

## CHAPTER 132

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**TRANSPORTATION**


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**HOUSE BILL 23-1101**

BY REPRESENTATIVE(S) Vigil and Bacon, Bird, Boesenecker, Brown, deGruy Kennedy, Dickson, English, Epps, Froelich, Garcia, Gonzales-Gutierrez, Hamrick, Herod, Jodeh, Joseph, Kipp, Lieder, Lindstedt, Mabrey, Mauro, Michaelson Jenet, Ricks, Sharbini, Sirota, Snyder, Titone, Valdez, Velasco, Willford, Woodrow, Amabile, Lindsay, Marshall, McCormick, Story, Weissman, McCluskie;  
also SENATOR(S) Winter F. and Hinrichsen, Buckner, Cutter, Danielson, Jaquez Lewis, Kolker, Marchman, Priola, Sullivan, Fenberg.

**AN ACT**

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

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

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

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

(b) The complexity of modern transit systems necessitates long-term planning for such systems, which in turn requires that transit agencies, including regional transportation authorities, possess tools to provide the funding necessary to maintain and expand such systems.

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

(a) Current law authorizes a regional transportation authority to seek voter

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*Capital letters or bold & italic numbers indicate new material added to existing law; dashes through words or numbers indicate deletions from existing law and such material is not part of the act.*

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

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

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

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

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

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

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

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

(a) "Eligible transit agency" means ~~an entity~~ A TRANSIT AGENCY that is:

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

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

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

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

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

(b) A TRANSIT ASSOCIATION, THE REGIONAL TRANSPORTATION DISTRICT, OR AN ELIGIBLE TRANSIT AGENCY THAT RECEIVES A GRANT FROM A TRANSIT ASSOCIATION IS NOT REQUIRED TO EXPEND A GRANT IN THE YEAR IN WHICH IT IS RECEIVED AND RETAINS THE GRANT AMOUNT UNTIL IT IS EXPENDED. THE RETENTION OF ALL OR A PORTION OF A GRANT RECEIVED DURING ONE YEAR BY A TRANSIT ASSOCIATION OR THE REGIONAL TRANSPORTATION DISTRICT FOR USE IN A SUBSEQUENT YEAR DOES NOT REDUCE THE MAXIMUM AMOUNT THAT THE TRANSIT ASSOCIATION OR REGIONAL TRANSPORTATION DISTRICT IS ELIGIBLE TO RECEIVE AS A NEW GRANT DURING THE SUBSEQUENT YEAR AS SET FORTH IN THIS SUBSECTION (4).

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

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

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

(III) An eligible transit agency that receives a grant through the transit association may use the money to cover the costs associated with providing new or expanded

free transit services within its service area during ozone season, including offering additional FREE SERVICES OR free routes or ~~expanding~~ INCREASING THE FREQUENCY OF service on routes for which the eligible transit agency currently offers free service. Grant money may be used to replace fare box revenue and to pay for other expenses necessary to implement AND MEASURE THE EFFECTIVENESS OF the program, including REASONABLE MARKETING EXPENSES INCURRED TO RAISE AWARENESS OF FREE SERVICE AND INCREASE RIDERSHIP, EXPENSES INCURRED IN CONDUCTING RIDER SURVEYS TO BETTER MEASURE THE IMPACT OF THE PROGRAM ON RIDERSHIP AND VEHICLE MILES TRAVELED IN PRIVATE MOTOR VEHICLES, AND expenses associated with an increase in ridership as a result of the program.

