

CHAPTER 273

GOVERNMENT - SPECIAL DISTRICTS

HOUSE BILL 03-1103

BY REPRESENTATIVE(S) Briggs, Brophy, Crane, Fritz, Hoppe, Lee, Lundberg, Mitchell, Rhodes, Sinclair, Stafford, and Stengel;
also SENATOR(S) Chlouber, Andrews, Arnold, Cairns, Evans, Jones, May R., and McElhany.

AN ACT

CONCERNING AN INCREASE OF THE SERVICE REQUIRED TO BE PROVIDED BY QUALIFIED PRIVATE BUSINESSES PURSUANT TO COMPETITIVELY NEGOTIATED CONTRACTS TO FIFTY PERCENT OF THE REGIONAL TRANSPORTATION DISTRICT SERVICE THAT INVOLVES TRANSPORTING THE GENERAL PUBLIC BY MEANS OF ANY SELF-PROPELLED VEHICLE THAT IS DESIGNED PRIMARILY FOR TRAVEL ON THE PUBLIC HIGHWAYS.

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

SECTION 1. 32-9-103, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SUBSECTION to read:

32-9-103. Definitions. As used in this article, unless the context otherwise requires:

(16) "VEHICULAR SERVICE" MEANS ANY SERVICE PROVIDED BY THE DISTRICT THAT INVOLVES TRANSPORTING THE GENERAL PUBLIC BY MEANS OF ANY SELF-PROPELLED VEHICLE THAT IS DESIGNED PRIMARILY FOR TRAVEL ON THE PUBLIC HIGHWAYS AND THAT IS GENERALLY AND COMMONLY USED TO TRANSPORT PERSONS AND PROPERTY OVER THE PUBLIC HIGHWAYS. "VEHICULAR SERVICE" DOES NOT INCLUDE ANY SERVICE PROVIDED BY THE DISTRICT THAT IS PART OF THE RAIL SYSTEM.

SECTION 2. 32-9-119.5 (2) (a), (2) (b), and (2) (c), the introductory portion to 32-9-119.5 (2) (d), and 32-9-119.5 (2) (d) (II), (2) (d) (XI), (3) (a), (3) (b), (3) (e) (I), (4), (5), (6), and (7), Colorado Revised Statutes, are amended, and the said 32-9-119.5 (3) is further amended BY THE ADDITION OF A NEW PARAGRAPH, to read:

32-9-119.5. Competition to provide vehicular service within the regional

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

transportation district. (2) (a) The district shall implement a system whereby at least ~~thirty-five~~ FIFTY percent of ~~the bus~~ ALL VEHICULAR service ~~determined by the district to be in the public interest~~ shall be provided by qualified private businesses pursuant to competitively negotiated contracts.

(b) ~~The district shall determine what routes, schedules, and fares are in the public interest.~~

(c) ~~By October 31, 1988,~~ The district shall promulgate reasonable standards with respect to experience, safety records, and financial responsibility by which private providers can be qualified to provide ~~bus~~ VEHICULAR services pursuant to this section.

(d) ~~By October 31, 1988,~~ The district shall prepare a standard form of agreement to provide ~~bus~~ VEHICULAR services. Such contract shall include:

(II) The specification of standards for access to ~~bus~~ VEHICULAR services for persons with disabilities, which shall be as specified in the district's plan for such services as approved by the federal transit administration;

(XI) No provision specifying wages, benefits, work rules, work conditions, or union organization of the employees of the provider beyond compliance with applicable regulation and law, including compliance with the ~~federal "Urban Mass Transportation Act of 1964", 49 U.S.C. sec. 1609, sec. 13(c) "FEDERAL TRANSIT ACT", 49 U.S.C. SEC. 5333 (b).~~

(3) (a) (I) Subject to the requirements of the ~~federal "Urban Mass Transportation Act of 1964" "FEDERAL TRANSIT ACT", as amended, by March 31, 2000~~ MARCH 31, 2004, the district shall request proposals from private providers to provide at least ~~thirty-five~~ FIFTY percent of ALL OF the ~~bus~~ VEHICULAR service of the district as measured by vehicle hours OR VEHICLE HOUR EQUIVALENTS. The district's decision as to which ~~bus service routes~~ VEHICULAR SERVICES shall be subject to requests for proposals shall be representative of the district's total ~~bus~~ VEHICULAR service operations; except that each individual request for proposals may designate one type of ~~bus~~ VEHICULAR service. ~~provided by the district.~~ Service provided by private businesses pursuant to this section shall be accomplished through attrition of the district's full-time employees. No layoffs shall occur solely as a result of the implementation of this section.

