

# COLORADO LAWS ENACTED AFFECTING MUNICIPAL GOVERNMENTS

2013 LEGISLATIVE SESSION



**CML**

COLORADO MUNICIPAL LEAGUE

*The Voice of Colorado's Cities and Towns*

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# FOREWORD

During the 2013 session of the Colorado General Assembly, CML tracked 213 of the 624 bills and concurrent resolutions introduced. Of the bills that CML supported, 92 percent passed. Of those CML opposed, 86 percent were defeated or were amended such that the League dropped its opposition.

Each year, CML analyzes the laws passed by the General Assembly that affect cities and towns. 2013 Colorado Laws Enacted Affecting Municipal Governments focuses on selected acts that have a particular significance for municipal operations, services, and powers — it is not a comprehensive listing of all new legislation enacted into law affecting municipal government. For information or assistance on any legislative questions, contact CML at 303-831-6411 or 866-578-0936.

CML is continuing its commitment to its members by providing the information they need as inexpensively and easily as possible. 2013 Colorado Laws Enacted Affecting Municipalities will be available to all for free — along with several past years' editions — online at [www.cml.org](http://www.cml.org) under Information > Publications.

Kevin Bommer  
CML deputy director  
June 2013

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**SB 13-096****AFFORDABLE HOUSING****Department of Local Affairs  
supplemental appropriation**

Appropriates \$2 million to the affordable housing line item within the Division of Housing. Effective Feb. 19, 2013. Lobbyist: Meghan Storrie, mstorrie@cml.org.

in other states to advertise in the state and to practice after obtaining a valid state license. Requires architects to report civil malpractice claims to the board and aligns language for all three professions. Requires licensees to update contact information with the division within 30 days of a change. Effective July 1, 2013. Lobbyist: Meghan Storrie, mstorrie@cml.org.

**SB 13-043****BEER & LIQUOR****Removal of alcohol from licensed premises**

Requires all on-premises licensees to post a sign notifying patrons that they cannot remove alcohol from the premises, regardless of whether the licensee also stations personnel at exits, and permits licensees other than retail gaming establishments to post a sign that is smaller than that required at retail gaming establishments. Modifies the definition of "entertainment district" under the Colorado Liquor Code to clarify that a municipality may authorize more than one entertainment district within the municipality. Effective May 10, 2013. Lobbyist: Kevin Bommer, kbommer@cml.org.

**SB 13-162****BUILDING CODES****Examining Board of Plumbers**

Continues the regulation of plumbers until Sept. 1, 2024. Repeals the requirement that the state plumbing inspectors be certified by the Division of Fire Safety in the Department of Public Safety. Requires the plumbing board of examiners to adopt a Colorado Fuel Code and Gas Code for piping installations. Authorizes the board to inspect plumbing installations in local jurisdictions where the local jurisdiction does not conduct inspections and issue permits. Requires a local jurisdiction to notify the board on or before Oct. 1 that it will cease or commence plumbing inspection on the following July 1. Requires local jurisdictions to use a certified or licensed plumbing inspector. Effective May 25, 2013. Lobbyist: Meghan Storrie, mstorrie@cml.org.

**SB 13-059****BEER & LIQUOR****Modification of prohibition on  
peace officer obtaining license**

Repeals the prohibition on a peace officer from obtaining an alcohol beverage license issued under the Colorado Liquor Code. Establishes a prohibition on certain peace officers from obtaining an alcohol beverage license to operate a licensed premises located within the same jurisdiction that employs the peace officer; including sheriffs, under-sheriffs, and deputy sheriffs; police officers; town marshals and deputy town marshals; district attorneys, assistant district attorneys, chief deputy district attorneys, deputy district attorneys, and special prosecutors; and city attorneys, town attorneys, senior assistant city attorneys, assistant city attorneys, chief deputy city attorneys, deputy city attorneys, and prosecuting attorneys. Effective April 8, 2013. Lobbyist: Kevin Bommer, kbommer@cml.org.

**SB 13-219****BUILDING CODES****Methamphetamine laboratory remediation**

Creates a process to certify and monitor the activities of professionals involved in the remediation of property contaminated by illegal drug labs. Directs the Department of Public Health to promulgate rules. Creates procedures for testing contaminated property. Establishes acceptable standards for remediation of illegal drug labs involving methamphetamine as well as procedures for a training and certification program for contractors and consultants who remediate drug-contaminated property. Effective Aug. 7, 2013. Lobbyist: Meghan Storrie, mstorrie@cml.org.

**SB 13-152****BUILDING CODES****Asbestos abatement program**

Extends the asbestos abatement program in the Department of Public Health and Environment until Sept. 1, 2022. Amends existing requirements to include a provision that local governments compel applicants for renovation and demolition permits to disclose knowledge that an asbestos inspection has been performed at the subject property. Effective March 29, 2013. Lobbyist: Meghan Storrie, mstorrie@cml.org.

**HB 13-1036****COUNTIES****Local improvement districts**

Amends the county local improvement district statutes to permit such districts to fund the "organization, promotion, marketing and management of public events." Contains other provisions. Effective Aug. 7, 2013. Lobbyist: Geoff Wilson, gwilson@cml.org.

**SB 13-161****BUILDING CODES****Licensing of architects, engineers, surveyors**

Continues the activities of the State Board of Licensure for Architects, Professional Engineers, and Professional Land Surveyors in the Division of Professions and Occupations in the Department of Regulatory Agencies until Sept. 1, 2024. Allows professional engineers and land surveyors licensed

**HB 13-1020****CRIMINAL JUSTICE****Testing evidence of sexual assault**

Creates new requirements concerning the collection and treatment of forensic medical evidence of alleged sexual assault. Requires the Department of Public Safety to convene a group of stakeholders to develop rules on the standards and timing for submitting, analyzing, and comparing such evidence going forward. Provides that the rules also must address who may give consent to release evidence, when it is required, and how it may be withdrawn. Establishes that the rules must be in place within six months of the bill's effective date and are required to specify that once the backlog is resolved, all evidence that meets

the criteria for mandatory submission must be submitted within 21 days. Creates a timeline that within 90 days of promulgation, medical facility personnel and law enforcement agencies must be in compliance with the rules. Effective June 5, 2013. Lobbyist: Meghan Storrie, mstorrie@cml.org.

**HB 13-1043** **CRIMINAL JUSTICE**

**Modify definition of a deadly weapon**

Modifies the definition of a deadly weapon so that a firearm, whether loaded or unloaded, is defined as a deadly weapon regardless of the manner in which it is used or intended to be used. Effective March 15, 2013. Lobbyist: Meghan Storrie, mstorrie@cml.org.

**HB 13-1118** **CRIMINAL JUSTICE**

**Issuance of identification to retired peace officers**

Allows various law enforcement agencies to establish a program to issue photo identification to peace officers who have retired from that agency. Applies to the Departments of Corrections, Higher Education, Law, Public Safety, and Revenue, as well as sheriffs and police departments. Allows agencies to charge fees to cover the direct and indirect costs of administering the program and they may decline to issue photo identification by providing the retired peace officer with written notice explaining the reason for the denial. Requires retired peace officers receiving or renewing the identification to submit to a background check with the Colorado Bureau of Investigation. Specifies that in the event that the agency discontinues the program, the agency must continue to offer photo identifications under certain conditions, such as if the peace officer requests one or if he or she retired prior to the date the program was discontinued. Effective Aug. 7, 2013. Lobbyist: Meghan Storrie, mstorrie@cml.org.

**HB 13-1210** **CRIMINAL JUSTICE**

**Right to legal counsel in plea negotiations**

Repeals current law that requires an indigent person charged with a misdemeanor, petty offense, traffic offense, or municipal or county ordinance violation, for which there is the possibility of a jail sentence, to meet with a prosecuting attorney prior to being appointed legal counsel. Effective Jan. 1, 2014 Lobbyist: Meghan Storrie, mstorrie@cml.org.

**HB 13-1224** **CRIMINAL JUSTICE**

**Prohibition of large-capacity ammunition magazines**

Establishes limitations on large-capacity ammunition magazines, which are defined as those that can accept more than 15 rounds of ammunition, eight shotgun shells when combined with a fixed magazine, or 28 inches of shotgun shells. Prohibits the sale, transfer, or possession of large-capacity magazines and establishes penalties. Provides that the prohibition against the transfer or possession of these magazines does not apply to a manufacturer, gun dealer, or employee thereof that sells large-capacity magazines in certain situations, which includes a local, state, or federal government employee

engaged in his or her official duties. Effective July 1, 2013  
Lobbyist: Meghan Storrie, mstorrie@cml.org.

**HB 13-1228** **CRIMINAL JUSTICE**

**Payment for background checks for gun transfers**

Requires the Colorado Bureau of Investigation in the Department of Public Safety to charge a fee for performing instant criminal background checks related to the transfer of firearms. Establishes that the fee may not exceed the direct and indirect costs associated with performing the background checks. Effective March 20, 2013. Lobbyist: Meghan Storrie, mstorrie@cml.org.

**HB 13-1229** **CRIMINAL JUSTICE**

**Background checks for gun transfers**

Expands situations in which background checks are required prior to the transfer of a firearm and changes the process for reporting and updating the records on which background checks are based. Creates a judicial process for petitioning for relief from federal firearms prohibitions pursuant to the federal National Instant Criminal Background Check System Improvement Amendments Act of 2007. Effective March 20, 2013. Lobbyist: Meghan Storrie, mstorrie@cml.org.

**HB 13-1240** **CRIMINAL JUSTICE**

**Penalties for persistent drunk drivers**

Modifies the definition and penalties for persistent drunk drivers. Lowers the blood alcohol content (BAC) threshold for a person to be considered a persistent drunk driver from 0.17 BAC to 0.15 BAC. Adds a person whose license is revoked for refusing a BAC test to the list of persons who may be defined as a persistent drunk driver. Requires that a persistent drunk driver use an interlock device on his or her vehicle for one year after his or her driver's license has been reinstated. Allows those who have had their licenses revoked for one year for driving under the influence (DUI), DUI per se, or driving while ability impaired (DWAI), to apply for reinstatement after one month, provided he or she has an interlock device, and is more than 21 years of age. The same option applies for those who refuse a breathalyzer test after a two-month revocation period. Requires the Department of Revenue to assist in the cost of the interlock device for indigent persons under the above circumstances. Allows most revocation penalties for offenses that occur on or after Jan. 1, 2014, to run concurrent instead of consecutively. Effective July 1, 2013. Lobbyist: Meghan Storrie, mstorrie@cml.org.

**HB 13-1241** **CRIMINAL JUSTICE**

**Statewide Victim Notification System**

Allows a General Fund appropriation to operate the Statewide Automated Victim Information Notification Everyday system. Provides that the system will be operated by the county sheriffs of Colorado under the supervision of the Department of Public Safety. Allows crime victims to obtain free information on the custody status of inmates under supervision in county jails. Effective May 28, 2013. Lobbyist: Meghan Storrie, mstorrie@cml.org.



**Cell phone information in emergency situations**

Allows a supervising representative of a law enforcement agency to direct a previously identified employee of a wireless telecommunications provider to provide location information of a person with a telecommunications device without a court order. States the requestor must have probable cause to believe that an emergency situation exists and the time required to obtain a search warrant or other court order would exacerbate the risk of death or serious bodily injury to the named person or another person within his or her company. Allows the wireless telecommunications provider to establish protocols for releasing information, provided records are kept about the identity of the requestor and the date and time of the request. Specifies that within 48 hours of receiving such location information, a requestor must obtain a court order stating the information was obtained lawfully. Establishes criteria for information admissibility in court. Effective May 13, 2013. Lobbyist: Meghan Storrie, mstorrie@cml.org.

**Collateral consequences**

Allows an individual to petition the court to seal conviction records pertaining to petty offenses or municipal violations, provided the petition is filed three or more years after the date of the final disposition of the case and the individual has not been charged or convicted of a criminal offense in the previous three years. Requires the court to issue a written advisement that a defendant may petition to have their records sealed after three years. Effective May 25, 2013. Lobbyist: Meghan Storrie, mstorrie@cml.org.

**No online training for concealed handgun permits**

Clarifies that a handgun training class, for the purposes of satisfying the requirements of obtaining a concealed carry permit, must not offer the entire course online or at any location other than where the certified instructor provides the course. Effective May 25, 2013. Lobbyist: Meghan Storrie, mstorrie@cml.org.

**No firearms for domestic violence offenders**

Imposes new requirements on the transfer of firearms and ammunition for persons subject to certain civil protection orders and mandatory protection orders, as well as persons convicted of offenses with an underlying domestic violence component. Authorizes a local law enforcement agency to charge fees to cover its direct and indirect costs if they opt to store firearms, and allows them to establish policies for disposal of abandoned or stolen firearms. Establishes that municipal courts advise defendants of the loss of their firearms. Provides notice requirements to restricted persons if a local law enforcement agency ends its storage program. Allows a restricted person, or his or her representative who is legally able to possess a firearm, 90 days to make arrangements for the collection, sale, or transfer of the stored items. If the restricted person fails to respond, the

agency may dispose of the firearm. Exempts local law enforcement agencies acting in good faith from civil and criminal liability for actions related to the firearms of restricted persons. Effective June 5, 2013. Lobbyist: Meghan Storrie, mstorrie@cml.org.

**Dog Protection Act**

Requires local law enforcement officers to attend one three-hour training session on reading dog behavior. Establishes that the training session may be online. Authorizes a taskforce to develop the training session. Requires the adoption of policies outlined in the training video related to handling dogs in law enforcement situations. Effective May 13, 2013. Lobbyist: Meghan Storrie, mstorrie@cml.org.

**Drug sentencing changes**

Creates new felony and misdemeanor drug sentencing grids and assigns each existing drug crime a new drug penalty based on the new sentencing grids. Adds all drug felonies to the habitual sentencing schemes. Establishes a sentencing option for offenders convicted of certain drug felonies that allows the court to vacate the felony conviction and enter a misdemeanor conviction in its place if the offender successfully completes a community-based sentence. Requires the court to exhaust alternative sentencing options for certain Level 4 drug felony offenses prior to sentencing an offender to prison. Requires the court to hold a resentencing hearing or make written findings for any Level 4 drug felony offender who is terminated from a community corrections program. Allows the court to impose residential drug treatment as a probation condition for drug misdemeanors. Allows defendants convicted of misdemeanor drug offenses to be sentenced to intensive supervision probation if appropriate. Prohibits a plea agreement involving a drug offense from requiring a waiver of the defendant's right to petition for sealing of his or her criminal conviction records. Effective Oct. 1, 2013. Lobbyist: Meghan Storrie, mstorrie@cml.org.

**Urban and rural Enterprise Zone Act reforms**

Imposes a cap of \$750,000 per year on enterprise zone investment tax credits allowed on business tax returns. Allows earned credits in excess of the cap to be carried forward on tax returns for as long as 14 years. Increases new facility employee credit to \$1,100; employer-sponsored health insurance credit to \$1,000; and qualified job training program investment credit to 12 percent. Advances the sunset date for regional enterprise zone advisory committees to July 1, 2014. Effective May 15, 2013. Lobbyist: Mark Radtke, mradtke@cml.org.

**Business incentive agreements**

Allows municipalities, counties, and special districts to rebate business personal property tax as an incentive to retain businesses that are considering moving their

operations to another state. Allows rebates to extend up to 10 years. Reserves rebate decisions to local elected officials who must be satisfied there is a substantial risk the business will relocate out of state. Requires verifiable documentation on the part of the business to establish that they have the capability of relocating and that another site is under consideration. Effective Aug. 7, 2013. Lobbyist: Mark Radtke, mradtke@cml.org.

**HB 13-1208** **ECONOMIC DEVELOPMENT**  
**Incentives offered by creative districts**

Gives the Colorado Office of Economic Development the authority to provide need-based grants for infrastructure development in certified creative districts. Defines infrastructure development as installation and maintenance of public art; professional services related to development of a creative district; professional development; branding and marketing; and community engagement. Adds to existing grants that can be awarded from the creative district cash fund. Does not provide appropriation to fund these infrastructure development grants. Effective April 19, 2013. Lobbyist: Mark Radtke, mradtke@cml.org.

**HB 13-1135** **ELECTIONS**  
**Voter registration – Pre-registration at age 16**

Amends the Uniform Election Code to permit persons who have reached the age of 16, but who will not have reached the age of 18 by the next election, to preregister to vote and update registration, whereupon reaching the age of 18, said person shall be automatically registered to vote. Makes conforming amendments. Effective Aug. 7, 2013. Lobbyist: Geoff Wilson, gwilson@cml.org.

**HB 13-1147** **ELECTIONS**  
**Voter registration – Higher education institutions**

Requires any state institution of higher education that uses electronic course registration to provide the option of online voter registration to students. Contains other provisions. Effective Aug. 7, 2013. Lobbyist: Geoff Wilson, gwilson@cml.org.

**HB 13-1303** **ELECTIONS**  
**Omnibus bill – Uniform Election Code**

Makes a variety of sweeping changes to Colorado's election law, including provision that future elections conducted by the county clerks will be by mail ballot. Permits voter registration up to and on the day of election. Liberalizes distribution of ballots to electors previously listed as "inactive" or "failed to vote." Eliminates the "permanent mail in voter" classification. Makes conforming amendments. Contains numerous other provisions. Effective May 10, 2013. Lobbyist: Geoff Wilson, gwilson@cml.org.

**HB 13-1012** **EMERGENCY MANAGEMENT**  
**Extend wildfire mitigation financial incentives**

Extends the wildfire mitigation income tax deduction to tax year 2024. Extends the authority of the Colorado Water Resources and Power Development Authority to issue up to

\$50,000,000 in bonds to fund watershed protection and forest health projects by governmental agencies. Effective April 4, 2013. Lobbyist: Meghan Storrie, mstorrie@cml.org.

**HB 13-1031** **EMERGENCY MANAGEMENT**  
**All hazards resource mobilization & reimbursement**

Requires the director of the Office of Emergency Management to develop a statewide mobilization plan. Authority for a mobilization requires a request by a local emergency manager, the governor, or another party authorized in the statewide plan. Requires the executive director to find either that local resources will be inadequate to address a given incident or that the complexity or severity of the incident warrants additional resources. Makes the executive director, in consultation with the local incident commander, responsible for declaring an end to each mobilization. Directs that state, local, and tribal jurisdictions mobilized pursuant to the statewide resource mobilization plan, and participating in a mutual aid or a similar intergovernmental agreement, are eligible for appropriate federal and state funds from the time of mobilization through demobilization. Specifies when a local jurisdiction is eligible for reimbursement under the bill even if resources from the state and other jurisdictions are not mobilized in an incident. Effective June 5, 2013. Staff: Meghan Storrie, mstorrie@cml.org.

**SB 13-082** **EMERGENCY MANAGEMENT**  
**Wildfire Matters Review Committee**

Creates a permanent interim committee, the Wildfire Matters Review Committee, to review and propose legislation related to wildfire prevention and mitigation in the state. In addition, the committee is charged with the remaining responsibilities of the Lower North Fork Wildfire Commission, which includes investigating measures to prevent the occurrence of a similar tragedy to the Lower North Fork wildfire. Effective June 5, 2013. Lobbyist: Meghan Storrie, mstorrie@cml.org.

**SB 13-083** **EMERGENCY MANAGEMENT**  
**Prescribed burn program in fire prevention & control**

Defines the role and specific duties of the Division of Fire Prevention and Control (DFPC) in the Department of Public Safety (DPS). Charges DFPC with implementing a prescribed burning program including setting fees; developing appropriate rules and standards; and enforcing and directing government efforts to address catastrophic and escaped fire. Provides that minimum prescribed burning standards adopted by rule must include a requirement that a state-certified prescribed-burn manager or a nationally qualified burn boss is present on site for the duration of any prescribed burn. Requires the attendance of certain prescribed burns by a certified prescribed burn manager by Dec. 1, 2013. Effective May 23, 2013. Lobbyist: Meghan Storrie, mstorrie@cml.org.

**SB 13-110** **EMERGENCY MANAGEMENT**

**Wildland Fire Cost Recovery Fund**

Makes technical changes to the Wildland Fire Cost Recovery Fund, which is administered by the Department of Public Safety. Makes the fund noninterest-bearing and specifies that the controller may authorize advances in any amount for wildland fire suppression activities. Effective Feb. 19, 2013. Lobbyist: Meghan Storrie, mstorrie@cml.org.

**SB 13-245** **EMERGENCY MANAGEMENT**

**Create the Colorado Firefighting Air Corps**

Establishes the Colorado Firefighting Air Corps (CFAC) within the Department of Public Safety, Division of Fire Prevention and Control (DFPC). Creates the The Colorado Firefighting Air Corps Fund. Specifies that by April 1, 2014, the DFPC must submit to the General Assembly a report concerning the feasibility of CFAC and strategies to address state firefighting activities, as well as budget requests for CFAC and aerial firefighting if recommended by the DFPC. Effective June 5, 2013. Lobbyist: Meghan Storrie, mstorrie@cml.org.

**SB 13-270** **EMERGENCY MANAGEMENT**

**Wildfire Emergency Response Fund**

Reorganizes and modifies statutes creating the Wildfire Emergency Response Fund (WERF) and the Wildfire Preparedness Fund (WPF). Authorizes the governor to order the transfer of funds from the Disaster Emergency Fund into the WERF if he or she determines an emergency is imminent. Makes an appropriation of \$500,000 to the WERF. Effective May 23, 2013. Lobbyist: Meghan Storrie, mstorrie@cml.org.

**HB 13-1222** **EMPLOYMENT**

**Family Medical Leave Act expansion**

Expands the group of family members for whom employees in Colorado may take Family Medical Leave Act (FMLA) leave when the family member has a serious health condition to include a person who is the employee's partner in a civil union or is the employee's domestic partner and either has registered the domestic partnership with the municipality in which the person resides or with the state, if applicable, or is recognized by the employer as the employee's domestic partner. Specifies that leave taken pursuant to this section runs concurrently with leave taken under the FMLA and does not increase the total amount of leave to which an employee is entitled during a twelve-month period under the FMLA, this bill, or both. Contains other provisions. Effective Aug. 7, 2013. Lobbyist: Kevin Bommer, kbommer@cml.org.