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

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

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

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

**SECTION 3.** In Colorado Revised Statutes, **add** 43-1-131 as follows:

**43-1-131. Transportation planning study - report - rules.** (1) ON OR BEFORE NOVEMBER 30, 2023, THE DEPARTMENT SHALL COMPLETE A STUDY AND STUDY REPORT OF THE BOUNDARIES OF THE TRANSPORTATION PLANNING REGIONS, AS DEFINED IN SECTION 43-1-1102 (8), THE MEMBERSHIP OF THE TRANSPORTATION ADVISORY COMMITTEE CREATED IN SECTION 43-1-1104 (1)(a) AND THE SPECIAL INTERIM TRANSIT AND RAIL ADVISORY COMMITTEE APPOINTED PURSUANT TO SECTION 43-1-1104 (1)(b), AND THE CONSISTENCY AND TRANSPARENCY OF THE

TRANSPORTATION PLANNING PROCESS ACROSS THE TRANSPORTATION PLANNING REGIONS. IN CONDUCTING THE STUDY, THE DEPARTMENT SHALL PROVIDE OPPORTUNITY FOR PUBLIC COMMENT THROUGHOUT THE STATE AND CONSIDER INPUT FROM STAKEHOLDERS THROUGHOUT THE STATE. ON OR BEFORE NOVEMBER 30, 2023, THE DEPARTMENT SHALL SUBMIT THE STUDY REPORT TO THE COMMISSION AND TO THE TRANSPORTATION LEGISLATION REVIEW COMMITTEE CREATED IN SECTION 43-2-145 (1)(a) OR, IF THE COMMITTEE HAS HELD ITS LAST 2023 MEETING BEFORE THE STUDY REPORT IS COMPLETED, TO THE HOUSE OF REPRESENTATIVES TRANSPORTATION, HOUSING, AND LOCAL GOVERNMENT COMMITTEE AND THE SENATE TRANSPORTATION AND ENERGY COMMITTEE, OR THEIR SUCCESSOR COMMITTEES. THE STUDY MUST INCLUDE CONSIDERATION OF:

(a) THE MEMBERSHIP OF THE SPECIAL INTERIM TRANSIT AND RAIL ADVISORY COMMITTEE AND ITS REPRESENTATION ON THE TRANSPORTATION ADVISORY COMMITTEE;

(b) THE TRANSPARENCY OF THE TRANSPORTATION PLANNING PROCESS IN EACH TRANSPORTATION PLANNING REGION AND THE CONSISTENCY OF THE TRANSPORTATION PLANNING PROCESS ACROSS THE TRANSPORTATION PLANNING REGIONS; AND

(c) THE BOUNDARIES OF TRANSPORTATION PLANNING REGIONS CONSIDERING FACTORS RELATED TO:

(I) HIGHWAY AND TRANSIT CORRIDORS AND TRANSIT DISTRICT BOUNDARIES;

(II) DISPROPORTIONATELY IMPACTED COMMUNITIES, AS DEFINED IN SECTION 43-4-1202 (5);

(III) VEHICLE MILES TRAVELED, TRUCK VEHICLE MILES TRAVELED, TRANSIT VEHICLE REVENUE MILES, AND LANE MILES;

(IV) POPULATION TRENDS;

(V) SAFETY AND MANAGEMENT CONSIDERATIONS;

(VI) COMMUTING, COMMERCIAL TRAFFIC, FREIGHT MOVEMENT, TOURISM IMPACTS, AND OTHER TRAVEL PATTERNS;

(VII) TRANSIT-ORIENTED DEVELOPMENT AND ACCESS TO AFFORDABLE HOUSING;

(VIII) LEVELS OF AIR POLLUTANTS, AS DEFINED IN SECTION 25-7-103 (1.5), INCLUDING CRITERIA POLLUTANTS, AS DEFINED IN SECTION 43-1-128 (2)(b), AND GREENHOUSE GAS POLLUTANTS, AS DEFINED IN SECTION 43-1-128 (2)(d); AND

(IX) COMMUNITIES OF INTEREST.

(2) THE DEPARTMENT SHALL NOT INCLUDE ANY RECOMMENDATION IN THE STUDY REPORT THAT, IF ADOPTED, WOULD REDUCE THE NUMBER OF RURAL TRANSPORTATION PLANNING REGIONS, WHICH SHALL BE MAINTAINED AT THE MAXIMUM NUMBER SPECIFIED IN SECTION 43-1-1102 (8).

