

CHAPTER 254

NATURAL RESOURCES

HOUSE BILL 01-1375

BY REPRESENTATIVE(S) Scott, Johnson, Madden, Mitchell, Plant, Witwer, Coleman, Grossman, Jahn, Jameson, Tochtrop, Veiga, Williams S., Fairbank, Romanoff, and Weddig;
also SENATOR(S) Teck, Chlouber, Evans, Fitz-Gerald, Hernandez, Phillips, and Tupa.

AN ACT

CONCERNING THE ISSUANCE OF BONDS BY THE TRUST FUND BOARD OF THE GREAT OUTDOORS COLORADO TRUST FUND FOR THE PURPOSE OF FINANCING EXPENDITURES THAT MAY BE MADE FROM THE TRUST FUND.

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

SECTION 1. 33-60-101, Colorado Revised Statutes, is amended to read:

33-60-101. Legislative declaration. (1) The general assembly hereby declares that the policies and procedures contained in this article are enacted to facilitate the orderly implementation of article XXVII of the state constitution, adopted at the 1992 general election. The general assembly further declares that the payment of debt service on all obligations due from the fourth quarter of fiscal year 1992-93 through the fourth quarter of fiscal year 1997-98 which are set forth in section 3 (1) (c) of article XXVII of the state constitution are intended to be paid in full from net lottery proceeds. Accordingly, the general assembly finds that legislation which sets forth an orderly method for ensuring that such payments are made in a timely manner is necessary and that the orderly implementation of article XXVII of the state constitution promotes the health, safety, security, and general welfare of the people of the state of Colorado.

(2) THE GENERAL ASSEMBLY FURTHER DECLARES THAT THE POWERS GRANTED TO THE TRUST FUND BOARD TO ISSUE BONDS AND TO PLEDGE ANY MONEYS DEPOSITED OR TO BE DEPOSITED INTO THE TRUST FUND FOR THE PAYMENT OF SUCH BONDS ARE IN FURTHERANCE OF AND ARE CONSISTENT WITH THE POWERS GRANTED TO THE BOARD CREATED BY ARTICLE XXVII OF THE COLORADO CONSTITUTION.

SECTION 2. 33-60-102 (1), Colorado Revised Statutes, is amended, and the said

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

33-60-102 is further amended BY THE ADDITION OF A NEW SUBSECTION, to read:

33-60-102. Definitions. As used in this article, unless the context otherwise requires:

(1) ~~"Net lottery proceeds" means the proceeds of the lottery after the payment of the expenses of the state lottery division and any prizes for the lottery and after a sufficient amount of money has been reserved, as of the end of any fiscal quarter, to ensure the operation of the lottery for the ensuing fiscal quarter.~~ "BOND" MEANS ANY BOND, NOTE, CERTIFICATE, CONTRACT, OR OBLIGATION FOR THE REPAYMENT OF BORROWED MONEY OF THE TRUST FUND BOARD AUTHORIZED BY THIS ARTICLE.

(1.5) "NET LOTTERY PROCEEDS" MEANS THE PROCEEDS OF THE LOTTERY AFTER THE PAYMENT OF THE EXPENSES OF THE STATE LOTTERY DIVISION AND ANY PRIZES FOR THE LOTTERY AND AFTER A SUFFICIENT AMOUNT OF MONEY HAS BEEN RESERVED, AS OF THE END OF ANY FISCAL QUARTER, TO ENSURE THE OPERATION OF THE LOTTERY FOR THE ENSUING FISCAL QUARTER.

SECTION 3. 33-60-107, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SUBSECTION to read:

