

CHAPTER 169

GOVERNMENT - COUNTY

HOUSE BILL 11-1218

BY REPRESENTATIVE(S) Baumgardner, Brown, Coram, Holbert, Kerr J., Priola, Sonnenberg, Scott;
also SENATOR(S) White, Jahn, King S.

AN ACT

CONCERNING A COUNTY POWER TO CREATE A FEDERAL MINERAL LEASE DISTRICT FOR PURPOSES OF RECEIVING MONEYS DISTRIBUTED BY THE DEPARTMENT OF LOCAL AFFAIRS FROM THE LOCAL GOVERNMENT MINERAL IMPACT FUND.

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

SECTION 1. Article 20 of title 30, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW PART to read:

**PART 13
FEDERAL MINERAL LEASE DISTRICTS**

30-20-1301. Short title. THIS PART 13 SHALL BE KNOWN AND MAY BE CITED AS THE "FEDERAL MINERAL LEASE DISTRICT ACT".

30-20-1302. Legislative declaration. (1) THE GENERAL ASSEMBLY HEREBY FINDS, DETERMINES, AND DECLARES THAT:

(a) IT IS OF STATEWIDE CONCERN TO MAXIMIZE THE AMOUNT OF PAYMENT IN LIEU OF TAXES THAT COUNTIES IN COLORADO ANNUALLY RECEIVE;

(b) COUNTIES HELP MANAGE THOUSANDS OF ACRES OF PUBLIC LANDS IN COLORADO, AND PAYMENT IN LIEU OF TAXES FUNDING FROM THE FEDERAL GOVERNMENT DEFRAYS COUNTY PUBLIC LAND MANAGEMENT COSTS; AND

(c) COUNTIES WOULD NOT BE ABLE TO FUND IMPORTANT SERVICES AND PROGRAMS FOR COLORADO CITIZEN ENJOYMENT OF PUBLIC LANDS WITHOUT MAXIMIZING PAYMENT IN LIEU OF TAXES FUNDING TO COLORADO.

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

(2) THE GENERAL ASSEMBLY FURTHER FINDS AND DECLARES THAT AS A RESULT OF THE UNITED STATES DEPARTMENT OF THE INTERIOR DECLARING THAT FEDERAL MINERAL LEASE PAYMENTS TO COUNTIES ARE TO BE COUNTED AS PRIOR-YEAR PAYMENTS UNDER THE PAYMENT IN LIEU OF TAXES PAYMENT FORMULA, AS DESCRIBED IN 31 U.S.C. SEC. 6902, COLORADO COUNTIES WILL LOSE MILLIONS OF DOLLARS OTHERWISE DEDICATED TO COLORADO PUBLIC LAND MANAGEMENT.

(3) THE GENERAL ASSEMBLY FURTHER FINDS AND DECLARES THAT IN ORDER TO MAXIMIZE THE AMOUNT OF PAYMENT IN LIEU OF TAXES FUNDING COLORADO RECEIVES, COUNTY FEDERAL MINERAL LEASE PAYMENTS MUST BE PROTECTED FROM THE NEW FEDERAL PRIOR-YEAR PAYMENT METHOD. TO THAT END, COUNTIES SHOULD HAVE THE ABILITY TO COLLABORATE WITH STATE AND LOCAL STAKEHOLDERS WITHIN THE FRAMEWORK OF A FEDERAL MINERAL LEASE DISTRICT TO ENSURE PROTECTION OF PAYMENT IN LIEU OF TAXES FUNDING DEDICATED TO PUBLIC LAND MANAGEMENT IN COLORADO.

30-20-1303. Definitions. AS USED IN THIS PART 13, UNLESS THE CONTEXT OTHERWISE REQUIRES:

(1) "COUNTY" MEANS A HOME RULE OR STATUTORY COUNTY IN THIS STATE AND INCLUDES A CITY AND COUNTY.

(2) "DISTRICT" MEANS A FEDERAL MINERAL LEASE DISTRICT CREATED PURSUANT TO THIS PART 13.

(3) "FUNDING" MEANS THE DIRECT DISTRIBUTION OF MONEYS FROM THE LOCAL GOVERNMENT MINERAL IMPACT FUND TO COUNTIES AS DESCRIBED IN SECTION 34-63-102 (5.4) (c), C.R.S.

