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Amending Article 14 of Chapter 89, Colorado Revised Statutes 1963, as Amended, Concerning the Authority of Hospital Districts to Issue Revenue Securities

Colorado General Assembly

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CHAPTER 239

LOCAL IMPROVEMENT AND SERVICE DISTRICTS

HOSPITAL DISTRICTS

Senate Bill No. 138, By Senators Anderson, Chance, and L. Fowler; also Representatives Strahle, Black, Burns, Byerly, Fuhr, Koster, McCormick, and Schafer.

A N A C T

AMENDING ARTICLE 14 OF CHAPTER 89, COLORADO REVISED STATUTES 1963, AS AMENDED, CONCERNING THE AUTHORITY OF HOSPITAL DISTRICTS TO ISSUE REVENUE SECURITIES.

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

Section 1. 89-14-2, Colorado Revised Statutes 1963, as amended, is amended BY THE ADDITION OF A NEW SUBSECTION to read:

89-14-2. Definitions and miscellaneous provisions. (8) (a) As used in sections 89-14-17 to 89-14-25, unless the context otherwise requires:

(b) "Net revenues" or "net pledged revenues" means all pledged revenues after the deduction of operation and maintenance expenses.

(c) (i) "Operation and maintenance expenses" means such reasonable and necessary current expenses of the district, paid or accrued, of operating, maintaining, and repairing the facilities pertaining to the pledged revenues for the payment of the securities issued under sections 89-14-17 to 89-14-25 as may be determined by the board of directors of the district; and the term may include at the board's option, except as limited by contract or otherwise limited by law, without limiting the generality of the foregoing:

(ii) Legal and overhead expenses of the district directly related and reasonably allocable to the administration of the facilities;

(iii) Fidelity bond and insurance premiums appertaining to the facilities, or a reasonably allocable share of a premium of any blanket bond or policy pertaining to the facilities;

(iv) The reasonable charges of any paying agent or depository bank appertaining to any securities issued by a district or appertaining to any facilities;

(v) Contractual services, professional services, salaries, administrative expenses, and costs of labor appertaining to facilities;

(vi) The costs incurred by a district in the collection of all or any part of the pledged revenues, including without limitation revenues appertaining to any facilities;

(vii) Any costs of utility services furnished to the facilities by the district or otherwise.

(d) (i) The term "operation and maintenance expenses" does not include:

(ii) Any allowance for depreciation;

(iii) Any costs of reconstruction, improvements, extensions, or betterments;

(iv) Any accumulation of reserves for capital replacements;

(v) Any reserves for operation, maintenance, or repair of any facilities;

(vi) Any allowance for the redemption of any bond securities evidencing a loan or other obligations or the payment of any interest thereon;

(vii) Any liabilities incurred in the acquisition or improvement of any properties comprising any project or any existing facilities, or any combination thereof;

(viii) Any other ground of legal liability not based on contract.

(e) "Pledged revenues" means the moneys pledged wholly or in part for the payment of securities issued under sections 89-14-17 to 89-14-25.

(f) (i) "Pledged revenues" does not include income or moneys derived in connection with any of the following:

(ii) The levy of any general (ad valorem) property taxes;

(iii) Any grants, appropriations, or other donations from the United States, its agencies, the state, or any other donor.

(g) "Securities" means bonds and interim securities authorized to be issued under sections 89-14-17 to 89-14-25 in the name and on behalf of a district.

Section 2. Article 14 of chapter 89, Colorado Revised Statutes 1963, as amended, is amended BY THE ADDITION OF THE FOLLOWING NEW SECTIONS to read:

89-14-17. Power to issue securities. (1) The board of directors of any district, pursuant to authorizing resolution and subject to the provisions and contractual limitations in resolutions authorizing outstanding bonds and other securities of the district, may issue without an election securities to defray, in whole or in part, the cost of a project in the manner provided in and subject to the limitations imposed by sections 89-14-2 (8) and 89-14-17 to 89-14-25.

(2) The project may be the acquisition, by purchase, construction, or otherwise, the improvement, or the equipment, or any combination thereof, of any hospital facility, and any other building, structure, or land necessary or desirable for use in connection with the operations of a district.

