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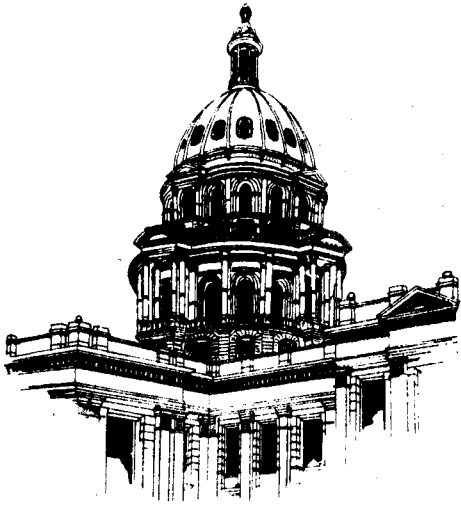
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## 0342 Committee on Accountability of Governmental Authorities



# COLORADO

LEGISLATIVE COUNCIL

Legislative Council  
Research Publication No. 342

Committee on  
**Accountability of  
Governmental  
Authorities**

December, 1989

**COLORADO LEGISLATIVE COUNCIL  
RECOMMENDATIONS FOR 1990**

**COMMITTEE ON INDEPENDENT  
GOVERNMENTAL AUTHORITIES**

**Legislative Council  
Report to the  
Colorado General Assembly**

**Research Publication No. 342  
November, 1989**

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Rep. Ruth Wright

To Members of the Fifty-Seventh Colorado General Assembly:

Submitted herewith is the final report of the Committee on Independent Governmental Authorities. The committee was created pursuant to H.J.R. 1030, 1989 session and charged with a study of programs and financial practices of independent governmental authorities at the state and local level. The committee was asked to report its findings and recommendations to the Second Regular Session of the Fifty-seventh General Assembly.

At its meeting November 9, 1989, the Legislative Council reviewed the committee's four legislative recommendations as well as two resolutions. A motion to forward the six measures, with favorable recommendation, to the Second Session of the Fifty-seventh General Assembly was approved by the Legislative Council.

Respectfully submitted,

/s/ Representative Chris Paulson  
Chairman  
Colorado Legislative Council

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## **SUMMARY OF RECOMMENDATIONS**

Recommendations of the committee relate to independent governmental authorities with statewide jurisdiction as well as those created by local governments that function locally. The committee's two resolutions concern the duplication of programs between the state's water agencies and federal funding mechanisms for local housing authorities.

### **Concerning Independent Governmental Authorities -- Bill 1**

Bill 1 addresses issues related to the operation of state-level authorities. Features common to all state-level authorities are consolidated, authority proceedings are brought under the state's open meetings and open records laws, a range of audit requirements for all authorities are mandated, and annual reports to the General Assembly, the Governor, and the State Auditor are required. The bill also provides for dissolution procedures for public highway authorities and prevents the Colorado Agricultural Development Authority from issuing any further debt.

### **Creation of a State Debt Management Commission -- Bill 2**

Bill 2 creates a state debt management commission to protect the state's credit rating by providing needed oversight of the issuance of revenue bonds and other forms of short- and long-term obligations by state agencies and independent state-level governmental authorities. The commission will coordinate the debt-issuing activities of various agencies, examine the potentials for increased efficiencies of debt-issuing agencies, and increase the accountability of debt-issuing agencies to the General Assembly.

### **Concerning Urban Renewal Authorities -- Bill 3**

Bill 3 eliminates the condemnation powers of urban renewal authorities (URAs), requires local government concurrence with the use of tax increment financing, and restricts the use of URA rehabilitation loans.

### **Concerning Local Housing Authorities (LHAs) -- Bill 4**

Bill 4 allows local governing bodies to create their own method of appointing the members of the LHA governing board, mandates dissolution procedures, strengthens existing conflict of interest provisions for LHA board members and employees, and requires LHAs to prepare annual reports that contain specific information. The bill

requires the use of generally accepted accounting principles (GAAP), requires local government concurrence on the waiver of payment-in-lieu-of-taxes (PILOT) moneys from the federal government by the LHA's parent government, and restricts the creation of corporate subsidiaries by LHAs.

### **Housing Resolution**

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The committee drafted a resolution requesting that the United States Congress and the federal Department of Housing and Urban Development review the current funding procedures for HUD's Low Rent Public Housing Program.

### **Water Resolution**

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The committee submitted a resolution requesting that the Colorado Water Conservation Board and the Colorado Water Resources and Power Development Authority investigate the potential for consolidating activities and programs conducted by both agencies. The resolution requests that the state auditor conduct a performance audit to examine the advisability and impacts of consolidating and streamlining activities of the two agencies that are similar.

## **COMMITTEE CHARGE, ACTIVITIES, AND FINDINGS**

The interim Committee on Independent Governmental Authorities was created by House Joint Resolution 1030 during the 1989 session to study:

- (a) the citizens' ability to influence policies of the governing boards of the authorities and the extent of accountability of boards to their appointing authorities, to the constituencies they are appointed to serve, and to the general public;
- (b) the amount of financial indebtedness created by the authorities and whether the debt could, for any reason, become the responsibility of the state or any of its political subdivisions in the event of the financial difficulties of the authorities;
- (c) the authorization for the creation of governmental authorities, the parameters of their activities, the means of dissolution, and the appointment of members, their terms of office, and methods and reasons for their removal;
- (d) whether the authorities are acting within their statutory directives;
- (e) whether the authorities are subject to periodic financial audits and performance review evaluations and the adequacy of such audits and reviews; and
- (f) a review of federal government policies or directives that affect the operation, processes, or decisions of the authorities.

The committee met seven times and received testimony from the following state-level independent governmental authorities:

- Colorado Housing and Finance Authority;
- Colorado Agricultural Development Authority;
- Colorado Health Facilities Authority;
- Colorado Postsecondary Educational Facilities Authority;
- Colorado Water Resources and Power Development Authority; and

- Colorado Student Obligation Bond Authority.<sup>1</sup>

Other state agencies providing testimony included:

- Capital Finance Corporation, Department of Administration;
- Colorado Water Conservation Board;
- Department of Natural Resources;
- Division of Housing, Department of Local Affairs; and
- Division of Local Government, Department of Local Affairs.

The committee also received testimony from various local authorities:

- E-470 and W-470 Public Highway Authorities;
- Denver Urban Renewal Authority;
- Denver Housing Authority;
- Loveland Housing Authority;
- Littleton Housing Authority;
- Colorado Springs Housing Authority;
- Jefferson County Housing Authority; and
- Fort Collins Housing Authority.

In conjunction with a review of the activities of the Denver Housing Authority, the committee also heard from members of the Denver City Council, the Office of Public Housing of the U.S. Department of Housing and Urban Development (HUD), and representatives of the Colorado Chapter of the National Association of Housing

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<sup>1</sup>

The structures, powers and duties of the independent authorities reviewed by the committee can be found in Attachment A. Attachment B summarizes current accountability, oversight, and reporting features for the independent authorities reviewed by the committee.

**and Redevelopment Officials (NAHRO) and the Housing and Development Law Institute. The Colorado Municipal League presented testimony on local independent authorities. Private bond counsel, bond issuers, and the State Auditor provided information on state debt and debt policies.**

**Summaries of the committee's legislative proposals follow. Background materials provide a brief examination of various aspects of the concept and activities of independent authorities as well as features designed to oversee and control their activities.**

## **COMMITTEE FINDINGS - BACKGROUND**

### **Concerning Independent Governmental Authorities -- Bill 1**

Bill 1 addresses issues related to the operation of state-level authorities in general as well as issues associated with specific authorities. Provisions that apply to all state-level authorities are presented below.

- Features common to all state-level authorities are consolidated in a new section of law. These include the authorities' "perpetual existence," their right to sue and be sued, to maintain an office, to borrow money and issue debt, and to enter into private contracts. Authority proceedings are also subject to the state's open meetings and open records laws.
- A range of audit requirements are specified for all authorities.

Generally accepted accounting practices (GAAP) are mandated for all authorities. Each authority is instructed to create an audit committee composed of authority board members to contract for and to review authority audits. The State Auditor is empowered to examine the affairs of state-level authorities. Each authority is also required to create performance criteria for its programs and to perform yearly financial audits. Reports from these audits are to be provided to the General Assembly, the Governor, and the State Auditor. These general provisions apply to all state-level authorities created in the future.

- Several of the changes made to existing authority statutes seek to improve the quality of and accessibility to information available on authority programs, activities, and operations. Several of these changes are presented below.
- Provisions creating Colorado's independent authorities can be found in six different areas of statute. Consolidating features common to all the authorities simplifies statute and provides a model by which subsequent independent authorities can be structured. Because authorities are government agencies, they should conform to the state's open meetings and open records laws. Application of these statutes should improve access to information as well as public participation in the authority decisionmaking process.
- Mandated use of GAAP provides a common base by which authority programs can be evaluated and compared. Separate audit committees are mandated because authority personnel contracting for and reviewing audits of their own agency and activities was deemed inappropriate. Such cases may result in a potential conflict of interest. Provisions allowing the state auditor to review authority programs and activities should provide a means for independent judgement concerning the efficiency of those programs and operations.

- Current law does not contain any standards against which to judge the efficiency with which each authority is meeting its statutory mission or the degree to which it is serving its clientele. Performance criteria are required in order to establish such standards. Such standards will assist state government in its review of authority operations.

Provisions dealing with individual authorities are detailed below.

- After two unsuccessful elections to approve financing methods for a public highway authority, that authority is dissolved. Prior to dissolution, the authority is required to make arrangements regarding its outstanding obligations.

The committee recommends changes to public highway authority (PHA) election provisions due to recent developments associated with the W-470 PHA. Unlike the E-470 PHA, W-470 was not successful in gaining voter approval for the imposition of vehicle registration fees to provide initial financing for bonds to be issued to finance the construction of a western portion of a beltway around the Denver metropolitan area. Though the proposal was defeated, the authority continued to exist through the period the interim committee held its meetings.

Concerns were expressed that the authority's continued existence is in opposition to the expressed desire of the voters. The lack of well-defined procedures for dissolution of PHAs in cases of voter rejection placed W-470 in limbo, i.e., the authority continues even without substantial funding for its designated project. (Contracts creating the E- and W-470 PHAs contain provisions for their dissolution.)

For E-470, there are two methods by which the authority may be dissolved: 1) a two-thirds vote of all the directors of the authority; or 2) when there are "fewer than two government units remaining" as members of the authority. For W-470, the agreement among member governments of the authority terminates when: 1) only one member government remains in the authority, whether due to removal or withdrawal; or 2) all members agree to terminate the agreement.

W-470 representatives stated that the election reflected voter dissatisfaction with the proposed financing mechanism and the proposed road alignment, not with the authority itself. At the time of its presentation to the committee, the authority had not decided whether it would offer alternatives at another election. Since PHAs are created by a contract between local governments, some members expressed the opinion that disbanding PHAs is a matter between the parties to the contract and should not be a concern of state government. In adopting the change, the committee concluded that PHAs should not have what amounts to the perpetual ability to seek voter approval at an unlimited number of elections.

- In another section of the bill, the Colorado Agricultural Development Authority is prohibited from issuing any further notes or bonds and is instructed to make provisions for the retirement of any outstanding obligations. Once those obligations have been retired, a report is to be delivered to the General Assembly and the authority dissolved thereafter.

The changes to the Colorado Agricultural Development Authority (CADA) are based on changes in federal tax laws in 1986 which restrict the authority's ability to finance its activities with the kinds of debt contemplated when CADA was created. Tax law changes, the small dollar amount of outstanding authority debt, and the limited prospects for future debt issues provided the basis for the recommendations that the authority should be: 1) prevented from issuing any further obligations; and 2) dissolved after adequate provisions have been adopted to retire its outstanding debt.

### **Creation of a State Debt Management Commission -- Bill 2**

A state debt management commission is recommended to protect the state's credit rating by providing needed oversight of the issuance of revenue bonds and other forms of short- and long-term obligations by state agencies and independent state-level governmental authorities. Duties of the commission include coordinating the debt-issuing activities of various agencies, examining the potentials for increased efficiencies of debt-issuing agencies, and increasing the accountability to the General Assembly of debt-issuing agencies.

