

CHAPTER 213

TRANSPORTATION

HOUSE BILL 93-1316

BY REPRESENTATIVES Fleming, Adkins, Agler, Anderson, Armstrong, Benavidez, Blue, Eisenach, Entz, Epps, Friednash, Hagedorn, R. Hernandez, June, Kerns, Knox, Lawrence, Lyle, Martin, Owen, Pierson, Prinster, Ratterree, Reeser, Reeves, Romero, Strom, Tanner, Thiebaut, Williams, Jerke, Kaufman, Sullivan, and Taylor;
also SENATORS Wattenberg, Ament, Casey, Feeley, Gallagher, Groff, Lacy, Norton, Owens, Peterson, R. Powers, Schroeder, Traylor, Trujillo, and Meiklejohn.

AN ACT**CONCERNING PUBLIC HIGHWAY AUTHORITIES.**

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

SECTION 1. 43-4-506, Colorado Revised Statutes, 1984 Repl. Vol., as amended, is amended BY THE ADDITION OF THE FOLLOWING NEW SUBSECTIONS to read:

43-4-506. Powers of the authority - inclusion or exclusion of property - determination of public highway alignment. (3) (a) THE BOARD MAY INCLUDE PROPERTY WITHIN OR EXCLUDE PROPERTY FROM THE BOUNDARIES OF THE AUTHORITY IN THE MANNER PROVIDED IN THIS SUBSECTION (3). PROPERTY MAY NOT BE INCLUDED WITHIN THE BOUNDARIES OF THE AUTHORITY UNLESS IT IS WITHIN THE BOUNDARIES OF THE MEMBERS OF THE COMBINATION, IS CONTIGUOUS TO PROPERTY WITHIN THE BOUNDARIES OF THE AUTHORITY AT THE TIME OF THE INCLUSION, AND IS NOT MORE THAN TWO AND ONE-HALF MILES FROM THE PROPOSED CENTER LINE OF THE PUBLIC HIGHWAY AS DESCRIBED IN THE CONTRACT REQUIRED BY SECTION 43-4-504 (2).

(b) PRIOR TO ANY INCLUSION OR EXCLUSION OF PROPERTY, THE BOARD SHALL CAUSE NOTICE OF THE PROPOSED INCLUSION OR EXCLUSION TO BE PUBLISHED IN A NEWSPAPER OF GENERAL CIRCULATION WITHIN THE BOUNDARIES OF THE AUTHORITY AND CAUSE SUCH NOTICE TO BE MAILED TO THE DIVISION, TO THE TRANSPORTATION COMMISSION, AND TO THE OWNERS OF PROPERTY TO BE INCLUDED OR EXCLUDED AT THE LAST KNOWN ADDRESS DESCRIBED FOR SUCH OWNERS IN THE REAL ESTATE RECORDS OF THE COUNTY IN WHICH SUCH PROPERTY IS LOCATED. SUCH NOTICE

