

CHAPTER 159

GOVERNMENT - LOCAL

HOUSE BILL 21-1008

BY REPRESENTATIVE(S) Arndt and Catlin, Amabile, Bernett, Esgar, Exum, Froelich, Herod, Hooton, Jodeh, Kipp, Lontine, Lynch, McCluskie, McCormick, McKean, McLachlan, Michaelson Jenet, Mullica, Ortiz, Pelton, Pico, Roberts, Tipper, Titone, Valdez A., Valdez D., Woodrow, Young, Garnett;
also SENATOR(S) Cooke and Hansen, Bridges, Buckner, Danielson, Fenberg, Ginal, Gonzales, Jaquez Lewis, Kirkmeyer, Lee, Liston, Moreno, Priola, Rankin, Scott, Simpson, Smallwood, Garcia.

AN ACT

CONCERNING INCREASED OPTIONS FOR FINANCING FOREST HEALTH PROJECTS, AND, IN CONNECTION THEREWITH, FINANCING WILDFIRE MITIGATION TREATMENTS.

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

SECTION 1. In Colorado Revised Statutes, 29-1-203.5, **amend** (1)(a); and **add** (3)(c) 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~~ FUNCTIONS, SERVICES, OR FACILITIES may enter into a contract under section 29-1-203 to establish a separate legal entity to provide any such public improvements, FUNCTIONS, SERVICES, OR FACILITIES. 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 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.

(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:

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

(c) (I) TO ESTABLISH SPECIAL OR LOCAL IMPROVEMENT DISTRICTS WITHIN THE BOUNDARIES OF AND WITH THE CONSENT OF ANY OF THE COUNTIES, MUNICIPALITIES, SPECIAL DISTRICTS, OR OTHER POLITICAL SUBDIVISIONS THAT CONTRACT TO ESTABLISH THE SEPARATE LEGAL ENTITY AND LEVY SPECIAL ASSESSMENTS ON PROPERTY SPECIALLY BENEFITED BY IMPROVEMENTS, FUNCTIONS, SERVICES OR FACILITIES, INCLUDING FOREST HEALTH PROJECTS, AS DEFINED IN SECTION 37-95-103 (4.9), THAT THE SEPARATE LEGAL ENTITY IS AUTHORIZED TO PROVIDE.

(II) THE NAME OF A SPECIAL OR LOCAL IMPROVEMENT DISTRICT MUST INCLUDE THE NAME OF THE SEPARATE LEGAL ENTITY THAT ESTABLISHED IT.

(III) ASSESSMENTS MUST BE LEVIED ON A FRONTAGE, AREA, ZONE, OR OTHER EQUITABLE BASIS AND ONLY:

(A) WITH THE WRITTEN CONSENT OF ALL OF THE OWNERS OF THE PROPERTY TO BE ASSESSED; OR

(B) UPON APPROVAL OF A MAJORITY OF THE ELIGIBLE ELECTORS OF THE DISTRICT WITHIN THE SPECIAL OR LOCAL IMPROVEMENT DISTRICT VOTING THEREON.

(IV) THE METHOD OF CREATING A SPECIAL OR LOCAL IMPROVEMENT DISTRICT, UNDERTAKING THE IMPROVEMENTS, FUNCTIONS, SERVICES, OR FACILITIES SPECIFIED FOR THE IMPROVEMENT DISTRICT, AND LEVYING AND COLLECTING ASSESSMENTS FOR THE COSTS OF SUCH UNDERTAKING SPECIFIED FOR THE IMPROVEMENT DISTRICT SHALL BE, AS PROVIDED IN PART 5 OF ARTICLE 25 OF TITLE 31 FOR A SPECIAL IMPROVEMENT DISTRICT AND AS PROVIDED IN PART 6 OF ARTICLE 20 OF TITLE 30 FOR A LOCAL IMPROVEMENT DISTRICT, SUBJECT TO THE FOLLOWING:

(A) THE SEPARATE LEGAL ENTITY SHALL HAVE ALL THE RIGHTS, POWERS, AND DUTIES OF A MUNICIPALITY AND ITS GOVERNING BODY AS SET FORTH IN PARTS 5 AND 11 OF ARTICLE 25 OF TITLE 31 OR OF A COUNTY AND ITS BOARD OF COUNTY COMMISSIONERS AS SET FORTH IN PART 6 OF ARTICLE 20 OF TITLE 30;

