

First Regular Session
Seventy-fourth General Assembly
STATE OF COLORADO

ENGROSSED

*This Version Includes All Amendments Adopted
on Second Reading in the House of Introduction*

LLS NO. 23-0623.01 Jason Gelender x4330

HOUSE BILL 23-1101

HOUSE SPONSORSHIP

Vigil and Bacon,

SENATE SPONSORSHIP

Winter F.,

House Committees
Energy & Environment

Senate Committees

A BILL FOR AN ACT

101 CONCERNING SUPPORT FOR TRANSIT, AND, IN CONNECTION
102 THEREWITH, INCREASING THE FLEXIBILITY OF THE OZONE
103 SEASON TRANSIT GRANT PROGRAM AND INCREASING
104 OPPORTUNITIES FOR TRANSIT AGENCY PARTICIPATION IN
105 REGIONAL TRANSPORTATION PLANNING.

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://leg.colorado.gov>.)

Section 1 of the bill increases the flexibility of the ozone season transit grant program by:

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters or bold & italic numbers indicate new material to be added to existing law.
Dashes through the words or numbers indicate deletions from existing law.

HOUSE
Amended 2nd Reading
February 8, 2023

- Allowing an eligible transit agency that operates in an area in which ozone levels are typically highest during a different period than June 1 to August 31 of a calendar year to designate a different period of the calendar year for its "ozone season";
- Allowing a grant recipient to retain any grant money that it does not spend in the year in which it is received for use in a subsequent year;
- Clarifying that a grant recipient may use grant money for reasonable marketing expenses incurred to raise awareness of free service and increase ridership;
- Clarifying that an eligible transit agency may use grant money to expand free services or free routes or increase the frequency of service on routes for which free service is already offered; and
- Allowing the regional transportation district to use grant money to cover the full costs, rather than up to 80% of the costs, of providing at least 30 days of free transit on all services that it offers.

On and after September 1, 2023, **section 3** requires the governing body of the transportation planning organization for each transportation planning region to include at least one voting representative of a transit agency that provides transit service in the transportation planning region. The representative must be appointed by the transit agency or, if multiple transit agencies provide service in the transportation planning region, by agreement of the transit agencies. **Section 2** defines the term "transportation planning organization" as used in section 3.

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

2 **SECTION 1. Legislative declaration.** (1) The general assembly
 3 finds and declares that transit systems, including those maintained by
 4 regional transportation authorities, are essential to the health and welfare
 5 of the citizens of the state because:

6 (a) Ridership of transit systems decreases the number of
 7 automobiles on state highways and other roadways within the state,
 8 resulting in reductions in both harmful emissions and traffic-related
 9 problems caused by such automobiles; and

10 (b) The complexity of modern transit systems necessitates

1 long-term planning for such systems, which in turn requires that transit
2 agencies, including regional transportation authorities, possess tools to
3 provide the funding necessary to maintain and expand such systems.

4 (2) The general assembly further finds and declares that current
5 funding options available to regional transportation authorities are
6 inadequate and can be enhanced to provide for current and future funding
7 need because:

8 (a) Current law authorizes a regional transportation authority to
9 seek voter approval for a uniform mill levy of up to 5 mills on all taxable
10 property within its territory, but the authorization to seek such voter
11 approval is scheduled to sunset as of January 1, 2029, leaving regional
12 transportation authorities without the ability after that date to present
13 voters with the choice to empower the authority to impose or increase this
14 vital funding source; and

15 (b) Current law also authorizes regional transportation authorities
16 to seek voter approval for a sales or use tax, or both, upon every
17 transaction or other incident with respect to which a sales or use tax is
18 levied by the state, but limits the maximum rate of the tax for which such
19 voter approval may be sought to one percent, thereby potentially
20 preventing regional transportation authorities from imposing a higher rate
21 that may nevertheless be supported by voters.

22 (3) It is the general assembly's intent, through the enactment of
23 section 5 of this act, to preserve and enhance funding options for regional
24 transportation authorities by enabling regional transportation authorities
25 to:

26 (a) Retain the authority to seek voter approval of a mill levy after
27 January 1, 2029; and

1 (b) Seek voter approval for a sales tax, use tax, or both, up to a
2 rate of two percent.

3 (4) Nothing in this section is intended to abridge or otherwise
4 adversely impact the right or power of any regional transportation
5 authority to continue to annually levy any mill levy, or to continue to levy
6 any sales tax, use tax, or both, that was authorized by voter approval prior
7 to the effective date of this act.

