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HOUSE BILL 23-1156

BY REPRESENTATIVE(S) Taggart and Young, Bockenfeld, Catlin, English, Lindsay, Lindstedt, Lynch, Marshall, Michaelson Jenet, Ricks, Soper, Titone, Valdez, Weinberg, Wilson, McCluskie;
also SENATOR(S) Kolker and Pelton R., Exum, Pelton B., Priola, Roberts, Simpson, Smallwood, Winter F.

CONCERNING MODERNIZATION OF THE PUBLIC AIRPORT AUTHORITY ACT.

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

SECTION 1. In Colorado Revised Statutes, 41-3-103, **add** (12.5) as follows:

41-3-103. Definitions. As used in this ~~article~~ ARTICLE 3, unless the context otherwise requires:

(12.5) "INFLATION" MEANS THE ANNUAL PERCENTAGE CHANGE IN THE UNITED STATES DEPARTMENT OF LABOR, BUREAU OF LABOR STATISTICS, CONSUMER PRICE INDEX FOR DENVER-AURORA-LAKEWOOD FOR ALL ITEMS PAID BY ALL URBAN CONSUMERS, OR ITS SUCCESSOR INDEX.

SECTION 2. In Colorado Revised Statutes, 41-3-104, **amend** (6)

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.

as follows:

41-3-104. Creation of authorities. (6) ~~Any authority created pursuant to the provisions of this article shall cease to exist upon the filing with the director of the division of local government of a certified resolution of each county or municipality composing the authority requesting the termination of such authority, but adequate provisions shall be made for the payment of the outstanding bonds of the authority~~ A COUNTY, A MUNICIPALITY, OR A COMBINATION MAY ADOPT A RESOLUTION TERMINATING THE EXISTENCE OF AN AUTHORITY. A TERMINATING RESOLUTION MUST REQUIRE THE COUNTY, THE MUNICIPALITY, OR THE COMBINATION TERMINATING THE AUTHORITY TO:

(a) ASSUME THE REPAYMENT OBLIGATIONS OF ANY OF THE AUTHORITY'S OUTSTANDING BONDS;

(b) ASSUME THE OBLIGATIONS OF ANY OF THE AUTHORITY'S OUTSTANDING CONTRACTS ENTERED INTO PURSUANT TO THIS ARTICLE 3;

(c) ASSUME THE OPERATION AND MAINTENANCE OF THE AIRPORT THAT THE AUTHORITY WAS AUTHORIZED TO OPERATE AND MAINTAIN; AND

(d) RECEIVE AND HOLD TITLE TO THE REAL PROPERTY ON WHICH THE AIRPORT IS LOCATED AND THAT THE AUTHORITY IS AUTHORIZED TO OPERATE AND MAINTAIN.

SECTION 3. In Colorado Revised Statutes, 41-3-105, **amend** (2), (3), (5)(a), (5)(d), and (5)(h) as follows:

41-3-105. Board of commissioners. (2) The board ~~of commissioners~~ of an authority created by the formation of a combination ~~shall consist~~ CONSISTS of at least five members, but no more than nine members, representing the counties or municipalities participating in the combination. The authorizing resolution, filed with the director of the division of local government in the department of local affairs, as provided ~~in~~ PURSUANT TO section 41-3-104 (1), ~~shall~~ MUST contain a provision as to the representation of the counties and municipalities participating in the combination. The members of the board of an authority created by a combination ~~shall~~ MUST be appointed by resolution of the governing boards of the counties or municipalities that are members of the combination, WITH