(B) THE BOARD OF DIRECTORS OF THE SEPARATE LEGAL ENTITY CONSTITUTES THE GOVERNING BODY AND BOARD OF THE IMPROVEMENT DISTRICT;

(C) THE BOARD OF DIRECTORS SHALL APPOINT OFFICERS WHO SHALL PERFORM THE DUTIES OF THE OFFICERS AS SET FORTH IN PART 5 OF ARTICLE 25 OF TITLE 31 OR PART 6 OF ARTICLE 20 OF TITLE 30, AS APPLICABLE; AND

(D) ALL ACTIONS TAKEN BY THE BOARD OF DIRECTORS PURSUANT TO THE PROVISIONS OF PART 5 OF ARTICLE 25 OF TITLE 31 SHALL BE BY RESOLUTION, NOTWITHSTANDING ANY REFERENCE IN SAID PART 5 TO ACTION BY ORDINANCE.

SECTION 2. In Colorado Revised Statutes, 30-11-101, **amend** (1) introductory portion; and **add** (1)(l) as follows:

30-11-101. Powers of counties. (1) Each organized county within the state ~~shall be~~ is a body corporate and politic and as such ~~shall be~~ is empowered for the following purposes:

(l) TO CONDUCT OR PARTICIPATE IN FOREST HEALTH PROJECTS AS DEFINED IN SECTION 37-95-103 (4.9) WITHIN AND OUTSIDE THE BOUNDARIES OF THE COUNTY.

SECTION 3. In Colorado Revised Statutes, 30-11-104.1, **amend** (1) as follows:

30-11-104.1. Lease-purchase agreements. (1) In order to provide for financing of a public park, a public trail, a public golf course, or public open space, or a courthouse, jail, or other county building or equipment used, or to be used, for governmental purposes, OR FOR FINANCING OF A FOREST HEALTH PROJECT AS DEFINED IN SECTION 37-95-103 (4.9), any county is authorized to enter into lease-purchase agreements.

SECTION 4. In Colorado Revised Statutes, **amend** 31-15-801 as follows:

31-15-801. Agreements - ordinance - financing. In order to provide necessary land, buildings, equipment, and other property for governmental or proprietary purposes OR FOR FINANCING OF FOREST HEALTH PROJECTS, AS DEFINED IN SECTION 37-95-103 (4.9), any municipality is authorized to enter into long-term rental or leasehold agreements, but in no event shall this be construed as authorizing the use by any municipality of leasehold agreements to finance residential housing. Such agreements may include an option to purchase and acquire title to such leased or rented property within a period not exceeding the useful life of such property and in no case exceeding thirty years. Each such agreement and the terms thereof shall be concluded by an ordinance duly enacted by the municipality. No such ordinance shall take effect before thirty days after its passage and publication. The governing body of any municipality is authorized to provide for the payment of said rentals from a general levy imposed upon both personal and real property included within the boundaries of the municipality; by imposing rates, tolls, and service charges for the use of such property or any part thereof by others; from any other available municipal income; or from any one or more of the said sources. The obligation to pay such rentals shall not constitute an indebtedness of said municipality within the meaning of the constitutional limitations on contracting of indebtedness by municipalities.

SECTION 5. In Colorado Revised Statutes, 31-15-901, **recreate and reenact, with amendments**, (1)(d) as follows:

31-15-901. Miscellaneous powers. (1) The governing body of each municipality has the power:

(d) TO CONDUCT OR PARTICIPATE IN FOREST HEALTH PROJECTS, AS DEFINED IN SECTION 37-95-103 (4.9), WITHIN AND OUTSIDE THE MUNICIPAL BOUNDARIES THAT BENEFIT MUNICIPAL PROPERTY OR IMPROVEMENTS, INCLUDING WATER COLLECTION AND SUPPLY FACILITIES, OR REDUCE THE RISK OF WILDFIRE WITHIN THE MUNICIPALITY AND WATERSHEDS WITHIN WHICH THE MUNICIPALITY COLLECTS, TRANSPORTS, OR STORES ITS WATER SUPPLY.

