

First Regular Session
Seventieth General Assembly
STATE OF COLORADO

ENGROSSED

*This Version Includes All Amendments Adopted
on Second Reading in the House of Introduction*

LLS NO. 15-0852.01 Jason Gelender x4330

HOUSE BILL 15-1262

HOUSE SPONSORSHIP

Rosenthal,

SENATE SPONSORSHIP

Balmer,

House Committees
Local Government

Senate Committees

A BILL FOR AN ACT

101 **CONCERNING SEPARATE LEGAL ENTITIES ESTABLISHED BY A**
102 **CONTRACT BETWEEN TWO OR MORE POLITICAL SUBDIVISIONS**
103 **OF THE STATE, AND, IN CONNECTION THEREWITH, CLARIFYING**
104 **THE LEGAL STATUS AND SCOPE OF POWERS OF SUCH AN ENTITY.**

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>.)

Current law allows 2 or more governments, including federal agencies and political subdivisions of a state that borders Colorado, to contract to establish a separate legal entity to provide any function,

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.

HOUSE
Amended 2nd Reading
March 13, 2015

service, or facility that each government has legal authority to provide on its own. The bill clarifies that a separate legal entity formed by a contract between two or more counties, municipalities, special districts, or other political subdivisions of the state:

- ! Is itself a political subdivision and public corporation of the state if the contract forms the entity in accordance with and makes the entity subject to the provisions of the bill;
- ! May, to the extent provided by the contract or an amendment to the contract and deemed by the contracting parties to be necessary or convenient to allow the entity to achieve its purposes, exercise any general power of a special district if each of the parties to the contract may lawfully exercise the power; except that it may not levy a tax or exercise the power of eminent domain if the establishing contract makes the entity subject to the provisions of the bill.
- ! Is authorized to issue tax-exempt revenue bonds, notes, or other financial obligations and acquire, sell, or lease property.

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

2 **SECTION 1.** In Colorado Revised Statutes, **add** 29-1-203.5 as
3 follows:

4 **29-1-203.5. Separate legal entity established under section**
5 **29-1-203 - legal status - authority to exercise special district powers**
6 **- additional financing powers.** (1) (a) ANY COMBINATION OF COUNTIES,
7 MUNICIPALITIES, SPECIAL DISTRICTS, OR OTHER POLITICAL SUBDIVISIONS
8 OF THIS STATE THAT ARE EACH AUTHORIZED TO OWN, OPERATE, FINANCE,
9 OR OTHERWISE PROVIDE PUBLIC IMPROVEMENTS FOR ANY FUNCTION,
10 SERVICE, OR FACILITY MAY ENTER INTO A CONTRACT UNDER SECTION
11 29-1-203 TO ESTABLISH A SEPARATE LEGAL ENTITY TO PROVIDE ANY SUCH
12 PUBLIC IMPROVEMENTS. ANY SEPARATE LEGAL ENTITY ESTABLISHED IS A
13 POLITICAL SUBDIVISION AND PUBLIC CORPORATION OF THE STATE AND IS
14 SEPARATE FROM THE PARTIES TO THE CONTRACT IF THE CONTRACT OR AN

1 AMENDMENT TO THE CONTRACT STATES THAT THE ENTITY IS FORMED IN
2 CONFORMITY WITH THE PROVISIONS OF THIS SECTION AND THAT THE
3 PROVISIONS OF THIS SECTION APPLY TO THE ENTITY.

4 (b) A CONTRACT ESTABLISHING A SEPARATE LEGAL ENTITY
5 DESCRIBED IN PARAGRAPH (a) OF THIS SUBSECTION (1) MUST SPECIFY:

6 (I) THE NAME AND PURPOSE OF THE ENTITY AND THE FUNCTIONS
7 OR SERVICES TO BE PROVIDED BY THE ENTITY;

8 (II) THE ESTABLISHMENT AND ORGANIZATION OF A GOVERNING
9 BODY OF THE ENTITY, WHICH MUST BE A BOARD OF DIRECTORS IN WHICH
10 ALL LEGISLATIVE POWER OF THE ENTITY IS VESTED, INCLUDING:

