

CHAPTER 263

TRANSPORTATION

SENATE BILL 93-167

BY SENATORS Tebedo and Mutzebaugh;
also REPRESENTATIVES Anderson, Shoemaker, and Snyder.

AN ACT

CONCERNING THE PROCEDURE FOR DESIGNATION OF SCENIC BYWAYS BY THE TRANSPORTATION COMMISSION.

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

SECTION 1. Part 2 of article 1 of title 43, Colorado Revised Statutes, 1984 Repl. Vol., as amended, is amended BY THE ADDITION OF A NEW SECTION to read:

43-1-207.5. Colorado scenic byway program - criteria for designation - notice and hearing. (1) THE GENERAL ASSEMBLY FINDS AND DECLARES THAT THE DESIGNATION OF SCENIC BYWAYS HAS BENEFITED THE CITIZENS OF THIS STATE BY PROMOTING TOURISM AND ENHANCING RECREATIONAL OPPORTUNITIES. CURRENTLY, NOMINATIONS FOR DESIGNATIONS UNDER THE COLORADO SCENIC AND HISTORIC BYWAY PROGRAM ARE EVALUATED BY THE COLORADO SCENIC AND HISTORIC BYWAYS COMMISSION CREATED BY THE GOVERNOR IN EXECUTIVE ORDER NUMBER B00492 DATED MAY 1, 1992. NOMINATIONS WHICH RECEIVE A FAVORABLE RECOMMENDATION FROM SUCH COMMISSION ARE FORWARDED TO THE TRANSPORTATION COMMISSION FOR FORMAL APPROVAL. THE GENERAL ASSEMBLY FINDS THAT THERE IS A NEED TO ESTABLISH UNIFORM MINIMUM STANDARDS FOR SUCH DESIGNATIONS AND TO ENSURE THAT AFFECTED LANDOWNERS HAVE THE OPPORTUNITY TO PARTICIPATE IN A PUBLIC HEARING CONCERNING ANY SUCH DESIGNATION.

(2) (a) A PROPOSAL FOR THE DESIGNATION OF A SCENIC BYWAY SHALL BE CONSIDERED WHEN THE FOLLOWING CRITERIA ARE MET:

(I) THE PROPOSAL IS SUBMITTED IN ACCORDANCE WITH NOMINATING PROCEDURES ADOPTED BY THE COLORADO SCENIC AND HISTORIC BYWAYS COMMISSION;

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

(II) THE PROPOSAL MEETS ALL RELEVANT FEDERAL CRITERIA;

(III) THE PROPOSED SCENIC BYWAY POSSESSES UNUSUAL, EXCEPTIONAL, OR DISTINCTIVE SCENIC, RECREATIONAL, HISTORICAL, EDUCATIONAL, SCIENTIFIC, GEOLOGICAL, NATURAL, WILDLIFE, CULTURAL, OR ETHNIC FEATURES;

(IV) THE PROPOSED SCENIC BYWAY IS LOCATED ON AN EXISTING HIGHWAY OR ROADWAY WHICH HAS LEGAL PUBLIC ACCESS;

(V) THE PROPONENTS OF THE DESIGNATION HAVE ESTABLISHED THE EXISTENCE OF STRONG LOCAL SUPPORT FOR THE DESIGNATION; AND

(VI) THE PROPONENTS OF THE DESIGNATION HAVE COORDINATED WITH EACH GOVERNMENTAL ENTITY OR AGENCY HAVING JURISDICTION OVER PROPERTY ADJACENT TO THE PROPOSED SCENIC BYWAY AND HAVE OBTAINED A WRITTEN COMMENT OR NONOBJECTION LETTER FROM SUCH ENTITY OR AGENCY.

(b) ANY PROPOSAL RECOMMENDED FOR ADOPTION BY THE COLORADO SCENIC AND HISTORIC BYWAYS COMMISSION SHALL BE FORWARDED TO THE TRANSPORTATION COMMISSION WITH DETAILED FINDINGS CONCERNING THE REQUIREMENTS OF THIS SECTION AND ANY OTHER FACTOR RELIED UPON IN ARRIVING AT THE DECISION TO RECOMMEND APPROVAL.

(3) (a) THE TRANSPORTATION COMMISSION SHALL HOLD A PUBLIC HEARING TO CONSIDER ANY PROPOSAL RECOMMENDED FOR APPROVAL BY THE COLORADO SCENIC AND HISTORIC BYWAYS COMMISSION. NOTICE OF THE HEARING SHALL BE PROVIDED IN THE MANNER SPECIFIED IN PARAGRAPH (b) OF THIS SUBSECTION (3). ALL INTERESTED PARTIES SHALL BE GIVEN AN OPPORTUNITY TO PROVIDE COMMENTS AND SUBMIT EVIDENCE IN SUPPORT OF OR IN OPPOSITION TO THE DESIGNATION AT THE HEARING. THE TRANSPORTATION COMMISSION SHALL ENTER AN ORDER ADOPTING, DENYING, OR REMANDING THE PROPOSAL TO THE COLORADO SCENIC AND HISTORIC BYWAYS COMMISSION FOR FURTHER ACTION.

(b) (I) NOT LESS THAN SIXTY DAYS PRIOR TO THE DATE OF A HEARING TO BE HELD PURSUANT TO THIS SUBSECTION (3), THE PROPONENTS OF THE DESIGNATION SHALL CAUSE NOTICE OF THE PROPOSAL:

(A) TO BE PUBLISHED IN THE NEWSPAPER OR NEWSPAPERS LOCATED IN THE TOWN NEAREST THE PROPOSED DESIGNATED SCENIC OR HISTORIC BYWAY. THE NOTICE SHALL BE INSERTED IN THREE SUCCESSIVE ISSUES OF SAID NEWSPAPER OR NEWSPAPERS.

