

**First Regular Session
Seventy-first General Assembly
STATE OF COLORADO**

REVISED

*This Version Includes All Amendments Adopted
on Second Reading in the Second House*

LLS NO. 17-0259.01 Esther van Mourik x4215

HOUSE BILL 17-1152

HOUSE SPONSORSHIP

Willett and Mitsch Bush,

SENATE SPONSORSHIP

Scott,

House Committees

Transportation & Energy

Senate Committees

Agriculture, Natural Resources, & Energy

A BILL FOR AN ACT

101 **CONCERNING THE AUTHORITY OF A FEDERAL MINERAL LEASE**
102 **DISTRICT TO MANAGE A PORTION OF THE DIRECT DISTRIBUTION**
103 **OF MONEY FROM THE LOCAL GOVERNMENT MINERAL IMPACT**
104 **FUND TO COUNTIES FOR THE BENEFIT OF IMPACTED AREAS.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://leg.colorado.gov>.)

The bill gives a federal mineral lease district (district) the option, but not the obligation, to invest a portion of the funding it receives from the local government mineral impact fund in a trust fund. Current law

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.

SENATE
2nd Reading Unamended
March 20, 2017

HOUSE
3rd Reading Unamended
February 23, 2017

HOUSE
Amended 2nd Reading
February 21, 2017

requires the district to distribute the funding to impacted areas in the district, but also allows the district to reserve all or a portion of the funding for use in subsequent years.

The bill specifies that the district may appropriate and disburse all sums in excess of the invested funding, including interest, dividends, or similar appreciated values, but specifies that the district may not disburse any part of the invested funding except upon the enactment of a resolution identifying a compelling public need or similar emergency circumstance.

The bill specifies that the district may invest the funding subject to the district's investment policy and in any investment in which the board of trustees of the public employees' retirement association may invest the funds of the association, which are the same investments in which the state treasurer is authorized to invest the local government permanent fund, which is comprised of 50% of the federal mineral lease bonus payments.

The bill allows the board of directors to engage the services of investment advisors, but specifies that the selection of investment advisors must be made following an open and competitive process.

The bill also requires the district to adopt an investment policy resolution that must be reviewed annually and must include:

- ! An acknowledgment of the board of director's fiduciary responsibility with respect to oversight of the district's investment policy;
- ! Performance benchmarks for all investments and for all investment advisors who may be hired by the board of directors;
- ! A requirement for the preparation and publication of annual financial statements that must include, at a minimum, information regarding starting balances, contributions, investment income, and losses, if any, and any investment fees incurred;
- ! Careful consideration of investment fees or other brokerage costs which might reduce investment returns; and
- ! A requirement that the board of directors annually review the investments and annually set appropriations to be included in the trust fund.

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

2 **SECTION 1.** In Colorado Revised Statutes, 30-20-1305.5,
3 **amend** (2)(h) and (2)(i); and **add** (2)(j) as follows:

4 **30-20-1305.5. Powers of a district.** (2) In addition to any other

1 powers granted to a district by this part 13, a district has the following
2 powers:

3 (h) To distribute funding to an area outside the district boundaries
4 consistent with this part 13; ~~and~~

5 (i) To provide services consistent with the federal act and this part
6 13; AND

7 (j) TO INVEST FUNDING AS SET FORTH IN SECTION 30-20-1307.

8 **SECTION 2.** In Colorado Revised Statutes, 30-20-1307, **amend**
9 (1); and **add** (5) and (6) as follows:

10 **30-20-1307. Board of directors - powers and duties.**

11 (1) (a) Except as otherwise provided in ~~paragraph (b) of this subsection~~
12 ~~(1) SUBSECTION (1)(b) OF THIS SECTION,~~ the board of directors of a district
13 shall distribute all of the funding the district receives from the department
14 of local affairs to areas that are socially or economically impacted, either
15 directly or indirectly, by the development, processing, or energy
16 conversion of fuels and minerals leased under the federal act; EXCEPT
17 THAT THE BOARD OF DIRECTORS MAY ELECT TO INVEST UP TO FIFTY
18 PERCENT OF THE FUNDING AS SPECIFIED IN SUBSECTION (5) OF THIS
19 SECTION.

20 (b) The board of directors may use up to ten percent of the annual
21 funding for any administrative costs of the district; EXCEPT THAT ANY
22 INVESTMENT-RELATED EXPENSES ARE EXCLUDED FROM THE CALCULATION
23 OF THE DISTRICT'S ADMINISTRATION COSTS.

24 (c) Notwithstanding any other provision of this part 13, the board
25 of directors of a district may reserve, OR INVEST AS SPECIFIED IN
26 SUBSECTION (5) OF THIS SECTION, all or a portion of the funding for use
27 in subsequent years.

