



Legislative
Council Staff

Nonpartisan Services for Colorado's Legislature

FINAL FISCAL NOTE

Drafting Number: LLS 20-0613	Date: September 1, 2020
Prime Sponsors: Sen. Tate; Rodriguez Rep. Jackson; Larson	Bill Status: Postponed Indefinitely
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Bill Topic: ADMINISTRATION OF THE RTD

Summary of Fiscal Impact:

<input type="checkbox"/> State Revenue	<input type="checkbox"/> TABOR Refund
<input checked="" type="checkbox"/> State Expenditure	<input type="checkbox"/> Local Government
<input type="checkbox"/> State Transfer	<input checked="" type="checkbox"/> Regional Transportation District

The bill would have made several statutory changes to the Regional Transportation District and create several review and advisory committees. The bill would have increased state expenditures through FY 2022-23 and Regional Transportation District expenditures on an ongoing basis.

Appropriation Summary: In FY 2020-21, the bill would have required appropriations totaling \$1.8 million to various state agencies. See the State Appropriations section.

Fiscal Note Status: The revised fiscal note reflects the introduced bill, as amended by the Senate Transportation and Energy Committee. This bill was not enacted into law; therefore, the impacts identified in this analysis do not take effect.

**Table 1
State Fiscal Impacts Under SB 20-151**

		FY 2020-21	FY 2021-22
Revenue		-	-
Expenditures	General Fund	\$1,788,974	\$749,486
	Cash Funds	\$7,000	-
	Centrally Appropriated	\$39,631	\$36,557
	Total	\$1,835,605	\$786,043
Transfers		-	-
TABOR Refund		-	-

Summary of Legislation

The bill makes several statutory changes to the Regional Transportation District (RTD) and creates three advisory committees. These changes are discussed below.

Service decisions. The bill lists several metrics, such as a change's impact on ridership numbers and the equitable distribution of resources, that RTD must consider when making decisions regarding service levels, route planning, and rates.

Discrimination policies. The bill prohibits RTD from discriminating against persons with disabilities directly or through contractual, licensing, or other arrangement. The bill prohibits several actions, such as RTD requiring an individual with a disability to use designated priority area or excluding paratransit fares from a discount fare program. In addition, the bill prohibits RTD from discriminating on the basis of race, color, ethnicity, or national origin in providing services directly or through contractual, licensing, or other arrangement. The bill allows persons experiencing discrimination to bring a civil suit against RTD in district court on or after January 1, 2022. These claims are not subject to the Colorado Governmental Immunity Act, but are subject to damage limits included in the bill. The bill also creates a statutory fine of \$3,500 for violations. On or before January 1, 2021, RTD must submit a report to the Transportation Legislation Review Committee (TLRC) outlining how it will comply with the bill's discrimination requirements.

Nondiscrimination compliance oversight. The bill requires RTD to comply with requests for information, reports, or documents from the TLRC regarding its compliance with the nondiscrimination policies in the bill. The TLRC is required to hold public testimony after July 1, but before September 30, of each year concerning RTD's compliance. This requirement is repealed on October 1, 2025.

Americans with Disabilities Act Advisory Council. The bill creates the Americans with Disabilities Act Advisory Council (ADA council) to the Senate Judiciary Committee. The seven-member ADA council consists of one legislator and six nonlegislators appointed as specified in the bill. The council must meet at least twice per month between August 2020 and January 2021. The legislative member is entitled to per diem and travel expenses. Nonlegislative members of the ADA council are entitled to a \$400 stipend per month and travel expenses. The ADA council must submit a report by October 31, 2020, to the House and Senate Judiciary Committees, as well as the Executive Committee of Legislative Council, with any recommendations and findings. On or before November 30, 2020, RTD must provide a response to the ADA council's report, including providing information on which recommendations the district plans to adopt or not adopt. On or before January 31, 2020, the ADA council must present a final report to the Senate Judiciary Committee. The ADA council is repealed on September 1, 2021.