(II) THE DISTRICT SHALL ESTABLISH REASONABLE STANDARDS FOR VEHICLE HOUR EQUIVALENTS FOR ALL VEHICULAR SERVICES THAT ARE NOT ORDINARILY MEASURED BY VEHICLE HOURS.

(b) Each request for proposals shall specify the route OR SERVICE AREA, service frequency OR HOURS OF OPERATION, and the entire structure of maximum fares determined by the district. Such request for proposals shall include the district's estimate of passenger revenue. Each request for proposals shall also specify any federal funds available for vehicle capital assistance whether through reimbursement of eligible depreciation expenses or through lease of vehicles owned by the district.

(c.5) EACH REQUEST FOR PROPOSALS SHALL SPECIFY ALL OF THE EVALUATION FACTORS TO BE USED BY THE DISTRICT IN AWARDING THE CONTRACT AND THE WEIGHT

TO BE GIVEN BY THE DISTRICT FOR EACH FACTOR. THE EVALUATION FACTORS SHALL INCLUDE THE COST TO THE DISTRICT, COST RELATED FACTORS, NON-COST FACTORS SUCH AS PERFORMANCE HISTORY OF COMPARABLE SERVICES PROVIDED IN-STATE OR OUT-OF-STATE, FINANCIAL STABILITY, MANAGERIAL EXPERIENCE, OPERATIONAL PLAN, EMPLOYEE RECRUITMENT AND TRAINING, AND ANY OTHER FACTORS IDENTIFIED BY THE DISTRICT. NO AWARD SHALL BE MADE BASED ON COST TO THE DISTRICT ALONE, AND IN NO EVENT SHALL SUCH COST BE WEIGHTED MORE THAN THIRTY-FIVE PERCENT IN MAKING AN AWARD DETERMINATION.

(e) (I) With respect to each request for proposals, the district shall award the contract to the ~~technically qualified provider whose responsive proposal offers the lowest cost to the district~~ BASED ON A CONSIDERATION OF THE EVALUATION FACTORS ESTABLISHED PURSUANT TO PARAGRAPH (c.5) OF THIS SUBSECTION (3). Each contract shall be effective not later than ninety days after its award. If the district determines that no responsive proposals are received for a request for proposals or that the proposals submitted would not be in the best interests of the district to accept, the district may reject such proposals and may, in its discretion, solicit new proposals for the designated service in accordance with the provisions of this section.

(4) ~~By December 31, 1988, the district shall submit to the general assembly a plan to provide assurance that the district's responsibilities with respect to bus service are accomplished at the lowest practicable cost.~~

(5) Any person qualified to provide ~~bus~~ VEHICULAR services pursuant to subsection (2) of this section who does not require a district subsidy shall ~~as of January 1, 1989,~~ be able to provide ~~bus~~ VEHICULAR services within the district. Such person shall execute the district's standard form of agreement to provide ~~bus~~ VEHICULAR services; except that such person shall be free to determine and retain passenger fares. Vehicles operated pursuant to this subsection (5) shall be identified to the public as charging fares not established by the district.

(6) Fares for ~~bus~~ VEHICULAR services provided pursuant to this section shall be exempt from sales or use taxes imposed pursuant to article 26 of title 39, C.R.S. Providers shall not otherwise be exempt from property, sales, income, excise, and other taxes.

(7) The provision of ~~passenger~~ VEHICULAR services in accordance with this section shall not be subject to regulation by the public utilities commission of the state of Colorado; EXCEPT THAT TAXI SERVICE AS DEFINED IN THE COMMISSION'S RULES SHALL BE SUBJECT TO REGULATION BY THE COMMISSION.

SECTION 3. 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: May 21, 2003