8 **SECTION 2.** In Colorado Revised Statutes, 24-38.5-114, **amend**
9 (1)(d), (4), (5)(a)(I), (5)(a)(II), (5)(a)(III), (5)(a)(IV), (5)(a)(VII),
10 (5)(b)(I), and (9) as follows:

11 **24-38.5-114. Ozone season transit grant program - fund -**
12 **creation - policies - report - definitions - repeal.** (1) As used in this
13 section, unless the context otherwise requires:

14 (d) "Ozone season" means the period from June 1 to August 31 of
15 a calendar year; EXCEPT THAT, IF AN ELIGIBLE TRANSIT AGENCY OPERATES
16 IN AN AREA IN WHICH OZONE LEVELS ARE TYPICALLY HIGHEST DURING A
17 DIFFERENT PERIOD OF A CALENDAR YEAR AND THE ELIGIBLE TRANSIT
18 AGENCY IDENTIFIES THE DIFFERENT PERIOD IN A GRANT APPLICATION
19 SUBMITTED TO A TRANSIT ASSOCIATION IN ACCORDANCE WITH THE
20 REQUIREMENTS OF THIS SECTION, "OZONE SEASON" MEANS, FOR THAT
21 ELIGIBLE TRANSIT AGENCY, THE DIFFERENT PERIOD IDENTIFIED IN THE
22 GRANT APPLICATION.

23 (4) (a) To receive a grant, a transit association or the regional
24 transportation district must submit an application to the office in
25 accordance with the requirements of this section and the policies
26 established by the office in accordance with subsection (6) of this section.
27 The office may award grants of up to three million dollars each year to a

1 transit association and up to eleven million dollars each year to the
2 regional transportation district; EXCEPT THAT:

3 (I) IF THE OFFICE AWARDS A GRANT FOR A YEAR TO A TRANSIT
4 ASSOCIATION IN AN AMOUNT LESS THAN THREE MILLION DOLLARS, THEN
5 THE MAXIMUM AMOUNT OF THE GRANT THAT THE OFFICE MAY AWARD TO
6 THE TRANSIT ASSOCIATION FOR THE NEXT YEAR IS THREE MILLION
7 DOLLARS PLUS AN AMOUNT EQUAL TO THE DIFFERENCE BETWEEN THREE
8 MILLION DOLLARS AND THE AMOUNT OF THE GRANT AWARDED TO THE
9 TRANSIT ASSOCIATION FOR THE PRIOR YEAR; AND

10 (II) IF THE OFFICE AWARDS A GRANT FOR A YEAR TO THE REGIONAL
11 TRANSPORTATION DISTRICT IN AN AMOUNT LESS THAN ELEVEN MILLION
12 DOLLARS, THEN THE MAXIMUM AMOUNT OF THE GRANT THAT THE OFFICE
13 MAY AWARD TO THE REGIONAL TRANSPORTATION DISTRICT FOR THE NEXT
14 YEAR IS ELEVEN MILLION DOLLARS PLUS AN AMOUNT EQUAL TO THE
15 DIFFERENCE BETWEEN ELEVEN MILLION DOLLARS AND THE AMOUNT OF
16 THE GRANT AWARDED TO THE REGIONAL TRANSPORTATION DISTRICT FOR
17 THE PRIOR YEAR.

18 (b) A TRANSIT ASSOCIATION, THE REGIONAL TRANSPORTATION
19 DISTRICT, OR AN ELIGIBLE TRANSIT AGENCY THAT RECEIVES A GRANT
20 FROM A TRANSIT ASSOCIATION IS NOT REQUIRED TO EXPEND A GRANT IN
21 THE YEAR IN WHICH IT IS RECEIVED AND RETAINS THE GRANT AMOUNT
22 UNTIL IT IS EXPENDED. THE RETENTION OF ALL OR A PORTION OF A GRANT
23 RECEIVED DURING ONE YEAR BY A TRANSIT ASSOCIATION OR THE
24 REGIONAL TRANSPORTATION DISTRICT FOR USE IN A SUBSEQUENT YEAR
25 DOES NOT REDUCE THE MAXIMUM AMOUNT THAT THE TRANSIT
26 ASSOCIATION OR REGIONAL TRANSPORTATION DISTRICT IS ELIGIBLE TO
27 RECEIVE AS A NEW GRANT DURING THE SUBSEQUENT YEAR AS SET FORTH

1 IN THIS SUBSECTION (4).

2 (5) A grant recipient may use the grant money as follows:

3 (a) (I) A transit association that receives a grant may use the
4 money to establish a grant program for eligible transit agencies in
5 accordance with this section. A transit association may use a portion of
6 the grant money to pay its direct and indirect costs in administering the
7 grant program INCLUDING REASONABLE COSTS TO MARKET THE PROGRAM
8 TO ELIGIBLE TRANSIT AGENCIES.

