

Second Regular Session
Seventy-third General Assembly
STATE OF COLORADO

INTRODUCED

LLS NO. 22-0279.01 Jason Gelender x4330

SENATE BILL 22-025

SENATE SPONSORSHIP

Hansen,

HOUSE SPONSORSHIP

(None),

Senate Committees
Finance

House Committees

A BILL FOR AN ACT

101 CONCERNING STATE CAPITAL FINANCING MANAGED BY THE STATE
102 TREASURER, AND, IN CONNECTION THEREWITH, EXPANDING THE
103 TYPES OF COLLATERAL THAT CAN BE USED TO SECURE SUCH
104 FINANCING AND, IF DEEMED FEASIBLE AND IN THE BEST
105 INTEREST OF THE STATE BY THE STATE TREASURER AFTER A
106 REQUIRED STUDY IS COMPLETED, AUTHORIZING THE USE OF
107 SECURITY TOKEN OFFERINGS FOR SUCH FINANCING.

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://leg.colorado.gov>.)

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters or bold & italic numbers indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.

In the capital financing context:

- A security token is a digital, liquid contract made verifiable and secure through the use of blockchain technology that establishes its holder's right to a fraction of a financial asset such as a stock, bond, or certificate of participation; and
- A security token offering is a capital financing method in which security tokens representing fractional interests in a financial asset are sold to investors in lieu of selling the actual financial asset to investors.

Section 2 of the bill requires the state treasurer to study the feasibility of using security token offerings for state capital financing and determine the extent to which the use of security token offerings of state capital financing would be in the best interest of the state. The state treasurer is required to complete the study and report the study findings to the finance committees and joint budget committee of the general assembly by March 1, 2023, and to post the study findings on the department of the treasury's website. If the state treasurer determines that the use of security token offerings for state capital financing is feasible and in the best interest of the state, the state treasurer may use security token offerings for any state capital financing managed by the state treasurer.

Section 1 amends the definition of "financial obligation" used in the statute that governs state capital financing managed by the state treasurer to include security token offerings and requires the state public financing policy to include criteria for the issuance or incurrence of any authorized security token offering.

Section 3 broadens the definition of "eligible state facility" used for purposes of identifying the types of state-owned assets that may be used as collateral for state capital financing used to finance capital construction and transportation projects.

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

2 **SECTION 1.** In Colorado Revised Statutes, 24-36-121, **amend**
3 (3)(a)(I) introductory portion and (5) introductory portion; and **add**
4 (5)(d.5) as follows:

5 **24-36-121. Authority to manage state public financing - state**
6 **public financing cash fund - rules - legislative declaration -**
7 **definitions.** (3) As used in this section, unless the context otherwise
8 requires:

1 (a) (I) "Financial obligation" means any financial contract, note,
2 warrant, check, bond, certificate, instrument, debenture, SECURITY TOKEN
3 OFFERING, AS DEFINED IN SECTION 24-36-121.5 (2)(c), or other security,
4 the principal amount of which is one million dollars or more, that is
5 authorized to be issued or entered into by the state acting by and through
6 a state agency under the laws of this state, that is fully or partially secured
7 by any state revenues, and that is directly or indirectly related to the state's
8 credit rating. "Financial obligation" includes, but is not limited to:

9 (5) EXCEPT AS OTHERWISE PROVIDED IN SUBSECTION (5)(d.5) OF
10 THIS SECTION, no later than ninety days after May 24, 2012, the state
11 treasurer shall promulgate by rule, in accordance with article 4 of this title
12 TITLE 24, a state public financing policy, and, in so doing, shall
13 collaborate with various experts, including but not limited to the state
14 controller, the office of state planning and budgeting, bond counsel, and
15 the attorney general. The state treasurer shall present the state public
16 financing policy to the capital development committee at the earliest
17 meeting of the capital development committee at which time is available
18 in the meeting schedule after the policy is finalized and shall provide a
19 copy of the final state public financing policy to the joint budget
20 committee. The state treasurer shall notify the capital development
21 committee and the joint budget committee, in writing, of any substantive
22 changes that are subsequently made to the state public financing policy.
23 For purposes of this subsection (5), the attorney general is the legal
24 advisor to the state treasurer. The state public financing policy ~~shall~~ MUST
25 include, but ~~shall~~ IS not ~~be~~ limited to, the following components:

26 (d.5) NO LATER THAN JUNE 1, 2023, THE CRITERIA FOR THE
27 ISSUANCE OR INCURRENCE OF ANY SECURITY TOKEN OFFERING

1 AUTHORIZED BY SECTION 24-36-121.5 (4);

2 SECTION 2. In Colorado Revised Statutes, add 24-36-121.5 as
3 follows:

4 24-36-121.5. Use of security tokens for state capital financing
5 - feasibility study - authorization of use - legislative declaration -

6 definitions. (1) (a) THE GENERAL ASSEMBLY HEREBY FINDS AND
7 DECLARES THAT:

8 (I) SECTION 3 OF ARTICLE XI OF THE STATE CONSTITUTION
9 PROHIBITS THE STATE FROM ISSUING GENERAL OBLIGATION DEBT, AND
10 SECTION 20 OF ARTICLE X OF THE STATE CONSTITUTION GENERALLY
11 REQUIRES THE STATE TO OBTAIN VOTER APPROVAL IN ADVANCE BEFORE
12 INCURRING ANY MULTIPLE-FISCAL YEAR DIRECT OR INDIRECT DISTRICT
13 DEBT OR OTHER FINANCIAL OBLIGATION WHATSOEVER;

14 (II) DUE TO THESE LIMITATIONS, THE STATE TYPICALLY ENGAGES
15 IN CAPITAL FINANCING BY:

16 (A) ISSUING SHORT-TERM TAX OR REVENUE ANTICIPATION NOTES,
17 WHICH THE STATE MUST REPAY WITHIN THE SAME STATE FISCAL YEAR IN
18 WHICH THEY ARE ISSUED FOR THE PURPOSE OF SMOOTHING GENERAL FUND
19 CASH FLOW; AND

20 (B) ENTERING INTO ANNUALLY RENEWABLE FINANCED PURCHASE
21 OF AN ASSET OR CERTIFICATE OF PARTICIPATION AGREEMENTS, WHICH
22 GRANT PURCHASERS OF CERTIFICATES OF PARTICIPATION THE RIGHT TO
23 RECEIVE LEASE PAYMENTS, FOR THE PURPOSE OF FINANCING THE
24 CONSTRUCTION, IMPROVEMENT, OR ACQUISITION OF CAPITAL ASSETS;

25 (III) CERTIFICATES OF PARTICIPATION ISSUED IN CONNECTION WITH
26 A FINANCED PURCHASE OF AN ASSET OR CERTIFICATE OF PARTICIPATION
27 AGREEMENT EVIDENCE PROPORTIONATE INTERESTS IN THE BASE RENTALS

1 PAID BY THE STATE PURSUANT TO THE AGREEMENT; AND

2 (IV) THE USE OF FINANCED PURCHASE OF AN ASSET OR
3 CERTIFICATE OF PARTICIPATION AGREEMENTS BY THE STATE FOR CAPITAL
4 FINANCING MAY LIMIT THE UNIVERSE OF INVESTORS THAT CAN INVEST IN
5 THE STATE AND ASSIST IN FINANCING STATE CAPITAL PROJECTS AND MAY
6 INCREASE THE STATE'S CAPITAL FINANCING COSTS.