33-60-107. State board of the great outdoors Colorado trust fund. (3) IN ADDITION TO ITS OTHER POWERS UNDER ARTICLE XXVII OF THE COLORADO CONSTITUTION AND THIS ARTICLE, THE TRUST FUND BOARD SHALL HAVE THE POWER TO ISSUE BONDS TO FINANCE ANY EXPENDITURE TO ADDRESS URGENT AND PERMANENT LAND ACQUISITION PRIORITIES, INCLUDING THE ACQUISITION OF PERPETUAL CONSERVATION EASEMENTS, THAT MAY BE MADE FROM THE TRUST FUND AND MAY PLEDGE ALL OR ANY PORTION OF THE MONEYS DEPOSITED OR TO BE DEPOSITED INTO THE TRUST FUND FOR THE PAYMENT OF THE BONDS. THE OWNERS OR HOLDERS OF THE BONDS MAY NOT LOOK TO ANY OTHER REVENUES OF THE STATE OTHER THAN THE TRUST FUND FOR THE PAYMENT OF THE BONDS. THE BONDS SHALL BE ISSUED ON THE TERMS AND SUBJECT TO THE CONDITIONS SET FORTH IN SECTION 33-60-108. NOTWITHSTANDING ANY OTHER PROVISION OF THIS ARTICLE, THE BONDS MAY ONLY BE ISSUED IF THE REGISTERED ELECTORS OF THE STATE APPROVE THE BALLOT QUESTION SUBMITTED AT THE NOVEMBER 2001 STATEWIDE ELECTION PURSUANT TO SECTION 33-60-113. THE AMOUNT OF ANY DEBT INCURRED AND THE REPAYMENT COSTS FOR ANY BONDS ISSUED BY THE BOARD SHALL NOT EXCEED THE MAXIMUM AMOUNTS OF DEBT AND REPAYMENT COSTS APPROVED BY THE VOTERS IN SUCH ELECTION.

SECTION 4. Article 60 of title 33, Colorado Revised Statutes, is amended BY THE ADDITION OF THE FOLLOWING NEW SECTIONS to read:

33-60-108. Bonds. (1) THE TRUST FUND BOARD MAY, FROM TIME TO TIME, ISSUE BONDS TO FINANCE ANY EXPENDITURE TO ADDRESS URGENT AND PERMANENT LAND ACQUISITION PRIORITIES, INCLUDING THE ACQUISITION OF PERPETUAL CONSERVATION EASEMENTS, THAT MAY BE MADE FROM THE TRUST FUND. THE BONDS SHALL BE ISSUED PURSUANT TO A RESOLUTION OF THE TRUST FUND BOARD AND SHALL BE PAYABLE SOLELY OUT OF ALL OR ANY PORTION OF THE MONEYS DEPOSITED OR TO BE DEPOSITED INTO THE TRUST FUND AS SPECIFIED BY THE TRUST FUND BOARD.

(2) AS PROVIDED IN THE RESOLUTION OF THE TRUST FUND BOARD UNDER WHICH THE BONDS ARE AUTHORIZED TO BE ISSUED OR AS PROVIDED IN A TRUST INDENTURE BETWEEN THE TRUST FUND BOARD AND ANY COMMERCIAL BANK OR TRUST COMPANY HAVING TRUST POWERS, THE BONDS MAY:

(a) BE EXECUTED AND DELIVERED BY THE TRUST FUND BOARD AT SUCH TIMES AS MAY BE PROVIDED IN THE RESOLUTION OR INDENTURE;

(b) BE IN SUCH FORM AND DENOMINATIONS AND INCLUDE SUCH TERMS AND MATURITIES AS MAY BE PROVIDED IN THE RESOLUTION OR INDENTURE;

(c) BE SUBJECT TO OPTIONAL OR MANDATORY REDEMPTION PRIOR TO MATURITY WITH OR WITHOUT A PREMIUM;

(d) BE IN FULLY REGISTERED FORM OR BEARER FORM REGISTRABLE AS TO PRINCIPAL OR INTEREST OR BOTH OR BE IN THE FORM OF COUPON BONDS THAT HAVE ATTACHED INTEREST COUPONS BEARING A MANUAL OR FACSIMILE SIGNATURE OF AN OFFICER OF THE TRUST FUND BOARD;

(e) BEAR SUCH CONVERSION PRIVILEGES AS MAY BE PROVIDED IN THE RESOLUTION OR INDENTURE;

(f) BE PAYABLE IN SUCH INSTALLMENTS AND AT SUCH TIMES NOT EXCEEDING TWENTY YEARS FROM THE DATE THEREOF;

(g) BE PAYABLE AT SUCH PLACE OR PLACES WHETHER WITHIN OR WITHOUT THE STATE;

(h) BEAR INTEREST AT SUCH RATE OR RATES PER ANNUM, WHICH MAY BE FIXED OR VARY ACCORDING TO INDEX, PROCEDURE, OR FORMULA, OR AS DETERMINED BY THE TRUST FUND BOARD OR ITS AGENTS, WITHOUT REGARD TO ANY INTEREST RATE LIMITATION APPEARING IN ANY OTHER LAW OF THE STATE;

