

CHAPTER 242

TRANSPORTATION

HOUSE BILL 98-1335

BY REPRESENTATIVES Grampas, Bacon, George, Gotlieb, Mace, Musgrave, Owen, Spradley, Sullivant, Tupa, Udall, S. Williams, Young, and Zimmerman;
also SENATORS Hopper, Ament, Bishop, Dennis, Feeley, Hernandez, Linkhart, Martinez, Matsunaka, Mutzebaugh, Norton, Pascoe, Perlmutter, Phillips, Reeves, Rizzuto, Rupert, and Thiebaut.

AN ACT

CONCERNING THE CREATION OF THE COLORADO INTERMOUNTAIN FIXED GUIDEWAY AUTHORITY.

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

SECTION 1. Title 32, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW ARTICLE to read:

ARTICLE 16
Colorado Intermountain Fixed Guideway Authority

32-16-101. Short title. THIS ARTICLE SHALL BE KNOWN AND MAY BE CITED AS THE "COLORADO INTERMOUNTAIN FIXED GUIDEWAY AUTHORITY ACT".

32-16-102. Legislative declaration. (1) THE GENERAL ASSEMBLY HEREBY FINDS, DETERMINES, AND DECLARES THAT:

(a) POPULATION GROWTH IN THE STATE AND INCREASED TOURIST ACTIVITY IN THE RESORT AREAS AND IN THE STATE'S TOURISM DESTINATIONS HAVE LED TO UNPRECEDENTED INCREASES IN VEHICULAR TRAFFIC ON THE STATE'S HIGHWAYS;

(b) THE STATE NEEDS TO ADDRESS ISSUES OF TRAFFIC MANAGEMENT AND HIGHWAY CAPACITY IN ORDER TO PLAN APPROPRIATELY FOR ANTICIPATED POPULATION INCREASES;

(c) THE STATE'S PLANNING AND DEVELOPMENT RELATED TO TRAFFIC MANAGEMENT AND HIGHWAY CAPACITY SHOULD SUPPORT THE GOALS OF LAND USE AND

Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.

DEVELOPMENT OF LOCAL COMMUNITIES;

(d) THE GENERAL ASSEMBLY HAS DETERMINED THAT THE FIXED GUIDEWAY AUTHORITY SHOULD REVIEW AND RECOMMEND PLANS FOR USE OF DEVELOPING TECHNOLOGIES TO ADDRESS THE GROWING TRANSPORTATION NEEDS OF THE STATE'S POPULATION.

(2) THEREFORE, THE GENERAL ASSEMBLY HAS ENACTED THIS ARTICLE CREATING THE FIXED GUIDEWAY AUTHORITY.

32-16-103. Definitions. AS USED IN THIS ARTICLE, UNLESS THE CONTEXT OTHERWISE REQUIRES:

(1) "AUTHORITY" MEANS THE COLORADO INTERMOUNTAIN FIXED GUIDEWAY AUTHORITY CREATED IN SECTION 32-16-104.

(2) "BOARD" MEANS THE BOARD OF DIRECTORS OF THE FIXED GUIDEWAY AUTHORITY CREATED IN SECTION 32-16-105.

(3) "DIRECTOR" MEANS A MEMBER OF THE BOARD.

(4) "FIXED GUIDEWAY SYSTEM" MEANS A HIGH SPEED MODE OF PROVIDING TRANSPORTATION FOR PEOPLE AND GOODS USING FIXED GUIDEWAY TECHNOLOGY DESIGNED TO BE COMPATIBLE WITH ESTABLISHED STATE AND LOCAL TRANSPORTATION PLANS AND MAJOR INVESTMENT STUDIES.

(5) "FIXED GUIDEWAY TECHNOLOGY" OR "TECHNOLOGY" MEANS TECHNOLOGY RELATING TO THE DESIGN, DEVELOPMENT, AND CONSTRUCTION OF FIXED GUIDEWAYS. AS USED IN THIS ARTICLE, "FIXED GUIDEWAY" HAS THE SAME MEANING AS SET FORTH IN 49 U.S.C. SEC. 5302 (a) (4).

