

CHAPTER 175

PUBLIC UTILITIES

HOUSE BILL 97-1071

BY REPRESENTATIVES Chavez, McElhany, and Schwarz;
also SENATOR Blickensderfer.

AN ACT

CONCERNING THE DESIGNATION OF THE PUBLIC UTILITIES COMMISSION AS THE STATE OVERSIGHT AGENCY FOR SYSTEM SAFETY OF RAIL FIXED GUIDEWAY SYSTEMS OPERATING WITHIN THE STATE, AND MAKING AN APPROPRIATION THEREFOR.

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

SECTION 1. Title 40, Colorado Revised Statutes, 1993 Repl. Vol., as amended, is amended BY THE ADDITION OF A NEW ARTICLE to read:

ARTICLE 18
Rail Fixed Guideway System Safety Oversight

40-18-101. Definitions. AS USED IN THIS ARTICLE, UNLESS THE CONTEXT OTHERWISE REQUIRES:

(1) "APTA GUIDELINES" MEANS THE PROVISIONS CONTAINED IN THE AMERICAN PUBLIC TRANSIT ASSOCIATION'S "MANUAL FOR THE DEVELOPMENT OF RAIL TRANSIT SYSTEM SAFETY PLANS", PUBLISHED ON AUGUST 20, 1991, AS AMENDED.

(2) "COMMISSION" MEANS THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO.

(3) "RAIL FIXED GUIDEWAY SYSTEM" MEANS ANY LIGHT, HEAVY, OR RAPID RAIL SYSTEM, MONORAIL, INCLINED PLANE, FUNICULAR, TROLLEY, OR AUTOMATED GUIDEWAY USED TO TRANSPORT PASSENGERS THAT IS NOT REGULATED BY THE FEDERAL RAILROAD ADMINISTRATION. THE TERM "RAIL FIXED GUIDEWAY SYSTEM" DOES NOT INCLUDE FUNICULARS THAT ARE PASSENGER TRAMWAYS AS DEFINED IN SECTION 25-5-702 (4) (c), C.R.S., AND ARE SUBJECT TO THE JURISDICTION OF THE

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

COLORADO PASSENGER TRAMWAY SAFETY BOARD CREATED IN SECTION 25-5-703, C.R.S.

(4) "SYSTEM SAFETY PROGRAM PLAN" MEANS A DOCUMENT ADOPTED BY A TRANSIT AGENCY THAT DETAILS ITS SAFETY POLICIES, OBJECTIVES, RESPONSIBILITIES, AND PROCEDURES.

(5) "SYSTEM SAFETY PROGRAM STANDARD" MEANS A SAFETY STANDARD DEVELOPED BY THE COMMISSION IN CONFORMANCE WITH 49 C.F.R. 659, "RAIL FIXED GUIDEWAY SYSTEMS; STATE SAFETY OVERSIGHT".

(6) "TRANSIT AGENCY" MEANS AN ENTITY OPERATING A RAIL FIXED GUIDEWAY SYSTEM.

40-18-102. Rail fixed guideway system safety oversight program - commission may establish. THE COMMISSION IS AUTHORIZED TO ESTABLISH AN OVERSIGHT PROGRAM FOR THE SAFETY AND SECURITY OF RAIL FIXED GUIDEWAY SYSTEMS IN ACCORDANCE WITH SECTION 28 OF THE "INTERMODAL SURFACE TRANSPORTATION EFFICIENCY ACT OF 1991", 49 U.S.C. SEC. 5330.

40-18-103. Commission to promulgate rules. (1) THE COMMISSION SHALL PROMULGATE RULES AS ARE NECESSARY TO:

(a) REQUIRE, REVIEW, APPROVE, AND MONITOR THE CREATION AND IMPLEMENTATION OF A SYSTEM SAFETY PROGRAM PLAN FOR EACH RAIL FIXED GUIDEWAY SYSTEM OPERATING IN COLORADO;

(b) INVESTIGATE HAZARDOUS CONDITIONS AND ACCIDENTS ON RAIL FIXED GUIDEWAY SYSTEMS;

(c) REQUIRE CORRECTIVE ACTION BY A TRANSIT AGENCY TO CORRECT OR ELIMINATE HAZARDOUS CONDITIONS;

(d) REQUIRE THAT SYSTEM SAFETY PROGRAM STANDARDS COMPLY WITH THE APTA GUIDELINES, AT A MINIMUM, AND ALSO ADEQUATELY ADDRESS THE ISSUE OF PERSONAL SECURITY.