(i) BE SUBJECT TO PURCHASE AT THE OPTION OF THE HOLDER OR THE TRUST FUND BOARD AND EVIDENCED IN SUCH MANNER;

(j) BE EXECUTED BY THE OFFICERS OF THE TRUST FUND BOARD, INCLUDING THE USE OF ONE OR MORE FACSIMILE SIGNATURES SO LONG AS AT LEAST ONE MANUAL SIGNATURE APPEARS ON THE BONDS, WHICH SIGNATURES MAY BE EITHER OF AN OFFICER OF THE TRUST FUND BOARD OR OF AN AGENT AUTHENTICATING THE SAME; AND

(k) CONTAIN SUCH OTHER PROVISIONS NOT INCONSISTENT WITH THIS ARTICLE.

(3) THE BONDS MAY BE SOLD AT PUBLIC OR PRIVATE SALE AT SUCH PRICE, IN SUCH MANNER, AND AT SUCH TIMES AS DETERMINED BY THE TRUST FUND BOARD, AND THE TRUST FUND BOARD MAY PAY ALL FEES, EXPENSES, AND COMMISSIONS THAT IT DEEMS NECESSARY OR ADVANTAGEOUS IN CONNECTION WITH THE SALE OF THE BONDS. THE POWER TO FIX THE DATE OF SALE OF THE BONDS, TO RECEIVE BIDS OR PROPOSALS, TO AWARD AND SELL BONDS, TO FIX INTEREST RATES, AND TO TAKE ALL OTHER ACTION NECESSARY TO SELL AND DELIVER THE BONDS MAY BE DELEGATED TO AN OFFICER OR

AGENT OF THE TRUST FUND BOARD. ANY OUTSTANDING BONDS MAY BE REFUNDED BY THE TRUST FUND BOARD PURSUANT TO ARTICLE 56 OF TITLE 11, C.R.S. ALL BONDS AND ANY INTEREST COUPONS APPLICABLE THERETO ARE DECLARED TO BE NEGOTIABLE INSTRUMENTS. THE TRUST FUND BOARD MAY APPLY ANY OR ALL OF THE PROVISIONS OF ARTICLES 55 AND 57 OF TITLE 11, C.R.S., IN CONNECTION WITH THE ISSUANCE OF THE BONDS.

(4) THE RESOLUTION OR TRUST INDENTURE AUTHORIZING THE ISSUANCE OF THE BONDS MAY PLEDGE ALL OR ANY PORTION OF THE MONEYS DEPOSITED OR TO BE DEPOSITED INTO THE TRUST FUND, MAY CONTAIN SUCH PROVISIONS FOR PROTECTING AND ENFORCING THE RIGHTS AND REMEDIES OF HOLDERS OF ANY OF THE BONDS AS THE TRUST FUND BOARD DEEMS APPROPRIATE, MAY SET FORTH THE RIGHTS AND REMEDIES OF THE HOLDERS OF ANY OF THE BONDS, AND MAY CONTAIN PROVISIONS THAT THE TRUST FUND BOARD DEEMS APPROPRIATE FOR THE SECURITY OF THE HOLDERS OF THE BONDS, INCLUDING, BUT NOT LIMITED TO, PROVISIONS FOR LETTERS OF CREDIT, INSURANCE, STANDBY CREDIT AGREEMENTS, OR OTHER FORMS OF CREDIT ENSURING TIMELY PAYMENT OF THE BONDS, INCLUDING THE REDEMPTION PRICE OR THE PURCHASE PRICE.

