

CHAPTER 384

GOVERNMENT - LOCAL

SENATE BILL 04-176

BY SENATOR(S) Tupa, Anderson, Takis, Taylor, and Teck;
also REPRESENTATIVE(S) Vigil, Coleman, Franga, McGihon, Merrifield, and Weddig.

AN ACT

CONCERNING THE DIVISION OF LOCAL GOVERNMENT'S OVERSIGHT OF ELIGIBLE ENTITIES' USE OF THE CONSERVATION TRUST FUND, AND MAKING AN APPROPRIATION IN CONNECTION THEREWITH.

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

SECTION 1. Article 21 of title 29, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SECTION to read:

29-21-102. Certification - monitoring - enforcement - rules. (1) THE TREASURER OF A MUNICIPALITY OR SPECIAL DISTRICT, CHIEF FINANCIAL OFFICER, OR THE OFFICIAL CUSTODIAN OF THE CONSERVATION TRUST FUND OF AN ELIGIBLE ENTITY SHALL ANNUALLY REVIEW AND CERTIFY TO THE DIVISION THAT THE ELIGIBLE ENTITY'S SELF-REPORTED CONSERVATION TRUST FUND EXPENDITURES COMPLY WITH THE REQUIREMENTS OF THIS ARTICLE AND OF RULES PROMULGATED PURSUANT TO THIS ARTICLE.

(2) THE DIVISION MAY REQUIRE ELIGIBLE ENTITIES TO FILE SUCH ANNUAL REPORTS AS IT DEEMS NECESSARY, AND SHALL REVIEW THE ANNUAL REPORTS SUBMITTED PURSUANT TO THIS ARTICLE. THE REVIEW MAY BE CONDUCTED BY THE DIVISION'S OWN PERMANENT STAFF, THROUGH A PERSONAL SERVICES CONTRACT, OR BY DELEGATING RESPONSIBILITY TO AN INDEPENDENT THIRD PARTY. IF THE DIVISION DETERMINES THAT AN ELIGIBLE ENTITY HAS VIOLATED THIS ARTICLE, THE DIVISION SHALL TAKE SUCH ENFORCEMENT MEASURES AS IT DEEMS NECESSARY TO ENSURE COMPLIANCE WITH THIS ARTICLE.

(3) BY SEPTEMBER 1, 2004, THE DIRECTOR OF THE DIVISION SHALL PROMULGATE RULES AS NECESSARY TO CARRY OUT THIS ARTICLE, INCLUDING:

(a) PROCEDURES NECESSARY TO ALLOW THE DIVISION OR ITS AGENTS TO MONITOR

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

ELIGIBLE ENTITIES' COMPLIANCE WITH THE REQUIREMENTS OF THIS ARTICLE AND OF RULES PROMULGATED PURSUANT TO THIS ARTICLE, INCLUDING ANNUAL REPORTING AND ENTRY AND INSPECTION OF RECORDS REGARDING ACCOUNTING AND EXPENDITURES OF REVENUES FROM THE CONSERVATION TRUST FUND;

(b) PROCEDURES NECESSARY TO ALLOW THE DIVISION TO ENFORCE ELIGIBLE ENTITIES' COMPLIANCE WITH THIS ARTICLE, INCLUDING PENALTIES, FORFEITURE OF SHARES PREVIOUSLY DISTRIBUTED, ISSUANCE OF AN ORDER AFTER A HEARING HELD PURSUANT TO SECTION 24-4-105, C.R.S., TO REPAY TO A STATE OR LOCAL CONSERVATION TRUST FUND SPECIFIC REVENUES FROM A CONSERVATION TRUST FUND THAT WERE EXPENDED FOR PURPOSES THAT ARE NOT AUTHORIZED BY THIS ARTICLE, AND, IF THE ELIGIBLE ENTITY FAILS TO TIMELY COMPLY WITH THE ORDER, ISSUANCE OF AN ORDER TO THE TREASURER HOLDING MONEYS OF THE ELIGIBLE ENTITY THAT WERE GENERATED PURSUANT TO THE TAXING AUTHORITY OF THE ELIGIBLE ENTITY TO PROHIBIT THE RELEASE OF ANY SUCH MONEYS UNTIL THE ELIGIBLE ENTITY COMPLIES WITH THE ORDER, AND THE ABILITY TO TREAT A NONCOMPLIANT ELIGIBLE ENTITY AS THOUGH IT WERE AN INELIGIBLE ENTITY; AND

(c) GUIDANCE REGARDING ALLOWABLE EXPENDITURES OF CONSERVATION TRUST FUND REVENUES TO FACILITATE ELIGIBLE ENTITIES' COMPLIANCE WITH THIS ARTICLE.

(4) THE DIVISION SHALL AFFORD TO ANY ELIGIBLE ENTITY WRITTEN NOTICE AND AN OPPORTUNITY FOR A HEARING BEFORE TAKING ANY ENFORCEMENT ACTION PURSUANT TO THIS ARTICLE.