**SB 13-018** **EMPLOYMENT**

**Permissible use of credit information by employers**

Creates the "Employment Opportunity Act," which specifies the purposes for which consumer credit information can be used by an employer or potential employer. Prohibits an employer's use of consumer credit information for

employment purposes unless the information is substantially related to the job. Requires an employer to disclose to an employee or applicant for employment when the employer uses the employee's consumer credit information to take adverse action against him or her and the particular credit information upon which the employer relied. Authorizes an employee aggrieved by a violation of the above provisions file a complaint with the division of labor in the department of labor and industry, with a penalty not to exceed \$2,500. Requires the department of labor and employment to enforce the laws related to employer use of consumer credit information. Effective April 19, 2013. Lobbyist: Kevin Bommer, kbommer@cml.org.

**SB 13-269** **FOREST HEALTH**

**Wildfire Risk Reduction Grant Program**

Creates the Wildfire Risk Reduction Grant Program (WRRGP), including a new cash fund established to provide funding for grants, the Wildfire Risk Reduction Fund (WRRF). Authorizes the Department of Natural Resources (DNR) to administer the WRRGP with a focus on reducing hazardous forest fuels in the wildland-urban interface. Creates the Wildfire Risk Reduction Grant Program Advisory Committee, comprised of eight members appointed by the executive director of the DNR to represent various interests involved in or concerned with the mitigation of catastrophic wildfires, such as federal land management, local government, and the forest products industry. Establishes a means for local governments to apply for grants. Directs the state treasurer to transfer \$9,800,000 from the General Fund to the WRRF on July 1, 2013. Moneys in the fund are continuously appropriated for the purposes of the WRRGP, and up to 5 percent of moneys available in the WRRF may be used for monitoring and measurement of effectiveness of grants. Effective May 18, 2013. Lobbyist: Meghan Storrie, mstorrie@cml.org.

**HB 13-1258** **IMMIGRATION**

**Community and Law Enforcement Trust Act**

Repeals article 29 of title 29 in Colorado Revised Statutes, which prohibited local governments from enacting any policy that limits or prohibits a local peace officer, official, or employee from communicating or cooperating with federal officials with regard to the immigration status of any person in the state. The law also required a peace officer who has probable cause to believe an arrestee is not legally present in the United States to report that person to the U.S. Immigration and Customs Enforcement Office. Effective April 26, 2013 Lobbyist: Meghan Storrie, mstorrie@cml.org.

**SB 13-025** **LABOR**

**Collective bargaining for firefighters**

Establishes policies of the state to equate collective bargaining with public safety and to encourage and promote the practice and procedure of collective bargaining. Declares that collective bargaining for firefighters is a matter of statewide concern. Establishes that it is state policy to

obligate public employers to meet and confer with firefighters. Establishes that firefighters have the right to organize, form, join, or assist an employee organization or refrain from doing so; the right to negotiate collectively or express a grievance through representatives of their choice; the right to engage in other lawful concerted activity for the purpose of collective bargaining or other mutual aid or protection; and the right to be represented by their exclusive representative without discrimination. Excludes volunteer firefighters from all aspects of the law. Mandates that employers of two or more firefighters must meet and confer with its employees. Establishes a petition process by which firefighters can gather signatures on petitions and a threshold needed to automatically place a question on collective bargaining for firefighters on the general election ballot. Establishes that an employee organization recognized or elected for collective bargaining becomes the exclusive representative of all firefighters for collective bargaining. Prohibits a fire department from bargaining on matters covered by the act with any other employee or group. Grants the exclusive representative the right to be present and express its views at the adjustment of a complaint made by a member of the bargaining unit without the intervention of the exclusive representative. Authorize automatic dues deduction for those who authorize it. Creates the process by which collective bargaining shall occur and remedies for impasse resolution. Contains numerous other provisions. Effective June 5, 2013. *Reprinted.* Lobbyist: Kevin Bommer, kbommer@cml.org.

**HB 13-1325** **LAW ENFORCEMENT**  
**Permissible inference for marijuana and driving offenses**

Establishes that in any driving-under-the-influence (DUI) prosecution, if at the time of driving or within a reasonable time thereafter, the driver's blood contains five nanograms or more of delta 9-tetrahydrocannabinol (THC) per milliliter in whole blood as shown by analysis of the defendant's blood, such fact gives rise to a permissible inference that the defendant was under the influence of one or more drugs. Contains other provisions. Effective May 28, 2013. Lobbyist: Kevin Bommer, kbommer@cml.org.

**SB 13-023** **LIABILITY**  
**Governmental Immunity Act**

Adjusts the individual recovery limit in the Governmental Immunity Act (GIA) from \$150,000 to \$350,000, and the cap for multiple injuries from \$600,000 to \$990,000. Provides that these amounts may be adjusted every four years, based upon the Denver Boulder Greeley CPI pursuant to certification made by the secretary of state. Effective July 1, 2013. Lobbyist: Geoff Wilson, gwilson@cml.org.

**SB 13-133** **LIMITED GAMING**  
**Distribution of limited gaming revenues**

Modifies the distribution of the state share in the Limited Gaming Fund. The distribution to various cash funds at the close of each fiscal year is amended from a percentage-

based amount to a fixed-dollar amount. Establishes the share to the Local Government Limited Gaming Impact Fund is \$5 million per fiscal year. Effective June 15, 2013. Lobbyist: Meghan Storrie, mstorrie@cml.org.

**HB 13-1061** **MARIJUANA**  
**Medical marijuana responsible vendor**

The state licensing authority shall approve a responsible medical marijuana vendor server and seller training program if the program contains specified components. Specifies that a vendor may issue a licensed medical marijuana business a responsible vendor designation if training criteria is met. States that should the authority bring an administrative action against a business that has received the designation, the authority shall consider the designation as mitigation. Effective Aug. 7, 2013. Lobbyist: Kevin Bommer, kbommer@cml.org.

**HB 13-1238** **MARIJUANA**  
**Medical marijuana state funding and licensing procedures**

Directs the state licensing authority to report on the number of applications for medical marijuana operations granted, denied, pending, and withdrawn. Changes the order of licensing to mirror retail marijuana, in that an applicant gets conditional state approval followed by local approval. Clarifies that a medical marijuana operation must receive both state and local licensing approval but that an operation that was established on July 1, 2010, may continue to operate while the local application is pending. Specifies that a local licensing authority's denial of a license is grounds for the state licensing authority to revoke the state license. Clarifies that transfers of location require both state and local approval. Contains other provisions. Effective May 28, 2012. Lobbyist: Kevin Bommer, kbommer@cml.org.

**HB 13-1317** **MARIJUANA**  
**Implementation of Amendment 64**

Specifies all future medical and retail marijuana sales and excise tax revenue, as well as all state licensing and application fees, will be deposited into a single fund for the Marijuana Enforcement Division of the Department of Revenue. Establishes that on Oct. 1, an existing medical marijuana licensee may apply to the state licensing authority for a state retail marijuana establishment license. Clarifies that under certain circumstances, including local approval, the licensee may continue to operate part of the licensed premises for medical marijuana (MMJ) and part for retail marijuana (RMJ). Requires the state to act upon applications between 45 and 90 days, and that conditional licenses must be issued before Jan. 1, and will be effective on Jan. 1. Establishes that after Jan. 1, any person not already licensed for MMJ may submit a notice of intent to apply for a retail license and that a notice fee may be collected and half will be sent to the local jurisdiction. Establishes that such person may apply for a state license on July 1, 2014. Specifies that one-half of the application fee collected will be sent to the local jurisdiction unless the

jurisdiction has opted out pursuant to its authority to do so under Amendment 64. Establishes that local jurisdictions may enact ordinances and regulations governing the time, place, manner, and number of marijuana establishments. Clarifies that a local jurisdiction has the option to create a local licensing requirement. Contains numerous other provisions. Effective May 28, 2013. Lobbyist: Kevin Bommer, kbommer@cml.org.

**HB 13-1318** **MARIJUANA**

**Sales and excise tax ballot question**

Creates the statutory framework for retail marijuana excise and sales taxes, subject to approval by voters via a single question on the November 2014 ballot. Imposes a tax of 10 percent on the sale of retail marijuana or retail marijuana products to a consumer by a retail marijuana store. Specifies that the general assembly is authorized to establish a rate that is lower than 10 percent by a bill enacted by the general assembly and signed into law by the governor and may subsequently increase the tax up to 15 percent in the same manner and without additional voter approval. Specifies that 15 percent of the sales tax collected will be distributed to each local government in the state that has one or more retail marijuana stores within its boundaries and that each local government's share of the revenues collected shall be apportioned according to the percentage of retail marijuana and retail marijuana products sales tax revenues collected by the department in the local government as compared to the total retail marijuana and retail marijuana products sales tax collections in the state. Imposes a 15 percent excise tax on the sale or transfer of unprocessed retail marijuana by a retail marijuana cultivation facility to a retail marijuana store, retail marijuana product manufacturing facility, or another retail marijuana cultivation facility. Allows the legislature to lower and raise the tax in the same manner as the sales tax. Specifies that the first \$40 million of the excise tax shall be transferred to the public school capital construction assistance fund. Contains other provisions. Effective May 28, 2013, except that the sales and excises taxes become effective upon official declaration of the vote by the governor following successful passage by the voters. Lobbyist: Kevin Bommer, kbommer@cml.org.

**SB 13-283** **MARIJUANA**

**Implementation of Amendment 64 consensus recommendations**

Permits a local government to prohibit the use of a compressed flammable gas as a solvent in residential marijuana cultivation. Creates the crime of illegal possession of retail marijuana by an underage person to mirror the same crime for alcohol. Encourages peace officer training to include advanced roadside impairment driving enforcement training. Prohibits the use of all lawful retail marijuana along with existing prohibition on use of tobacco products on school property. Includes marijuana in prohibitions under the Colorado Clean Indoor Air Act. Creates an open container offense for marijuana to mirror the open container offense for alcohol. Contains other

provisions. Effective May 28, 2013. Lobbyist: Kevin Bommer, kbommer@cml.org.

**HB 13-1060** **MUNICIPAL COURTS**

**Maximum municipal court fines**

Raises the maximum amount a municipal court can fine from \$1,000 to \$2,650. Indexes the fine amount automatically for the future. Effective April 18, 2013. Lobbyist: Meghan Storrie, mstorrie@cml.org.

**HB 13-1292** **MUNICIPAL FINANCE**

**Keep Jobs in Colorado Act**

Rewrites an existing 1933 statute that requires 80 percent of the workforce employed through a state or local government construction contract to be Colorado residents. Applies mostly to state government, but directs several portions at both state and political subdivisions. Removes from statute criminal penalties public officials face for noncompliance and replaces them with a civil process with enforcement penalties directed at contractors. Assigns complaints and enforcement of the 80 percent requirement to the director of the Department of Labor and Employment. Contains a waiver process when the labor percentage cannot be met. Requires that construction contracts with out-state contractors apply an equal bid preference percentage that may be required by the contractor's home state. Requires a list of other state's preference percentages to be maintained by the DPA. Effective Jan. 1, 2014. *Reprinted.* Lobbyist: Mark Radtke, mradtke@cml.org.

**SB 13-247** **MUNICIPAL FINANCE**

**Reciprocal debt collection agreements**

Extends the debt collection ability of the Colorado Department of Personnel and Administration (DPA) through the establishment of reciprocal agreements with federal and other state governments. Permits municipalities to utilize DPA debt collection services and this additional ability to secure payment of debt. Effective: Aug. 7, 2013. Lobbyist: Mark Radtke, mradtke@cml.org.

**SB 13-254** **MUNICIPAL FINANCE**

**Fleet vehicle energy cost-savings contracts**

Authorizes performance contracts pertaining to vehicle fleet operational and fuel cost savings. Allows private investment for the purchase of energy-efficient vehicles to be repaid through energy cost savings. Includes natural gas and electric fueled vehicles among the fleet options. Effective June 5, 2013. Lobbyist: Mark Radtke, mradtke@cml.org.

**HB 13-1203** **MUNICIPAL GOVERNMENT**

**List of contracts between political subdivisions**

Repeals a requirement that municipalities and other local governments report intergovernmental agreements to the Department of Local Affairs. Provides that information must continue to be made available to the Department of Local Affairs if requested. Effective Aug. 7, 2013. Lobbyist: Mark Radtke, mradtke@cml.org.

**HB 13-1278****OIL & GAS****Spill reporting**

Requires that any spill of one barrel or more of exploration or production waste outside the containment berm be reported within 24 hours to the Colorado Oil and Gas Conservation Commission and local emergency response authorities. Contains other provisions. Effective Aug. 7, 2013. Lobbyist: Geoff Wilson, gwilson@cml.org.

**SB 13-202****OIL & GAS****Inspections – Risk based**

Directs the Colorado Oil and Gas Conservation Commission to use a “risk based” approach to inspections, in which inspections would occur when the most risk of violations occurs. Effective May 25, 2013. Lobbyist: Geoff Wilson, gwilson@cml.org.

**HB 13-1041****OPEN RECORDS****Transmission of copies**

Requires the custodian of public records to transmit a copy of a requested record to the person so requesting, but requires the custodian to notify the requestor that the copy will be sent only once the custodian receives payment of shipping costs and other lawfully allowed fees, unless such fees are waived or other arrangements for payment are made. Provides that no transmission fee may be charged for transmitting digital records via email. Requires that the requested records be sent by three business days following receipt of payment of all fees. Contains other provisions. Effective March 8, 2013. *Reprinted*. Lobbyist: Geoff Wilson, gwilson@cml.org.

**SB 13-234****PENSIONS/RETIREMENT****Fire and police – Payoff of state unfunded liability obligation**

For the fiscal year 2013-2014, the bill increases the state’s contribution to the unfunded accrued liability of old hire pension plans affiliated with the fire and police pension association in an amount to remove the state’s obligation. Contains other provisions. Effective May 10, 2013. Lobbyist: Kevin Bommer, kbommer@cml.org.

**SB 13-240****PENSIONS/RETIREMENT****Fire and police – Election threshold for approval of plan changes**

Specifies that more than 65 percent of members who vote in an election proposing a modification to the Fire and Police Pension Association Statewide Defined Benefit Plan and more than 50 percent of employers who vote in the election proposing the modification are required to approve such modification to the statewide defined benefit plan. Removes the requirement for approval by 65 percent of active members and 50 percent of all employers. Effective Aug. 7, 2013. Lobbyist: Kevin Bommer, kbommer@cml.org.

**HB 13-1046****PERSONNEL****Employee user name password privacy protection**

Prohibits an employer from requesting or requiring an employee or applicant to disclose any user name, password, or other means for accessing his or her personal account or service through the employee’s or applicant’s electronic communication device. Excludes state and local law enforcement agencies. Establishes a complaint and review function within the Colorado Department of Labor and Employment. Effective May 11, 2013. Lobbyist: Meghan Storrie, mstorrie@cml.org.

**SB 13-138****PUBLIC SAFETY****School resource officer programs in public schools**

Defines responsibilities for school resource officers. Allows school safety officers to work with community partners, including local governments, to establish and maintain a safety program. Effective May 23, 2013. Lobbyist: Meghan Storrie, mstorrie@cml.org.

**HB 13-1302****SPECIAL DISTRICTS****Consolidation**

Clarifies that consolidation of special districts does not require a full service plan review pursuant to the Special District Control Act, provided the consolidated district does not provide new or different services than are already being provided to the municipality by one or more of the consolidated districts Effective Aug. 7, 2013. Lobbyist: Geoff Wilson, gwilson@cml.org.

**HB 13-1144****TAXATION****Sales and use tax – Cigarettes**

Eliminates the state sales tax exemption for cigarettes. Retains the exemption of cigarettes from local sales and use taxes. Effective May 28, 2013. Lobbyist: Geoff Wilson, gwilson@cml.org.

**HB 13-1288****TAXATION****Sales and use tax – Uniform tax base**

Requires the Department of Revenue (DOR) to make recommendations to the General Assembly regarding the establishment of a revenue-neutral sales- and use-tax base for the state and all local governments. Defines “revenue neutral” as meaning that the uniform base, when substituted for a jurisdiction’s current tax base, will have no more than a *de minimis* effect on revenues. Directs the DOR to develop uniform definitions for purposes of taxation and exemption, as well as a uniform list of items exempt from state and local taxation. Requires DOR to make its report by Dec. 31, 2013. Contains other provisions. Effective May 28, 2013. Lobbyist: Geoff Wilson, gwilson@cml.org.

**HB 13-1295****TAXATION****Sales and use tax – Marketplace Fairness Act**

Permits the state to require collection of state and local sales and use tax by “remote commerce” (nexus)

retailers, pursuant to the requirements of the Marketplace Fairness Act (MFA). Provides for a single point of remittance, use of the state tax base, a standardized remitting form, and a single audit for remote vendors. Permits the state to collect such taxes for home rule jurisdictions that choose to accept the collection method required in the MFA. Contains other provisions. Generally takes effect upon the passage of the MFA by Congress. Effective May 28, 2013. Lobbyist: Geoff Wilson, gwilson@cml.org.

**SB 13-027** **TRANSPORTATION**  
**Regional Transportation District – Mass transit station parking facilities**

Allows the Regional Transportation District (RTD) to enter into contracts with third parties to build or operate parking facilities and charge for parking, as RTD is prohibited from charging for parking (with a few exceptions). Includes municipalities as well as the private sector as third parties. Requires RTD to consult with the appropriate municipality before moving forward with a paid parking project. Effective April 26, 2013. Lobbyist: Mark Radtke, mradtke@cml.org.

**SB 13-048** **TRANSPORTATION**  
**Highway Users Tax Fund – Transit**

Expands municipal use of revenue from the Highway Users Tax Fund (HUTF) to include transit projects, specifically the planning, design, engineering, acquisition, installation, construction, repair, reconstruction, maintenance, operation or administration of transit-related projects. Also includes bicycle and pedestrian lanes. Applies a 15-percent limit of HUTF funds for transit operations. Effective July 1, 2013. *Reprinted.* Lobbyist: Mark Radtke, mradtke@cml.org.

**HB 13-1054** **UNEMPLOYMENT INSURANCE**  
**Reduction of benefits**

Clarifies that only an amount withdrawn from the retirement plan by an unemployment claimant, and not the total balance in the plan, is considered in determining the length of time the claimant is not eligible to receive benefits. Effective April 4, 2013. Lobbyist: Kevin Bommer, kbommer@cml.org.

**HB 13-1044** **WATER**  
**Graywater treatment works**

Defines “graywater” as that portion of wastewater that, before being treated or combined with other wastewater, is collected from fixtures within residential, commercial, or industrial buildings or institutional facilities for the purpose of being put to beneficial uses authorized by the Water Quality Control Commission. Specifies that graywater must be collected in a manner that minimizes household wastes, human excreta, animal or vegetable matter, and chemicals that are hazardous or toxic as determined by the commission. Defines “graywater treatment works”. Authorizes the commission to establish minimum statewide requirements, standards, and prohibitions. Establishes that

graywater may only be used under certain conditions, including adoption by the local government of a resolution or ordinance authorizing its use. Contains other provisions. Effective May 15, 2013. *Reprinted.* Lobbyist: Kevin Bommer, kbommer@cml.org.

**HB 13-1130** **WATER**  
**Interruptible water supply agreement extension**

States that the state engineer may reapprove an interruptible water supply agreement two additional times using similar procedures to the establishment of the original agreement that allowed the state engineer to approve the operation of an interruptible water supply agreement for three years out of a single 10-year period, but previously prohibited approving the agreement for operation in any later period. Contains other provisions. Effective Aug. 7, 2013. Lobbyist: Kevin Bommer, kbommer@cml.org.

**SB 13-019** **WATER**  
**Consumptive use not decreased by conservation**

Declares that decreasing water consumption by appropriators who participate in government-sponsored water conservation programs promotes the maximum utilization of Colorado’s water resources and is in the public interest. Directs water judges to disregard the decrease in use of water from conservation programs in its determinations of historical consumptive use in change of water right cases. Effective May 18, 2013. Lobbyist: Kevin Bommer, kbommer@cml.org.

**SB 13-041** **WATER**  
**Expansion of beneficial use definition**

Reverses *Upper Yampa Water Conservancy Dist. v. Wolfe*, 255 P.3d 1108 (Colo. 2011), by expanding the definition of “beneficial use” to include the impoundment of water for firefighting or storage for any lawful purpose. Establishes related criteria. Effective Aug. 7, 2013. Lobbyist: Kevin Bommer, kbommer@cml.org.

**SB 13-258** **WATER**  
**Stages in development approval process**

Modifies the definition “development permit” as used in connection with statutory requirements that land development be supported by and adequate water supply. Clarifies that each application included in the definition of the term constitutes a stage in the development permit approval process. Effective May 23, 2013. Lobbyist: Kevin Bommer, kbommer@cml.org.

**HB 13-1025** **WORKERS’ COMPENSATION**  
**Insurance policy deductibles**

Increases the amount of the authorized employer workers’ compensation deductible up to the amount of the workers’ compensation insurance rate split-point approved by the commissioner of insurance. Specifies that it does not abrogate an employer’s responsibility to pay the full amount of the benefits. Specifies that it is a violation of the workers’

compensation laws for an employer to require an employee to pay any part of workers' compensation benefits due or to require an employee to use any other type of insurance to pay any part of workers' compensation benefits. Effective April 26, 2013. Lobbyist: Kevin Bommer, kbommer@cml.org.

**SB 13-147**                      **WORKERS' COMPENSATION**  
**Liability for off-premise injury**

Clarifies that an employer is not liable as a statutory employer when a lessee, sublessee, contractor, or subcontractor, or its employee, is injured while not on the employer's premises. Effective June 6, 2013. Lobbyist: Kevin Bommer, kbommer@cml.org.

**SB 13-249**                      **WORKERS' COMPENSATION**  
**Independent medical examiners**

Requires the Division of Workers' Compensation in the Department of Labor and Employment to review an independent medical examiner's (IME) report within five days of its receipt and either issue a notice to all parties in the case that it has received the report or to notify the IME and all parties that there are deficiencies in the report. Allows the IME 20 days to remedy and resubmit a deficient report. Contains other provisions. Effective Aug. 7, 2013. Lobbyist: Kevin Bommer, kbommer@cml.org.