(5) ANY PLEDGE OF MONEYS, REVENUES, OR PROPERTY FOR THE PAYMENT OF THE BONDS MADE BY THE TRUST FUND BOARD OR BY ANY OTHER PERSON SHALL BE VALID AND BINDING FROM THE TIME THE PLEDGE IS MADE. THE PLEDGE SHALL BE VALID AND BINDING AS OF THE TIME IT IS MADE AND THE MONEYS, REVENUES, OR PROPERTY SO PLEDGED SHALL IMMEDIATELY BE SUBJECT TO THE LIEN OF THE PLEDGE WITHOUT ANY PHYSICAL DELIVERY, FILING, OR FURTHER ACT. THE LIEN OF THE PLEDGE AND THE OBLIGATIONS OF THE TRUST FUND BOARD AND ANY OTHER PERSON TO PERFORM THE CONTRACTUAL PROVISIONS MADE IN THE INSTRUMENT AUTHORIZING THE ISSUANCE OF THE BONDS SHALL BE VALID AND BINDING AGAINST ALL PERSONS HAVING CLAIMS OF ANY KIND IN TORT, CONTRACT, OR OTHERWISE AGAINST THE TRUST FUND BOARD AND ANY OTHER PERSON, IRRESPECTIVE OF WHETHER SUCH CLAIMING PARTY HAS NOTICE OF SUCH LIEN AND IRRESPECTIVE OF WHETHER SUCH INSTRUMENT IS RECORDED OR FILED, AND SHALL, EXCEPT AS OTHERWISE PROVIDED IN THE INSTRUMENT AUTHORIZING THE ISSUANCE OF THE BONDS OR MAKING THE PLEDGE, HAVE PRIORITY OVER ANY AND ALL OBLIGATIONS AND LIABILITIES OF THE TRUST FUND BOARD. THE CREATION, PERFECTION, ENFORCEMENT, AND PRIORITY OF THE PLEDGE OF MONEY, REVENUES, OR PROPERTY FOR THE PAYMENT OF THE BONDS SHALL BE GOVERNED BY THIS ARTICLE AND THE INSTRUMENT AUTHORIZING THE ISSUANCE OF THE BONDS.

(6) NONE OF THE DIRECTORS OR EMPLOYEES OF THE TRUST FUND BOARD OR ANY PERSON EXECUTING THE BONDS SHALL BE LIABLE PERSONALLY ON THE BONDS OR SUBJECT TO ANY PERSONAL LIABILITY OR ACCOUNTABILITY BY REASON OF THE ISSUANCE THEREOF.

(7) THE TRUST FUND BOARD MAY PURCHASE ITS BONDS OUT OF ANY AVAILABLE FUNDS AND MAY HOLD, PLEDGE, CANCEL, OR RESELL THE BONDS SUBJECT TO AND IN ACCORDANCE WITH AGREEMENTS WITH THE HOLDERS THEREOF.

33-60-109. Investments. (1) EXCEPT AS PROVIDED IN SUBSECTION (2) OF THIS SECTION, ANY PROCEEDS FROM THE ISSUANCE OF BONDS BY THE TRUST FUND BOARD THAT ARE CREDITED TO THE TRUST FUND SHALL BE INVESTED IN THE SAME MANNER

AS ALL OTHER MONEYS CREDITED TO THE TRUST FUND AS PROVIDED BY LAW.

(2) THE TRUST FUND BOARD MAY DIRECT A CORPORATE TRUSTEE THAT HOLDS PROCEEDS FROM THE ISSUANCE OF BONDS TO INVEST OR DEPOSIT THE PROCEEDS IN INVESTMENTS OR DEPOSITS OTHER THAN THOSE AUTHORIZED FOR THE TRUST FUND IF THE TRUST FUND BOARD DETERMINES, BY RESOLUTION, THAT THE INVESTMENT OR DEPOSIT MEETS THE STANDARD ESTABLISHED IN SECTION 15-1-304, C.R.S., THE INCOME IS AT LEAST COMPARABLE TO INCOME AVAILABLE ON INVESTMENTS OR DEPOSITS AUTHORIZED FOR THE TRUST FUND, AND THE INVESTMENT WILL ASSIST THE TRUST FUND BOARD IN MAKING EXPENDITURES IN FURTHERANCE OF THE GREAT OUTDOORS COLORADO PROGRAM.

33-60-110. Exemption from taxation. ANY BONDS ISSUED BY THE TRUST FUND BOARD AND THE TRANSFER OF AND THE INCOME FROM ANY BONDS ISSUED BY THE TRUST FUND BOARD ARE EXEMPT FROM ALL TAXATION AND ASSESSMENTS IN THE STATE. IN THE RESOLUTION AUTHORIZING THE BONDS, THE TRUST FUND BOARD MAY WAIVE THE EXEMPTION FROM FEDERAL INCOME TAXATION FOR INTEREST ON THE BONDS.

33-60-111. Bonds eligible for investment. ALL BANKS, TRUST COMPANIES, SAVINGS AND LOAN ASSOCIATIONS, INSURANCE COMPANIES, EXECUTORS, ADMINISTRATORS, GUARDIANS, TRUSTEES, AND OTHER FIDUCIARIES MAY LEGALLY INVEST ANY MONEYS WITHIN THEIR CONTROL IN ANY BONDS ISSUED BY THE TRUST FUND BOARD PURSUANT TO SECTION 33-60-108. PUBLIC ENTITIES, AS DEFINED IN SECTION 24-75-601 (1), C.R.S., MAY INVEST PUBLIC FUNDS IN THE BONDS ONLY IF THE BONDS SATISFY THE INVESTMENT REQUIREMENTS ESTABLISHED IN PART 6 OF ARTICLE 75 OF TITLE 24, C.R.S.

