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Source:

Colorado Statutes/TITLE 29 GOVERNMENT - LOCAL/GENERAL PROVISIONS/ARTICLE 1 BUDGET AND SERVICES/PART 2 INTERGOVERNMENTAL RELATIONSHIPS/29-1-204.5. Establishment of multijurisdictional housing authorities.

29-1-204.5. Establishment of multijurisdictional housing authorities.

(1) Any combination of home rule or statutory cities, towns, counties, and cities and counties of this state may, by contract with each other, establish a separate governmental entity to be known as a multijurisdictional housing authority, referred to in this section as an "authority". Such an authority may be used by such contracting member governments to effect the planning, financing, acquisition, construction, reconstruction or repair, maintenance, management, and operation of housing projects or programs pursuant to a multijurisdictional plan:

(a) To provide dwelling accommodations at rental prices or purchase prices within the means of families of low or moderate income; and

(b) To provide affordable housing projects or programs for employees of employers located within the jurisdiction of the authority.

(2) Any contract establishing any such authority shall specify:

(a) The name and purpose of such authority and the functions or services to be provided by such authority;

(a.5) The boundaries of the authority, which boundaries may include less than the entire area of the separate governmental entities and may be modified after the establishment of the authority as provided in the contract;

(b) The establishment and organization of a governing body of the authority, which shall be a board of directors, referred to in this section as the "board", in which all legislative power of the authority is vested, including:

(I) The number of directors, their manner of appointment, their terms of office, their compensation, if any, and the procedure for filling vacancies on the board;

(II) The officers of the authority, the manner of their selection, and their duties;

(III) The voting requirements for action by the board; except that, unless specifically provided otherwise, a majority of directors shall constitute a quorum, and a majority of the quorum shall be necessary for any action taken by the board;

(IV) The duties of the board, which shall include the obligation to comply with the provisions of parts 1, 5, and 6 of this article;

(c) Provisions for the disposition, division, or distribution of any property or assets of the authority;

(d) The term of the contract, which may be continued for a definite term or until rescinded or terminated, and the method, if any, by which it may be rescinded or terminated; except that such contract may not be rescinded or terminated so long as the authority has bonds, notes, or other obligations outstanding, unless provision for full payment of such obligations, by escrow or otherwise, has been made pursuant to the terms of such obligations;

(e) The expected sources of revenue of the authority and any requirements that contracting member governments consent to the levying of any taxes or development impact fees within the jurisdiction of such member. If the authority levies any taxes or development impact fees, the contract shall further include requirements that:

(I) Prior to and as a condition of levying any such taxes or fees, the board shall adopt a resolution determining that the levying of such taxes or fees will fairly distribute the costs of the authority's activities among the persons and businesses benefited thereby and will not impose an undue burden on any particular group of persons or businesses;

(II) Each such tax or fee shall conform with any requirements specified in subsection (3) of this section; and

(III) The authority shall designate a financial officer who shall coordinate with the department of revenue regarding the collection of a sales and use tax authorized pursuant to paragraph (f.1) of subsection (3) of this section. This coordination shall include but not be limited to the financial officer identifying those businesses eligible to collect the sales and use tax and any other administrative details identified by the department.

(3) The general powers of such authority shall include the following powers:

(a) To plan, finance, acquire, construct, reconstruct or repair, maintain, manage, and operate housing projects and programs pursuant to a multijurisdictional plan within the means of families of low or moderate income;

(a.5) To plan, finance, acquire, construct, reconstruct or repair, maintain, manage, and operate affordable housing projects or programs for employees of employers located within the jurisdiction of the authority;

(b) To make and enter into contracts with any person, including, without limitation, contracts with state or federal agencies, private enterprises, and nonprofit organizations also involved in providing such housing projects or programs or the financing for such housing projects or programs, irrespective of whether such agencies are parties to the contract establishing the authority;

(c) To employ agents and employees;

(d) To cooperate with state and federal governments in all respects concerning the financing of such housing projects and programs;

(e) To acquire, hold, lease (as lessor or lessee), sell, or otherwise dispose of any real or personal property, commodity, or service;

(f) To condemn property for public use, if such property is not owned by any governmental entity or any public utility and devoted to public use pursuant to state authority;

(f.1) (I) Subject to the provisions of subsection (7.5) of this section, to levy, in all of the area within the boundaries of the authority, a sales or use tax, or both, at a rate not to exceed one percent, upon every transaction or other incident with respect to which a sales or use tax is levied by the state. The tax imposed pursuant to this paragraph (f.1) is in addition to any other sales or use tax imposed pursuant to law and is exempt from the limitation imposed by section 29-2-108. The executive director of the department of revenue shall collect, administer, and enforce the sales or use tax, to the extent feasible, in the manner provided in section 29-2-106. However, the executive director shall not begin the collection, administration, and enforcement of a sales and use tax until such time as the financial officer of the authority and the executive director have agreed on all necessary matters pursuant to subparagraph (III) of paragraph (e) of subsection (2) of this section. The executive director shall begin the collection, administration, and enforcement of a sales and use tax on a date mutually agreeable to the department of revenue and the authority.