7 (b) THE GENERAL ASSEMBLY FURTHER FINDS AND DECLARES THAT:

8 (I) THE EMERGENCE OF DECENTRALIZED, SECURE BLOCKCHAIN
9 TECHNOLOGY ALLOWS SECURITY TOKEN OFFERINGS TO BE USED FOR
10 CAPITAL FINANCING;

11 (II) A SECURITY TOKEN OFFERING IS A CAPITAL FINANCING
12 METHOD IN WHICH SECURITY TOKENS, WHICH ARE DIGITAL, LIQUID
13 CONTRACTS MADE VERIFIABLE AND SECURE THROUGH THE USE OF
14 BLOCKCHAIN TECHNOLOGY THAT ESTABLISH A TOKEN OWNER'S RIGHT TO
15 A FRACTION OF A FINANCIAL ASSET, ARE SOLD TO INVESTORS;

16 (III) IF THE STATE USES THIS NEW AND INNOVATIVE METHOD OF
17 CAPITAL FINANCING, THE STATE COULD SUBSTANTIALLY REDUCE ITS
18 CAPITAL FINANCING COSTS BY:

19 (A) ALLOWING A MUCH BROADER RANGE OF INVESTORS,
20 INCLUDING ORDINARY INDIVIDUALS, TO INVEST IN UNDERLYING FINANCIAL
21 ASSETS SUCH AS CERTIFICATES OF PARTICIPATION ISSUED IN CONNECTION
22 WITH FINANCED PURCHASE OF AN ASSET OR CERTIFICATE OF
23 PARTICIPATION AGREEMENTS BY PURCHASING SECURITY TOKENS THAT
24 EVIDENCE THEIR INVESTMENTS, THEREBY INCREASING INVESTOR DEMAND
25 FOR THE UNDERLYING FINANCIAL ASSETS AND REDUCING THE RATE OF
26 INTEREST THAT THE STATE MUST PAY TO INVESTORS; AND

27 (B) REDUCING THE STATE'S DEPENDENCE ON COMMERCIAL BANKS,

1 INSTITUTIONAL INVESTORS, MUTUAL FUNDS, AND PENSION FUNDS WHEN
2 OBTAINING CAPITAL FINANCING AND THE HIGH UNDERWRITING FEES,
3 INTEREST, AND OTHER TRANSACTIONAL COSTS THAT RESULT FROM THAT
4 DEPENDENCE;

5 (IV) IN ADDITION TO REDUCING COSTS, THE STATE'S USE OF
6 SECURITY TOKEN OFFERINGS FOR CAPITAL FINANCING WILL ALLOW
7 ORDINARY COLORADANS, WHO AS TAXPAYERS COLLECTIVELY OWN
8 STATE-OWNED CAPITAL ASSETS, TO ALSO SHARE IN THE OWNERSHIP OF
9 LEASED STATE CAPITAL ASSETS UNTIL THE STATE HAS PAID ALL OF ITS
10 LEASE OBLIGATIONS AND OBTAINED OWNERSHIP OF THE ASSETS; AND

11 (V) BECAUSE THE STATE HAS NOT PREVIOUSLY USED SECURITY
12 TOKEN OFFERINGS FOR CAPITAL FINANCING AND THE STATE TREASURER
13 HAS SUBSTANTIAL EXPERIENCE AND INSTITUTIONAL EXPERTISE IN CAPITAL
14 FINANCING AND PROVIDES CENTRALIZED CAPITAL FINANCING
15 MANAGEMENT ON BEHALF OF MANY STATE AGENCIES, IT IS NECESSARY
16 AND APPROPRIATE TO:

17 (A) REQUIRE THE STATE TREASURER TO STUDY THE FEASIBILITY
18 OF USING SECURITY TOKEN OFFERINGS FOR STATE CAPITAL FINANCING;
19 AND

20 (B) AUTHORIZE THE STATE TREASURER TO USE SECURITY TOKEN
21 OFFERINGS IF THE STATE TREASURER DETERMINES SUCH USE TO BE IN THE
22 BEST INTEREST OF THE STATE.

