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SENATE BILL 23-175

BY SENATOR(S) Jaquez Lewis and Rich, Buckner, Coleman, Fields, Ginal, Hansen, Marchman, Priola, Zenzinger, Fenberg;
also REPRESENTATIVE(S) Boesenecker and Taggart, Bird, Dickson, Kipp, Lindstedt, Marshall, Michaelson Jenet, Sharbini, Snyder, Weinberg, Young.

CONCERNING THE USE OF TAX INCREMENT FINANCING BY DOWNTOWN DEVELOPMENT AUTHORITIES.

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

SECTION 1. In Colorado Revised Statutes, 31-25-805, **amend** (1) and (2)(a) as follows:

31-25-805. Board - membership - term of office. (1) The affairs of the authority shall be under the direct supervision and control of a board consisting of not less than five nor more than eleven members appointed by the governing body; EXCEPT THAT FOR ANY TWENTY-YEAR EXTENSION PERIOD PURSUANT TO SECTION 31-25-807 (3)(a)(V), THE AFFAIRS OF THE AUTHORITY SHALL BE UNDER THE DIRECT SUPERVISION AND CONTROL OF A BOARD CONSISTING OF NOT LESS THAN NINE AND NO MORE THAN THIRTEEN MEMBERS, WITH TWO MEMBERS APPOINTED BY THE ENTITIES IDENTIFIED IN

Capital letters or bold & italic numbers indicate new material added to existing law; dashes through words or numbers indicate deletions from existing law and such material is not part of the act.

SUBSECTION (2)(a)(II) OF THIS SECTION AND ALL REMAINING MEMBERS APPOINTED BY THE GOVERNING BODY. A majority of the members appointed shall reside or own property in the ~~downtown development~~ AUTHORITY district.

(2) The board shall be constituted as follows:

(a) (I) At least one member shall be a member of the governing body, appointed to serve at the pleasure of the governing body; AND

(II) FOR ANY TWENTY-YEAR EXTENSION PERIOD PURSUANT TO SECTION 31-25-807 (3)(a)(V), ONE MEMBER SHALL BE A MEMBER OF THE BOARD OF COUNTY COMMISSIONERS OF THE COUNTY IN WHICH THE AUTHORITY DISTRICT IS LOCATED, APPOINTED TO SERVE AT THE PLEASURE OF THE BOARD OF COUNTY COMMISSIONERS. IF THE AUTHORITY DISTRICT IS LOCATED IN MORE THAN ONE COUNTY, THE APPOINTMENT IS BY AN AGREEMENT OF ALL THE COUNTIES IN WHICH THE AUTHORITY DISTRICT IS LOCATED. IF THE APPOINTING COUNTY IS A CITY AND COUNTY, THE REQUIREMENT FOR A COUNTY-APPOINTED BOARD MEMBER PURSUANT TO THIS SUBSECTION (2)(a)(II) DOES NOT APPLY. IN ADDITION, ONE MEMBER SHALL BE A MEMBER OF THE OF THE SCHOOL DISTRICT BOARD OF EDUCATION OF THE SCHOOL DISTRICT IN WHICH THE AUTHORITY DISTRICT IS LOCATED, APPOINTED TO SERVE AT THE PLEASURE OF THE SCHOOL DISTRICT BOARD OF EDUCATION. IF A COUNTY OR SCHOOL DISTRICT DOES NOT APPOINT A MEMBER OF THE BOARD, THEN THE COUNTY OR SCHOOL DISTRICT APPOINTMENT REMAINS VACANT UNTIL THE APPLICABLE APPOINTING AUTHORITY MAKES THE APPOINTMENT PURSUANT TO THIS SUBSECTION (2)(a)(II).