(II) The executive director shall make monthly distributions of the tax collections to the authority, which shall apply the proceeds solely to the planning, financing, acquisition, construction, reconstruction or repair, maintenance, management, and operation of housing projects or programs within the means of families of low or moderate income.

(III) The department of revenue shall retain an amount not to exceed the cost of the collection, administration, and enforcement and shall transmit the amount retained to the state treasurer, who shall credit the same amount to the multijurisdictional housing authority sales tax fund, which fund is hereby created in the state treasury. The amounts so retained are hereby appropriated annually from the fund to the department to the extent necessary for the department's collection, administration, and enforcement of the provisions of this section. Any moneys remaining in the fund attributable to taxes collected in the prior fiscal year shall be transmitted to the authority; except that, prior to the transmission to the authority of such moneys, any moneys appropriated from the general fund to the department for the collection, administration, and enforcement of the tax for the prior fiscal year shall be repaid.

(f.2) Subject to the provisions of subsection (7.5) of this section, to levy, in all of the area within the boundaries of the authority, an ad valorem tax at a rate not to exceed five mills on each dollar of valuation for assessment of the taxable property within such area.

The tax imposed pursuant to this paragraph (f.2) shall be in addition to any other ad valorem tax imposed pursuant to law. In accordance with the schedule prescribed by section 39-5-128, C.R.S., the board shall certify to the board of county commissioners of each county within the authority, or having a portion of its territory within the district, the levy of ad valorem property taxes in order that, at the time and in the manner required by law for the levying of taxes, such board of county commissioners shall levy such tax upon the valuation for assessment of all taxable property within the designated portion of the area within the boundaries of the authority. It is the duty of the body having authority to levy taxes within each county to levy the taxes provided by this subsection (3). It is the duty of all officials charged with the duty of collecting taxes to collect such taxes at the time and in the form and manner and with like interest and penalties as other taxes are collected and when collected to pay the same to the authority ordering the levy and collection. The payment of such collections shall be made monthly to the authority or paid into the depository thereof to the credit of the authority. All taxes levied under this paragraph (f.2), together with interest thereon and penalties for default in payment thereof, and all costs of collecting the same shall constitute, until paid, a perpetual lien on and against the property taxed, and such lien shall be on a parity with the tax lien of other general taxes.

(f.5) (I) To establish, and from time to time increase or decrease, a development impact fee and collect such fee from persons who own property located within the boundaries of the authority who apply for approval for new residential, commercial, or industrial construction in accordance with applicable ordinances, resolutions, or regulations of any county or municipality.

(II) Notwithstanding the provisions of subparagraph (I) of this paragraph (f.5), an impact fee may only be imposed by an authority if all of the following conditions have been satisfied:

(A) No portion of the authority is located in a county with a population of more than one hundred thousand;

(B) The fee is not levied upon the development, construction, permitting, or otherwise in connection with low or moderate income housing or affordable employee housing;

(C) The rate of the fee is two dollars per square foot or less; and

(D) The authority also imposes a sales and use tax pursuant to paragraph (f.1) of this subsection (3), an ad valorem tax pursuant to paragraph (f.2) of this subsection (3), or both.

(g) To incur debts, liabilities, or obligations;

(h) To sue and be sued in its own name;

(i) To have and use a corporate seal;

(j) To fix, maintain, and revise fees, rents, security deposits, and charges for functions, services, or facilities provided by the authority;

(k) To adopt, by resolution, regulations respecting the exercise of its powers and the carrying out of its purposes;

(l) To exercise any other powers that are essential to the provision of functions, services, or facilities by the authority and that are specified in the contract;

(m) To do and perform any acts and things authorized by this section under, through, or by means of an agent or by contracts with any person, firm, or corporation;

(n) To establish enterprises for the ownership, planning, financing, acquisition, construction, reconstruction or repair, maintenance, management, or operation, or any combination of the foregoing, of housing projects or programs authorized by this section on the same terms as and subject to the same conditions provided in section 43-4-605, C.R.S.