**SB 13-285**                      **WORKERS' COMPENSATION**  
**Claim procedures and dispute resolution**

Requires a claimant to be reimbursed by the employer or workers' compensation carrier for medical treatment provided if the employer, after notice of the injury, fails to provide medical treatment. Requires recalculation of the average weekly wage by the employer, carrier, or third-party administrator after notice of termination of a fringe benefit or other advantage, is required to recalculate the average weekly wage and begin payment of the wages based on the recalculated amount. Requires temporary partial disability to be paid at least once every two weeks and requires an employer, carrier, or third-party administrator to provide a claimant a complete copy of the claim file within 15 days after the mailing of a written request. Extends the amount of time that must pass before an employer or insurer may request an independent medical examiner if the treating physician has not determined that an injured worker has reached maximum medical improvement from 18 to 24 months. Specifies that the independent medical examiner shall determine the worker's permanent medical impairment if the independent medical examiner determines that the worker has reached maximum medical improvement. Effective May 28, 2013. Lobbyist: Kevin Bommer, kbommer@cml.org.

**HB 13-1239**                      **YOUTH DEVELOPMENT**  
**Creation of a statewide youth plan**

Requires the board of the Tony Grampsas Youth Services Program to convene a group of interested parties to create a statewide youth development plan that identifies key

issues and aligns strategic efforts to achieve positive outcome for all youths. Specifies that \$300,000 in grant funding for Fiscal Year 2013-2014 is to be used for technical assistance grants to community-based organizations. Requires the plan to include a baseline measure of youth activities, which may include data and resources collected on youth risk behavior such as those contributing to injury and violence; sexual behaviors contributing to unintended pregnancy and sexually transmitted diseases; alcohol, tobacco, and drug use; unhealthy dietary behaviors; and inadequate physical activity. Specifies that the report must be completed by Sept. 30, 2014 and biennially thereafter. Effective July 1, 2013. Lobbyist: Meghan Storrie, mstorrie@cml.org.



# An Act

HOUSE BILL 13-1041

BY REPRESENTATIVE(S) Pettersen, Court, Duran, Exum, Fields, Hamner, Hullinghorst, Kraft-Tharp, Melton, Mitsch Bush, Murray, Pabon, Rosenthal, Schafer, Tyler, Young;  
also SENATOR(S) Kefalas, Heath, Nicholson.

CONCERNING PROCEDURES GOVERNING THE TRANSMISSION OF PUBLIC RECORDS THAT ARE COPIED IN RESPONSE TO A REQUEST FOR INSPECTION OF SUCH RECORDS UNDER THE "COLORADO OPEN RECORDS ACT".

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

**SECTION 1.** In Colorado Revised Statutes, 24-72-205, **amend** (1) as follows:

**24-72-205. Copy, printout, or photograph of a public record.**

(1) (a) In all cases in which a person has the right to inspect a public record, the person may request a copy, printout, or photograph of the record. The custodian shall furnish a copy, printout, or photograph and may charge a fee determined in accordance with subsection (5) of this section; except that, when the custodian is the secretary of state, fees shall be determined and collected pursuant to section 24-21-104 (3), and when the custodian is the executive director of the department of personnel, fees shall be

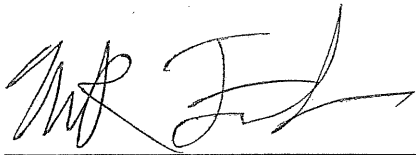
determined and collected pursuant to section 24-80-102 (10). Where the fee for a certified copy or other copy, printout, or photograph of a record is specifically prescribed by law, the specific fee shall apply.

(b) UPON REQUEST FOR RECORDS TRANSMISSION BY A PERSON SEEKING A COPY OF ANY PUBLIC RECORD, THE CUSTODIAN SHALL TRANSMIT A COPY OF THE RECORD BY UNITED STATES MAIL, OTHER DELIVERY SERVICE, FACSIMILE, OR ELECTRONIC MAIL. NO TRANSMISSION FEES MAY BE CHARGED TO THE RECORD REQUESTER FOR TRANSMITTING PUBLIC RECORDS VIA ELECTRONIC MAIL. WITHIN THE PERIOD SPECIFIED IN SECTION 24-72-203 (3) (a), THE CUSTODIAN SHALL NOTIFY THE RECORD REQUESTER THAT A COPY OF THE RECORD IS AVAILABLE BUT WILL ONLY BE SENT TO THE REQUESTER ONCE THE CUSTODIAN EITHER RECEIVES PAYMENT OR MAKES ARRANGEMENTS FOR RECEIVING PAYMENT FOR ALL COSTS ASSOCIATED WITH RECORDS TRANSMISSION AND FOR ALL OTHER FEES LAWFULLY ALLOWED, UNLESS RECOVERY OF ALL OR ANY PORTION OF SUCH COSTS OR FEES HAS BEEN WAIVED BY THE CUSTODIAN. UPON EITHER RECEIVING SUCH PAYMENT OR MAKING ARRANGEMENTS TO RECEIVE SUCH PAYMENT AT A LATER DATE, THE CUSTODIAN SHALL SEND THE RECORD TO THE REQUESTER AS SOON AS PRACTICABLE BUT NO MORE THAN THREE BUSINESS DAYS AFTER RECEIPT OF, OR MAKING ARRANGEMENTS TO RECEIVE, SUCH PAYMENT.

**SECTION 2. Applicability.** This act applies to any record request made on or after the effective date of this act.

**SECTION 3. Safety clause.** The general assembly hereby finds,

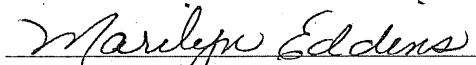
determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.




Mark Ferrandino  
SPEAKER OF THE HOUSE  
OF REPRESENTATIVES



John P. Morse  
PRESIDENT OF  
THE SENATE

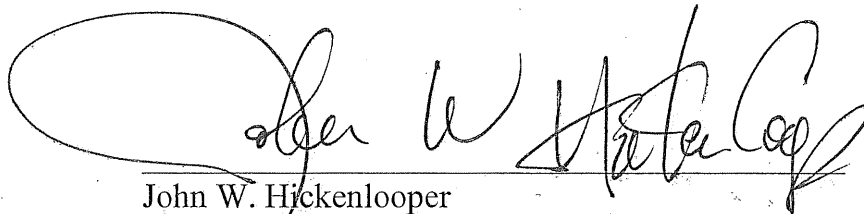


Marilyn Eddins  
CHIEF CLERK OF THE HOUSE  
OF REPRESENTATIVES



Cindi L. Markwell  
SECRETARY OF  
THE SENATE

APPROVED 10:57 am 3/8/13



John W. Hickenlooper  
GOVERNOR OF THE STATE OF COLORADO

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# An Act

HOUSE BILL 13-1044

BY REPRESENTATIVE(S) Fischer, Coram, Duran, Fields, Ginal, Hamner, Hullinghorst, Labuda, Lebsock, Mitsch Bush, Moreno, Murray, Rosenthal, Salazar, Schafer, Sonnenberg, Young, Peniston, Rankin, Williams; also SENATOR(S) Schwartz, Aguilar, Giron, Guzman, Heath, Jahn, Jones, Kefalas, Kerr, Newell, Nicholson, Steadman, Tochtrop, Todd, Ulibarri, Morse.

CONCERNING THE AUTHORIZATION OF THE USE OF GRAYWATER.

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

**SECTION 1. Legislative declaration.** (1) The general assembly hereby:

(a) Recognizes that increasing the economic well-being of the state by ensuring adequate future water supplies is one of the general assembly's highest priorities and greatest responsibilities;

(b) Determines that reducing per capita residential, commercial, and industrial demands for potable water is one of the important public policy strategies required for meeting Colorado's future water demands;

(c) Finds that innovative uses of existing technologies, such as

graywater treatment systems, will:

(I) Play an important role in reducing per capita consumption of water;

(II) Enable significantly greater efficiencies in the use of water within facilities; and

(III) Have the potential to reduce water and wastewater treatment costs and energy consumption; and

(d) Declares that:

(I) The greater public interest is served by policies that promote greater efficiency in the first use of water within residential, commercial, and industrial facilities; and

(II) Policies allowing the use of graywater systems, while preserving the health, safety, and welfare of Coloradans, represent one strategy available for achieving greater efficiency in the use of the state's vital water resources.

**SECTION 2.** In Colorado Revised Statutes, 25-8-103, **add** (8.3) and (8.4) as follows:

**25-8-103. Definitions.** As used in this article, unless the context otherwise requires:

(8.3) "GRAYWATER" MEANS THAT PORTION OF WASTEWATER THAT, BEFORE BEING TREATED OR COMBINED WITH OTHER WASTEWATER, IS COLLECTED FROM FIXTURES WITHIN RESIDENTIAL, COMMERCIAL, OR INDUSTRIAL BUILDINGS OR INSTITUTIONAL FACILITIES FOR THE PURPOSE OF BEING PUT TO BENEFICIAL USES AUTHORIZED BY THE COMMISSION IN ACCORDANCE WITH SECTION 25-8-205 (1) (g). SOURCES OF GRAYWATER MAY INCLUDE DISCHARGES FROM BATHROOM AND LAUNDRY ROOM SINKS, BATHTUBS, SHOWERS, LAUNDRY MACHINES, AND OTHER SOURCES AUTHORIZED BY RULE. GRAYWATER DOES NOT INCLUDE THE WASTEWATER FROM TOILETS, URINALS, KITCHEN SINKS, DISHWASHERS, OR NONLAUNDRY UTILITY SINKS. GRAYWATER MUST BE COLLECTED IN A MANNER THAT MINIMIZES HOUSEHOLD WASTES, HUMAN EXCRETA, ANIMAL OR VEGETABLE

MATTER, AND CHEMICALS THAT ARE HAZARDOUS OR TOXIC, AS DETERMINED BY THE COMMISSION.

(8.4) "GRAYWATER TREATMENT WORKS" MEANS AN ARRANGEMENT OF DEVICES AND STRUCTURES USED TO:

(a) COLLECT GRAYWATER FROM WITHIN A BUILDING OR A FACILITY;  
AND

(b) TREAT, NEUTRALIZE, OR STABILIZE GRAYWATER WITHIN THE SAME BUILDING OR FACILITY TO THE LEVEL NECESSARY FOR ITS AUTHORIZED USES.

**SECTION 3.** In Colorado Revised Statutes, 25-8-205, **add** (1) (g) as follows:

**25-8-205. Control regulations.** (1) The commission may promulgate control regulations for the following purposes:

(g) (I) TO DESCRIBE REQUIREMENTS, PROHIBITIONS, AND STANDARDS FOR THE USE OF GRAYWATER FOR NONDRINKING PURPOSES, TO ENCOURAGE THE USE OF GRAYWATER, AND TO PROTECT PUBLIC HEALTH AND WATER QUALITY.

(II) GRAYWATER MAY BE USED ONLY IN AREAS WHERE THE LOCAL CITY, CITY AND COUNTY, OR COUNTY HAS ADOPTED AN ORDINANCE OR RESOLUTION APPROVING THE USE OF GRAYWATER PURSUANT TO SECTION 30-11-107 (1) (kk) OR 31-15-601 (1) (m), C.R.S. THE CITY, CITY AND COUNTY, OR COUNTY THAT HAS ADOPTED AN ORDINANCE OR RESOLUTION APPROVING THE USE OF GRAYWATER PURSUANT TO SECTION 30-11-107 (1) (kk) OR 31-15-601 (1) (m), C.R.S., HAS EXCLUSIVE ENFORCEMENT AUTHORITY REGARDING COMPLIANCE WITH THE ORDINANCE OR RESOLUTION.

(III) USE OF GRAYWATER SHALL BE ALLOWED ONLY IN ACCORDANCE WITH THE TERMS AND CONDITIONS OF THE DECREES, CONTRACTS, AND WELL PERMITS APPLICABLE TO THE USE OF THE SOURCE WATER RIGHTS OR SOURCE WATER AND ANY RETURN FLOWS THEREFROM, AND NO USE OF GRAYWATER SHALL BE ALLOWED THAT WOULD NOT BE ALLOWED UNDER SUCH DECREES, CONTRACTS, OR PERMITS IF THE GRAYWATER ORDINANCE OR RESOLUTION DID NOT EXIST.

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(IV) A LOCAL CITY, CITY AND COUNTY, OR COUNTY MAY ONLY AUTHORIZE THE USE OF GRAYWATER IN ACCORDANCE WITH FEDERAL, STATE, AND LOCAL REQUIREMENTS.

**SECTION 4.** In Colorado Revised Statutes, 30-11-107, **add** (1)(kk) as follows:

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

(kk) (I) TO ADOPT A RESOLUTION TO AUTHORIZE, IN CONSULTATION WITH THE LOCAL BOARD OF HEALTH, LOCAL PUBLIC HEALTH AGENCIES, AND ANY WATER AND WASTEWATER SERVICE PROVIDERS SERVING THE COUNTY, THE USE OF GRAYWATER, AS DEFINED IN SECTION 25-8-103 (8.3), C.R.S., IN COMPLIANCE WITH ANY REGULATION ADOPTED PURSUANT TO SECTION 25-8-205 (1) (g), C.R.S., AND TO ENFORCE COMPLIANCE WITH THE BOARD'S RESOLUTION.

(II) BEFORE ADOPTING A RESOLUTION TO AUTHORIZE THE USE OF GRAYWATER PURSUANT TO SUBPARAGRAPH (I) OF THIS PARAGRAPH (kk), A BOARD OF COUNTY COMMISSIONERS IS ENCOURAGED TO ENTER INTO A MEMORANDUM OF UNDERSTANDING WITH THE LOCAL BOARD OF HEALTH, LOCAL PUBLIC HEALTH AGENCIES, AND ANY WATER AND WASTEWATER SERVICE PROVIDERS SERVING THE COUNTY CONCERNING GRAYWATER USAGE AND THE PROPER INSTALLATION AND OPERATION OF GRAYWATER TREATMENT WORKS, AS DEFINED IN SECTION 25-8-103 (8.4), C.R.S.

**SECTION 5.** In Colorado Revised Statutes, 31-15-601, **add** (1)(m) as follows:

**31-15-601. Building and fire regulations - emission performance standards required.** (1) The governing bodies of municipalities have the following powers in relation to building and fire regulations:

(m) (I) TO ADOPT AN ORDINANCE TO AUTHORIZE, IN CONSULTATION WITH THE LOCAL BOARD OF HEALTH, LOCAL PUBLIC HEALTH AGENCIES, AND ANY WATER AND WASTEWATER SERVICE PROVIDERS SERVING THE MUNICIPALITY, THE USE OF GRAYWATER, AS DEFINED IN SECTION 25-8-103 (8.3), C.R.S., IN COMPLIANCE WITH ANY REGULATION ADOPTED PURSUANT TO SECTION 25-8-205 (1) (g), C.R.S., AND TO ENFORCE COMPLIANCE WITH



THE GOVERNING BODY'S ORDINANCE.

(II) BEFORE ADOPTING AN ORDINANCE TO AUTHORIZE THE USE OF GRAYWATER PURSUANT TO SUBPARAGRAPH (I) OF THIS PARAGRAPH (m), THE MUNICIPAL GOVERNING BODY IS ENCOURAGED TO ENTER INTO A MEMORANDUM OF UNDERSTANDING WITH THE LOCAL BOARD OF HEALTH, LOCAL PUBLIC HEALTH AGENCIES, AND ANY WATER AND WASTEWATER SERVICE PROVIDERS SERVING THE MUNICIPALITY CONCERNING GRAYWATER USAGE AND THE PROPER INSTALLATION AND OPERATION OF GRAYWATER TREATMENT WORKS, AS DEFINED IN SECTION 25-8-103 (8.4), C.R.S.

**SECTION 6.** In Colorado Revised Statutes, 37-90-105, **amend** (7); and **add** (8) as follows:

**37-90-105. Small capacity wells.** (7) (a) The board of ~~any ground water~~ A GROUNDWATER management district ~~has the authority to~~ MAY adopt rules that further restrict the issuance of small capacity well permits and use of rooftop precipitation collection systems OR GRAYWATER TREATMENT WORKS. In addition, the board of ~~any ground water~~ A GROUNDWATER management district ~~has the authority to~~ MAY adopt rules that expand the acre-foot limitations for small capacity wells set forth in this section. However, ~~in no event~~ THE BOARD OF A GROUNDWATER MANAGEMENT DISTRICT shall NOT ALLOW an annual volume of more than eighty acre-feet ~~be allowed~~ for any small capacity well.

(b) THE BOARD MAY INSTITUTE ITS rules ~~adopted by the board may be instituted~~ only after a public hearing. ~~Notice~~ THE BOARD SHALL PUBLISH NOTICE of ~~such~~ THE hearing, ~~shall be published.~~ Such notice shall state STATING the time and place of the hearing and ~~describe~~ DESCRIBING, in general terms, the rules proposed. Within sixty days after ~~such~~ THE hearing, the board shall announce the rules adopted and shall ~~cause~~ PUBLISH notice of ~~such~~ THE action. ~~to be published.~~ In addition, the board shall mail, within five days after the adoption of the rules, a copy of the rules to the state engineer.

(c) Any party adversely affected or aggrieved by ~~such~~ a rule may, not later than thirty days after the last date of publication, initiate judicial review in accordance with ~~the provisions of~~ section 24-4-106, C.R.S.; except that venue for ~~such~~ judicial review shall OF THE RULE MUST be in the district court for the county in which the office of the ~~ground water~~

GROUNDWATER management district is located.

(8) A PERSON WITHDRAWING WATER FROM A WELL PURSUANT TO PARAGRAPH (a) OR (c) OF SUBSECTION (1) OF THIS SECTION MAY USE GRAYWATER THROUGH USE OF A GRAYWATER TREATMENT WORKS, AS THOSE TERMS ARE DEFINED IN SECTION 25-8-103 (8.3) AND (8.4), C.R.S., IN COMPLIANCE WITH THE REQUIREMENTS OF SECTION 25-8-205 (1) (g), C.R.S. ANY LIMITATIONS ON USE SET FORTH IN THE WELL PERMIT APPLY TO THE USE OF GRAYWATER.

**SECTION 7.** In Colorado Revised Statutes, 37-90-107, **add** (5.5) as follows:

**37-90-107. Application for use of groundwater - publication of notice - conditional permit - hearing on objections - well permits.** (5.5) A PERSON WITHDRAWING WATER FROM A WELL PURSUANT TO SUBSECTION (3) OF THIS SECTION MAY USE GRAYWATER THROUGH USE OF A GRAYWATER TREATMENT WORKS, AS THOSE TERMS ARE DEFINED IN SECTION 25-8-103 (8.3) AND (8.4), C.R.S., IN COMPLIANCE WITH THE REQUIREMENTS OF SECTION 25-8-205 (1) (g), C.R.S. ANY LIMITATIONS ON USE SET FORTH IN THE WELL PERMIT, OR IN THE PROVISIONS OF ANY APPROVED REPLACEMENT PLAN, APPLY TO THE USE OF GRAYWATER.

**SECTION 8.** In Colorado Revised Statutes, 37-90-137, **add** (15) as follows:

**37-90-137. Permits to construct wells outside designated basins - fees - permit no groundwater right - evidence - time limitation - well permits - rules - repeal.** (15) A PERSON WITHDRAWING WATER FROM A WELL PURSUANT TO SUBSECTION (1) OR (4) OF THIS SECTION MAY USE GRAYWATER THROUGH THE USE OF A GRAYWATER TREATMENT WORKS, AS THOSE TERMS ARE DEFINED IN SECTION 25-8-103 (8.3) AND (8.4), C.R.S., IN COMPLIANCE WITH THE REQUIREMENTS OF SECTION 25-8-205 (1) (g), C.R.S. ANY LIMITATIONS ON USE SET FORTH IN THE WELL PERMIT, AND THE PROVISIONS OF ANY DECREED PLAN FOR AUGMENTATION, APPLY TO THE USE OF GRAYWATER.

**SECTION 9.** In Colorado Revised Statutes, 37-92-102, **add** (7) as follows:

**37-92-102. Legislative declaration - basic tenets of Colorado water law.** (7) WATER USERS SERVED BY A PROVIDER OF MUNICIPAL OR INDUSTRIAL WATER SUPPLIES MAY USE GRAYWATER AND INSTALL GRAYWATER TREATMENT WORKS, AS THOSE TERMS ARE DEFINED IN SECTION 25-8-103 (8.3) AND (8.4), C.R.S., IF:

(a) THE USE OF GRAYWATER IS LIMITED TO THE CONFINES OF THE OPERATION THAT GENERATES THE GRAYWATER;

(b) GRAYWATER IS USED FOR PURPOSES THAT ARE PERMISSIBLE UNDER THE MUNICIPALITY'S OR WATER DISTRICT'S WATER RIGHTS; AND

(c) GRAYWATER IS USED IN COMPLIANCE WITH THE REQUIREMENTS OF SECTION 25-8-205 (1) (g), C.R.S.

**SECTION 10.** In Colorado Revised Statutes, 37-92-602, **add** (1.5) as follows:

**37-92-602. Exemptions - presumptions - legislative declaration.** (1.5) A PERSON WITHDRAWING WATER FROM A WELL PURSUANT TO THIS SECTION MAY USE GRAYWATER THROUGH USE OF A GRAYWATER TREATMENT WORKS, AS THOSE TERMS ARE DEFINED IN SECTION 25-8-103 (8.3) AND (8.4), C.R.S., IN COMPLIANCE WITH THE REQUIREMENTS OF SECTION 25-8-205 (1) (g), C.R.S. ANY LIMITATIONS ON USE SET FORTH IN THE WELL PERMIT APPLY TO THE USE OF GRAYWATER.