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

SHALL DESCRIBE THE PROPERTY TO BE INCLUDED WITHIN OR EXCLUDED FROM THE BOUNDARIES OF THE AUTHORITY, SHALL SPECIFY THE DATE, TIME, AND PLACE AT WHICH THE BOARD SHALL HOLD A PUBLIC HEARING ON THE PROPOSED INCLUSION OR EXCLUSION, AND SHALL STATE THAT PERSONS HAVING OBJECTIONS TO THE INCLUSION OR EXCLUSION MAY APPEAR AT SUCH HEARING TO OBJECT TO THE PROPOSED INCLUSION OR EXCLUSION. THE DATE OF SUCH PUBLIC HEARING CONTAINED IN SUCH NOTICE SHALL BE NOT LESS THAN TWENTY DAYS AFTER THE MAILING AND PUBLICATION OF THE NOTICE. THE BOARD AT THE TIME AND PLACE DESIGNATED IN THE NOTICE OR AT SUCH TIMES AND PLACES TO WHICH THE HEARING MAY BE ADJOURNED SHALL HEAR ALL OBJECTIONS TO THE PROPOSED INCLUSION OR EXCLUSION. THE BOARD, UPON THE AFFIRMATIVE VOTE OF TWO-THIRDS OF THE MEMBERS OF THE BOARD, MAY ADOPT A RESOLUTION INCLUDING OR EXCLUDING ALL OR ANY PORTION OF THE PROPERTY DESCRIBED IN THE NOTICE. UPON THE ADOPTION OF SUCH RESOLUTION, SUCH PROPERTY SHALL BE INCLUDED WITHIN OR EXCLUDED FROM THE BOUNDARIES OF THE AUTHORITY AS SET FORTH IN THE RESOLUTION. SUCH RESOLUTION MAY BE ADOPTED BY THE BOARD WITHOUT AMENDING THE CONTRACT REQUIRED BY SECTION 43-4-504 (2). THE RESOLUTION SHALL BE FILED WITH THE DIRECTOR OF THE DIVISION, WHO SHALL CAUSE SUCH RESOLUTION TO BE RECORDED IN THE REAL ESTATE RECORDS OF EACH COUNTY THAT HAS TERRITORY INCLUDED IN THE BOUNDARIES OF THE AUTHORITY.

(c) ALL PROPERTY EXCLUDED FROM THE AUTHORITY SHALL THEREAFTER BE SUBJECT TO THE REVENUE-RAISING POWERS OF THE AUTHORITY ONLY TO THE EXTENT THAT SUCH POWERS HAVE BEEN EXERCISED BY THE AUTHORITY AGAINST SUCH PROPERTY PRIOR TO THE EXCLUSION AND TO THE EXTENT REQUIRED TO COMPLY WITH AGREEMENTS WITH THE HOLDERS OF BONDS OUTSTANDING AT THE TIME OF THE EXCLUSION. ALL PROPERTY INCLUDED WITHIN THE AUTHORITY SHALL THEREAFTER BE SUBJECT TO THE REVENUE-RAISING POWERS OF THE AUTHORITY. IN NO WAY WILL THIS SECTION AFFECT OR INCREASE PROPERTY TAXES IN THE AFFECTED TERRITORY OR JURISDICTION.

(4) THE BOARD, UPON THE AFFIRMATIVE VOTE OF TWO-THIRDS OF THE MEMBERS OF THE BOARD, MAY DETERMINE THE LOCATION OF THE ALIGNMENT OF THE PUBLIC HIGHWAY, SUBJECT ONLY TO ANY LIMITATION EXISTING PURSUANT TO PARAGRAPH (f) OF SUBSECTION (1) OF THIS SECTION.

SECTION 2. 43-4-515, Colorado Revised Statutes, 1984 Repl. Vol., as amended, is amended to read:

43-4-515. Successor to prior entity - assumption of obligations and liabilities - action for mandamus or injunctive relief. (1) An authority, if the contract establishing it so provides, shall be the successor to any nonprofit corporation, agency, or other entity theretofore organized to provide public highways, shall be entitled to all rights and privileges, and shall assume all obligations and liabilities of such other entity under existing contracts to which such entity is a party. An authority and a county or municipality which is a member of the combination may enter into a contract by which the county or municipality assigns its liabilities and obligations, and the authority assumes such liabilities and obligations, under any contract, resolution, ordinance, or other public act which the county or municipality has entered into or adopted with respect to the financing, construction, operation, or maintenance of a public highway, including bonds which it has issued.

