

CHAPTER 274

TRANSPORTATION

HOUSE BILL 05-1148

BY REPRESENTATIVE(S) Madden, Berens, Borodkin, Boyd, Butcher, Carroll T., Coleman, Crane, Garcia, Knoedler, Marshall, Merrifield, Paccione, Plant, Todd, Buescher, Kerr, May M., and Sullivan;
also SENATOR(S) Mitchell, Tupa, and Williams.

AN ACT**CONCERNING THE STATEWIDE TOLLING ENTERPRISE.**

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

SECTION 1. 43-4-802 (10), Colorado Revised Statutes, is amended, and the said 43-4-802 is further amended BY THE ADDITION OF THE FOLLOWING NEW SUBSECTIONS, to read:

43-4-802. Definitions. As used in this part 8, unless the context otherwise requires:

(6.5) "ENVIRONMENTAL IMPACT STATEMENT OR ENVIRONMENTAL ASSESSMENT" MEANS AN ENVIRONMENTAL IMPACT STATEMENT OR ENVIRONMENTAL ASSESSMENT REQUIRED TO BE PERFORMED UNDER THE FEDERAL "NATIONAL ENVIRONMENTAL POLICY ACT OF 1969", 42 U.S.C. SEC. 4321 ET SEQ.

(7.2) "LOCAL GOVERNMENT" MEANS A MUNICIPALITY, COUNTY, OR CITY AND COUNTY.

(7.3) "METROPOLITAN PLANNING ORGANIZATION" MEANS A METROPOLITAN PLANNING ORGANIZATION UNDER THE "FEDERAL TRANSIT ACT", 49 U.S.C. SEC. 5301 ET SEQ.

(7.5) "PUBLIC TRANSPORTATION VEHICLE" MEANS A MOTOR VEHICLE THAT IS PART OF VEHICULAR SERVICE THAT TRANSPORTS THE GENERAL PUBLIC AND THAT IS PROVIDED BY A PUBLIC TRANSPORTATION DISTRICT OR BY A CITY, TOWN, COUNTY, OR CITY AND COUNTY.

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

(7.7) "REGIONAL PLANNING COMMISSION" MEANS A REGIONAL PLANNING COMMISSION FORMED UNDER THE PROVISIONS OF SECTION 30-28-105, C.R.S., THAT PREPARES AND SUBMITS A TRANSPORTATION PLAN PURSUANT TO SECTION 43-1-1103.

(10) "Toll highway" means a new highway or additional lane capacity and related highway improvements AND SERVICES. A TOLL HIGHWAY MAY, AS THE BOARD DETERMINES, CONSIST OF IMPROVEMENTS AND SERVICES, INCLUDING, BUT NOT LIMITED TO, PAVING, GRADING, LANDSCAPING, CURBS, GUTTERS, CULVERTS, SIDEWALKS, BIKEWAYS, LIGHTING, BRIDGES, OVERPASSES, UNDERPASSES, RAIL CROSSINGS, FRONTAGE ROADS, ACCESS ROADS, INTERCHANGES, DRAINAGE FACILITIES, MASS TRANSIT LANES AND SERVICES, PARK-AND-RIDE FACILITIES, OTHER MULTIMODAL IMPROVEMENTS AND SERVICES, TOLL COLLECTION FACILITIES, SERVICE AREAS, ADMINISTRATIVE OR MAINTENANCE FACILITIES, GAS, ELECTRIC, WATER, SEWER, AND OTHER UTILITIES LOCATED OR TO BE LOCATED IN THE RIGHT-OF-WAY FOR A TOLL HIGHWAY, AND OTHER REAL OR PERSONAL PROPERTY, INCLUDING EASEMENTS, RIGHTS-OF-WAY, OPEN SPACE, AND OTHER INTERESTS THEREIN, RELATING TO THE FINANCING, CONSTRUCTION, OPERATION, OR MAINTENANCE OF A TOLL HIGHWAY. A toll highway cannot eliminate previously existing highway lanes that have served vehicular traffic on a toll-free basis except pursuant to section 42-4-1012, C.R.S.

(10.3) "TOLL HIGHWAY CORRIDOR" MEANS THE GEOGRAPHIC AREA THAT WAS INCLUDED AS A PART OF A SINGLE FINAL ENVIRONMENTAL IMPACT STATEMENT OR ENVIRONMENTAL ASSESSMENT RELATING TO A SINGLE PROJECT.