(B) TO BE POSTED AT CONSPICUOUS POINTS ALONG THE PERIMETER OF THE PROPOSED SCENIC BYWAY. WITH RESPECT TO PROPOSED SCENIC BYWAYS WHICH EXCEED TEN MILES, THE POSTING REQUIREMENTS OF THIS SUB-SUBPARAGRAPH (B) SHALL BE SATISFIED BY POSTING THE REQUIRED NOTICE AT LEAST ONCE EVERY TEN MILES.

(II) NOTICE PUBLISHED PURSUANT TO THE PROVISIONS OF THIS PARAGRAPH (b) SHALL CONTAIN THE DATE OF THE HEARING AND A SUMMARY OF THE PROPOSED

DESIGNATION. THE PROPONENTS OF THE PROPOSED DESIGNATION SHALL BE RESPONSIBLE FOR ALL COSTS NECESSARY TO COMPLY WITH THE NOTICE REQUIREMENTS OF THIS PARAGRAPH (b).

(4) WHEN PORTIONS OF A PROPOSED SCENIC BYWAY INCLUDE AN ADJACENT PROPERTY WHICH HAS BEEN DEVELOPED FOR COMMERCIAL OR INDUSTRIAL USE, THOSE PORTIONS SHALL NOT BE INCLUDED IN THE DESIGNATION UNLESS THE TRANSPORTATION COMMISSION FINDS THAT THE PROPERTY MEETS ALL CRITERIA SET FORTH IN PARAGRAPH (a) OF SUBSECTION (2) OF THIS SECTION, OR THAT THE COMMERCIAL OR INDUSTRIAL USE IS RELATED TO TOURISM OR RECREATIONAL USES, OR TO PROMOTIONAL ACTIVITIES PERTAINING TO SUCH USES. IT IS THE INTENTION OF THE GENERAL ASSEMBLY THAT THE EXCEPTION OF THOSE PORTIONS OF SUCH HIGHWAY FROM THE ENTIRE ROUTE OF THE PROPOSED SCENIC BYWAY SHALL NOT BE CONSTRUED TO RESTRICT THE PLACEMENT OF AN APPROVED SCENIC BYWAY LOGO OR DIRECTIONAL SIGN ON THOSE EXCEPTED PORTIONS OF SUCH HIGHWAY OR ON ANY HIGHWAY WHERE THE DEPARTMENT OF TRANSPORTATION DETERMINES THAT THE PLACEMENT OF SUCH SIGNAGE IS NECESSARY TO ADVERTISE OR PROMOTE THE SCENIC BYWAY.

(5) THE PROVISIONS OF THIS SECTION SHALL APPLY TO ANY PROPOSAL FOR THE INITIAL DESIGNATION OF A STATE HIGHWAY OR PORTION OF SUCH HIGHWAY AS A SCENIC BYWAY OR FOR THE EXTENSION OF A SCENIC BYWAY ESTABLISHED PRIOR TO THE EFFECTIVE DATE OF THIS SECTION.

(6) DESIGNATION OF A STATE HIGHWAY PURSUANT TO THIS SECTION SHALL NOT BE CONSTRUED TO REQUIRE ANY MODIFICATION IN LOCAL LAND USE REGULATIONS OR RESTRICTIONS, REQUIRE ANY CHANGE IN COMMERCIAL OR AGRICULTURAL ACTIVITIES, OR AFFECT FUTURE HIGHWAY REHABILITATION OR DEVELOPMENT.

(7) NOTHING IN THIS SECTION SHALL BE CONSTRUED TO ALTER THE DUTIES AND RESPONSIBILITIES OF THE COLORADO SCENIC AND HISTORIC BYWAYS COMMISSION CREATED BY THE GOVERNOR IN EXECUTIVE ORDER NUMBER B00492 DATED MAY 1, 1992.

(8) STATE HIGHWAYS DESIGNATED AS SCENIC BYWAYS PURSUANT TO THIS SECTION SHALL BE SUBJECT TO THE PROVISIONS OF SECTION 43-1-419.

(9) THIS SECTION IS REPEALED, EFFECTIVE MAY 15, 1995.

SECTION 2. 43-1-419 (1), Colorado Revised Statutes, 1984 Repl. Vol., as amended, is amended BY THE ADDITION OF A NEW PARAGRAPH to read:

43-1-419. Scenic byways - Independence pass scenic area highway.

(1) (c) (I) AN ADVERTISING DEVICE SHALL BE CONSIDERED TO BE VISIBLE FROM A DESIGNATED HIGHWAY IF IT IS PLAINLY VISIBLE TO THE DRIVER OF A VEHICLE WHO IS PROCEEDING IN A LEGALLY DESIGNATED DIRECTION AND TRAVELING AT THE POSTED SPEED.

(II) AS USED IN THIS PARAGRAPH (c), "VISIBLE" SHALL HAVE THE SAME MEANING AS PROVIDED IN SECTION 43-1-403 (17).

SECTION 3. No appropriation. The general assembly has determined that this act can be implemented within existing appropriations, and therefore no separate appropriation of state moneys is necessary to carry out the purposes of this act.

SECTION 4. 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: June 6, 1993