

## CHAPTER 280

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**TRANSPORTATION**

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**SENATE BILL 09-094**

BY SENATOR(S) Williams, Gibbs, Groff, Heath, Schwartz, Shaffer B., Bacon, Boyd, Carroll M., Foster, Hodge, Hudak, Keller, Morse, Newell, Tapia;  
also REPRESENTATIVE(S) Levy, Green, Marostica, Merrifield, Middleton, Primavera, Rice, Ryden, Scanlan, Fischer, Frangas, Kefalas, Kerr A., Labuda, McFadyen, Pace, Todd, Hullinghorst, Pommer, Schafer S., Solano, Carroll T.

**AN ACT**

**CONCERNING THE CREATION OF A TRANSIT AND RAIL DIVISION WITHIN THE DEPARTMENT OF TRANSPORTATION.**

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

**SECTION 1.** 24-1-128.7 (3), Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW PARAGRAPH to read:

**24-1-128.7. Department of transportation - creation.** (3) The department of transportation shall consist of the following divisions:

(e) THE TRANSIT AND RAIL DIVISION CREATED IN PART 1 OF ARTICLE 1 OF TITLE 43, C.R.S., THE HEAD OF WHICH SHALL BE THE DIRECTOR OF THE TRANSIT AND RAIL DIVISION. THE TRANSIT AND RAIL DIVISION AND THE OFFICE OF THE DIRECTOR OF THE DIVISION SHALL EXERCISE THEIR POWERS AND PERFORM THEIR DUTIES AND FUNCTIONS UNDER THE DEPARTMENT OF TRANSPORTATION AND THE EXECUTIVE DIRECTOR OF THE DEPARTMENT AS IF THE SAME WERE TRANSFERRED THERETO BY A **TYPE 2** TRANSFER.

**SECTION 2.** 43-1-104 (1), Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW PARAGRAPH to read:

**43-1-104. Department divisions, sections, and units.** (1) The department shall consist of the following divisions:

(e) THE TRANSIT AND RAIL DIVISION CREATED IN SECTION 43-1-117.5.

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

**SECTION 3.** Part 1 of article 1 of title 43, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SECTION to read:

**43-1-117.5. Transit and rail division - created - powers and duties.**

(1) THERE IS HEREBY CREATED IN THE DEPARTMENT OF TRANSPORTATION THE TRANSIT AND RAIL DIVISION, THE HEAD OF WHICH SHALL BE THE DIRECTOR OF THE TRANSIT AND RAIL DIVISION, WHICH OFFICE IS HEREBY CREATED.

(2) THE TRANSIT AND RAIL DIVISION AND THE OFFICE OF THE DIRECTOR OF THE DIVISION SHALL EXERCISE THEIR POWERS AND PERFORM THEIR DUTIES AND FUNCTIONS UNDER THE DEPARTMENT AND THE EXECUTIVE DIRECTOR AS IF THE SAME WERE TRANSFERRED TO THE DEPARTMENT BY A **TYPE 2** TRANSFER, AS DEFINED IN SECTION 24-1-105, C.R.S.

(3) (a) THE TRANSIT AND RAIL DIVISION SHALL BE RESPONSIBLE FOR THE PLANNING, DEVELOPMENT, OPERATION, AND INTEGRATION OF TRANSIT AND RAIL, INCLUDING, WHERE APPROPRIATE, ADVANCED GUIDEWAY SYSTEMS, INTO THE STATEWIDE TRANSPORTATION SYSTEM; SHALL, IN COORDINATION WITH OTHER TRANSIT AND RAIL PROVIDERS, PLAN, PROMOTE, AND IMPLEMENT INVESTMENTS IN TRANSIT AND RAIL SERVICES STATEWIDE; AND SHALL HAVE THE FOLLOWING SPECIFIC POWERS AND DUTIES:

(I) TO DEVELOP, IN ACCORDANCE WITH PART 11 OF THIS ARTICLE AND CONSISTENT WITH THE REQUIREMENTS OF 23 U.S.C. SECS. 134 AND 135, A STATEWIDE TRANSIT AND PASSENGER RAIL PLAN THAT SHALL BE INTEGRATED BY THE DEPARTMENT AS AN ELEMENT OF THE STATEWIDE TRANSPORTATION PLAN. THE PLAN SHALL IDENTIFY LOCAL, INTERREGIONAL, AND STATEWIDE TRANSIT AND PASSENGER RAIL NEEDS AND PRIORITIES.

