

CHAPTER 56

GOVERNMENT - STATE

SENATE BILL 09-041

BY SENATOR(S) Romer;
also REPRESENTATIVE(S) Vigil.

AN ACT

CONCERNING THE ADMINISTRATION OF THE "PRIVATE ACTIVITY BOND CEILING ALLOCATION ACT".

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

SECTION 1. 24-32-1703 (15), Colorado Revised Statutes, is amended, and the said 24-32-1703 is further amended BY THE ADDITION OF A NEW SUBSECTION, to read:

24-32-1703. Definitions. As used in this part 17, unless the context otherwise requires:

(8.5) "DIRECT ALLOCATION" MEANS AN ALLOCATION OF THE STATE CEILING MADE TO STATE ISSUING AUTHORITIES AS SPECIFIED IN SECTION 24-32-1705 (1) (a) OR DESIGNATED LOCAL ISSUING AUTHORITIES AS SPECIFIED IN SECTION 24-32-1706 (1).

(15) "Population" means the population of ~~a local issuing authority or of the state~~ of Colorado as determined by the most recent census estimate of the resident population ~~of the local issuing authority or of the state of Colorado~~ published by the United States bureau of the census before the beginning of each year. ~~and specified by~~ "POPULATION" ALSO MEANS THE POPULATION OF A LOCAL ISSUING AUTHORITY AS DETERMINED BY THE MOST RECENT CENSUS ESTIMATE OF THE RESIDENT POPULATION OF THE LOCAL ISSUING AUTHORITY PUBLISHED BY THE STATE DEMOGRAPHER BEFORE THE BEGINNING OF EACH YEAR. The department SHALL SPECIFY POPULATION DATA in the report issued pursuant to section 24-32-1706 (1).

SECTION 2. The introductory portion to 24-32-1705 (1) (a), Colorado Revised Statutes, is amended to read:

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

24-32-1705. Allocations to state issuing authorities. (1) (a) Within thirty days after May 20, 1987, and ~~as of~~ BY January 15 in each year thereafter, fifty percent of the state ceiling shall be initially allocated among the following state issuing authorities in amounts established by the department:

SECTION 3. 24-32-1706 (1), Colorado Revised Statutes, is amended to read:

24-32-1706. Allocations to designated local issuing authorities. (1) Within twenty days after May 20, 1987, and by ~~January~~ JANUARY 15 of each year thereafter, that portion of the state ceiling ~~which~~ THAT bears the same ratio to fifty percent of the state ceiling for such calendar year as the population of the designated local issuing authority bears to the population of the entire state shall be initially allocated to each designated local issuing authority. For the purposes of such allocation, the department shall provide a report within ten days after May 20, 1987, and by each ~~December 31~~ JANUARY 15 thereafter, which report shall contain a statement of the population for the entire state and each designated local issuing authority.

SECTION 4. 24-32-1707 (1), (2), (6) (a), (6) (b) (I), and (10), Colorado Revised Statutes, are amended, and the said 24-32-1707 is further amended BY THE ADDITION OF A NEW SUBSECTION, to read:

24-32-1707. Statewide balance. (1) Fifty percent of the state ceiling less any amount allocated to designated local issuing authorities pursuant to section 24-32-1706 shall be allocated within twenty days after May 20, 1987, and as of ~~January~~ JANUARY 15 of each year thereafter, to the statewide balance. In addition, the statewide balance shall include any amounts relinquished thereto pursuant to section 24-32-1705 (3) or (4), section 24-32-1706 (3) or (4), subsection (8) of this section, section 24-32-1708, or section 24-32-1710 (3).

(2) (a) Until September 15 of each year, the statewide balance may be allocated only among:

(I) Issuing authorities ~~which~~ THAT are not designated local issuing authorities; ~~or~~

(II) State issuing authorities THAT DID NOT RECEIVE A DIRECT ALLOCATION PURSUANT TO SECTION 24-32-1705; or

(III) Any designated local or state issuing authorities ~~which~~ THAT have, prior to the date of receipt of an allocation from the statewide balance, relinquished to the statewide balance pursuant to section 24-32-1705 or 24-32-1706 any of their initial allocation remaining after any or all of their initial allocation has been used for the issuance of bonds in respect of which a form 8038 has been filed pursuant to section 24-32-1708.

