACCORDANCE WITH THE PROVISIONS OF THIS PART 13;

(g) TO ADOPT AN OFFICIAL SEAL;

(h) TO DISTRIBUTE FUNDING TO AN AREA OUTSIDE THE DISTRICT BOUNDARIES CONSISTENT WITH THIS PART 13; AND

(i) TO PROVIDE SERVICES CONSISTENT WITH THE FEDERAL ACT AND THIS PART 13.

(3) A DISTRICT DOES NOT HAVE THE POWER TO LEVY AND COLLECT TAXES OR TO USE THE POWER OF EMINENT DOMAIN.

(4) EACH DISTRICT FORMED UNDER THIS PART 13 IS SUBJECT TO THE "LOCAL GOVERNMENT BUDGET LAW OF COLORADO", PART 1 OF ARTICLE 1 OF TITLE 29, C.R.S., AND THE "COLORADO LOCAL GOVERNMENT AUDIT LAW", PART 6 OF ARTICLE 1 OF TITLE 29, C.R.S.

SECTION 6. In Colorado Revised Statutes, **amend** 30-20-1306 as follows:

30-20-1306. Board of directors - appointment or election - removal. (1) (a) (I) EXCEPT AS PROVIDED IN SUBPARAGRAPH (II) OF THIS PARAGRAPH (a), immediately after the creation of a district, the board of county commissioners of the county shall, by majority vote, appoint a board of directors for the district. The number of directors on the board shall be as set forth in the resolution creating the district.

(II) IF THE BOARD OF COUNTY COMMISSIONERS FINDS THAT THE BOARD OF DIRECTORS FOR THE DISTRICT SHOULD BE ELECTED RATHER THAN APPOINTED, THE BOARD OF COUNTY COMMISSIONERS SHALL OUTLINE THE METHOD OF SUCH AN ELECTION BY DULY ADOPTING BY MAJORITY VOTE A RESOLUTION TO THAT EFFECT. THE ELECTION PROCEDURES SHALL COMPLY WITH THE ELECTION REQUIREMENTS SET FORTH IN ARTICLES 1 TO 13 OF TITLE 1, C.R.S.

~~(b) At least one member of the board of directors shall be a county commissioner from the county that created the district. Other Members OF THE BOARD OF DIRECTORS may be COUNTY COMMISSIONERS FROM THE COUNTY THAT CREATED THE DISTRICT, representatives of the governing body of municipalities included in the district, or other officials representing the interests of areas impacted by mineral lease activities.~~

(c) County commissioners ~~from the county that creates a district~~ serving on the board of directors, IF ANY, shall not constitute a majority on the board of directors.

(d) The officers of the board of directors shall be the president and a secretary who shall be elected annually by the board of directors from its own members.

~~(e) (I) The term of each member of the board of directors shall be two years unless the district is reauthorized pursuant to section 30-20-1304 (5) and the member is reappointed as specified in paragraph (a) of this subsection (1).~~ MEMBERS OF THE BOARD OF DIRECTORS SHALL SERVE STAGGERED TERMS SO THAT NOT MORE THAN ONE DIRECTOR'S TERM EXPIRES IN ANY ONE YEAR, AND THEREAFTER TERMS SHALL BE FOR THREE YEARS EACH, AND EACH TERM SHALL COMMENCE ON JANUARY 15.

(II) NOTWITHSTANDING SUBPARAGRAPH (I) OF THIS PARAGRAPH (e), EVERY BOARD OF COUNTY COMMISSIONERS OF A COUNTY THAT INITIATED AND PASSED A RESOLUTION TO CREATE A DISTRICT AS DESCRIBED IN SECTION 30-20-1304 (2) AS SUCH SECTION EXISTED BEFORE THE EFFECTIVE DATE OF THIS SECTION, AS AMENDED, SHALL, WITHIN NINETY DAYS OF THE EFFECTIVE DATE OF THIS SECTION, AS AMENDED, PASS A RESOLUTION FIXING THE INITIAL TERMS OF ALL EXISTING DIRECTORS. THE RESOLUTION SHALL DESIGNATE AT LEAST ONE DIRECTOR WHOSE INITIAL TERM SHALL EXPIRE ON JANUARY 15, 2013, AT LEAST ONE DIRECTOR WHOSE INITIAL TERM SHALL EXPIRE ON JANUARY 15, 2014, AND AT LEAST ONE DIRECTOR WHOSE INITIAL TERM SHALL EXPIRE ON JANUARY 15, 2015. SUCCESSOR DIRECTORS SHALL SERVE THREE YEAR TERMS.