The commission is composed of seven voting members and seven nonvoting members. Voting members include: the State Treasurer acting as chairman, two members of the House of Representatives appointed by the Speaker of the House, two members of the Senate appointed by the President of the Senate, the State Auditor, and the Executive Directors of the Departments of Administration and Local Affairs. Nonvoting members include one representative from each state-level authority and the Colorado Commission on Higher Education.

Commission duties include:

- maintaining a current inventory of all state-issued short- and long-term debt;
- coordinating and overseeing the issuance of all state-level obligations, including those of independent authorities, the higher education system, and leasing arrangements of state agencies (e.g., lease-purchase agreements and certificates of participation);
- evaluating and advising on debt issues that include "moral obligation" language;



- reviewing whether debt limitations should be placed on authorities that do not currently have such limits;
- periodically reviewing the operations and procedures of debt issuing entities and recommending improvements and efficiencies; and
- reporting annually to the General Assembly on each of the points above and also serving as an information resource for the Capital Development Committee, Legislative Audit Committee, and Joint Budget Committee.

The recommendations are based on two considerations: 1) no central point exists where comprehensive information is collected on the debt-issuing activities of the six state-level independent authorities and the Capital Finance Corporation; and 2) the state may be indirectly responsible for this debt. Based on these two factors, the State Debt Management Commission is to serve as a clearinghouse for such information. In the words of one presenter, the state's credit rating is an asset that must be protected by the state. This credit rating is accessed each time any form of debt is issued and is expressed in the ratings of authority bonds as well as the various lease arrangements and certificates of participation directly issued by state agencies.

Without comprehensive information on all debt-issuing activities, the state cannot adequately assess the volume of debt, determine the rate at which the total amount of debt is increasing, appraise whether that debt is too high, or analyze whether debt-financed projects are viable. The lack of information in these areas inhibits state government from adequately overseeing and controlling the use of its credit.

### **Concerning Urban Renewal Authorities -- Bill 3**

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Bill 3 eliminates condemnation powers of urban renewal authorities (URAs). Instead, URAs may acquire property that has been gained through the use of eminent domain by any other public entity.

Under current law, URAs may use tax increment financing (TIF) to finance development projects. The bill requires URA governing boards to seek the approval of all public bodies that receive revenues from the TIF tax source (property or sales taxes). Urban renewal authorities must also seek the approval of all public bodies when the authority's real estate purchases will result in lost tax revenues for those affected governments. (As a general rule, URA properties are exempt from property taxes.)

Urban renewal authorities currently provide rehabilitation loans for single family homes within their boundaries. Under the bill, if a rehabilitation loan is received by a homeowner, the unit must remain the owner's primary residence for the term of the loan. If this condition is not met, the loan must be immediately paid.

Regarding URAs' powers of condemnation, the committee is concerned with a nonelected board possessing such powers. Regarding TIF, the committee believes that URAs should not be able to diminish the tax revenues of another local government without that government's permission. Also, if provisions are not made to restrict certain aspects of authority rehabilitation loans, there is a potential for abuse. Without the proposed primary residence language, single family properties receiving rehabilitation loans could be used as rental properties, i.e., private property would be receiving a public subsidy in the form of a reduced rate loan.

Materials provided by the Denver Urban Renewal Authority indicate that similar provisions are contained in the authority's contracts with assisted homeowners and that procedures are specified for monitoring whether the homeowner continued to use the rehabilitated property as their primary residence. Though DURA's procedures may be adequate, there are no provisions in current law directing other URAs to adopt similar policies.

#### **Concerning Local Housing Authorities -- Bill 4**

Bill 4 amends the statutes relating to the creation and activities of local housing authorities (LHAs).

- Bill 4 allows local governing bodies to create their own method of appointing the members of the LHA governing board, provides that board members are to serve at the pleasure of the appointing body (rather than for cause), and mandates that procedures for the dissolution of the LHA must also be adopted.

Under current law, the governing body creating a local housing authority may appoint itself as the governing board of the LHA or it may allow the mayor to appoint the members of the board. In addition to these two appointing methods, current law contains the following language:

The council may, by resolution, change the method of appointment of commissioners after a proper notice and hearing and set a date for the changed method to become effective (29-4-205 (6), C.R.S.).

Similar language applies to county housing authorities.

The committee found that this section is being interpreted differently by local governments. Some believe that "change" refers to switching between the two explicit methods detailed in statute. Others believe that the quoted section allows them the flexibility to create their own method of appointing housing commissioners. Bill 4 will clarify this section of law by explicitly stating that local governments could create their own method of choosing the LHA governing board.

Without provisions for dissolution, independent authorities like LHAs could continue indefinitely whether or not they were serving a useful purpose. Without dissolution procedures, LHAs retain an ill-defined status that will not allow for their creating governments to exert proper control.

- Existing conflict of interest provisions require that LHA board members and employees holding direct or indirect interests in LHA properties or projects must reveal those interests to the authority. Bill 4 strengthens the law with prohibitions on the holding of any interest, direct or indirect, in LHA properties or projects. LHA employees are restricted from organizing activities in support of or in opposition to LHA projects or programs. The requirements of the state's open meetings and open records laws are extended to LHAs.
- Bill 4 requires LHAs to prepare annual reports that contain specific information (e.g., number of housing units, their location, names of board members, and project financial status). These reports are to be sent to the Director of the Division of Housing, Department of Local Affairs (DOLA). LHAs are also required to use GAAP.

Testimony revealed the lack of a central point where comprehensive information could be reviewed regarding the activities and holdings of LHAs around the state. Provisions in current law require only that the Division of Local Government (DOLA) be notified that a local government has created a housing authority. Information such as whether an authority has been disbanded, whether it is still active, the scope of its holdings and their value, and the types of tenants it is serving (e.g., elderly, low income) is not reported. This lack of information prevents the proper appraisal of housing programs across the state as well as the determination of whether needy populations are being adequately served and whether local authority programs are financially viable. The use of GAAP will assist the compilation of such information and ease analysis of and comparisons between LHA operations.

- Bill 4 requires the concurrence of other local governments affected by lost property tax revenues (e.g., school districts) through the waiver of federal PILOT payments by the LHA's authorizing entity.

LHAs currently receive payment-in-lieu-of-taxes (PILOT) moneys from the federal government. These payments are passed through the LHA to the local government creating the LHA in order to compensate that local government for the revenue impacts of LHA tax-exempt properties. Federal law currently allows local governments to waive the PILOT payment. The committee concluded that it is inappropriate for one local government, a city, to have the authority to waive PILOT payments that reflect the loss of tax revenues of another local government, such as a school district.

- Some LHAs have created corporate subsidiaries that allow the subsidiary to apply for federal housing assistance payments. Current state law contains no provisions relating to the structure or activities of such subsidiaries. Bill 4 requires such subsidiaries to be at "arms length" from its parent authority.

If such a distance is not maintained, a confusing and perhaps inappropriate mixing of assets and relationships could result. This situation could obscure the lines of responsibility and control between the authority and the subsidiary.

## **Housing Resolution**

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A resolution of the committee requests that the United States Congress and the federal Department of Housing and Urban Development review the current funding procedures for HUD's Low Rent Public Housing Program.

- Current federal procedures determine the maximum amount an LHA may pay for a unit of housing ("total development cost"). Thereafter, the federal government appropriates a specific amount of money for the housing units. By dividing the appropriation by the maximum amount allowed per housing unit, the effect of this funding system is to determine the maximum number of housing units that the local housing authority may purchase.

Though LHAs are not required to spend the maximum per unit amount, the committee believes that these funding procedures create disincentives for LHAs to buy as many units of housing as possible within a given level of funding. The resolution requests that Congress and HUD review the program and attempt to devise a program that provides more incentives to LHAs to procure as many units of housing within a given level of funding.

## **Water Resolution**

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The committee's resolution requests that:

- the Colorado Water Conservation Board and the Colorado Water Resources and Power Development Authority investigate the potential for consolidating activities and programs conducted by both agencies; and
- the state auditor conduct a performance audit to examine the advisability and impacts of consolidating and streamlining activities of the two agencies that are similar. The auditor was also requested to investigate the conclusions of the findings of the Commission on Government Productivity.

This resolution addresses the committee's perception of overlap between the operations of the authority and the board and that, by consolidation of some or all of the mutual operations, cost savings could be realized. This view is based in part on the findings of the Commission on Government Productivity and a fiscal note prepared by Legislative Council staff.<sup>2</sup>

The Commission on Government Productivity stated that the only substantial difference between the powers and duties of the Colorado Water Conservation Board and the Colorado Water Resources and Power Development Authority is the latter's ability to issue revenue bonds. Because local jurisdictions have the power to issue such bonds and because the authority has not issued an appreciable amount of debt to finance water projects, the commission recommended that the two agencies be merged. The cost savings of such a merger were estimated at \$730,000. The fiscal note was prepared in response to the introduction of House Bill 1346 (1989, defeated). The bill proposed that the memberships of the governing boards of the board and the authority be the same. The fiscal note estimated savings of \$496,000.

The committee requested that the board and the authority report regarding activities and programs that could be merged. The authority's response was that no substantial areas of overlap existed and that no cost savings would be realized by merging the programs. A response from the Governor's Office noted that the two agencies overlap in the area of planning water storage projects. At a subsequent meeting, the committee was apprised that the board and the authority were currently working together in this area.<sup>3</sup>

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2

Commission on Government Productivity, Committee Report on the Colorado Department of Natural Resources, January, 1989.

3

Initial responses to the committee's request from the board and the authority can be found as Attachments D and F, respectively, to the committee's Staff Summary of Meeting, October 5, 1989. Subsequent communications to the committee can be found in the committee's Staff Summary of Meeting, October 26, 1989.

## INDEPENDENT AUTHORITIES - BACKGROUND

### Characteristics

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Independent governmental authorities may be defined as corporate entities created by general purpose governments to perform specialized public functions. Such special purpose governments were first used in the United States in the mid-1880s to construct canals, railroads, and utilities.

The term "independent governmental authority" is frequently used synonymously with "public corporation," "limited special purpose government," and "quasi-governmental agency." These terms bring together a disparate group of governing structures with a broad array of powers, duties, and revenue-raising abilities. Even a narrow definition of "independent authority" will include entities that provide a wide variety of products and services -- from constructing and operating tunnels, airports, water systems, port facilities, housing projects, hospitals, recreational facilities, pollution control equipment, and grain terminals to offering technical advice and operating and product development loans to private sector firms.

Most independent governmental authorities possess the following characteristics:

- They are created by legislation or action of a generalpurpose government and are not subject to voter approval.
- Their governing boards are normally appointed by elected officials (e.g., governor, mayor, city council).
- They are corporate subsidiaries of a state, county or municipal government but have separate legal standing from those governments.
- Authorities do not have independent taxing power but most often finance their activities through issuing debt, normally revenue bonds.<sup>4</sup> Such debt is exempt from most federal, state, and local taxes and does not require voter approval.

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4

In general, government debt comes in two forms general obligation (GO) and nonguaranteed (revenue) bonds. Repayment of revenue bonds is based on a dedicated source of funds, e.g., rents, mortgages, and user fees such as tolls, from projects built and operated by the authority. GO debt is repaid from general fund sources such a property or income taxes.

For Colorado, this more limited definition separates authorities from special districts because special districts must receive some type of voter approval and finance their activities through the direct levy of taxes.

### **Increasing Use of Special Purpose Governments**

Growth in the number of independent authorities and the dollar value of their debt has paralleled a growing concern with the use of special purpose governments in general. According to one author, such governments "are the only type of governmental unit that has steadily multiplied since 1950, increasing in number by about 20 percent in the last decade alone."<sup>5</sup> The author also notes an additional 1,000 state-sponsored corporations and another 1,000 local public authorities are not included in that count because of "peculiarities" in the definition of "special district" used by the Census Bureau. Of the numbers presented below, between 5,000 and 6,000 meet the more restricted definition of "public authority."<sup>6 7</sup>

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<sup>5</sup> Duisin, Xenia W., Government Corporations, Special Districts, and Public Authorities: Their Organization and Management, Institute of Public Administration, 1985, p.5.