(6) "TERRITORY" MEANS THE CITY AND COUNTY OF DENVER, THE CITY OF AURORA, AND THE COUNTIES OF CLEAR CREEK, JEFFERSON, EAGLE, GARFIELD, AND SUMMIT.

32-16-104. Creation of authority. (1) THERE IS HEREBY CREATED AN AUTHORITY TO BE KNOWN AND DESIGNATED AS THE COLORADO INTERMOUNTAIN FIXED GUIDEWAY AUTHORITY. THE AUTHORITY SHALL BE A BODY CORPORATE AND POLITIC AND A POLITICAL SUBDIVISION OF THE STATE, AND IT SHALL HAVE THE POWERS AND DUTIES SET FORTH IN THIS ARTICLE TO ACT WITHIN THE TERRITORY OF THE AUTHORITY.

(2) EACH OF THE DIRECTORS, OFFICERS, AND EMPLOYEES OF THE AUTHORITY SHALL BE A PUBLIC EMPLOYEE FOR PURPOSES OF THE "COLORADO GOVERNMENTAL IMMUNITY ACT", ARTICLE 10 OF TITLE 24, C.R.S.

32-16-105. Board of directors - membership - qualifications. (1) THE AUTHORITY SHALL BE GOVERNED BY A BOARD OF DIRECTORS, WHICH SHALL CONSIST OF TWELVE DIRECTORS APPOINTED AS FOLLOWS:

(a) FOUR DIRECTORS REPRESENTING THE TERRITORY OF THE AUTHORITY, OF WHICH ONE DIRECTOR SHALL BE APPOINTED BY THE PRESIDENT OF THE SENATE, ONE

DIRECTOR SHALL BE APPOINTED BY THE MINORITY LEADER OF THE SENATE, ONE DIRECTOR SHALL BE APPOINTED BY THE SPEAKER OF THE HOUSE OF REPRESENTATIVES, AND ONE DIRECTOR SHALL BE APPOINTED BY THE MINORITY LEADER OF THE HOUSE OF REPRESENTATIVES;

(b) TWO DIRECTORS APPOINTED BY THE GOVERNOR, ONE OF WHOM SHALL BE A MEMBER OF THE TRANSPORTATION COMMISSION CREATED IN SECTION 43-1-106, C.R.S., AND WHOSE APPOINTMENTS SHALL BE SUBJECT TO THE CONSENT OF THE SENATE; AND

(c) SIX DIRECTORS APPOINTED WITHOUT REGARD TO PARTY AFFILIATION BY THE GOVERNING BODY OF EACH COUNTY OR CITY AND COUNTY INCLUDED IN THE TERRITORY OF THE AUTHORITY.

(2) THE DIRECTORS APPOINTED PURSUANT TO PARAGRAPH (c) OF SUBSECTION (1) OF THIS SECTION SHALL RESIDE IN THE COUNTY FROM WHICH THEY ARE APPOINTED. THE DIRECTORS APPOINTED PURSUANT TO PARAGRAPHS (a) AND (b) OF SUBSECTION (1) OF THIS SECTION SHALL RESIDE IN THE STATE OF COLORADO.

(3) (a) INITIAL APPOINTMENTS TO THE BOARD SHALL BE MADE WITHIN FORTY-FIVE DAYS AFTER JULY 1, 1998.

(b) THE DIRECTORS APPOINTED PURSUANT TO PARAGRAPH (a) OF SUBSECTION (1) OF THIS SECTION SHALL BE APPOINTED FOR TWO-YEAR TERMS. THE DIRECTORS APPOINTED PURSUANT TO PARAGRAPH (b) OF SUBSECTION (1) OF THIS SECTION SHALL BE APPOINTED FOR THREE-YEAR TERMS. THE DIRECTORS APPOINTED PURSUANT TO PARAGRAPH (c) OF SUBSECTION (1) OF THIS SECTION SHALL BE APPOINTED FOR FOUR-YEAR TERMS.