9 (II) To receive a grant from the transit association, an eligible
10 transit agency must submit an application to the transit association. At a
11 minimum, the application must describe the free transit services that will
12 be NEWLY provided, ~~or expanded~~ TO INCLUDE ADDITIONAL FREE TYPES OF
13 SERVICE, EXPANDED TO INCLUDE ADDITIONAL FREE ROUTES, OR PROVIDED
14 MORE FREQUENTLY with the grant money, indicate to what extent the
15 eligible transit agency will match the grant money with other money, and
16 commit to providing the new or expanded free services for at least thirty
17 days during the ozone season.

18 (III) An eligible transit agency that receives a grant through the
19 transit association may use the money to cover the costs associated with
20 providing new or expanded free transit services within its service area
21 during ozone season, including offering additional FREE SERVICES OR free
22 routes or ~~expanding~~ INCREASING THE FREQUENCY OF service on routes for
23 which the eligible transit agency currently offers free service. Grant
24 money may be used to replace fare box revenue and to pay for other
25 expenses necessary to implement the program, including REASONABLE
26 MARKETING EXPENSES INCURRED TO RAISE AWARENESS OF FREE SERVICE
27 AND INCREASE RIDERSHIP AND expenses associated with an increase in

1 ridership as a result of the program.

2 (IV) An eligible transit agency shall not use grant money to offset
3 or replace funding for free transit services that the eligible transit agency
4 offers as of January 1 of the funding year; EXCEPT THAT AN ELIGIBLE
5 TRANSIT AGENCY MAY USE GRANT MONEY THAT WAS NOT EXPENDED IN
6 THE YEAR IN WHICH IT WAS RECEIVED OR GRANT MONEY FROM A GRANT
7 AWARDED FOR A SUBSEQUENT YEAR TO CONTINUE FUNDING FOR ANY SUCH
8 FREE TRANSIT SERVICES THAT WERE PREVIOUSLY FUNDED WITH GRANT
9 MONEY.

10 (VII) A transit association receiving a grant shall develop and
11 publicize policies for the grant, including the process and deadlines for
12 an eligible transit agency to apply for and receive a grant, the information,
13 INCLUDING NOTICE THAT THE ELIGIBLE TRANSIT AGENCY MUST IDENTIFY
14 ANY PERIOD OTHER THAN JUNE 1 TO AUGUST 31 OF A CALENDAR YEAR FOR
15 ITS OZONE SEASON IN THE APPLICATION, and documentation required for
16 the application, reporting requirements and deadlines, and any additional
17 requirements necessary to administer the grant.

18 (b) (I) The regional transportation district may use grant money
19 to cover ~~up to eighty percent~~ of the costs of providing at least thirty days
20 of free transit on all services offered by the regional transportation
21 district. Grant money may be used to replace fare box revenue and to pay
22 for other expenses necessary to implement the program, including
23 REASONABLE MARKETING EXPENSES INCURRED TO RAISE AWARENESS OF
24 FREE SERVICE AND INCREASE RIDERSHIP AND expenses associated with an
25 increase in ridership as a result of the program.

26 (9) On or before December 31 of each year of the program, the
27 office shall submit a report on the implementation of the program to the

1 house of representatives transportation and local government committee
2 and the senate transportation and energy committee, or their successor
3 committees. The report must summarize and compile the information
4 submitted to the office pursuant to subsections (5)(a)(VI) ~~and (5)(b)~~ AND
5 (5)(b)(II) of this section.

6 **SECTION 3.** In Colorado Revised Statutes, 43-1-1102, **add (7.5)**
7 as follows:

8 **43-1-1102. Definitions.** For the purposes of this part 11, unless
9 the context otherwise requires:

10 (7.5) "TRANSPORTATION PLANNING ORGANIZATION" MEANS A
11 METROPOLITAN PLANNING ORGANIZATION OR A RURAL TRANSPORTATION
12 PLANNING ORGANIZATION RESPONSIBLE FOR TRANSPORTATION PLANNING
13 FOR A TRANSPORTATION PLANNING REGION.

14 **SECTION 4.** In Colorado Revised Statutes, 43-1-1103, **add (7)**
15 as follows:

16 **43-1-1103. Transportation planning.** (7) ON AND AFTER
17 SEPTEMBER 1, 2023, THE BOARD OF DIRECTORS, COMMITTEE, OR OTHER
18 GOVERNING BODY, HOWEVER NAMED, OF THE TRANSPORTATION PLANNING
19 ORGANIZATION FOR EACH TRANSPORTATION PLANNING REGION MUST
20 INCLUDE AT LEAST ONE VOTING REPRESENTATIVE OF A TRANSIT AGENCY
21 THAT PROVIDES TRANSIT SERVICE IN THE TRANSPORTATION PLANNING
22 REGION. THE REPRESENTATIVE MUST BE APPOINTED BY THE TRANSIT
23 AGENCY OR, IF MULTIPLE TRANSIT AGENCIES PROVIDE SERVICE IN THE
24 TRANSPORTATION PLANNING REGION, BY AGREEMENT OF THE TRANSIT
25 AGENCIES.