SECTION 2. 29-21-101 (4) and (5), Colorado Revised Statutes, are amended to read:

29-21-101. Conservation trust funds - definitions. (4) All moneys received from the state by each eligible entity pursuant to this section shall be deposited in its conservation trust fund and shall be expended only for the acquisition, development, and maintenance of new conservation sites or for capital improvements or maintenance for recreational purposes on any public site. An eligible entity ~~may~~ SHALL NOT deposit ANY other moneys ~~appropriated for similar purposes~~ in its conservation trust fund. ~~to be expended as authorized in this subsection (4).~~ ALL INTEREST EARNED ON THE INVESTMENT OF MONEYS IN A LOCAL CONSERVATION TRUST FUND SHALL BE CREDITED TO THE FUND AND SHALL BE EXPENDED ONLY FOR PURPOSES AUTHORIZED BY THIS ARTICLE.

(5) In the utilization of moneys received pursuant to this section, each eligible entity may cooperate or contract with any other government or political subdivision, pursuant to part 2 of article 1 of this title. SUBJECT TO THE SEPARATE ACCOUNTING REQUIREMENT OF SUBPARAGRAPH (II) OF PARAGRAPH (b) OF SUBSECTION (2) OF THIS SECTION, such cooperation may include the sharing of moneys held by any such entities in their respective conservation trust funds for joint expenditures for the acquisition, development, and maintenance of new conservation sites.

SECTION 3. 29-21-101 (1), Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW PARAGRAPH to read:

29-21-101. Conservation trust funds - definitions. (1) As used in this article,

unless the context otherwise requires:

(a.5) "DIVISION" MEANS THE DIVISION OF LOCAL GOVERNMENT IN THE DEPARTMENT OF LOCAL AFFAIRS.

SECTION 4. 29-21-101 (2) (a) (I), (2) (b), and (3) and the introductory portion to 29-21-101 (6), Colorado Revised Statutes, are amended to read:

29-21-101. Conservation trust funds - definitions. (2) (a) (I) There is hereby created in the division ~~of local government in the department of local affairs~~ the conservation trust fund.

(b) (I) ~~The division of local government in the department of local affairs~~ shall annually determine the eligible entities and shall distribute eligible entity shares as soon as possible after receiving distributions from the lottery fund pursuant to section 24-35-210 (10), C.R.S., in the following manner:

~~(F)~~ (A) To each eligible county, its share, less the share of all eligible municipalities and special districts located within the county;

~~(H)~~ (B) To each eligible municipality, its share of the county share, less the shares of any eligible special districts located within the municipality;

~~(H)~~ (C) To each eligible special district, its proportionate share of the county and municipal share; AND

~~(V)~~ (D) To each eligible county, municipality, and special district, its proportionate share of any ineligible county share, less the shares of any eligible municipalities and special districts within the ineligible county. ~~and~~

~~(V)~~ (II) All moneys received from the state by any eligible entity pursuant to this section shall be accounted for separately from any other source of moneys available to the entity for the acquisition of new conservation sites or recreational facilities as defined in this article. No moneys received from the state by any eligible entity pursuant to this section shall be used to acquire real property through condemnation by eminent domain.

(3) ~~No fee shall be charged by the state for~~ THE DIVISION MAY UTILIZE THE FUND TO RECOVER ITS DIRECT AND INDIRECT COSTS IN the administration of moneys pursuant to this section.

(6) On forms supplied by the division, ~~of local government in the department of local affairs~~, each eligible entity shall annually submit to the division ~~of local government in the department of local affairs~~ a statement showing:

SECTION 5. Appropriation - appropriations in long bill to be adjusted.

(1) In addition to any other appropriation, there is hereby appropriated, from the conservation trust fund created in section 29-21-101, Colorado Revised Statutes, to the department of local affairs, for the fiscal year beginning July 1, 2004, the sum of one hundred twelve thousand eight hundred sixty dollars (\$112,860) and 2.0 FTE, or so much thereof as may be necessary, for the implementation of this act.

(2) In addition to any other appropriation, there is hereby appropriated, to the department of law, for the fiscal year beginning July 1, 2004, the sum of three thousand forty dollars (\$3,040), or so much thereof as may be necessary, for the provision of legal services to the department of local affairs, for the implementation of this act. Such sum shall be from cash funds exempt received from the department of local affairs out of the appropriation made in subsection (1) of this section.

(3) For the implementation of this act, the total appropriation made in the annual general appropriation act for the fiscal year beginning July 1, 2004, to the department of local affairs for allocation to the division of local government for administration of the conservation trust fund shall be reduced by sixty-two thousand eight hundred fifty-nine dollars (\$62,859) and 1.0 FTE. Of said amount, thirty-nine thousand one hundred sixty-two dollars (\$39,162) shall be from the general fund and twenty-three thousand six hundred ninety-seven dollars (\$23,697) shall be cash funds exempt from the mineral and energy impact grant program, which includes moneys in the local government severance tax fund created in section 39-29-110 (1) (a) (I), Colorado Revised Statutes, and moneys in the local government mineral impact fund created in section 34-63-102 (5), Colorado Revised Statutes.

SECTION 6. Effective date - applicability. This act shall take effect July 1, 2004, and shall apply to distributions and expenditures of conservation trust fund moneys occurring on or after said date.

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: June 4, 2004