(c) ALL DIRECTORS SHALL SERVE AT THE PLEASURE OF THE APPOINTING AUTHORITY AND MAY BE REMOVED AT ANY TIME BY THE APPOINTING AUTHORITY.

(d) ANY VACANCY ON THE BOARD SHALL BE FILLED BY THE APPOINTING AUTHORITY THAT APPOINTED THE DIRECTOR WHOSE DEPARTURE CREATED THE VACANCY. THE DIRECTOR APPOINTED TO FILL THE VACANCY SHALL SERVE THE REMAINING TERM OF THE ORIGINALLY APPOINTED DIRECTOR.

(4) (a) AT LEAST TWO DIRECTORS APPOINTED PURSUANT TO SUBSECTION (1) OF THIS SECTION SHALL BE ENGINEERS.

(b) AT LEAST ONE DIRECTOR APPOINTED PURSUANT TO SUBSECTION (1) OF THIS SECTION SHALL HAVE SIGNIFICANT PROFESSIONAL EXPERIENCE IN FREIGHT OR PASSENGER TRANSPORTATION, AND AT LEAST ONE DIRECTOR APPOINTED PURSUANT TO SUBSECTION (1) OF THIS SECTION SHALL HAVE SIGNIFICANT PROFESSIONAL EXPERIENCE IN A TOURISM-RELATED OCCUPATION OR PROFESSION.

(c) THE DIRECTORS APPOINTED PURSUANT TO PARAGRAPHS (a) AND (b) OF SUBSECTION (1) OF THIS SECTION SHALL HAVE EXPERTISE IN ONE OR MORE AREAS THAT ARE RELEVANT TO THE PERFORMANCE OF THE POWERS AND DUTIES OF THE BOARD. SUCH AREAS OF EXPERTISE MAY INCLUDE, BUT ARE NOT LIMITED TO:

- (I) PUBLIC FINANCE;
- (II) PRIVATE FINANCE;
- (III) HIGHWAY CONSTRUCTION;
- (IV) ENGINEERING;
- (V) COMMERCIAL LAW;
- (VI) COMMERCIAL REAL ESTATE;
- (VII) PUBLIC TRANSPORTATION;
- (VIII) LAND USE AND ENVIRONMENTAL PLANNING;
- (IX) REAL ESTATE DEVELOPMENT; AND
- (X) GENERAL CONTRACTING.

(5) THE DIRECTORS SHALL ELECT A CHAIRPERSON AND A VICE-CHAIRPERSON FROM AMONG THE MEMBERSHIP OF THE BOARD.

(6) ALL BUSINESS OF THE BOARD SHALL BE CONDUCTED AT REGULAR OR SPECIAL MEETINGS THAT SHALL BE HELD WITHIN THE TERRITORY OF THE AUTHORITY AND THAT SHALL BE OPEN TO THE PUBLIC. THE PROVISIONS OF THIS SUBSECTION (6) AND PART 4 OF ARTICLE 6 OF TITLE 24, C.R.S., SHALL APPLY TO ALL MEETINGS OF THE BOARD.

(7) BOARD ACTION SHALL REQUIRE THE AFFIRMATIVE VOTE OF A MAJORITY OF THE TOTAL MEMBERSHIP OF THE BOARD.

(8) DIRECTORS OF THE BOARD SHALL RECEIVE NO COMPENSATION FOR THEIR SERVICES BUT MAY BE REIMBURSED FOR THEIR NECESSARY EXPENSES WHILE SERVING AS DIRECTORS OF THE BOARD, BUT NO STATE FUNDS ARE AUTHORIZED TO BE EXPENDED FOR ANY PURPOSE.

