

CHAPTER 13

TRANSPORTATION

SENATE BILL 96-173

BY SENATOR Lacy;
also REPRESENTATIVE McPherson.

AN ACT

CONCERNING THE ELIMINATION OF TAXATION POWERS FROM THE "PUBLIC HIGHWAY AUTHORITY LAW" SO THAT PUBLIC HIGHWAY AUTHORITIES MAY QUALIFY AS ENTERPRISES UNDER SECTION 20 OF ARTICLE X OF THE COLORADO CONSTITUTION.

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

SECTION 1. 43-4-502, Colorado Revised Statutes, 1993 Repl. Vol., is amended BY THE ADDITION OF A NEW SUBSECTION to read:

43-4-502. Legislative declaration. (3) THE GENERAL ASSEMBLY FURTHER FINDS, DETERMINES, AND DECLARES THAT IT IS THE INTENTION OF THE GENERAL ASSEMBLY THAT PUBLIC HIGHWAY AUTHORITIES BE PERMITTED TO QUALIFY AS ENTERPRISES UNDER SECTION 20 OF ARTICLE X OF THE STATE CONSTITUTION. SINCE THE COLORADO SUPREME COURT IN *NICHOLL V. E-470 PUBLIC HIGHWAY AUTHORITY*, 896 P.2D 859 (COLO. 1995), DETERMINED THAT THE POWER TO IMPOSE TAXES IS INCONSISTENT WITH THE ESTABLISHMENT OF A PUBLIC HIGHWAY AUTHORITY AS AN "ENTERPRISE" UNDER SECTION 20 OF ARTICLE X OF THE STATE CONSTITUTION, THOSE POWERS OF TAXATION ARE HEREBY ELIMINATED BY S.B. 96-173, AS ENACTED AT THE SECOND REGULAR SESSION OF THE SIXTIETH GENERAL ASSEMBLY.

SECTION 2. 43-4-503 (13) and (14), Colorado Revised Statutes, 1993 Repl. Vol., are amended to read:

43-4-503. Definitions. As used in this part 5, unless the context otherwise requires:

(13) "Revenues" means any tolls, fees, rates, charges, assessments, ~~taxes~~, grants, contributions, or other income and revenues received by the authority.

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

(14) "Sales taxes" means, for the purposes of section 43-4-508, county or municipal sales and use taxes levied and collected within a value capture area, ~~excluding the tax authorized by section 43-4-506 (1) (l).~~

SECTION 3. 43-4-506 (1) (l), (1) (m), and (1) (n), Colorado Revised Statutes, 1993 Repl. Vol., are repealed as follows:

43-4-506. Powers of the authority - inclusion or exclusion of property - determination of public highway alignment. (1) In addition to any other powers granted to the authority pursuant to this part 5, the authority has the following powers:

~~(l) To levy, in all or any designated portion of the members of the combination, a sales or use tax, or both, at a rate not to exceed four-tenths of one percent upon every transaction or other incident with respect to which a sales or use tax is levied by the state. The tax imposed pursuant to this paragraph (l) shall be in addition to any other sales or use tax imposed pursuant to law and shall be exempt from the limitation imposed by section 29-2-108, C.R.S. If a member of the combination is located within more than one authority, the sales or use tax, or both, authorized by this paragraph (l) shall not exceed four-tenths of one percent upon every transaction or other incident with respect to which a sales or use tax is levied by the state. The collection, administration, and enforcement of said sales or use tax shall be performed by the executive director of the department of revenue, to the extent feasible, in the manner provided in section 29-2-106, C.R.S. The executive director shall make monthly distributions of such tax collections to the authority, which shall apply such proceeds solely to the financing, construction, operation, or maintenance of public highways. The department of revenue shall retain an amount not to exceed the cost of such collection, administration, and enforcement and shall transmit such amount to the state treasurer, who shall credit the same to the public highway authority sales tax fund, which fund is hereby created. The amounts so retained are hereby appropriated annually from said fund to the department of revenue to the extent necessary for the department's collection, administration, and enforcement of the provisions of this part 5. Any moneys remaining in said fund attributable to taxes collected in the prior fiscal year shall be transmitted to the authority; except that, prior to the transmission to the authority of such moneys, any moneys appropriated from the general fund to the department of revenue for collection, administration, and enforcement of the tax shall be repaid.~~