(4) The authority established by such contracting member governments shall be a political subdivision and a public corporation of the state, separate from the parties to the contract, and shall be a validly created and existing political subdivision and public corporation of the state, irrespective of whether a contracting member government withdraws (whether voluntarily, by operation of law, or otherwise) from such authority subsequent to its creation under circumstances not resulting in the rescission or termination of the contract establishing such authority pursuant to its terms. It shall have the duties, privileges, immunities, rights, liabilities, and disabilities of a public body politic and corporate. The authority may deposit and invest its moneys in the manner provided in section 43-4-616, C.R.S.

(5) The bonds, notes, and other obligations of such authority shall not be the debts, liabilities, or obligations of the contracting member governments.

(6) The contracting member governments may provide in the contract for payment to the authority of funds from proprietary revenues for services rendered or facilities provided by the authority, from proprietary revenues or other public funds as contributions to defray the cost of any purpose set forth in the contract, and from proprietary revenues or other public funds as advances for any purpose subject to repayment by the authority.

(7) (Deleted by amendment, L. 2001, p. 966, § 1, effective August 8, 2001.)

(7.1) The authority may issue revenue or general obligation bonds, as the term bond is defined in section 43-4-602 (3), C.R.S., and may pledge its revenues and revenue-raising powers for the payment of such bonds. Such bonds shall be issued on the terms and subject to the conditions set forth in section 43-4-609, C.R.S.

(7.3) The income or other revenues of the authority, all properties at any time owned by an authority, any bonds issued by an authority, and the transfer of and the income from any bonds issued by the authority are exempt from all taxation and assessments in the state.

(7.5) (a) No action by an authority to establish or increase any tax or development impact fee authorized by this section shall take effect unless first submitted to a vote of the registered electors of the authority in which the tax or development impact fee is proposed to be collected.

(b) No action by an authority creating a multiple-fiscal year debt or other financial obligation that is subject to section 20 (4) (b) of article X of the state constitution shall take effect unless first submitted to a vote of the registered electors residing within the boundaries of the authority; except that no such vote is required for obligations of enterprises established under paragraph (n) of subsection (3) of this section or for obligations of any other enterprise under section 20 (4) of article X of the state constitution.

(c) The questions proposed to the registered electors under paragraphs (a) and (b) of this subsection (7.5) shall be submitted at a general election or any election to be held on the first Tuesday in November of an odd-numbered year. The action shall not take effect unless a majority of the registered electors voting thereon at the election vote in favor thereof. The election shall be conducted in substantially the same manner as county elections and the county clerk and recorder of each county in which the election is conducted shall assist the authority in conducting the election. The authority shall pay the costs incurred by each county in conducting such an election. No moneys of the authority may be used to urge or oppose passage of an election required under this section.

(7.7) (a) For the purpose of determining any authority's fiscal year spending limit under section 20 (7) (b) of article X of the state constitution, the initial spending base of the authority shall be the amount of revenues collected by the authority from sources not excluded from fiscal year spending pursuant to section 20 (2) (e) of article X of the state constitution during the first full fiscal year for which the authority collected revenues.

(b) For purposes of this subsection (7.7), "fiscal year" means any year-long period used by an authority for fiscal accounting purposes.

(8) An authority established by contracting member governments shall, if the contract so provides, be the successor to any nonprofit corporation, agency, or other entity theretofore organized by the contracting member governments to provide the same function, service, or facility, and such authority shall be entitled to all the rights and privileges and shall assume all the obligations and liabilities of such other entity under existing contracts to which such other entity is a party.

(9) The authority granted pursuant to this section shall in no manner limit the powers of governments to enter into intergovernmental cooperation or contracts or to establish

separate legal entities pursuant to the provisions of section 29-1-203 or any other applicable law or otherwise to carry out their individual powers under applicable statutory or charter provisions, nor shall such authority limit the powers reserved to cities and towns by section 2 of article XI of the state constitution. Nothing in this part 2 constitutes a legislative declaration of preference for housing projects owned by authorities over housing projects owned by other or different entities.

(10) An authority and the property of an authority shall be exempt from all taxes and special assessments on the same basis and subject to the same conditions as provided for city housing authorities in sections 29-4-226 and 29-4-227.

Source: L. 77: Entire section added, p. 1393, § 1, effective July 7. **L. 2001:** Entire section amended, p. 966, § 1, effective August 8. **L. 2002:** (10) added, p. 1937, § 1, effective June 7.

Editor's note: (1) This section was originally numbered as § 29-1-203.5 in Senate Bill 77-488 but has been renumbered on revision for ease of location.

(2) Section 4 of chapter 346, Session Laws of Colorado 2002, provides that the act enacting subsection (10) applies only with respect to taxable years beginning after December 31, 2000.