32-16-106. Board of directors - powers and duties. (1) IN ADDITION TO ANY OTHER POWERS SPECIFICALLY GRANTED TO THE BOARD IN THIS ARTICLE, THE BOARD SHALL HAVE THE FOLLOWING DUTIES AND POWERS:

(a) TO ANALYZE AVAILABLE MODELS OF FIXED GUIDEWAY TECHNOLOGY OR OTHER FUNCTIONALLY SIMILAR TECHNOLOGIES FOR THE TRANSPORT OF PERSONS IN SUSPENDED OR GUIDED VEHICLES;

(b) TO DEVELOP A PLAN FOR THE DESIGN, FINANCING, DEVELOPMENT, AND CONSTRUCTION OF A FIXED GUIDEWAY SYSTEM FOR INTERSTATE HIGHWAY 70 FROM THE DENVER INTERNATIONAL AIRPORT TO THE EAGLE COUNTY AIRPORT THAT IS COMPATIBLE WITH ESTABLISHED STATE AND LOCAL TRANSPORTATION PLANS AND MAJOR INVESTMENT STUDIES AND INCLUDES, BUT IS NOT LIMITED TO, THE FOLLOWING:

- (I) ESTIMATED COSTS AND EXPENSES OF THE FIXED GUIDEWAY SYSTEM;

(II) STRUCTURAL AND PERFORMANCE SPECIFICATIONS FOR THE FIXED GUIDEWAY SYSTEM;

(III) HOW THE FIXED GUIDEWAY SYSTEM SHALL BE FINANCED;

(IV) TIMELINES PURSUANT TO WHICH THE AUTHORITY OR ANY SUCCESSOR ENTITY SHALL SECURE THE NECESSARY FEDERAL APPROVAL FOR THE DEVELOPMENT, CONSTRUCTION, AND IMPLEMENTATION OF THE FIXED GUIDEWAY SYSTEM;

(V) TIMELINES, IN ADDITION TO THE TIMELINES SET FORTH IN SECTION 32-16-108, FOR THE STAGES OF THE DESIGN, FINANCING, DEVELOPMENT, AND CONSTRUCTION OF THE FIXED GUIDEWAY SYSTEM THAT SHALL INCLUDE PROVISIONS FOR ALL APPROPRIATE CLEARANCES AND PERMITS TO BE ATTAINED PRIOR TO INITIATION OF CONSTRUCTION OF SUCH SYSTEM AND THAT MAY INCLUDE AN AUTHORIZING ELECTION PURSUANT TO THE PROVISIONS OF SECTION 20 (4) OF ARTICLE X OF THE STATE CONSTITUTION TO OCCUR NO LATER THAN THE DATE OF THE ELECTION IN NOVEMBER OF 2003;

(VI) RECOMMENDATIONS CONCERNING THE FEASIBILITY AND BENEFITS OF CONNECTING THE FIXED GUIDEWAY SYSTEM TO OTHER TRANSPORTATION SYSTEMS IN OPERATION, UNDER CONSTRUCTION, OR BEING DEVELOPED IN THE STATE;

(VII) RECOMMENDATIONS CONCERNING HOW THE STATE OF COLORADO, GOVERNING BODIES OF COUNTIES IN THE TERRITORY, THE AUTHORITY OR ANY SUCCESSOR ENTITY, AND ANY OTHER COUNTIES THAT MAY BE AFFECTED BY THE FIXED GUIDEWAY SYSTEM SHALL IDENTIFY AND AGREE UPON THE PHYSICAL AND GEOGRAPHICAL BOUNDARIES OF THE FIXED GUIDEWAY SYSTEM;

(VIII) RECOMMENDATIONS CONCERNING WHICH ENTITY SHALL OVERSEE THE DESIGN, FINANCING, DEVELOPMENT, AND CONSTRUCTION OF THE FIXED GUIDEWAY SYSTEM;