RTD Blue Ribbon Panel. The bill creates the RTD Blue Ribbon Panel (panel) in the Department of Transportation (CDOT). The panel is charged with performing an in-depth review of RTD. The six-member panel consists of members appointed as specified in the bill. Panel members are not entitled to compensation, but are entitled to actual expenses. The panel must conduct interviews with RTD board members, staff, and stakeholders, as well as conduct site visits as necessary. On or before September 1, 2020, the panel must submit a report including findings and recommendations to the Governor, the House and Senate Transportation Committees, RTD, and the local governments within the district. RTD may not hire a permanent general manager until the report is completed. CDOT will provide panel staff and the General Assembly must appropriate money from the General Fund to cover the costs associated with the panel. The panel is repealed on October 1, 2021.

RTD Accountability Committee. The bill creates the RTD Accountability Committee (committee) in CDOT. The committee is charged with performing a comprehensive review of RTD over several years. The seven-member committee consists of members appointed as specified in the bill. Each committee member is entitled to a stipend of \$1,000 per month. The committee must issue a report with any findings and recommendations by January 1, 2021, and every six months thereafter through July 1, 2023. Reports are submitted to the Governor, the House and Senate Transportation Committees, RTD, and the local governments within the district. Within 30 days after the committee issues a report, RTD must submit a written response including information on which recommendations the district plans to adopt or not adopt. The committee may contract with a public or private entity with expertise in transit agency finance and operations to support its work. CDOT will provide panel staff and the General Assembly must appropriate money from the General Fund to cover the costs associated with the panel. The committee must issue a final report on or before July 1, 2023, and the committee repeals on September 1, 2023.

Board of Directors membership. The bill adds two nonvoting appointed members to the RTD board. The Governor must appoint two nonvoting board members, with one member representing constituents with disabilities who are transit-dependent, and one member with experience or interest in equitable transportation planning. The bill also clarifies that candidates for the board are subject to campaign contribution limits.

Board administration. The bill requires that the RTD board meet monthly and to broadcast live when possible. In addition, the board must post audio recordings of its meetings on its website. The bill clarifies that board members must be present to vote and that the board may adopt procedures to allow members to vote via remote testimony in cases of a documented medical condition. The board must also adopt guidelines to reduce the compensation of board member that fails to attend meetings or perform official duties. The board must hold public meetings on its plans and policies related to the ADA and Title VI of the federal Civil Rights Act of 1964. Any permanent or temporary reduction of service, including paratransit, requires approval of the board, with the board holding separate votes on whether to eliminate or reduce paratransit service.

Audit requirements. The bill requires the Office of the State Auditor (OSA) to perform three audits. These audits include:

- by January 1, 2021, an audit of the fiscal health of the RTD salaried employees' pension plan;
- by January 1, 2021, an audit of RTD's organizational structure; and
- by January 1, 2022, a cost-efficiency performance audit of RTD.

The OSA is required to submit a written report on each audit to the Legislative Audit Committee, including recommendations to improve the fiscal health of RTD. Upon approval by the Legislative Audit Committee, the OSA will also submit a copy of the reports to the TLRC.

Transparency measures. On or before October 1, 2020, RTD must post on its website by the first of each month an online check register. RTD must ensure that the register contain only public information.

Whistle-blower protections. The bill provides whistle-blower protections to RTD employees and entities contracting with RTD, and includes RTD within the protections the OSA's fraud hotline. The bill clarifies that RTD board members and employees are subject to certain ethics requirements.

Retail and commercial services. Under current law, RTD may not provide retail and commercial services at its facilities. This bill allows RTD to provide retail and commercial services at its facilities. RTD must consult with CDOT before offering these services on CDOT-owned property.

Farebox revenue and parking fees. Under current law, RTD must ensure that 30 percent of its operating costs are funding through fares. The bill eliminates this requirement. In addition, the current law limits when RTD may charge in parking fees. The bill eliminates these limitations.

