

NOTE: The governor signed this measure on 5/20/2015.

An Act

HOUSE BILL 15-1262

BY REPRESENTATIVE(S) Rosenthal, Lebsack, Singer;
also SENATOR(S) Balmer.

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

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

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

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

Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.

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

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

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

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

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

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

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

(2)(a) EXCEPT AS OTHERWISE PROVIDED IN PARAGRAPH (b) OF THIS SUBSECTION (2), A SEPARATE LEGAL ENTITY ESTABLISHED BY CONTRACT PURSUANT TO SECTION 29-1-203 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 SPECIFIED IN PART 10 OF ARTICLE 1 OF TITLE 32, C.R.S., SO LONG AS EACH OF THE PARTIES TO THE CONTRACT MAY LAWFULLY EXERCISE THE POWER.

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

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

(a) TO ISSUE BONDS, NOTES, OR OTHER FINANCIAL OBLIGATIONS PAYABLE SOLELY FROM REVENUE DERIVED FROM ONE OR MORE OF THE FUNCTIONS, SERVICES, SYSTEMS, OR FACILITIES OF THE SEPARATE LEGAL ENTITY, FROM MONEY RECEIVED UNDER CONTRACTS ENTERED INTO BY THE SEPARATE LEGAL ENTITY, OR FROM OTHER AVAILABLE MONEY OF THE SEPARATE LEGAL ENTITY. THE TERMS, CONDITIONS, AND DETAILS OF BONDS, NOTES, OR OTHER FINANCIAL OBLIGATIONS, INCLUDING RELATED PROCEDURES AND REFUNDING CONDITIONS, MUST BE SET FORTH IN THE RESOLUTION OF THE SEPARATE LEGAL ENTITY AUTHORIZING THE BONDS, NOTES, OR OTHER FINANCIAL OBLIGATIONS AND MUST, TO THE EXTENT PRACTICAL, BE SUBSTANTIALLY THE SAME AS THOSE PROVIDED IN PART 4 OF ARTICLE 35 OF TITLE 31, C.R.S., RELATING TO WATER AND SEWER REVENUE BONDS; EXCEPT THAT THE PURPOSES FOR WHICH THE SAME MAY BE ISSUED ARE NOT LIMITED TO THE FINANCING OF WATER OR SEWERAGE FACILITIES. BONDS, NOTES, OR OTHER FINANCIAL OBLIGATIONS ISSUED UNDER THIS PARAGRAPH (a) ARE NOT AN INDEBTEDNESS OF THE SEPARATE LEGAL ENTITY OR THE COOPERATING OR CONTRACTING PARTIES WITHIN THE MEANING OF ANY PROVISION OR LIMITATION SPECIFIED IN THE STATE CONSTITUTION OR LAW. EACH BOND, NOTE, OR OTHER FINANCIAL OBLIGATION ISSUED UNDER THIS PARAGRAPH (a) MUST RECITE IN SUBSTANCE THAT IT IS PAYABLE SOLELY FROM THE REVENUES AND OTHER AVAILABLE FUNDS OF THE SEPARATE LEGAL ENTITY PLEDGED FOR THE PAYMENT THEREOF AND THAT IT IS NOT A DEBT OF THE SEPARATE LEGAL ENTITY OR THE COOPERATING OR CONTRACTING PARTIES WITHIN THE MEANING OF ANY PROVISION OR LIMITATION SPECIFIED IN THE STATE CONSTITUTION OR LAW. NOTWITHSTANDING ANYTHING IN THIS PARAGRAPH (a) TO THE CONTRARY, BONDS, NOTES, AND OTHER OBLIGATIONS MAY BE ISSUED TO MATURE AT SUCH TIMES NOT BEYOND FORTY YEARS FROM THEIR RESPECTIVE ISSUE DATES, SHALL BEAR INTEREST AT SUCH RATES, AND SHALL BE SOLD AT, ABOVE, OR BELOW THE PRINCIPAL AMOUNT THEREOF, AT A PUBLIC OR PRIVATE SALE, ALL AS DETERMINED BY THE BOARD OF DIRECTORS OF THE SEPARATE LEGAL ENTITY. INTEREST ON ANY BOND, NOTE, OR OTHER FINANCIAL OBLIGATION ISSUED UNDER THIS PARAGRAPH (a) HEREOF IS EXEMPT FROM TAXATION EXCEPT AS OTHERWISE MAY BE

PROVIDED BY LAW. THE RESOLUTION, TRUST INDENTURE, OR OTHER SECURITY AGREEMENT UNDER WHICH BONDS, NOTES, OR OTHER FINANCIAL OBLIGATIONS ARE ISSUED IS A CONTRACT WITH THE HOLDERS THEREOF AND MAY CONTAIN SUCH PROVISIONS AS THE BOARD OF DIRECTORS OF THE SEPARATE LEGAL ENTITY DETERMINE TO BE APPROPRIATE AND NECESSARY IN CONNECTION WITH THE ISSUANCE THEREOF AND TO PROVIDE SECURITY FOR THE PAYMENT THEREOF, INCLUDING, WITHOUT LIMITATION, ANY MORTGAGE OR OTHER SECURITY INTEREST IN REVENUE, MONEY, RIGHTS, OR PROPERTY OF THE SEPARATE LEGAL ENTITY.

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

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

SECTION 2. 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.

Dickey Lee Hullinghorst
SPEAKER OF THE HOUSE
OF REPRESENTATIVES

Bill L. Cadman
PRESIDENT OF
THE SENATE

Marilyn Eddins
CHIEF CLERK OF THE HOUSE
OF REPRESENTATIVES

Cindi L. Markwell
SECRETARY OF
THE SENATE

APPROVED _____

John W. Hickenlooper
GOVERNOR OF THE STATE OF COLORADO