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# Fiscal Note

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**Drafting Number:** LLS 24-0247  
**Prime Sponsors:**

**Date:** September 29, 2023  
**Bill Status:** Bill Request  
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**Bill Topic:** **RAILROAD SAFETY REQUIREMENTS**

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**Summary of Fiscal Impact:**

<input checked="" type="checkbox"/> State Revenue	<input checked="" type="checkbox"/> TABOR Refund
<input checked="" type="checkbox"/> State Expenditure	<input checked="" type="checkbox"/> Local Government
<input type="checkbox"/> State Transfer	<input type="checkbox"/> Statutory Public Entity

The bill establishes new safety requirements on railroads operating in the state and creates the Front Range Passenger Rail District Maintenance and Safety Fund. It increases state and local government expenditures on an ongoing basis.

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**Appropriation Summary:** For FY 2024-25, the bill requires an appropriation of \$60,139 to the Department of Regulatory Agencies.

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**Fiscal Note Status:** The fiscal note reflects bill draft requested by the Transportation Legislation Review Committee

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**Table 1**  
**State Fiscal Impacts Under Bill 5**

		<b>Budget Year FY 2024-25</b>	<b>Out Year FY 2025-26</b>
<b>Revenue</b>		-	-
<b>Expenditures</b>	General Fund	\$60,139	\$58,268
	Centrally Appropriated	\$10,706	\$11,157
	<b>Total Expenditures</b>	<b>\$70,845</b>	<b>\$69,425</b>
	<b>Total FTE</b>	<b>0.5 FTE</b>	<b>0.5 FTE</b>
<b>Transfers</b>		-	-
<b>Other Budget Impacts</b>	General Fund Reserve	\$9,021	\$8,740

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## Summary of Legislation

The bill establishes safety requirements on railroads operating trains in the state, as discussed below.

**Railroad safety measures.** The bill specifies that:

- railroads are prohibited from operating trains greater than 8,500 feet in length;
- railroads are required to have an operational and properly maintained wayside detector system, including a hot bearings detector and dragging equipment detector installed at least every 10 miles;
- on or before January 1, 2025, and each year thereafter, railroads must submit a report to the Public Utilities Commission (PUC) on installed wayside detector systems, hot bearings detectors, and dragging equipment detectors;
- railroads must stop a train after receiving a message from a wayside detector system. If an inspection indicates the train is safe for movement, the train must travel no more than 10 miles per hour if the train is carrying a hazardous material or dangerous goods, and no more than 30 miles per hour if the train is not carrying a hazardous material or dangerous goods;
- trains, freight cars, passenger cars, and railroad passenger engines may not obstruct a public crossing for more than 10 minutes, unless they are continuously moving or circumstances beyond the railroad's control prevent them from moving;
- any crew member of a train may report to the crew member's designated union representative a safety violation, injury, or death that occurred during the operation of a train. Upon receiving notice of a violation, the representative may enter a railroad's place of operation to investigate the report;
- the PUC may impose a fine for a railroad's denying a union representative access to a railroad's place of operation ranging from \$10,000 to \$25,000 for each day of a continuing violation, and a fine of up to \$100,000 for repeated and/or intentional violations related to union activities; and
- the PUC must develop guidelines for determining, imposing, and appealing fines.

**Front Range Passenger Rail District Maintenance and Safety Fund.** The bill creates the Front Range Passenger Rail District Maintenance and Safety Fund, which will receive fines imposed by the PUC for violations of this bill's safety requirements. The money is continuously appropriated to the state treasurer for the purpose of issuing warrants to the district for safety planning and development during the research, development, and construction of a passenger rail system; maintaining a passenger rail system; and completing capital development projects to improve the safety of a passenger rail system.

**Fire department training.** The bill requires that by July 1, 2025, and at least once every three years thereafter, railroads offer training to each fire department with jurisdiction along railroad tracks. The training must address hazardous materials and emergency responder strategies for railroad incidents involving hazardous materials.

**Hazardous materials.** The bill requires railroads that transport hazardous materials to maintain adequate insurance and submit to the PUC a certificate of insurance or similar documentation on or before January 1, 2024, and each year thereafter. By November 1, 2023, the PUC must promulgate rules establishing minimum insurance coverage requirements for railroads transporting hazardous materials. At least once a year, the PUC must also hold a public hearing concerning the implementation of these rules. Railroads that violate these rules are subject to fines of at least \$1,000, but not exceeding \$5,000, for each day of noncompliance.

## Background

Railroads are largely regulated by the federal government and do not pay into the Fixed Utility Fund which funds PUC operations. For more information about the PUC's limited involvement in railroad regulation, visit: <https://puc.colorado.gov/rail>.

## State Revenue

The bill may increase fine revenue to the newly created Front Range Passenger Rail District Maintenance and Safety Fund. The amount of fine revenue collected will depend on future enforcement actions and cannot not been estimated. Fine revenue is subject to TABOR.

## State Expenditures

The bill increases state expenditures in the PUC in the Department of Regulatory Agencies by \$70,845 in FY 2024-25 and \$69,425 in FY 2025-26, paid from the General Fund. Expenditures are shown in Table 2 and detailed below.

**Table 2**  
**Expenditures Under Bill 5**

	<b>FY 2024-25</b>	<b>FY 2025-26</b>
<b>Department of Regulatory Agencies</b>		
Personal Services	\$52,794	\$57,593
Operating Expenses	\$675	\$675
Capital Outlay Costs	\$6,670	-
Centrally Appropriated Costs <sup>1</sup>	\$10,706	\$11,157
<b>Total Cost</b>	<b>\$70,845</b>	<b>\$69,425</b>
<b>Total FTE</b>	<b>0.5 FTE</b>	<b>0.5 FTE</b>

<sup>1</sup> Centrally appropriated costs are not included in the bill's appropriation.

**Department of Regulatory Agencies.** The PUC requires 0.5 FTE for a Professional Engineer II to implement the bill. The engineer will review wayside detector reports; impose fines against railroads, officers, agents, or employees for violating the bill's requirements; determine proper levels of insurance coverage; review certificates of insurance showing compliance; and conduct audits to ensure compliance. No appropriation is required for rulemaking, which is expected to take place within the normal course of PUC business. Expenditures assume an August 1, 2024, start date and include standard operating and capital outlay costs.

**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 shown in Table 2.

## Other Budget Impact

**General Fund reserve.** Under current law, an amount equal to 15 percent of General Fund appropriations must be set aside in the General Fund statutory reserve. Based on this fiscal note, the bill is expected to increase the amount of General Fund held in reserve by the amounts shown in Table 1, decreasing the amount of General Fund available for other purposes.

## Local Government

The bill will increase workload for local fire departments that participate in the training required by the bill.

## Effective Date

The bill takes effect July 1, 2024.

## State Appropriations

For FY 2024-25, the bill requires a General Fund appropriation of \$60,139 to the Department of Regulatory Agencies, and 0.5 FTE.

## State and Local Government Contacts

Counties	Labor	Law
Local Affairs	Municipalities	Personnel
Public Health and Environment	Public Safety	Regulatory Agencies
Revenue	Transportation	Treasury