

**First Regular Session
Seventy-fourth General Assembly
STATE OF COLORADO**

REREVISED

*This Version Includes All Amendments
Adopted in the Second House*

LLS NO. 23-0623.01 Jason Gelender x4330

HOUSE BILL 23-1101

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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.

SENATE
3rd Reading Unamended
March 3, 2023

SENATE
Amended 2nd Reading
March 2, 2023

HOUSE
3rd Reading Unamended
February 9, 2023

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)(a) introductory portion, (1)(d), (4), (5)(a)(I), (5)(a)(II), (5)(a)(III),
10 (5)(a)(IV), (5)(a)(VII), (5)(b)(I), and (9); and **add** (1)(f.5) 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 (a) "Eligible transit agency" means ~~an entity~~ A TRANSIT AGENCY
15 that is:

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

26 (f.5) TRANSIT AGENCY MEANS A PROVIDER OF PUBLIC
27 TRANSPORTATION, AS DEFINED IN 49 U.S.C. SEC. 5302 (15), AS AMENDED.

1 (4) (a) To receive a grant, a transit association or the regional
2 transportation district must submit an application to the office in
3 accordance with the requirements of this section and the policies
4 established by the office in accordance with subsection (6) of this section.
5 The office may award grants of up to three million dollars each year to a
6 transit association and up to eleven million dollars each year to the
7 regional transportation district; EXCEPT THAT:

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

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

23 (b) A TRANSIT ASSOCIATION, THE REGIONAL TRANSPORTATION
24 DISTRICT, OR AN ELIGIBLE TRANSIT AGENCY THAT RECEIVES A GRANT
25 FROM A TRANSIT ASSOCIATION IS NOT REQUIRED TO EXPEND A GRANT IN
26 THE YEAR IN WHICH IT IS RECEIVED AND RETAINS THE GRANT AMOUNT
27 UNTIL IT IS EXPENDED. THE RETENTION OF ALL OR A PORTION OF A GRANT

1 RECEIVED DURING ONE YEAR BY A TRANSIT ASSOCIATION OR THE
2 REGIONAL TRANSPORTATION DISTRICT FOR USE IN A SUBSEQUENT YEAR
3 DOES NOT REDUCE THE MAXIMUM AMOUNT THAT THE TRANSIT
4 ASSOCIATION OR REGIONAL TRANSPORTATION DISTRICT IS ELIGIBLE TO
5 RECEIVE AS A NEW GRANT DURING THE SUBSEQUENT YEAR AS SET FORTH
6 IN THIS SUBSECTION (4).

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

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

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

23 (III) An eligible transit agency that receives a grant through the
24 transit association may use the money to cover the costs associated with
25 providing new or expanded free transit services within its service area
26 during ozone season, including offering additional FREE SERVICES OR free
27 routes or ~~expanding~~ INCREASING THE FREQUENCY OF service on routes for

1 which the eligible transit agency currently offers free service. Grant
2 money may be used to replace fare box revenue and to pay for other
3 expenses necessary to implement AND MEASURE THE EFFECTIVENESS OF
4 the program, including REASONABLE MARKETING EXPENSES INCURRED TO
5 RAISE AWARENESS OF FREE SERVICE AND INCREASE RIDERSHIP, EXPENSES
6 INCURRED IN CONDUCTING RIDER SURVEYS TO BETTER MEASURE THE
7 IMPACT OF THE PROGRAM ON RIDERSHIP AND VEHICLE MILES TRAVELED IN
8 PRIVATE MOTOR VEHICLES, AND expenses associated with an increase in
9 ridership as a result of the program.

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

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

26 (b) (I) The regional transportation district may use grant money
27 to cover ~~up to eighty percent~~ of the costs of providing at least thirty days

1 of free transit on all services offered by the regional transportation
2 district. Grant money may be used to replace fare box revenue and to pay
3 for other expenses necessary to implement the program, including
4 REASONABLE MARKETING EXPENSES INCURRED TO RAISE AWARENESS OF
5 FREE SERVICE AND INCREASE RIDERSHIP AND expenses associated with an
6 increase in ridership as a result of the program.

7 (9) On or before December 31 of each year of the program, the
8 office shall submit a report on the implementation of the program to the
9 house of representatives transportation and local government committee
10 and the senate transportation and energy committee, or their successor
11 committees. The report must summarize and compile the information
12 submitted to the office pursuant to subsections (5)(a)(VI) ~~and (5)(b)~~ AND
13 (5)(b)(II) of this section.

