

## CHAPTER 280

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**EDUCATION - UNIVERSITIES AND COLLEGES**

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**SENATE BILL 08-180**

BY SENATOR(S) Penry, Bacon, Windels, Gibbs, Romer, Tochtrop, and Veiga;  
also REPRESENTATIVE(S) Marostica, McFadyen, Riesberg, Benefield, Carroll T., Frangas, Green, Jahn, Labuda, Massey,  
McGihon, Soper, and Todd.

**AN ACT**

**CONCERNING THE AUTHORITY OF CERTAIN BOARDS AT THE AURARIA CAMPUS WITH REGARD TO  
CAPITAL CONSTRUCTION PROJECTS.**

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

**SECTION 1.** 23-54-102 (1) (a), Colorado Revised Statutes, is amended, and the said 23-54-102 (1) is further amended BY THE ADDITION OF A NEW PARAGRAPH, to read:

**23-54-102. Board of trustees - creation - members - powers - duties.**  
(1) (a) Effective July 1, 2002, there is established the board of trustees for Metropolitan state college of Denver, referred to in this article as the "board of trustees", which shall consist of eleven members and shall be the governing authority for Metropolitan state college of Denver. The board of trustees created by this subsection (1) shall be, and is hereby declared to be, a body corporate and, as such and by the names designated in this section, may:

(I) Acquire, BY PURCHASE OR LEASE, and hold property for the use of Metropolitan state college of Denver, DEVELOP AND CONSTRUCT FACILITIES UPON THE PROPERTY, AND DISPOSE OF THE PROPERTY, LEASEHOLD INTERESTS, AND FACILITIES; EXCEPT THAT THE BOARD OF TRUSTEES SHALL HAVE THE AUTHORITY TO DISPOSE OF A LEASEHOLD INTEREST IN PROPERTY OWNED BY THE AURARIA HIGHER EDUCATION CENTER ONLY TO A CONSTITUENT INSTITUTION, AS SPECIFIED IN SECTION 23-70-101 (1) (b), OR IN CONNECTION WITH A SALE AND LEASEBACK OR OTHER FORM OF TRANSACTION IN WHICH METROPOLITAN STATE COLLEGE OF DENVER WILL REMAIN THE ULTIMATE USER OF THE PROPERTY;

(II) Be a party to all suits and contracts; ~~and~~

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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.*

(III) Do all things necessary to carry out the provisions of this article in like manner as municipal corporations of this state, including but not limited to the power to demand, receive, hold, and use for the best interests of Metropolitan state college of Denver such money, lands, or other property as may be donated or devised to or for the college;

(IV) WITHOUT LIMITING THE SCOPE OF ANY OTHER AUTHORITY, AUTHORIZE, BY RESOLUTION, REVENUE BONDS AND ENTER INTO OTHER LAWFUL FINANCIAL TRANSACTIONS FOR THE PURPOSE OF RAISING MONEYS FOR CONSTRUCTING OR OTHERWISE ACQUIRING AND EQUIPPING ANY FACILITY OR FACILITIES NECESSARY OR USEFUL TO THE ACCOMPLISHMENT OF THE MISSION OF THE METROPOLITAN STATE COLLEGE OF DENVER; AND

(V) TRANSFER, ASSIGN, OR PLEDGE PORTIONS OF ITS STUDENT FEES, AUXILIARY REVENUES, CAPITAL FACILITIES FEES, AND UP TO TEN PERCENT OF TUITION MONEYS TO THE AURARIA HIGHER EDUCATION CENTER TO PROVIDE A SOURCE OF REPAYMENT FOR REVENUE BONDS OR OTHER LOANS OR FINANCIAL OBLIGATIONS INCURRED BY THE CENTER TO FINANCE CONSTRUCTION OF AN AUXILIARY FACILITY, AS DEFINED IN SECTION 23-5-101.5 (2) (a), A COMPLEMENTARY FACILITY, AS DEFINED IN SECTION 23-70-105.5 (1), ANY OTHER FACILITY NECESSARY OR USEFUL TO THE ACCOMPLISHMENT OF THE MISSION OF THE METROPOLITAN STATE COLLEGE OF DENVER, OR THE INFRASTRUCTURE NECESSARY TO SUPPORT ANY OF THE TYPES OF FACILITIES SPECIFIED IN THIS SUBPARAGRAPH (V).