33-60-112. No action maintainable. AN ACTION OR PROCEEDING AT LAW OR IN EQUITY TO REVIEW ANY ACTS OR PROCEEDINGS OR TO QUESTION THE VALIDITY OR ENJOIN THE PERFORMANCE OF ANY ACT OR PROCEEDINGS OR THE ISSUANCE OF ANY BONDS ISSUED PURSUANT TO SECTION 33-60-108, OR FOR ANY OTHER RELIEF AGAINST OR FROM ANY ACTS OR PROCEEDINGS DONE IN CONNECTION WITH THE ISSUANCE OF SUCH BONDS, WHETHER BASED UPON IRREGULARITIES OR JURISDICTIONAL DEFECTS, SHALL NOT BE MAINTAINED UNLESS COMMENCED WITHIN THIRTY DAYS AFTER THE PERFORMANCE OF THE ACT OR PROCEEDINGS OR THE EFFECTIVE DATE THEREOF, WHICHEVER OCCURS FIRST, AND IS THEREAFTER PERPETUALLY BARRED.

33-60-113. Judicial examination of powers, acts, proceedings, or contracts of the trust fund board. IN ITS DISCRETION, THE TRUST FUND BOARD MAY FILE A PETITION AT ANY TIME IN THE DISTRICT COURT IN AND FOR ANY COUNTY IN THE STATE PRAYING FOR A JUDICIAL EXAMINATION AND DETERMINATION OF ANY POWER CONFERRED TO THE TRUST FUND BOARD, ANY REVENUE-RAISING POWER EXERCISED OR THAT MAY BE EXERCISED BY THE TRUST FUND BOARD, OR ANY ACT, PROCEEDING, OR CONTRACT OF THE TRUST FUND BOARD, WHETHER OR NOT THE CONTRACT HAS BEEN EXECUTED, RELATING TO THE ISSUANCE OF BONDS BY THE TRUST FUND BOARD PURSUANT TO SECTION 33-60-108. THE 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.

33-60-114. Submission of ballot question regarding issuance of bonds.

(1) THE SECRETARY OF STATE SHALL SUBMIT A BALLOT QUESTION TO A VOTE OF THE REGISTERED ELECTORS OF THE STATE OF COLORADO AT THE STATEWIDE ELECTION TO BE HELD IN NOVEMBER 2001 FOR THEIR APPROVAL OR REJECTION. EACH ELECTOR VOTING AT SAID NOVEMBER ELECTION SHALL CAST A VOTE AS PROVIDED BY LAW EITHER "YES" OR "NO" ON THE PROPOSITION: "SHALL THE STATE BOARD OF THE GREAT OUTDOORS COLORADO TRUST FUND DEBT BE INCREASED \$115,000,000, WITH A MAXIMUM REPAYMENT COST OF \$180,000,000, WITH NO INCREASE IN ANY TAXES, FOR THE PURPOSE OF ENHANCING THE GREAT OUTDOORS COLORADO TRUST FUND'S ABILITY TO ADDRESS URGENT AND PERMANENT LAND ACQUISITION PRIORITIES, INCLUDING THE ACQUISITION OF PERPETUAL CONSERVATION EASEMENTS, IN ORDER TO PROTECT THE STATE'S WILDLIFE, PARK, RIVER, TRAIL, AND OPEN SPACE HERITAGE THROUGH THE ISSUANCE OF BONDS, AND SHALL EARNINGS ON THE PROCEEDS OF SUCH BONDS CONSTITUTE A VOTER-APPROVED REVENUE CHANGE?"

(2) THE VOTES CAST FOR THE ADOPTION OR REJECTION OF THE QUESTION SUBMITTED PURSUANT TO SUBSECTION (1) OF THIS SECTION SHALL BE CANVASSED AND THE RESULT DETERMINED IN THE MANNER PROVIDED BY LAW FOR THE CANVASSING OF VOTES FOR REPRESENTATIVES IN CONGRESS.

SECTION 5. 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, 2001