

First Regular Session
Seventieth General Assembly
STATE OF COLORADO

INTRODUCED

LLS NO. 15-0852.01 Jason Gelender x4330

HOUSE BILL 15-1262

HOUSE SPONSORSHIP

Rosenthal,

SENATE SPONSORSHIP

Balmer,

House Committees
Local Government

Senate Committees

A BILL FOR AN ACT

101 CONCERNING SEPARATE LEGAL ENTITIES ESTABLISHED BY A
102 CONTRACT BETWEEN TWO OR MORE POLITICAL SUBDIVISIONS
103 OF THE STATE, AND, IN CONNECTION THEREWITH, CLARIFYING
104 THE LEGAL STATUS AND SCOPE OF POWERS OF SUCH AN ENTITY.

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://www.leg.state.co.us/billsummaries>.)

Current law allows 2 or more governments, including federal agencies and political subdivisions of a state that borders Colorado, to contract to establish a separate legal entity to provide any function,

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.

service, or facility that each government has legal authority to provide on its own. The bill clarifies that a separate legal entity formed by a contract between two or more counties, municipalities, special districts, or other political subdivisions of the state:

- ! Is itself a political subdivision and public corporation of the state if the contract forms the entity in accordance with and makes the entity subject to the provisions of the bill;
- ! May, to the extent provided by the contract or an amendment to the contract and deemed by the contracting parties to be necessary or convenient to allow the entity to achieve its purposes, exercise any general power of a special district if each of the parties to the contract may lawfully exercise the power; except that it may not levy a tax or exercise the power of eminent domain if the establishing contract makes the entity subject to the provisions of the bill.
- ! Is authorized to issue tax-exempt revenue bonds, notes, or other financial obligations and acquire, sell, or lease property.

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

2 **SECTION 1.** In Colorado Revised Statutes, **add** 29-1-203.5 as
3 follows:

4 **29-1-203.5. Separate legal entity established under section**
5 **29-1-203 - legal status - authority to exercise special district powers**
6 **- additional financing powers.** (1) ANY COMBINATION OF COUNTIES,
7 MUNICIPALITIES, SPECIAL DISTRICTS, OR OTHER POLITICAL SUBDIVISIONS
8 OF THIS STATE THAT ARE EACH AUTHORIZED TO OWN, OPERATE, FINANCE,
9 OR OTHERWISE PROVIDE PUBLIC IMPROVEMENTS FOR ANY FUNCTION,
10 SERVICE, OR FACILITY MAY ENTER INTO A CONTRACT UNDER SECTION
11 29-1-203 TO ESTABLISH A SEPARATE LEGAL ENTITY TO PROVIDE ANY SUCH
12 PUBLIC IMPROVEMENTS. ANY SEPARATE LEGAL ENTITY ESTABLISHED IS A
13 POLITICAL SUBDIVISION AND PUBLIC CORPORATION OF THE STATE AND IS
14 SEPARATE FROM THE PARTIES TO THE CONTRACT IF THE CONTRACT OR AN

1 AMENDMENT TO THE CONTRACT STATES THAT THE ENTITY IS FORMED IN
2 CONFORMITY WITH THE PROVISIONS OF THIS SECTION AND THAT THE
3 PROVISIONS OF THIS SECTION APPLY TO THE ENTITY.

4 (2) (a) EXCEPT AS OTHERWISE PROVIDED IN PARAGRAPH (b) OF
5 THIS SUBSECTION (2), A SEPARATE LEGAL ENTITY ESTABLISHED BY
6 CONTRACT PURSUANT TO SECTION 29-1-203 MAY, TO THE EXTENT
7 PROVIDED BY THE CONTRACT OR AN AMENDMENT TO THE CONTRACT AND
8 DEEMED BY THE CONTRACTING PARTIES TO BE NECESSARY OR
9 CONVENIENT TO ALLOW THE ENTITY TO ACHIEVE ITS PURPOSES, EXERCISE
10 ANY GENERAL POWER OF A SPECIAL DISTRICT SPECIFIED IN PART 10 OF
11 ARTICLE 1 OF TITLE 32, C.R.S., SO LONG AS EACH OF THE PARTIES TO THE
12 CONTRACT MAY LAWFULLY EXERCISE THE POWER.

13 (b) A SEPARATE LEGAL ENTITY ESTABLISHED BY A CONTRACT
14 PURSUANT TO SECTION 29-1-203 THAT SPECIFIES THAT THE PROVISIONS OF
15 THIS SECTION APPLY TO THE ENTITY MAY NOT LEVY A TAX OR EXERCISE
16 THE POWER OF EMINENT DOMAIN.

