

CHAPTER 246

GOVERNMENT - COUNTY

SENATE BILL 20-139

BY SENATOR(S) Foote, Lee, Moreno, Winter;
also REPRESENTATIVE(S) Gray, Arndt, Bird, Buentello, Duran, Hooton, Jaquez Lewis, Kipp, Melton, Singer, Snyder, Valdez D.

AN ACT

CONCERNING AUTHORIZATION FOR A COUNTY TO LEND MONEY TO A GOVERNMENTAL ENTITY
CREATED BY OR LOCATED WITHIN THE COUNTY FOR THE PURPOSE OF PROVIDING FUNDING FOR
PUBLIC INFRASTRUCTURE PROJECTS WITHIN THE COUNTY.

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

SECTION 1. In Colorado Revised Statutes, 30-11-107, **add** (1)(II) as follows:

30-11-107. Powers of the board. (1) The board of county commissioners of each county has power at any meeting:

(II) TO ENTER INTO LOAN AGREEMENTS WITH ANY GOVERNMENTAL ENTITY THAT IS CREATED BY OR LOCATED WITHIN THE COUNTY IN ACCORDANCE WITH SECTION 30-25-106.5.

SECTION 2. In Colorado Revised Statutes, **add** 30-25-106.5 as follows:

30-25-106.5. Infrastructure loans to governmental entities within a county - authorization - limitations. (1) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, THE BOARD OF COUNTY COMMISSIONERS OF A COUNTY, IN CONSULTATION WITH THE COUNTY TREASURER, IS AUTHORIZED TO MAKE LOANS TO ANY GOVERNMENTAL ENTITY THAT IS CREATED BY OR LOCATED WITHIN THE COUNTY AND THAT UNDERTAKES INFRASTRUCTURE PROJECTS WITHIN THE COUNTY. THE BOARD OF COUNTY COMMISSIONERS SHALL ANALYZE OR CAUSE TO BE ANALYZED ANY SUCH LOAN USING THE UNDERWRITING STANDARDS ADOPTED PURSUANT TO SUBSECTION (3) OF THIS SECTION BEFORE MAKING THE LOAN, AND ANY SUCH LOAN IS ALSO SUBJECT TO THE FOLLOWING REQUIREMENTS:

(a) THE SOURCE OF THE LOAN MUST BE LEGALLY AVAILABLE MONEY THAT IS NOT

Capital letters or bold & italic numbers indicate new material added to existing law; dashes through words or numbers indicate deletions from existing law and such material is not part of the act.

OTHERWISE ENCUMBERED OR OBLIGATED, AND THE AMOUNT LOANED MUST NOT CAUSE THE TOTAL OUTSTANDING PRINCIPAL BALANCE OF ALL LOANS MADE PURSUANT TO THIS SUBSECTION (1) TO EXCEED EIGHT PERCENT OF THE AMOUNT OF SUCH MONEY AVAILABLE AT THE TIME THE LOAN IS MADE;

(b) THE LOAN MUST HAVE A SPECIFIED REPAYMENT TERM, AND THE LOAN RECIPIENT SHALL AGREE TO PAY THE COUNTY INTEREST ON THE LOAN AT AN INITIAL RATE THAT IS EQUAL TO OR GREATER THAN THE RATE OF RETURN EARNED ON ALL COUNTY FINANCIAL INVESTMENTS FOR THE TWELVE MONTHS PRECEDING THE DATE ON WHICH THE LOAN IS MADE;

(c) THE LOAN RECIPIENT SHALL USE LOAN PROCEEDS FOR THE SOLE PURPOSE OF FUNDING PUBLIC INFRASTRUCTURE PROJECTS, INCLUDING BUT NOT LIMITED TO THE CONSTRUCTION, OPERATION, MAINTENANCE, OR REPAIR OF TRANSPORTATION AND RECREATIONAL INFRASTRUCTURE; AND

(d) THE BOARD OF COUNTY COMMISSIONERS SHALL MAKE THE LOAN BY ENTERING INTO AN INTERGOVERNMENTAL AGREEMENT WITH THE LOAN RECIPIENT THAT ESTABLISHES THE TERMS AND CONDITIONS OF THE LOAN. BEFORE ENTERING INTO SUCH AN INTERGOVERNMENTAL AGREEMENT:

(I) THE BOARD OF COUNTY COMMISSIONERS SHALL APPROVE THE PUBLIC INFRASTRUCTURE PROJECT TO BE FUNDED BY THE LOAN AND THE TERMS AND CONDITIONS OF THE LOAN AT A MEETING OF THE BOARD HELD IN ACCORDANCE WITH THE OPEN MEETING REQUIREMENTS OF PART 4 OF ARTICLE 6 OF TITLE 24; AND

(II) THE BOARD OF COUNTY COMMISSIONERS OR THE LOAN RECIPIENT SHALL PURSUE PRIVATE SECTOR OPTIONS, INCLUDING BUT NOT LIMITED TO FINANCIAL INSTITUTIONS DOING BUSINESS WITHIN THE COUNTY, FOR FUNDING THE PUBLIC INFRASTRUCTURE PROJECT TO BE FUNDED BY THE LOAN AND REPORT REGARDING THE OPTIONS PURSUED AT THE BOARD MEETING HELD PURSUANT TO SUBSECTION (1)(d)(I) OF THIS SECTION.

(2) BECAUSE IT IS REQUIRED TO BE REPAYED, A LOAN MADE PURSUANT TO SUBSECTION (1) OF THIS SECTION IS NOT AN EXPENDITURE TO WHICH THE LIMITATIONS ON EXPENDITURES FROM THE COUNTY GENERAL FUND SET FORTH IN SECTION 30-25-106 (1) APPLY.

(3) BEFORE MAKING LOANS AS AUTHORIZED BY SUBSECTION (1) OF THIS SECTION, THE BOARD OF COUNTY COMMISSIONERS SHALL ADOPT UNDERWRITING STANDARDS. THE UNDERWRITING STANDARDS MUST REQUIRE, AT A MINIMUM, THAT EACH PROPOSED LOAN BE ANALYZED WITH RESPECT TO THE RISKS OF THE LOAN, MARKET RATES, AND LOAN TERMS.

SECTION 3. Act subject to petition - effective date. This act takes effect at 12:01 a.m. on the day following the expiration of the ninety-day period after final adjournment of the general assembly (August 5, 2020, if adjournment sine die is on May 6, 2020); except that, if a referendum petition is filed pursuant to section 1 (3) of article V of the state constitution against this act or an item, section, or part of this act within such period, then the act, item, section, or part will not take effect unless approved by the people at the general election to be held in November 2020

and, in such case, will take effect on the date of the official declaration of the vote thereon by the governor.

Approved: July 7, 2020