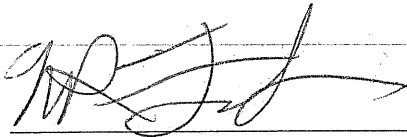
**SECTION 11.** In Colorado Revised Statutes, 12-58-101, **add** (3) as follows:

**12-58-101. Legislative declaration.** (3) THE GENERAL ASSEMBLY ENCOURAGES THE EXAMINING BOARD OF PLUMBERS TO ADOPT AND INCORPORATE BY REFERENCE APPENDIX C OF THE INTERNATIONAL PLUMBING CODE (I.P.C.), 2009 EDITION, PROMULGATED BY THE INTERNATIONAL CODE COUNCIL, FIRST PRINTING (JANUARY 2009), OR THE GRAYWATER PROVISIONS WITHIN A NEWER EDITION OF THE I.P.C., WHETHER THE PROVISIONS ARE CONTAINED IN APPENDIX C OR ELSEWHERE.

**SECTION 12. No appropriation.** The general assembly has determined that this act can be implemented within existing appropriations, and therefore no separate appropriation of state moneys is necessary to carry

out the purposes of this act.

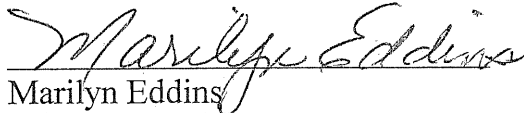
**SECTION 13. Safety clause.** The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.



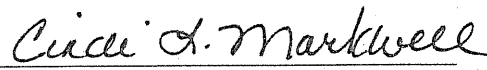
Mark Ferrandino  
SPEAKER OF THE HOUSE  
OF REPRESENTATIVES



John P. Morse  
PRESIDENT OF  
THE SENATE



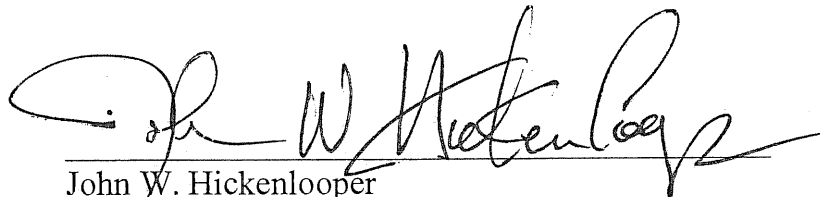
Marilyn Eddins  
CHIEF CLERK OF THE HOUSE  
OF REPRESENTATIVES



Cindi L. Markwell  
SECRETARY OF  
THE SENATE

APPROVED 3:22 Pm

5/15/13



John W. Hickenlooper  
GOVERNOR OF THE STATE OF COLORADO

# An Act

HOUSE BILL 13-1292

BY REPRESENTATIVE(S) Lee and Pabon, Buckner, Court, Duran, Exum, Ferrandino, Fields, Fischer, Foote, Garcia, Ginal, Hamner, Hullinghorst, Kagan, Kraft-Tharp, Labuda, Lebsock, Levy, May, McCann, McLachlan, Melton, Mitsch Bush, Moreno, Peniston, Pettersen, Primavera, Rosenthal, Ryden, Salazar, Schafer, Singer, Tyler, Vigil, Williams, Young; also SENATOR(S) Kerr and Nicholson, Aguilar, Carroll, Giron, Guzman, Heath, Hodge, Hudak, Jahn, Johnston, Jones, Kefalas, Morse, Newell, Schwartz, Steadman, Tochtrop, Todd, Ulibarri.

CONCERNING MODIFICATIONS TO PROCUREMENT REQUIREMENTS FOR GOVERNMENT CONTRACTS RELATED TO UNITED STATES DOMESTIC EMPLOYMENT, AND, IN CONNECTION THEREWITH, MAKING AN APPROPRIATION.

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

**SECTION 1. Short title.** This act shall be known and may be cited as the "Keep Jobs In Colorado Act of 2013".

**SECTION 2.** In Colorado Revised Statutes, **amend** 8-17-101 as follows:

**8-17-101. Colorado labor shall be employed on public**

**works.** (1) Whenever any public works PROJECT financed in whole or in part by funds of the state, counties, school districts, or municipalities of the state of Colorado are undertaken in this state, Colorado labor shall be employed to perform AT LEAST EIGHTY PERCENT OF the work. ~~to the extent of not less than eighty percent of each type or class of labor in the several classifications of skilled and common labor employed on such project or public works.~~ THE GOVERNMENTAL BODY FINANCING A PUBLIC WORKS PROJECT SHALL WAIVE THE EIGHTY PERCENT REQUIREMENT IF THERE IS REASONABLE EVIDENCE TO DEMONSTRATE INSUFFICIENT COLORADO LABOR TO PERFORM THE WORK OF THE PROJECT AND IF COMPLIANCE WITH THIS ARTICLE WOULD CREATE AN UNDUE BURDEN THAT WOULD SUBSTANTIALLY PREVENT A PROJECT FROM PROCEEDING TO COMPLETION. A GOVERNMENTAL BODY THAT ALLOWS A WAIVER PURSUANT TO THIS SUBSECTION (1) SHALL POST NOTICE OF THE WAIVER AND A JUSTIFICATION FOR THE WAIVER ON ITS WEB SITE. A GOVERNMENTAL BODY SHALL NOT IMPOSE CONTRACTUAL DAMAGES ON A CONTRACTOR FOR A DELAY IN WORK DUE TO THE WAIVER PROCESS.

(2) AS USED IN THIS ARTICLE:

(a) "Colorado labor" ~~as used in this article~~ means any person who is a resident of the state of Colorado, ~~at the time of employment~~ AT THE TIME OF THE PUBLIC WORKS PROJECT, without discrimination as to race, color, creed, sex, sexual orientation, marital status, national origin, ancestry, age, or religion except when sex or age is a bona fide occupational qualification. A RESIDENT OF THE STATE OF COLORADO IS A PERSON WHO CAN PROVIDE A VALID COLORADO DRIVER'S LICENSE, A VALID COLORADO STATE-ISSUED PHOTO IDENTIFICATION, OR DOCUMENTATION THAT HE OR SHE HAS RESIDED IN COLORADO FOR THE LAST THIRTY DAYS.

(b) "PUBLIC WORKS PROJECT" SHALL HAVE THE SAME MEANING AS "PUBLIC PROJECT" AS DEFINED IN SECTION 8-19-102 (1).

**SECTION 3.** In Colorado Revised Statutes, **repeal** 8-17-103 as follows:

~~**8-17-103. Penalty for violation.** Any officer or agent of the state, counties, school districts, or municipalities of the state of Colorado or any contractor who violates the provisions of this article is guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of~~

~~not more than five hundred dollars, or by imprisonment in the county jail for not more than one year, or by both such fine and imprisonment.~~

**SECTION 4.** In Colorado Revised Statutes, **add** 8-17-104, 8-17-105, 8-17-106, and 8-17-107 as follows:

**8-17-104. Enforcement - violation - penalties - Colorado labor enforcement cash fund - creation.** (1) THE DEPARTMENT OF LABOR AND EMPLOYMENT SHALL ENFORCE THE REQUIREMENTS OF THIS ARTICLE IN THE EVENT OF A COMPLAINT ALLEGING A POTENTIAL VIOLATION OF THE REQUIREMENTS OF THIS ARTICLE. IN CONNECTION WITH THE DEPARTMENT'S DUTY TO ENFORCE THE REQUIREMENTS OF THIS ARTICLE, THE DEPARTMENT SHALL RECEIVE COMPLAINTS ABOUT POTENTIAL VIOLATIONS OF SUCH REQUIREMENTS, INITIATE INVESTIGATIONS BASED ON SUCH COMPLAINTS, AND IMPOSE PENALTIES FOR THE VIOLATION OF THE REQUIREMENTS OF THIS ARTICLE PURSUANT TO SUBSECTION (2) OF THIS SECTION. THE DEPARTMENT SHALL NOT INVESTIGATE OR TAKE ANY OTHER ACTION REGARDING A COMPLAINT FILED MORE THAN NINETY DAYS AFTER THE PROJECT HAS BEEN FINALIZED.

(2) (a) AFTER CONDUCTING AN INVESTIGATION OF A COMPLAINT ALLEGING A VIOLATION OF THE PROVISIONS OF THIS ARTICLE, IF THE DEPARTMENT OF LABOR AND EMPLOYMENT DETERMINES THAT A CONTRACTOR HAS KNOWINGLY VIOLATED THE REQUIREMENTS OF THIS ARTICLE BY IMPORTING LABOR IN EXCESS OF THAT PERMITTED PURSUANT TO SECTION 8-17-101 (1), THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OF LABOR AND EMPLOYMENT OR THE EXECUTIVE DIRECTOR'S DESIGNEE SHALL IMPOSE A FINE ON SUCH CONTRACTOR AS FOLLOWS:

(I) FOR THE FIRST VIOLATION, FIVE THOUSAND DOLLARS OR AN AMOUNT EQUAL TO ONE PERCENT OF THE COST OF THE CONTRACT, WHICHEVER IS LESS;

(II) FOR THE SECOND VIOLATION, TEN THOUSAND DOLLARS OR AN AMOUNT EQUAL TO ONE PERCENT OF THE COST OF THE CONTRACT, WHICHEVER IS LESS; OR

(III) FOR THE THIRD VIOLATION AND ANY VIOLATION THEREAFTER, TWENTY-FIVE THOUSAND DOLLARS OR AN AMOUNT EQUAL TO ONE PERCENT OF THE COST OF THE CONTRACT, WHICHEVER IS LESS.

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(b) WHEN THE DEPARTMENT OF LABOR AND EMPLOYMENT RECEIVES A COMPLAINT, IT SHALL NOTIFY THE CONTRACTOR OF THE COMPLAINT, BUT SHALL COMMENCE THE INVESTIGATION ONLY AT THE COMPLETION OF THE PROJECT. THE DEPARTMENT SHALL COMPLETE ANY INVESTIGATION IN RESPONSE TO A COMPLAINT WITHIN NINETY DAYS OF THE DATE THAT THE DEPARTMENT BEGAN THE INVESTIGATION. COMPLIANCE SHALL BE MEASURED OVER THE ENTIRETY OF THE COMPLETED PROJECT.

(c) IF THE DEPARTMENT OF LABOR AND EMPLOYMENT HAS IMPOSED THREE FINES ON A CONTRACTOR PURSUANT TO PARAGRAPH (a) OF THIS SUBSECTION (2) WITHIN FIVE YEARS AND FINDS THE VIOLATIONS TO BE EGREGIOUS, THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OF LABOR AND EMPLOYMENT OR THE EXECUTIVE DIRECTOR'S DESIGNEE MAY INITIATE THE PROCESS TO DEBAR THE CONTRACTOR PURSUANT TO SECTION 24-109-105, C.R.S.

(d) THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OF LABOR AND EMPLOYMENT MAY DISMISS A COMPLAINT IN HIS OR HER DISCRETION IF, AFTER CONDUCTING AN INVESTIGATION PURSUANT TO THIS SECTION, THE DEPARTMENT DETERMINES THAT THE CIRCUMSTANCES THAT LED TO THE COMPLAINT WERE THE RESULT OF A MINOR PAPERWORK VIOLATION.

(3) A CONTRACTOR WHO IS FOUND TO BE IN VIOLATION OF THE PROVISIONS OF THIS ARTICLE MAY APPEAL SUCH FINDING TO THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OF LABOR AND EMPLOYMENT. THE EXECUTIVE DIRECTOR OR THE EXECUTIVE DIRECTOR'S DESIGNEE SHALL HOLD A HEARING TO REVIEW SUCH NOTICE OR ORDER AND TAKE FINAL ACTION IN ACCORDANCE WITH ARTICLE 4 OF TITLE 24, C.R.S., AND MAY EITHER CONDUCT THE HEARING PERSONALLY OR APPOINT AN ADMINISTRATIVE LAW JUDGE FROM THE DEPARTMENT OF PERSONNEL. FINAL AGENCY ACTION IS SUBJECT TO JUDICIAL REVIEW PURSUANT TO ARTICLE 4 OF TITLE 24, C.R.S.

(4) THE REVENUE COLLECTED FROM THE FINES IMPOSED PURSUANT TO SUBSECTION (2) OF THIS SECTION SHALL BE TRANSMITTED TO THE STATE TREASURER, WHO SHALL CREDIT THE SAME TO THE COLORADO LABOR ENFORCEMENT CASH FUND, WHICH IS HEREBY CREATED. THE GENERAL ASSEMBLY SHALL MAKE APPROPRIATIONS FROM THE FUND AS NECESSARY TO COVER THE DIRECT AND INDIRECT COSTS OF THE DEPARTMENT OF LABOR AND EMPLOYMENT IN CONNECTION WITH THE REQUIREMENTS OF THIS ARTICLE. ALL MONEYS NOT EXPENDED OR ENCUMBERED AND ALL INTEREST



EARNED ON THE INVESTMENT OR DEPOSIT OF MONEYS IN THE FUND REMAINS IN THE FUND AND DOES NOT REVERT TO THE GENERAL FUND OR ANY OTHER FUND AT THE END OF ANY FISCAL YEAR.

(5) THE REQUIREMENTS OF THIS ARTICLE MAY NOT BE ENFORCED THROUGH A PRIVATE RIGHT OF ACTION.

**8-17-105. Compliance standard.** COMPLIANCE WITH THE REQUIREMENTS OF THIS ARTICLE SHALL BE CALCULATED ON THE TOTAL TAXABLE WAGES AND FRINGE BENEFITS, MINUS ANY PER DIEM PAYMENTS, PAID TO WORKERS EMPLOYED DIRECTLY ON THE SITE OF THE PROJECT AND WHO SATISFY THE DEFINITION OF COLORADO LABOR.

**8-17-106. Rules.** (1) THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OF LABOR AND EMPLOYMENT SHALL PROMULGATE RULES FOR THE IMPLEMENTATION OF THIS ARTICLE. SUCH RULES SHALL BE PROMULGATED IN ACCORDANCE WITH THE "STATE ADMINISTRATIVE PROCEDURE ACT", ARTICLE 4 OF TITLE 24, C.R.S., AND MUST INCLUDE, BUT NEED NOT BE LIMITED TO:

(a) A PROCEDURE FOR FILING A COMPLAINT ALLEGING THAT A CONTRACTOR IS IN VIOLATION OF THE PROVISIONS OF THIS ARTICLE;

(b) A PROCEDURE FOR THE UNIFORM INVESTIGATION OF ANY COMPLAINT ALLEGING A VIOLATION OF THE PROVISIONS OF THIS ARTICLE; AND

(c) A PROCEDURE FOR FILING AN APPEAL PURSUANT TO SECTION 8-17-104 (3).

**8-17-107. Federal and state law.** NOTHING IN THIS ARTICLE APPLIES TO ANY PROJECT THAT RECEIVES FEDERAL MONEYS. IN ADDITION, NOTHING IN THIS ARTICLE CONTRAVENES ANY EXISTING TREATY, LAW, AGREEMENT, OR REGULATION OF THE UNITED STATES. CONTRACTS ENTERED INTO IN ACCORDANCE WITH ANY TREATY, LAW, AGREEMENT, OR REGULATION OF THE UNITED STATES DO NOT VIOLATE THIS ARTICLE TO THE EXTENT OF THAT ACCORDANCE. THE REQUIREMENTS OF THIS ARTICLE ARE SUSPENDED IF SUCH REQUIREMENT WOULD CONTRAVENE ANY TREATY, LAW, AGREEMENT, OR REGULATION OF THE UNITED STATES, OR WOULD CAUSE DENIAL OF FEDERAL MONEYS OR PRECLUDE THE ABILITY TO ACCESS FEDERAL

MONEYS THAT WOULD OTHERWISE BE AVAILABLE.

**SECTION 5.** In Colorado Revised Statutes, **amend** 8-19-102 as follows:

**8-19-102. Definitions.** As used in this article, unless the context otherwise requires:

(1) "NONRESIDENT BIDDER" MEANS A BIDDER THAT DOES NOT SATISFY THE CRITERIA TO BE A RESIDENT BIDDER.

~~(1)~~ (2) "Public project" means:

(a) Any public project as defined in section 24-92-102 (8), C.R.S., including any such project awarded by any county, including any home rule county, municipality, as defined in section 31-1-101 (6), C.R.S., school district, special district, or other political subdivision of the state;

(b) Any publicly funded contract for construction entered into by a governmental body of the executive branch of this state which is subject to the "Procurement Code", articles 101 to 112 of title 24, C.R.S.; and

(c) Any highway or bridge construction, whether undertaken by the department of transportation or by any political subdivision of this state, in which the expenditure of funds may be reasonably expected to exceed fifty thousand dollars.

~~(2)~~ (3) "Resident bidder" means:

(a) A person, partnership, corporation, or joint venture which is authorized to transact business in Colorado and which maintains its principal place of business in Colorado; or

(b) A person, partnership, corporation, or joint venture which:

(I) Is authorized to transact business in Colorado;

(II) Maintains a place of business in Colorado; AND

(III) Has paid Colorado unemployment compensation taxes in at

least ~~seventy-five percent~~ SIX of the eight quarters immediately prior to bidding on a construction contract for a public project.

**SECTION 6.** In Colorado Revised Statutes, **repeal** 8-19-102.5 as follows:

**8-19-102.5. Resident bidder - reciprocity.** ~~In addition to any other criteria for awarding a preference under this article, the residence, registration, unemployment compensation, and other preference conditions applied to a Colorado resident bidder doing business in another state or foreign country shall be applied to a resident bidder from that state or foreign country doing business in Colorado in determining whether a preference shall be allowed.~~

**SECTION 7.** In Colorado Revised Statutes, **add** 8-19-104 and 8-19-105 as follows:

**8-19-104. Bid preference - survey - report.** (1) THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OF PERSONNEL, OR THE EXECUTIVE DIRECTOR'S DESIGNEE, SHALL CONDUCT A SURVEY AND COMPILE THE RESULTS INTO A LIST OF WHICH STATES PROVIDE A BIDDING PREFERENCE ON PUBLIC WORKS CONTRACTS FOR THEIR RESIDENT BIDDERS. THE LIST MUST INCLUDE DETAILS ON THE TYPE OF PREFERENCE PROVIDED BY EACH STATE, THE AMOUNT OF THE PREFERENCE, AND HOW THE PREFERENCE IS APPLIED. THE EXECUTIVE DIRECTOR SHALL COMPLETE THE INITIAL LIST ON OR BEFORE JULY 1, 2014, AND SHALL UPDATE THE LIST PERIODICALLY AS NEEDED BUT AT LEAST ON AN ANNUAL BASIS. ON OR BEFORE JANUARY 1, 2015, THE DEPARTMENT OF PERSONNEL SHALL SUBMIT A REPORT INCLUDING THE LIST COMPILED PURSUANT TO THIS SUBSECTION (1) AND ANY RECOMMENDATION NECESSARY TO IMPLEMENT THIS SECTION TO THE STANDING COMMITTEE OF REFERENCE IN EACH HOUSE OF THE GENERAL ASSEMBLY EXERCISING JURISDICTION OVER MATTERS CONCERNING STATE AFFAIRS AND LABOR. THE DEPARTMENT SHALL ALSO MAKE THE LIST AVAILABLE TO THE PUBLIC ON THE DEPARTMENT'S WEB SITE.

(2) IN ANY BIDDING PROCESS FOR PUBLIC WORKS IN WHICH A BID IS RECEIVED FROM A BIDDER WHO IS NOT A RESIDENT BIDDER AND WHO IS FROM A STATE THAT PROVIDES A PERCENTAGE BIDDING PREFERENCE TO RESIDENT BIDDERS OF THAT STATE, A COMPARABLE PERCENTAGE DISADVANTAGE SHALL BE APPLIED TO THE BID OF THAT BIDDER.

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(3) ANY REQUEST FOR PROPOSALS ISSUED BY A STATE AGENCY OR POLITICAL SUBDIVISION OF THE STATE MUST INCLUDE A NOTICE TO NONRESIDENT BIDDERS THAT IF THE NONRESIDENT BIDDER IS FROM A STATE THAT PROVIDES A BIDDING PREFERENCE TO BIDDERS FROM THAT STATE, THEN A COMPARABLE PERCENTAGE DISADVANTAGE WILL BE APPLIED TO THE BID OF THAT NONRESIDENT BIDDER. THE NOTICE MUST ALSO SPECIFY THAT THE BIDDER MAY OBTAIN ADDITIONAL INFORMATION FROM THE DEPARTMENT OF PERSONNEL'S WEB SITE.

(4) THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OF PERSONNEL SHALL PROMULGATE RULES NECESSARY FOR THE IMPLEMENTATION OF THIS SECTION. SUCH RULES SHALL BE PROMULGATED IN ACCORDANCE WITH THE "STATE ADMINISTRATIVE PROCEDURE ACT", ARTICLE 4 OF TITLE 24, C.R.S.

**8-19-105. Federal and state law.** NOTHING IN THIS ARTICLE APPLIES TO ANY PROJECT THAT RECEIVES FEDERAL MONEYS. IN ADDITION, NOTHING IN THIS ARTICLE CONTRAVENES ANY EXISTING TREATY, LAW, AGREEMENT, OR REGULATION OF THE UNITED STATES. CONTRACTS ENTERED INTO IN ACCORDANCE WITH ANY TREATY, LAW, AGREEMENT, OR REGULATION OF THE UNITED STATES DO NOT VIOLATE THIS ARTICLE TO THE EXTENT OF THAT ACCORDANCE. THE REQUIREMENTS OF THIS ARTICLE ARE SUSPENDED IF SUCH REQUIREMENT WOULD CONTRAVENE ANY TREATY, LAW, AGREEMENT, OR REGULATION OF THE UNITED STATES, OR WOULD CAUSE DENIAL OF FEDERAL MONEYS OR PRECLUDE THE ABILITY TO ACCESS FEDERAL MONEYS THAT WOULD OTHERWISE BE AVAILABLE.

**SECTION 8.** In Colorado Revised Statutes, 24-92-103, **amend** (1) as follows:

**24-92-103. Construction of public projects - competitive sealed bidding.** (1) All construction contracts for public projects ~~shall~~ THAT DO NOT RECEIVE FEDERAL MONEYS MAY be awarded by competitive sealed bidding ~~except as otherwise provided in section 24-92-104~~ PURSUANT TO THIS SECTION.