(b) On and after September 15 each year, the statewide balance may be allocated among all issuing authorities. The executive director shall make all of the allocations from the statewide balance in his OR HER sole discretion with the advice of the committee and in accordance with the priorities pursuant to this section.

(6) (a) ~~No application for an allocation shall be complete unless it is accompanied~~

by an application fee. The amount of such fee shall be determined and collected by the executive director. All fees collected pursuant to this paragraph (a) shall be transmitted to the state treasurer, who shall credit the same to the private activity bond allocations fund created in paragraph (b) of this subsection (6). The general assembly shall make annual appropriations from the general fund for expenditures of the executive director incurred in the performance of his or her duties under this article.

(b) (I) ~~In addition to the application fee required pursuant to paragraph (a) of this subsection (6), the department may charge an administrative fee to entities other than local governments that receive bonding authority from the committee. The executive director shall determine the amount of the fee annually based on the costs associated with the administration of this article and shall be responsible for the collection of the fee. The fees collected pursuant to this paragraph (b) shall be transmitted to the state treasurer, who shall credit the same to the private activity bond allocations fund, which fund is hereby created in the state treasury. The moneys in the fund shall be subject to annual appropriation by the general assembly for the direct and indirect costs of the administration of this article.~~

(10) ~~Until December 26~~ OCTOBER 31 of each year, no allocation of the statewide balance shall be made for carryforward purposes.

(11) THE EXECUTIVE DIRECTOR IS AUTHORIZED TO CONTRACT WITH A PRIVATE PERSON, CORPORATION, OR ENTITY FOR THE REVIEW OF APPLICATIONS FOR BONDING AUTHORITY FROM THE STATEWIDE BALANCE FOR INDUSTRIAL DEVELOPMENT BONDS.

SECTION 5. Part 17 of article 32 of title 24, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SECTION to read:

24-32-1709.5. Administrative costs of the department - private activity bond allocation fund - creation - rule. (1) THE DEPARTMENT MAY CHARGE AND COLLECT THE FOLLOWING ADMINISTRATIVE FEES FOR THE COSTS ASSOCIATED WITH THE ADMINISTRATION OF THIS PART 17:

(a) **The direct allocation fee.** THE DEPARTMENT MAY CHARGE AN ADMINISTRATIVE FEE FOR DIRECT ALLOCATIONS. THE EXECUTIVE DIRECTOR SHALL ANNUALLY DETERMINE THE AMOUNT OF THE FEE. IN NO EVENT SHALL THE AMOUNT OF THE FEE SPECIFIED IN THIS PARAGRAPH (a) BE SET SO AS TO REIMBURSE THE DEPARTMENT FOR MORE THAN THIRTY PERCENT OF THE DIRECT AND INDIRECT COSTS OF ADMINISTERING THIS PART 17. THE FEE CHARGED SHALL ONLY BE BORNE BY ENTITIES THAT USE THE DIRECT ALLOCATION TO ISSUE PRIVATE ACTIVITY BONDS OR MAKE A MORTGAGE CREDIT CERTIFICATE ELECTION.

(b) **The statewide balance application fee.** NO APPLICATION FOR AN ALLOCATION REQUIRED BY SECTION 24-32-1707 SHALL BE COMPLETE UNLESS IT IS ACCOMPANIED BY AN APPLICATION FEE. THE EXECUTIVE DIRECTOR SHALL DETERMINE THE AMOUNT OF THE FEE.

(c) **The statewide balance issuance fee.** THE DEPARTMENT MAY CHARGE AN ADMINISTRATIVE FEE TO ENTITIES THAT RECEIVE BONDING AUTHORITY FROM THE STATEWIDE BALANCE AS SPECIFIED IN SECTION 24-32-1707. THE EXECUTIVE

DIRECTOR SHALL ANNUALLY DETERMINE THE AMOUNT OF THE FEE BASED ON THE COSTS ASSOCIATED WITH THE ADMINISTRATION OF THIS PART 17.

