

CHAPTER 255

EDUCATION - UNIVERSITIES AND COLLEGES

HOUSE BILL 02-1452

BY REPRESENTATIVE(S) Scott, Dean, Fritz, Hoppe, Jameson, Mace, Spence, Weddig, and Young;
also SENATOR(S) Phillips.

AN ACT**CONCERNING THE OPERATION OF HIGHER EDUCATION STUDENT FINANCIAL AID ENTERPRISES.**

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

SECTION 1. 23-3.1-103, Colorado Revised Statutes, is amended to read:

23-3.1-103. Division created - director - staff. (1) There is hereby created the student loan division in the department of higher education and the office of director of the division. The division and the director shall exercise their powers and perform their functions under this article as if the same were transferred to the department by a **type 2** transfer. The director shall be appointed by the executive director of the commission. The director, with the approval of the executive director of the commission, shall employ such professional and clerical personnel as deemed necessary to carry out the duties and functions of the division. The director and professional personnel are declared to hold educational offices and to be exempt from the state personnel system.

(2) PERSONNEL HIRED BY THE DIRECTOR, WITH THE APPROVAL OF THE EXECUTIVE DIRECTOR OF THE COMMISSION, ON AND AFTER JULY 1, 2002, TO CARRY OUT THE DUTIES AND FUNCTIONS OF THE DIVISION SHALL RECEIVE COMPENSATION FOR THEIR SERVICES AS DETERMINED BY THE DIRECTOR. SUCH PERSONNEL ARE DECLARED TO HOLD EDUCATIONAL OFFICES AND TO BE EXEMPT FROM THE STATE PERSONNEL SYSTEM BUT SHALL, BY ACCEPTANCE OF EMPLOYMENT, BE SUBJECT TO THE PROVISIONS OF ARTICLE 51 OF TITLE 24, C.R.S.

(3) ANY PERSONNEL HIRED WITHIN THE STATE PERSONNEL SYSTEM PURSUANT TO SUBSECTION (1) OF THIS SECTION PRIOR TO JULY 1, 2002, SHALL RETAIN ALL RIGHTS RELATED TO STATE PERSONNEL SYSTEM AND RETIREMENT BENEFITS UNDER THE LAWS OF THIS STATE UNTIL TERMINATION OF EMPLOYMENT WITH THE DIVISION; EXCEPT

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

THAT, IF SUCH PERSONNEL ACCEPT A PROMOTION, A VOLUNTARY DEMOTION, OR A TRANSFER FOR PURPOSES OF A CHANGE OF DUTIES PERFORMED FOR THE BENEFIT OF THE DIVISION, SUCH PERSONNEL SHALL BECOME EXEMPT FROM THE STATE PERSONNEL SYSTEM. NOTHING IN THIS SUBSECTION (3) SHALL PROHIBIT PERSONNEL HIRED PRIOR TO JULY 1, 2002, FROM CONTINUING MEMBERSHIP IN THE PUBLIC EMPLOYEES' RETIREMENT ASSOCIATION PURSUANT TO THE PROVISIONS OF ARTICLE 51 OF TITLE 24, C.R.S., WITH ALL ATTENDANT RIGHTS AND DUTIES.

SECTION 2. 23-3.1-104 (2) (e) and (2) (m), Colorado Revised Statutes, are amended to read:

23-3.1-104. Duties and powers of division. (2) The division may:

(e) Enter into contracts and guarantee agreements with approved lenders, approved institutions of higher education, state and federal governmental agencies, and corporations, including agreements for federal insurance of losses resulting from death, default, bankruptcy, or total and permanent disability of borrowers. Contracts with corporations to provide services shall clearly specify the role and duties of such corporations AND MAY BE ENTERED INTO WITHOUT REGARD TO THE PROVISIONS OF THE "PROCUREMENT CODE", ARTICLES 101 TO 112 OF TITLE 24, C.R.S., WITHOUT REGARD TO THE PROVISIONS OF SECTION 17-24-111, C.R.S., AND WITHOUT REGARD TO THE PROVISIONS OF PART 11 OF ARTICLE 30 OF TITLE 24, C.R.S.

(m) Make and enter into contracts and all other instruments necessary or convenient for the exercise of its powers and functions pursuant to this part 1 WITHOUT REGARD TO THE PROVISIONS OF THE "PROCUREMENT CODE", ARTICLES 101 TO 112 OF TITLE 24, C.R.S., WITHOUT REGARD TO THE PROVISIONS OF SECTION 17-24-111, C.R.S., AND WITHOUT REGARD TO THE PROVISIONS OF PART 11 OF ARTICLE 30 OF TITLE 24, C.R.S.

SECTION 3. 23-5-101.5 (2) (a), Colorado Revised Statutes, is amended to read:

23-5-101.5. Enterprise status of auxiliary facilities. (2) As used in this article:

(a) "Auxiliary facility" means any student or faculty housing facility, student or faculty dining facility, recreational facility, student activities facility, child care facility, continuing education facility or activity, intercollegiate athletic facility or activity, health facility, college store, or student or faculty parking facility or any similar facility or activity which has been historically managed, and was accounted for in institutional financial statements prepared for fiscal year 1991-92, as a self-supporting facility or activity, including any additions to and any extensions or replacements of any such facility on any campus under the control of the governing board managing such facility. "AUXILIARY FACILITY" SHALL ALSO MEAN ANY ACTIVITY UNDERTAKEN BY THE GOVERNING BOARD OF ANY STATE-SUPPORTED INSTITUTION OF HIGHER EDUCATION AS AN ELIGIBLE LENDER PARTICIPANT PURSUANT TO PARTS 1 AND 2 OF ARTICLE 3.1 OF THIS TITLE.

SECTION 4. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Approved: June 1, 2002