

Second Regular Session
Seventy-third General Assembly
STATE OF COLORADO

REVISED

*This Version Includes All Amendments Adopted
on Second Reading in the Second House*

LLS NO. 22-0954.01 Conrad Imel x2313

HOUSE BILL 22-1400

HOUSE SPONSORSHIP

McCluskie and Tipper, Duran, Esgar, Garnett, Kennedy, Kipp, Lindsay, Titone,
Weissman, Woodrow

SENATE SPONSORSHIP

Moreno,

House Committees
Finance

Senate Committees
Appropriations

A BILL FOR AN ACT

101 CONCERNING MATTERS RELATED TO A PROCEDURAL REQUIREMENT
102 FOR STATE ENTERPRISES.

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>.)

Under existing law, an institution of higher education (institution) or a group of institutions that is managed by a single governing board and any auxiliary facility or group of auxiliary facilities with similar functions that is managed by the governing body of an institution or by the board of directors of the Auraria higher education center (AHEC) may be designated as an enterprise by the institution's or facility's governing

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.*

SENATE
Amended 2nd Reading
May 9, 2022

HOUSE
3rd Reading Unamended
May 2, 2022

HOUSE
2nd Reading Unamended
April 29, 2022

body. A number of auxiliary facilities are designated as enterprises in existing law.

The bill permits an institution or an auxiliary facility that was designated as an enterprise as of January 1, 2021, and that subsequently disqualifies as an enterprise, to qualify and be redesignated as an enterprise without voter approval.

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

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

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

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

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

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

20 (e) A college or university losing enterprise status for one year
21 does not have significant implications for the institutions or the state, but
22 an institution losing its enterprise status for longer than one year may

1 effect the state because of the impact it has on calculating state revenue
2 limits;

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

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

21 (2) Therefore, the general assembly determines that it is in the best
22 interest of Colorado students and colleges and universities to permit
23 institutions that have already qualified for enterprise status and that lose
24 enterprise status to later qualify and be redesignated as an enterprise
25 without voter approval in a manner does not limit the voters' authority to
26 approve new educational enterprises.

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

1 as follows:

2 **23-5-101.5. Enterprise status of auxiliary facilities -**
3 **definitions.** (7) NOTWITHSTANDING SECTION 24-77-108, AN AUXILIARY
4 FACILITY, OR GROUP OF AUXILIARY FACILITIES WITH SIMILAR FUNCTIONS,
5 THAT IS MANAGED BY THE GOVERNING BODY OF AN INSTITUTION OF
6 HIGHER EDUCATION OR BY THE BOARD OF DIRECTORS OF THE AURARIA
7 HIGHER EDUCATION CENTER, THAT WAS DESIGNATED AS AN ENTERPRISE
8 AS OF JANUARY 1, 2021, AND THAT SUBSEQUENTLY DISQUALIFIES AS AN
9 ENTERPRISE, DOES NOT REQUIRE VOTER APPROVAL IN ORDER TO QUALIFY
10 AND BE REDESIGNATED AS AN ENTERPRISE.

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

13 **23-5-101.7. Enterprise status of institutions of higher**
14 **education.** (6) NOTWITHSTANDING SECTION 24-77-108, AN INSTITUTION
15 OF HIGHER EDUCATION, OR A GROUP OF INSTITUTIONS OF HIGHER
16 EDUCATION THAT IS MANAGED BY A SINGLE GOVERNING BOARD, THAT WAS
17 DESIGNATED AS AN ENTERPRISE AS OF JANUARY 1, 2021, AND THAT
18 SUBSEQUENTLY DISQUALIFIES AS AN ENTERPRISE, DOES NOT REQUIRE
19 VOTER APPROVAL IN ORDER TO QUALIFY AND BE REDESIGNATED AS AN
20 ENTERPRISE.

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

23 **24-77-108. Creation of a new fee-based Enterprise.** In order to
24 **provide transparency and oversight to government mandated fees the**
25 **People of the State of Colorado find and declare that:**

26 **(1) A STATE ENTERPRISE QUALIFIED OR CREATED after January 1,**
27 **2021, ~~any state enterprise qualified or created,~~ as defined under Colo.**

1 Const. Art. X, section 20(2)(d), with projected or actual revenue from
2 fees and surcharges of over SHALL NOT RECEIVE MORE THAN
3 \$100,000,000 total IN REVENUE FROM FEES AND SURCHARGES in its first
4 five fiscal years must be UNLESS approved at a statewide general election.
5 IF A STATE ENTERPRISE HAS COLLECTED ONE HUNDRED MILLION DOLLARS
6 (\$100,000,000) IN FEES AND SURCHARGES WITHIN ITS FIRST FIVE FISCAL
7 YEARS PRIOR TO RECEIVING VOTER APPROVAL, THE STATE ENTERPRISE
8 SHALL STOP COLLECTING FEES AND SURCHARGES. Ballot titles for
9 enterprises shall begin, "SHALL AN ENTERPRISE BE CREATED TO
10 COLLECT REVENUE TOTALING (full dollar collection for first five
11 fiscal years) IN ITS FIRST FIVE YEARS...?"

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

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

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

20 **SECTION 5. Safety clause.** The general assembly hereby finds,
21 determines, and declares that this act is necessary for the immediate
22 preservation of the public peace, health, or safety.