(2) THE COMMISSION SHALL PROMULGATE RULES TO ESTABLISH A SYSTEM SAFETY OVERSIGHT PROGRAM FOR RAIL FIXED GUIDEWAY SYSTEMS OPERATING WITHIN THE STATE THAT, AT A MINIMUM, MEETS THE REQUIREMENTS OF 49 C.F.R. 659, "RAIL FIXED GUIDEWAY SYSTEMS; STATE SAFETY OVERSIGHT".

40-18-104. Confidential investigative reports. INVESTIGATIVE REPORTS OF THE COMMISSION COMPILED UNDER THIS ARTICLE SHALL BE CONFIDENTIAL AND SHALL NOT BE DISCOVERABLE NOR USED AS EVIDENCE IN ANY COURT OR ADMINISTRATIVE ACTION.

40-18-105. Calculation and assessment of fees. AT EACH REGULAR SESSION, THE GENERAL ASSEMBLY SHALL DETERMINE THE AMOUNTS TO BE EXPENDED BY THE COMMISSION FOR ITS ADMINISTRATIVE EXPENSES UNDER THIS ARTICLE, INCLUDING ANY ADDITIONAL FTE THAT MAY BE NECESSARY. THE COMMISSION SHALL ASSESS

FEES IN AMOUNTS THAT, IN THE AGGREGATE, EQUAL THE ADMINISTRATIVE EXPENSES. SUCH FEES SHALL BE ASSESSED AGAINST THE OPERATORS OF ALL RAIL FIXED GUIDEWAY SYSTEMS OPERATING WITHIN THE STATE, AND SHALL BE APPORTIONED ON THE BASIS OF THE RAIL MILES OF EACH SYSTEM IN PROPORTION TO THE TOTAL RAIL MILES OF ALL SYSTEMS. ALL FEES COLLECTED UNDER THIS SECTION SHALL BE REMITTED TO THE STATE TREASURER, WHO SHALL CREDIT THE SAME TO THE PUBLIC UTILITIES COMMISSION FIXED UTILITY FUND CREATED PURSUANT TO SECTION 40-2-114.

SECTION 2. 32-9-119 (1) (t), Colorado Revised Statutes, as amended, is amended to read:

32-9-119. Additional powers of district. (1) In addition to any other powers granted to the district in this article, the district has the following powers:

(t) To have the management, control, and supervision of all business and affairs relating to any mass transportation facility authorized in this article, subject to the provisions of section 32-9-119.5 for the operation of the district's bus operations, or otherwise concerning the district, and of the acquisition, improvement, equipment, operation, maintenance, and disposal of any property relating to any such mass transportation facility; EXCEPT THAT THE OVERSIGHT OF OPERATIONS AND FACILITIES FOR SAFETY PURPOSES AS REQUIRED BY 49 C.F.R. 659, "RAIL FIXED GUIDEWAY SYSTEMS; STATE SAFETY OVERSIGHT", AND ARTICLE 18 OF TITLE 40, C.R.S., SHALL BE SUBJECT TO THE JURISDICTION OF THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO.

SECTION 3. Appropriation. In addition to any other appropriation, there is hereby appropriated, out of any moneys in the public utility commission fixed utility fund not otherwise appropriated, to the public utilities commission, for the fiscal year beginning July 1, 1997, the sum of fifty-five thousand six hundred four dollars (\$55,604) and 0.7 FTE, or so much thereof as may be necessary, for the implementation of this act.

SECTION 4. Effective date - applicability. (1) This act shall take effect at 12:01 a.m. on the day following the expiration of the ninety-day period after final adjournment of the general assembly that is allowed for submitting a referendum petition pursuant to article V, section 1(3) of the state constitution; except that, if a referendum petition is filed against this act or an item, section, or part of this act within such period, then the act, item, section, or part, if approved by the people, shall take effect on the date of the official declaration of the vote thereon by proclamation of the governor.

(2) The provisions of this act shall apply to violations on or after the applicable effective date of this act.

Approved: May 21, 1997