1 (5) IF THE BOARD OF DIRECTORS ELECTS TO INVEST THE PORTION
2 OF THE FUNDING AS ALLOWED IN SUBSECTION (1)(a) OF THIS SECTION:

3 (a) THE PORTION OF THE FUNDING TO BE INVESTED SHALL BE HELD
4 IN A ■ FUND ESTABLISHED BY A RESOLUTION ENACTED BY THE DISTRICT;

5 (b) THE BOARD OF DIRECTORS SHALL MAKE INVESTMENTS
6 PURSUANT TO THE INVESTMENT POLICY DESCRIBED IN SUBSECTION (6) OF
7 THIS SECTION AND IN A MANNER THAT COMPLIES WITH THE "UNIFORM
8 PRUDENT INVESTOR ACT", ARTICLE 1.1 OF TITLE 15;

9 (c) THE BOARD OF DIRECTORS MAY INVEST THE PORTION OF THE
10 FUNDING IN ANY INVESTMENT IN WHICH THE BOARD OF TRUSTEES OF THE
11 PUBLIC EMPLOYEES' RETIREMENT ASSOCIATION MAY INVEST THE FUNDS OF
12 THE ASSOCIATION PURSUANT TO SECTION 24-51-206;

13 (d) THE BOARD OF DIRECTORS MAY ENGAGE THE SERVICES OF
14 INVESTMENT ADVISORS. THE SELECTION OF INVESTMENT ADVISORS MUST
15 BE MADE FOLLOWING AN OPEN AND COMPETITIVE PROCESS.

16 (e) THE BOARD OF DIRECTORS MAY APPROPRIATE AND DISBURSE
17 ANY PART OF THE INVESTED FUNDING AND ALL SUMS IN EXCESS THEREOF,
18 INCLUDING INTEREST, DIVIDENDS, OR SIMILAR APPRECIATED VALUES, BUT
19 SHALL DO SO ONLY UPON THE ENACTMENT OF A RESOLUTION IDENTIFYING
20 THE REASON FOR THE APPROPRIATION AND DISBURSEMENT;

21 (f) THE BOARD OF DIRECTORS SHALL ENSURE THAT, AT ALL TIMES,
22 LIQUID INVESTMENT ASSETS OR OTHER FUNDING NOT INVESTED REMAIN AT
23 A LEVEL SUFFICIENT TO PAY FOR ALL BUDGETED AND OUTSTANDING
24 OBLIGATIONS OF THE DISTRICT IN ANY FISCAL YEAR; AND

25 (g) THE BOARD OF DIRECTORS, INDIVIDUALLY OR AS A GROUP,
26 SHALL NOT ENGAGE IN ANY ACTIVITIES THAT MIGHT RESULT IN A CONFLICT
27 OF INTEREST WITH RESPECT TO THEIR FIDUCIARY RESPONSIBILITY FOR THE

1 DISTRICT.

2 (6) THE BOARD OF DIRECTORS SHALL ADOPT AN INVESTMENT
3 POLICY RESOLUTION AND SHALL REVIEW THE INVESTMENT POLICY
4 ANNUALLY. THE INVESTMENT POLICY MUST INCLUDE:

5 (a) AN ACKNOWLEDGMENT OF THE BOARD OF DIRECTOR'S
6 FIDUCIARY RESPONSIBILITY WITH RESPECT TO OVERSIGHT OF THE
7 DISTRICT'S INVESTMENT POLICY;

8 (b) PERFORMANCE BENCHMARKS FOR ALL INVESTMENTS AND FOR
9 ALL INVESTMENT ADVISORS WHO MAY BE HIRED BY THE BOARD OF
10 DIRECTORS;

11 (c) A REQUIREMENT FOR THE PREPARATION AND PUBLICATION OF
12 ANNUAL FINANCIAL STATEMENTS THAT MUST INCLUDE, AT MINIMUM,
13 INFORMATION REGARDING STARTING BALANCES, CONTRIBUTIONS,
14 INVESTMENT INCOME, AND LOSSES, IF ANY, AND ANY INVESTMENT FEES
15 INCURRED;

16 (d) CAREFUL CONSIDERATION OF INVESTMENT FEES OR OTHER
17 BROKERAGE COSTS WHICH MIGHT REDUCE INVESTMENT RETURNS; AND

18 (e) A REQUIREMENT THAT THE BOARD OF DIRECTORS ANNUALLY
19 REVIEW THE INVESTMENTS AND ANNUALLY SET APPROPRIATIONS TO BE
20 INCLUDED IN THE TRUST FUND.

21 **SECTION 3. Act subject to petition - effective date.** This act
22 takes effect at 12:01 a.m. on the day following the expiration of the
23 ninety-day period after final adjournment of the general assembly (August
24 9, 2017, if adjournment sine die is on May 10, 2017); except that, if a
25 referendum petition is filed pursuant to section 1 (3) of article V of the
26 state constitution against this act or an item, section, or part of this act
27 within such period, then the act, item, section, or part will not take effect

1 unless approved by the people at the general election to be held in
2 November 2018 and, in such case, will take effect on the date of the
3 official declaration of the vote thereon by the governor.