17 (3) IN ADDITION TO ANY OTHER POWERS SET FORTH IN A CONTRACT
18 ENTERED INTO PURSUANT TO SECTION 29-1-203 THAT ESTABLISHES A
19 SEPARATE LEGAL ENTITY AND SPECIFIES THAT THE PROVISIONS OF THIS
20 SECTION APPLY TO THE ENTITY, SUCH AN ENTITY HAS THE FOLLOWING
21 POWERS:

22 (a) TO ISSUE BONDS, NOTES, OR OTHER FINANCIAL OBLIGATIONS
23 PAYABLE SOLELY FROM REVENUE DERIVED FROM ONE OR MORE OF THE
24 FUNCTIONS, SERVICES, SYSTEMS, OR FACILITIES OF THE SEPARATE LEGAL
25 ENTITY, FROM MONEY RECEIVED UNDER CONTRACTS ENTERED INTO BY
26 THE SEPARATE LEGAL ENTITY, OR FROM OTHER AVAILABLE MONEY OF THE
27 SEPARATE LEGAL ENTITY. THE TERMS, CONDITIONS, AND DETAILS OF

1 BONDS, NOTES, OR OTHER FINANCIAL OBLIGATIONS, INCLUDING RELATED
2 PROCEDURES AND REFUNDING CONDITIONS, MUST BE SET FORTH IN THE
3 RESOLUTION OF THE SEPARATE LEGAL ENTITY AUTHORIZING THE BONDS,
4 NOTES, OR OTHER FINANCIAL OBLIGATIONS AND MUST, TO THE EXTENT
5 PRACTICAL, BE SUBSTANTIALLY THE SAME AS THOSE PROVIDED IN PART 4
6 OF ARTICLE 35 OF TITLE 31, C.R.S., RELATING TO WATER AND SEWER
7 REVENUE BONDS; EXCEPT THAT THE PURPOSES FOR WHICH THE SAME MAY
8 BE ISSUED ARE NOT LIMITED TO THE FINANCING OF WATER OR SEWERAGE
9 FACILITIES. BONDS, NOTES, OR OTHER FINANCIAL OBLIGATIONS ISSUED
10 UNDER THIS PARAGRAPH (a) ARE NOT AN INDEBTEDNESS OF THE SEPARATE
11 LEGAL ENTITY OR THE COOPERATING OR CONTRACTING PARTIES WITHIN
12 THE MEANING OF ANY PROVISION OR LIMITATION SPECIFIED IN THE STATE
13 CONSTITUTION OR LAW. EACH BOND, NOTE, OR OTHER FINANCIAL
14 OBLIGATION ISSUED UNDER THIS PARAGRAPH (a) MUST RECITE IN
15 SUBSTANCE THAT IT IS PAYABLE SOLELY FROM THE REVENUES AND OTHER
16 AVAILABLE FUNDS OF THE SEPARATE LEGAL ENTITY PLEDGED FOR THE
17 PAYMENT THEREOF AND THAT IT IS NOT A DEBT OF THE SEPARATE LEGAL
18 ENTITY OR THE COOPERATING OR CONTRACTING PARTIES WITHIN THE
19 MEANING OF ANY PROVISION OR LIMITATION SPECIFIED IN THE STATE
20 CONSTITUTION OR LAW. NOTWITHSTANDING ANYTHING IN THIS
21 PARAGRAPH (a) TO THE CONTRARY, BONDS, NOTES, AND OTHER
22 OBLIGATIONS MAY BE ISSUED TO MATURE AT SUCH TIMES NOT BEYOND
23 FORTY YEARS FROM THEIR RESPECTIVE ISSUE DATES, SHALL BEAR
24 INTEREST AT SUCH RATES, AND SHALL BE SOLD AT, ABOVE, OR BELOW THE
25 PRINCIPAL AMOUNT THEREOF, AT A PUBLIC OR PRIVATE SALE, ALL AS
26 DETERMINED BY THE BOARD OF DIRECTORS OF THE SEPARATE LEGAL
27 ENTITY. INTEREST ON ANY BOND, NOTE, OR OTHER FINANCIAL OBLIGATION

1 ISSUED UNDER THIS PARAGRAPH (a) HEREOF IS EXEMPT FROM TAXATION
2 EXCEPT AS OTHERWISE MAY BE PROVIDED BY LAW. THE RESOLUTION,
3 TRUST INDENTURE, OR OTHER SECURITY AGREEMENT UNDER WHICH
4 BONDS, NOTES, OR OTHER FINANCIAL OBLIGATIONS ARE ISSUED IS A
5 CONTRACT WITH THE HOLDERS THEREOF AND MAY CONTAIN SUCH
6 PROVISIONS AS THE BOARD OF DIRECTORS OF THE SEPARATE LEGAL ENTITY
7 DETERMINE TO BE APPROPRIATE AND NECESSARY IN CONNECTION WITH
8 THE ISSUANCE THEREOF AND TO PROVIDE SECURITY FOR THE PAYMENT
9 THEREOF, INCLUDING, WITHOUT LIMITATION, ANY MORTGAGE OR OTHER
10 SECURITY INTEREST IN REVENUE, MONEY, RIGHTS, OR PROPERTY OF THE
11 SEPARATE LEGAL ENTITY.

12 (b) TO ACQUIRE, LEASE, AND SELL PROPERTY.

13 (4) A CONTRACT ENTERED INTO PURSUANT TO SECTION 29-1-203
14 THAT ESTABLISHES A SEPARATE LEGAL ENTITY AND SPECIFIES THAT THE
15 PROVISIONS OF THIS SECTION APPLY TO THE ENTITY SHALL PROVIDE THAT,
16 UPON DISSOLUTION OF THE SEPARATE LEGAL ENTITY, ALL OF ITS PROPERTY
17 IS TRANSFERRED TO, OR AT THE DIRECTION OF, ONE OR MORE OF THE
18 CONTRACTING POLITICAL SUBDIVISIONS.

19 **SECTION 2. Safety clause.** The general assembly hereby finds,
20 determines, and declares that this act is necessary for the immediate
21 preservation of the public peace, health, and safety.