23 (2) AS USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE
24 REQUIRES:

25 (a) "BLOCKCHAIN TECHNOLOGY" MEANS A MATHEMATICALLY
26 SECURED, CHRONOLOGICAL, DECENTRALIZED, DISTRIBUTED, AND DIGITAL
27 LEDGER OR DATABASE THAT CONSISTS OF RECORDS OF TRANSACTIONS

1 THAT CANNOT BE ALTERED RETROACTIVELY.

2 (b) "SECURITY TOKEN" MEANS A DIGITAL, LIQUID CONTRACT MADE
3 VERIFIABLE AND SECURE THROUGH THE USE OF BLOCKCHAIN TECHNOLOGY
4 THAT ESTABLISHES ITS OWNER'S RIGHT TO A FRACTION OF A FINANCIAL
5 ASSET SUCH AS A STOCK, BOND, OR CERTIFICATE OF PARTICIPATION.

6 (c) "SECURITY TOKEN OFFERING" MEANS A CAPITAL FINANCING
7 METHOD IN WHICH SECURITY TOKENS REPRESENTING FRACTIONAL
8 INTERESTS IN A FINANCIAL ASSET ARE SOLD TO INVESTORS IN LIEU OF
9 SELLING THE ACTUAL FINANCIAL ASSET TO INVESTORS.

10 (3) THE STATE TREASURER SHALL STUDY THE FEASIBILITY OF
11 USING SECURITY TOKEN OFFERINGS FOR STATE CAPITAL FINANCING AND
12 DETERMINE THE EXTENT TO WHICH THE USE OF SECURITY TOKEN
13 OFFERINGS OF STATE CAPITAL FINANCING WOULD BE IN THE BEST INTEREST
14 OF THE STATE. THE STATE TREASURER SHALL COMPLETE THE STUDY AND
15 REPORT THE STUDY FINDINGS TO THE HOUSE OF REPRESENTATIVES
16 FINANCE COMMITTEE AND THE SENATE FINANCE COMMITTEE, OR THEIR
17 SUCCESSOR COMMITTEES, AND TO THE JOINT BUDGET COMMITTEE BY
18 MARCH 1, 2023. THE STATE TREASURER SHALL ALSO POST THE STUDY
19 FINDINGS ON THE DEPARTMENT OF THE TREASURY'S WEBSITE.

20 (4) IF THE STATE TREASURER DETERMINES, AFTER COMPLETING
21 AND REPORTING THE FINDINGS OF THE STUDY REQUIRED BY SUBSECTION
22 (3) OF THIS SECTION, THAT THE USE OF SECURITY TOKEN OFFERINGS FOR
23 STATE CAPITAL FINANCING IS FEASIBLE AND IN THE BEST INTEREST OF THE
24 STATE, THE STATE TREASURER MAY USE SECURITY TOKEN OFFERINGS FOR
25 ANY STATE CAPITAL FINANCING MANAGED BY THE STATE TREASURER
26 PURSUANT TO SECTION 24-36-121.

27 **SECTION 3.** In Colorado Revised Statutes, 24-82-1302, **amend**

1 (3) as follows:

2 **24-82-1302. Definitions.** As used in this part 13, unless the
3 context otherwise requires:

4 (3) "Eligible state facility" means any financially unencumbered
5 ~~building, structure, or facility that is owned by the state, including a~~
6 STATE-OWNED ASSET INCLUDING, WITHOUT LIMITATION, ANY building,
7 structure, ~~or~~ facility, OR LAND determined to be eligible by a governing
8 board of a state institution of higher education, ~~and~~ BUT does not include
9 any ASSET, building, structure, ~~or~~ facility, OR LAND that is part of the state
10 emergency reserve for any state fiscal year as designated in the annual
11 general appropriation act.

12 **SECTION 4. Act subject to petition - effective date.** This act
13 takes effect at 12:01 a.m. on the day following the expiration of the
14 ninety-day period after final adjournment of the general assembly; except
15 that, if a referendum petition is filed pursuant to section 1 (3) of article V
16 of the state constitution against this act or an item, section, or part of this
17 act within such period, then the act, item, section, or part will not take
18 effect unless approved by the people at the general election to be held in
19 November 2022 and, in such case, will take effect on the date of the
20 official declaration of the vote thereon by the governor.