the initial appointments, at the election of such municipality or county, to be made by the authorizing resolution filed with the director of ~~said~~ THE division OF LOCAL GOVERNMENT. If the county in which the airport is to be located is not a member of the combination, then the member or members, if any, to which ~~such~~ THE county is entitled shall be appointed by the board of county commissioners of ~~such~~ THE county. The board created by the independent action of a county ~~shall consist~~ CONSISTS of five members who shall be appointed by the board of county commissioners of the county, and initial appointments to ~~such~~ THE board, at the election of the board of county commissioners, may be made in the authorizing resolution filed with the director of ~~said~~ THE division OF LOCAL GOVERNMENT. Board members from municipalities and counties in this state ~~shall~~ MUST be taxpaying electors, as defined in section 1-1-104 (49), ~~C.R.S.~~, at the time of ~~their~~ appointment ~~residing~~ AND MUST RESIDE in the municipality or county from which appointed. After an authority is organized by the formation of a combination, the inclusion of additional counties or municipalities ~~shall entitle~~ ENTITLES the included municipalities or counties to representation on the same basis as other counties or municipalities. ~~Each member of the board may receive as compensation for his or her services a sum not in excess of sixty dollars per year. No member of the board shall receive any compensation as an employee of the authority or otherwise, other than that provided in this section, and~~ A MEMBER OF THE BOARD DOES NOT RECEIVE COMPENSATION FOR THE MEMBER'S SERVICE ON THE BOARD. No member of the board shall be interested in any contract or transaction with the authority except in ~~his or her~~ THE MEMBER'S official respective capacity. MEMBERS OF THE BOARD ARE SUBJECT TO THE STANDARDS OF CONDUCT FOR LOCAL GOVERNMENT OFFICIALS SPECIFIED IN ARTICLE 18 OF TITLE 24.

(3) The term of each member ~~shall be for~~ IS four years; except that the terms of the members of the first board ~~shall be~~ ARE adjusted so that the terms of one-half of the members ~~shall~~ expire AFTER two years ~~thereafter~~. At the first meeting of the board of a newly formed authority the commissioners shall determine by lot which members ~~shall~~ serve ~~for~~ two-year terms and which ~~shall~~ serve ~~for~~ four-year terms. At the expiration of the term of any commissioner, a new appointment shall be made by the appropriate governing board, and any member, INCLUDING A MEMBER APPOINTED TO FILL A VACANCY, may be appointed to ~~succeed himself~~ TO SERVE A SUCCESSIVE TERM.

(5) The board, in addition to any other powers conferred by this

article, has the following powers:

(a) To fix the time and place at which its regular meetings shall be ARE held, which place may be located within any municipality or county forming a part of an authority created by a combination, or within the county independently creating such authority; ~~and shall provide for the calling and holding of special meetings to organize, adopt bylaws and rules of procedure, and select a chairman CHAIRPERSON and pro tem chairman.~~ Notice of time and place designated for all regular meetings shall be posted in at least three places within each municipality and county forming a part of the authority if created by the formation of a combination, and, in addition, one such notice shall be posted, irrespective of the procedure under which the authority is created, in the county courthouse in the county wherein the airport is located and in the county creating the authority. Such notices shall remain posted and shall be changed in the event that the time or place of such regular meeting is changed. Special meetings CHAIRPERSON. A SPECIAL MEETING may be called by any officer or member of the board by informing the other members of the date, time, and place of such THE SPECIAL meeting and the purpose for which it is called. ~~and by posting as provided in this paragraph (a) at least three days previous to said meeting. All business of the board shall be conducted only during such regular or special meetings, and all of such meetings shall be open to the public~~ ALL REGULAR OR SPECIAL MEETINGS ARE SUBJECT TO THE OPEN MEETING AND NOTICE REQUIREMENTS OF SECTION 24-6-402.

(d) To transact business only if a quorum of ~~sixty percent~~ FIFTY PERCENT of the board is present at a regular or special meeting. ~~but all~~ THE BOARD MAY TAKE ACTION OR APPROVE ANY MATTER BY A MAJORITY OF A QUORUM; EXCEPT THAT ALL questions involving the inclusion or exclusion of a municipality or county in or from the authority or authorizing any expenditures in excess of ~~ten thousand dollars shall require the affirmative majority vote of the board, and all other questions shall require the affirmative vote of not less than fifty percent of the board~~ TWO HUNDRED FIFTY THOUSAND DOLLARS MUST BE APPROVED BY A MAJORITY OF THE MEMBERS OF THE BOARD. BEGINNING JANUARY 1, 2029, AND EVERY FIVE YEARS THEREAFTER, THE TWO HUNDRED FIFTY THOUSAND DOLLAR FIGURE SPECIFIED IN THIS SUBSECTION IS ADJUSTED FOR INFLATION.