<sup>6</sup> Statistical Abstract of the United States, 108th Edition, United States Department of Commerce, Bureau of the Census, p.256.

<sup>7</sup> Walsh, Annmarie H., The Public's Business: The Politics and Practices of Government Corporations, Cambridge, Massachusetts, MIT Press, 1978, p. 354.

### Number of Governments by Type 1967-1987

| Year                   | Government Authorities & Special Districts | County | Municipal | Towns  | School Districts |
|------------------------|--|--------|-----------|--------|------------------|
| 1967                   | 21,264                                     | 3,049  | 18,048    | 17,105 | 21,782           |
| 1987                   | 29,487                                     | 3,042  | 19,205    | 16,691 | 14,741           |
| Percent Change 1967-87 | 38.7                                       | --     | 6.4       | (2.4)  | (32.3)           |

Changes in total nonguaranteed debt (revenues bonds) between 1982 and 1987 are presented in the chart below.

### Level of Nonguaranteed Debt (Revenue Bonds) by Type of Government 1982 - 1987<sup>8</sup> (in billions)

| Year                   | Government Authorities & Special District | Total Local | Total State |
|------------------------|---|-------------|-------------|
| 1982                   | \$ 61.3                                   | \$ 92.2     | \$139.6     |
| 1987                   | \$113.8                                   | \$197.3     | \$304.1     |
| Percent Change 1982-87 | 85.6                                      | 114.0       | 117.8       |

<sup>8</sup> 1982 Census of Governments (GC82(4)-5, Vol. 4, No. 5; p. 15) and Government Finances in 1986-87 (GF-87-5, p. 16), United States Department of Commerce, Bureau of the Census.



## **Arguments For and Against Independent Authorities**

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The authority structure offers a means to increase the options available to general purpose governments to achieve public policy objectives. Compared to general purpose governments, independent authorities are perceived to be more efficient in developing and completing projects or providing services.

- Independent authorities are able to develop the financial and technical expertise needed in an area like capital construction.
- Independent authorities are able to apply more private sector business and management practices in their operations.
- In many instances, independent authorities are often exempt from prevailing wage, procurement, competitive bidding, public personnel system, and government contracting requirements.
- Independent authorities are able to avoid the uncertainties of year-to-year legislative appropriations because they often have access to a dedicated revenue stream.
- Service needs that extend beyond the boundaries of existing political jurisdictions can be more easily addressed by the independent authority structure.
- Independent authorities are more insulated from political pressures on capital budgets. Such pressures may be to build questionable projects or to defer maintenance budgets in favor of operating budgets or unrelated programs.
- Because independent authorities are legally separate from their creating government, the borrowing activities of the authority are not considered to be additional debt of the creating government.<sup>9</sup> Therefore, authorities are useful where limits or prohibitions exist on the creating government's ability to issue debt or to enter into joint ventures with the private sector.

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Normally, authority debt securities will also have a credit rating distinct from that of the creating government. This credit rating is a measure of the bond's perceived riskiness as an investment. To a large degree, a bond's credit rating determines the bond's interest rate and, consequently, the size of payments needed to repay the debt.

Arguments in opposition to the use of independent authorities are presented below.

- Single purpose agencies may be less accountable to the public. This may surrender certain public policy decisions to nonelected officials, whether within the authority itself or in the financial markets. This may be particularly important for controversial projects or in instances where public priorities may change.
- Authorities have a mixed record in terms of their ability to remain self-supporting.
- The use of special purpose governments exacerbates the fragmentation of government in general, hinders effective coordination of services, and puts general purpose governments in competition with independent authorities for limited resources.
- State and local governments, not the authority, will feel the effects of default or other financial problems.
- Because of their ongoing access to dedicated revenue streams, independent authorities may have reduced incentives for efficiency. Continued public oversight may be necessary.
- Authority programs may compete with similar private sector activities. This may depend on an authority's ability to enter into joint ventures with private parties.

Some of these concerns can be handled by:

- including authority activities in state capital development planning and budgeting processes;
- designing links between the authority and various state agencies with similar duties (e.g., appointment of state agency directors to the authority's governing board);
- establishing various controls over those portions of the authority's budget that exceed operating and debt reserve requirements;

- requiring legislative approval of various financing methods; and
- mandating independent audits.<sup>10</sup>

The desire or need for increased oversight of independent authority activities may erode some of the advantages of the independent authority concept. The inclusion of specific goals and performance criteria in an authority's enabling legislation may improve elected officials' ability to judge authority effectiveness. However, continued intervention in the authority's day-to-day personnel or contracting procedures may work against the flexibility and efficiency sought through the authority's creation. The characteristics that make an authority "unaccountable" from one perspective may be what allow the authority to be more "responsive" and "flexible" from another perspective.

Three issues remain largely unstudied: 1) the impact of increased authority borrowing on the ability of general purpose governments to borrow in the same public securities markets; 2) the cost of that borrowing; and 3) the area economy's ability to properly service the combined debt. Though more restricted with the passage of the federal Tax Reform Act of 1986, the increasing use of tax-exempt bonds by authorities to finance projects that are essentially for private purposes (e.g., sports stadia, convention facilities) is drawing increasing attention.

### **Accountability Features of Independent Authorities**

Common methods of influencing or controlling the activities of independent governmental authorities include:

- the appointment of members to the authority's governing board;
- requiring annual or periodic audits (whether by private or government agencies), annual reports, and including authorities in legislative sunrise/sunset processes; and
- requiring the review and approval of authority plans or projects by external agencies or officials.

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Walsh, Annmarie, "Public Authorities and State Decision-Making," Stretching Dollars to Strengthen Infrastructure, The Council of State Governments, Eastern Regional Conference, 1983, pp.43-44.

Further discussion of these methods and examples is provided below.

Appointment of board members. A governor's or mayor's choice for appointment to an authority's governing board can influence an authority's programs and direction. Less frequently, agency heads and legislative committees may make such appointments. Where confirmation of appointments is required, a legislative body can exercise further influence. Another technique is the placement of ex officio members on an authority's governing board. These may be the state attorney general (New Jersey), state treasurer (Virginia), or state auditor (Colorado). The authority's enabling legislation may also require that appointees have expertise, experience, or knowledge in specific areas.

Auditing/reporting requirements. Required audits or annual reports most often must be submitted to the creating government (city council, state legislature), executive branch (mayor, governor), or both. Authorities involved in capital construction projects may be required to submit multi-year capital spending plans to the Governor's office or relevant state executive agency or legislative committee. Annual reports concerning authority investment activities may also be required.

Other formal constraints placed on authorities seek to control: 1) certain authority procedures by establishing specific accounting and financial reporting standards or practices; and 2) the authority's "product" through performance targets or mandating certain skills, training, or experience among authority personnel. New York requires authorities to develop and publish internal guidelines for its contracting and investment activities. Other states specify certain revenue requirements for authority financial activities. In Colorado, state statute makes references to "uniform budget and audit laws" (Colorado Housing and Finance Authority) and to providing annually a "complete and detailed operating and financial statement of the authority" (Colorado Health Facilities Authority).

Prior review and approval/debt limitations. Some states authorize direct control over internal authority decision-making by requiring authorities to seek approval from external sources for proposed plans or policy changes. For instance, the Governors of New York and New Jersey may veto board actions of the New York - New Jersey Port Authority. In Colorado, the Colorado Water Resources and Power Development Authority must seek legislative approval of proposed projects.

In the area of indebtedness, New Jersey and Iowa require prior public notice of authority plans to issue bonds or to hire underwriters. Minnesota requires registration of all revenue bonds issued in the state. Such issues must also receive investment grade bond ratings. Several states have agencies that approve or issue all state and local authority debt. The approval of the state treasurer is required in other states when authorities receive state funds. Some states place specific limits on the amount of debt that independent authorities may issue. The Colorado Student Obligation Bond Authority has a statutory limit of \$500 million.

## **Issues Related to Authority Accountability Features**

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Discussions of the accountability of independent authorities often turn on the means by which outside control can be increased without compromising the independence and flexibility that is apparently required for authorities to most effectively discharge their duties. Literature examining independent authorities cites several issues related to increasing or changing the accountability and oversight features of such authorities. Several of these issues are presented below.

Part-time authority governing boards may lack the knowledge, resources, or time to exercise the degree of control necessary to effectively govern the authority. Ex officio members may be even less effective. Direct control over authority activities and accountability for that control may be frustrated because there are often several centers of influence in the appointment and oversight process, each with possibly different and competing objectives (e.g., governor, state legislature).

The reasons for requiring various accountability and monitoring methods are seldom expressed in statute. Statutes seldom identify those responsible for carrying out authority controls nor are control measures applied with a larger sense of program direction or goals. Without such guidance, determining the effectiveness of control measures is difficult. Authority decisions are also often isolated from the broader policy planning processes of the general purpose government that created the authority. (It should be noted that such "broader policy planning processes" themselves may not exist, e.g., lack of a comprehensive capital planning process.)

Formal constraints on authority activities "tend out of necessity to focus on financial accountability and improved internal management, rather than quality of programs or projects, and the nature of overall performance." Direct controls over borrowing are "usually little more than feasibility reviews of individual projects rather than attempts to evaluate long-term capital programs."<sup>11</sup>

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<sup>11</sup>

Controls Over Special Purpose Governments at State and Local Levels (draft), Leigland, James, Martin School of Public Administration, University of Kentucky, Lexington, KY, pp. 26, 27. Prepared for the Tenth Annual Research Conference of the Association for Public Policy Analysis, October 1988.

Lack of adequate information about special purpose governments is also cited as a reason for the failure of government efforts to assess the need for changes in the degree of authority control. Various authors also contend that studies of authority accountability and control measures are not comprehensive and their recommendations may not be fully implemented. Information may also be gathered by several separate agencies. Often such information is not consistent and, therefore, not easily combined.

### **Selected References**

In addition to the footnotes listed above, the sources listed below can provide further information on independent governmental authorities as well as the use of debt by states.

Debt Policy and Management for States: Issues and Approaches, Legislative Finance Paper 39, National Conference of State Legislatures, 1983.

State Public Corporations: A Guide for Decisionmaking, Institute of Public Administration, March 1983.

Leigland, James, "Issues of Debt and Accountability," Empire State Report, May 1986.

Mantel, Howard N., "Public Authorities," in The Encyclopedia of Management, Third Edition, Carl Heyel, ed., Van Nostrand Reinhold Company, New York, 1982.

## **ATTACHMENT A**

The attached pages summarize several features of Colorado's independent governmental authorities. The areas covered include each authority's governing board appointment and structure; general mission, powers and duties; financial powers and duties; reporting and auditing requirements and other accountability features; and current estimates regarding outstanding debt.

Colorado's independent governmental authorities also share some common features that are summarized below.

- Authorities are considered corporate bodies and political subdivisions of the state. They have the right to: sue and be sued; enter into any contract or agreement consistent with their enabling legislation; borrow money, issue debt, and establish and collect various charges and rents; adopt and change their bylaws; and hire an executive director, staff, advisers and consultants, and determine their duties and compensation.
- Authority officers and employees are subject to the provisions of the state's conflict of interest law for government officials. Section 18-8-308, C.R.S., states that "a public servant commits failure to disclose conflict of interest if he exercises any substantial discretionary function in connection with a government contract, purchase, payment, or other pecuniary transaction without having given seventy-two hours' actual advance written notice (of such a conflict) to the secretary of state and to the governing body of the government which employs the public servant...." Violation is a Class 2 misdemeanor.
- Provisions regarding authority debt state that: 1) such debt is not an obligation of state government; 2) state government will not, by subsequent actions or legislation, impair authority ability to finance outstanding obligations; and 3) debt issues are exempt from local, state, and federal property and income taxes.

