

CHAPTER 17

**TRANSPORTATION**

**SENATE BILL 04-004**

BY SENATOR(S) May R., Andrews, Arnold, Cairns, Chlouber, and Jones;  
also REPRESENTATIVE(S) Spence, Brophy, Cadman, Harvey, Hefley, McFadyen, and Welker.

**AN ACT**

**CONCERNING THE STATEWIDE TOLLING ENTERPRISE, AND, IN CONNECTION THEREWITH, CLARIFYING THE DIVISION OF RESPONSIBILITIES BETWEEN THE BOARD OF THE ENTERPRISE AND THE TRANSPORTATION COMMISSION WITH RESPECT TO THE OPERATION OF THE ENTERPRISE.**

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

**SECTION 1.** 43-4-802 (1), Colorado Revised Statutes, is amended, and the said 43-4-802 is further amended BY THE ADDITION OF A NEW SUBSECTION, to read:

**43-4-802. Definitions.** As used in this part 8, unless the context otherwise requires:

(1) ~~"Bond" means any bond, note, interim certificate, contract, or other evidence of indebtedness of the enterprise, including, but not limited to, any obligation to the United States in connection with a loan from or guaranteed by the United States~~ "BOARD" MEANS THE BOARD OF THE STATEWIDE TOLLING ENTERPRISE CREATED AND OPERATED BY THE COMMISSION PURSUANT TO SECTION 43-4-803 (1).

(1.5) "BOND" MEANS ANY BOND, NOTE, INTERIM CERTIFICATE, CONTRACT, OR OTHER EVIDENCE OF INDEBTEDNESS OF THE ENTERPRISE, INCLUDING, BUT NOT LIMITED TO, ANY OBLIGATION TO THE UNITED STATES IN CONNECTION WITH A LOAN FROM OR GUARANTEED BY THE UNITED STATES.

**SECTION 2.** 43-4-803 (1), (2) (a), and (3), Colorado Revised Statutes, are amended to read:

**43-4-803. Statewide tolling enterprise - creation by commission - enterprise status - transfer.** (1) The commission may create and operate a statewide tolling

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

enterprise, which shall operate as a government-owned business within the department and shall be a division of the department. The commission shall serve as the board of the enterprise, but shall, with the consent of the executive director, appoint a director of the enterprise who shall possess qualifications as may be established by the commission and the state personnel board. The director shall oversee the discharge of all responsibilities of the enterprise and shall serve at the pleasure of the ~~commission~~ BOARD.

(2) (a) The enterprise ~~and the commission when acting in its capacity as the board of the enterprise,~~ shall constitute an enterprise for purposes of section 20 of article X of the state constitution so long as the enterprise retains the authority to issue revenue bonds and receives less than ten percent of its total annual revenues in grants, as defined in section 24-77-102 (7), C.R.S., from all Colorado state and local governments combined. So long as it constitutes an enterprise pursuant to this subsection (2), the enterprise ~~and the commission when acting as the board of the enterprise,~~ shall not be subject to any provisions of section 20 of article X of the state constitution.

(3) The enterprise ~~the commission when acting as the board of the enterprise,~~ and the director shall exercise their powers and perform the duties specified in this part 8 under the department as if the same were transferred to the department by a **type 1** transfer, as such transfer is defined in the "Administrative Organization Act of 1968", article 1 of title 24, C.R.S.

**SECTION 3.** 43-4-804 (1), (3), and (4), Colorado Revised Statutes, are amended to read:

**43-4-804. Statewide tolling enterprise special revenue fund - creation - separate highway accounts.** (1) A fund to be known as the statewide tolling enterprise special revenue fund is hereby created in the state treasury. All toll revenues received by the enterprise shall be deposited into the special fund. The enterprise also may deposit or permit others to deposit other moneys into the special fund, but in no event may revenues from any tax otherwise available for general purposes be deposited into the special fund. The state treasurer, after consulting with ~~the commission in its capacity as the board, of the enterprise,~~ shall invest any moneys in the special fund, including any surplus or reserves, but excluding any proceeds from the sale of bonds or earnings on such proceeds invested pursuant to section 43-4-809, that are not needed for immediate use. Such moneys may be invested in the types of investments authorized in sections 24-36-109, 24-36-112, and 24-36-113, C.R.S.

(3) The enterprise may expend moneys in the special fund to pay bonds of the enterprise, to fund the administration, planning, financing, construction, operation, maintenance, or repair of a toll highway. The enterprise may also expend moneys in the special fund to pay the costs and expenses of operating the enterprise. The ~~commission~~ BOARD shall have exclusive authority to budget and approve the expenditure of moneys in the special fund.