(2) (a) THE FEES COLLECTED PURSUANT TO THIS SECTION SHALL BE TRANSMITTED TO THE STATE TREASURER, WHO SHALL CREDIT THE FEES TO THE PRIVATE ACTIVITY BOND ALLOCATIONS FUND, WHICH FUND IS HEREBY CREATED IN THE STATE TREASURY AND REFERRED TO IN THIS SUBSECTION (2) AS THE "FUND". THE MONEYS IN THE FUND SHALL BE SUBJECT TO APPROPRIATION BY THE GENERAL ASSEMBLY FOR THE DIRECT AND INDIRECT COSTS ASSOCIATED WITH THE ADMINISTRATION OF THIS PART 17. ALL INTEREST AND INCOME DERIVED FROM THE DEPOSIT AND INVESTMENT OF MONEYS IN THE FUND SHALL BE CREDITED TO THE FUND. ANY UNEXPENDED AND UNENCUMBERED MONEYS REMAINING IN THE FUND AT THE END OF A FISCAL YEAR SHALL REMAIN IN THE FUND AND SHALL NOT BE CREDITED OR TRANSFERRED TO THE GENERAL FUND OR ANY OTHER FUND.

(b) THE FUND IS EXCLUDED FROM THE LIMITATIONS SPECIFIED IN SECTION 24-75-402. THE FUND'S TARGET RESERVE SHALL BE THREE TIMES THE LEVEL OF THE PRIOR YEAR'S SPENDING AUTHORITY FROM THE FUND. THE UNCOMMITTED RESERVES OF THE FUND SHALL NOT EXCEED THE TARGET RESERVE. IF THE AMOUNT OF UNCOMMITTED RESERVES OF THE FUND AT THE CONCLUSION OF ANY GIVEN FISCAL YEAR EXCEEDS THE TARGET RESERVE, THE EXECUTIVE DIRECTOR SHALL REDUCE THE AMOUNT OF ONE OR MORE OF THE FEES SPECIFIED IN SUBSECTION (1) OF THIS SECTION TO AN AMOUNT CALCULATED TO RESULT IN AN AMOUNT OF UNCOMMITTED RESERVES OF THE FUND FOR THE CURRENT FISCAL YEAR THAT DOES NOT EXCEED THE TARGET RESERVE. IN CALCULATING THE REDUCTION IN FEES, THE EXECUTIVE DIRECTOR MAY TAKE INTO ACCOUNT ANY INCREASES IN SPENDING AUTHORITY FROM THE FUND. IF THE EXECUTIVE DIRECTOR REDUCES THE AMOUNT OF A FEE PURSUANT TO THIS PARAGRAPH (b), THE EXECUTIVE DIRECTOR MAY SUBSEQUENTLY RAISE THE AMOUNT OF THE FEE SO LONG AS THE PROJECTED AMOUNT OF UNCOMMITTED RESERVES OF THE FUND DOES NOT EXCEED THE TARGET RESERVE. THE EXECUTIVE DIRECTOR SHALL NOT INCREASE THE FEE BEYOND ANY LIMITS SPECIFIED IN SUBSECTION (1) OF THIS SECTION.

(3) THE EXECUTIVE DIRECTOR MAY PROMULGATE RULES IN ACCORDANCE WITH ARTICLE 4 OF THIS TITLE TO THE EXTENT NECESSARY FOR THE ADMINISTRATION OF THIS PART 17.

SECTION 6. 24-75-402 (5), Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW PARAGRAPH to read:

24-75-402. Cash funds - limit on uncommitted reserves - reduction in amount of fees - exclusions. (5) Notwithstanding any provision of this section to the contrary, the following cash funds are excluded from the limitations specified in this section:

(w) THE PRIVATE ACTIVITY BOND ALLOCATIONS FUND CREATED IN SECTION 24-32-1709.5 (2).

SECTION 7. 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: March 25, 2009