(4) "RESOLUTION" MEANS A RESOLUTION INITIATED AND ADOPTED BY A BOARD OF COUNTY COMMISSIONERS OF A COUNTY TO CREATE A FEDERAL MINERAL LEASE DISTRICT AS DESCRIBED IN SECTION 30-20-1304 (2).

30-20-1304. Power to create federal mineral lease districts. (1) EXCEPT AS OTHERWISE PROVIDED IN THIS PART 13, ANY COUNTY MAY CREATE A DISTRICT, SO LONG AS THE DISTRICT IS CREATED THROUGH A RESOLUTION ADOPTED AS SPECIFIED IN SUBSECTION (2) OF THIS SECTION NO LATER THAN JUNE 30, 2011, AND EACH JUNE 1 OF EVERY YEAR THEREAFTER.

(2) A BOARD OF COUNTY COMMISSIONERS SHALL CREATE A DISTRICT BY DULY ADOPTING, BY MAJORITY VOTE, A RESOLUTION TO THAT EFFECT, AND THE RESOLUTION SHALL SET FORTH:

(a) THE NAME OF THE COUNTY CREATING THE DISTRICT;

(b) THE NAMES OF ANY MUNICIPALITIES TO BE INCLUDED IN THE PROPOSED DISTRICT IF SUCH MUNICIPALITIES HAVE ENACTED ORDINANCES AS SPECIFIED IN SUBSECTION (3) OF THIS SECTION;

(c) A DESCRIPTION OF THE BOUNDARIES OF THE DISTRICT;

(d) THE NAME OF THE DISTRICT; AND

(e) THE NUMBER OF DIRECTORS OF THE DISTRICT. THERE SHALL BE NO FEWER THAN THREE DIRECTORS FOR A DISTRICT, AND THE TOTAL NUMBER OF DIRECTORS SHALL BE AN ODD NUMBER.

(3) THE GOVERNING BODY OF A MUNICIPALITY MAY ENACT AN ORDINANCE PROPOSING TO JOIN A DISTRICT BEFORE THE ADOPTION OF A RESOLUTION BY A BOARD OF COUNTY COMMISSIONERS PURSUANT TO SUBSECTION (1) OF THIS SECTION.

(4) NO LATER THAN THE FIRST BUSINESS DAY AFTER THE ADOPTION OF A RESOLUTION, THE COUNTY CLERK AND RECORDER SHALL TRANSMIT A CERTIFIED COPY OF THE RESOLUTION TO:

(a) THE GOVERNING BODY OF EACH MUNICIPALITY NAMED IN THE RESOLUTION; AND

(b) THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OF LOCAL AFFAIRS, WHO SHALL, UPON RECEIPT OF THE CERTIFIED COPY OF THE RESOLUTION, ALLOCATE ALL FUTURE FUNDING DIRECTLY TO THE DISTRICT.

(5) A DISTRICT SHALL BE ACTIVE FOR TWO YEARS FROM THE DATE OF THE RESOLUTION CREATING THE DISTRICT. PRIOR TO THE END OF THE TWO-YEAR PERIOD, THE BOARD OF COUNTY COMMISSIONERS MAY PASS A REAUTHORIZING RESOLUTION TO CONTINUE THE EXISTENCE OF THE DISTRICT FOR ANOTHER TWO YEARS.

30-20-1305. Approval of service plan. (1) THE BOARD OF COUNTY COMMISSIONERS OF A COUNTY THAT CREATES A DISTRICT SHALL CONSTITUTE THE APPROVING AUTHORITY FOR THE DISTRICT SERVICE PLAN.

(2) (a) THE SERVICE PLAN SHALL BE SUBMITTED TO THE BOARD OF COUNTY COMMISSIONERS FOR APPROVAL NO LATER THAN NINETY DAYS AFTER THE DATE OF THE RESOLUTION CREATING THE DISTRICT.

(b) THE SERVICE PLAN SHALL INCLUDE REQUIREMENTS FOR ANNUAL AUDITS OF ALL OF THE FUNDING THE DISTRICT RECEIVES. COPIES OF THE AUDITS SHALL BE SENT ANNUALLY TO THE STATE TREASURER.