**COLORADO  
SUMMARY OF INDEPENDENT AUTHORITIES**

| Name  | Governing Structure   | Powers and Duties  | Oversight/Accountability  | Outstanding Indebtedness  |
|---|---|--|---|---|
| <p>Colorado Housing and Finance Authority (29-4-701, et seq.)</p> | <p>State auditor; legislator appointed by speaker of the House and majority leader of Senate; eight members appointed by the Governor, one each with experience in mortgage banking and real estate, and six members without regard to experience but "strong consideration" of architecture and planning for two. Four-year terms.</p> | <p><u>Duties/Mission.</u> Provide housing to low- and moderate-income families by assisting private and governmental agencies by raising funds through revenue bonds when such funds are not reasonably available from other sources; to promote economic development by providing operating and capital loans and other services, to small and moderate size companies, including venture capital to new businesses and guarantees and insurance for export shipments.</p> <p><u>Financial.</u> The authority may: issue such notes, bonds, and other securities (tax-exempt or taxable) payable from rental and mortgage payments from projects; receive funds from other sources, including the federal government, reserve funds, investments and equity participations, gifts, and interests; purchase projects, existing loans, interests in projects and property; and construct, rehabilitate, maintain, operate and manage projects (or contract for same). The authority has full discretion in establishing repayment and redemption schedules, fees, and security and collateral requirements.</p> | <p>Meetings and actions by board are open to public; records subject to "uniform budget and audit laws"; direct and indirect interest of board member in authority business must be disclosed and no vote allowed on related decisions; annual reports ("complete and detailed").</p>   | <p>Revenue Bonds: \$1,118,850,000 (Source: CHAFA)</p> <p>Debt Limitation: \$2,400,000,000</p> <p>Provisions for CHAFA chairman to request that Governor include appropriation in budget in case of insufficient funds. Governor not compelled to submit. Legislature not required to appropriate.</p> |
| <p>Colorado Health Facilities Authority (25-25-101, et seq.)</p>  | <p>Seven members appointed by the Governor with consent of the Senate. Four-years terms.</p>  | <p><u>Duties/Mission.</u> Assist nonprofit health agencies by refunding or refinancing outstanding indebtedness and financing construction, repair, expansion, and leasing of health facilities.</p> <p><u>Financial.</u> The authority issues revenue bonds and other securities payable from facility rents, leases and mortgage payments or income-producing operations, proceeds from property sales, other fees and charges, and gifts, grants, investment income, and funds from other governments. Authority bonds and property are exempt from all taxes in the state. The authority has full discretion in the structuring of contracts and its fee and redemption schedules.</p>   | <p>Surety bonds required for board members and executive officers. Reports each January to its members, the Governor, and the State Auditor regarding its activities. State auditor may investigate. Review of article and expenditures every two years by Legislative Audit Committee Complete and detailed operating and financial statement annually. Facility must be reviewed and approved by "appropriate regional and state health planning agency."</p> | <p>Revenue Bonds: \$629,984,895<br/>Certificates of Participation: \$36,495,000 (COPs)<br/>(Source: CHFA)</p>   |



| Name  | Governing Structure   | Powers and Duties  | Oversight/Accountability  | Outstanding Indebtedness   |
|---|---|--|---|--|
| <p>Colorado Student Obligation Bond Authority (23-3.1-201, et seq.)</p>             | <p>Nine members appointed by the Governor with consent of the Senate. Three members must be "recently responsible for the development of higher education" in the state. Four-year terms.</p> | <p><u>Duties/Mission.</u> Assist state residents with financing higher education as long as there is "insufficient access to student obligations from normal private market sources."</p> <p><u>Financial.</u> The authority may issue revenue bonds for direct loans or to purchase other forms of guaranteed educational loans. The bonds are payable from fees and charges on student loans and from investment income. The bonds are exempt from state taxes. The authority may waive federal tax exemption. The authority has full discretion in the structuring of contracts and its fee and redemption schedules.</p>   | <p>Surety bonds required for board members and executive officers. Written acknowledgement of conflict of interest to the Secretary of State and the authority governing body at least 72 hours prior to the vote. Written reports must be submitted to CCHE prior to issuance of bonds for nonguaranteed student loan programs concerning amount, interest rates, intended use, and other aspects. Reports annually to its members, the Governor, and the State Auditor regarding its activities. State auditor may investigate.</p> | <p>Revenue Bonds: \$316,970,000 (Source: CSOBA)</p> <p>Debt Restrictions: Not more than \$500 million.</p> |
| <p>Colorado Postsecondary Educational Facilities Authority (23-15-101, et seq.)</p> | <p>Seven members appointed by the Governor with the consent of the Senate. Four year terms.</p>   | <p><u>Duties/Mission.</u> Buy land and construct, alter, repair and lease facilities at the state's postsecondary educational institutions, or to contract for or to lend moneys to the institutions for same. CPEFA also operates a savings bond program to defray tuition and other education expenses.</p> <p><u>Financial.</u> The authority may: issue such notes, bonds, and other securities payable from lease and mortgage payments and other charges; make secured and unsecured loans; receive funds from other governments, investments, gifts, and interests. CPEFA securities and property are exempt from all taxes in the state. The authority has full discretion in the structuring of contracts and its fee and redemption schedules.</p> | <p>Members shall disclose conflicts of interest and may abstain from voting on related matters. No institution may have CPEFA construction, expansion, or repair work in excess of \$1 million without authorization by CCHE and the General Assembly by bill. CPEFA must report to and gain approval of the General Assembly (acting by bill) prior to issuance for savings bond program. CPEFA must report its activities each January to the Governor, General Assembly, and State Auditor. The State Auditor may investigate.</p> | <p>\$60,015,000 Revenue Bonds and COPs (Source: CPEFA)</p>   |

| Name   | Governing Structure  | Powers and Duties  | Oversight/Accountability   | Outstanding Indebtedness   |
|--|--|--|--|--|
| <p>Colorado Water Resources and Power Development Authority (37-95-101, et seq.)</p> | <p>Nine members appointed by the Governor from various drainage basins around the state. Senate consent. Experience in the areas of water project finance, engineering, planning and water law are specified. Four-year terms.</p>   | <p><u>Duties/Mission.</u> Construct, operate, and maintain water projects (or contract for same) in order to protect and utilize the waters of the state. Also, water pollution control revolving fund (federal grants, state matching funds, other) loaned to local governments for wastewater treatment plants.</p> <p><u>Financial.</u> The authority may: finance water projects with such funds and notes, bonds, and other securities (tax-exempt or taxable) payable from rental and other charges from projects (e.g., power generation); receive funds from other sources, including other governments, investments, gifts, and interests; and exercise eminent domain. The authority has full discretion in the structuring of contracts and its fee and redemption schedules.</p> | <p>Project feasibility studies are presented to General Assembly for approval, though the authority is not obligated to proceed. Wastewater treatment projects must be on a list approved by General Assembly. Provisions for dissolution.</p> | <p>Revenue Bonds: \$6,800,000</p> <p>Provisions for CWRPDA chairman to request that Governor include appropriation in budget in case of insufficient funds to repay debt. Governor not compelled to submit. Legislature not required to appropriate.</p> |
| <p>Colorado Agricultural Development Authority (35-75-101, et seq.)</p>              | <p>Seven members - one appointed by the Governor with consent of the Senate, three appointed by the President of the Senate and three by the Speaker of the House. Members must be knowledgeable in agricultural operations and represent various areas of the state. Four-year terms.</p> | <p><u>Duties/Mission.</u> Encourage investment in the state's agricultural sector through financing, refinancing, and leasing activities for agricultural processing and production operations, and to provide technical assistance to local government, for-profit and nonprofit entities.</p> <p><u>Financial.</u> The authority may issue revenue bonds to raise capital to provide financing through private lenders, receive gifts, grants, investment income, and funds from other governments. Authority bonds and property are exempt from all taxes in the state. The authority has full discretion in the structuring of contracts and its fee and redemption schedules.</p>   | <p>Surety bonds required for board members and executive officers. Reports each February to its members, the Governor, and the State Auditor regarding its activities. State Auditor may investigate.</p>                                      | <p>Revenue Bonds: \$6,800,000 (tax-exempt); \$100,000,000 (taxable)</p> <p>The latter amount is currently invested and has not been distributed</p>  |
| <p>Colorado Capital Finance Corporation (24-82-701, et seq.)</p>                     | <p>Controller and the Directors of the Office of State Planning and Budgeting and Legislative Council staff. Director of Department of Administration operates the corporation.</p>  | <p><u>Duties/Mission.</u> Consolidation of the state's lease-purchase agreements.</p> <p><u>Financial.</u> The corporation may issue certificates of participation (COPs) to finance construction projects. COPs are secured by the project. Principal and interest are appropriated by the General Assembly.</p>  | <p>No mention.</p>   | <p>\$139,700,000 (COPs)</p> <p>(\$44,269,000 in COPs have also been issued by the Departments of Institutions and Administration. Source: Capital Development Committee.)</p>  |

| Name   | Governing Structure  | Powers and Duties   | Oversight/Accountability  | Outstanding Indebtedness               |
|--|--|---|---|--|
| <p>Colorado State Fair Authority (Title 35, Article 65, Parts 1, 3 and 4))</p> | <p>Eleven members appointed by the Governor with consent of the Senate. Two members from the county where fair is located, remainder based on congressional districts; representing various sectors of the state's economy. Commissioner of Agriculture serves ex officio. Four year terms.</p>  | <p><b>Duties/Mission.</b> "Provide for the Colorado state fair and industrial exposition, subject to available appropriations from the General Assembly."<br/><br/> <b>Financial.</b> Appropriations by the General Assembly and contributions from nonstate sources. Authority may issue revenue bonds by passing resolution of the board. Fees,, rentals and other charges from authority facilities provide revenues.</p>  | <p>Reports quarterly to state agriculture commissioner and annually to the General Assembly. Audits "at least annually by or under the direction of the State Auditor" and submitted to the Legislative Audit Committee.</p>  | <p>\$2,350,000<br/>(Source: CADA)</p>  |
| <p>Urban Renewal Authorities (31-24-101, et seq.)</p>                          | <p>Any 25 registered electors file petition with city clerk to establish URA. Public hearings are held on the petition with local governing body (e.g., city council); need determined by governing body; resolution adopted. Mayor appoints odd number of commissioners (5 to 11) to serve as URA governing board; no more than one city official. Five year terms.</p> | <p><b>Duties/Mission.</b> Eliminate slum or blighted areas and associated social problems, or to prevent same by: purchasing, leasing, selling, and transferring real estate and buildings; arranging for clearance, construction or rehabilitation of public works in the area; furnishing of public services; and working with local governments for planning and rezoning.<br/><br/> <b>Financial.</b> Tax increment financing (TIF) based on sales and property taxes, and debt issues based on TIF revenues.</p> | <p>URA governing board subject to approval of city's governing body. Certificate of formation filed with DOLA. Public notice and hearings on actual urban renewal plan and any "substantial" modifications. Public notice of proposed real estate transactions. No board member, employee, or immediate member of family may acquire any direct or indirect interest in any URA project or contract; disclosure required; may not participate..</p> | <p>Figures not currently available</p> |

| Name  | Governing Structure   | Powers and Duties   | Oversight/Accountability   | Outstanding Indebtedness  |
|---|---|---|--|---|
| <p>Public Highway Authorities (43-4-501, et seq.)</p> | <p>Any combination of cities, counties, and the state may enter into contracts to create multi-jurisdictional highway authorities. The contract specifies: authority boundaries; authority board structure and officers, and member terms, qualifications, compensation; vacancy procedures; length of contract. All members are to be elected officials. State members are appointed (and term set) by the Governor and confirmed by the Senate. Regional transportation, planning, and air quality agencies shall each designate a nonvoting member to the board. Contract also specifies the distribution, disposition, and provision of authority assets.</p> | <p><b>Duties/Mission.</b> Finance, construct, operate and maintain multi-jurisdictional beltways and other transportation improvements for metropolitan areas in the state in situations where such activities are not feasible for any single jurisdiction.</p> <p><b>Financial.</b> The authority may impose tolls, vehicle registration fees, employer and employee head taxes (each within limits), developer impact fees; levy sales taxes; establish local improvement districts and tax increment financing districts (sales and property taxes); and issue obligations based on any of these revenue sources. Tolls are expected to finance all costs associated with authority beltways in long-run. Make investments; purchase, exchange, sell real and personal property; eminent domain; accept loans, gifts, "excess federal funds."</p> | <p>Prior notice to and registration with state Division of Local Government upon creation. Also, notification of fee, tax changes and bond issue to division, General Assembly, and state highway department (if impacted). Division files annual report with General Assembly (number of authorities, their activities and financing). Division to notify General Assembly if authority activities "adversely affect" the tax-raising ability, credit, or bond rating of any governmental unit or school district.</p> <p>All board members must be elected officials. Public hearings required when joining contract. Imposition of authorized taxes and annual vehicle registration fee must be approved at election. Use of local improvement district must be approved by petition from the majority of landowners within the proposed district. Prior public notice and public hearings required for tax increment financing plan. Member governments must receive prior notice of proposed changes in taxes and fees and afforded "reasonable opportunity for comment." Board members to disqualify themselves from voting on issues in which they have a conflict of interest (unless disclosed pursuant to 18-8-308).</p> | <p>Revenue Bonds: \$722,000,000 (E-470)</p> <p>Revenue-raising powers terminate when bonds have been paid in full and sufficient maintenance trust funds established.</p> |