(4) Notwithstanding any other provision of this section, the ~~commission~~ BOARD shall designate a state toll highway, and moneys in the special fund that are derived from tolls shall only be expended to fund the administration, planning, design,

development, financing, construction, operation, maintenance, or repair of the state toll highway or to pay bonds of the enterprise that were issued to finance the state toll highway. Once the enterprise has paid the costs of constructing the state toll highway, including sufficient contingencies, paid all debt service on all bonds issued to finance the toll highway, and reimbursed the state highway fund for the amount of any state highway fund moneys transferred to the statewide tolling enterprise operating fund plus interest in accordance with section 43-4-805, the ~~commission~~ BOARD shall adjust toll rates in the corridor so that the amount of toll revenues to be generated is as close as possible to the amount required for the ongoing operation, maintenance, renewal, and replacement of the toll highway. A toll highway cannot eliminate previously existing highway lanes that have served vehicular traffic on a toll-free basis except pursuant to section 42-4-1012, C.R.S.

**SECTION 4.** The introductory portion to 43-4-806 (1) and 43-4-806 (1) (e), (2), and (3), Colorado Revised Statutes, are amended to read:

**43-4-806. Powers and duties of the board - annual report.** (1) The ~~commission, in its capacity as the board of the enterprise;~~ has the following powers and duties:

(e) To ESTABLISH, charge, and collect fees and charges for the use of other property of the enterprise;

(2) The ~~commission, acting as the board of the enterprise;~~ shall ensure unrestricted access by all vehicles to any toll highway and shall not require that a particular class of vehicles travel upon any toll highway, including a toll highway that provides additional capacity on an existing highway. A toll highway cannot eliminate previously existing highway lanes that have served vehicular traffic on a toll-free basis except pursuant to section 42-4-1012, C.R.S.

(3) No later than February 15, 2003, and no later than February 15 of each year thereafter, the ~~commission~~ ENTERPRISE shall present a report to the ~~transportation and energy committee of the house of representatives and the transportation committee of the senate that~~ COMMITTEES OF THE HOUSE OF REPRESENTATIVES AND THE SENATE THAT HAVE JURISDICTION OVER TRANSPORTATION. THE REPORT shall include a summary of the enterprise's activities for the previous year, a statement of current toll rates and any expected changes, a summary of the status of any current toll projects, a statement of the enterprise's revenues AND expenses, ~~of the enterprise;~~ and any recommendations for statutory changes that the ~~commission~~ ENTERPRISE deems necessary or desirable. The committees shall review the report and may recommend legislation. The report shall be public and shall be available on the website of the department on or before January 15 of the year in which the report is presented.

**SECTION 5.** 43-4-807 (1), (3), and (6), Colorado Revised Statutes, are amended to read:

**43-4-807. Bonds.** (1) The enterprise may, from time to time, issue bonds for any of its corporate purposes. The bonds shall be issued pursuant to resolution of ~~the commission acting in its capacity as the board of the enterprise~~ and shall be payable solely out of all or a specified portion of the moneys in the special fund.

(3) Bonds of the enterprise may be sold at public or private sale at such price or prices, in such manner, and at such times as determined by the ~~commission~~ BOARD, and the ~~commission~~ 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 enterprise. Any outstanding bonds may be refunded by the enterprise pursuant to article 56 of title 11, C.R.S. All bonds and any interest coupons applicable thereto are declared to be negotiable instruments.

(6) Neither the members of the ~~commission~~ BOARD, employees of the enterprise, nor 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.

**SECTION 6.** 43-4-808, Colorado Revised Statutes, is amended to read:

**43-4-808. Investments.** The enterprise may invest or deposit any proceeds and any interest from the sale of bonds in the manner provided by part 6 of article 75 of title 24, C.R.S. In addition, the enterprise may direct a corporate trustee that holds such proceeds and any interest to invest or deposit such proceeds and any interest in investments or deposits other than those specified by said part 6 if the ~~commission~~ BOARD determines, by resolution, that ~~such~~ 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 specified by said part 6, and ~~such~~ THE investment will assist the enterprise in the financing, construction, maintenance, or operation of a toll highway.

**SECTION 7.** 43-4-811 (2), Colorado Revised Statutes, is amended to read:

**43-4-811. Traffic laws - toll collection.** (2) The enterprise may adopt, by resolution of the ~~commission~~ BOARD, regulations pertaining to the enforcement of toll collection and providing a civil penalty for toll evasion. The civil penalty established by the enterprise for any toll evasion shall be not less than ten dollars nor more than one hundred dollars in addition to any costs imposed by a court. The enterprise may use state of the art technology, including, but not limited to, automatic vehicle identification photography, to aid in the collection of tolls and enforcement of toll violations.

**SECTION 8. Effective date.** This act shall take effect at 12:01 a.m. on the day following the expiration of the ninety-day period after final adjournment of the general assembly that is allowed for submitting a referendum petition pursuant to article V, section 1 (3) of the state constitution (August 4, 2004, if adjournment sine die is on May 5, 2004); except that, if a referendum petition is filed against this act or an item, section, or part of this act within such period, then the act, item, section, or part, if approved by the people, shall take effect on the date of the official declaration of the vote thereon by proclamation of the governor.

Approved: March 8, 2004