(h) To prescribe a method of auditing and allowing or rejecting claims and demands and a method for ~~the letting of contracts on a fair and~~

~~competitive basis for the construction of works, structures, or equipment or the performance or furnishing of labor, materials, or supplies as required for the carrying out of any of the purposes of this article; but, in cases where the amount involved is fifty thousand dollars or more, the board shall provide for the letting of contracts to the lowest responsible bidder after publication in the official newspaper of notices inviting bids, subject to the right of said board to reject any and all proposals and to readvertise for bids as provided in this section. The procedures above described shall be subject to the approval of the board of county commissioners of any county independently creating an authority under the provisions of this article, and any action on the part of the board to raise or increase revenue from any source whatsoever for the purposes of the authority shall also be subject to such approval. The board shall be bound to carry out any action requested by the board of county commissioners~~ PROCURING CONTRACTS TO CARRY OUT THE AUTHORITY'S PURPOSES PURSUANT TO THIS ARTICLE 3, INCLUDING CONTRACTS FOR THE CONSTRUCTION OF WORKS AND STRUCTURES, EQUIPMENT, THE PERFORMANCE OF LABOR OR SERVICES, OR THE FURNISHING OF SUPPLIES OR MATERIALS. THE BOARD SHALL COMPLY WITH THE REQUIREMENTS OF ARTICLE 91 OF TITLE 24 WHEN PROCURING AND ENTERING INTO A CONSTRUCTION CONTRACT. FOR ANY CONTRACT INVOLVING FEDERAL FUNDS, THE BOARD SHALL COMPLY WITH ALL APPLICABLE FEDERAL STATUTES, REGULATIONS, GUIDELINES, AND POLICIES. FOR ALL CAPITAL IMPROVEMENT PROJECTS AND THE PURCHASE OF NEW VEHICLES AND NEW EQUIPMENT, THE BOARD SHALL:

(I) SOLICIT THE CONTRACT BY AN INVITATION FOR BIDS. AN INVITATION FOR BIDS MAY INCLUDE CRITERIA FOR THE BOARD TO DETERMINE ACCEPTABILITY OF A BID, INCLUDING INSPECTION, TESTING, QUALITY, WORKMANSHIP, DELIVERY, AND SUITABILITY FOR A PARTICULAR PURPOSE. ANY CRITERIA THAT THE BOARD CONSIDERS IN EVALUATING THE BID MUST BE OBJECTIVELY MEASURABLE.

(II) INCLUDE WITHIN AN INVITATION FOR BIDS A PURCHASE DESCRIPTION AND ALL CONTRACTUAL TERMS AND CONDITIONS APPLICABLE TO THE PROCUREMENT;

(III) PROVIDE ADEQUATE PUBLIC NOTICE OF THE INVITATION FOR BIDS WITHIN A REASONABLE TIME PRIOR TO THE TIME THE BOARD SETS FOR THE OPENING OF BIDS;

(IV) RECORD THE AMOUNT OF EACH BID AND THE NAME OF EACH BIDDER, WHICH THE BOARD SHALL KEEP OPEN FOR PUBLIC INSPECTION;

(V) ALLOW THE WITHDRAWAL OF AN INADVERTENTLY ERRONEOUS BID BEFORE THE BID IS AWARDED IF THE BIDDER SUBMITS DOCUMENTARY EVIDENCE THAT CLEARLY AND CONVINCINGLY DEMONSTRATES AN ERROR WAS MADE;

(VI) AWARD THE CONTRACT WITH REASONABLE PROMPTNESS TO THE LOW RESPONSIBLE BIDDER WHOSE BID MEETS THE CRITERIA SET FORTH IN THE INVITATION FOR BIDS; EXCEPT THAT THE BOARD SHALL RESOLVE ANY TIE IN ACCORDANCE WITH SECTION 24-103-902; AND

(VII) MAINTAIN FOR PUBLIC INSPECTION ALL BIDS AND BID DOCUMENTS IN ACCORDANCE WITH SECTIONS 24-72-203 AND 24-72-204.