(II) TO PROMOTE, PLAN, DESIGN, BUILD, FINANCE, OPERATE, MAINTAIN, AND CONTRACT FOR TRANSIT SERVICES, INCLUDING, BUT NOT LIMITED TO, BUS, PASSENGER RAIL, AND ADVANCED GUIDEWAY SYSTEMS SERVICES;

(III) TO ESTABLISH AND MODIFY FARES AND SCHEDULES FOR TRANSIT, PASSENGER RAIL, AND ADVANCED GUIDEWAY SERVICES PROVIDED DIRECTLY BY THE STATE OR CONTRACTED FOR BY THE STATE;

(IV) TO ADMINISTER AND EXPEND STATE AND FEDERAL FUNDS THAT MAY BE DEDICATED BY LAW, BY APPROPRIATION BY THE GENERAL ASSEMBLY, OR BY THE COMMISSION FOR:

(A) THE CONSTRUCTION, MAINTENANCE, AND OPERATION OF INTERREGIONAL TRANSIT, ADVANCED GUIDEWAY, AND PASSENGER RAIL SERVICES; AND

(B) TRANSIT PROJECTS INCLUDING, BUT NOT LIMITED TO, FACILITIES, EQUIPMENT, SERVICES, AND THE PROVISION OF GRANTS TO TRANSIT OPERATORS;

(V) TO COORDINATE AND NEGOTIATE WITH RAILROADS REGARDING THE SITING OF PASSENGER RAIL TRACKS AND OTHER FACILITIES AND THE COORDINATION OF TRANSIT SERVICES;

(VI) TO SUPPORT THE DEPARTMENT IN REPRESENTING THE STATE WITH RESPECT TO THE DEVELOPMENT OF INTERCITY RAIL FACILITIES, INCLUDING BUT NOT LIMITED TO SUBMISSION OF APPLICATIONS TO THE UNITED STATES DEPARTMENT OF TRANSPORTATION FOR APPROVAL AND FUNDING OF HIGH-SPEED RAIL PROJECTS, COMMISSIONING OF ANY NECESSARY STUDIES, AND COORDINATION WITH OTHER STATES TO FACILITATE SUCH APPLICATIONS; AND

(VII) TO COORDINATE AND COOPERATE WITH REGIONAL TRANSPORTATION AUTHORITIES CREATED PURSUANT TO PART 6 OF ARTICLE 4 OF THIS TITLE AND OTHER REGIONAL OR CORRIDOR-SPECIFIC ENTITIES CONCERNED WITH THE PLANNING, DEVELOPMENT, OPERATION, AND INTEGRATION OF TRANSIT, PASSENGER RAIL, OR ADVANCED GUIDEWAY SYSTEMS IN THE STATEWIDE TRANSPORTATION SYSTEM.

(b) IN EXERCISING THE POWERS AND PERFORMING THE DUTIES SET FORTH IN PARAGRAPH (a) OF THIS SUBSECTION (3), THE DIVISION OF TRANSIT AND RAIL SHALL COORDINATE WITH THE REGIONAL TRANSPORTATION DISTRICT CREATED IN ARTICLE 9 OF TITLE 32, C.R.S., REGIONAL TRANSPORTATION AUTHORITIES CREATED PURSUANT TO PART 6 OF ARTICLE 4 OF THIS TITLE, AND OTHER TRANSIT OPERATORS TO ENSURE THE EFFICIENT PROVISION OF TRANSIT SERVICES. THE AUTHORITY GIVEN TO THE DIVISION PURSUANT TO PARAGRAPH (a) OF THIS SUBSECTION (3) SHALL NOT BE CONSTRUED TO LIMIT OR OTHERWISE AFFECT THE POWERS OF ANY TRANSIT OPERATOR OR OTHER LOCAL GOVERNMENTAL ENTITY OR TO USURP OR DUPLICATE THE EXISTING REGULATORY AUTHORITY OVER RAILROADS OF THE FEDERAL RAILROAD ADMINISTRATION, THE FEDERAL SURFACE TRANSPORTATION BOARD, OR THE PUBLIC UTILITIES COMMISSION.