Background

The General Assembly created RTD in 1969 to create, operate, and maintain a transit system in the RTD service area. The original RTD board consisted of 21 taxpaying electors. In 1980, a citizen-initiated ballot measure changed the composition of RTD's board to its current structure, a 15-member board of directors. Directors are elected for four-year terms, and each director represents a district of approximately 175,000 residents. State law gives the RTD's board the power to enter into contracts, borrow and invest money, purchase and maintain property, and levy taxes. The board is also charged with setting RTD policy, adopting the annual budget, and establishing RTD's short- and long-term transit goals.

RTD is a statutorily created entity, similar to a special district. However, RTD is not a regional transportation authority, as it was created as a separate statutory political subdivision. Current law gives RTD's elected board wide authority to operate and maintain the transportation system within its district boundaries. The legislature plays a limited role in the administration of RTD; however, RTD is required to provide copies of its annual budget to the TLRC, and other information, data, testimony, or audits as requested by the committee.

RTD currently serves 3.03 million people in 2,342 square miles of service area, including all or part of the following eight counties: Adams, Arapahoe, Boulder, Broomfield, Denver, Douglas, Jefferson, and Weld.

State Expenditures

The bill increases state expenditures by \$1.8 million and 2.2 FTE in FY 2020-21 and \$786,043 and 2.0 FTE in FY 2021-22. These costs are shown in Table 2 and discussed below.

**Table 2
Expenditures Under SB 20-151**

Cost Components	FY 2020-21	FY 2021-22
Department of Transportation		
Personal Services	\$147,388	\$160,786
Operating Expenses and Capital Outlay Costs	\$15,100	\$2,700
Panel Travel and Expenses	\$9,382	-
Committee Stipends	\$84,000	\$84,000
Committee Consultant	\$1,000,000	\$500,000
Committee Documents and Supplies	\$2,000	\$2,000
Centrally Appropriated Costs*	\$33,145	\$36,557
FTE – Personal Services	1.8 FTE	2.0 FTE
CDOT (Subtotal)	\$1,291,015	\$786,043
Legislative Department		
Personal Services	\$25,953	-
Legislator Per Diem and Travel	\$2,823	-
ADA Council Stipends and Travel	\$23,328	-
Audit Costs	\$479,000	-
Centrally Appropriated Costs*	\$6,486	-
FTE – Personal Services	0.4 FTE	-
Legislative (Subtotal)	\$537,590	-
Department of State		
Computer Programming	\$7,000	-
SOS (Subtotal)	\$7,000	-
Total	\$1,835,605	\$786,043
Total FTE	2.2 FTE	2.0 FTE

* Centrally appropriated costs are not included in the bill's appropriation.

Department of Transportation. CDOT requires 2.0 FTE to staff both the Blue Ribbon Panel and Accountability Committee. Staffing costs are based on the current staffing needs for the Southwest Chief & Front Range Passenger Rail Commission. Staff will coordinate and schedule meetings, handle off-site visits, and provide the necessary research and report writing support. CDOT also requires \$2,000 for office and meeting supplies related to the committee and panel. First year costs are prorated to reflect the General Fund paydate shift.

- *Panel expenses.* Mileage and travel costs are estimated to be \$9,382 for panel members in FY 2020-21 only. This fiscal note assumes that the panel will meet twice per month for three months.

- *Committee stipends.* CDOT requires \$84,000 to provide seven committee members \$1,000 per month stipends in FY 2020-21 and FY 2021-22.
- *Committee consultant.* CDOT will hire a contract consultant with expertise in transit agency finance and operations to support the committee's work. The cost of a contractor is estimated to be \$1,000,000 in FY 2020-21 and \$500,000 in FY 2022-21, based on actual contractor costs for the Southwest Chief & Front Range Passenger Rail Commission.