(3) UPON SUBMISSION OF THE SERVICE PLAN, THE BOARD OF COUNTY COMMISSIONERS MAY:

(a) APPROVE WITHOUT CONDITION OR MODIFICATION THE SERVICE PLAN;

(b) DISAPPROVE THE SERVICE PLAN; OR

(c) CONDITIONALLY APPROVE THE SERVICE PLAN SUBJECT TO SUBMISSION OF ADDITIONAL INFORMATION RELATING TO THE MODIFICATION OF THE PROPOSED SERVICE PLAN.

30-20-1306. Board of directors - appointment - removal.

(1) (a) IMMEDIATELY AFTER THE CREATION OF A DISTRICT, THE BOARD OF COUNTY

COMMISSIONERS OF THE COUNTY SHALL, BY MAJORITY VOTE, APPOINT A BOARD OF DIRECTORS FOR THE DISTRICT. THE NUMBER OF DIRECTORS ON THE BOARD SHALL BE AS SET FORTH IN THE RESOLUTION CREATING THE DISTRICT.

(b) AT LEAST ONE MEMBER OF THE BOARD OF DIRECTORS SHALL BE A COUNTY COMMISSIONER FROM THE COUNTY THAT CREATED THE DISTRICT. OTHER MEMBERS MAY BE REPRESENTATIVES OF THE GOVERNING BODY OF MUNICIPALITIES INCLUDED IN THE DISTRICT OR OTHER OFFICIALS REPRESENTING THE INTERESTS OF AREAS IMPACTED BY MINERAL LEASE ACTIVITIES.

(c) COUNTY COMMISSIONERS FROM THE COUNTY THAT CREATES A DISTRICT SERVING ON THE BOARD OF DIRECTORS SHALL NOT CONSTITUTE A MAJORITY ON THE BOARD OF DIRECTORS.

(d) THE OFFICERS OF THE BOARD OF DIRECTORS SHALL BE THE PRESIDENT AND A SECRETARY WHO SHALL BE ELECTED ANNUALLY BY THE BOARD OF DIRECTORS FROM ITS OWN MEMBERS.

(e) THE TERM OF EACH MEMBER OF THE BOARD OF DIRECTORS SHALL BE TWO YEARS UNLESS THE DISTRICT IS REAUTHORIZED PURSUANT TO SECTION 30-20-1304 (5) AND THE MEMBER IS REAPPOINTED AS SPECIFIED IN PARAGRAPH (a) OF THIS SUBSECTION (1).

(2) THE BOARD OF COUNTY COMMISSIONERS OF THE COUNTY THAT CREATES A DISTRICT SHALL, BY MAJORITY VOTE, HAVE THE POWER TO REMOVE ANY MEMBER OF THE BOARD OF DIRECTORS FOR THE DISTRICT. VACANCIES ON THE BOARD OF DIRECTORS SHALL BE FILLED BY THE BOARD OF COUNTY COMMISSIONERS.

(3) ALL SPECIAL AND REGULAR MEETINGS OF THE BOARD OF DIRECTORS FOR A DISTRICT SHALL BE HELD AT LOCATIONS THAT ARE WITHIN THE BOUNDARIES OF THE DISTRICT. THE PROVISIONS OF THIS SUBSECTION (3) GOVERNING THE LOCATION OF MEETINGS MAY BE WAIVED ONLY IF THE PROPOSED CHANGE OF LOCATION OF A MEETING OF THE BOARD APPEARS ON THE AGENDA OF A REGULAR OR SPECIAL MEETING OF THE BOARD AND IF A RESOLUTION IS ADOPTED BY THE BOARD STATING THE REASON FOR WHICH A MEETING OF THE BOARD IS TO BE HELD IN A LOCATION OTHER THAN UNDER THE PROVISIONS OF THIS SUBSECTION (3) AND FURTHER STATING THE DATE, TIME, AND PLACE OF SUCH MEETING.