(2) A COUNTY OR MUNICIPALITY THAT HAS ISSUED BONDS TO FINANCE A PUBLIC HIGHWAY PRIOR TO THE CREATION OF AN AUTHORITY AND THAT HAS LENT ALL OR A PORTION OF THE PROCEEDS OF SUCH BONDS TO SUCH AUTHORITY SHALL NOT TAKE ANY ACTION OR FAIL TO TAKE ANY ACTION THAT WOULD LIMIT THE AVAILABILITY OF THE PROCEEDS OF SUCH BONDS TO THE AUTHORITY OR ADVERSELY AFFECT THE ABILITY OF THE AUTHORITY TO FINANCE THE PUBLIC HIGHWAY UNLESS THE AUTHORITY CONSENTS OR UNLESS SUCH ACTION OR FAILURE TO ACT IS REQUIRED BY THE AGREEMENTS WITH THE HOLDERS OF THE BONDS. IF A COUNTY OR MUNICIPALITY HAS ASSIGNED TO AN AUTHORITY ITS RIGHTS AND PRIVILEGES REGARDING BONDS ISSUED TO FINANCE A PUBLIC HIGHWAY, SUCH COUNTY OR MUNICIPALITY SHALL TAKE ANY ACTION REQUESTED BY THE AUTHORITY IN CONNECTION WITH SUCH BONDS AND THE DOCUMENTS GOVERNING SUCH BONDS. A COUNTY OR MUNICIPALITY WHICH HAS ASSIGNED TO AN AUTHORITY ALL OF ITS RIGHTS AND PRIVILEGES REGARDING BONDS ISSUED BY THE COUNTY TO FINANCE A PUBLIC HIGHWAY SHALL NOT HAVE ANY FINANCIAL LIABILITY WITH RESPECT TO THE REPAYMENT OF SUCH BONDS EXCEPT TO THE EXTENT EXPRESSLY PROVIDED IN THE BONDS OR THE ASSIGNMENT. THE ASSUMPTION OF OBLIGATIONS AND LIABILITIES BY AN AUTHORITY PURSUANT TO THIS SECTION SHALL NOT BE DEEMED TO BE THE CREATION OF ANY NEW DEBT OR OBLIGATION FOR THE PURPOSES OF THE CONSTITUTION OR LAWS OF THE STATE.

(3) THE PROVISIONS OF SUBSECTION (2) OF THIS SECTION MAY BE ENFORCED BY THE AUTHORITY FILING AN ACTION FOR MANDAMUS OR INJUNCTIVE RELIEF WITH THE DISTRICT COURT. THE DISTRICT COURT SHALL ENTER AN ORDER WITHIN THIRTY DAYS AFTER THE FILING OF ANY SUCH ACTION.

SECTION 3. Part 5 of article 4 of title 43, Colorado Revised Statutes, 1984 Repl. Vol., as amended, is amended BY THE ADDITION OF A NEW SECTION to read:

43-4-522. Judicial examination of powers, acts, proceedings, or contracts of an authority. IN ITS DISCRETION, THE BOARD OF AN AUTHORITY MAY FILE A PETITION AT ANY TIME IN THE DISTRICT COURT IN AND FOR ANY COUNTY IN WHICH THE AUTHORITY IS LOCATED WHOLLY OR IN PART PRAYING FOR A JUDICIAL EXAMINATION AND DETERMINATION OF ANY POWER CONFERRED TO THE AUTHORITY, ANY REVENUE-RAISING POWER EXERCISED OR TO BE EXERCISED BY THE AUTHORITY, OR ANY ACT, PROCEEDING, OR CONTRACT OF THE AUTHORITY, WHETHER OR NOT SUCH CONTRACT HAS BEEN EXECUTED. SUCH JUDICIAL EXAMINATION AND DETERMINATION SHALL BE CONDUCTED IN SUBSTANTIALLY THE MANNER SET FORTH IN SECTION 32-4-540, C.R.S.; EXCEPT THAT THE NOTICE REQUIRED SHALL BE PUBLISHED ONCE A WEEK FOR THREE CONSECUTIVE WEEKS AND THE HEARING SHALL BE HELD NOT LESS THAN THIRTY DAYS NOR MORE THAN FORTY DAYS AFTER THE FILING OF THE PETITION.

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, 1993