

CHAPTER 103

GOVERNMENT - LOCAL

HOUSE BILL 17-1152

BY REPRESENTATIVE(S) Willett and Mitsch Bush, Becker K., Hooton, McLachlan, Pabon, Rankin, Salazar; also SENATOR(S) Scott, Baumgardner, Cooke, Coram, Court, Donovan, Fields, Garcia, Guzman, Jahn, Kefalas, Marble, Merrifield, Neville T., Priola, Sonnenberg, Tate, Todd, Grantham.

AN ACT

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

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

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

30-20-1305.5. Powers of a district. (2) In addition to any other powers granted to a district by this part 13, a district has the following powers:

- (h) To distribute funding to an area outside the district boundaries consistent with this part 13; ~~and~~
- (i) To provide services consistent with the federal act and this part 13; AND
- (j) TO INVEST FUNDING AS SET FORTH IN SECTION 30-20-1307.

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

30-20-1307. Board of directors - powers and duties. (1) (a) Except as otherwise provided in ~~paragraph (b) of this subsection (1)~~ SUBSECTION (1)(b) OF THIS SECTION, the board of directors of a district shall distribute all of the funding the district receives from the department of local affairs to areas that are socially or economically impacted, either directly or indirectly, by the development, processing, or energy conversion of fuels and minerals leased under the federal act; 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 THE BOARD OF DIRECTORS MAY ELECT TO INVEST UP TO FIFTY PERCENT OF THE FUNDING AS SPECIFIED IN SUBSECTION (5) OF THIS SECTION.

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

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

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

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

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

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

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

(e) THE BOARD OF DIRECTORS MAY APPROPRIATE AND DISBURSE ANY PART OF THE INVESTED FUNDING AND ALL SUMS IN EXCESS THEREOF, INCLUDING INTEREST, DIVIDENDS, OR SIMILAR APPRECIATED VALUES, BUT SHALL DO SO ONLY UPON THE ENACTMENT OF A RESOLUTION IDENTIFYING THE REASON FOR THE APPROPRIATION AND DISBURSEMENT;

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

(g) THE BOARD OF DIRECTORS, INDIVIDUALLY OR AS A GROUP, SHALL NOT ENGAGE IN ANY ACTIVITIES THAT MIGHT RESULT IN A CONFLICT OF INTEREST WITH RESPECT TO THEIR FIDUCIARY RESPONSIBILITY FOR THE DISTRICT.

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

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

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

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

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

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

SECTION 3. Act subject to petition - effective date. This act takes effect at 12:01 a.m. on the day following the expiration of the ninety-day period after final adjournment of the general assembly (August 9, 2017, if adjournment sine die is on May 10, 2017); except that, if a referendum petition is filed pursuant to section 1 (3) of article V of the state constitution against this act or an item, section, or part of this act within such period, then the act, item, section, or part will not take effect unless approved by the people at the general election to be held in November 2018 and, in such case, will take effect on the date of the official declaration of the vote thereon by the governor.

Approved: April 4, 2017