

**First Regular Session
Seventy-first General Assembly
STATE OF COLORADO**

INTRODUCED

LLS NO. 17-0259.01 Esther van Mourik x4215

HOUSE BILL 17-1152

HOUSE SPONSORSHIP

Willett and Mitsch Bush,

SENATE SPONSORSHIP

(None),

House Committees
Transportation & Energy

Senate Committees

A BILL FOR AN ACT

101 **CONCERNING THE AUTHORITY OF A FEDERAL MINERAL LEASE**
102 **DISTRICT TO MANAGE A PORTION OF THE DIRECT DISTRIBUTION**
103 **OF MONEY FROM THE LOCAL GOVERNMENT MINERAL IMPACT**
104 **FUND TO COUNTIES FOR THE BENEFIT OF IMPACTED AREAS.**

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>.)

The bill gives a federal mineral lease district (district) the option, but not the obligation, to invest a portion of the funding it receives from the local government mineral impact fund in a trust fund. Current law

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

requires the district to distribute the funding to impacted areas in the district, but also allows the district to reserve all or a portion of the funding for use in subsequent years.

The bill specifies that the district may appropriate and disburse all sums in excess of the invested funding, including interest, dividends, or similar appreciated values, but specifies that the district may not disburse any part of the invested funding except upon the enactment of a resolution identifying a compelling public need or similar emergency circumstance.

The bill specifies that the district may invest the funding subject to the district's investment policy and in any investment in which the board of trustees of the public employees' retirement association may invest the funds of the association, which are the same investments in which the state treasurer is authorized to invest the local government permanent fund, which is comprised of 50% of the federal mineral lease bonus payments.

The bill allows the board of directors to engage the services of investment advisors, but specifies that the selection of investment advisors must be made following an open and competitive process.

The bill also requires the district to adopt an investment policy resolution that must be reviewed annually and must include:

- ! An acknowledgment of the board of director's fiduciary responsibility with respect to oversight of the district's investment policy;
- ! Performance benchmarks for all investments and for all investment advisors who may be hired by the board of directors;
- ! A requirement for the preparation and publication of annual financial statements that must include, at a minimum, information regarding starting balances, contributions, investment income, and losses, if any, and any investment fees incurred;
- ! Careful consideration of investment fees or other brokerage costs which might reduce investment returns; and
- ! A requirement that the board of directors annually review the investments and annually set appropriations to be included in the trust fund.

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

2 **SECTION 1.** In Colorado Revised Statutes, 30-20-1305.5,
3 **amend** (2)(h) and (2)(i); and **add** (2)(j) as follows:

4 **30-20-1305.5. Powers of a district.** (2) In addition to any other

1 powers granted to a district by this part 13, a district has the following
2 powers:

3 (h) To distribute funding to an area outside the district boundaries
4 consistent with this part 13; ~~and~~

5 (i) To provide services consistent with the federal act and this part
6 13; AND

7 (j) TO INVEST FUNDING AS SET FORTH IN SECTION 30-20-1307.

8 **SECTION 2.** In Colorado Revised Statutes, 30-20-1307, **amend**
9 (1); and **add** (5) and (6) as follows:

10 **30-20-1307. Board of directors - powers and duties.**

11 (1) (a) Except as otherwise provided in ~~paragraph (b) of this subsection~~
12 ~~(1)~~ SUBSECTION (1)(b) OF THIS SECTION, the board of directors of a district
13 shall distribute all of the funding the district receives from the department
14 of local affairs to areas that are socially or economically impacted, either
15 directly or indirectly, by the development, processing, or energy
16 conversion of fuels and minerals leased under the federal act; EXCEPT
17 THAT THE BOARD OF DIRECTORS MAY ELECT TO INVEST UP TO FIFTY
18 PERCENT OF THE FUNDING AS SPECIFIED IN SUBSECTION (5) OF THIS
19 SECTION.

20 (b) The board of directors may use up to ten percent of the annual
21 funding for any administrative costs of the district; EXCEPT THAT ANY
22 INVESTMENT-RELATED EXPENSES ARE EXCLUDED FROM THE CALCULATION
23 OF THE DISTRICT'S ADMINISTRATION COSTS.

24 (c) Notwithstanding any other provision of this part 13, the board
25 of directors of a district may reserve, OR INVEST AS SPECIFIED IN
26 SUBSECTION (5) OF THIS SECTION, all or a portion of the funding for use
27 in subsequent years.