SECTION 2. In Colorado Revised Statutes, 31-25-807, **amend** (3)(a) introductory portion, (3)(a)(II), and (3)(a)(IV); and **add** (3)(a)(V) as follows:

31-25-807. Powers - duties. (3) (a) Notwithstanding any law to the contrary and subject to ~~subsection (3)(a)(IV)~~ SUBSECTIONS (3)(a)(IV) AND (3)(a)(V) of this section, any ~~such~~ plan of development as originally adopted by the board or as later modified pursuant to this part 8 may, after approval by the governing body of the municipality, contain a provision that taxes, if any, levied after the effective date of the approval of ~~such~~ THE plan of development by ~~said~~ THE governing body upon taxable property within

the boundaries of the plan of development area each year or that municipal sales taxes collected within said area, or both such taxes, by or for the benefit of any public body shall be divided for a period not to exceed thirty years or ~~such~~ A longer period as provided for in ~~subsection (3)(a)(IV)~~ SUBSECTIONS (3)(a)(IV) AND (3)(a)(V) of this section after the effective date of approval by ~~said~~ THE governing body of such a provision, as follows:

(II) ~~That~~ THE portion of ~~said~~ property taxes or all or any portion of ~~said~~ sales taxes, or both, in excess of ~~such~~ THE amount SPECIFIED IN SUBSECTION (3)(a)(I) OF THIS SECTION shall be allocated to and, when collected, paid into a special fund of the municipality for the payment of the principal of, the interest on, and any premiums due in connection with the bonds of, loans or advances to, or indebtedness incurred by, whether funded, refunded, assumed, or otherwise, the municipality for financing or refinancing, in whole or in part, a development project within the boundaries of the plan of development area. Any excess municipal sales tax collection not allocated pursuant to this ~~subparagraph (H)~~ SUBSECTION (3)(a)(II) shall be paid into the funds of the municipality. Unless and until the total valuation for assessment of the taxable property within the boundaries of the plan of development area exceeds the base valuation for assessment of the taxable property within such boundaries, as provided in ~~subparagraph (I) of this paragraph (a)~~ SUBSECTION (3)(a)(I) OF THIS SECTION, all of the taxes levied upon the taxable property in such boundary area shall be paid into the funds of the respective public bodies. Unless and until the total municipal sales tax collections in the plan of development area exceed the base year municipal sales tax collections in such area, as provided in ~~subparagraph (I) of this paragraph (a)~~ SUBSECTION (3)(a)(I) OF THIS SECTION, all such sales tax collections shall be paid into the funds of the municipality. When such bonds, loans, advances, and indebtedness, if any, including interest thereon and any premiums due in connection therewith, and including any refunding securities therefor, have been paid, all taxes upon the taxable property or the total municipal sales tax collections, or both, in such boundary area shall be paid into the funds of the respective public bodies. PURSUANT TO AN INTERGOVERNMENTAL AGREEMENT BETWEEN A MUNICIPALITY AND AN AUTHORITY, THE GOVERNING BODY MAY DELEGATE TO THE BOARD THE POWER TO INCUR LOANS OR INDEBTEDNESS OR OBTAIN ADVANCES AND TO PLEDGE MONEY IN THE SPECIAL FUND CREATED PURSUANT TO THIS SUBSECTION (3)(a)(II) FOR THE PAYMENT OF ANY LOANS, ADVANCES, OR INDEBTEDNESS. THE

INTERGOVERNMENTAL AGREEMENT SHALL BE APPROVED BY AN ORDINANCE ADOPTED BY THE GOVERNING BODY AND A RESOLUTION ADOPTED BY THE BOARD AND SHALL INCLUDE TERMS, CONDITIONS, OR LIMITATIONS ON THE POWER OF THE BOARD AS AGREED TO BY THE GOVERNING BODY AND BOARD.