SECTION 6. In Colorado Revised Statutes, 32-1-1001, **add** (3) as follows:

32-1-1001. Common powers - definitions. (3) THE GOVERNING BODY OF A SPECIAL DISTRICT MAY CONDUCT OR PARTICIPATE IN FOREST HEALTH PROJECTS, AS

DEFINED IN SECTION 37-95-103 (4.9), WITHIN AND OUTSIDE THE DISTRICT BOUNDARIES THAT BENEFIT DISTRICT PROPERTY OR IMPROVEMENTS. THE GOVERNING BODY OF ANY SPECIAL DISTRICT THAT PROVIDES FIRE PROTECTION SERVICES MAY ALSO CONDUCT OR PARTICIPATE IN SUCH FOREST HEALTH PROJECTS WITHIN AND OUTSIDE THE DISTRICT BOUNDARIES THAT REDUCE THE RISK OF WILDFIRE WITHIN THE DISTRICT. TO SECURE AND PROTECT AN ADEQUATE SUPPLY OF WATER, THE GOVERNING BODY OF ANY SPECIAL DISTRICT THAT PROVIDES WATER SERVICES MAY ALSO CONDUCT OR PARTICIPATE IN SUCH FOREST HEALTH PROJECTS WITHIN AND OUTSIDE THE DISTRICT BOUNDARIES THAT REDUCE THE RISK OF WILDFIRE WITHIN THE WATERSHEDS WITHIN WHICH THE DISTRICT COLLECTS, TRANSPORTS, OR STORES ITS WATER SUPPLY.

SECTION 7. In Colorado Revised Statutes, 32-1-1101.7, **amend** (1) as follows:

32-1-1101.7. Establishment of special improvement districts within the boundaries of a special district. (1) A special district may establish a special improvement district within the boundaries of the special district to finance all or part of the costs of any improvements, INCLUDING FOREST HEALTH PROJECTS, AS DEFINED IN SECTION 37-95-103 (4.9), that the special district is authorized to finance if the power to levy assessments is authorized in the special district's service plan or statement of purposes or approved in writing by the county or municipality that approved the special district's service plan or accepted the special district's statement of purposes. The name of a special improvement district established on or after August 5, 2015, must include the name of the special district that established the special improvement district.

SECTION 8. In Colorado Revised Statutes, 32-18-108, **amend** (1)(d) and (1)(e); and **add** (1)(f) as follows:

32-18-108. Use of revenue. (1) The board may use the revenue received pursuant to section 32-18-106 to:

(d) Match state and federal grants for bioheating conversion and infrastructure support for biomass collection and delivery; ~~and~~

(e) Assist the state forest service in ensuring that all communities at risk of wildfire within the district have adopted a community wildfire protection plan and are using appropriate planning, education, and outreach tools; AND

(f) CONDUCT OR PARTICIPATE IN FOREST HEALTH PROJECTS, AS DEFINED IN SECTION 37-95-103 (4.9).

SECTION 9. In Colorado Revised Statutes, 37-45-118, **add** (3) as follows:

37-45-118. General powers. (3) WITHOUT LIMITING ANY OTHER EXPRESS OR IMPLIED AUTHORITY PROVIDED TO A DISTRICT OR TO A SUBDISTRICT OF A DISTRICT BY THIS ARTICLE 45, TO SECURE AND PROTECT AN ADEQUATE SUPPLY OF WATER, A DISTRICT MAY CONDUCT OR PARTICIPATE IN FOREST HEALTH PROJECTS, AS DEFINED IN SECTION 37-95-103 (4.9), WITHIN AND OUTSIDE THE DISTRICT BOUNDARIES THAT REDUCE THE RISK OF WILDFIRE WITHIN THE WATERSHEDS WITHIN WHICH THE DISTRICT COLLECTS, TRANSPORTS, OR STORES ITS WATER SUPPLY. IN ADDITION TO

ANY OTHER DISTRICT FINANCIAL POWERS, A DISTRICT MAY ACQUIRE, SELL, OR LEASE REAL OR PERSONAL PROPERTY AND ENTER INTO LEASE-PURCHASE AGREEMENTS AS SET FORTH IN SECTION 29-1-103.