(IX) RECOMMENDATIONS CONCERNING WHICH ENTITY OR ENTITIES SHALL OWN, MAINTAIN, MANAGE, AND OPERATE THE FIXED GUIDEWAY SYSTEM AND WHICH AUTHORITY SUCH ENTITY OR ENTITIES SHALL HAVE TO ENTER INTO CONTRACTUAL ARRANGEMENTS FOR THE MAINTENANCE, MANAGEMENT, AND OPERATION OF THE FIXED GUIDEWAY SYSTEM AND RECOMMENDATIONS CONCERNING HOW SUCH ENTITY OR ENTITIES SHALL CONSENT TO THE TRANSFER OF THE OBLIGATIONS OF THE AUTHORITY PRIOR TO ANY SUCH TRANSFER OF OBLIGATIONS;

(X) RECOMMENDATIONS CONCERNING HOW THE AUTHORITY, ANY SUCCESSOR ENTITY, OR ANY OF THE ENTITIES DESCRIBED IN SUBPARAGRAPH (VIII) OR (IX) OF THIS PARAGRAPH (b) SHALL SEEK APPROVAL RELATING TO FINANCIAL, TECHNICAL, ENVIRONMENTAL, AND ANY OTHER ISSUES THAT IMPACT THE ENTITIES DESCRIBED IN PARAGRAPH (c) OF THIS SUBSECTION (1);

(c) TO CONSULT AND COOPERATE WITH THE BOARDS OF COUNTY COMMISSIONERS OF THE COUNTIES IN THE TERRITORY OF THE AUTHORITY, STATE-SUPPORTED INSTITUTIONS OF HIGHER EDUCATION, THE MUNICIPALITIES AND OTHER POLITICAL SUBDIVISIONS OF THE STATE LOCATED IN THE TERRITORY OF THE AUTHORITY, THE DEPARTMENT OF TRANSPORTATION, THE REGIONAL TRANSPORTATION DISTRICT

CREATED IN ARTICLE 9 OF THIS TITLE, THE STATE TRANSPORTATION ADVISORY COMMITTEE, THE TRANSPORTATION PLANNING REGIONS, AND OTHER RELEVANT STATE, FEDERAL, AND PRIVATE ORGANIZATIONS THAT HAVE AN INTEREST IN FIXED GUIDEWAY TECHNOLOGY;

(d) TO FIX THE TIME AND PLACE AT WHICH ITS REGULAR AND SPECIAL MEETINGS SHALL BE HELD WITHIN THE TERRITORY OF THE AUTHORITY;

(e) TO ADOPT AND, FROM TIME TO TIME, AMEND OR REPEAL RULES OF PROCEDURE AND BYLAWS NOT IN CONFLICT WITH THE CONSTITUTION AND LAWS OF THE STATE;

(f) TO HIRE SUCH PERMANENT AND TEMPORARY STAFF AS MAY BE NECESSARY TO ASSIST THE BOARD IN ITS DUTIES;

(g) TO SUE AND BE SUED;

(h) TO MAINTAIN AN OFFICE AT SUCH PLACE AS IT MAY DESIGNATE WITHIN THE TERRITORY;

(i) TO ENTER INTO AND EXECUTE ALL CONTRACTS, LEASES, INTERGOVERNMENTAL AGREEMENTS, AND OTHER INSTRUMENTS IN WRITING NECESSARY OR PROPER TO THE ACCOMPLISHMENT OF THE PURPOSES OF THIS ARTICLE;

(j) TO ENGAGE THE SERVICES OF PRIVATE CONSULTANTS AND LEGAL COUNSEL TO RENDER PROFESSIONAL AND TECHNICAL ASSISTANCE AND ADVICE IN CARRYING OUT THE PURPOSES OF THIS ARTICLE;

(k) TO RECEIVE AND ACCEPT FROM ANY SOURCE AID OR CONTRIBUTIONS OF MONEY, PROPERTY, LABOR, OR OTHER THINGS OF VALUE TO BE HELD, USED, AND APPLIED TO CARRY OUT THE PURPOSES OF THIS ARTICLE SUBJECT TO THE CONDITIONS UPON WHICH THE GRANTS OR CONTRIBUTIONS ARE MADE.