11 (A) THE NUMBER OF DIRECTORS, THEIR MANNER OF APPOINTMENT,
12 THEIR TERMS OF OFFICE, THEIR COMPENSATION, IF ANY, AND THE
13 PROCEDURE FOR FILLING VACANCIES ON THE BOARD;

14 (B) THE OFFICERS OF THE ENTITY, THE MANNER OF THEIR
15 SELECTION, AND THEIR DUTIES;

16 (C) THE VOTING REQUIREMENTS FOR ACTION BY THE BOARD;
17 EXCEPT THAT, UNLESS SPECIFICALLY PROVIDED OTHERWISE, A MAJORITY
18 OF DIRECTORS CONSTITUTES A QUORUM, AND A MAJORITY OF THE QUORUM
19 IS NECESSARY FOR ANY ACTION TAKEN BY THE BOARD.

20 (2) (a) EXCEPT AS OTHERWISE PROVIDED IN PARAGRAPH (b) OF
21 THIS SUBSECTION (2), A SEPARATE LEGAL ENTITY ESTABLISHED BY
22 CONTRACT PURSUANT TO SECTION 29-1-203 MAY, TO THE EXTENT
23 PROVIDED BY THE CONTRACT OR AN AMENDMENT TO THE CONTRACT AND
24 DEEMED BY THE CONTRACTING PARTIES TO BE NECESSARY OR
25 CONVENIENT TO ALLOW THE ENTITY TO ACHIEVE ITS PURPOSES, EXERCISE
26 ANY GENERAL POWER OF A SPECIAL DISTRICT SPECIFIED IN PART 10 OF
27 ARTICLE 1 OF TITLE 32, C.R.S., SO LONG AS EACH OF THE PARTIES TO THE

1 CONTRACT MAY LAWFULLY EXERCISE THE POWER.

2 (b) A SEPARATE LEGAL ENTITY ESTABLISHED BY A CONTRACT
3 PURSUANT TO SECTION 29-1-203 THAT SPECIFIES THAT THE PROVISIONS OF
4 THIS SECTION APPLY TO THE ENTITY MAY NOT LEVY A TAX OR EXERCISE
5 THE POWER OF EMINENT DOMAIN.

6 (3) IN ADDITION TO ANY OTHER POWERS SET FORTH IN A CONTRACT
7 ENTERED INTO PURSUANT TO SECTION 29-1-203 THAT ESTABLISHES A
8 SEPARATE LEGAL ENTITY AND SPECIFIES THAT THE PROVISIONS OF THIS
9 SECTION APPLY TO THE ENTITY, SUCH AN ENTITY HAS THE FOLLOWING
10 POWERS:

11 (a) TO ISSUE BONDS, NOTES, OR OTHER FINANCIAL OBLIGATIONS
12 PAYABLE SOLELY FROM REVENUE DERIVED FROM ONE OR MORE OF THE
13 FUNCTIONS, SERVICES, SYSTEMS, OR FACILITIES OF THE SEPARATE LEGAL
14 ENTITY, FROM MONEY RECEIVED UNDER CONTRACTS ENTERED INTO BY
15 THE SEPARATE LEGAL ENTITY, OR FROM OTHER AVAILABLE MONEY OF THE
16 SEPARATE LEGAL ENTITY. THE TERMS, CONDITIONS, AND DETAILS OF
17 BONDS, NOTES, OR OTHER FINANCIAL OBLIGATIONS, INCLUDING RELATED
18 PROCEDURES AND REFUNDING CONDITIONS, MUST BE SET FORTH IN THE
19 RESOLUTION OF THE SEPARATE LEGAL ENTITY AUTHORIZING THE BONDS,
20 NOTES, OR OTHER FINANCIAL OBLIGATIONS AND MUST, TO THE EXTENT
21 PRACTICAL, BE SUBSTANTIALLY THE SAME AS THOSE PROVIDED IN PART 4
22 OF ARTICLE 35 OF TITLE 31, C.R.S., RELATING TO WATER AND SEWER
23 REVENUE BONDS; EXCEPT THAT THE PURPOSES FOR WHICH THE SAME MAY
24 BE ISSUED ARE NOT LIMITED TO THE FINANCING OF WATER OR SEWERAGE
25 FACILITIES. BONDS, NOTES, OR OTHER FINANCIAL OBLIGATIONS ISSUED
26 UNDER THIS PARAGRAPH (a) ARE NOT AN INDEBTEDNESS OF THE SEPARATE
27 LEGAL ENTITY OR THE COOPERATING OR CONTRACTING PARTIES WITHIN

