

NOTE: This bill has been prepared for the signatures of the appropriate legislative officers and the Governor. To determine whether the Governor has signed the bill or taken other action on it, please consult the legislative status sheet, the legislative history, or the Session Laws.

An Act

HOUSE BILL 22-1400

BY REPRESENTATIVE(S) McCluskie and Tipper, Duran, Esgar, Kennedy, Kipp, Lindsay, Titone, Weissman, Woodrow, Garnett, Jodeh, Valdez D.;
also SENATOR(S) Moreno, Simpson, Zenzinger.

CONCERNING MATTERS RELATED TO A PROCEDURAL REQUIREMENT FOR
STATE ENTERPRISES.

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

SECTION 1. Legislative declaration. (1) The general assembly finds and declares that:

(a) Colorado's colleges and universities have been permitted to be designated as enterprises since 2004, and being designated as an enterprise gives those institutions flexibility to enhance educational opportunities for low-income and other under-represented students, as well as increase overall educational excellence;

(b) In order to maintain enterprise status, a college or university must not receive more than ten percent of its total annual revenues in grants from all Colorado state and local governments combined;

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) The general assembly supports colleges and universities by funding capital construction projects, other large-scale projects, and various other programs, and the amount of that funding contributes to some institutions, most commonly smaller institutions that serve students from rural areas, occasionally temporarily losing enterprise status and later requalifying and being redesignated as enterprises;

(d) Small higher education institutions have often temporarily lost their enterprise status in the past as a result of state capital grants;

(e) A college or university losing enterprise status for one year does not have significant implications for the institutions or the state, but an institution losing its enterprise status for longer than one year may effect the state because of the impact it has on calculating state revenue limits;

(f) The recent increase in available federal funds related to the COVID-19 pandemic may result in the state having additional state money available to allocate to colleges and universities. Because more state money is available, the general assembly may want to appropriate additional state money to colleges and universities for capital construction and other infrastructure upgrades, which may result in institutions, including community colleges and some four-year institutions, temporarily losing enterprise status only to requalify for enterprise status at a later date after the funds are no longer available.

(g) Because of the number of colleges and universities in Colorado and the frequency with which institutions may temporarily lose enterprise status only to later requalify as an enterprise, requiring a statewide ballot question for each institution to be redesignated as an enterprise each time the institution requalifies, will result in frequent and costly statewide ballot questions decided by voters who may not live and work near the institution whose enterprise status is the subject of the ballot question, and may limit the ability of colleges and universities to provide the best educational services to Colorado students.

(2) Therefore, the general assembly determines that it is in the best interest of Colorado students and colleges and universities to permit institutions that have already qualified for enterprise status and that lose enterprise status to later qualify and be redesignated as an enterprise without

voter approval in a manner does not limit the voters' authority to approve new educational enterprises.

SECTION 2. In Colorado Revised Statutes, 23-5-101.5, **add** (7) as follows:

23-5-101.5. Enterprise status of auxiliary facilities - definitions.

(7) NOTWITHSTANDING SECTION 24-77-108, AN AUXILIARY FACILITY, OR GROUP OF AUXILIARY FACILITIES WITH SIMILAR FUNCTIONS, THAT IS MANAGED BY THE GOVERNING BODY OF AN INSTITUTION OF HIGHER EDUCATION OR BY THE BOARD OF DIRECTORS OF THE AURARIA HIGHER EDUCATION CENTER, THAT WAS DESIGNATED AS AN ENTERPRISE AS OF JANUARY 1, 2021, AND THAT SUBSEQUENTLY DISQUALIFIES AS AN ENTERPRISE, DOES NOT REQUIRE VOTER APPROVAL IN ORDER TO QUALIFY AND BE REDESIGNATED AS AN ENTERPRISE.

SECTION 3. In Colorado Revised Statutes, 23-5-101.7, **add** (6) as follows:

23-5-101.7. Enterprise status of institutions of higher education.

(6) NOTWITHSTANDING SECTION 24-77-108, AN INSTITUTION OF HIGHER EDUCATION, OR A GROUP OF INSTITUTIONS OF HIGHER EDUCATION THAT IS MANAGED BY A SINGLE GOVERNING BOARD, THAT WAS DESIGNATED AS AN ENTERPRISE AS OF JANUARY 1, 2021, AND THAT SUBSEQUENTLY DISQUALIFIES AS AN ENTERPRISE, DOES NOT REQUIRE VOTER APPROVAL IN ORDER TO QUALIFY AND BE REDESIGNATED AS AN ENTERPRISE.

SECTION 4. In Colorado Revised Statutes, 24-77-108, **amend** (1); and **add** (3) as follows:

24-77-108. Creation of a new fee-based Enterprise. In order to provide transparency and oversight to government mandated fees the People of the State of Colorado find and declare that:

(1) A STATE ENTERPRISE QUALIFIED OR CREATED after January 1, 2021, ~~any state enterprise qualified or created,~~ as defined under Colo. Const. Art. X, section 20(2)(d), ~~with projected or actual revenue from fees and surcharges of over~~ SHALL NOT RECEIVE MORE THAN \$100,000,000 ~~total~~ IN REVENUE FROM FEES AND SURCHARGES in its first five fiscal years ~~must be~~ UNLESS approved at a statewide general election. IF A STATE ENTERPRISE

HAS COLLECTED ONE HUNDRED MILLION DOLLARS (\$100,000,000) IN FEES AND SURCHARGES WITHIN ITS FIRST FIVE FISCAL YEARS PRIOR TO RECEIVING VOTER APPROVAL, THE STATE ENTERPRISE SHALL STOP COLLECTING FEES AND SURCHARGES. Ballot titles for enterprises shall begin, "SHALL AN ENTERPRISE BE CREATED TO COLLECT REVENUE TOTALING (full dollar collection for first five fiscal years) IN ITS FIRST FIVE YEARS...?"

(3) FOR THE PURPOSES OF APPLYING THE REQUIREMENTS OF SUBSECTIONS (1) AND (2) OF THIS SECTION:

(a) ENTERPRISES SERVE PRIMARILY THE SAME PURPOSE WHEN THEY PROVIDE THE SAME SERVICES IN THE SAME GEOGRAPHIC AREA; AND

(b) THE FIRST FIVE FISCAL YEARS OF A STATE ENTERPRISE FOR THE PURPOSE OF CALCULATING THE ONE HUNDRED MILLION DOLLAR AMOUNT SET FORTH IN SUBSECTION (1) ARE THE FIRST FIVE STATE FISCAL YEARS SINCE THE CREATION OR FIRST QUALIFICATION OF THE ENTERPRISE.

SECTION 5. 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.

Alec Garnett
SPEAKER OF THE HOUSE
OF REPRESENTATIVES

Steve Fenberg
PRESIDENT OF
THE SENATE

Robin Jones
CHIEF CLERK OF THE HOUSE
OF REPRESENTATIVES

Cindi L. Markwell
SECRETARY OF
THE SENATE

APPROVED _____
(Date and Time)

Jared S. Polis
GOVERNOR OF THE STATE OF COLORADO