(10.7) "TOLL HIGHWAY SYSTEM" MEANS THE GEOGRAPHIC AREA DESIGNATED BY THE ENTERPRISE THAT INCLUDES ONE OR MORE TOLL HIGHWAYS WITHIN WHICH TOLL REVENUES FROM ANY OF THE TOLL HIGHWAYS MAY BE USED. IF THERE IS MORE THAN ONE TOLL HIGHWAY WITHIN A TOLL HIGHWAY SYSTEM, ALL TOLL HIGHWAYS SHALL BE DIRECTLY CONNECTED OR WITHIN FIVE MILES OF ANOTHER TOLL HIGHWAY WITHIN THE SYSTEM. A TOLL HIGHWAY SYSTEM SHALL NOT INCLUDE MORE THAN ONE METROPOLITAN PLANNING ORGANIZATION OR REGIONAL PLANNING COMMISSION WITHIN ITS BOUNDARIES, UNLESS ALL OF THE METROPOLITAN PLANNING ORGANIZATIONS OR REGIONAL PLANNING COMMISSIONS AGREE TO BE PART OF THE SYSTEM.

SECTION 2. 43-4-804, Colorado Revised Statutes, is amended to read:

43-4-804. Statewide tolling enterprise special revenue fund - creation - separate toll highway system accounts. (1) A fund to be known as the statewide tolling enterprise special revenue fund is hereby created in the state treasury. All toll revenues received by the enterprise shall be deposited into the special fund, AND THERE SHALL BE A SEPARATE ACCOUNT WITHIN THE SPECIAL FUND FOR EACH TOLL HIGHWAY SYSTEM, WHICH SHALL CONSIST OF ALL TOLL REVENUES COLLECTED FROM EACH TOLL HIGHWAY WITHIN THE TOLL HIGHWAY SYSTEM. The enterprise also may deposit or permit others to deposit other moneys into the special fund, but in no event may revenues from any tax otherwise available for general purposes be deposited into the special fund. The state treasurer, after consulting with the board, shall invest any moneys in the special fund, including any surplus or reserves, but excluding any proceeds from the sale of bonds or earnings on such proceeds invested pursuant to section 43-4-809, that are not needed for immediate use. Such moneys may be invested in the types of investments authorized in sections 24-36-109, 24-36-112, and

24-36-113, C.R.S.

(2) All interest and income derived from the deposit and investment of moneys in the special fund shall be credited to the special fund AND, IF APPLICABLE, TO THE APPROPRIATE TOLL HIGHWAY SYSTEM ACCOUNT. Moneys in the special fund shall be continuously appropriated to the enterprise for the purposes set forth in this part 8. All moneys deposited in the special fund shall remain in the special fund for the purposes set forth in this part 8 and no part of the special fund shall be used for any other purposes.

(2.5) THE ENTERPRISE SHALL PREPARE AN ANNUAL ACCOUNTING OF THE TOLL REVENUES COLLECTED WITHIN EACH TOLL HIGHWAY CORRIDOR.

(3) The enterprise may expend moneys in the special fund to pay bonds of the enterprise, to fund the administration, planning, financing, construction, operation, maintenance, or repair of a toll highway, AND FOR THE ACQUISITION OF LAND WITHIN A TOLL HIGHWAY CORRIDOR. The enterprise may also expend moneys in the special fund to pay the costs and expenses of operating the enterprise. The board shall have exclusive authority to budget and approve the expenditure of moneys in the special fund.

(4) Notwithstanding any other provision of this section, ~~the board shall designate a state toll highway, and moneys in the special fund that are derived from tolls shall only be expended to fund the administration, planning, design, development, financing, construction, operation, maintenance, or repair of the state toll highway or to pay bonds of the enterprise that were issued to finance the state toll highway~~ TOLL REVENUES SHALL BE EXPENDED ONLY FOR PURPOSES AUTHORIZED BY SUBSECTION (3) OF THIS SECTION AND ONLY IN THE TOLL HIGHWAY SYSTEM IN WHICH THEY WERE COLLECTED; EXCEPT THAT THE BOARD MAY USE TOLL REVENUES TO PAY A PROPORTIONAL SHARE OF THE COSTS AND EXPENSES OF OPERATING THE ENTERPRISE. Once the enterprise has paid the costs of constructing the ~~state toll highway~~ HIGHWAYS LOCATED WITHIN THE SYSTEM, including sufficient contingencies, paid all debt service on all bonds issued to finance the toll ~~highway~~ HIGHWAYS, and reimbursed the state highway fund for the amount of any state highway fund moneys transferred to the statewide tolling enterprise operating fund plus interest in accordance with section 43-4-805, the board shall adjust toll rates in ~~the~~ EACH TOLL HIGHWAY corridor so that the amount of toll revenues to be generated is as close as possible to the amount required for the ongoing operation, maintenance, renewal, and replacement of the toll highway WITHIN THE TOLL HIGHWAY CORRIDOR. A toll highway cannot eliminate previously existing highway lanes that have served vehicular traffic on a toll-free basis except pursuant to section 42-4-1012, C.R.S.