**SECTION 9.** In Colorado Revised Statutes, **add** 24-92-103.5 and 24-92-103.7 as follows:

**24-92-103.5. Construction of public projects - competitive sealed best value bidding.** (1) ALL CONSTRUCTION CONTRACTS FOR PUBLIC

PROJECTS THAT DO NOT RECEIVE FEDERAL MONEYS MAY BE AWARDED THROUGH COMPETITIVE SEALED BEST VALUE BIDDING PURSUANT TO THIS SECTION.

(2) AN INVITATION FOR BIDS UNDER COMPETITIVE SEALED BEST VALUE BIDDING SHALL BE MADE IN THE SAME MANNER AS PROVIDED IN SECTION 24-92-103 (2), (3), AND (4); EXCEPT THAT ADEQUATE PUBLIC NOTICE OF THE INVITATION FOR BIDS SHALL BE GIVEN AT LEAST THIRTY DAYS PRIOR TO THE DATE SET FORTH THEREIN FOR THE OPENING OF BIDS.

(3) THE INVITATION FOR COMPETITIVE SEALED BEST VALUE BIDS MUST IDENTIFY THE EVALUATION FACTORS UPON WHICH THE AWARD WILL BE MADE. WHEN MAKING THE AWARD DETERMINATION, THE RESPONSIBLE OFFICER SHALL EVALUATE THE FACTORS SPECIFIED IN THE INVITATION FOR BIDS AND SHALL NOT EVALUATE ANY OTHER FACTORS OTHER THAN THOSE SPECIFIED IN THE INVITATION FOR BIDS. THE FACTORS THAT MUST BE INCLUDED IN THE INVITATION FOR BIDS AND THAT THE RESPONSIBLE OFFICER SHALL CONSIDER INCLUDE, BUT NEED NOT BE LIMITED TO:

(a) THE PROJECT PRICE STATED IN THE BID;

(b) THE BIDDER'S DESIGN AND TECHNICAL APPROACH TO THE PUBLIC PROJECT;

(c) THE EXPERIENCE, PAST PERFORMANCE, AND EXPERTISE OF THE BIDDER AND THE BIDDER'S PRIMARY SUBCONTRACTORS IN CONNECTION WITH PRIOR CONSTRUCTION CONTRACTS, INCLUDING ITS PERFORMANCE IN THE AREAS OF COST, QUALITY, SCHEDULE, SAFETY, COMPLIANCE WITH PLANS AND SPECIFICATIONS, AND ADHERENCE TO APPLICABLE LAWS AND REGULATIONS;

(d) THE BIDDER'S PROJECT MANAGEMENT PLAN FOR THE CONSTRUCTION CONTRACT THAT IDENTIFIES THE KEY MANAGEMENT PERSONNEL THAT WILL BE USED FOR THE PROJECT, THE PROPOSED PROJECT SCHEDULE, THE BIDDER'S QUALITY CONTROL PROGRAM AND PROJECT SAFETY PROGRAM, FINANCIAL RESOURCES, EQUIPMENT, AND ANY OTHER INFORMATION THAT DEMONSTRATES THE BIDDER'S COMPETENCY TO PERFORM THE CONTRACT, INCLUDING TECHNICAL QUALIFICATIONS AND RESOURCES;

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(e) THE BIDDER'S STAFFING PLAN;

(f) THE BIDDER'S SAFETY PLAN AND SAFETY RECORD;

(g) THE BIDDER'S JOB STANDARDS, INCLUDING THE BIDDER'S METHOD OF PERSONNEL PROCUREMENT, EMPLOYMENT OF COLORADO WORKERS, WORKFORCE DEVELOPMENT AND LONG-TERM CAREER OPPORTUNITIES OF WORKERS, THE AVAILABILITY OF TRAINING PROGRAMS, INCLUDING APPRENTICESHIPS APPROVED BY THE UNITED STATES DEPARTMENT OF LABOR, THE BENEFITS PROVIDED TO WORKERS, INCLUDING HEALTHCARE AND DEFINED BENEFIT OR DEFINED CONTRIBUTION RETIREMENT BENEFITS, AND WHETHER THE BIDDER PAYS INDUSTRY-STANDARD WAGES; AND

(h) THE AVAILABILITY AND USE OF DOMESTICALLY PRODUCED IRON, STEEL, AND RELATED MANUFACTURED GOODS TO EXECUTE THE CONTRACT.

(4) THE CONTRACT SHALL BE AWARDED WITH REASONABLE PROMPTNESS BY WRITTEN NOTICE TO THE BIDDER WHOSE BID IS DETERMINED IN WRITING TO BE THE MOST ADVANTAGEOUS TO THE STATE AND THAT REPRESENTS THE BEST OVERALL VALUE TO THE STATE, TAKING INTO CONSIDERATION THE PRICE AND OTHER EVALUATION FACTORS SET FORTH IN THE INVITATION FOR BIDS IN ACCORDANCE WITH SUBSECTION (3) OF THIS SECTION. THE CONTRACT FILE MAINTAINED BY THE STATE MUST CONTAIN THE BASIS ON WHICH THE AWARD DETERMINATION WAS MADE.

(5) A REQUEST FOR COMPETITIVE SEALED BEST VALUE BIDS ISSUED PURSUANT TO THIS SECTION MUST OTHERWISE COMPLY WITH THE REQUIREMENTS OF SECTION 24-103-203 CONCERNING COMPETITIVE SEALED PROPOSALS FOR NONCONSTRUCTION CONTRACTS TO THE EXTENT THAT SUCH REQUIREMENTS DO NOT CONFLICT WITH THIS SECTION. IN THE CASE OF A CONFLICT, THE PROVISIONS OF THIS SECTION SUPERSEDE.

(6) TO ENSURE THAT THE BEST VALUE BIDDING PROCESS PURSUANT TO THIS SECTION IS OPEN AND TRANSPARENT TO THE GREATEST POSSIBLE DEGREE:

(a) AFTER SELECTION OF MOST QUALIFIED PARTICIPANTS, ALL STATEMENTS OF QUALIFICATION SHALL BE MADE AVAILABLE TO THE PUBLIC; AND

(b) AFTER THE CONTRACT HAS BEEN AWARDED, ALL REQUESTS FOR PROPOSALS SHALL BE MADE PUBLIC WITH THE SCORE SHEETS USED TO MAKE THE BID SELECTION, OMITTING ANY CONFIDENTIAL CORPORATE INFORMATION.

**24-92-103.7. Disclosure - competitive sealed bidding - competitive sealed best value bidding.** THE EXECUTIVE DIRECTOR OF AN AGENCY OF GOVERNMENT OR PRESIDENT OF AN INSTITUTION OF HIGHER EDUCATION THAT ENTERS INTO A CONSTRUCTION CONTRACT FOR A PUBLIC PROJECT PURSUANT TO THIS ARTICLE THAT IS NOT FUNDED IN ANY PART WITH FEDERAL MONEYS SHALL DISCLOSE TO THE PUBLIC THE AGENCY OF GOVERNMENT'S RATIONALE OR THE INSTITUTION'S RATIONALE FOR SELECTING THE COMPETITIVE SEALED BIDDING PROCESS PURSUANT TO SECTION 24-92-103 OR THE COMPETITIVE SEALED BEST VALUE BIDDING PROCESS PURSUANT TO SECTION 24-92-103.5 FOR THE PUBLIC PROJECT. THE AGENCY OR INSTITUTION SHALL POST THE DISCLOSURE ON ITS WEB SITE.

**SECTION 10.** In Colorado Revised Statutes, **add** 24-93-109 as follows:

**24-93-109. Disclosure.** THE EXECUTIVE DIRECTOR OF AN AGENCY OR PRESIDENT OF AN INSTITUTION OF HIGHER EDUCATION THAT ENTERS INTO A CONSTRUCTION CONTRACT FOR A PUBLIC PROJECT PURSUANT TO THIS ARTICLE SHALL DISCLOSE TO THE PUBLIC THE AGENCY'S RATIONALE OR THE INSTITUTION'S RATIONALE FOR SELECTING THE INTEGRATED PROJECT DELIVERY CONTRACTING PROCESS PURSUANT TO THIS ARTICLE FOR THE PUBLIC PROJECT. THE AGENCY OR INSTITUTION SHALL POST THE DISCLOSURE ON ITS WEB SITE.

**SECTION 11.** In Colorado Revised Statutes, **amend** 24-92-110 as follows:

**24-92-110. Rules and regulations.** The executive director of the department of personnel shall promulgate rules and regulations which are designed to implement the provisions of this article; except that the executive director of the department of transportation shall promulgate rules and regulations relating to bridge and highway construction bidding practices including, notwithstanding any other provisions of this article, rules governing debarment of contractors. The rules ~~shall~~ **MUST** include provisions requiring agencies of government to keep certain public project

records, even if duplicative, in accordance with generally accepted cost accounting principles and standards. IN ADDITION, THE RULES MUST INCLUDE CRITERIA TO BE USED BY A RESPONSIBLE OFFICER IN EVALUATING A COMPETITIVE SEALED BEST VALUE BID PURSUANT TO SECTION 24-92-103.5 (3).

**SECTION 12.** In Colorado Revised Statutes, **amend** 24-102-206 as follows:

**24-102-206. Contract performance outside the United States or Colorado - notice - penalty.** (1) (a) Prior to contracting or as a requirement for the solicitation of any contract from the state for services, as appropriate, any prospective vendor shall disclose in a WRITTEN statement of work WHETHER IT ANTICIPATES SUBCONTRACTING ANY SERVICES UNDER THE CONTRACT, where SUCH SUBCONTRACTED services will be performed under the contract, including any subcontracts, and whether any SUBCONTRACTED services under the contract or any subcontracts are anticipated to be performed outside the United States or the state. If the prospective vendor anticipates services under the contract or any subcontracts will be performed outside the United States or the state, the vendor shall provide in its WRITTEN statement of work a provision setting forth why it is necessary or advantageous to go outside the United States or the state to perform the contract or any subcontracts.

(b) EACH CONTRACT ENTERED INTO OR RENEWED BY A GOVERNMENTAL BODY PURSUANT TO THIS CODE MUST CONTAIN A CLAUSE THAT REQUIRES THE VENDOR TO PROVIDE WRITTEN NOTICE TO THE GOVERNMENTAL BODY IF THE VENDOR DECIDES, AFTER THE CONTRACT IS AWARDED, TO PERFORM SERVICES UNDER THE CONTRACT OUTSIDE THE UNITED STATES OR THE STATE OR TO SUBCONTRACT SERVICES UNDER THE CONTRACT TO A SUBCONTRACTOR THAT WILL PERFORM SUCH SERVICES OUTSIDE THE UNITED STATES OR THE STATE. THE CONTRACT MUST SPECIFY THAT THE VENDOR IS REQUIRED TO PROVIDE SUCH WRITTEN NOTICE NO LATER THAN TWENTY DAYS FROM THE TIME THE VENDOR DECIDES TO PERFORM SERVICES UNDER THE CONTRACT OUTSIDE THE UNITED STATES OR THE STATE OR SUBCONTRACTS SERVICES UNDER THE CONTRACT TO A SUBCONTRACTOR THAT WILL PERFORM SUCH SERVICES IN A LOCATION OUTSIDE THE UNITED STATES OR THE STATE.

(2) THE WRITTEN NOTIFICATION REQUIRED BY PARAGRAPHS (a) AND



(b) OF SUBSECTION (1) OF THIS SECTION MUST INCLUDE, BUT NEED NOT BE LIMITED TO, A STATEMENT OF THE TYPE OF SERVICES THAT WILL BE PERFORMED AT A LOCATION OUTSIDE THE UNITED STATES OR THE STATE AND THE REASON WHY IT IS NECESSARY OR ADVANTAGEOUS TO GO OUTSIDE THE UNITED STATES OR THE STATE TO PERFORM SUCH SERVICES.

(3) A GOVERNMENTAL BODY SHALL PROVIDE WRITTEN NOTICE TO THE DEPARTMENT OF PERSONNEL IF IT AWARDS A CONTRACT TO A VENDOR THAT HAS PROVIDED WRITTEN NOTICE PURSUANT TO PARAGRAPH (a) OR (b) OF SUBSECTION (1) OF THIS SECTION THAT THE VENDOR OR THE VENDOR'S SUBCONTRACTOR WILL PERFORM SERVICES UNDER THE CONTRACT OUTSIDE THE UNITED STATES OR THE STATE.

(4) IF A VENDOR KNOWINGLY FAILS TO NOTIFY THE GOVERNMENTAL BODY OF ANY OUTSOURCED SERVICES AS SPECIFIED IN THIS SECTION, THE GOVERNMENTAL BODY MAY, IN THE GOVERNMENTAL BODY'S DISCRETION, TERMINATE THE CONTRACT.

(5) THE EXECUTIVE DIRECTOR SHALL POST ANY NOTICE THAT A VENDOR PROVIDES TO A GOVERNMENTAL BODY PURSUANT TO THIS SECTION ON THE OFFICIAL WEB SITE OF THE DEPARTMENT.

~~(2)~~ (6) Nothing in ~~subsection (1)~~ of this section shall be construed to apply to any contract to which the state is a party under medicare, the "Colorado Medical Assistance Act", articles 4 to 6 of title 25.5, C.R.S., the "Children's Basic Health Plan Act", article 8 of title 25.5, C.R.S., or the "Colorado Indigent Care Program", part 1 of article 3 of title 25.5, C.R.S.

(7) NOTHING IN THIS SECTION APPLIES TO ANY PROJECT THAT RECEIVES FEDERAL MONEYS. IN ADDITION, NOTHING IN THIS SECTION CONTRAVENES ANY EXISTING TREATY, LAW, AGREEMENT, OR REGULATION OF THE UNITED STATES. CONTRACTS ENTERED INTO IN ACCORDANCE WITH ANY TREATY, LAW, AGREEMENT, OR REGULATION OF THE UNITED STATES DO NOT VIOLATE THIS SECTION TO THE EXTENT OF THAT ACCORDANCE. THE REQUIREMENTS OF THIS SECTION ARE SUSPENDED IF SUCH REQUIREMENTS WOULD CONTRAVENE ANY TREATY, LAW, AGREEMENT, OR REGULATION OF THE UNITED STATES, OR WOULD CAUSE DENIAL OF FEDERAL MONEYS OR PRECLUDE THE ABILITY TO ACCESS FEDERAL MONEYS THAT WOULD OTHERWISE BE AVAILABLE.

**SECTION 13.** In Colorado Revised Statutes, **add** 24-102-206.5 as follows:

**24-102-206.5. Contract performance outside the United States or Colorado - annual report.** (1) ON JANUARY 1, 2014, AND ON EACH JANUARY 1 THEREAFTER, A GOVERNMENTAL BODY SHALL SUBMIT AN ANNUAL REPORT TO THE GENERAL ASSEMBLY IF THE GOVERNMENTAL BODY ENTERED INTO ONE OR MORE CONTRACTS WITH A VENDOR DURING THE PREVIOUS STATE FISCAL YEAR AND RECEIVED WRITTEN NOTICE FROM ONE OR MORE VENDORS PURSUANT TO SECTION 24-102-206 (1) (b), THAT THE VENDOR OR THE VENDOR'S SUBCONTRACTOR WOULD PERFORM SERVICES UNDER THE CONTRACT OUTSIDE THE UNITED STATES OR THE STATE.

(2) (a) THE PURPOSE OF THE REPORT REQUIRED IN SUBSECTION (1) OF THIS SECTION IS TO NOTIFY TAXPAYERS AND THE GENERAL ASSEMBLY REGARDING THE USE OF UNITED STATES AND STATE TAX DOLLARS ON STATE CONTRACTS IN WHICH SERVICES UNDER THE CONTRACT ARE PERFORMED OUTSIDE THE UNITED STATES OR THE STATE. THE GOVERNMENTAL BODY SHALL PROVIDE INFORMATION REQUIRED IN THE REPORT BASED ON THE INFORMATION THAT VENDORS SUBMITTED TO THE GOVERNMENTAL BODY PURSUANT TO SECTION 24-102-206 DURING THE PREVIOUS STATE FISCAL YEAR.

(b) THE REPORT MUST SEPARATE DATA BY STATE CONTRACT TYPE AND PROVIDE INFORMATION REGARDING THE TYPE AND THE PERCENTAGE OF THE TOTAL SERVICES THAT WERE PERFORMED OUTSIDE THE UNITED STATES OR THE STATE BY EACH VENDOR OR A VENDOR'S SUBCONTRACTOR UNDER EACH STATE CONTRACT.

(c) THE REPORT REQUIRED BY SUBSECTION (1) OF THIS SECTION MUST ALSO INCLUDE A DESCRIPTION OF ANY INITIATIVES THAT THE GOVERNMENTAL BODY HAS TAKEN TO ACTIVELY REDUCE THE NUMBER OF CONTRACTS IN WHICH A VENDOR OR VENDOR'S SUBCONTRACTOR PERFORM SERVICES UNDER THE CONTRACT OUTSIDE THE UNITED STATES OR THE STATE.

(d) A GOVERNMENTAL BODY THAT IS REQUIRED TO SUBMIT A REPORT PURSUANT TO SUBSECTION (1) OF THIS SECTION MAY INCLUDE THE REPORT IN ITS ANNUAL REPORT TO THE GENERAL ASSEMBLY REQUIRED BY THE "STATE MEASUREMENT FOR ACCOUNTABLE, RESPONSIVE, AND

TRANSPARENT (SMART) GOVERNMENT ACT".

**SECTION 14.** In Colorado Revised Statutes, **add** 24-103-210 as follows:

**24-103-210. Use of foreign-produced goods - iron, steel, and related manufactured products - disclosure - definitions.** (1) THE CONTRACTOR FOR ANY PUBLIC WORKS PROJECT THAT IS FUNDED BY A STATE AGENCY AS DEFINED IN SECTION 24-30-1301 (12), THAT DOES NOT RECEIVE ANY FEDERAL MONEYS, AND THAT COSTS MORE THAN FIVE HUNDRED THOUSAND DOLLARS SHALL, UPON COMPLETION OF THE PROJECT, MAKE A GOOD FAITH EFFORT TO DISCLOSE TO THE DEPARTMENT OF PERSONNEL THE FIVE MOST COSTLY GOODS INCORPORATED INTO THE PROJECT, INCLUDING IRON, STEEL, OR RELATED MANUFACTURED GOODS; EXCEPT THAT, FOR PUBLIC PROJECTS UNDER THE SUPERVISION OF THE DEPARTMENT OF TRANSPORTATION, THE CONTRACTOR SHALL DISCLOSE SUCH INFORMATION TO THE DEPARTMENT OF TRANSPORTATION.

(2) (a) IN THE CASE OF AN IRON OR STEEL PRODUCT, THE PRODUCT WILL BE CONSIDERED MANUFACTURED IN THE UNITED STATES IF ALL OF THE MANUFACTURING PROCESSES FOR THE FINAL PRODUCT TAKE PLACE IN THE UNITED STATES.

(b) IN THE CASE OF A MANUFACTURED GOOD, A GOOD WILL BE CONSIDERED MANUFACTURED IN THE UNITED STATES IF ALL OF THE MANUFACTURING PROCESSES FOR THE FINAL PRODUCT TAKE PLACE IN THE UNITED STATES IRRESPECTIVE OF THE ORIGIN OF THE MANUFACTURED GOOD'S SUBCOMPONENTS.

(c) IN ORDER FOR A MANUFACTURED GOOD TO BE CONSIDERED SUBJECT TO DISCLOSURE UNDER THIS ARTICLE, THE PRODUCT MUST BE MANUFACTURED PREDOMINANTLY OF STEEL OR IRON. THE MANUFACTURED GOOD IS DEEMED A PRODUCT MANUFACTURED PREDOMINANTLY OF STEEL OR IRON IF THE PRODUCT CONSISTS OF MORE THAN FIFTY PERCENT STEEL OR IRON CONTENT WHEN IT IS DELIVERED TO THE JOB SITE FOR INSTALLATION.

(3) THE DISCLOSURE MUST STATE THE TOTAL COST AND COUNTRY OF ORIGIN OF THE FIVE MOST COSTLY GOODS USED ON A PROJECT, INCLUDING IRON, STEEL, AND RELATED MANUFACTURED GOODS DESCRIBED PURSUANT TO SUBSECTIONS (1) AND (2) OF THIS SECTION. THE CONTRACTOR MAY RELY

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ON DOCUMENTS PROVIDED BY THIRD-PARTY VENDORS WHEN DISCLOSING THE COUNTRY OF ORIGIN OF IRON, STEEL, OR RELATED MANUFACTURED GOODS. IN ADDITION, THE DISCLOSURE MUST STATE WHETHER THE PUBLIC WORKS PROJECT WAS SUBJECT TO ANY EXISTING DOMESTIC CONTENT PREFERENCE, INCLUDING 41 U.S.C. SEC. 8301 TO 8305, 23 U.S.C. SEC. 313, 49 U.S.C. SEC. 5323, 49 U.S.C. SEC. 24305, 49 U.S.C. SEC. 24405, AND 49 U.S.C. SEC. 50101 TO 50105. THE CONTRACTOR SHALL DISCLOSE THE INFORMATION IN A MANNER TO BE DETERMINED BY THE DEPARTMENT.

(4) THE DEPARTMENT SHALL ISSUE AN ANNUAL REPORT DETAILING THE INFORMATION THAT CONTRACTORS SUBMITTED TO THE DEPARTMENT AND TO THE DEPARTMENT OF TRANSPORTATION PURSUANT TO SUBSECTIONS (1) TO (3) OF THIS SECTION. THE REPORT MUST INCLUDE AGGREGATE DATA COLLECTED FOR THE CALENDAR YEAR AND ANALYSIS OF THE DATA BROKEN DOWN BY PRODUCT AND PUBLIC WORKS PROJECT TYPE. THE REPORT SHALL NOT PUBLICLY DISCLOSE ANY PROPRIETARY INFORMATION PROVIDED BY THE CONTRACTOR THAT IS NOT SUBJECT TO DISCLOSURE PURSUANT TO THE "COLORADO OPEN RECORDS ACT", PART 2 OF ARTICLE 72 OF THIS TITLE. THE DEPARTMENT SHALL MAKE THE REPORT AVAILABLE TO THE PUBLIC ON THE DEPARTMENT'S WEB SITE.