(3) The cost of the project may include, in the board's discretion, all incidental costs pertaining to the project and the financing thereof, including, without limitation, contingencies and the capitalization, with proceeds of securities, of operation and maintenance expenses appertaining to facilities to be acquired and interest on the securities for any period not exceeding the period estimated by the board to effect the project plus one year, of any discount on the securities, and of any reserves for payment of principal of and interest on the securities.

89-14-18. Interim securities. The board of directors may issue interim securities, which may be designated "bonds", "notes", or "warrants", evidencing any emergency loans, construction loans, and other temporary loans of not exceeding three years, in supplementation of long-term financing, such interim securities to be funded with the proceeds of long-term securities, net pledged revenues, or further interim securities, or any combination thereof, as the board may determine.

89-14-19. Terms of securities. (1) Except to the extent inconsistent with the provisions of this article, any securities issued under sections 89-14-17 to 89-14-25 for any project shall be issued in the form and manner and with the effect provided in sections 125-8-11 and 125-8-12, C.R.S. 1963, for public securities issued under the "Refunding Revenue Securities Law".

(2) The authorizing resolution, trust indenture, or other instrument appertaining thereto, may contain any or all of the covenants, and the board of directors may do such acts and things, as are permitted in section 125-8-13, C.R.S. 1963.

(3) Revenue obligations issued to refund revenue bonds of a district and to refund securities issued under sections 89-14-17 to 89-14-25 may be issued under the "Refunding Revenue Securities Law".

89-14-20. Payable from special fund. The securities shall be payable and collectible, as to principal, interest, and any prior redemption premium, solely out of net pledged revenues; the holder or holders thereof may not look to any general or other fund for such payment of such securities, except the net revenues pledged therefor; the securities shall not constitute an indebtedness or a debt within the meaning of any constitutional or statutory provision or limitation, if any such provision or limitation appertains thereto; the securities shall not be considered or held to be general obligations of the district but shall constitute its special obligations; and the full faith and credit of the district shall not be pledged for their payment. Such payment shall not be secured by an encumbrance, mortgage, or other pledge of property of the district, except for its pledged revenues. No property of the district, subject to said exception, shall be liable to be forfeited or taken in payment of securities.

89-14-21. Recital of regularity. A resolution providing for the issuance of bonds or other securities under sections 89-14-17 to 89-14-25 or an indenture or other proceedings appertaining thereto may provide that the securities contain a recital that they are issued pursuant to sections 89-14-17 to 89-14-25, which recital shall be conclusive evidence of their validity and the regularity of their issuance.

89-14-22. Board's determination conclusive. The determination of the board of directors that the limitations imposed under sections 89-14-17 to 89-14-25 upon the issuance of securities under such sections have been met shall be conclusive in the absence of fraud or arbitrary and gross abuse of discretion, regardless of whether the authorizing resolution or the securities thereby authorized contain a recital as authorized by section 89-14-21.

89-14-23. No impairment of contract. Nothing in sections 89-14-17 to 89-14-25 or in any other law shall be deemed to impair the existing obligations of contract embodied in outstanding bonds validly issued under the statutes in force at the times of their issue prior to July 1, 1971.

89-14-24. Tax exemption. Bonds and other securities issued under the provisions of sections 89-14-17 to 89-14-25, their transfer, and the income therefrom, shall forever be and remain free and exempt from taxation by this state or any subdivision thereof.

89-14-25. Construction. (1) Sections 89-14-17 to 89-14-25, without reference to other statutes of this state, except as otherwise expressly provided in such sections, constitute full authority for the exercise of the incidental powers granted therein concerning the borrowing of money to defray wholly or in part the cost of any project, and the issuance of securities to evidence such loans.

(2) The powers conferred by sections 89-14-17 to 89-14-25 shall be in addition and supplemental to, and not in substitution for, and the limitations imposed by sections 89-14-17 to 89-14-25 shall not affect the powers conferred by any other law.

(3) Nothing contained in sections 89-14-17 to 89-14-25 shall be construed as preventing the exercise of any power granted to the board of directors or to a district acting by and through its board, or any officer, agent, or employee thereof, by any other law.

Section 3. Effective date. This act shall take effect July 1, 1971.

Section 4. 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.

Approved: April 14, 1971