1 (5) IF THE BOARD OF DIRECTORS ELECTS TO INVEST THE PORTION
2 OF THE FUNDING AS ALLOWED IN SUBSECTION (1)(a) OF THIS SECTION:

3 (a) THE PORTION OF THE FUNDING TO BE INVESTED SHALL BE HELD
4 IN A TRUST FUND ESTABLISHED BY A RESOLUTION ENACTED BY THE
5 DISTRICT;

6 (b) THE BOARD OF DIRECTORS SHALL MAKE INVESTMENTS
7 PURSUANT TO THE INVESTMENT POLICY DESCRIBED IN SUBSECTION (6) OF
8 THIS SECTION AND IN A MANNER THAT COMPLIES WITH THE "UNIFORM
9 PRUDENT INVESTOR ACT", ARTICLE 1.1 OF TITLE 15;

10 (c) THE BOARD OF DIRECTORS MAY INVEST THE PORTION OF THE
11 FUNDING IN ANY INVESTMENT IN WHICH THE BOARD OF TRUSTEES OF THE
12 PUBLIC EMPLOYEES' RETIREMENT ASSOCIATION MAY INVEST THE FUNDS OF
13 THE ASSOCIATION PURSUANT TO SECTION 24-51-206;

14 (d) THE BOARD OF DIRECTORS MAY ENGAGE THE SERVICES OF
15 INVESTMENT ADVISORS. THE SELECTION OF INVESTMENT ADVISORS MUST
16 BE MADE FOLLOWING AN OPEN AND COMPETITIVE PROCESS.

17 (e) THE BOARD OF DIRECTORS MAY APPROPRIATE AND DISBURSE
18 ALL SUMS IN EXCESS OF THE INVESTED FUNDING, INCLUDING INTEREST,
19 DIVIDENDS, OR SIMILAR APPRECIATED VALUES, BUT SHALL NOT DISBURSE
20 ANY PART OF THE INVESTED FUNDING EXCEPT UPON THE ENACTMENT OF
21 A RESOLUTION IDENTIFYING A COMPELLING PUBLIC NEED OR SIMILAR
22 EMERGENCY CIRCUMSTANCE;

23 (f) THE BOARD OF DIRECTORS SHALL ENSURE THAT, AT ALL TIMES,
24 LIQUID INVESTMENT ASSETS OR OTHER FUNDING NOT INVESTED REMAIN AT
25 A LEVEL SUFFICIENT TO PAY FOR ALL BUDGETED AND OUTSTANDING
26 OBLIGATIONS OF THE DISTRICT IN ANY FISCAL YEAR; AND

27 (g) THE BOARD OF DIRECTORS, INDIVIDUALLY OR AS A GROUP,

1 SHALL NOT ENGAGE IN ANY ACTIVITIES THAT MIGHT RESULT IN A CONFLICT
2 OF INTEREST WITH RESPECT TO THEIR FIDUCIARY RESPONSIBILITY FOR THE
3 DISTRICT.

4 (6) THE BOARD OF DIRECTORS SHALL ADOPT AN INVESTMENT
5 POLICY RESOLUTION AND SHALL REVIEW THE INVESTMENT POLICY
6 ANNUALLY. THE INVESTMENT POLICY MUST INCLUDE:

7 (a) AN ACKNOWLEDGMENT OF THE BOARD OF DIRECTOR'S
8 FIDUCIARY RESPONSIBILITY WITH RESPECT TO OVERSIGHT OF THE
9 DISTRICT'S INVESTMENT POLICY;

10 (b) PERFORMANCE BENCHMARKS FOR ALL INVESTMENTS AND FOR
11 ALL INVESTMENT ADVISORS WHO MAY BE HIRED BY THE BOARD OF
12 DIRECTORS;

13 (c) A REQUIREMENT FOR THE PREPARATION AND PUBLICATION OF
14 ANNUAL FINANCIAL STATEMENTS THAT MUST INCLUDE, AT MINIMUM,
15 INFORMATION REGARDING STARTING BALANCES, CONTRIBUTIONS,
16 INVESTMENT INCOME, AND LOSSES, IF ANY, AND ANY INVESTMENT FEES
17 INCURRED;

18 (d) CAREFUL CONSIDERATION OF INVESTMENT FEES OR OTHER
19 BROKERAGE COSTS WHICH MIGHT REDUCE INVESTMENT RETURNS; AND

20 (e) A REQUIREMENT THAT THE BOARD OF DIRECTORS ANNUALLY
21 REVIEW THE INVESTMENTS AND ANNUALLY SET APPROPRIATIONS TO BE
22 INCLUDED IN THE TRUST FUND.

23 **SECTION 3. Safety clause.** The general assembly hereby finds,
24 determines, and declares that this act is necessary for the immediate
25 preservation of the public peace, health, and safety.