14 **SECTION 3. In Colorado Revised Statutes, 43-1-106, add (18)**
15 **as follows:**

16 **43-1-106. Transportation commission - powers and duties -**
17 **rules - definitions - efficiency and accountability committee. (18) NO**
18 **LATER THAN JULY 1, 2024, THE TRANSPORTATION COMMISSION SHALL**
19 **UPDATE ITS RULES GOVERNING THE STATEWIDE TRANSPORTATION PROCESS**
20 **AND TRANSPORTATION PLANNING REGIONS, 2 CCR 601-22, TO ADJUST THE**
21 **BOUNDARIES OF THE TRANSPORTATION PLANNING REGIONS, AS DEFINED IN**
22 **SECTION 43-1-1102 (8), IN A MANNER THAT ENSURES THAT THE STATE'S**
23 **POPULATION IS PROPORTIONALLY AND EQUITABLY REPRESENTED ON THE**
24 **TRANSPORTATION ADVISORY COMMITTEE CREATED IN SECTION 43-1-1104**
25 **(1)(a). WHEN DECIDING WHAT ADJUSTMENTS TO MAKE TO THE**
26 **BOUNDARIES OF THE TRANSPORTATION REGIONS, THE COMMISSION SHALL**
27 **ALSO CONSIDER:**

- 1 (a) HIGHWAY CORRIDORS;
- 2 (b) SAFETY AND ASSET MANAGEMENT CONSIDERATIONS;
- 3 (c) COMMUTING AND OTHER TRAVEL PATTERNS;
- 4 (d) TRANSIT-ORIENTED DEVELOPMENT; AND
- 5 (e) LEVELS OF AIR POLLUTANTS, AS DEFINED IN SECTION 25-7-103
- 6 (1.5), INCLUDING CRITERIA POLLUTANTS, AS DEFINED IN SECTION 43-1-128
- 7 (2)(b), AND GREENHOUSE GAS POLLUTANTS, AS DEFINED IN SECTION
- 8 43-1-128 (2)(d).

9 **SECTION 4.** In Colorado Revised Statutes, 43-1-1102, **add** (7.5)
10 as follows:

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

13 (7.5) "TRANSPORTATION PLANNING ORGANIZATION" MEANS A
14 METROPOLITAN PLANNING ORGANIZATION OR A RURAL TRANSPORTATION
15 PLANNING ORGANIZATION RESPONSIBLE FOR TRANSPORTATION PLANNING
16 FOR A TRANSPORTATION PLANNING REGION.

17 **SECTION 5.** In Colorado Revised Statutes, 43-1-1103, **add** (7)
18 as follows:

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

1 **SECTION 6.** In Colorado Revised Statutes, 43-4-605, **amend**
2 (1)(j)(I); and **repeal** (1)(j.5)(II) as follows:

3 **43-4-605. Powers of the authority - inclusion or exclusion of**
4 **property - determination of regional transportation system alignment**
5 **- fund created - repeal.** (1) In addition to any other powers granted to
6 an authority pursuant to this part 6, an authority has the following powers:

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

1 unincorporated boundaries of a county as the unincorporated boundaries
2 exist on the date the authority is created without the consent of the
3 governing body of the county. Subject to the provisions of section
4 43-4-612, the authority may elect to levy any such sales or use tax at
5 different rates in different designated portions of the members of the
6 combination or of the members of the transportation planning
7 organization; except that, if the authority includes territory that is within
8 the regional transportation district, a designated portion of the members
9 of the combination or of the members of the transportation planning
10 organization in which a new tax is levied must be composed of entire
11 territories of members of the combination or of the members of the
12 transportation planning organization so that the rate of tax imposed
13 pursuant to this part 6 within the territory of any single member of the
14 combination or of the transportation planning organization is uniform. If
15 the authority so elects, it shall submit a single ballot question that lists all
16 of the different rates to the registered electors of all designated portions
17 of the members of the combination or of the transportation planning
18 organization in which the proposed sales or use tax is to be levied. The
19 tax imposed pursuant to this subsection (1)(j) is in addition to any other
20 sales or use tax imposed pursuant to law. If a member of the combination
21 or of the transportation planning organization is located within more than
22 one authority, the sales or use tax, or both, authorized by this subsection
23 (1)(j) shall not exceed ~~one~~ TWO percent upon every transaction or other
24 incident with respect to which a sales or use tax is levied by the state. The
25 executive director of the department of revenue shall collect, administer,
26 and enforce the sales or use tax, to the extent feasible, in the manner
27 provided in section 29-2-106. The director shall make monthly

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

16 (j.5) (II) ~~This subsection (1)(j.5) is repealed, effective January 1,~~
17 ~~2029.~~

18 **SECTION 7. Safety clause.** The general assembly hereby finds,
19 determines, and declares that this act is necessary for the immediate
20 preservation of the public peace, health, or safety.