(5) AS USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE REQUIRES:

(a) "COUNTRY OF ORIGIN" SHALL HAVE THE MEANING ASCRIBED TO IT UNDER 19 U.S.C. SEC. 1304 AND 19 CFR 134.

(b) "PUBLIC WORKS" SHALL HAVE THE SAME MEANING AS "PUBLIC PROJECT" AS DEFINED IN SECTION 24-92-102 (8) (a), C.R.S.

(c) "UNITED STATES" MEANS THE UNITED STATES OF AMERICA AND INCLUDES ALL TERRITORY, CONTINENTAL OR INSULAR, SUBJECT TO THE JURISDICTION OF THE UNITED STATES.

(6) NOTHING IN THIS SECTION APPLIES TO ANY PROJECT THAT RECEIVES FEDERAL MONEYS. IN ADDITION, NOTHING IN THIS SECTION CONTRAVENES ANY EXISTING TREATY, LAW, AGREEMENT, OR REGULATION OF THE UNITED STATES. CONTRACTS ENTERED INTO IN ACCORDANCE WITH ANY TREATY, LAW, AGREEMENT, OR REGULATION OF THE UNITED STATES DO NOT VIOLATE THIS SECTION TO THE EXTENT OF THAT ACCORDANCE. THE

REQUIREMENTS OF THIS SECTION ARE SUSPENDED IF SUCH REQUIREMENTS WOULD CONTRAVENE ANY TREATY, LAW, AGREEMENT, OR REGULATION OF THE UNITED STATES, OR WOULD CAUSE DENIAL OF FEDERAL MONEYS OR PRECLUDE THE ABILITY TO ACCESS FEDERAL MONEYS THAT WOULD OTHERWISE BE AVAILABLE.

**SECTION 15.** In Colorado Revised Statutes, 24-109-105, **add** (2) (f) as follows:

**24-109-105. Debarment and suspension.** (2) A person may be debarred for any of the following reasons:

(f) THE DEPARTMENT OF LABOR AND EMPLOYMENT HAS IMPOSED THREE FINES ON A CONTRACTOR WITHIN FIVE YEARS PURSUANT TO SECTION 8-17-104, C.R.S., FOR FAILURE TO SATISFY COLORADO LABOR REQUIREMENTS.

**SECTION 16.** In Colorado Revised Statutes, **amend** 40-2-129 as follows:

**40-2-129. New resource acquisitions - factors in determination - local employment - "best value" metrics.** When evaluating electric resource acquisitions AND REQUESTS FOR A CERTIFICATE OF CONVENIENCE AND NECESSITY FOR CONSTRUCTION OR EXPANSION OF GENERATING FACILITIES, INCLUDING BUT NOT LIMITED TO POLLUTION CONTROL OR FUEL CONVERSION UPGRADES AND CONVERSION OF EXISTING COAL-FIRED PLANTS TO NATURAL GAS PLANTS, the commission shall consider, on a qualitative basis, factors that affect employment and the long-term economic viability of Colorado communities. To this end, the commission shall require utilities to request the following information regarding "best value" employment metrics: The availability of training programs, including training through apprenticeship programs registered with the United States department of labor, office of apprenticeship and training; employment of Colorado workers as compared to importation of out-of-state workers; long-term career opportunities; and industry-standard wages, health care, and pension benefits. When a utility proposes to construct new facilities of its own, the utility shall supply similar information to the commission.

**SECTION 17. Appropriation.** (1) In addition to any other appropriation, there is hereby appropriated, out of any moneys in the

general fund, not otherwise appropriated, to the department of labor and employment, for the fiscal year beginning July 1, 2013, the sum of \$98,519 and 1.0 FTE, or so much thereof as may be necessary, to be allocated for the implementation of this act as follows:

(a) \$63,757 and 1.0 FTE for personal services and operating expenses in the division of labor; and

(b) \$34,762 for the purchase of legal services.

(2) In addition to any other appropriation, there is hereby appropriated to the department of law, for the fiscal year beginning July 1, 2013, the sum of \$34,762 and 0.3 FTE, or so much thereof as may be necessary, for the provision of legal services for the department of labor and employment related to the implementation of this act. Said sum is from reappropriated funds received from the department of labor and employment out of the appropriation made in paragraph (b) of subsection (1) of this section.

(3) In addition to any other appropriation, there is hereby appropriated, out of any moneys in the general fund, not otherwise appropriated, to the department of personnel, for the fiscal year beginning July 1, 2013, the sum of \$36,588, or so much thereof as may be necessary, to be allocated for the implementation of this act as follows:

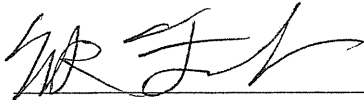
(a) \$25,000 for computer programming costs; and

(b) \$11,588 for the purchase of legal services.

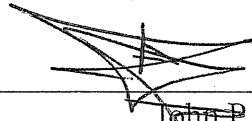
(4) In addition to any other appropriation, there is hereby appropriated to the department of law, for the fiscal year beginning July 1, 2013, the sum of \$11,588, or so much thereof as may be necessary, for the provision of legal services for the department of personnel related to the implementation of this act. Said sum is from reappropriated funds received from the department of personnel out of the appropriation made in paragraph (b) of subsection (3) of this section.

**SECTION 18. Applicability.** This act applies to new contracts for which the invitation for bids or the request for proposals was issued on or after January 1, 2014.

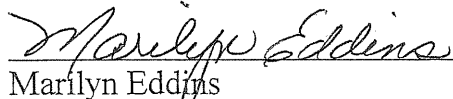
**SECTION 19. Safety clause.** The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.



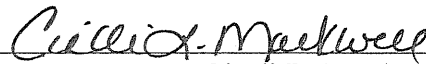
Mark Ferrandino  
SPEAKER OF THE HOUSE  
OF REPRESENTATIVES



John P. Morse  
PRESIDENT OF  
THE SENATE



Marilyn Eddins  
CHIEF CLERK OF THE HOUSE  
OF REPRESENTATIVES

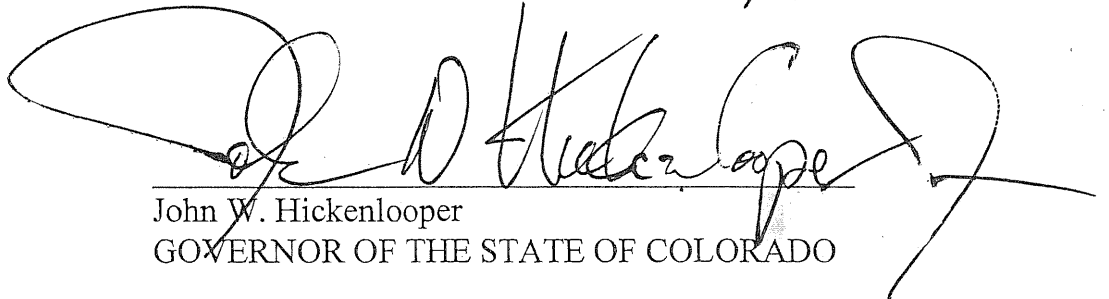


Cindi L. Markwell  
SECRETARY OF  
THE SENATE

APPROVED

3:57 pm

5/24/13



John W. Hickenlooper  
GOVERNOR OF THE STATE OF COLORADO

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# An Act

SENATE BILL 13-025

BY SENATOR(S) Tochtrop, Carroll, Giron, Guzman, Hudak, Jones, Nicholson, Todd, Ulibarri, Morse;  
also REPRESENTATIVE(S) Williams, Duran, Exum, Fields, Fischer, Ginal, Hullinghorst, Labuda, Lebsock, May, Melton, Moreno, Peniston, Pettersen, Primavera, Rosenthal, Salazar, Singer, Young, Garcia, Kagan, Lee, Ryden, Vigil.

CONCERNING COLLECTIVE BARGAINING BY FIREFIGHTERS.

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

**SECTION 1.** In Colorado Revised Statutes, **add** part 2 to article 5 of title 29 as follows:

PART 2  
COLLECTIVE BARGAINING AND MEET AND CONFER

**29-5-201. Short title.** THIS PART 2 SHALL BE KNOWN AND MAY BE CITED AS THE "COLORADO FIREFIGHTER SAFETY ACT".

**29-5-202. Legislative declaration.** (1) THE GENERAL ASSEMBLY HEREBY FINDS AND DECLARES THAT:

(a) THE PEOPLE OF COLORADO HAVE A FUNDAMENTAL INTEREST IN THE DEVELOPMENT OF HARMONIOUS AND COOPERATIVE RELATIONSHIPS BETWEEN PUBLIC EMPLOYERS AND FIREFIGHTERS, PARTICULARLY RELATED TO SAFETY ISSUES;

(b) THE STATE HAS AN OBLIGATION TO PROTECT THE PUBLIC SAFETY BY ASSURING, AT ALL TIMES, THE ORDERLY AND UNINTERRUPTED OPERATION OF FIRE PROTECTION AGENCIES;

(c) IN ORDER TO CONTINUALLY MAINTAIN PUBLIC SAFETY, FIREFIGHTERS MUST BE DENIED THE RIGHT TO STRIKE;

(d) THE DENIAL BY SOME PUBLIC EMPLOYERS OF THE RIGHT OF FIREFIGHTERS TO ORGANIZE AND BARGAIN COLLECTIVELY OR MEET AND CONFER LEADS TO VARIOUS FORMS OF STRIFE AND UNREST, WHICH OBSTRUCT PUBLIC SAFETY, AND WHEN THE RIGHT TO STRIKE IS DENIED, COLLECTIVE BARGAINING WITH THE POSSIBILITY TO MEET AND CONFER ARE THE APPROPRIATE COUNTERBALANCE TO PREVENT THE OBSTRUCTIONS TO PUBLIC SAFETY;

(e) UNRESOLVED DISPUTES BETWEEN FIREFIGHTERS AND THEIR PUBLIC EMPLOYERS HARM THE PUBLIC, THE GOVERNMENTAL AGENCIES, AND THE EMPLOYEES INVOLVED;

(f) EXPERIENCE HAS PROVEN THAT LEGAL PROTECTION OF THE RIGHT OF FIREFIGHTERS TO ORGANIZE SAFEGUARDS PUBLIC SAFETY BY REMOVING CERTAIN RECOGNIZED SOURCES OF STRIFE AND UNREST AND ENCOURAGING PRACTICES FUNDAMENTAL TO THE AMICABLE RESOLUTION OF DISPUTES OVER COMPENSATION, HOURS, AND TERMS AND CONDITIONS OF EMPLOYMENT AND BY CREATING EQUALITY OF BARGAINING POWER BETWEEN PUBLIC EMPLOYERS AND THE FIREFIGHTERS THAT THEY EMPLOY;

(g) THE COLORADO WILDFIRES OF 2012 DEMONSTRATE THE POTENTIAL FOR LOSS OF LIFE AND PROPERTY DAMAGE ASSOCIATED WITH NATURAL DISASTERS. RESPONDING TO NATURAL DISASTERS REQUIRES A COORDINATED RESPONSE BY, AND THE SIGNIFICANT CONTRIBUTION OF STAFFING AND RESOURCES FROM, FIRE DEPARTMENTS ALL AROUND THE STATE. THE DEPARTMENTS ARE REQUIRED TO WORK CLOSELY WITH ONE ANOTHER DURING THESE TIMES, WHICH DEMONSTRATES THE STATEWIDE NATURE OF FIRE PROTECTION AND NATURAL DISASTER RESPONSE. MOST

DEPARTMENTS HAVE AUTOMATIC MUTUAL AID AGREEMENTS WITH ADJACENT DEPARTMENTS THAT BLUR JURISDICTIONAL LINES EVEN FURTHER. THE ABILITY TO COORDINATE AND COOPERATE IS CRITICAL TO EFFECTIVE FIRE PROTECTION AND DISASTER RESPONSE IN THE STATE.

(h) IT IS THE POLICY OF THIS STATE TO ELIMINATE THE CAUSES OF CERTAIN SUBSTANTIAL OBSTRUCTIONS TO PUBLIC SAFETY AND TO MITIGATE AND ELIMINATE THESE OBSTRUCTIONS WHEN THEY OCCUR BY:

(I) PROTECTING THE EXERCISE BY FIREFIGHTERS OF FULL FREEDOM OF ASSOCIATION, SELF-ORGANIZATION, AND OTHER MUTUAL AID OR PROTECTION WITHOUT FEAR OF INTIMIDATION OR RETALIATION;

(II) ENCOURAGING AND PROMOTING THE PRACTICE AND PROCEDURE OF COLLECTIVE BARGAINING;

(III) PROTECTING THE RIGHT OF FIREFIGHTERS TO DESIGNATE REPRESENTATIVES OF THEIR OWN CHOOSING FOR THE PURPOSE OF COLLECTIVE BARGAINING, AND PROTECTING THEIR RIGHT TO PARTICIPATE IN THE POLITICAL PROCESS WHILE OFF DUTY AND NOT IN UNIFORM, LIKE ANY OTHER CITIZEN OF THIS STATE; AND

(IV) IF APPROVED BY A VOTE OF THE CITIZENS OF A JURISDICTION, OBLIGATING PUBLIC EMPLOYERS AND EMPLOYEE ORGANIZATIONS OF FIREFIGHTERS TO ENTER INTO COLLECTIVE BARGAINING WITH THE WILLINGNESS TO RESOLVE DISPUTES RELATING TO COMPENSATION, HOURS, AND THE TERMS AND CONDITIONS OF EMPLOYMENT AND TO REDUCE TO WRITING ANY AGREEMENTS REACHED THROUGH NEGOTIATIONS; AND

(i) COLLECTIVE BARGAINING FOR FIREFIGHTERS IS A MATTER OF STATEWIDE CONCERN THAT AFFECTS THE PUBLIC SAFETY AND GENERAL WELFARE, AS THE COLORADO SUPREME COURT HELD IN *CITY OF AURORA V. AURORA FIREFIGHTERS' PROTECTIVE ASSOCIATION*, 193 COLO. 437, 566 P.2D 1356 (1977). THE CITIZENS OF COLORADO HAVE THE RIGHT TO EXPECT A CONSISTENTLY HIGH LEVEL OF PUBLIC SAFETY THROUGHOUT THE STATE, WHICH WILL ALLOW THE ECONOMY OF COLORADO TO GROW AND PROSPER.

(2) IT IS ALSO THE POLICY OF THIS STATE TO OBLIGATE PUBLIC EMPLOYERS TO MEET AND CONFER WITH THEIR FIREFIGHTERS, UPON REQUEST, TO DISCUSS SAFETY, EQUIPMENT, AND NONCOMPENSATORY

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MATTERS.

**29-5-203. Definitions.** AS USED IN THIS PART 2, UNLESS THE CONTEXT OTHERWISE REQUIRES:

(1) "ADVISORY FACT-FINDER" MEANS THE PERSON AGREED UPON BY THE PARTIES OR APPOINTED BY THE AMERICAN ARBITRATION ASSOCIATION, ITS SUCCESSOR ORGANIZATION, OR A SIMILAR ORGANIZATION AGREED UPON BY BOTH PARTIES IN ACCORDANCE WITH SECTION 29-5-210.

(2) "BARGAINING UNIT" MEANS ALL FIREFIGHTERS EMPLOYED BY THE SAME PUBLIC EMPLOYER, EXCLUDING SUPERVISORS.

(3) "COLLECTIVE BARGAINING" MEANS THE PERFORMANCE OF THE MUTUAL OBLIGATION OF A PUBLIC EMPLOYER, THROUGH ITS DESIGNATED REPRESENTATIVES, AND AN EXCLUSIVE REPRESENTATIVE TO MEET AT REASONABLE TIMES AND PLACES AND NEGOTIATE IN GOOD FAITH WITH RESPECT TO COMPENSATION, HOURS, AND TERMS AND CONDITIONS OF EMPLOYMENT, TO MEET AND NEGOTIATE IN GOOD FAITH ANY QUESTION ARISING UNDER A COLLECTIVE BARGAINING AGREEMENT, AND TO EXECUTE A WRITTEN CONTRACT INCORPORATING ANY AGREEMENTS REACHED.

(4) "COLLECTIVE BARGAINING AGREEMENT" MEANS AN AGREEMENT NEGOTIATED BETWEEN AN EXCLUSIVE REPRESENTATIVE AND A PUBLIC EMPLOYER, INCLUDING ONE ACCEPTED BY THE PARTIES AFTER FACT-FINDING, IN ADDITION TO ANY TERMS APPROVED BY THE REGISTERED ELECTORS OF A PUBLIC EMPLOYER PURSUANT TO SECTION 29-5-210.

(5) "COLLECTIVE BARGAINING PROVISIONS OF THIS PART 2" MEANS ALL OF THIS PART 2; EXCEPT THAT SECTIONS 29-5-202, 29-5-203 (7), (13), AND (14); 29-5-204 (1) (a), (1) (e), (2), AND (3); 29-5-205; 29-5-211; 29-5-212 (4) AND (5); 29-5-213; AND 29-5-214 SHALL APPLY TO ALL PUBLIC EMPLOYERS AND FIREFIGHTERS WITHOUT REGARD TO SECTION 29-5-206.

(6) "COMPENSATION" MEANS BASE WAGES OR SALARY; ANY FORM OF DIRECT MONETARY PAYMENTS; EMPLOYER-PAID HEALTH, ACCIDENT, LIFE, AND DISABILITY INSURANCE PROGRAMS; EMPLOYER-PAID PENSION PROGRAMS, INCLUDING THE AMOUNT OF PENSION AND CONTRIBUTIONS TO THE EXTENT NOT CONTROLLED BY LAW; DEFERRED COMPENSATION; RETIREE HEALTH PROGRAMS; PAID TIME OFF; UNIFORM AND EQUIPMENT

ALLOWANCES; EXPENSE REIMBURSEMENT; AND ALL ELIGIBILITY CONDITIONS FOR COMPENSATION.

(7) "EMPLOYEE ORGANIZATION" MEANS AN ORGANIZATION THAT ADMITS FIREFIGHTERS EMPLOYED BY A PUBLIC EMPLOYER TO MEMBERSHIP AND REPRESENTS FIREFIGHTERS IN COLLECTIVE BARGAINING OR THE MEET AND CONFER PROCESS. "EMPLOYEE ORGANIZATION" INCLUDES A PERSON ACTING AS AN OFFICER, REPRESENTATIVE, OR AGENT OF AN EMPLOYEE ORGANIZATION.

(8) "EXCLUSIVE REPRESENTATIVE" MEANS THE EMPLOYEE ORGANIZATION RECOGNIZED BY THE PUBLIC EMPLOYER OR NAMED IN A PETITION FILED PURSUANT TO SECTION 29-5-206.

(9) "FINAL OFFER" MEANS THE LATEST WRITTEN OFFER MADE BY AN EXCLUSIVE REPRESENTATIVE TO A PUBLIC EMPLOYER AND BY A PUBLIC EMPLOYER TO AN EXCLUSIVE REPRESENTATIVE AT LEAST SEVEN DAYS PRIOR TO THE BEGINNING OF AN IMPASSE RESOLUTION HEARING AS DESCRIBED IN SECTION 29-5-210.

(10) "FIREFIGHTER" MEANS AN EMPLOYEE OF A PUBLIC EMPLOYER WHOSE PRIMARY DUTIES ARE DIRECTLY INVOLVED WITH THE PROVISION OF FIRE PROTECTION OR FIREFIGHTING SERVICES. "FIREFIGHTER" DOES NOT INCLUDE CLERICAL PERSONNEL OR VOLUNTEER FIREFIGHTERS AS DEFINED IN SECTION 31-30-1102, C.R.S.

(11) "GENERAL ELECTION" MEANS A GENERAL MUNICIPAL ELECTION, REGULAR SPECIAL DISTRICT BOARD ELECTION, STATEWIDE PRIMARY ELECTION, OR STATEWIDE GENERAL ELECTION.

(12) "PARTY" MEANS AN EXCLUSIVE REPRESENTATIVE OR A PUBLIC EMPLOYER.

(13) "PUBLIC EMPLOYER" MEANS A MUNICIPALITY, INCLUDING A HOME RULE MUNICIPALITY, SPECIAL DISTRICT, FIRE AUTHORITY, OR COUNTY IMPROVEMENT DISTRICT, THAT OFFERS FIRE PROTECTION SERVICE AND EMPLOYS TWO OR MORE FIREFIGHTERS.

(14) "STRIKE" MEANS THE FOLLOWING CONCERTED ACTIONS TAKEN BY MEMBERS OF A BARGAINING UNIT FOR THE PURPOSE OF INDUCING,

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INFLUENCING, OR COERCING A CHANGE IN THE TERMS AND CONDITIONS OF EMPLOYMENT, COMPENSATION, RIGHTS, PRIVILEGES, OR OBLIGATIONS OF EMPLOYMENT:

- (a) FAILURE TO REPORT FOR DUTY;
- (b) WILLFUL ABSENCE FROM A POSITION;
- (c) STOPPING OR DELIBERATELY SLOWING WORK;
- (d) WITHHOLDING, IN WHOLE OR IN PART, THE FULL, FAITHFUL, AND PROPER PERFORMANCE OF DUTIES OF EMPLOYMENT; OR
- (e) INTERRUPTING THE OPERATIONS OF THE PUBLIC EMPLOYER.

(15) "SUPERVISOR" MEANS THE CHIEF AND ALL OFFICERS IN THE RANK OR POSITION IMMEDIATELY BELOW THE CHIEF WHO REPORT DIRECTLY TO THE CHIEF. NO OTHER FIREFIGHTER IS INCLUDED IN THE DEFINITION OF SUPERVISOR FOR THE PURPOSES OF THIS PART 2.

(16) "TERMS AND CONDITIONS OF EMPLOYMENT" MEANS COMPENSATION, HOURS, AND ALL MATTERS AFFECTING THE EMPLOYMENT OF FIREFIGHTERS, INCLUDING ITEMS RELATED TO SAFETY, EXCEPT THE BUDGET AND ORGANIZATIONAL STRUCTURE OF THE PUBLIC EMPLOYER.