SECTION 4. In Colorado Revised Statutes, 41-3-106, **amend** (1)(d), (1)(h), (1)(k), and (1)(l); and **add** (1)(m) and (1)(n) as follows:

41-3-106. Powers of an authority. (1) An authority has the following powers:

(d) To enter into contracts and agreements affecting the affairs of the authority, including, but not limited to, contracts with the United States, the state of Colorado, ~~and~~ an adjoining state, if a combination includes a municipality or county from the adjoining state, AND ANY COUNTY OR MUNICIPALITY FROM WHICH THE AUTHORITY ORIGINATED;

(h) To regulate, when acting singly, or by agreement, when acting jointly with any other municipality or county, the receiving, deposit, and removal and the embarkation of passengers or property to or from the airport; to regulate or prohibit any airport hazard ~~to exact and require charges, fees, and rentals, together with a lien to enforce the payment~~ IN THE SAME MANNER THAT A COUNTY OR MUNICIPALITY IS AUTHORIZED TO REMOVE A HAZARD PURSUANT TO SECTION 41-4-108 OR AN ENCROACHMENT PURSUANT TO SECTION 41-4-109; TO IMPOSE CHARGES, FEES, AND RENTALS ON USERS OF THE AUTHORITY'S AIRPORT AND FACILITIES TO DEFRAID THE COSTS OF OPERATING, MAINTAINING, AND IMPROVING THE AIRPORT; to lease or assign for operation ~~such~~ ANY space, ~~or~~ area, appurtenances, appliances, or other conveniences necessary or useful in connection ~~therewith~~ WITH

OPERATING THE AIRPORT; EXCEPT AS RELATED TO THE PRICE, ROUTE, OR SERVICE OF AN AIR CARRIER, TO REGULATE A COMMERCIAL ACTIVITY THAT ANY PERSON CONDUCTS AT AN AIRPORT; to own and operate aircraft; to employ pilots; to provide rules and regulations governing the use of ~~such~~ THE airport and facilities and the use of other property and means of transportation within or over ~~said~~ THE airport, landing field, and navigation facilities; to perform any duties necessary or consistent with the regulation of air traffic; ~~to enter into contracts or otherwise cooperate with the United States, the state, an adjoining state, if a combination includes a municipality or county from the adjoining state, or other public or private agencies;~~ and to exercise such powers as may be required or consistent with the promotion of aeronautics and the furtherance of commerce and navigation by air;

(k) To construct and maintain works and establish and maintain facilities, within or without the boundaries of the municipalities or counties constituting members of the authority or within or without the boundaries of the county independently creating an authority pursuant to the provisions of this article, across or along any public street or highway or in, upon, under, or over any vacant public lands, which public lands are now, or may become, the property of the state; but the authority shall promptly restore any ~~such~~ street or highway to its former state of usefulness as nearly as may be and shall not use the ~~same~~ STREET OR HIGHWAY in such manner as to completely or unnecessarily impair the usefulness ~~thereof~~ OF THE STREET OR HIGHWAY. WHEN EXERCISING ITS POWER PURSUANT TO THIS SUBSECTION (1)(k), AN AUTHORITY SHALL COMPLY WITH ALL APPLICABLE LOCAL ZONING AND BUILDING REGULATIONS, EXCEPT TO THE EXTENT THAT ANY ZONING OR BUILDING REGULATIONS ARE PREEMPTED BY FEDERAL LAW, AND ALL GUIDELINES AND REGULATIONS OF THE UNITED STATES DEPARTMENT OF TRANSPORTATION, FEDERAL AVIATION ADMINISTRATION.

(l) To invest any surplus money in the treasury of the authority, including ~~such~~ money in any sinking or trust fund established for the purpose of retiring bonds at or prior to maturity not required for the immediate necessities of the authority, IN ANY LOCAL GOVERNMENT INVESTMENT POOL TRUST FUND PURSUANT TO PART 7 OF ARTICLE 75 OF TITLE 24, OR in securities meeting the investment requirements established in part 6 of article 75 of title 24. ~~C.R.S. Such~~ ANY investment IN SECURITIES may be made by direct purchase of any issue of ~~such~~ securities, or part thereof, at the original sale of the ~~same~~ THE SECURITIES or by the subsequent purchase of ~~such~~ THE securities. Any securities ~~thus~~ purchased and held BY

AN AUTHORITY may be sold, unless ~~such~~ THE sale is prohibited by any agreement under which the ~~same~~ THE SECURITIES have been or ~~shall~~ WILL be deposited and the proceeds ~~thereof~~ OF THE SECURITIES reinvested in securities as provided in this ~~paragraph (1)~~. ~~Sales~~ SUBSECTION (1)(1). THE SALE of any securities ~~thus~~ purchased and held ~~shall~~ BY THE AUTHORITY MUST be made at ~~such time so that~~ A TIME WHEN the proceeds may be applied to the purposes ~~for which~~ THAT the money with which the securities were originally purchased was placed in the treasury of the authority.