(a.5) NOTHING IN THIS ARTICLE SHALL AUTHORIZE THE BOARD OF TRUSTEES TO ENTER INTO A CONTRACT FOR THE CONSTRUCTION OF BUILDINGS OR IMPROVEMENTS THAT CREATES ANY DEBT OR OBLIGATION UPON THE STATE. BUILDINGS AND IMPROVEMENTS ERECTED ON LANDS CONTROLLED BY THE BOARD OF TRUSTEES AND INTENDED FOR THE USE OF METROPOLITAN STATE COLLEGE OF DENVER UNDER THE TERMS OF THIS ARTICLE AND ANY LEASEHOLD INTERESTS SHALL BE EXEMPT FROM TAXATION AS PERMITTED BY THE STATE CONSTITUTION.

**SECTION 2.** 23-70-101 (1) (d) and (1) (e), Colorado Revised Statutes, are amended, and the said 23-70-101 (1) is further amended BY THE ADDITION OF A NEW PARAGRAPH, to read:

**23-70-101. Legislative declaration.** (1) The general assembly hereby finds and declares that this article is necessary to:

(d) Establish a new board to plan, construct, maintain, and manage the land and physical facilities of the center and perform the duties and exercise the powers otherwise set forth in this article; ~~and~~

(e) Provide a system for facilitating cooperation among the constituent institutions, their governing boards, and the governing board created by this article; AND

(f) FACILITATE, IN CONJUNCTION WITH THE PRIVATE SECTOR, THE DEVELOPMENT OF FACILITIES AT AND WITHIN THE CENTER FOR THE PURPOSES OF PROVIDING MONEYS TO THE CENTER, PROVIDING OCCUPATIONAL AND EDUCATIONAL OPPORTUNITIES

CONSISTENT WITH THE MISSION OF THE CONSTITUENT INSTITUTIONS, AND INTEGRATING THE CENTER WITH THE ADJACENT DENVER AREA.

**SECTION 3.** 23-70-105 (1) (f) and (1) (g), Colorado Revised Statutes, are amended, and the said 23-70-105 (1) is further amended BY THE ADDITION OF A NEW PARAGRAPH, to read:

**23-70-105. General powers of the Auraria board.** (1) The Auraria board is a body corporate by the name and style of the board of directors of the Auraria higher education center and, as such and by its said name, has the power to:

(f) Employ, within funds appropriated for such purpose or otherwise made available therefor, such employees as are necessary to perform the functions and carry out the duties of the Auraria board, including an executive vice-president for administration who shall be the chief executive officer for operations at the Auraria campus; ~~and~~

(g) Assess, after approval of the governing boards of the constituent institutions, a special student fee, which may be pledged as provided in section 23-70-108 and shall be collected as prescribed by the Auraria board; AND

(h) DO ALL THINGS NECESSARY TO CARRY OUT THE PROVISIONS OF THIS ARTICLE IN LIKE MANNER AS MUNICIPAL CORPORATIONS OF THIS STATE, INCLUDING BUT NOT LIMITED TO THE POWER TO APPROVE SPECIAL DISTRICTS WHOLLY CONTAINED WITHIN THE BOUNDARIES OF THE CENTER IN ACCORDANCE WITH SECTION 32-1-204.5, C.R.S., AS IF THE BOARD WERE A MUNICIPAL CORPORATION.

**SECTION 4.** Article 70 of title 23, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SECTION to read:

**23-70-105.5. Public-private developments - definitions.** (1) AS USED IN THIS ARTICLE, UNLESS THE CONTEXT OTHERWISE REQUIRES, "COMPLEMENTARY FACILITY" MEANS A FACILITY, LOCATED AT OR WITHIN THE CENTER, THAT MAY PROVIDE MONEYS FOR THE CENTER, PROVIDE OCCUPATIONAL AND EDUCATIONAL OPPORTUNITIES CONSISTENT WITH THE RESPECTIVE MISSIONS OF THE CONSTITUENT INSTITUTIONS, OR FACILITATE INTEGRATION OF THE CENTER WITH THE ADJACENT DENVER AREA. "COMPLEMENTARY FACILITY" MAY INCLUDE, BUT NEED NOT LIMITED TO, AN OFFICE, RETAIL, RESTAURANT, RESIDENTIAL, OR MIXED-USE FACILITY.

(2) THE AURARIA BOARD SHALL HAVE THE POWER AND AUTHORITY TO DEVELOP, CONSTRUCT, HOLD, LEASE, AND DISPOSE OF COMPLEMENTARY FACILITIES AND TO FACILITATE THE DEVELOPMENT AND CONSTRUCTION OF COMPLEMENTARY FACILITIES BY ENTERING INTO LEASES OR OTHER CONTRACTUAL ARRANGEMENTS WITH PRIVATE PERSONS OR ENTITIES.

(3) THE AURARIA BOARD SHALL HAVE THE SAME POWERS WITH RESPECT TO A COMPLEMENTARY FACILITY AS IT HAS WITH RESPECT TO AUXILIARY FACILITIES UNDER THIS ARTICLE AND UNDER ARTICLE 5 OF THIS TITLE.