| Name  | Governing Structure   | Powers and Duties   | Oversight/Accountability                                     | Outstanding Indebtedness |
|---|---|---|--|--------------------------|
| <b>STATE HOUSING AGENCY AND LOCAL HOUSING AUTHORITIES</b>   |   |   |  |                          |
| <p>Division of Housing, Department of Local Affairs* (24-32-704)</p> <p>* The division is not considered an independent governmental authority. Its powers and duties are presented here to show the state's relationship to local housing authorities.</p> | <p>Director appointed by Executive Director of Department of Local Affairs.</p> | <p><b>Duties/Mission.</b></p> <ul style="list-style-type: none"> <li>• assist local communities in development and operation of local housing authorities;</li> <li>• encourage and promote cooperation among counties and municipalities to jointly establish and operate housing authorities;</li> <li>• accept and receive grants and services from the federal government and other sources and to process such grants and services for other public and private nonprofit housing agencies and corporations; and</li> <li>• serve in advisory capacity to CHAFA.</li> </ul> <p><b>Financial.</b> Fifteen percent of annual appropriations for housing rehab and construction grants paid into revolving fund for loans to local housing authorities and public and private nonprofit corporations. Loans approved by State Housing Board (seven members appointed by Governor based on Congressional districts. Board determines interest rates; division determines collateral requirements).</p> | <p>Annual reporting requirement repealed (L. 77, p. 293)</p> | <p>Not permitted.</p>    |

| Name   | Governing Structure   | Powers and Duties   | Oversight/Accountability  | Outstanding Indebtedness                |
|--|---|---|---|---|
| <p>Municipal Housing Authorities (29-4-201, et seq.)</p> | <p>Any 25 residents may petition city to form authority. Public hearing held. If petition is approved, city council selects from two appointment processes: 1) all members of the city's governing body serve ex officio as authority commissioners; or 2) five members appointed by the mayor, no more than one may be a city official. Appointment process may be changed. Five year terms. Commissioners may delegate authority power to staff "as it deems proper."</p> | <p><u>Duties/Mission.</u> Providing safe, sanitary housing at rates affordable to those living in substandard housing.</p> <p><u>General.</u> Investigate housing conditions, determine methods to improve same, recommend plan for providing housing (clearing, construction, purchase, lease); act as agent of city and federal government; issue subpoenas, administer oaths and affidavits; eminent domain.</p> <p><u>Financial.</u> The authority may: issue tax-exempt bonds based on project revenues, mortgages (limited), and federal funds; revise rents or charges; purchase, sell or exchange personal and real property from any person, firm, corporation, city, or government; and invest surplus moneys.</p> <p>Authority may rent only to those with low income, defined as "receiving incomes less than ... persons must receive to enable them to (afford) safe and sanitary (housing)"; rents must be set to be within their "financial reach"; and family with net annual income in excess of five times the annual rental of the housing being furnished.</p> | <p>Commissioners or employees must disclose direct or indirect interest in projects and other contracts. Annual reports filed with mayor.</p> | <p>Figures not currently available.</p> |

| Name   | Governing Structure   | Powers and Duties   | Oversight/Accountability  | Outstanding Indebtedness                |
|--|---|---|---|---|
| <p>County Housing Authorities (29-4-501, et seq.)</p>              | <p>Any 25 residents may petition county commissioners. Public hearing held. If petition is approved, county commissioners appointed as authority board or five commissioners selected by chairman of county commission, no more than one may be a county official. Appointment process may be changed. Five year terms. Commissioners may delegate authority power to staff "as it deems proper."</p> | <p><b>Duties/Mission.</b> Providing safe, sanitary housing at rates affordable to those living in substandard housing.</p> <p><b>General.</b> Investigate housing conditions, determine methods to improve same, recommend plan for providing housing (clearing, reconstruction, purchase, lease); act as agent of city and federal government; issue subpoenas, administer oaths and affidavits; eminent domain (under 38-1-101 to 115, 38-3, 38-5, or 38-6).</p> <p><b>Financial.</b> The authority may: issue tax-exempt bonds based on project revenues, mortgages (limited), and federal funds; revise rents or charges; purchase, sell or exchange personal and real property from any person, firm, corporation, city, or government; and invest surplus moneys.</p> <p>Authority may rent only to those with low income defined as "receiving incomes less than ... persons must receive to enable them to (afford) safe and sanitary (housing)"; rents must be set to be within their "financial reach"; and family with net annual income in excess of five times the annual rental of the housing being furnished.</p> | <p>Commissioners or employees must disclose direct or indirect interest in projects and other related matters. Annual reports filed with mayor.</p> | <p>Figures not currently available.</p> |
| <p>Multijurisdictional housing authorities (29-1-201, et seq.)</p> | <p>Contract establishing authority is to specify its governing structure and its duties, including Parts 1 (local government budget law), 5 (local government uniform accounting law), and 6 (local government audit law), of Article 1 of Title 29. Member governments may use their own revenues to fund authority services or defray its costs.</p>  | <p><b>General.</b> Acquire, lease, sell, construct, repair, and maintain real and personal property for low and moderate income housing; cooperate with state and federal government; condemnation.</p> <p><b>Financial.</b> The authority may: issue debt based on project revenues and other available funds; revise rents or charges; purchase, sell or exchange personal and real property from any person, firm, corporation, city, or government; and invest surplus moneys. Funds subject to Articles 10.5 and 47 or Title 11.</p>   |   | <p>Figures not currently available.</p> |

Summary of Accountability, Oversight and Reporting Features  
Colorado State and Local Independent Authorities

|  | Public Meetings/Public Records | Public Hearings on Specific Plans | Reporting Requirements - General | Reporting Requirements - Specific | Independent    | Federal Government | State Government | Local Government | Internal Only | Accounting Practices Specified | Financing Information Specified | Governing Board |   |   |   |  |   | Debt Restrictions | External Plan Approval/Veto | Provisions for Dissolution | Sunset Review |  |  |  |
|--|--------------------------------|-----------------------------------|----------------------------------|-----------------------------------|----------------|--------------------|------------------|------------------|---------------|--------------------------------|---------------------------------|-----------------|---|---|---|--|---|-------------------|-----------------------------|----------------------------|---------------|--|--|--|
| Colorado Housing & Finance Authority                     | X                              | X <sup>1</sup>                    | X                                | X                                 |                | X                  |                  |                  |               | X                              |                                 |                 | X | X | X |  | X |                   |                             |                            |               |  |  |  |
| Colorado Health Facilities Authority                     | X                              | X <sup>1</sup>                    | X                                | X                                 |                | X                  |                  |                  |               |                                | X                               |                 |   |   | X |  |   |                   |                             |                            |               |  |  |  |
| Colorado Student Obligation Bond Authority               | X                              |                                   | X                                | X                                 |                | X                  |                  |                  |               |                                |                                 |                 |   |   | X |  |   |                   |                             |                            |               |  |  |  |
| Colorado Postsecondary Educational Facilities Authority  | X                              | X <sup>1</sup>                    | X                                |                                   |                | X                  |                  |                  |               |                                |                                 |                 |   |   | X |  |   |                   |                             |                            |               |  |  |  |
| Colorado Water Resources and Power Development Authority | X                              | X <sup>1</sup>                    |                                  | X                                 | X <sup>1</sup> |                    |                  | X <sup>2</sup>   |               |                                |                                 |                 |   |   |   |  |   |                   |                             |                            |               |  |  |  |



|   | Auditing Requirements |                    |                  |                  |               |                                | Governing Board                 |                               |                                 |                       |                        |                | Debt Restrictions | External Plan Approval/Veto | Provisions for Dissolution | Sunset Review |
|---|-----------------------|--------------------|------------------|------------------|---------------|--------------------------------|---------------------------------|-------------------------------|---------------------------------|-----------------------|------------------------|----------------|-------------------|-----------------------------|----------------------------|---------------|
|   | Independent           | Federal Government | State Government | Local Government | Internal Only | Accounting Practices Specified | Financing Information Specified | Expertise/Knowledge Specified | Disclosure/Conflict of Interest | Surety Bonds Required | Appointments Confirmed | Advisory Board |                   |                             |                            |               |
| Colorado Agricultural Development Authority |                       |                    | X                |                  |               |                                | X                               |                               | X                               | X                     | X                      | X              |                   |                             |                            |               |
| Colorado Capital Finance Corporation        |                       |                    |                  |                  |               |                                |                                 |                               | X                               |                       |                        | X              |                   |                             |                            |               |
| Colorado State Fair Authority               |                       |                    | X                |                  |               |                                | X                               |                               |                                 | X                     |                        | X              |                   |                             |                            |               |
| Public Highway Authorities                  |                       | X                  | X                | X                |               |                                | X <sup>3</sup>                  | X                             |                                 | X <sup>2</sup>        |                        | X              |                   |                             | X <sup>3</sup>             |               |
| Municipal Housing Authorities               |                       | X                  |                  |                  |               |                                |                                 | X                             |                                 |                       |                        | X              |                   |                             |                            |               |
| County Housing Authorities                  |                       | X                  | X                |                  |               |                                |                                 | X                             |                                 |                       |                        | X              |                   |                             |                            |               |
| Urban Renewal Authorities                   | X                     |                    |                  | X                |               |                                |                                 | X                             |                                 |                       |                        | X <sup>5</sup> |                   |                             | X                          | X             |

1 Federal requirement when private activity bonds used.

2 State-level members (if any) appointed by Governor and confirmed by Senate.

3 Specified in intergovernmental contract. Revenue-raising powers terminate when revenues are sufficient to retire indebtedness.

4 Testimony by John Carlson, CWRPDA legal counsel, noted that it is the authority's opinion that it is subject to local government statutory requirements in these areas.

5 City council may serve as governing body.

## Interim Committee on Independent Governmental Authorities

## A BILL FOR AN ACT

## 1 CONCERNING INDEPENDENT GOVERNMENTAL AUTHORITIES.

---

Bill Summary

(Note: This summary applies to this bill as introduced and does not necessarily reflect any amendments which may be subsequently adopted.)

Delineates the common requirements of all currently existing authorities as well as any authorities that may be created in the future. Specifies that the general powers of an authority include: To have perpetual existence as a body politic and corporate; to sue and be sued; to have and use a seal and to alter the same at pleasure; to maintain an office at such place as it may designate; to borrow money and issue bonds, notes, bond anticipation notes, or other obligations for any of its corporate purposes and to fund or refund such obligations as provided by the creating legislation; and to engage the services of private consultants and legal counsel to render professional and technical assistance and advice in carrying out the purposes of such authority. Provides for reporting and accounting requirements, that each authority be audited annually by a certified public accountant using generally accepted accounting principles and practices, and that all meetings of an authority be under the open meetings law.

Specifies that the current authorities that would be controlled by this act are: The Colorado student obligation bond authority, the Colorado postsecondary educational facilities authority, the Colorado health facilities authority, the Colorado housing and finance authority, the Colorado state fair authority, the Colorado agricultural development authority, the Colorado water resources and power development authority, and any authority created after the effective date of this act.

Provides for the dissolution of public highway

authorities.