**SECTION 4.** 43-1-1104 (1), Colorado Revised Statutes, is amended to read:

**43-1-1104. Transportation advisory committee.** (1) (a) A transportation advisory committee is hereby created. The committee is to be composed of one representative from each transportation planning region. If a regional planning commission has been formed in a transportation planning region, the chairman of such commission or the chairman's designee shall be the representative for ~~such~~ THE region on the commission. If any transportation planning region has not formed a regional planning commission, then the representative shall be chosen by the boards of county commissioners of the counties contained in such region in consultation with officials of the municipalities contained in such region.

(b) NO LATER THAN THREE MONTHS AFTER THE EFFECTIVE DATE OF THIS PARAGRAPH (b), THE EXECUTIVE DIRECTOR, IN CONSULTATION WITH THE COMMISSION, SHALL APPOINT A SPECIAL INTERIM TRANSIT AND RAIL ADVISORY COMMITTEE TO SPECIFICALLY ADVISE THE COMMISSION AND THE EXECUTIVE DIRECTOR REGARDING THE INITIAL FOCUS OF THE TRANSIT AND RAIL DIVISION CREATED IN SECTION 43-1-117.5 AND TO RECOMMEND A LONG-TERM ADVISORY STRUCTURE, INCLUDING THE ADVISORY STRUCTURE'S PURPOSE AND ROLE, IN SUPPORT OF THE TRANSIT AND RAIL-RELATED FUNCTIONS OF THE DEPARTMENT. THE SPECIAL INTERIM TRANSIT AND RAIL ADVISORY COMMITTEE SHALL INCLUDE SUCH REPRESENTATIVES OF INDUSTRIES AND OTHER GROUPS INTERESTED IN TRANSIT AND RAIL ISSUES AND SUCH OTHER INDIVIDUALS AS THE EXECUTIVE DIRECTOR, IN CONSULTATION WITH THE COMMISSION, DEEMS APPROPRIATE; EXCEPT THAT THE COMMITTEE SHALL INCLUDE, AT A MINIMUM, ONE OR MORE:

(I) REPRESENTATIVES OF TRANSIT OPERATORS;

(II) REPRESENTATIVES OF CLASS I RAILROADS;

(III) REPRESENTATIVES OF SHORT LINE RAILROADS; AND

(IV) REPRESENTATIVES OF ENTITIES OR INTEREST GROUPS INVOLVED IN THE PROMOTION, PLANNING, OR DEVELOPMENT OF PASSENGER RAIL SYSTEMS.

**SECTION 5.** 43-1-803 (2), Colorado Revised Statutes, is amended to read:

**43-1-803. Authority of executive director - acceptance and conveyance of donated railroad right-of-way - definition.** (2) The executive director ~~shall~~ MAY, as soon as is practicable, sell, trade, or otherwise convey railroad rights-of-ways obtained pursuant to subsection (1) of this section to an individual, firm, corporation, partnership, association, or other legal entity that has been found by the executive director to be ~~capable of operating~~ QUALIFIED TO OPERATE a freight or passenger rail service.

**SECTION 6.** 43-1-1306 (3), Colorado Revised Statutes, is amended to read:

**43-1-1306. Disposition of state rail bank property.** (3) The executive director ~~shall~~ MAY provide a first right of refusal to purchase or lease any rail line or railroad right-of-way held in the state rail bank to metropolitan or regional transportation authorities, cities, towns, counties, or ~~mass~~ transit agencies if those entities have first undertaken and approved a plan or program to use the property for transportation purposes.

**SECTION 7. 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 20, 2009