(m) NOTWITHSTANDING SUBSECTION (1)(e) OF THIS SECTION, TO REQUEST THAT A COUNTY OR MUNICIPALITY IN WHICH THE AUTHORITY IS LOCATED LEVY A TAX WITHIN THAT COUNTY OR MUNICIPALITY FOR THE AUTHORITY'S BENEFIT THAT IS CONSISTENT WITH THE COLORADO CONSTITUTION AND THE POWER OF A COUNTY OR MUNICIPALITY TO LEVY A TAX; AND

(n) TO REQUEST, CONSISTENT WITH ALL APPLICABLE GUIDELINES AND REGULATIONS OF THE UNITED STATES DEPARTMENT OF TRANSPORTATION, FEDERAL AVIATION ADMINISTRATION, THAT A COUNTY OR MUNICIPALITY ADOPT OR MODIFY EXISTING ZONING REGULATIONS REGARDING:

(I) THE PREVENTION OR ELIMINATION OF HAZARDS TO AIR NAVIGATION;

(II) THE INSTALLATION, OPERATION, AND MAINTENANCE OF NAVIGATIONAL MARKING AND LIGHTING ON STRUCTURES OR TREES IN AREAS SURROUNDING THE AIRPORT AN AUTHORITY OPERATES;

(III) COMPATIBLE LAND USES IN AREAS IMMEDIATELY SURROUNDING THE AIRPORT THE AUTHORITY OPERATES; OR

(IV) THE CRITERIA FOR AREAS SURROUNDING AIRPORTS SPECIFIED IN SECTION 24-65.1-202 (5)(a).

SECTION 5. In Colorado Revised Statutes, **amend** 41-3-107 as follows:

41-3-107. Legal status of authorities - tax exemption. (1) An authority created pursuant to this article is hereby declared to be a political subdivision of the state, exercising essential governmental powers for a

public purpose. The general assembly, therefore, finds:

(a) That no authority, or county independently creating an authority, ~~shall be~~ IS required to pay any general ad valorem taxes upon an airport or any facilities connected therewith located within the state nor upon the interest of the authority therein;

(b) That bonds issued under this article and the income therefrom ~~shall be~~ ARE free and exempt from taxation by the state, or any political subdivision of the state, with the exception of transfer, inheritance, and estate taxes; AND

(c) THE TAX EXEMPTIONS SPECIFIED IN THIS SECTION DO NOT APPLY TO ANY TENANTS OR USERS OF THE AIRPORT THAT AN AUTHORITY OPERATES.

SECTION 6. In Colorado Revised Statutes, 24-18-102, **amend** (6) as follows:

24-18-102. Definitions. As used in this part 1, unless the context otherwise requires:

(6) "Local government official" means an elected or appointed official of a local government, but does not include an employee of a local government. LOCAL GOVERNMENT OFFICIAL INCLUDES A MEMBER OF THE BOARD OF COMMISSIONERS OF ANY AIRPORT AUTHORITY CREATED PURSUANT TO ARTICLE 3 OF TITLE 41.

SECTION 7. 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; 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 2024 and, in such case, will take effect on the date of the official declaration of the vote thereon by the governor.

Julie McCluskie
SPEAKER OF THE HOUSE
OF REPRESENTATIVES

Steve Fenberg
PRESIDENT OF
THE SENATE

Robin Jones
CHIEF CLERK OF THE HOUSE
OF REPRESENTATIVES

Cindi L. Markwell
SECRETARY OF
THE SENATE

APPROVED _____
(Date and Time)

Jared S. Polis
GOVERNOR OF THE STATE OF COLORADO