Provides for a new criteria of public health needs to be considered by the Colorado health facilities authority.

Repeals existing provisions that would have been duplicated by the provisions in this act.

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

2 SECTION 1. Title 24, Colorado Revised Statutes, 1988  
3 Repl. Vol., as amended, is amended BY THE ADDITION OF A NEW  
4 ARTICLE to read:

5 ARTICLE 48

6 Colorado Independent Authorities

7 24-48-101. Legislative declaration. The general  
8 assembly declares that it is in the best interest of the state  
9 to consolidate and coordinate the activities of the  
10 independent authorities that are now in operation and those  
11 which may become established by future legislation. To this  
12 end, all authorities shall be governed by and shall comply  
13 with the general provisions as set forth in this article.

14 24-48-102. Definitions. As used in this article, unless  
15 the context otherwise requires:

16 (1) "Authority" means any independent public body  
17 politic and corporate created by the general assembly for the  
18 purposes specified.

19 (2) "Board" means the board of directors of an  
20 authority.

21 (3) "Bond" means any bond, note, debenture, interim  
22 certificate, or other evidence of indebtedness authorized to  
23 be issued by an authority.

1           24-48-103. General powers of authority. (1) In  
2 addition to any other powers specifically granted to an  
3 authority by its enabling legislation, each authority has the  
4 following powers:

5           (a) To have perpetual existence as a body politic and  
6 corporate;

7           (b) To sue and be sued;

8           (c) To have and use a seal and to alter the same at  
9 pleasure;

10          (d) To maintain an office at such place as it may  
11 designate;

12          (e) To borrow money and issue bonds, notes, bond  
13 anticipation notes, or other obligations for any of its  
14 corporate purposes and to fund or refund such obligations as  
15 provided by the creating legislation;

16          (f) To engage the services of private consultants and  
17 legal counsel to render professional and technical assistance  
18 and advice in carrying out the purposes of the authority.

19           24-48-104. Account of activities - receipts for  
20 expenditures - report - audit. (1) Each authority shall keep  
21 an accurate account of all its activities and of all its  
22 receipts and expenditures and shall report annually on such  
23 activities, receipts, and expenditures, in the month of  
24 February, to its members and the governor, state auditor, and  
25 general assembly, in a form prescribed by the controller.  
26 Included in such report shall be a list of performance  
27 criteria, which shall be developed by the board, and a copy of

1 the audit required by subsection (2) of this section. Also  
2 included in the report shall be any recommendations with  
3 reference to additional legislation or other action that may  
4 be necessary to carry out the purposes of the authority. The  
5 state auditor may investigate the affairs of the authority,  
6 may examine the properties and records of the authority, and  
7 may prescribe the rendering of periodical reports in relation  
8 to undertakings by the authority. The authority shall adopt  
9 and prepare a budget for the next fiscal year in accordance  
10 with the bylaws of the authority. The fiscal year of the  
11 authority shall be in accordance with the fiscal year of the  
12 state.

13 (2) The authority shall cause an audit of its books and  
14 accounts to be made at least once each year by certified  
15 public accountants, using generally accepted accounting  
16 principles and practices, and the cost thereof shall be  
17 considered an expense of the authority, and a copy thereof  
18 shall be filed with the state treasurer. The board shall  
19 appoint a committee composed of some or all of its members to  
20 be responsible for contracting for such audit and for  
21 receiving and reviewing the results.

22 (3) All meetings of the board shall be open to the  
23 public, in accordance with section 24-6-402.

24 24-48-105. Authorities regulated. (1) The following  
25 authorities shall comply with the provisions of this article:

26 (a) The Colorado student obligation bond authority,  
27 created by section 23-3.1-203, C.R.S.;

1 (b) The Colorado postsecondary educational facilities  
2 authority, created by section 23-15-104, C.R.S.;

3 (c) The Colorado health facilities authority, created by  
4 section 25-25-104, C.R.S.;

5 (d) The Colorado housing and finance authority, created  
6 by section 29-4-704, C.R.S.;

7 (e) The Colorado state fair authority, created by  
8 section 35-65-401, C.R.S.;

9 (f) The Colorado agricultural development authority,  
10 created by section 35-75-104, C.R.S.;

11 (g) The Colorado water resources and power development  
12 authority, created by section 37-95-104, C.R.S.

13 (2) Any state authority created on and after the  
14 effective date of this article shall comply with the  
15 provisions of this article.

16 SECTION 2. The introductory portion to 23-3.1-206 (1),  
17 Colorado Revised Statutes, 1988 Repl. Vol., is amended to  
18 read:

19 23-3.1-206. General powers of authority. (1) In  
20 addition to any other powers specifically granted to the  
21 authority in this part 2 AND SECTION 24-48-103, C.R.S., the  
22 authority has the following powers:

23 SECTION 3. The introductory portion to 23-15-107 (1),  
24 Colorado Revised Statutes, 1988 Repl. Vol., is amended to  
25 read:

26 23-15-107. General powers of the authority. (1) In  
27 addition to any other powers granted to the authority by this

1 article AND SECTION 24-48-103, C.R.S., the authority shall  
2 have the following powers:

3 SECTION 4. The introductory portion to 25-25-107 (1),  
4 Colorado Revised Statutes, 1989 Repl. Vol., is amended, and  
5 the said 25-25-107 (1) is further amended BY THE ADDITION OF A  
6 NEW PARAGRAPH, to read:

7 25-25-107. General powers of the authority. (1) In  
8 addition to any other powers granted to the authority by this  
9 article AND SECTION 24-48-103, C.R.S., the authority shall  
10 have the following powers:

11 (r) To include in the criteria for the approval of  
12 financial proposals that public health needs have priority and  
13 that authority shall promote the most efficient use of health  
14 dollars.

15 SECTION 5. The introductory portion to 29-4-708 (1),  
16 Colorado Revised Statutes, 1986 Repl. Vol., is amended to  
17 read:

18 29-4-708. General powers of the authority. (1) In  
19 addition to any other powers granted to the authority in this  
20 part 7 AND SECTION 24-48-103, C.R.S., the authority shall have  
21 the following powers:

22 SECTION 6. 35-65-401 (9), Colorado Revised Statutes,  
23 1984 Repl. Vol., is amended to read:

24 35-65-401. Colorado state fair authority - created -  
25 powers and duties. (9) IN ADDITION TO THE POWERS GRANTED TO  
26 THE BOARD UNDER SECTION 24-48-103, C.R.S., the board shall:

27 SECTION 7. The introductory portion to 35-75-107 (1),

1 Colorado Revised Statutes, 1984 Repl. Vol., is amended to  
2 read:

3 35-75-107. General powers and duties of authority.

4 (1) In addition to any other powers specifically granted to  
5 the authority in this article AND SECTION 24-48-103, C.R.S.,  
6 the authority has the following powers:

7 SECTION 8. Article 75 of title 35, Colorado Revised  
8 Statutes, 1984 Repl. Vol., as amended, is amended BY THE  
9 ADDITION OF A NEW SECTION to read:

10 35-75-128. Restrictions on power of authority. (1) On  
11 and after the effective date of this section, the authority  
12 shall not issue any further bonds or notes. The board shall  
13 make every effort to see that all outstanding bonds and other  
14 obligations of the authority are retired as soon as is  
15 feasible. The board may request termination prior to the  
16 retirement of all obligations if provisions for full payment  
17 of such obligations, by escrow or otherwise, has been made  
18 pursuant to the terms of such obligation.

19 (2) Once all the obligations have been retired, the  
20 board shall make a report to the general assembly.

21 (3) When the report of the authority has been received,  
22 the general assembly shall dissolve the authority by bill.

23 SECTION 9. 37-95-106 (1), Colorado Revised Statutes, as  
24 amended, is amended to read:

25 37-95-106. Authority - powers. (1) Except as otherwise  
26 limited by this article, the authority, acting through the  
27 board, has the ~~power~~ POWERS PROVIDED FOR IN SECTION 24-48-103,



1 C.R.S., AND THE FOLLOWING POWERS:

2 SECTION 10. Part 5 of article 4 of title 43, Colorado  
3 Revised Statutes, 1984 Repl. Vol., as amended, is amended BY  
4 THE ADDITION OF A NEW SECTION to read:

5 43-4-522. Dissolution of authority. (1) In the event  
6 that a majority of the registered electors voting fail to  
7 support a referendum held pursuant to the provisions of  
8 section 43-4-512, a second referendum shall be held within two  
9 years. If such second referendum fails, the authority  
10 initiating the referendum shall be dissolved, unless the  
11 authority has been dissolved pursuant to section 43-4-504 (2)  
12 (e).

13 (2) Prior to the dissolution of an authority pursuant to  
14 the provisions of subsection (1) of this section, such  
15 authority shall take whatever steps necessary to ensure that  
16 all outstanding bonds and obligations of the authority are  
17 repaid in full.

18 SECTION 11. Repeal. 23-3.1-206 (1) (a), (1) (c), (1)  
19 (d), (1) (e), (1) (f), and (1) (g) and 23-15-107 (1) (a), (1)  
20 (c), (1) (d), (1) (e), and (1) (h), Colorado Revised Statutes,  
21 1988 Repl. Vol.; 25-25-107 (1) (a), (1) (c), (1) (d), (1) (e),  
22 and (1) (h), Colorado Revised Statutes, 1989 Repl. Vol.;  
23 29-4-708 (1) (b), (1) (c), (1) (d), and (1) (f), Colorado  
24 Revised Statutes, 1986 Repl. Vol.; 35-65-401 (9) (i) and  
25 35-75-107 (1) (c), (1) (d), (1) (e), (1) (f), and (1) (g),  
26 Colorado Revised Statutes, 1984 Repl. Vol.; and 37-95-106 (1)  
27 (a), (1) (b), (1) (c), (1) (e), and (1) (m), Colorado Revised

1 Statutes, as amended, are repealed.

2 SECTION 12. Safety clause. The general assembly hereby  
3 finds, determines, and declares that this act is necessary  
4 for the immediate preservation of the public peace, health,  
5 and safety.

Interim Committee on Independent Governmental Authorities

A BILL FOR AN ACT

1 CONCERNING THE CREATION OF A STATE DEBT MANAGEMENT COMMISSION.

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Bill Summary

(Note: This summary applies to this bill as introduced and does not necessarily reflect any amendments which may be subsequently adopted.)

Creates a state debt management commission. Provides that the commission shall be composed of eight members, as follows: Two members of the house of representatives appointed by the speaker of the house, two members of the senate appointed by the president of the senate, the state treasurer, the state auditor, the executive director of the department of administration, and the executive director of the department of local affairs. Requires the commission to keep an inventory of all public securities issued by public bodies of the state. Defines "public body of the state" and "public security". Authorizes the commission to obtain reports from such public bodies concerning such securities. Requires the commission to review the procedures of debt-issuing agencies and to make recommendations to the general assembly regarding improvements in such procedures. Requires the commission to meet at least twice each year.

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

3 SECTION 1. Title 24, Colorado Revised Statutes, 1988

4 Repl. Vol., as amended, is amended BY THE ADDITION OF A NEW

5 ARTICLE to read:

6 ARTICLE 77

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State Debt Management Commission

24-77-101. Legislative declaration. The general assembly hereby finds and declares that in order to oversee and coordinate the issuance of all of the debt of statewide authorities, it is necessary to create a state debt management commission. The general assembly further finds that such oversight is necessary to protect the credit rating of the debt-issuing entities of the state.

24-77-102. Definitions. As used in this article, unless the context otherwise requires:

(1) "Public body of the state" means the Colorado housing finance authority, the Colorado water resources and power development authority, the Colorado agricultural development authority, the Colorado health facilities authority, the Colorado postsecondary educational facilities authority, the Colorado student obligation bond authority, the Colorado state fair authority, the capital finance corporation created pursuant to section 24-82-703, the board of regents of the university of Colorado, the state board of agriculture, the board of trustees of the Colorado school of mines, the state board of community colleges and occupational education, the trustees of the consortium of state colleges, and the trustees of the university of northern Colorado.