1 THE MEANING OF ANY PROVISION OR LIMITATION SPECIFIED IN THE STATE
2 CONSTITUTION OR LAW. EACH BOND, NOTE, OR OTHER FINANCIAL
3 OBLIGATION ISSUED UNDER THIS PARAGRAPH (a) MUST RECITE IN
4 SUBSTANCE THAT IT IS PAYABLE SOLELY FROM THE REVENUES AND OTHER
5 AVAILABLE FUNDS OF THE SEPARATE LEGAL ENTITY PLEDGED FOR THE
6 PAYMENT THEREOF AND THAT IT IS NOT A DEBT OF THE SEPARATE LEGAL
7 ENTITY OR THE COOPERATING OR CONTRACTING PARTIES WITHIN THE
8 MEANING OF ANY PROVISION OR LIMITATION SPECIFIED IN THE STATE
9 CONSTITUTION OR LAW. NOTWITHSTANDING ANYTHING IN THIS
10 PARAGRAPH (a) TO THE CONTRARY, BONDS, NOTES, AND OTHER
11 OBLIGATIONS MAY BE ISSUED TO MATURE AT SUCH TIMES NOT BEYOND
12 FORTY YEARS FROM THEIR RESPECTIVE ISSUE DATES, SHALL BEAR
13 INTEREST AT SUCH RATES, AND SHALL BE SOLD AT, ABOVE, OR BELOW THE
14 PRINCIPAL AMOUNT THEREOF, AT A PUBLIC OR PRIVATE SALE, ALL AS
15 DETERMINED BY THE BOARD OF DIRECTORS OF THE SEPARATE LEGAL
16 ENTITY. INTEREST ON ANY BOND, NOTE, OR OTHER FINANCIAL OBLIGATION
17 ISSUED UNDER THIS PARAGRAPH (a) HEREOF IS EXEMPT FROM TAXATION
18 EXCEPT AS OTHERWISE MAY BE PROVIDED BY LAW. THE RESOLUTION,
19 TRUST INDENTURE, OR OTHER SECURITY AGREEMENT UNDER WHICH
20 BONDS, NOTES, OR OTHER FINANCIAL OBLIGATIONS ARE ISSUED IS A
21 CONTRACT WITH THE HOLDERS THEREOF AND MAY CONTAIN SUCH
22 PROVISIONS AS THE BOARD OF DIRECTORS OF THE SEPARATE LEGAL ENTITY
23 DETERMINE TO BE APPROPRIATE AND NECESSARY IN CONNECTION WITH
24 THE ISSUANCE THEREOF AND TO PROVIDE SECURITY FOR THE PAYMENT
25 THEREOF, INCLUDING, WITHOUT LIMITATION, ANY MORTGAGE OR OTHER
26 SECURITY INTEREST IN REVENUE, MONEY, RIGHTS, OR PROPERTY OF THE
27 SEPARATE LEGAL ENTITY.

1 (b) TO ACQUIRE, LEASE, AND SELL PROPERTY.

2 (4) A CONTRACT ENTERED INTO PURSUANT TO SECTION 29-1-203
3 THAT ESTABLISHES A SEPARATE LEGAL ENTITY AND SPECIFIES THAT THE
4 PROVISIONS OF THIS SECTION APPLY TO THE ENTITY SHALL PROVIDE THAT,
5 UPON DISSOLUTION OF THE SEPARATE LEGAL ENTITY, ALL OF ITS PROPERTY
6 IS TRANSFERRED TO, OR AT THE DIRECTION OF, ONE OR MORE OF THE
7 CONTRACTING POLITICAL SUBDIVISIONS.

8 **SECTION 2. Safety clause.** The general assembly hereby finds,
9 determines, and declares that this act is necessary for the immediate
10 preservation of the public peace, health, and safety.