(3) FOLLOWING COMPLETION OF THE STUDY, WITH CONSIDERATION OF THE FINDINGS OF THE STUDY, AND BEFORE JUNE 1, 2024, THE COMMISSION SHALL INITIATE UPDATES TO ITS RULES CONCERNING THE STATEWIDE TRANSPORTATION PLANNING PROCESS AND TRANSPORTATION PLANNING REGIONS, 2-CCR 601-22.

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

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

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

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

**43-1-1103. Transportation planning.** (7) ON AND AFTER SEPTEMBER 1, 2023, THE BOARD OF DIRECTORS, COMMITTEE, OR OTHER GOVERNING BODY, HOWEVER NAMED, OF THE TRANSPORTATION PLANNING ORGANIZATION FOR EACH TRANSPORTATION PLANNING REGION MUST INCLUDE AT LEAST ONE VOTING REPRESENTATIVE TO REPRESENT ALL TRANSIT AGENCIES 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 6.** In Colorado Revised Statutes, 43-4-605, **amend** (1)(j)(I); and **repeal** (1)(j.5)(II) as follows:

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

(j) (I) Subject to the provisions of section 43-4-612, to levy, in all or any designated portion of the members of the combination or of the members of the transportation planning organization exercising the powers of an authority as authorized by section 43-4-622, a sales or use tax, or both, at a rate not to exceed ~~one~~ two percent upon every transaction or other incident with respect to which a sales or use tax is levied by the state; except that, if the authority includes territory that is within the regional transportation district created and existing pursuant to article 9 of title 32, a designated portion of the members of the combination or of the members of the transportation planning organization in which a new tax is levied must be composed of entire territories of members of the combination or of the members of the transportation planning organization so that the rate of tax imposed pursuant to this part 6 within the territory of any single member of the combination or of the members of the transportation planning organization is uniform and except that the authority shall not levy a sales or use tax on any transaction or other incident occurring in any territory located outside the boundaries of the authority and within the boundaries of a municipality as the boundaries of the municipality exist on the date the authority is created without the

consent of the governing body of the municipality or outside the boundaries of the authority and within the unincorporated boundaries of a county as the unincorporated boundaries exist on the date the authority is created without the consent of the governing body of the county. Subject to the provisions of section 43-4-612, the authority may elect to levy any such sales or use tax at different rates in different designated portions of the members of the combination or of the members of the transportation planning organization; except that, if the authority includes territory that is within the regional transportation district, a designated portion of the members of the combination or of the members of the transportation planning organization in which a new tax is levied must be composed of entire territories of members of the combination or of the members of the transportation planning organization so that the rate of tax imposed pursuant to this part 6 within the territory of any single member of the combination or of the transportation planning organization is uniform. If the authority so elects, it shall submit a single ballot question that lists all of the different rates to the registered electors of all designated portions of the members of the combination or of the transportation planning organization in which the proposed sales or use tax is to be levied. The tax imposed pursuant to this subsection (1)(j) is in addition to any other sales or use tax imposed pursuant to law. If a member of the combination or of the transportation planning organization is located within more than one authority, the sales or use tax, or both, authorized by this subsection (1)(j) shall not exceed ~~one~~ TWO percent upon every transaction or other incident with respect to which a sales or use tax is levied by the state. The executive director of the department of revenue shall collect, administer, and enforce the sales or use tax, to the extent feasible, in the manner provided in section 29-2-106. The director shall make monthly distributions of the tax collections to the authority, which shall apply the proceeds solely to the financing, construction, operation, or maintenance of regional transportation systems. The department shall retain an amount not to exceed the total cost of the collection, administration, and enforcement and shall transmit the amount to the state treasurer, who shall credit the same to the regional transportation authority sales tax fund, which fund is hereby created. The amounts so retained are hereby appropriated annually from the fund to the department to the extent necessary for the department's collection, administration, and enforcement of this part 6. Any money remaining in the fund attributable to taxes collected in the prior fiscal year shall be transmitted to the authority; except that, prior to the transmission to the authority of such money, any money appropriated from the general fund to the department for the collection, administration, and enforcement of the tax for the prior fiscal year shall be repaid.

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

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

Approved: April 28, 2023