

CHAPTER 82

TRANSPORTATION

HOUSE BILL 09-1066

BY REPRESENTATIVE(S) Vaad, Frangas, McFadyen, McNulty, Nikkel, Priola, Stephens;
also SENATOR(S) Gibbs.

AN ACT

CONCERNING THE CODIFICATION OF EXISTING PRACTICES OF THE DIVISION OF AERONAUTICS.

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

SECTION 1. 43-10-103 (2) (c), (2) (l), and (4), Colorado Revised Statutes, are amended, and the said 43-10-103 (2) is further amended BY THE ADDITION OF A NEW PARAGRAPH, to read:

43-10-103. Division of aeronautics created - duties. (2) The division shall provide support for the Colorado aeronautical board in fulfilling its duties. The duties of the division shall also include, but not be limited to, the following:

(c) ~~Providing the department of revenue and local governments which collect sales and use taxes with information which reflects changes in ownership of aircraft registered to Colorado residents by using federal aircraft registration records so that the department and such local governments may verify the payment of applicable sales and use taxes;~~

(l) ~~(f) Deploying up to twelve remote weather systems in or around the following areas:~~

~~(A) Cameron pass;~~

~~(B) Corona pass;~~

~~(C) Cottonwood pass;~~

~~(D) Glenwood Springs;~~

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

~~(E) McElroy airfield at Kremmling;~~

~~(F) La Veta pass;~~

~~(G) Monarch pass;~~

~~(H) Monument hill;~~

~~(I) Red hill;~~

~~(J) Saguache municipal airport;~~

~~(K) Wilkerson pass; and~~

~~(L) Wolf Creek pass.~~

~~(H) The division shall determine the specific location, manner, order, and timing of the deployment of remote weather systems. Nothing in this article shall require the division to deploy a remote weather system without adequate funding to deploy such system.~~

(m) DIRECTING THE STATE TREASURER TO TRANSFER MONEYS FROM THE AVIATION FUND CREATED BY SECTION 43-10-109 TO THE AVIATION ACCOUNT OF THE TRANSPORTATION INFRASTRUCTURE REVOLVING FUND CREATED BY SECTION 43-1-113.5, BUT ONLY IF SUCH TRANSFER IS APPROVED BY THE BOARD. THE DIVISION MAY DIRECT THE STATE TREASURER TO TRANSFER MONEYS FROM THE AVIATION ACCOUNT BACK TO THE AVIATION FUND IN AN AMOUNT NOT EXCEEDING THE AMOUNTS PREVIOUSLY TRANSFERRED FROM THE AVIATION FUND, BUT ONLY IF SUCH TRANSFER IS APPROVED BY THE BOARD AND BY THE TRANSPORTATION COMMISSION.

(4) The authority of the division shall be limited to public airports, commercial service airports, AND reliever airports as defined in 49 U.S.C. sec. 47102. ~~and deployment of remote weather systems.~~

SECTION 2. 43-10-105 (1) (e) and (1) (g), Colorado Revised Statutes, are amended to read:

43-10-105. Duties of the board. (1) The board has the following duties:

~~(e) Following public hearings, to adopt the state aviation systems plan and annually hold public hearings to review the plan. The board shall transmit such plan to the governor and the general assembly.~~ TO PROVIDE STATEWIDE AVIATION NEEDS TO BE INCLUDED IN THE DEPARTMENT OF TRANSPORTATION'S STATEWIDE TRANSPORTATION PLAN; AND

~~(g) To enforce the provisions of section 24-46.6-103 (1), C.R.S., with respect to required reporting by intrastate air carriers. The board may designate an employee of the division that has administrative responsibilities to act as a hearing officer or may use the services of an administrative law judge appointed pursuant to part 10 of article 30 of title 24, C.R.S., to conduct any hearing required to enforce the~~

~~provisions of section 24-46.6-103 (1), C.R.S.~~

SECTION 3. 43-10-108.5 (2) and (3), Colorado Revised Statutes, are amended, and the said 43-10-108.5 is further amended BY THE ADDITION OF A NEW SUBSECTION, to read:

43-10-108.5. State aviation system grant program. (2) ~~Except as otherwise provided in subsection (3) of this section,~~ Any entity operating a public-accessible AN FAA-DESIGNATED PUBLIC-USE airport may apply to the division for a state aviation system grant to be used solely for aviation purposes. Applications shall contain such information as may be required by the division and shall be filed in accordance with procedures established by the division. In order to be eligible for a grant, the applicant must demonstrate, to the satisfaction of the division, that the grant shall be used solely for aviation purposes as defined in section 43-10-102 (3). The division shall evaluate grant applications based upon criteria established by the division and make recommendations to the board on the awarding of grants. Any grant proposed by the board shall be submitted to the governor's office for review and recommendation prior to a final decision. The governor shall accomplish his review and recommendation within thirty days of submittal of the grant proposal by the board. The board shall make final decisions on the awarding of grants subject to the availability of moneys in the aviation fund created in section 43-10-109. The board shall establish procedures to ensure that grants awarded pursuant to the provisions of this section are used solely for aviation purposes as required by this subsection (2).

~~(3) The city and county of Denver shall not be eligible for any grant pursuant to the grant program established by this section.~~

(5) IN ADDITION TO GRANTS AUTHORIZED PURSUANT TO SUBSECTION (2) OF THIS SECTION, THE DIVISION ITSELF MAY BE A RECIPIENT OF A STATE AVIATION SYSTEM GRANT, BUT ONLY FOR PURPOSES OF IMPLEMENTING A STATEWIDE AVIATION PROJECT THAT WOULD NOT OTHERWISE BE IMPLEMENTED BY AN ENTITY OPERATING AN FAA-DESIGNATED PUBLIC-USE AIRPORT. ANY APPLICATION FOR SUCH A GRANT SHALL BE SUBMITTED TO THE GOVERNOR'S OFFICE FOR REVIEW AND RECOMMENDATION PRIOR TO A FINAL DECISION. THE GOVERNOR SHALL ACCOMPLISH HIS REVIEW AND RECOMMENDATION WITHIN THIRTY DAYS OF SUBMITTAL OF THE PROPOSAL BY THE BOARD. THE BOARD SHALL MAKE FINAL DECISIONS ON THE AWARDING OF GRANTS TO THE DIVISION FOR A STATEWIDE AVIATION PROJECT SUBJECT TO THE AVAILABILITY OF MONEYS IN THE STATEWIDE AVIATION FUND CREATED IN SECTION 43-10-109.

SECTION 4. 43-10-109 (1), (2) (c), (4) (a) (I), and (4) (a) (II), Colorado Revised Statutes, are amended to read:

43-10-109. Aviation fund created. (1) There is hereby created in the state treasury a fund to be known as the aviation fund, referred to in this article as the "fund", which shall consist of all revenues credited thereto pursuant to sections 24-46.6-103 (1) (b) and 39-27-112 (2) (b), C.R.S., and all revenues credited thereto in accordance with subsection (2) of this section within the total revenues prescribed by the general assembly pursuant to section 43-1-112.5. All interest derived from the deposit and investment of moneys in the fund shall be credited to the fund. At

the end of any fiscal year, all unexpended and unencumbered moneys in the fund shall remain therein and shall not be credited or transferred to the general fund or any other fund, except as directed by the general assembly acting by bill and subject to the provisions of section 18 of article X of the Colorado constitution.

(2) (c) It is not the intent of the general assembly that the moneys available for expenditure pursuant to the provisions of this subsection (2) be used to supplant any federal moneys which may be available to airports, governmental entities operating ~~public-accessible~~ FAA-DESIGNATED PUBLIC-USE airports, or the division pursuant to federal law.

(4) No later than November 1, 2003, and no later than November 1 of each year thereafter, the department of transportation shall submit a report to the members of the joint budget committee that includes, at a minimum, the following information:

(a) The amounts, recipients, and purposes of moneys transferred from the fund during the prior state fiscal year:

(I) ~~For the construction of remote weather systems throughout the state pursuant to section 43-10-103 (2) (1);~~

(II) To the airport operating fund of the governmental entity operating the ~~public-accessible~~ FAA-DESIGNATED PUBLIC-USE airport pursuant to section 43-10-110 (2) (a); and

SECTION 5. 43-10-110 (2) (a) (I), (2) (b), and (3), Colorado Revised Statutes, are amended to read:

43-10-110. Revenues in aviation fund - disbursements. (2) (a) (I) The board shall transfer from the fund, on a monthly basis, to the airport operating fund of the governmental OR AIRPORT entity operating the ~~public-accessible~~ FAA-DESIGNATED PUBLIC-USE airport an amount equal to four cents per gallon of gasoline, as defined in section 39-27-101 (12), C.R.S., sold at such airport and an amount equal to sixty-five percent of any sales and use taxes collected by the state on aviation fuel sold for use at such airport by turbo-propeller or jet engine aircraft and credited to the fund pursuant to section 43-10-109 (2).

