

CHAPTER 277

TRANSPORTATION

HOUSE BILL 08-1139

BY REPRESENTATIVE(S) May M., Borodkin, Buescher, Garza-Hicks, Labuda, Looper, McFadyen, Merrifield, Rose, Stafford, and Weissmann;
also SENATOR(S) Kopp, Harvey, and Wiens.

AN ACT

CONCERNING EVALUATION BY THE COLORADO TOLLING ENTERPRISE OF TOLL HIGHWAYS OWNED BY ENTITIES OTHER THAN THE STATE, AND, IN CONNECTION THEREWITH, REQUIRING THE ENTERPRISE TO EVALUATE ANY TOLL HIGHWAY OFFERED FOR SALE OR FOR LEASE AND AN OPERATING CONCESSION BY AN ENTITY OTHER THAN THE STATE TO DETERMINE WHETHER IT IS IN THE BEST INTEREST OF THE STATE FOR THE ENTERPRISE TO PURCHASE OR LEASE THE TOLL HIGHWAY OR A PARTIAL INTEREST IN THE TOLL HIGHWAY AND TO REPORT TO THE GENERAL ASSEMBLY REGARDING THE RESULTS OF THE EVALUATION.

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

SECTION 1. 43-4-806 (3), Colorado Revised Statutes, is amended, and the said 43-4-806 is further amended BY THE ADDITION OF A NEW SUBSECTION, to read:

43-4-806. Powers and duties of the board - annual report - definitions.
(1.5) (a) IN ADDITION TO THE POWERS AND DUTIES SPECIFIED IN SUBSECTION (1) OF THIS SECTION, THE BOARD HAS THE DUTY TO EVALUATE ANY TOLL HIGHWAY IN THE STATE THAT IS OWNED AND OFFERED FOR SALE OR FOR LEASE AND AN OPERATING CONCESSION BY AN ENTITY OTHER THAN THE STATE IN ORDER TO DETERMINE WHETHER IT IS IN THE BEST INTERESTS OF THE STATE FOR THE ENTERPRISE TO PURCHASE OR LEASE THE TOLL HIGHWAY OR A PARTIAL INTEREST IN THE TOLL HIGHWAY THAT IS BEING OFFERED FOR SALE, LEASE, OR CONCESSION OR ENTER INTO A PUBLIC-PRIVATE INITIATIVE PURSUANT TO PART 12 OF ARTICLE 1 OF THIS TITLE IN CONNECTION WITH THE TOLL HIGHWAY. IN EVALUATING A TOLL HIGHWAY, THE BOARD SHALL CONSIDER THE FINANCIAL COSTS AND BENEFITS TO THE STATE AND USERS OF THE TOLL HIGHWAY OF PURCHASING OR LEASING THE TOLL HIGHWAY OR A PARTIAL INTEREST IN THE TOLL HIGHWAY OR ENTERING INTO A PUBLIC-PRIVATE INITIATIVE IN CONNECTION WITH THE TOLL HIGHWAY, THE EFFECT OF SUCH A PURCHASE, LEASE, OR PUBLIC-PRIVATE INITIATIVE ON STATEWIDE, REGIONAL, OR

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

LOCAL TRANSPORTATION PLANS PREVIOUSLY ADOPTED AND ON FUTURE TRANSPORTATION PLANNING, AND ANY OTHER FACTORS DEEMED SIGNIFICANT BY THE BOARD. IN CONSIDERING THE EFFECT ON REGIONAL OR LOCAL TRANSPORTATION PLANS, THE BOARD SHALL CONSULT WITH THE APPROPRIATE REGIONAL OR LOCAL TRANSPORTATION PLANNING AGENCY. SUBJECT TO CRITERIA, PROCEDURES, PROCESSES, AND RULES ESTABLISHED BY THE ENTITY OTHER THAN THE STATE OFFERING THE TOLL HIGHWAY FOR SALE OR FOR LEASE AND AN OPERATING CONCESSION INCLUDING, WITHOUT LIMITATION, PROVISIONS FOR REJECTING ALL BIDS OR PROPOSALS AND SHORT-LISTING BIDDERS AND PROPOSERS, AND WITHOUT ANY SPECIAL CONSIDERATION FOR EITHER PUBLIC OR PRIVATE SECTOR INTERESTS THAT MAY BID ON OR PROPOSE TO PURCHASE OR LEASE A TOLL HIGHWAY, THE BOARD MAY BID ON OR PROPOSE TO PURCHASE OR LEASE A TOLL HIGHWAY OR A PARTIAL INTEREST IN A TOLL HIGHWAY SO OFFERED WITHOUT CHANGE OR DELAY OF SUCH CRITERIA, PROCEDURES, PROCESSES, AND RULES OR MAY ENTER INTO A PUBLIC-PRIVATE INITIATIVE IN CONNECTION WITH A TOLL HIGHWAY AND MAY FINANCE ALL OR A PORTION OF THE PURCHASE OR LEASE OF A TOLL HIGHWAY OR A PUBLIC-PRIVATE INITIATIVE ENTERED INTO IN CONNECTION WITH A TOLL HIGHWAY BY ISSUING BONDS AS AUTHORIZED BY SECTION 43-4-807 IF THE BOARD DETERMINES THAT THE PURCHASE, LEASE, OR PUBLIC-PRIVATE INITIATIVE IS IN THE BEST INTERESTS OF THE STATE. FUNDING TO PERFORM A TOLL HIGHWAY EVALUATION SHALL BE PROVIDED BY THE DEPARTMENT AND MANAGED BY THE BOARD. AN ENTITY OTHER THAN THE STATE SHALL CONSIDER AND REPRESENT THE INTERESTS OF ITS CONSTITUENCY AT ALL TIMES DURING AND AFTER THE EVALUATION PROCESS CONDUCTED BY THE BOARD PURSUANT TO THIS SUBSECTION (1.5).

(b) FOR PURPOSES OF THIS SUBSECTION (1.5), "ENTITY OTHER THAN THE STATE" MEANS A PUBLIC HIGHWAY AUTHORITY CREATED PURSUANT TO SECTION 43-4-504, A REGIONAL TRANSPORTATION AUTHORITY CREATED PURSUANT TO SECTION 43-4-603, A TOLL ROAD OR TOLL HIGHWAY COMPANY FORMED PURSUANT TO SECTION 7-45-101, C.R.S., OR ANY OTHER NATURAL PERSON OR ENTITY OTHER THAN THE STATE OR A DEPARTMENT OR AGENCY OF THE STATE THAT MAY OWN A TOLL HIGHWAY.

(3) No later than February 15, 2003, and no later than February 15 of each year thereafter, the enterprise shall present a report to the committees of the house of representatives and the senate that have jurisdiction over transportation. The report shall include a summary of the enterprise's activities for the previous year, a statement of current toll rates and any expected changes, a summary of the status of any current toll projects, a statement of the enterprise's revenues and expenses, A SUMMARY OF THE RESULTS OF ANY EVALUATION OF A TOLL HIGHWAY CONDUCTED BY THE ENTERPRISE PURSUANT TO SUBSECTION (1.5) OF THIS SECTION, and any recommendations for statutory changes that the enterprise deems necessary or desirable. The committees shall review the report and may recommend legislation. The report shall be public and shall be available on the website of the department on or before January 15 of the year in which the report is presented.

SECTION 2. 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 6, 2008, if adjournment sine

die is on May 7, 2008); 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: May 22, 2008