

## CHAPTER 278

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**GOVERNMENT - SPECIAL DISTRICTS**

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**HOUSE BILL 08-1354**

BY REPRESENTATIVE(S) Levy, Fischer, McFadyen, and Todd;  
also SENATOR(S) Mitchell S., and Williams.

**AN ACT**

**CONCERNING AUTHORIZATION FOR THE REGIONAL TRANSPORTATION DISTRICT TO FINANCE TRANSPORTATION PROJECTS BY ISSUING SPECIFIED TYPES OF BONDS AUTHORIZED BY FEDERAL LAW.**

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

**SECTION 1.** Article 9 of title 32, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SECTION to read:

**32-9-128.5. Private activity and exempt facility bonds.** (1) IN ORDER TO MAXIMIZE PUBLIC AND PRIVATE PARTICIPATION IN FEDERAL FUNDING OPPORTUNITIES AND OPPORTUNITIES FOR TRANSPORTATION INFRASTRUCTURE DEVELOPMENT, THE DISTRICT, IN ADDITION TO THE OTHER POWERS GRANTED BY THIS ARTICLE, SHALL HAVE THE FOLLOWING POWERS:

(a) SUBJECT TO THE REQUIREMENTS SPECIFIED IN SUBSECTION (2) OF THIS SECTION, TO ISSUE PRIVATE ACTIVITY OR EXEMPT FACILITY BONDS AS AUTHORIZED BY FEDERAL LAW; AND

(b) TO ENTER INTO AGREEMENTS WITH PRIVATE BUSINESSES UNDER WHICH:

(I) THE DISTRICT AGREES TO LOAN TO A PRIVATE BUSINESS THE NET PROCEEDS OF PRIVATE ACTIVITY OR EXEMPT FACILITY BONDS ISSUED SO THAT THE PRIVATE BUSINESS CAN FINANCE ALL OR A PORTION OF A MASS TRANSPORTATION SYSTEM PROJECT THAT IS OWNED BY, LEASED FROM THE DISTRICT BY, OR OPERATED BY THE PRIVATE BUSINESS; AND

(II) THE PRIVATE BUSINESS AGREES THAT IT HAS THE SOLE RESPONSIBILITY TO PAY, EITHER DIRECTLY OR INDIRECTLY THROUGH THE DISTRICT OR A BOND TRUSTEE,

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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.*

ALL FINANCIAL OBLIGATIONS OWED TO BOND HOLDERS AND THAT IT SHALL PROVIDE AND MAINTAIN ANY RESERVE DEEMED NECESSARY BY THE DISTRICT TO ENSURE THAT THE FINANCIAL OBLIGATIONS ARE PAID.

(2) THE PRIVATE ACTIVITY OR EXEMPT FACILITY BONDS ISSUED BY THE DISTRICT AS AUTHORIZED BY PARAGRAPH (a) OF SUBSECTION (1) OF THIS SECTION SHALL SPECIFY THAT BOND HOLDERS MAY NOT LOOK TO ANY REVENUES OF THE DISTRICT FOR REPAYMENT OF THE BONDS. THE BONDS SHALL FURTHER SPECIFY THAT THE ONLY SOURCES OF REPAYMENT FOR THE BONDS ARE REVENUES PROVIDED BY THE PRIVATE BUSINESS, PROPERTY OF THE PRIVATE BUSINESS, OR CREDIT ENHANCEMENT OBTAINED BY THE PRIVATE BUSINESS THAT MAY BE PLEDGED TO THE PAYMENT OF THE BONDS. BECAUSE PRIVATE ACTIVITY OR EXEMPT FACILITY BONDS ARE PAYABLE ONLY FROM SAID SOURCES, SUCH BONDS SHALL NOT BE DEEMED TO CREATE DISTRICT INDEBTEDNESS OR A MULTIPLE-FISCAL YEAR OBLIGATION WITHIN THE MEANING OF ANY PROVISION OF THE STATE CONSTITUTION OR THE LAWS OF THIS STATE, AND THE DISTRICT MAY ISSUE SUCH BONDS WITHOUT VOTER APPROVAL.

(3) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, THE STATE OR ANY STATE AGENCY, COUNTY, MUNICIPALITY, OR OTHER MUNICIPAL OR QUASI-MUNICIPAL CORPORATION OR POLITICAL SUBDIVISION MAY, IN CONNECTION WITH A MASS TRANSPORTATION SYSTEM PROJECT FINANCED BY PRIVATE ACTIVITY OR EXEMPT FACILITY BONDS ISSUED BY THE DISTRICT, LEND OR GRANT MONEY OR ANY OTHER FORM OF REAL, PERSONAL, OR MIXED PROPERTY DIRECTLY TO A PRIVATE BUSINESS DEVELOPING OR OPERATING THE PROJECT OR INDIRECTLY TO SUCH A PRIVATE BUSINESS THROUGH THE DISTRICT AND MAY ENTER INTO CONTRACTS TO MAKE SUCH LOANS AND GRANTS, ALL UPON TERMS AND CONDITIONS THE DISTRICT OR PRIVATE BUSINESS AND THE STATE, STATE AGENCY, COUNTY, MUNICIPALITY, OR MUNICIPAL OR QUASI-MUNICIPAL CORPORATION OR POLITICAL SUBDIVISION MAY AGREE UPON. IF A LOAN OR GRANT IS PAID INDIRECTLY TO A PRIVATE BUSINESS THROUGH THE DISTRICT, THE DISTRICT SHALL FORWARD THE LOAN OR GRANT TO THE PRIVATE BUSINESS IMMEDIATELY, AND THE LOAN OR GRANT SHALL NOT BE DEEMED TO BE REVENUES OF THE DISTRICT.

(4) THE PROVISION OF MASS TRANSPORTATION SERVICES BY PRIVATE OPERATORS UNDER CONTRACT TO AND OPERATING WITHIN THE DISTRICT IS NOT SUBJECT TO REGULATION BY THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO CREATED IN SECTION 40-2-101 (1), C.R.S.

**SECTION 2. 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 6, 2008, if adjournment sine die is on May 7, 2008); 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: May 22, 2008