26 **SECTION 5.** In Colorado Revised Statutes, 43-4-605, **amend**
27 (1)(j)(I); and **repeal (1)(j.5)(II)** as follows:

1 **43-4-605. Powers of the authority - inclusion or exclusion of**
2 **property - determination of regional transportation system alignment**
3 **- fund created - repeal.** (1) In addition to any other powers granted to

4 an authority pursuant to this part 6, an authority has the following powers:

5 (j) (I) Subject to the provisions of section 43-4-612, to levy, in all
6 or any designated portion of the members of the combination or of the
7 members of the transportation planning organization exercising the
8 powers of an authority as authorized by section 43-4-622, a sales or use
9 tax, or both, at a rate not to exceed ~~one~~ TWO percent upon every
10 transaction or other incident with respect to which a sales or use tax is
11 levied by the state; except that, if the authority includes territory that is
12 within the regional transportation district created and existing pursuant to
13 article 9 of title 32, a designated portion of the members of the
14 combination or of the members of the transportation planning
15 organization in which a new tax is levied must be composed of entire
16 territories of members of the combination or of the members of the
17 transportation planning organization so that the rate of tax imposed
18 pursuant to this part 6 within the territory of any single member of the
19 combination or of the members of the transportation planning
20 organization is uniform and except that the authority shall not levy a sales
21 or use tax on any transaction or other incident occurring in any territory
22 located outside the boundaries of the authority and within the boundaries
23 of a municipality as the boundaries of the municipality exist on the date
24 the authority is created without the consent of the governing body of the
25 municipality or outside the boundaries of the authority and within the
26 unincorporated boundaries of a county as the unincorporated boundaries
27 exist on the date the authority is created without the consent of the

1 governing body of the county. Subject to the provisions of section
2 43-4-612, the authority may elect to levy any such sales or use tax at
3 different rates in different designated portions of the members of the
4 combination or of the members of the transportation planning
5 organization; except that, if the authority includes territory that is within
6 the regional transportation district, a designated portion of the members
7 of the combination or of the members of the transportation planning
8 organization in which a new tax is levied must be composed of entire
9 territories of members of the combination or of the members of the
10 transportation planning organization so that the rate of tax imposed
11 pursuant to this part 6 within the territory of any single member of the
12 combination or of the transportation planning organization is uniform. If
13 the authority so elects, it shall submit a single ballot question that lists all
14 of the different rates to the registered electors of all designated portions
15 of the members of the combination or of the transportation planning
16 organization in which the proposed sales or use tax is to be levied. The
17 tax imposed pursuant to this subsection (1)(j) is in addition to any other
18 sales or use tax imposed pursuant to law. If a member of the combination
19 or of the transportation planning organization is located within more than
20 one authority, the sales or use tax, or both, authorized by this subsection
21 (1)(j) shall not exceed ~~one~~ TWO percent upon every transaction or other
22 incident with respect to which a sales or use tax is levied by the state. The
23 executive director of the department of revenue shall collect, administer,
24 and enforce the sales or use tax, to the extent feasible, in the manner
25 provided in section 29-2-106. The director shall make monthly
26 distributions of the tax collections to the authority, which shall apply the
27 proceeds solely to the financing, construction, operation, or maintenance

1 of regional transportation systems. The department shall retain an amount
2 not to exceed the total cost of the collection, administration, and
3 enforcement and shall transmit the amount to the state treasurer, who
4 shall credit the same to the regional transportation authority sales tax
5 fund, which fund is hereby created. The amounts so retained are hereby
6 appropriated annually from the fund to the department to the extent
7 necessary for the department's collection, administration, and enforcement
8 of this part 6. Any money remaining in the fund attributable to taxes
9 collected in the prior fiscal year shall be transmitted to the authority;
10 except that, prior to the transmission to the authority of such money, any
11 money appropriated from the general fund to the department for the
12 collection, administration, and enforcement of the tax for the prior fiscal
13 year shall be repaid.

14 (j.5) (II) ~~This subsection (1)(j.5) is repealed, effective January 1,~~
15 ~~2029.~~

16 **SECTION 6. Safety clause.** The general assembly hereby finds,
17 determines, and declares that this act is necessary for the immediate
18 preservation of the public peace, health, or safety.