30-20-1307. Board of directors - powers and duties. (1) (a) EXCEPT AS OTHERWISE PROVIDED IN PARAGRAPH (b) OF THIS SUBSECTION (1), ON AN ANNUAL BASIS, THE BOARD OF DIRECTORS OF A DISTRICT SHALL DISTRIBUTE ALL OF THE FUNDING THE DISTRICT RECEIVES FROM THE DEPARTMENT OF LOCAL AFFAIRS TO AREAS WITHIN THE DISTRICT THAT ARE SOCIALLY OR ECONOMICALLY IMPACTED BY THE DEVELOPMENT, PROCESSING, OR ENERGY CONVERSION OF FUELS AND MINERALS LEASED UNDER THE FEDERAL "MINERAL LANDS LEASING ACT" OF FEBRUARY 25, 1920, AS AMENDED.

(b) THE DISTRICT MAY USE UP TO TEN PERCENT OF THE ANNUAL FUNDING FOR ANY ADMINISTRATIVE COSTS OF THE DISTRICT.

(2) THE BOARD OF DIRECTORS MAY REVIEW ANY REPORTS OR STUDIES MADE AND

MAY SEEK ANY ADDITIONAL REPORTS OR STUDIES IT DEEMS NECESSARY REGARDING THE DISTRIBUTION OF FUNDING IN THE DISTRICT.

(3) A DISTRICT MAY COOPERATE OR CONTRACT WITH ANY OTHER DISTRICT TO PROVIDE ANY FUNCTION OR SERVICE LAWFULLY AUTHORIZED TO EACH OF THE COOPERATING OR CONTRACTING DISTRICTS, INCLUDING THE SHARING OF COSTS, ONLY IF THE COOPERATION OR CONTRACTS ARE AUTHORIZED BY EACH DISTRICT WITH THE APPROVAL OF EACH DISTRICT'S BOARD OF DIRECTORS. ANY CONTRACT PROVIDING FOR THE SHARING OF COSTS MAY BE ENTERED INTO FOR ANY PERIOD, NOT TO EXCEED THE EXISTENCE OF THE DISTRICT AND NOTWITHSTANDING ANY PROVISION OF LAW LIMITING THE LENGTH OF ANY FINANCIAL CONTRACTS OR OBLIGATIONS OF GOVERNMENTS. ANY SUCH CONTRACT SHALL SET FORTH FULLY THE PURPOSES, POWERS, RIGHTS, OBLIGATIONS, AND RESPONSIBILITIES, FINANCIAL AND OTHERWISE, OF THE CONTRACTING PARTIES. WHERE OTHER PROVISIONS OF LAW PROVIDE REQUIREMENTS FOR SPECIAL TYPES OF INTERGOVERNMENTAL CONTRACTING OR COOPERATION, THOSE SPECIAL PROVISIONS SHALL CONTROL.

SECTION 2. The introductory portions to 34-63-102 (5.4) (c) and (5.4) (c) (II), Colorado Revised Statutes, are amended to read:

34-63-102. Creation of mineral leasing fund - distribution - advisory committee - local government permanent fund created - definitions. (5.4) Except as otherwise provided in subsection (5.5) of this section, on and after July 1, 2008, all moneys other than bonus payments, as defined in paragraph (b) of subsection (5.3) of this section, credited to the mineral leasing fund created in subparagraph (I) of paragraph (a) of subsection (1) of this section shall be distributed on a quarterly basis for quarters beginning on July 1, October 1, January 1, and April 1 of each state fiscal year as follows:

(c) The executive director of the department of local affairs shall annually directly distribute the remaining fifty percent of the moneys credited to the local government mineral impact fund pursuant to paragraph (b) of this subsection (5.4) and any moneys appropriated by the general assembly from the local government permanent fund to the department pursuant to sub-subparagraph (B) of subparagraph (I) of paragraph (a) of subsection (5.3) of this section to counties, FEDERAL MINERAL LEASE DISTRICTS, and municipalities as follows:

(II) Except as otherwise specified in subparagraph (IV) of this paragraph (c), the moneys allocated to each county pursuant to subparagraph (I) of this paragraph (c) shall be further distributed to the county OR THE FEDERAL MINERAL LEASE DISTRICT and to each municipality within the county based upon the following factors:

SECTION 3. 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 9, 2011