(4) WITHOUT LIMITING THE SCOPE OF ANY OTHER POWER GRANTED TO THE

AURARIA BOARD IN THIS ARTICLE, THE AURARIA BOARD SHALL HAVE THE POWER AND AUTHORITY TO ENTER INTO ONE OR MORE GROUND LEASES FOR PORTIONS OF THE CENTER WITH PRIVATE PERSONS OR ENTITIES, WHICH LEASE SHALL REQUIRE THE LESSEE TO DEVELOP A COMPLEMENTARY FACILITY UPON THE LEASED PREMISES. THE AURARIA BOARD SHALL NOT SUBORDINATE ITS INTEREST IN LAND SUBJECT TO SUCH A GROUND LEASE BUT MAY ENTER INTO ATTORNMENT AND NONDISTURBANCE AGREEMENTS WITH ANY PARTY PROVIDING FINANCING TO THE LESSEE.

(5) ANY MONEYS DERIVED FROM A COMPLEMENTARY FACILITY SHALL BE DEVOTED FIRST TO PAYMENT OF ANY DEBT SERVICE ON BONDS THAT ARE SECURED BY THE MONEYS AND ALL EXPENSES CONNECTED WITH THE COMPLEMENTARY FACILITY AND THEN TO FURTHERING THE MISSION OF THE AURARIA BOARD AND THE CENTER, INCLUDING BUT NOT LIMITED TO APPLYING THE MONEYS PURSUANT TO SUBSECTION (3) OF THIS SECTION. MONEYS DERIVED FROM A COMPLEMENTARY FACILITY SHALL BE CONTINUOUSLY APPROPRIATED TO THE AURARIA BOARD AND SHALL REMAIN IN THE CONTROL OF THE AURARIA BOARD AND SHALL NOT BE TRANSFERRED OR REVERT TO THE GENERAL FUND OF THE STATE AT THE END OF ANY FISCAL YEAR.

**SECTION 5.** 23-70-107, Colorado Revised Statutes, is amended BY THE ADDITION OF THE FOLLOWING NEW SUBSECTIONS to read:

**23-70-107. Borrowing funds for auxiliary or complementary facilities.**

(3) THE AURARIA BOARD, BY RESOLUTION, MAY ISSUE REVENUE BONDS SECURED BY A PLEDGE OF LEASE PAYMENTS OR ANY OTHER REVENUES DERIVED FROM A COMPLEMENTARY FACILITY OR GROUP OF COMPLEMENTARY FACILITIES FOR THE PURPOSE OF RAISING MONEYS FOR CONSTRUCTING OR OTHERWISE ACQUIRING AND EQUIPPING ANY FACILITY NECESSARY OR USEFUL TO THE ACCOMPLISHMENT OF THE MISSION OF THE AURARIA BOARD AND THE CENTER. BONDS ISSUED PURSUANT TO THIS SUBSECTION (3) SHALL BE PAYABLE ONLY FROM REVENUES GENERATED BY THE LEASE PAYMENTS OR BY THE COMPLEMENTARY FACILITY OR GROUP OF COMPLEMENTARY FACILITIES THAT ARE SUBJECT TO THE PLEDGE. THE BONDS SHALL BE ISSUED IN ACCORDANCE WITH THE PROVISIONS OF SECTION 23-70-108 (2).

(4) THE AURARIA BOARD, BY RESOLUTION, MAY ISSUE REVENUE BONDS SECURED BY A PLEDGE OF RENTAL PAYMENTS OR OTHER PAYMENTS TO BE RECEIVED FROM A CONSTITUENT INSTITUTION OR CONSTITUENT INSTITUTIONS. THE AURARIA BOARD SHALL USE THE PROCEEDS OF SAID BONDS TO ACQUIRE, CONSTRUCT, OR EQUIP ANY PHYSICAL PLANT, FACILITY, BUILDING, OR GROUND WITHIN THE CENTER FOR THE USE OF ONE OR MORE CONSTITUENT INSTITUTIONS PURSUANT TO SECTION 23-70-104. BONDS ISSUED PURSUANT TO THIS SUBSECTION (4) SHALL BE PAYABLE ONLY FROM PAYMENTS RECEIVED BY THE AURARIA BOARD FROM THE CONSTITUENT INSTITUTIONS FOR THE ACQUISITION, CONSTRUCTION, OR EQUIPPING OF THE PHYSICAL PLANT, FACILITY, BUILDING, OR GROUND FOR WHICH THE BONDS ARE ISSUED. THE BONDS SHALL BE ISSUED IN ACCORDANCE WITH THE PROVISIONS OF SECTION 23-70-108 (2).

**SECTION 6. 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: May 22, 2008