

CHAPTER 122

TAXATION

SENATE BILL 18-106

BY SENATOR(S) Tate, Martinez Humenik, Moreno, Zenzinger, Kefalas;
also REPRESENTATIVE(S) Thurlow, Arndt, Gray, Hooton, McKean, Lontine.

AN ACT

CONCERNING OBSOLETE STATUTORY PROVISIONS RELATED TO A LOCAL GOVERNMENT'S PLEDGING OF SALES OR USE TAX REVENUES TO PAY FOR REVENUE BONDS ISSUED FOR THE PURPOSE OF FINANCING CAPITAL IMPROVEMENTS.

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

SECTION 1. Legislative declaration. The general assembly declares that the purpose of Senate Bill 18-106, enacted in 2018, is to effect a nonsubstantive change in statute to repeal section 29-2-111, Colorado Revised Statutes, concerning a local government's pledging of sales or use tax revenues to pay for revenue bonds issued for the purpose of financing capital improvements. The general assembly further declares that the repeal of this statutory section does not in any way alter the scope or applicability of the remaining statutory sections and in fact clarifies that section 20 of article X of the state constitution (TABOR) applies when a local government seeks to issue revenue bonds for the purpose of financing capital improvements.

SECTION 2. In Colorado Revised Statutes, **repeal** 29-2-111 as follows:

29-2-111. Pledging of sales and use tax for capital improvements. ~~(1) A sales or use tax proposal made pursuant to this article by, or on behalf of, any county, city, or incorporated town may contain a provision for the creation of a special fund, to be known as a "sales and use tax capital improvement fund", for the deposit of all or any part of the revenue from the sales or use tax, or both, and to be used solely to provide capital improvements. A sales or use tax proposal of any county, city, or incorporated town which has been approved by the registered electors and which does not contain a provision for the creation of such a special fund may be subsequently amended by ordinance or resolution of the governing body to provide for such a special fund. Any such amendment shall take effect only after approval by a majority of the registered electors of the county, city, or town voting at a~~

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

~~regular or special election, but no election shall be required in order to create a capital improvement fund for the deposit of any portion of sales or use tax revenue allocated for capital improvement purposes in a sales or use tax proposal previously approved by the voters.~~

~~(2) A city or town by ordinance adopted by the governing body may pledge all or any part of the sales or use tax revenue, or both, it receives from the countywide sales or use tax for capital improvement purposes. Any such pledge shall take effect only after approval by a majority of the registered electors of the city or town voting at a regular or special election.~~

~~(3) When sales or use tax revenue, or both, is pledged solely for capital improvement purposes, it shall be deposited immediately upon being received or collected into the sales and use tax capital improvement fund. Upon deposit in this fund, such revenue is thereafter not available to be pledged or expended for any general municipal or county purpose.~~

~~(4) For purposes of this section and section 29-2-112, "capital improvement purposes" include:~~

- ~~(a) Paying the costs of acquiring or constructing any capital improvement;~~
- ~~(b) Acquiring land or equipment;~~
- ~~(c) The costs of issuing bonds;~~
- ~~(d) The costs of capitalized interest and reserves; and~~

~~(e) The costs of operating and maintaining the capital improvements to be financed.~~

~~(5) Notwithstanding any other provision to the contrary, no sales or use tax revenues in the sales and use tax capital improvement fund may be expended in any year for the purposes specified in subsection (4) of this section unless said fund contains sufficient revenues to pay the anticipated annual debt service on any sales and use tax revenue bonds for which moneys in the fund have been pledged.~~

SECTION 3. In Colorado Revised Statutes, 29-2-112, **amend** (1), (2), and (9) as follows:

29-2-112. Sales and use tax revenue bonds. (1) SUBJECT TO THE APPROVAL OF THE REGISTERED ELECTORS OF A COUNTY, CITY, OR INCORPORATED TOWN PURSUANT TO SECTION 20 OF ARTICLE X OF THE STATE CONSTITUTION, any county, city, or incorporated town ~~which has pledged sales or use tax revenue, or both, solely for capital improvement purposes and has created a sales and use tax capital improvement fund~~ may, in anticipation of collection of sales or use tax revenues, issue revenue bonds payable ~~solely from the fund~~ THE REVENUES for the purpose of financing capital improvements.

(2) The revenue bonds may be authorized and issued by ordinance or resolution of the governing body of the county, city, or incorporated town. ~~without further~~

election:

(9) The revenue bonds shall not constitute an indebtedness of the county, city, or incorporated town within the meaning of any constitutional or statutory debt limitation or provision. Each bond issue under this section shall recite in substance that said bonds, including the interest thereon, are payable solely from ~~a special fund~~ THE SALES AND USE TAX REVENUES and that said bonds do not constitute a debt within the meaning of any constitutional or statutory limitation.

SECTION 4. Act subject to petition - effective date. This act takes effect at 12:01 a.m. on the day following the expiration of the ninety-day period after final adjournment of the general assembly (August 8, 2018, if adjournment sine die is on May 9, 2018); except that, if a referendum petition is filed pursuant to section 1 (3) of article V of the state constitution against this act or an item, section, or part of this act within such period, then the act, item, section, or part will not take effect unless approved by the people at the general election to be held in November 2018 and, in such case, will take effect on the date of the official declaration of the vote thereon by the governor.

Approved: April 12, 2018