(IV) (A) EXCEPT AS OTHERWISE PROVIDED IN SUBSECTION (3)(a)(V) OF THIS SECTION, during the final ten years of the thirty-year period during which a portion of the property taxes or sales taxes, or both, may be allocated to and, when collected, paid into the special fund of the municipality in accordance with the requirements of ~~subparagraph (H) of this paragraph (a)~~ SUBSECTION (3)(a)(II) OF THIS SECTION, the governing body may by ordinance extend the period during which property taxes shall be allocated for one additional extension of twenty years, which extension shall commence upon the expiration of the original thirty-year period, if on the first day of the twenty-year extension period the established base year for the allocation of property taxes pursuant to ~~subparagraph (H) of this paragraph (a)~~ SUBSECTION (3)(a)(II) OF THIS SECTION is advanced forward by ten years and, subsequent to the completion of the first ten years of the twenty-year extension, the base year is advanced forward by one year for each additional year through the completion of the twenty-year extension. The governing body may also by ordinance extend the period during which sales taxes shall be allocated for one additional extension of twenty years with no change to the established sales tax base year. Notwithstanding any other provision of this ~~subparagraph (IV)~~ SUBSECTION (3)(a)(IV), any extension authorized pursuant to this ~~subparagraph (IV)~~ SUBSECTION (3)(a)(IV) may only be considered by the governing body during the final ten years of the original thirty-year period.

(B) In connection with an extension implemented pursuant to ~~sub-subparagraph (A) of this subparagraph (IV)~~ SUBSECTION (3)(a)(IV)(A) OF THIS SECTION, on an annual basis fifty percent of the property taxes levied, or such greater amount as may be set forth in an agreement negotiated by the municipality and the respective public bodies, and allocated in accordance with the requirements of ~~subparagraph (H) of this paragraph (a)~~ SUBSECTION (3)(a)(II) OF THIS SECTION shall be paid into the special fund of the municipality and the balance of such taxes shall be paid into the funds of the other public bodies by or for which such taxes are collected. Not later than August 1 of each calendar year, the governing body shall certify to the county assessor an itemized list of the property tax distribution percentages attributable to the special fund of the municipality

pursuant to this ~~sub-subparagraph (B)~~ SUBSECTION (3)(a)(IV)(B) from the mill levies to be certified by each public body. When certifying values to taxing entities pursuant to sections 39-1-111 (5), 39-5-121 (2), and 39-5-128, C.R.S., the assessor shall certify only the percentage of increment value attributable to the special fund pursuant to this ~~sub-subparagraph (B)~~ SUBSECTION (3)(a)(IV)(B) as certified by the governing body.

(V) (A) IF A GOVERNING BODY EXTENDS, PURSUANT TO SUBSECTION (3)(a)(IV) OF THIS SECTION, THE PERIOD DURING WHICH A PORTION OF THE PROPERTY TAXES MAY BE ALLOCATED TO THE SPECIAL FUND OF THE MUNICIPALITY IN ACCORDANCE WITH THE REQUIREMENTS OF SUBSECTION (3)(a)(II) OF THIS SECTION, THE GOVERNING BODY MAY, BY ORDINANCE, EXTEND THE PERIOD DURING WHICH PROPERTY TAXES SHALL BE ALLOCATED FOR ONE OR MORE ADDITIONAL TWENTY-YEAR PERIODS AS SPECIFIED IN THIS SUBSECTION (3)(a)(V). THE GOVERNING BODY MUST ADOPT A SEPARATE ORDINANCE FOR EACH ADDITIONAL TWENTY-YEAR PERIOD IN ACCORDANCE WITH SUBSECTION (3)(a)(V)(C) OF THIS SECTION. A TWENTY-YEAR EXTENSION FOR THE PERIOD DURING WHICH PROPERTY TAXES SHALL BE ALLOCATED TO THE SPECIAL FUND OF THE MUNICIPALITY COMMENCES UPON THE EXPIRATION OF THE PREVIOUS TWENTY-YEAR EXTENSION PERIOD, WHETHER SUCH PERIOD WAS PURSUANT TO SUBSECTION (3)(a)(IV) OF THIS SECTION OR PURSUANT TO THIS SUBSECTION (3)(a)(V). ON THE FIRST DAY OF A TWENTY-YEAR EXTENSION PERIOD PURSUANT TO THIS SUBSECTION (3)(a)(V), THE ESTABLISHED BASE YEAR FOR THE ALLOCATION OF PROPERTY TAXES PURSUANT TO SUBSECTION (3)(a)(II) OF THIS SECTION MUST BE ADVANCED FORWARD BY ONE YEAR, AND THE ESTABLISHED BASE YEAR MUST BE ADVANCED FORWARD FOR EACH ADDITIONAL YEAR THROUGH THE COMPLETION OF THE TWENTY-YEAR EXTENSION.