(2) NOTHING IN THIS ARTICLE SHALL BE CONSTRUED TO INTERFERE WITH THE AUTHORITY OF THE DEPARTMENT OF TRANSPORTATION TO MAKE ANY IMPROVEMENTS IN THE TERRITORY DEEMED NECESSARY BY THE TRANSPORTATION COMMISSION UNTIL THE GENERAL ASSEMBLY HAS APPROVED THE PLAN DESCRIBED IN PARAGRAPH (b) OF SUBSECTION (1) OF THIS SECTION OR THE PLAN DESCRIBED IN SECTION 32-16-108.

32-16-107. Report. THE BOARD SHALL FILE AN ANNUAL REPORT WITH THE GENERAL ASSEMBLY INDICATING ITS PROGRESS IN DEVELOPING A PLAN PURSUANT TO SECTION 32-16-106 (1) (b) AND COMPLYING WITH THE OTHER REQUIREMENTS OF SECTION 32-16-106 AND ITS RECEIPT AND EXPENDITURES OF MONEYS FOR THE PRIOR FISCAL YEAR.

32-16-108. Interim proposal to the general assembly. (1) NO LATER THAN JANUARY 1, 2000, THE AUTHORITY MAY SUBMIT A PROPOSAL TO THE GENERAL ASSEMBLY FOR A PLAN UNDER WHICH THE AUTHORITY SHALL RESEARCH, DEVELOP, TEST, AND DEMONSTRATE A PORTION OF THE FIXED GUIDEWAY SYSTEM AT A TOTAL COST THAT SHALL NOT EXCEED ONE HUNDRED MILLION DOLLARS FOR A PERIOD OF TIME THAT CANNOT EXCEED TWO YEARS STARTING ON JANUARY 1, 2001.

(2) THE PLAN SUBMITTED PURSUANT TO THE PROVISIONS OF SUBSECTION (1) OF THIS SECTION SHALL INCLUDE ALL THE INFORMATION REQUIRED PURSUANT TO SECTION 32-16-106 (1) (b) AND, IN ADDITION, SHALL INCLUDE SPECIFIC RECOMMENDATIONS CONCERNING THE FINANCING OF THE RESEARCH, DEVELOPMENT, TESTING, AND DEMONSTRATION OF THE PORTION OF THE FIXED GUIDEWAY SYSTEM PROPOSED UNDER THIS SECTION.

(3) THE GENERAL ASSEMBLY MAY APPROVE THE PLAN SUBMITTED PURSUANT TO THE PROVISIONS OF SUBSECTION (1) OF THIS SECTION BY REFERRING TO THE REGISTERED ELECTORS WITHIN THE TERRITORY AT THE GENERAL ELECTION HELD IN NOVEMBER OF 2000 A QUESTION AS TO WHETHER THE AUTHORITY SHALL BE AUTHORIZED TO IMPLEMENT SUCH PLAN.

32-16-109. Repeal of article. (1) THIS ARTICLE IS REPEALED, EFFECTIVE JANUARY 1, 2004.

(2) UPON THE REPEAL OF THIS ARTICLE, ANY FUNDS COLLECTED BY THE AUTHORITY BUT NOT USED FOR THE PURPOSES SET FORTH IN THIS ARTICLE SHALL BE CREDITED TO ANY SUCCESSOR ENTITY OR, IN THE EVENT THAT NO SUCH SUCCESSOR ENTITY IS CREATED, SHALL BE REDISTRIBUTED IN PRO RATA AMOUNTS TO THE ENTITIES FROM WHICH THE AUTHORITY RECEIVED CONTRIBUTIONS PURSUANT TO SECTION 32-16-106 (1) (k).

SECTION 2. Effective date. This act shall take effect July 1, 1998.

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

Approved: May 26, 1998