(2) (a) EACH DIRECTOR SHALL HOLD OFFICE UNTIL THE EXPIRATION OF THE TERM TO WHICH SUCH DIRECTOR IS APPOINTED OR ELECTED OR UNTIL A SUCCESSOR HAS BEEN DULY APPOINTED OR ELECTED.

~~(b) The board of county commissioners of the county that creates a district shall, by majority vote, have the power to remove any member of the board of directors for the district. Vacancies on the board of directors shall be filled by A MAJORITY VOTE OF the board of county commissioners.~~

(c) THE BOARD OF COUNTY COMMISSIONERS OF THE COUNTY MAY REMOVE ANY DIRECTOR FOR OFFICIAL MISCONDUCT, INCOMPETENCE, NEGLECT OF DUTY, OR OTHER GOOD CAUSE SHOWN, SO LONG AS THE REMOVAL OCCURS AFTER THE DIRECTOR IN QUESTION IS GIVEN NOTICE AND AN OPPORTUNITY TO BE HEARD BEFORE THE BOARD OF COUNTY COMMISSIONERS AT A PUBLIC HEARING.

~~(3) All special and regular meetings of the board of directors for a district shall be held at locations that are within the boundaries of the district. The provisions of this subsection (3) governing the location of meetings may be waived only if the proposed change of location of a meeting of the board appears on the agenda of a regular or special meeting of the board and if a resolution is adopted by the board stating the reason for which a meeting of the board is to be held in a location other than under the provisions of this subsection (3) and further stating the date, time, and place of such meeting PURSUANT TO PART 4 OF ARTICLE 6 OF TITLE 24, C.R.S.~~

SECTION 7. In Colorado Revised Statutes, **amend** 30-20-1307 as follows:

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

(1)(a) Except as otherwise provided in paragraph (b) of this subsection (1), ~~on an annual basis~~, the board of directors of a district shall distribute all of the funding the district receives from the department of local affairs to areas ~~within the district~~ that are socially or economically impacted, EITHER DIRECTLY OR INDIRECTLY, by the development, processing, or energy conversion of fuels and minerals leased under the federal "~~Mineral Lands Leasing Act~~" of February 25, 1920, as amended ACT.

(b) The ~~district~~ BOARD OF DIRECTORS may use up to ten percent of the annual funding for any administrative costs of the district.

(c) NOTWITHSTANDING ANY OTHER PROVISION OF THIS PART 13, THE BOARD OF DIRECTORS OF A DISTRICT MAY RESERVE ALL OR A PORTION OF THE FUNDING FOR USE IN SUBSEQUENT YEARS.

(2) The board of directors may review any reports or studies made and may seek any additional reports or studies it deems necessary regarding the distribution of funding in the district.

(3) ~~A district~~ THE BOARD OF DIRECTORS may cooperate or contract with any other district to provide any function or service lawfully authorized to each of the cooperating or contracting districts, including the sharing of costs, only if the cooperation or contracts are authorized by each district with the approval of each district's board of directors. Any contract providing for the sharing of costs may be entered into for any period, not to exceed the existence of the district and notwithstanding any provision of law limiting the length of any financial contracts or obligations of governments. Any such contract shall set forth fully the purposes, powers, rights, obligations, and responsibilities, financial and otherwise, of the contracting parties. Where other provisions of law provide requirements for special types of intergovernmental contracting or cooperation, those special provisions shall control.

(4) THE BOARD OF DIRECTORS MAY EXERCISE ANY OF THE POWERS SET FORTH IN SECTION 30-20-1305.5.

SECTION 8. Safety clause. The general assembly hereby finds,

determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Brandon C. Shaffer
PRESIDENT OF
THE SENATE

Frank McNulty
SPEAKER OF THE HOUSE
OF REPRESENTATIVES

Cindi L. Markwell
SECRETARY OF
THE SENATE

Marilyn Eddins
CHIEF CLERK OF THE HOUSE
OF REPRESENTATIVES

APPROVED _____

John W. Hickenlooper
GOVERNOR OF THE STATE OF COLORADO