~~(m) To establish, and from time to time increase or decrease, a tax on the privilege of employment in all or any designated portion of the members of the combination at a rate not to exceed two dollars per month, collect the same from persons employed in all or any designated portion of the members of the combination, and adopt regulations in connection with the collection of such tax. If a member of the combination is located within more than one authority, the tax authorized by this paragraph (m) shall not exceed a rate of two dollars per month collected from any person employed in all or any designated portion of the county.~~

~~(n) To establish, and from time to time increase or decrease, a tax on the privilege of conducting any trade, business, occupation, or profession, in all or any designated portion of the members of the combination, at a rate not to exceed two dollars per month for each person engaged in any trade, business, occupation, or profession;~~

~~collect the same from persons engaged in any trade, business, occupation, or profession in all or any designated portion of the members of the combination, and adopt regulations in connection with the collection of such tax. If a member of the combination is located within more than one authority, the tax authorized by this paragraph (n) shall not exceed a rate of two dollars per month for each person engaged in any trade, business, occupation, or profession in all or any designated portion of the county.~~

SECTION 4. 43-4-512, Colorado Revised Statutes, 1993 Repl. Vol., is amended to read:

43-4-512. Referendum. No action by an authority to establish or increase any ~~tax~~ or annual motor vehicle registration fee authorized by this part 5 shall take effect unless first submitted to a vote of the registered electors of that portion of the combination in which the ~~tax~~ FEE is proposed to be collected at a general election, or a special election to be held on the first Tuesday after the first Monday in February, May, October, or December. Such action shall not take effect unless a majority of the registered electors voting thereon at ~~such~~ THE election vote in favor thereof. ~~Such~~ THE election shall be conducted in substantially the same manner as county elections, and the county clerk and recorder of each county in which the election is conducted shall assist the authority in conducting the election. The authority shall pay the costs incurred by each county in conducting such an election. No moneys of the authority may be used to urge or oppose passage of an election to establish or increase any ~~tax~~ or annual motor vehicle registration fee authorized by this part 5.

SECTION 5. 43-4-513, Colorado Revised Statutes, 1993 Repl. Vol., is amended to read:

43-4-513. Notice to municipalities - opportunity for comment. The board of any authority created pursuant to this part 5, at least forty-five days prior to any meeting at which ~~such~~ THE board shall consider or take action on a proposal to establish, increase, or decrease any ~~tax~~ or fee authorized by this part 5, shall deliver written notice of ~~such~~ THE meeting and proposal to any municipality where ~~such~~ THE proposed ~~tax~~ or fee would be imposed. Prior to the taking of any action on ~~any~~ such proposal by the board of any authority, municipalities entitled to receive notice pursuant to this section shall be afforded a reasonable opportunity for comment, either at a regular meeting of the board of the authority or at a special meeting convened to receive such comment.

SECTION 6. 43-4-514 (1) (b), (2), and (3) (b), Colorado Revised Statutes, 1993 Repl. Vol., are amended to read:

43-4-514. Notice - coordination of information - reports. (1) (b) At least forty-five days prior to the imposition of or any increase in any fee ~~or tax~~ or prior to the issuance of any bonds authorized in this part 5, a notice specifying the amount of the fee ~~or tax~~ and its proposed duration or the value and number of bonds to be issued shall be sent to the division. The notice required by this paragraph (b) shall not be necessary if the required information has previously been provided in the notice required by paragraph (a) of this subsection (1).

(2) The division shall forward copies of any such notice to the department of

transportation if it determines that the proposed authority or value capture area or the ~~tax~~, fee or bonds will have an impact on any operations of that department.

(3) (b) The division shall notify the general assembly either in the report required by paragraph (a) of this subsection (3) or by letter, if it deems that immediate notification is warranted, of any situation relating to the creation of an authority or value capture area, the imposition of any fee, ~~or tax~~, or the issuance of any bonds by an authority ~~which~~ THAT the division believes or has reason to believe will adversely affect the tax-raising ability or the credit or bond rating of any governmental unit or any school district.

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 18, 1996