(B) IN CONNECTION WITH AN EXTENSION IMPLEMENTED PURSUANT TO THIS SUBSECTION (3)(a)(V), ON AN ANNUAL BASIS FIFTY PERCENT OF THE PROPERTY TAXES LEVIED, OR A GREATER AMOUNT AS MAY BE SET FORTH IN AN AGREEMENT NEGOTIATED BY THE MUNICIPALITY AND THE RESPECTIVE PUBLIC BODIES, AND ALLOCATED IN ACCORDANCE WITH THE REQUIREMENTS OF SUBSECTION (3)(a)(II) OF THIS SECTION, SHALL BE PAID INTO THE SPECIAL FUND OF THE MUNICIPALITY AND THE BALANCE OF THE TAXES SHALL BE PAID INTO THE FUNDS OF THE OTHER PUBLIC BODIES BY OR FOR WHICH SUCH PROPERTY TAXES ARE COLLECTED. NOT LATER THAN AUGUST 1 OF EACH CALENDAR YEAR, THE GOVERNING BODY SHALL CERTIFY TO THE COUNTY ASSESSOR AN ITEMIZED LIST OF THE PROPERTY TAX DISTRIBUTION

PERCENTAGES ATTRIBUTABLE TO THE SPECIAL FUND OF THE MUNICIPALITY PURSUANT TO THIS SUBSECTION (3)(a)(V)(B) FROM THE MILL LEVIES TO BE CERTIFIED BY EACH PUBLIC BODY. WHEN CERTIFYING VALUES TO TAXING ENTITIES PURSUANT TO SECTIONS 39-1-111 (5), 39-5-121 (2), AND 39-5-128, THE ASSESSOR SHALL CERTIFY ONLY THE PERCENTAGE OF INCREMENT VALUE ATTRIBUTABLE TO THE SPECIAL FUND PURSUANT TO THIS SUBSECTION (3)(a)(V)(B) AS CERTIFIED BY THE GOVERNING BODY.

(C) BEFORE AUGUST 1 OF THE LAST YEAR OF A TWENTY-YEAR EXTENSION PERIOD PURSUANT TO SUBSECTION (3)(a)(IV) OR (3)(a)(V)(A) OF THIS SECTION, THE GOVERNING BODY MAY ADOPT AN ORDINANCE TO EXTEND THE PERIOD DURING WHICH A PORTION OF PROPERTY TAX MAY BE COLLECTED AND ALLOCATED TO THE SPECIAL FUND OF THE MUNICIPALITY PURSUANT TO SUBSECTION (3)(a)(II) OF THIS SECTION.

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; 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 2024 and, in such case, will take effect on the date of the official declaration of the vote thereon by the governor.

Steve Fenberg
PRESIDENT OF
THE SENATE

Julie McCluskie
SPEAKER OF THE HOUSE
OF REPRESENTATIVES

Cindi L. Markwell
SECRETARY OF
THE SENATE

Robin Jones
CHIEF CLERK OF THE HOUSE
OF REPRESENTATIVES

APPROVED _____
(Date and Time)

Jared S. Polis
GOVERNOR OF THE STATE OF COLORADO