(2) "Public security" means a bond, note, warrant, certificate of indebtedness, certificate of participation, or other obligation for the payment of money, issued by any public body of the state, or any predecessor of any public

1 body of the state, and payable from designated revenues or a  
2 special fund, which bonds or obligations do not constitute a  
3 debt or indebtedness within the meaning of any constitutional  
4 or statutory limitation.

5 24-77-103. State debt management commission - creation -  
6 membership. (1) There is hereby created a state debt  
7 management commission to be composed of eight members, as  
8 follows: Two members shall be appointed by the speaker of the  
9 house of representatives and shall be members of the house,  
10 two members shall be appointed by the president of the senate  
11 and shall be members of the senate, one member shall be the  
12 state treasurer, who shall serve as the chairman of the  
13 commission, one member shall be the state auditor, one member  
14 shall be the executive director of the department of  
15 administration, and one member shall be the executive director  
16 of the department of local affairs. The legislative members  
17 shall serve two-year terms. There shall be eight nonvoting ex  
18 officio members of the commission, one each from the following  
19 entities: The Colorado housing and finance authority, the  
20 Colorado water resources and power development authority, the  
21 Colorado agricultural development authority, the Colorado  
22 health facilities authority, the Colorado postsecondary  
23 educational facilities authority, the Colorado student loan  
24 obligation bond authority, the Colorado state fair authority,  
25 and the Colorado commission on higher education. The  
26 governing body of each entity may select one of its own  
27 members or the executive director of the entity to serve as an

1 ex officio member of the commission. The members of the  
2 commission shall not be compensated, but such members shall  
3 receive their necessary and reasonable expenses incurred in  
4 the performance of their duties.

5 24-77-104. Commission - powers - duties - meetings -  
6 reports. (1) The commission shall compile and maintain an  
7 inventory of all public securities issued by public bodies of  
8 the state, and it shall determine the total amount of public  
9 securities which have been issued by public bodies of the  
10 state. The commission shall determine whether each public  
11 body of the state should be subject to a limitation on its  
12 level of indebtedness. If the commission determines that  
13 limitations should be established, it shall include such  
14 recommendations in the report made to the general assembly  
15 pursuant to subsection (3) of this section.

16 (2) The commission shall review the issuance of any  
17 public security by the Colorado housing finance authority or  
18 the Colorado water resources and power development authority.  
19 The commission shall compile a report concerning such  
20 issuance, which report shall include the type of project  
21 financed, the type of instrument used for the financing, the  
22 interest rate and the term of the issuance, and any other  
23 information deemed relevant by the commission. The report  
24 shall be included with the recommendations made by the  
25 commission to the general assembly pursuant to subsection (3)  
26 of this section.

27 (3) The commission may require any public body of the

1 state to submit to the commission reports which describe any  
2 projects which involve the issuance of public securities, any  
3 relevant rating agency reports, or any other information it  
4 deems necessary in order to maintain the inventory required by  
5 subsection (1) of this section. The commission shall review  
6 the operations and procedures of the public bodies of the  
7 state as such operations and procedures relate to the issuance  
8 of public securities, and the commission shall recommend to  
9 the general assembly steps for improving such operations and  
10 procedures. Such recommendations shall be included in a report  
11 which shall be made to the general assembly in January of each  
12 year.

13 (4) The commission shall meet at least twice each year.

14 SECTION 2. Safety clause. The general assembly hereby  
15 finds, determines, and declares that this act is necessary  
16 for the immediate preservation of the public peace, health,  
17 and safety.

## Interim Committee on Independent Governmental Authorities

## A BILL FOR AN ACT

## 1 CONCERNING URBAN RENEWAL AUTHORITIES.

---

Bill Summary

(Note: This summary applies to this bill as introduced and does not necessarily reflect any amendments which may be subsequently adopted.)

Eliminates the eminent domain power of urban renewal authorities. Requires that urban renewal plans which affect taxes be approved by public bodies which currently receive revenues from such taxes. Requires that urban renewal plans be approved by public bodies when such urban renewal plans provide for the holding of real property by an urban renewal authority and when such holding may result in loss of tax revenue collected by such public bodies because of such urban renewal authority's tax exemption. Requires that any owner-occupied housing unit improved with urban renewal authority loan funds be owner-occupied for the term of the loan.

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

3 SECTION 1. 31-25-105 (1) (e), Colorado Revised Statutes,  
4 1986 Repl. Vol., is amended to read:

5 31-25-105. Powers of an authority. (1) (e) To enter,  
6 with the consent of the owner, upon any building or property  
7 in order to make surveys or appraisals and to obtain an order  
8 for this purpose from a court of competent jurisdiction in the



1 event entry is denied or resisted; to acquire any property by  
2 purchase, lease, option, gift, grant, bequest, OR devise, or  
3 ~~otherwise to acquire any interest in property by condemnation,~~  
4 ~~including a fee simple absolute title thereto, in the manner~~  
5 ~~provided by the laws of this state for the exercise of the~~  
6 ~~power of eminent domain by any other public body (and property~~  
7 ~~already devoted to a public use may be acquired in a like~~  
8 ~~manner except that no property belonging to the federal~~  
9 ~~government or to a public body may be acquired without its~~  
10 ~~consent) AND TO ACQUIRE BY SUCH MEANS ANY INTEREST IN PROPERTY~~  
11 WHICH HAS BEEN ACQUIRED BY ANY OTHER PUBLIC ENTITY BY THE  
12 RIGHTFUL EXERCISE OF ANY POWER OF EMINENT DOMAIN OR  
13 CONDEMNATION, BUT NO AUTHORITY SHALL HAVE OR EXERCISE ANY  
14 POWER OF EMINENT DOMAIN OR CONDEMNATION; to hold, improve,  
15 clear, or prepare for redevelopment any such property; to  
16 mortgage, pledge, hypothecate, or otherwise encumber or  
17 dispose of its property; and to insure or provide for the  
18 insurance of any property or operations of the authority  
19 against any risks or hazards; except that no provision of any  
20 other law with respect to the planning or undertaking of  
21 projects or the acquisition, clearance, or disposition of  
22 property by public bodies shall restrict an authority  
23 exercising powers under this part 1, in the exercise of such  
24 functions with respect to a project of such authority unless  
25 the general assembly specifically so states;

26 SECTION 2. 31-25-107 (9), Colorado Revised Statutes,  
27 1986 Repl. Vol., is amended BY THE ADDITION OF A NEW PARAGRAPH

1 to read:

2 31-25-107. Approval of urban renewal plans by the local  
3 governing body. (9) (f) Before approval by the governing  
4 board of any urban renewal plan or substantial modification  
5 thereof which includes any provision for the division of any  
6 taxes pursuant to this subsection (9), such provision for the  
7 division of taxes must be approved by all public bodies which  
8 currently receive revenues from such taxes.

9 SECTION 3. 31-25-107, Colorado Revised Statutes, 1986  
10 Repl. Vol., is amended BY THE ADDITION OF A NEW SUBSECTION to  
11 read:

12 31-25-107. Approval of urban renewal plans by the local  
13 governing body. (10) Before approval by the governing body  
14 of any urban renewal plan or substantial modification thereof  
15 which includes any provision for the acquisition or holding of  
16 real property by an authority which may result in a decrease  
17 in tax revenue collected by any public body as a result of the  
18 exemption from taxes of the authority, such urban renewal plan  
19 or modification must be approved by all such public bodies.

20 SECTION 4. Article 25 of title 31, Colorado Revised  
21 Statutes, 1986 Repl. Vol., is amended BY THE ADDITION OF A NEW  
22 SECTION to read:

23 31-25-116. Restrictions on use of housing receiving  
24 authority assistance. Any owner-occupied housing unit which  
25 is repaired, altered, rehabilitated, or otherwise improved  
26 through the use of funds loaned to the owner by an authority  
27 shall be owner-occupied for the term of the loan, and any such

1 loan shall be immediately due and payable when the borrower  
2 ceases to use the unit as the borrower's primary residence.

3 SECTION 5. Safety clause. The general assembly hereby  
4 finds, determines, and declares that this act is necessary  
5 for the immediate preservation of the public peace, health,  
6 and safety.

## Interim Committee on Independent Governmental Authorities

## A BILL FOR AN ACT

## 1 CONCERNING LOCAL HOUSING AUTHORITIES.

---

Bill Summary

(Note: This summary applies to this bill as introduced and does not necessarily reflect any amendments which may be subsequently adopted.)

Authorizes local governments to appoint commissioners for housing authorities in whatever manner such local governments deem appropriate. Establishes reporting requirements for local housing authorities and requires such authorities to use generally accepted accounting principles. Prohibits employees of housing authorities from engaging in lobbying activities and from having a pecuniary interest in the property or financing arrangements of the authority by which such person is employed. Requires local governments to adopt procedures for the dissolution of housing authorities, including provisions for outstanding financial obligations. Provides that the open meetings and open records laws applicable to state agencies shall also apply to local housing authorities. Prohibits housing authorities from creating subsidiary corporations unless they are created as separate entities.

Limits the authority of the local government creating the housing authority to waive payment-in-lieu-of-taxes requirements. Encourages housing authorities to make use of existing housing rather than building new projects. Repeals a provision which mandated that housing authorities use excess funds to lower rents.

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

3 SECTION 1. 29-4-202, Colorado Revised Statutes, 1986

1 Repl. Vol., is amended BY THE ADDITION OF A NEW SUBSECTION to  
2 read:

3 29-4-202. Legislative declaration. (3) The general  
4 assembly further finds and declares that, in light of the  
5 availability of housing in the private market in Colorado,  
6 housing authorities created pursuant to the provisions of this  
7 part 2 are hereby encouraged to make use of such existing  
8 housing supplies before building new projects and to emphasize  
9 housing programs which do not require the housing authorities  
10 to purchase properties so that the impact on the local  
11 property tax base is minimized.

12 SECTION 2. 29-4-205 (1), Colorado Revised Statutes, 1986  
13 Repl. Vol., is amended to read:

14 29-4-205. Appointment of commissioners. (1) The  
15 authority shall consist of commissioners selected by the  
16 council in the manner provided in either subsection (2) or (3)  
17 of this section, OR IN ANY OTHER MANNER DEEMED APPROPRIATE BY  
18 THE COUNCIL.

19 SECTION 3. 29-4-207, Colorado Revised Statutes, 1986  
20 Repl. Vol., is amended to read:

21 29-4-207. Interested commissioners or employees. No  
22 commissioner or employee of an authority shall acquire HAVE  
23 any interest, direct or indirect, in any project or in any  
24 property included or planned to be included in any project,  
25 nor shall he have any interest, direct or indirect, in any  
26 contract or proposed contract for materials or services to be  
27 furnished or used in connection with any project. If-any

1 commissioner-or-employee-of-an-authority-owns-or-controls-an  
2 interest,--direct--or--indirect,--in--any-property-included-or  
3 planned-to-be-included-in-any-project,--he--shall--immediately  
4 disclose--the--same--in--writing--to--the--authority,--and-such  
5 disclosure-shall-be-entered-upon-the-minutes-of-the-authority.  
6 Failure--to--so--disclose--such--interest---shall---constitute  
7 misconduct-in-office.

8 SECTION 4. 29-4-208 (1), Colorado Revised Statutes, 1986  
9 Repl. Vol., is REPEALED AND REENACTED, WITH AMENDMENTS, to  
10 read:

11 29-4-208. Removal of commissioners. (1) Each  
12 commissioner appointed pursuant to section 29-4-205 shall  
13 serve at the pleasure of the appointing authority.

14 SECTION 5. Part 2 of article 4 of title 29, Colorado  
15 Revised Statutes, 1986 Repl. Vol., as amended, is amended BY  
16 THE ADDITION OF THE FOLLOWING NEW SECTIONS to read:

17 29-4-233. Reports - accounting. (1) Each housing  
18 authority created pursuant to the provisions of this part 2  
19 shall prepare an annual report of its activities during the  
20 preceding fiscal year and shall submit such report to the  
21 director of the division of housing in the department of local  
22 affairs no later than March 1 of each year. The annual report  
23 shall contain the following information:

24 (a) The number of housing projects operated by the  
25 housing authority, including the number of units in each  
26 project, the total number of units, the location of the  
27 housing projects, and the market value of each project;

1 (b) The names of the commissioners of the housing  
2 authority and their terms of office;

3 (c) The financial status of each project, including the  
4 operating expenses, collection of rentals, outstanding  
5 indebtedness, and the maturation date of any bonds; and

6 (d) Any other information requested by the director of  
7 the division.