Legislative Department. Expenditures will increase for the Legislative Department in FY 2020-21 only. These costs are discussed below.

- *Staffing.* Legislative Council Staff and the Office of Legislative Legal Services require 0.3 FTE of committee staff and 0.1 FTE of staff attorney to staff the ADA Council for six months. This fiscal note assumes legislative staff will be required as the ADA council is created under the Senate Judiciary Committee. Staff will coordinate and schedule meetings, as well as perform necessary research and report writing.
- *Reimbursement for ADA panel members.* Reimbursement for one legislative member assumes 12 meetings with per diem of \$111.23 and \$124.00 travel for a total of \$2,823. Reimbursement for six nonlegislative members assumes two meetings per month for six months with a stipend of \$400.00 per month and \$124.00 travel for a total of \$23,328.
- *Office of the State Auditor.* The OSA in the Legislative Department requires \$479,000 to conduct two audits: an audit of the fiscal health of the RTD salaried employees' pension plan and an audit of RTD's organizational structure. The audit of the fiscal health of the RTD salaried employees' pension plan is expected to cost \$206,000, based on the costs of the Public Employees' Benefit Association (PERA) sensitivity study in 2014. In addition, the audit of RTD's organizational structure is expected to cost \$273,000, based on the costs to conduct the FY 2019-20 total compensation study. OSA is also required to conduct a cost-efficiency performance audit of RTD by January 1, 2022. This audit can be conducted within the office's existing schedule of performance audits and no appropriation is required.

Department of State. The Department of State requires \$7,000 from the Department of State Cash Fund to update its TRACER system, which tracks campaign finance contributions for all candidates. The department's vendor will update the system to include candidates and candidate committees for RTD's board.

Judicial Department. The bill may minimally increase workload for the trial courts in the Judicial Department to hear discrimination-related claims. This fiscal note assumes that RTD will comply with the law and any workload impact can be accomplished within existing resources.

Independent Ethics Commission. Workload may increase for the Independent Ethics Commission to handle any complaints regarding RTD board and staff conflicts of interest. This workload increase can be accomplished within existing resources.

Centrally appropriated costs. Pursuant to a Joint Budget Committee policy, certain costs associated with this bill are addressed through the annual budget process and centrally appropriated in the Long Bill or supplemental appropriations bills, rather than in this bill. These costs, which include employee insurance and supplemental employee retirement payments, are estimated to be \$39,631 in FY 2020-21 and \$36,557 in FY 2021-22.

Regional Transportation District

The bill will increase expenditures and workload for RTD by approximately \$1.3 million in FY 2020-21. Cost increases are related to: ancillary board membership and staff expense; reports required under the bill; information requested by and participation in the council, committee, and panel; additional public hearing requirements; live-broadcast and recording requirements; and response to audit requirements. RTD's legal costs may also increase to comply with measures of this bill and due to a possible increase in litigation. In addition, any requirements from the audit related to RTD's pension benefits will increase RTD and employee rates.

To the extent that RTD may increase parking fees and retail and commercial services at its facilities, RTD revenue may increase.

Local Government

Workload will increase for any representatives of local government that serve on the committee and/or the panel.

Effective Date

The bill was postponed indefinitely by the Senate Judiciary Committee on May 26, 2020.

State Appropriations

In FY 2020-21 the bill would have required the following General Fund appropriations:

- \$1,257,870 and 1.8 FTE to the Department of Transportation;
- \$26,151 to the General Assembly;
- \$18,538 and 0.3 FTE to Legislative Council;
- \$7,415 and 0.1 FTE to the Office of Legislative Legal Services;
- \$479,000 to the Office of the State Auditor.

In addition, the bill requires a cash fund appropriation of \$7,000 to the Department of State from the Department of State Cash Fund.

State and Local Government Contacts

Governor	Information Technology	Judicial
Law	LCS	Personnel
Regional Transportation District	Secretary of State	State Auditor
Transportation	Treasury	