SECTION 10. In Colorado Revised Statutes, 37-46-148, **add** (2) as follows:

37-46-148. Miscellaneous powers. (2) WITHOUT LIMITING ANY OTHER EXPRESS OR IMPLIED AUTHORITY PROVIDED TO THE DISTRICT OR TO A SUBDISTRICT OF THE DISTRICT BY THIS ARTICLE 46, TO SECURE AND PROTECT AN ADEQUATE SUPPLY OF WATER, THE DISTRICT MAY CONDUCT OR PARTICIPATE IN FOREST HEALTH PROJECTS, AS DEFINED IN SECTION 37-95-103 (4.9), WITHIN AND OUTSIDE THE DISTRICT BOUNDARIES THAT REDUCE THE RISK OF WILDFIRE WITHIN THE WATERSHEDS WITHIN WHICH THE DISTRICT COLLECTS, TRANSPORTS, OR STORES ITS WATER SUPPLY. IN ADDITION TO ANY OTHER DISTRICT FINANCIAL POWERS, THE DISTRICT MAY ACQUIRE, SELL, OR LEASE REAL OR PERSONAL PROPERTY AND ENTER INTO LEASE-PURCHASE AGREEMENTS AS SET FORTH IN SECTION 29-1-103.

SECTION 11. In Colorado Revised Statutes, 37-47-148, **add** (2) as follows:

37-47-148. Miscellaneous powers. (2) WITHOUT LIMITING ANY OTHER EXPRESS OR IMPLIED AUTHORITY PROVIDED TO THE DISTRICT OR TO A SUBDISTRICT OF THE DISTRICT BY THIS ARTICLE 47, TO SECURE AND PROTECT AN ADEQUATE SUPPLY OF WATER, THE DISTRICT MAY CONDUCT OR PARTICIPATE IN FOREST HEALTH PROJECTS, AS DEFINED IN SECTION 37-95-103 (4.9), WITHIN AND OUTSIDE THE DISTRICT BOUNDARIES THAT REDUCE THE RISK OF WILDFIRE WITHIN THE WATERSHEDS WITHIN WHICH THE DISTRICT COLLECTS, TRANSPORTS, OR STORES ITS WATER SUPPLY. IN ADDITION TO ANY OTHER DISTRICT FINANCIAL POWERS, THE DISTRICT MAY ACQUIRE, SELL, OR LEASE REAL OR PERSONAL PROPERTY AND ENTER INTO LEASE-PURCHASE AGREEMENTS AS SET FORTH IN SECTION 29-1-103.

SECTION 12. In Colorado Revised Statutes, 37-95-103, **amend** (4.9) as follows:

37-95-103. Definitions. As used in this article 95:

(4.9) "Forest health project" means:

(a) ~~An undertaking~~ A MANAGEMENT ACTION that improves the ECOLOGICAL health of a forest, including, but not limited to:

(I) Reducing the threat of uncharacteristically large or intense insect ~~diseases~~ and DISEASE epidemics;

(II) Reducing the THREAT OR impact of uncharacteristically large or high-intensity wildfires;

(III) Reducing the impact of undesirable nonnative species;

(IV) Replanting trees in BURNED OR OTHERWISE deforested areas; ~~or~~ AND

(V) ~~Improving the use of, or adding value to, small diameter trees; and~~

(b) ~~A project to harvest~~ IN ADDITION TO THE MANAGEMENT ACTIONS SPECIFIED IN SUBSECTIONS (4.9)(a)(I) THROUGH (4.9)(a)(IV) OF THIS SECTION, IMPROVEMENT OF THE USE OF, OR ADDITION OF VALUE TO, SMALL DIAMETER TREES AND HARVESTING woody vegetation for, or ~~use~~ USING woody vegetation in, the production of energy, fuels, forest products, or other applications. ~~The A FOREST HEALTH project may, but need not, constitute all or part of a plan adopted by a community under section 23-31-312 (3.5). C.R.S.~~

SECTION 13. In Colorado Revised Statutes, 37-95-112.5, **amend** (5) as follows:

37-95-112.5. Watershed protection and forest health projects - repeal.

(5) This section is repealed, effective ~~July 1, 2023~~ JULY 1, 2033. Such repeal shall not nullify, abrogate, alter, or otherwise affect any extant obligations under this ~~article~~ ARTICLE 95 at the time of the repeal.

SECTION 14. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, or safety.

Approved: May 20, 2021