**29-5-204. Rights of firefighters.** (1) FIREFIGHTERS HAVE THE RIGHT TO:

- (a) ORGANIZE, FORM, JOIN, OR ASSIST AN EMPLOYEE ORGANIZATION OR TO REFRAIN FROM DOING SO;
- (b) NEGOTIATE COLLECTIVELY OR ADDRESS GRIEVANCES THROUGH REPRESENTATIVES OF THEIR OWN CHOOSING;
- (c) ENGAGE IN OTHER CONCERTED ACTIVITY FOR THE PURPOSE OF COLLECTIVE BARGAINING OR OTHER MUTUAL AID OR PROTECTION, IF AND TO THE EXTENT THAT THE ACTIVITY IS NOT PROHIBITED BY THIS PART 2 OR ANY OTHER LAW OF COLORADO;
- (d) BE REPRESENTED BY AN EXCLUSIVE REPRESENTATIVE WITHOUT

DISCRIMINATION, INTIMIDATION, OR RETALIATION; AND

(e) FULLY PARTICIPATE IN THE POLITICAL PROCESS OF THEIR PUBLIC EMPLOYERS WHILE OFF DUTY AND NOT IN UNIFORM, INCLUDING SPEAKING WITH MEMBERS OF THE PUBLIC EMPLOYER'S GOVERNING BODY AND ENGAGING IN OTHER LEGITIMATE POLITICAL ACTIVITIES IN THE SAME MANNER AS OTHER CITIZENS OF COLORADO WITHOUT DISCRIMINATION, INTIMIDATION, OR RETALIATION.

(2) NOTHING IN THIS PART 2 LIMITS THE RIGHT OF A SUPERVISOR TO BE A MEMBER OF AN EMPLOYEE ORGANIZATION.

(3) NOTHING IN THIS PART 2 APPLIES TO VOLUNTEER FIREFIGHTERS.

**29-5-205. Obligation to meet and confer.** (1) UNLESS THE PUBLIC EMPLOYER AND ITS FIREFIGHTERS ARE ALREADY PARTY TO A COLLECTIVE BARGAINING AGREEMENT OR THE PUBLIC EMPLOYER HAS OPTED INTO THE COLLECTIVE BARGAINING PROVISIONS OF THIS PART 2, IF REQUESTED TO DO SO BY THE FIREFIGHTERS OR THEIR EMPLOYEE ORGANIZATION, A PUBLIC EMPLOYER HAS THE OBLIGATION TO MEET AND CONFER WITH ITS FIREFIGHTERS OR THEIR EMPLOYEE ORGANIZATION TO DISCUSS POLICIES AND OTHER MATTERS RELATING TO THEIR EMPLOYMENT, INCLUDING SAFETY AND EQUIPMENT, BUT NOT INCLUDING COMPENSATION.

(2) THE OBLIGATION TO MEET AND CONFER DOES NOT INCLUDE THE OBLIGATION TO ENGAGE IN COLLECTIVE BARGAINING UNLESS APPROVED BY THE VOTERS PURSUANT TO SECTION 29-5-206. THE OBLIGATION TO MEET AND CONFER INCLUDES THE OBLIGATION TO RECOGNIZE THE EMPLOYEE ORGANIZATION THAT REQUESTS THE MEET AND CONFER PROCESS.

**29-5-206. Vote of the citizens to obligate a public employer to engage in collective bargaining.** (1) IF A PETITION SIGNED BY AT LEAST FIVE PERCENT OF THE NUMBER OF PERSONS WHO VOTED IN THE LAST GENERAL MUNICIPAL ELECTION, GENERAL DISTRICT ELECTION, OR THE TOTAL VOTES OF EACH PARTY'S GENERAL ELECTION IN THE CASE OF A FIRE AUTHORITY, UNLESS PETITION REQUIREMENTS ARE OTHERWISE OUTLINED BY CITY CHARTER OR LOCAL ORDINANCE, ASKS THE PUBLIC EMPLOYER TO ENGAGE IN COLLECTIVE BARGAINING WITH A NAMED EMPLOYEE ORGANIZATION, THE PUBLIC EMPLOYER SHALL PLACE ON THE BALLOT AT THE NEXT GENERAL ELECTION THE FOLLOWING QUESTION FOR A YES OR NO VOTE:

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"SHOULD THE FIREFIGHTERS EMPLOYED BY THE [NAME OF THE PUBLIC EMPLOYER] BE COVERED BY THE "COLORADO FIREFIGHTER SAFETY ACT"?. IF A MAJORITY OF THE REGISTERED ELECTORS VOTING ON THIS QUESTION VOTE "YES", THE PUBLIC EMPLOYER IS OBLIGATED TO ENGAGE IN COLLECTIVE BARGAINING PURSUANT TO THIS PART 2, AND THE EMPLOYEE ORGANIZATION NAMED IN THE PETITION BECOMES THE EXCLUSIVE REPRESENTATIVE OF THE FIREFIGHTERS OF THAT PUBLIC EMPLOYER. IF A MAJORITY OF THE REGISTERED ELECTORS VOTING ON THIS QUESTION VOTE "NO", THE PUBLIC EMPLOYER WILL NOT BE OBLIGATED TO ENGAGE IN COLLECTIVE BARGAINING UNDER THIS PART 2, AND THE MEET AND CONFER PROCESS IN SECTION 29-5-205 WILL CONTINUE TO APPLY TO THAT PUBLIC EMPLOYER.

(2) PRIOR TO CIRCULATING THE PETITION REFERENCED IN SUBSECTION (1) OF THIS SECTION TO COLLECT THE REQUIRED NUMBER OF SIGNATURES TO PLACE THE QUESTION ON THE BALLOT, AN EMPLOYEE ORGANIZATION MUST SUBMIT TO THE PUBLIC EMPLOYER A NOTICE OF INTENT TO CIRCULATE THE PETITION THAT CONTAINS SIGNATURES FROM FIREFIGHTERS EQUAL TO AT LEAST SEVENTY-FIVE PERCENT OF THE POTENTIAL BARGAINING UNIT. THE NOTICE NEED NOT BE IN ANY PARTICULAR FORMAT.

(3) IF THE ISSUE OF WHETHER THE PUBLIC EMPLOYER WILL BE COVERED BY THE COLLECTIVE BARGAINING PROVISIONS OF THIS PART 2 HAS BEEN PREVIOUSLY VOTED ON, THE ISSUE MAY BE PLACED BEFORE THE VOTERS PURSUANT TO THE SAME PROCEDURE IN SUBSECTION (1) OF THIS SECTION, NO SOONER THAN FOUR YEARS AFTER THE ISSUE WAS LAST PREVIOUSLY VOTED UPON. IF THE COLLECTIVE BARGAINING PROVISIONS OF THIS PART 2 HAVE BEEN APPLIED TO THE PUBLIC EMPLOYER, THE BALLOT QUESTION PRESENTED IN ANY SUBSEQUENT ELECTION SHALL BE: "SHOULD THE FIREFIGHTERS EMPLOYED BY THE [NAME OF THE PUBLIC EMPLOYER] CONTINUE TO BE COVERED BY THE "COLORADO FIREFIGHTER SAFETY ACT"?.

(4) IF THERE IS A COLLECTIVE BARGAINING AGREEMENT IN EFFECT AT THE TIME OF SUBSEQUENT VOTES, AND IF ANY OF THOSE VOTES RESULTS IN THE PUBLIC EMPLOYER NO LONGER BEING COVERED BY THE COLLECTIVE BARGAINING PROVISIONS OF THIS PART 2, THE AGREEMENT SHALL REMAIN IN EFFECT FOR THE REMAINDER OF ITS TERM.



(5) NOTHING IN THIS SECTION PROHIBITS A PUBLIC EMPLOYER FROM VOLUNTARILY AGREEING TO BE COVERED BY THE COLLECTIVE BARGAINING PROVISIONS OF THIS ACT.

(6) THE COLLECTIVE BARGAINING PROVISIONS OF THIS PART 2 APPLY ONLY TO A PUBLIC EMPLOYER THAT EMPLOYS TWENTY-FOUR OR MORE FIREFIGHTERS.

**29-5-207. Employee organization as exclusive representative.**

(1) THE EMPLOYEE ORGANIZATION RECOGNIZED OR NAMED IN THE PETITION PURSUANT TO SECTION 29-5-206 FOR THE PURPOSE OF COLLECTIVE BARGAINING BECOMES THE EXCLUSIVE REPRESENTATIVE OF ALL FIREFIGHTERS IN THE BARGAINING UNIT FOR THE PURPOSE OF COLLECTIVE BARGAINING. THE EXCLUSIVE REPRESENTATIVE SHALL REPRESENT ALL FIREFIGHTERS IN THE BARGAINING UNIT WITHOUT DISCRIMINATION. IF AN EXCLUSIVE REPRESENTATIVE EXISTS IN A BARGAINING UNIT, A PUBLIC EMPLOYER SHALL NOT BARGAIN IN REGARD TO MATTERS COVERED BY THIS PART 2 WITH ANY FIREFIGHTER, GROUP OF FIREFIGHTERS IN THE BARGAINING UNIT, OR OTHER EMPLOYEE ORGANIZATION OF FIREFIGHTERS.

(2) (a) NOTHING IN THIS SECTION PREVENTS FIREFIGHTERS, INDIVIDUALLY OR AS A GROUP, FROM PRESENTING COMPLAINTS TO A PUBLIC EMPLOYER AND FROM HAVING COMPLAINTS ADJUSTED WITHOUT THE INTERVENTION OF THE EXCLUSIVE REPRESENTATIVE FOR THE BARGAINING UNIT OF WHICH THEY ARE A PART IF:

(I) THE EXCLUSIVE REPRESENTATIVE IS GIVEN AN OPPORTUNITY TO BE PRESENT AT THE ADJUSTMENT AND TO EXPRESS ITS VIEWS; AND

(II) THE ADJUSTMENT IS NOT INCONSISTENT WITH THE TERMS OF A COLLECTIVE BARGAINING AGREEMENT THEN IN EFFECT BETWEEN THE PUBLIC EMPLOYER AND THE EXCLUSIVE REPRESENTATIVE.

(b) THE ABILITY TO ADJUST COMPLAINTS AS DESCRIBED IN THIS SUBSECTION (2) DOES NOT INCLUDE THE USE OF ANY PROCESS IN A COLLECTIVE BARGAINING AGREEMENT TO RESOLVE GRIEVANCES OVER THE APPLICATION AND INTERPRETATION OF THE AGREEMENT.

(3) AN EMPLOYEE ORGANIZATION THAT IS AN EXCLUSIVE REPRESENTATIVE HAS THE RIGHT TO HAVE ITS DUES, INITIATION FEES,

ASSESSMENTS, OR OTHER MONEYS DEDUCTED AND COLLECTED BY THE PUBLIC EMPLOYER FROM THE PAY OF THOSE FIREFIGHTERS WITHIN THE BARGAINING UNIT WHO AUTHORIZE, IN WRITING, THE DEDUCTION OF THE MONEYS. THE AUTHORIZATION IS REVOCABLE AT THE FIREFIGHTER'S WRITTEN REQUEST. THE DEDUCTIONS COMMENCE UPON THE EXCLUSIVE REPRESENTATIVE'S WRITTEN REQUEST TO THE PUBLIC EMPLOYER. THE RIGHT TO THE DEDUCTION REMAINS IN FORCE AS LONG AS THE EMPLOYEE ORGANIZATION REMAINS THE EXCLUSIVE REPRESENTATIVE FOR THE EMPLOYEES IN THE BARGAINING UNIT.

**29-5-208. Obligation to negotiate in good faith.** THE PUBLIC EMPLOYER AND THE EXCLUSIVE REPRESENTATIVE, THROUGH APPROPRIATE OFFICIALS OR THEIR REPRESENTATIVES, HAVE THE AUTHORITY AND THE DUTY TO BARGAIN COLLECTIVELY IN GOOD FAITH. THE OBLIGATION TO BARGAIN IN GOOD FAITH DOES NOT COMPEL EITHER PARTY TO AGREE TO A PROPOSAL OR MAKE A CONCESSION. THE OBLIGATION TO BARGAIN IN GOOD FAITH REQUIRES, UPON REQUEST, THE EXCHANGE OF INFORMATION POSSIBLY RELEVANT TO THE TERMS AND CONDITIONS OF EMPLOYMENT OF THE FIREFIGHTERS OR THE INTERPRETATION OR APPLICATION OF THE TERMS OF ANY COLLECTIVE BARGAINING AGREEMENT.

**29-5-209. Collective bargaining agreement.** (1) A COLLECTIVE BARGAINING AGREEMENT ENTERED INTO PURSUANT TO THIS PART 2 IS FOR A TERM OF AT LEAST ONE YEAR AND NO MORE THAN THREE YEARS, BEGINNING JANUARY 1 AND ENDING DECEMBER 31, UNLESS A DIFFERENT BEGINNING DATE IS AGREED TO BY THE PARTIES, RECOMMENDED BY THE ADVISORY FACT-FINDER AND ACCEPTED BY THE PARTIES, OR SET AS A RESULT OF A SPECIAL ELECTION.

(2) IF A PARTY REQUESTS COLLECTIVE BARGAINING BY SENDING NOTICE TO THE OTHER PARTY, COLLECTIVE BARGAINING IS REQUIRED TO TAKE PLACE NO LATER THAN JULY 15 OF THE LAST YEAR OF THE EXISTING COLLECTIVE BARGAINING AGREEMENT OR, IN THE CASE OF A NEWLY CERTIFIED OR RECOGNIZED EXCLUSIVE REPRESENTATIVE, BY JULY 15 OF THE YEAR IN WHICH BARGAINING WILL TAKE PLACE. IF NO PARTY REQUESTS BARGAINING UNDER THIS SECTION BY JULY 15 OF THE LAST YEAR OF AN EXISTING COLLECTIVE BARGAINING AGREEMENT, THE AGREEMENT WILL CONTINUE FOR THE NEXT CALENDAR YEAR UNLESS THE PARTIES AGREE TO NEGOTIATE AND REACH A VOLUNTARY AGREEMENT ON ALL TERMS OF A NEW CONTRACT.

(3) THE PUBLIC EMPLOYER AND THE EXCLUSIVE REPRESENTATIVE SHALL BEGIN COLLECTIVE BARGAINING FOR THE PURPOSE OF CREATING A NEW COLLECTIVE BARGAINING AGREEMENT NO LATER THAN AUGUST 25 AFTER NOTICE TO BEGIN COLLECTIVE BARGAINING IS GIVEN PURSUANT TO SUBSECTION (2) OF THIS SECTION.

(4) A COLLECTIVE BARGAINING AGREEMENT MAY CONTAIN PROVISIONS REQUIRING ALL MEMBERS OF THE BARGAINING UNIT, AS A CONDITION OF EMPLOYMENT, TO PAY NECESSARY FEES AND EXPENSES GERMANE TO COLLECTIVE BARGAINING AND ENFORCEMENT OF A COLLECTIVE BARGAINING AGREEMENT THAT ARE INCURRED BY THE EXCLUSIVE REPRESENTATIVE.

**29-5-210. Impasse resolution.** (1) AT ANY TIME AFTER THIRTY DAYS FROM THE START OF THE BARGAINING PROCESS, EITHER PARTY MAY DECLARE AN IMPASSE IN NEGOTIATIONS. IF AN IMPASSE IS DECLARED, AN ADVISORY FACT-FINDER MUST BE APPOINTED IN THE MANNER DESCRIBED IN SUBSECTION (2) OF THIS SECTION.

(2) (a) WITHIN THREE DAYS AFTER AN IMPASSE IS DECLARED, THE EXCLUSIVE REPRESENTATIVE OR THE PUBLIC EMPLOYER SHALL NOTIFY THE AMERICAN ARBITRATION ASSOCIATION, A SUCCESSOR ORGANIZATION, OR A SIMILAR ORGANIZATION AGREED UPON BY BOTH PARTIES, REFERRED TO IN THIS SECTION AS THE "ARBITRATION ORGANIZATION", AND REQUEST THE ARBITRATION ORGANIZATION TO SUBMIT SIMULTANEOUSLY TO EACH PARTY WITHIN FOURTEEN DAYS AN IDENTICAL LIST OF SEVEN PERSONS QUALIFIED TO SERVE AS AN ADVISORY FACT-FINDER. THE PARTIES MAY AGREE UPON AN ADVISORY FACT-FINDER THAT IS NOT ON THE LIST REQUESTED.

(b) WITHIN TEN DAYS AFTER THE ARBITRATION ORGANIZATION DELIVERS THE LIST TO THE PARTIES PURSUANT TO PARAGRAPH (a) OF THIS SUBSECTION (2), EACH PARTY MAY STRIKE TWO NAMES FROM THE LIST, RANK THE REMAINING NAMES IN ORDER OF PREFERENCE, AND RETURN THE LIST TO THE ARBITRATION ORGANIZATION. IF A PARTY DOES NOT RETURN THE LIST WITHIN THE SPECIFIED TIME, ALL PERSONS NAMED IN THE LIST ARE DEEMED ACCEPTABLE TO THAT PARTY.

(c) WITHIN TEN DAYS AFTER THE LAST LIST IS RETURNED TO THE ARBITRATION ORGANIZATION PURSUANT TO PARAGRAPH (b) OF THIS SUBSECTION (2), OR WITHIN TEN DAYS AFTER THE TIME THE LIST MUST BE

RETURNED BY THE PARTIES, WHICHEVER IS EARLIER, THE ARBITRATION ORGANIZATION SHALL APPOINT ONE ADVISORY FACT-FINDER FROM THE PERSONS WHO HAVE BEEN APPROVED ON BOTH LISTS AND SHALL NOTIFY THE PARTIES OF THE APPOINTMENT.

(3) THE ADVISORY FACT-FINDER SHALL HOLD A HEARING ON THE UNRESOLVED ISSUES BETWEEN THE PARTIES WITHIN THIRTY DAYS AFTER BEING APPOINTED. THE ADVISORY FACT-FINDER SHALL GIVE WRITTEN NOTICE OF THE TIME AND PLACE OF THE HEARING TO THE PARTIES NO LATER THAN TEN DAYS BEFORE THE HEARING. THE HEARING MUST BE INFORMAL, AND THE RULES OF EVIDENCE PREVAILING IN JUDICIAL PROCEEDINGS ARE NOT BINDING. THE ADVISORY FACT-FINDER MAY RECEIVE INTO EVIDENCE ANY DOCUMENTARY EVIDENCE AND OTHER INFORMATION DEEMED RELEVANT BY THE ADVISORY FACT-FINDER. THE ADVISORY FACT-FINDER MAY ADMINISTER OATHS AND REQUIRE BY SUBPOENA THE ATTENDANCE AND TESTIMONY OF WITNESSES AND THE PRODUCTION OF BOOKS, RECORDS, AND OTHER EVIDENCE RELEVANT TO THE ISSUES PRESENTED FOR DETERMINATION. IF A PERSON REFUSES TO OBEY A SUBPOENA, TAKE AN OATH, OR TESTIFY, OR IF ANY WITNESS, PARTY, OR ATTORNEY IS GUILTY OF CONTEMPT WHILE IN ATTENDANCE AT A HEARING, THE ADVISORY FACT-FINDER MAY, OR THE ATTORNEY GENERAL SHALL, IF REQUESTED, INVOKE THE AID OF THE DISTRICT COURT OF THE COUNTY IN WHICH THE HEARING IS BEING HELD, AND THE COURT SHALL ISSUE AN APPROPRIATE ORDER. THE COURT MAY PUNISH A FAILURE TO OBEY THE ORDER AS CONTEMPT.

(4) THE HEARING CONDUCTED BY THE ADVISORY FACT-FINDER MUST BE CONCLUDED WITHIN TEN DAYS AFTER THE HEARING BEGINS. WITH NOTICE TO THE ADVISORY FACT-FINDER AT THE CONCLUSION OF THE HEARING, A PARTY MAY SUBMIT A WRITTEN BRIEF TO THE ADVISORY FACT-FINDER WITHIN TEN DAYS AFTER THE CONCLUSION OF THE HEARING.

(5) WITHIN THIRTY DAYS AFTER RECEIPT OF THE LAST WRITTEN BRIEF FROM A PARTY, OR WITHIN THIRTY DAYS AFTER THE CONCLUSION OF THE HEARING IF NEITHER PARTY NOTIFIED THE ADVISORY FACT-FINDER OF ITS INTENT TO FILE A WRITTEN BRIEF, THE ADVISORY FACT-FINDER SHALL RENDER A DECISION RECOMMENDING A PEACEFUL AND JUST SETTLEMENT OF THE UNRESOLVED ISSUES BETWEEN THE EXCLUSIVE REPRESENTATIVE AND THE PUBLIC EMPLOYER. THE DECISION IS LIMITED TO A RECOMMENDATION OF WHICH PORTION OF THE FINAL OFFERS MADE BY EACH PARTY ON EACH

ISSUE IN DISPUTE SHOULD BE ACCEPTED. THE DECISION MUST INCLUDE WRITTEN FINDINGS AND A WRITTEN OPINION ON THE ISSUES PRESENTED. THE ADVISORY FACT-FINDER SHALL MAIL OR OTHERWISE DELIVER A COPY OF THE WRITTEN DECISION TO THE EXCLUSIVE REPRESENTATIVE AND THE PUBLIC EMPLOYER.