(b) The transfer of moneys pursuant to this subsection (2) shall be based upon monthly reports made by the department of revenue, pursuant to the provisions of sections 39-26-715 (1) (a) (I) and (2) (a) and 39-27-102 (1) (a) (IV) (C), C.R.S., and transmitted to the division. Such moneys shall only be used for aviation purposes. ~~Each entity operating a public-accessible airport that receives moneys pursuant to the provisions of this subsection (2) shall submit an annual report to the division providing information concerning the aviation purposes for which the moneys have been used.~~ Moneys in the fund derived from the sale of gasoline and aviation fuel at airports not qualified to receive revenue pursuant to the provisions of this subsection (2) shall remain in the fund.

(3) Moneys in the fund not transferred to A governmental ~~entities~~ OR AIRPORT ENTITY operating ~~public-accessible airports~~ AN FAA-DESIGNATED PUBLIC-USE AIRPORT as provided in subsection (2) of this section and not allocated for

administrative expenses shall be used by the board exclusively for aviation purposes, including the awarding of grants pursuant to the state aviation system grant program established by the general assembly pursuant to ~~the provisions of~~ section 43-10-108.5 and including the awarding of contracts as authorized in this article.

SECTION 6. 43-10-110.7, Colorado Revised Statutes, is amended to read:

43-10-110.7. Conveyance of airport-related equipment to division. The city and county of Denver shall convey ~~without consideration;~~ AT A REASONABLE COST unneeded airport-related equipment to the division for equitable distribution to other governmental entities operating airports in this state.

SECTION 7. Repeal. 43-10-116, Colorado Revised Statutes, is repealed as follows:

43-10-116. Transfer of functions, employees, and property. ~~(1) The aeronautics division shall, on and after July 1, 1991, execute, administer, perform, and enforce the rights, powers, duties, functions, and obligations vested in the division of aviation of the department of military affairs prior to July 1, 1991, concerning the duties and functions transferred to the aeronautics division pursuant to this article. On and after July 1, 1991, the officers and employees of the division of aviation of the department of military affairs prior to said date whose duties and functions concerned the duties and functions transferred to the aeronautics division pursuant to this article and whose employment in the aeronautics division is deemed necessary by the executive director to carry out the purposes of this article shall be transferred to the aeronautics division and become employees thereof. Such employees shall retain all rights to state personnel system and retirement benefits pursuant to the laws of this state, and their services shall be deemed to have been continuous. All transfers and any abolishment of positions in the state personnel system shall be made and processed in accordance with state personnel system laws and rules and regulations.~~

~~(2) On July 1, 1991, all items of property, real and personal, including office furniture and fixtures, books, documents, and records of the division of aviation of the department of military affairs pertaining to the duties and functions transferred to the aeronautics division pursuant to section 24-1-128.7, C.R.S., are transferred to the department of transportation and become the property thereof.~~

~~(3) Whenever the division of aviation of the department of military affairs is referred to or designated by any contract or other document in connection with the duties and functions transferred to the aeronautics division pursuant to this article, such reference or designation shall be deemed to apply to the aeronautics division pursuant to this article. All contracts entered into by the division of aviation of the department of military affairs prior to July 1, 1991, in connection with the duties and functions transferred to the aeronautics division pursuant to this article are hereby validated, with the aeronautics division created by this article succeeding to all the rights and obligations of such contracts. Any appropriations of funds from prior fiscal years open to satisfy obligations incurred pursuant to such contracts are hereby transferred and appropriated to the aeronautics division created by this article for the payment of such obligations.~~

SECTION 8. Act subject to petition - 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 5, 2009, if adjournment sine die is on May 6, 2009); 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: April 2, 2009