8 (2) Each housing authority created pursuant to the  
9 provisions of this part 2 shall comply with generally accepted  
10 accounting principles.

11 29-4-234. Housing authorities - employees - lobbying  
12 activities prohibited. No employee of any housing authority  
13 created pursuant to the provisions of this part 2 shall, while  
14 acting within the scope of his employment with the housing  
15 authority, attempt to organize any group of persons who may  
16 benefit from the commencement of a particular housing project  
17 for the purpose of influencing the legislative body  
18 responsible for such project.

19 29-4-235. Payment in lieu of taxes - waiver. In the  
20 event that any city waives the federal  
21 payment-in-lieu-of-taxes requirements applicable to any  
22 housing authority created pursuant to the provisions of this  
23 part 2, such payments shall be waived only to the extent that  
24 they impact the tax revenues of the city. Such waiver shall  
25 not impact the tax revenues of the county in which the city is  
26 situated or any school district within the jurisdiction of the  
27 housing authority unless the county commissioners of any such

1 county or the board of any such school district concur with  
2 such waiver.

3 29-4-236. Dissolution of housing authorities. Any city  
4 which creates a housing authority pursuant to the provisions  
5 of this part 2 shall adopt procedures for the dissolution of  
6 such authority. Such procedures shall specifically provide  
7 that the authority will continue in existence to such extent  
8 as is necessary to adequately provide for the payment of all  
9 financial obligations and outstanding bonds.

10 29-4-237. Meetings - records - open to public. (1) The  
11 meetings of any housing authority created pursuant to the  
12 provisions of this part 2, and the meetings of any nonprofit  
13 corporation or subsidiary created by such housing authority,  
14 shall be open to the public in the same manner as the meetings  
15 of any state agency as provided in part 4 of article 6 of  
16 title 24, Colorado Revised Statutes.

17 (2) The records of any housing authority created  
18 pursuant to the provisions of this part 2, and the meetings of  
19 any nonprofit corporation or subsidiary created by such  
20 housing authority, shall be open for inspection in the same  
21 manner as the records of state agencies as provided in part 2  
22 of article 72 of title 24, Colorado Revised Statutes.

23 29-4-238. Housing authorities - subsidiaries -  
24 arms-length relationship. No housing authority created  
25 pursuant to the provisions of this part 2 shall create a  
26 subsidiary corporation for the purpose of obtaining federal  
27 funds for any housing program unless such subsidiary



1 corporation is created as a distinct and separate entity from  
2 the authority and conducts its business with the authority at  
3 arms-length.

4 SECTION 6. 29-4-501, Colorado Revised Statutes, 1986  
5 Repl. Vol., is amended BY THE ADDITION OF A NEW SUBSECTION to  
6 read:

7 29-4-501. Legislative declaration. (3) The general  
8 assembly further finds and declares that in light of the  
9 availability of housing in the Colorado market, housing  
10 authorities created pursuant to the provisions of this part 5  
11 are hereby encouraged to make use of such existing housing  
12 before building new projects and to emphasize housing programs  
13 which do not require the housing authorities to purchase  
14 properties so that the impact on the local property tax base  
15 is minimized.

16 SECTION 7. 29-4-504 (1) and (7), Colorado Revised  
17 Statutes, 1986 Repl. Vol., are amended to read:

18 29-4-504. Appointment of commissioners. (1) The  
19 authority shall consist of commissioners appointed by the  
20 board in the manner provided in either subsection (2) or (3)  
21 of this section, OR IN ANY OTHER MANNER DEEMED APPROPRIATE BY  
22 THE BOARD.

23 (7) No commissioner or employee of an authority shall  
24 acquire HAVE any interest, direct or indirect, in any project  
25 or in any property included or planned to be in any project,  
26 nor shall he have any interest, direct or indirect, in any  
27 contract or proposed contract for materials or services to be

1 furnished or used in connection with any project. If any  
2 commissioner or employee of an authority owns or controls an  
3 interest, direct or indirect, in any property included or  
4 planned to be included in any project, he shall immediately  
5 disclose the same in writing to the authority, and such  
6 disclosure shall be entered upon the minutes of the authority.  
7 Failure to so disclose such interest shall constitute  
8 misconduct in office. Upon disclosure such commissioner or  
9 employee shall not be allowed to participate in any action by  
10 the authority for acquisition of such property or making such  
11 contract.

12 SECTION 8. 29-4-504 (8), Colorado Revised Statutes, 1986  
13 Repl. Vol., is REPEALED AND REENACTED, WITH AMENDMENTS, to  
14 read:

15 29-4-504. Appointment of commissioners. (8) Each  
16 commissioner appointed pursuant to this section shall serve at  
17 the pleasure of the appointing authority.

18 SECTION 9. Part 5 of article 4 of title 29, Colorado  
19 Revised Statutes, 1986 Repl. Vol., is amended BY THE ADDITION  
20 OF THE FOLLOWING NEW SECTIONS to read:

21 29-4-510. Reports - accounting. (1) Each housing  
22 authority created pursuant to the provisions of this part 5  
23 shall prepare an annual report of its activities and shall  
24 submit such report to the director of the division of housing  
25 in the department of local affairs no later than March 1 of  
26 each year. The annual report shall contain the following  
27 information:

1 (a) The number of housing projects operated by the  
2 housing authority, including the number of units in each  
3 project, the total number of units, the location of the  
4 housing projects, and the market value of each project;

5 (b) The names of the commissioners of the housing  
6 authority and their terms of office;

7 (c) The financial status of each project, including the  
8 operating expenses, collection of rentals, outstanding  
9 indebtedness, and the maturation date of any bonds; and

10 (d) Any other information requested by the director of  
11 the division.

12 (2) Each housing authority created pursuant to the  
13 provisions of this part 5 shall comply with generally accepted  
14 accounting principles.

15 29-4-511. Housing authorities - employees - lobbying  
16 activities prohibited. No commissioner or employee of any  
17 housing authority created pursuant to the provisions of this  
18 part 5 shall, while acting within the scope of his employment  
19 with the housing authority, attempt to organize any group or  
20 persons who may benefit from the commencement of a particular  
21 housing project for the purpose of influencing the legislative  
22 body responsible for such project.

23 29-4-512. Payment in lieu of taxes - waiver. In the  
24 event that any county waives the federal  
25 payment-in-lieu-of-taxes requirements applicable to any  
26 housing authority created pursuant to the provisions of this  
27 part 2, such payments shall be waived only to the extent that

1 they impact the tax revenues of the county. Such waiver shall  
2 not impact the tax revenues of any city in which the housing  
3 authority is situated or any school district within the  
4 jurisdiction of the housing authority unless the city council  
5 of any such city or the board of any such school district  
6 concur with such waiver.

7 29-4-513. Dissolution of housing authorities. Any  
8 county which creates a housing authority pursuant to the  
9 provisions of this part 5 shall adopt procedures for the  
10 dissolution of such authority. Such procedures shall  
11 specifically provide that the authority will continue in  
12 existence to such extent as is necessary to adequately provide  
13 for the payment of all financial obligations and outstanding  
14 bonds.

15 29-4-514. Meetings - records - open to public. (1) The  
16 meetings of any housing authority created pursuant to the  
17 provisions of this part 5, and the meetings of any nonprofit  
18 corporation or subsidiary created by such housing authority,  
19 shall be open to the public in the same manner as the meetings  
20 of any state agency as provided in part 4 of article 6 of  
21 title 24, Colorado Revised Statutes.

22 (2) The records of any housing authority created  
23 pursuant to the provisions of this part 5, and the meetings of  
24 any nonprofit corporation or subsidiary created by such  
25 housing authority, shall be open for inspection in the same  
26 manner as the records of state agencies as provided in part 2  
27 of article 72 of title 24, Colorado Revised Statutes.

1           29-4-515. Housing authorities - subsidiaries -  
2 arms-length relationship. No housing authority created  
3 pursuant to the provisions of this part 2 shall create a  
4 subsidiary corporation for the purpose of obtaining federal  
5 funds for any housing program unless such subsidiary  
6 corporation is created as a distinct and separate entity from  
7 the authority and conducts its business with the authority at  
8 arms-length.

9           SECTION 10. Repeal. 29-4-229, Colorado Revised  
10 Statutes, 1986 Repl. Vol., is repealed.

11          SECTION 11. Effective date. This act shall take effect  
12 July 1, 1990.

13          SECTION 12. Safety clause. The general assembly hereby  
14 finds, determines, and declares that this act is necessary  
15 for the immediate preservation of the public peace, health,  
16 and safety.

## Interim Committee on Independent Governmental Authorities

## HOUSE JOINT RESOLUTION 90-

1           WHEREAS, There is a great and growing need for affordable  
2 housing in Colorado and throughout the United States; and

3           WHEREAS, It is vital that all government funds used to  
4 provide public housing be used as efficiently as possible; and

5           WHEREAS, Under the Low Rent Public Housing Program, as it  
6 is currently administered by the federal Department of Housing  
7 and Urban Development, the total development cost of the units  
8 that a local housing authority may acquire is specified by the  
9 Department, and this often does not allow local housing  
10 authorities to purchase the greatest possible number of  
11 adequate housing units for a given level of funding; and

12           WHEREAS, If such restrictions on the use of federal funds  
13 by local housing authorities were removed, local housing  
14 authorities would be able to implement innovative housing  
15 programs which would provide a greater number of adequate  
16 housing units for the same level of funding.

17           Be It Resolved by the House of Representatives of the  
18 Fifty-seventh General Assembly of the State of Colorado, the  
19 Senate concurring herein:

20           That the General Assembly urges the Congress of the  
21 United States to authorize and to direct the Department of  
22 Housing and Urban Development to alter its practices relating  
23 to its Low Rent Public Housing Program in order to allow local  
24 housing authorities to develop as many units of adequate  
25 housing as is possible within a given level of funding.

26           Be It Further Resolved, That copies of this resolution  
27 shall be transmitted to the Secretary of the United States  
28 Department of Housing and Urban Development, Mr. Jack Kemp,  
29 the President of the United States Senate, the Speaker of the  
30 United States House of Representatives, and members of the  
31 Colorado delegation to the Congress of the United States, in  
32 order that they may be apprised of the sense of the Colorado  
33 General Assembly.

## Interim Committee on Independent Governmental Authorities

## HOUSE JOINT RESOLUTION 90-

1           WHEREAS, Water is one of the most important natural  
2 resources in the state; and

3           WHEREAS, Water conservation and control are matters of  
4 statewide concern; and

5           WHEREAS, In light of the current Colorado economy and  
6 state budget limitations, it is imperative that government  
7 programs and services be provided in a manner which is the  
8 most efficient and cost-effective; and

9           WHEREAS, The Colorado Water Resources and Power  
10 Development Authority and the Colorado Water Conservation  
11 Board have functions, roles, and missions which may overlap or  
12 be duplicative; and

13           WHEREAS, The Commission on Government Productivity has  
14 recommended, in its Committee Report on the Department of  
15 Natural Resources, that the two agencies be consolidated; now,  
16 therefore,

17           Be It Resolved by the House of Representatives of the  
18 Fifty-seventh General Assembly of the State of Colorado, the  
19 Senate concurring herein:

20           (1) That the Colorado Water Resources and Power  
21 Development Authority and the Colorado Water Conservation  
22 Board be directed to cooperate in an effort to describe and  
23 compare their respective duties and responsibilities;

24           (2) That said Authority and said Board report on the  
25 feasibility of the consolidation of their respective agencies;  
26 and

27           (3) That a performance audit of the Colorado Water  
28 Resources and Power Development Authority and the Colorado  
29 Water Conservation Board be conducted by the State Auditor to  
30 determine the optimum organization of these two agencies for  
31 their respective duties and responsibilities.

1           (4) That said performance audit and report be made to  
2           the general assembly by July 1, 1990.