(6) IN ARRIVING AT A DECISION, THE ADVISORY FACT-FINDER SHALL CONSIDER:

(a) THE INTERESTS AND WELFARE OF THE PUBLIC;

(b) THE COMPENSATION, HOURS, AND TERMS AND CONDITIONS OF EMPLOYMENT OF THE FIREFIGHTERS INVOLVED IN THE COLLECTIVE BARGAINING IN COMPARISON WITH THE COMPENSATION, HOURS, AND TERMS AND CONDITIONS OF EMPLOYMENT, INCLUDING FIREFIGHTER SAFETY ISSUES, OF OTHER FIREFIGHTERS IN COMPARABLE COMMUNITIES AS DETERMINED BY THE ADVISORY FACT-FINDER;

(c) STIPULATIONS OF THE PARTIES;

(d) THE LAWFUL AUTHORITY OF THE PUBLIC EMPLOYER;

(e) THE FINANCIAL ABILITY OF THE PUBLIC EMPLOYER TO MEET THE COSTS OF ANY PROPOSED SETTLEMENT;

(f) CHANGES IN THE COST OF LIVING; AND

(g) OTHER FACTORS THAT ARE NORMALLY OR TRADITIONALLY TAKEN INTO CONSIDERATION IN THE DETERMINATION OF COMPENSATION, HOURS, AND TERMS AND CONDITIONS OF EMPLOYMENT THROUGH VOLUNTARY COLLECTIVE BARGAINING, INTEREST ARBITRATION, OR OTHERWISE BETWEEN PARTIES IN PUBLIC OR PRIVATE EMPLOYMENT.

(7) THE ADVISORY FACT-FINDER SHALL GIVE DUE WEIGHT TO EACH FACTOR LISTED IN SUBSECTION (6) OF THIS SECTION. IF THE ADVISORY FACT-FINDER DETERMINES THAT A FACTOR LISTED IN SUBSECTION (6) OF THIS SECTION IS NOT RELEVANT, THE ADVISORY FACT-FINDER SHALL STATE IN THE FINDINGS THE SPECIFIC REASON WHY THE FACTOR IS NOT RELEVANT TO THE ADVISORY FACT-FINDER'S DETERMINATION.

(8) THE EXCLUSIVE REPRESENTATIVE AND THE PUBLIC EMPLOYER SHALL EQUALLY BEAR THE COST OF THE ADVISORY FACT-FINDER AND RELATED HEARINGS.

(9)(a) THE PUBLIC EMPLOYER AND THE EXCLUSIVE REPRESENTATIVE HAVE FOURTEEN DAYS AFTER THE ISSUANCE OF THE ADVISORY FACT-FINDER'S DECISION TO CONSIDER THE RECOMMENDATIONS AND FURTHER NEGOTIATE THE DISPUTED ISSUES. NO LATER THAN THE END OF THE FOURTEEN-DAY PERIOD, THE PUBLIC EMPLOYER AND THE EXCLUSIVE REPRESENTATIVE SHALL NOTIFY THE OTHER PARTY WHETHER IT ACCEPTS OR REJECTS THE RECOMMENDATIONS ON EACH OF THE REMAINING UNRESOLVED ISSUES. IF EITHER PARTY REJECTS ANY OF THE RECOMMENDATIONS, THE FINAL OFFERS OF THE PARTIES ON ALL OF THE ISSUES REMAINING UNRESOLVED SHALL BE SUBMITTED AS ALTERNATIVE SINGLE MEASURES TO A VOTE OF THE REGISTERED ELECTORS OF THE PUBLIC EMPLOYER AT A SPECIAL ELECTION. THE REGISTERED ELECTORS SHALL SELECT EITHER THE FINAL OFFER OF THE PUBLIC EMPLOYER OR THE FINAL OFFER OF THE EXCLUSIVE REPRESENTATIVE, AS PRESENTED TO THE ADVISORY FACT-FINDER. ISSUES AGREED TO DURING THE FOURTEEN-DAY PERIOD SPECIFIED IN THIS SUBSECTION (9) MUST NOT BE INCLUDED IN THE FINAL OFFERS SUBMITTED TO THE REGISTERED ELECTORS. THE PARTY THAT REFUSES TO ACCEPT THE RECOMMENDATIONS OF THE ADVISORY FACT-FINDER SHALL PAY THE COST OF THE SPECIAL ELECTION. IF BOTH PARTIES REFUSE TO ACCEPT THE ADVISORY FACT-FINDER'S RECOMMENDATIONS, THE PUBLIC EMPLOYER AND THE EXCLUSIVE REPRESENTATIVE SHALL PAY THE COST OF THE SPECIAL ELECTION EQUALLY.

(b) THE SPECIAL ELECTION MUST NOT BE HELD IN CONJUNCTION WITH, OR ON THE SAME DAY AS, ANY OTHER ELECTION AND MAY BE HELD ON ANY DATE SET BY THE PUBLIC EMPLOYER AS LONG AS IT IS HELD NO MORE THAN NINETY DAYS AFTER THE DATE OF THE REJECTION OF AN ADVISORY FACT-FINDER'S RECOMMENDATION AND AT LEAST THIRTY DAYS' NOTICE IS GIVEN.

(10) NOTHING IN THIS PART 2 PROHIBITS OR IMPEDES A PUBLIC EMPLOYER AND AN EXCLUSIVE REPRESENTATIVE FROM CONTINUING TO BARGAIN IN GOOD FAITH OR FROM USING THE SERVICES OF A MEDIATOR AT ANY TIME DURING COLLECTIVE BARGAINING. IF AT ANY POINT IN THE ADVISORY FACT-FINDING PROCEEDINGS THE PARTIES ARE ABLE TO CONCLUDE THE DISPUTE, OR ANY PORTION THEREOF, WITH A VOLUNTARILY

REACHED AGREEMENT, THE PARTIES SHALL NOTIFY THE ADVISORY FACT-FINDER OF THE AGREEMENT, AND THE ADVISORY FACT-FINDER SHALL TERMINATE THE PROCEEDINGS OR DISCONTINUE THE CONSIDERATION OF AN ISSUE RESOLVED BY THE AGREEMENT. IF AN AGREEMENT IS REACHED AFTER A SPECIAL ELECTION HAS BEEN SCHEDULED AND THE ELECTION CANNOT BE CANCELED OR ISSUES CANNOT BE REMOVED FROM THE BALLOT, THE VOTES ON THE FINAL OFFERS OF THE PUBLIC EMPLOYER AND THE EXCLUSIVE REPRESENTATIVE SHALL NOT BE COUNTED.

(11) DURING IMPASSE RESOLUTION PROCEEDINGS CONDUCTED PURSUANT TO THIS SECTION, EXISTING COMPENSATION, HOURS, AND OTHER TERMS AND CONDITIONS OF EMPLOYMENT MAY NOT BE CHANGED EXCEPT BY AN AGREEMENT BETWEEN THE PUBLIC EMPLOYER AND THE EXCLUSIVE REPRESENTATIVE, BUT ANY SUCH AGREEMENT MUST BE WITHOUT PREJUDICE TO EITHER PARTY'S RIGHTS OR POSITION IN THE ADVISORY FACT-FINDER'S HEARING. ANY CHANGES IN THE COLLECTIVE BARGAINING AGREEMENT FROM THE EXPIRED AGREEMENT MUST BE RETROACTIVE TO JANUARY 1 UNLESS THE PARTIES AGREE OTHERWISE.

(12) THE PARTIES MAY AGREE TO EXTEND ANY OF THE TIME LIMITS SPECIFIED IN THIS PART 2 EXCEPT THE DATE FOR BEGINNING BARGAINING.

(13) THE PUBLIC EMPLOYER SHALL MODIFY ANY ADOPTED BUDGET TO COMPLY WITH THE RESULTS OF ACCEPTED RECOMMENDATIONS FROM AN ADVISORY FACT-FINDER OR OF A SPECIAL ELECTION HELD PURSUANT TO THIS SECTION.

**29-5-211. Strikes prohibited.** A FIREFIGHTER OR EMPLOYEE ORGANIZATION SHALL NOT STRIKE. NOTHING IN THIS SECTION LIMITS OR IMPAIRS THE RIGHT OF ANY FIREFIGHTER TO LAWFULLY EXPRESS OR COMMUNICATE A COMPLAINT OR OPINION ON ANY MATTER RELATED TO COMPENSATION, HOURS, OR TERMS AND CONDITIONS OF EMPLOYMENT.

**29-5-212. Existing bargaining relationships.** (1) THE COLLECTIVE BARGAINING PROVISIONS OF THIS PART 2 DO NOT APPLY TO ANY HOME RULE CITY THAT HAS LANGUAGE IN ITS CHARTER ON THE EFFECTIVE DATE OF THIS PART 2 THAT PROVIDES FOR A COLLECTIVE BARGAINING PROCESS FOR FIREFIGHTERS EMPLOYED BY THE HOME RULE CITY. THIS PART 2 APPLIES TO ALL OTHER PUBLIC EMPLOYERS, INCLUDING HOME RULE CITIES WITHOUT LANGUAGE IN THEIR CHARTERS THAT ADDRESS A COLLECTIVE BARGAINING

PROCESS FOR FIREFIGHTERS.

(2) A BARGAINING UNIT IN EXISTENCE ON THE EFFECTIVE DATE OF THIS PART 2 REMAINS THE BARGAINING UNIT UNLESS THE BARGAINING UNIT IS MODIFIED BY VOLUNTARY AGREEMENT BETWEEN THE EXCLUSIVE REPRESENTATIVE AND THE PUBLIC EMPLOYER OR AS OTHERWISE PROVIDED BY THIS PART 2.

(3) AN EMPLOYEE ORGANIZATION RECOGNIZED BY A PUBLIC EMPLOYER AS THE EXCLUSIVE REPRESENTATIVE FOR A BARGAINING UNIT AS OF THE EFFECTIVE DATE OF THIS PART 2 REMAINS THE EXCLUSIVE REPRESENTATIVE FOR THE BARGAINING UNIT UNTIL THE EMPLOYEE ORGANIZATION IS DECERTIFIED AS THE EXCLUSIVE REPRESENTATIVE BY VOTE OF A MAJORITY OF THE FIREFIGHTERS IN THE BARGAINING UNIT IN ACCORDANCE WITH A PROCESS ESTABLISHED BY THE PUBLIC EMPLOYER.

(4)(a) ALL EXISTING BARGAINING RELATIONSHIPS OF FIREFIGHTERS, WHETHER CREATED BY ORDINANCE, RESOLUTION, OR VOLUNTARY RECOGNITION, REMAIN IN EFFECT UNDER THE TERMS, CONDITIONS, AND PROCEDURES IN EFFECT UNLESS THE PUBLIC EMPLOYER AND EXCLUSIVE REPRESENTATIVE AGREE TO APPLY THE COLLECTIVE BARGAINING PROVISIONS OF THIS PART 2 OR UNTIL AN ELECTION IS HELD BY PETITION PURSUANT TO SECTION 29-5-206. IF THE REGISTERED ELECTORS APPROVE COVERAGE OF THE COLLECTIVE BARGAINING PROVISIONS OF THIS PART 2 TO THE PUBLIC EMPLOYER, THOSE PROVISIONS WILL APPLY TO THE BARGAINING UNIT REGARDLESS OF ANY CHARTER, ORDINANCE, RESOLUTION, OR VOLUNTARY RECOGNITION. AN ELECTION MAY NOT BE HELD UNDER SECTION 29-5-206 DURING THE TERM OF A COLLECTIVE BARGAINING AGREEMENT THAT IS IN EXISTENCE ON THE EFFECTIVE DATE OF THIS PART 2.

(b) IF A VOTE IS HELD PURSUANT TO PARAGRAPH (a) OF THIS SUBSECTION (4), THE TERMS, CONDITIONS, AND PROCEDURES IN THE PRIOR BARGAINING RELATIONSHIP REMAIN IN EFFECT UNTIL THE ELECTION IS COMPLETED. IF THE REGISTERED ELECTORS REJECT COVERAGE OF THE COLLECTIVE BARGAINING PROVISIONS OF THIS PART 2, ALL TERMS, CONDITIONS, AND PROCEDURES IN THE PRIOR PROCESS REMAIN IN EFFECT.

(5) NOTHING IN THIS SECTION CHANGES OR ABROGATES A COLLECTIVE BARGAINING AGREEMENT THAT IS IN EXISTENCE ON THE EFFECTIVE DATE OF THIS PART 2.

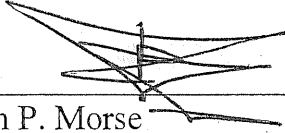


**29-5-213. Right to sue.** A FIREFIGHTER OR EMPLOYEE ORGANIZATION MAY ENFORCE ANY PROVISION OF THIS PART 2 BY FILING SUIT IN A DISTRICT COURT IN WHICHEVER VENUE IS PROPER.

**29-5-214. Severability.** IF ANY PROVISION OR CLAUSE OF THIS PART 2 OR THE APPLICATION TO ANY PERSON OR CIRCUMSTANCE IS HELD INVALID, THE INVALIDITY DOES NOT AFFECT OTHER PROVISIONS OR APPLICATIONS OF THIS PART 2 THAT CAN BE GIVEN EFFECT WITHOUT THE INVALID PROVISION OR APPLICATION.

**SECTION 2. Safety clause.** The general assembly hereby finds,

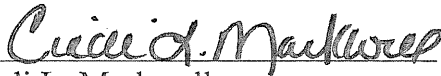
determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.



John P. Morse  
PRESIDENT OF  
THE SENATE



Dickey Lee Hullinghorst  
MAJORITY LEADER OF THE  
HOUSE OF REPRESENTATIVES

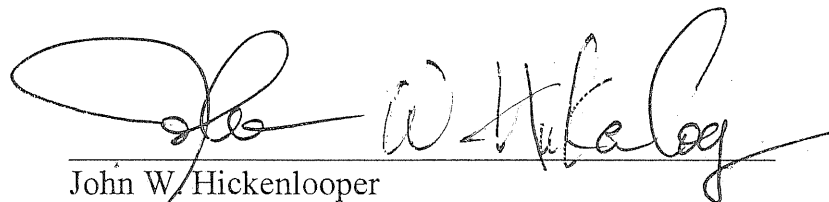


Cindi L. Markwell  
SECRETARY OF  
THE SENATE



Marilyn Eddins  
CHIEF CLERK OF THE HOUSE  
OF REPRESENTATIVES

APPROVED 12:17 PM 6/5/13



John W. Hickenlooper  
GOVERNOR OF THE STATE OF COLORADO

# An Act

SENATE BILL 13-048

BY SENATOR(S) Todd, Jones, Cadman, Heath, Hudak, Kerr, Newell, Aguilar, Carroll, Giron, Guzman, Jahn, Kefalas, King, Nicholson, Schwartz, Steadman, Ulibarri, Morse;  
also REPRESENTATIVE(S) Tyler and Labuda, Fields, Melton, Peniston, Ryden, Salazar, Buckner, Fischer, Hamner, Hulinghorst, Lebsock, McLachlan, Mitsch Bush, Moreno, Primavera, Rosenthal, Singer.

CONCERNING THE USE OF HIGHWAY USER TAX FUND MONEYS ALLOCATED TO LOCAL GOVERNMENTS FOR MULTIMODAL TRANSPORTATION INFRASTRUCTURE.

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

**SECTION 1. Legislative declaration.** The general assembly hereby finds and declares that the development and improvement of multimodal transportation options, including transit-related options, is an important part of a viable and sustainable long-term transportation investment strategy, that the general assembly has authorized the department of transportation to expend highway users tax fund moneys on transit-related projects, and that it is necessary, appropriate, and in the best interest of all Coloradans to also authorize counties and municipalities to expend such moneys on transit-related projects. The general assembly further finds and declares that the funding of transit-related projects

constitutes maintenance and supervision of public highways because it will help to reduce traffic and thereby reduce wear and tear on public highways and bridges and increase their reliability, safety, efficient performance, and expected useful life.

**SECTION 2.** In Colorado Revised Statutes, 43-4-205, **amend** (6) (b) introductory portion as follows:

**43-4-205. Allocation of fund.** (6) Revenues raised by the excise tax imposed on gasoline and special fuel pursuant to sections 39-27-102 and 39-27-102.5, C.R.S., in excess of seven cents per gallon of tax, shall be placed in the highway users tax fund to be allocated as follows; except that revenues raised by the excise tax imposed on gasoline in excess of eighteen cents per gallon of tax shall be allocated according to the provisions of paragraph (b) of this subsection (6):

(b) The remaining balance of such revenue ~~shall~~ MAY be expended only for improvements to highways within the state, including new construction, safety improvements, maintenance, and capacity improvements, ~~No moneys shall~~ AND FOR OTHER TRANSPORTATION-RELATED PROJECTS TO THE EXTENT AUTHORIZED BY SECTIONS 43-4-206 (3), 43-4-207 (1), AND 43-4-208 (1), AND MAY NOT be expended for administrative purposes. Such revenue ~~shall be~~ IS allocated as follows:

**SECTION 3.** In Colorado Revised Statutes, 43-4-207, **amend** (1) as follows:

**43-4-207. County allocation.** (1) After paying the costs of the Colorado state patrol and such other costs of the department, exclusive of highway construction, highway improvements, or highway maintenance, as are appropriated by the general assembly, twenty-six percent of the balance of the highway users tax fund shall be paid to the county treasurers of the respective counties, subject to annual appropriation by the general assembly, and shall be allocated and expended as provided in this section. The moneys thus received shall be allocated to the counties as provided by law and shall be expended by the counties only on the construction, engineering, reconstruction, maintenance, repair, equipment, improvement, and administration of the county highway systems and any other public highways, including any state highways, together with acquisition of

rights-of-way and access rights for the same, FOR THE PLANNING, DESIGNING, ENGINEERING, ACQUISITION, INSTALLATION, CONSTRUCTION, REPAIR, RECONSTRUCTION, MAINTENANCE, OPERATION, OR ADMINISTRATION OF TRANSIT-RELATED PROJECTS, INCLUDING, BUT NOT LIMITED TO, DESIGNATED BICYCLE OR PEDESTRIAN LANES OF HIGHWAY AND INFRASTRUCTURE NEEDED TO INTEGRATE DIFFERENT TRANSPORTATION MODES WITHIN A MULTIMODAL TRANSPORTATION SYSTEM, and for no other purpose; EXCEPT THAT A COUNTY MAY EXPEND NO MORE THAN FIFTEEN PERCENT OF THE TOTAL AMOUNT EXPENDED UNDER THIS SUBSECTION (1) FOR TRANSIT-RELATED OPERATIONAL PURPOSES AND except that moneys received pursuant to section 43-4-205 (6.3) shall be expended by the counties only for road safety projects, as defined in section 43-4-803 (21). The amount to be expended for administrative purposes shall not exceed five percent of each county's share of the funds available.

**SECTION 4.** In Colorado Revised Statutes, 43-4-208, **amend** (1) as follows:

**43-4-208. Municipal allocation.** (1) After paying the costs of the Colorado state patrol and such other costs of the department, exclusive of highway construction, highway improvements, or highway maintenance, as are appropriated by the general assembly, and making allocation as provided by sections 43-4-206 and 43-4-207, the remaining nine percent of the highway users tax fund shall be paid to the cities and incorporated towns within the limits of the respective counties, subject to annual appropriation by the general assembly, and shall be allocated and expended as provided in this section. Each city treasurer shall account for the moneys thus received as provided in this part 2. Moneys so allocated shall be expended by the cities and incorporated towns for the construction, engineering, reconstruction, maintenance, repair, equipment, improvement, and administration of the system of streets of such city or incorporated town or of any public highways located within such city or incorporated town, including any state highways, together with the acquisition of rights-of-way and access rights for the same, AND FOR THE PLANNING, DESIGNING, ENGINEERING, ACQUISITION, INSTALLATION, CONSTRUCTION, REPAIR, RECONSTRUCTION, MAINTENANCE, OPERATION, OR ADMINISTRATION OF TRANSIT-RELATED PROJECTS, INCLUDING, BUT NOT LIMITED TO, DESIGNATED BICYCLE OR PEDESTRIAN LANES OF HIGHWAY AND INFRASTRUCTURE NEEDED TO INTEGRATE DIFFERENT TRANSPORTATION MODES WITHIN A MULTIMODAL TRANSPORTATION SYSTEM, and for no other purpose; EXCEPT THAT A CITY

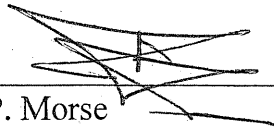
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OR AN INCORPORATED TOWN MAY EXPEND NO MORE THAN FIFTEEN PERCENT OF THE TOTAL AMOUNT EXPENDED UNDER THIS SUBSECTION (1) FOR TRANSIT-RELATED OPERATIONAL PURPOSES AND except that moneys paid to the cities and incorporated towns pursuant to section 43-4-205 (6.3) shall be expended by the cities and incorporated towns only for road safety projects, as defined in section 43-4-803 (21). The amount to be expended for administrative purposes shall not exceed five percent of each city's share of the funds available.

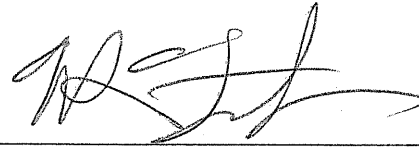
**SECTION 5. Effective date.** This act takes effect July 1, 2013.

**SECTION 6. Safety clause.** The general assembly hereby finds,

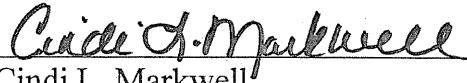
determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.



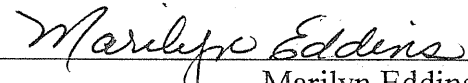
John P. Morse  
PRESIDENT OF  
THE SENATE



Mark Ferrandino  
SPEAKER OF THE HOUSE  
OF REPRESENTATIVES



Cindi L. Markwell  
SECRETARY OF  
THE SENATE

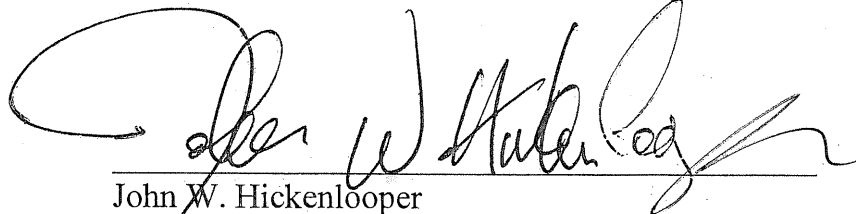


Marilyn Eddins  
CHIEF CLERK OF THE HOUSE  
OF REPRESENTATIVES

APPROVED

10:45 Jm

4/26/13



John W. Hickenlooper  
GOVERNOR OF THE STATE OF COLORADO





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