SECTION 3. Part 8 of article 4 of title 43, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SECTION to read:

43-4-805.5. Toll highway construction review. (1) THE BOARD SHALL TAKE NO ACTION RELATING TO THE CONSTRUCTION OF A TOLL HIGHWAY UNTIL AFTER THE TOLL HIGHWAY SYSTEM THAT INCLUDES THE TOLL HIGHWAY HAS BEEN REVIEWED BY EVERY METROPOLITAN PLANNING ORGANIZATION OR REGIONAL PLANNING COMMISSION THAT IS LOCATED IN WHOLE OR IN PART WITHIN THE TOLL HIGHWAY SYSTEM. THE BOARD SHALL DEVELOP A PLAN FOR THE CONSTRUCTION OF A TOLL

HIGHWAY THAT ADDRESSES THE OPERATION OF THE TOLL HIGHWAY, THE TECHNOLOGY TO BE UTILIZED, THE PROJECT FEASIBILITY, THE PROJECT FINANCING, AND ANY OTHER FEDERALLY-REQUIRED INFORMATION. EACH TOLL HIGHWAY PLAN IN A TOLL HIGHWAY SYSTEM SHALL BE SEPARATELY APPROVED BY EACH METROPOLITAN PLANNING ORGANIZATION OR REGIONAL PLANNING COMMISSION THAT IS LOCATED IN WHOLE OR IN PART WITHIN THE TOLL HIGHWAY SYSTEM.

(2) UPON REQUEST OF A LOCAL GOVERNMENT LOCATED IN WHOLE OR IN PART WITHIN THE TOLL HIGHWAY SYSTEM, THE BOARD SHALL CONSULT WITH REPRESENTATIVES FROM SUCH LOCAL GOVERNMENT AND SHALL CONSIDER MITIGATION OF DEMONSTRABLE NEGATIVE IMPACTS ON THE LOCAL GOVERNMENT THAT WOULD RESULT FROM THE CONSTRUCTION, OPERATION, OR FINANCING OF THE TOLL HIGHWAY OR TOLL HIGHWAY SYSTEM. NOTHING IN THIS SUBSECTION (2) IS INTENDED OR SHALL BE CONSTRUED TO AFFECT OR DIMINISH THE AUTHORITY OF ANY LOCAL GOVERNMENT GRANTED BY ANY OTHER LAW OF THIS STATE.

SECTION 4. 43-4-806 (1) (d), Colorado Revised Statutes, is amended to read:

43-4-806. Powers and duties of the board - annual report. (1) The board has the following powers and duties:

(d) To establish and, from time to time, increase or decrease fees, tolls, rates, and charges for the privilege of traveling on or the use of the property of a toll highway; EXCEPT THAT NO FEE, TOLL, RATE, OR CHARGE SHALL BE CHARGED TO A PUBLIC TRANSPORTATION VEHICLE. IF A TOLL HIGHWAY REPLACES ANY PART OF AN EXISTING HIGH OCCUPANCY VEHICLE LANE, THE BOARD SHALL NOT CHARGE A FEE, TOLL, RATE, OR CHARGE TO A HIGH OCCUPANCY VEHICLE FOR THE PRIVILEGE OF TRAVELING ON OR THE USE OF THE PROPERTY OF THE TOLL HIGHWAY. IN ESTABLISHING A FEE, TOLL, RATE, OR CHARGE FOR A TOLL HIGHWAY, THE BOARD SHALL CONSIDER THE ECONOMIC FEASIBILITY OF REDUCING OR ELIMINATING THE FEE, TOLL, RATE OR CHARGE FOR A HIGH OCCUPANCY VEHICLE, AND, IF FEASIBLE, THE BOARD SHALL REDUCE OR ELIMINATE THE FEE, TOLL, RATE, OR CHARGE ACCORDINGLY.

SECTION 5. Effective date. 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 (August 10, 2005, if adjournment sine die is on May 11, 2005); 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.

Approved: June 3, 2005