

CHAPTER 64

TRANSPORTATION

HOUSE BILL 15-1209

BY REPRESENTATIVE(S) Tyler, Becker J., Coram, Mitsch Bush, Winter, Kraft-Tharp, Moreno, Buck, Esgar, Melton, Nordberg, Becker K., Brown, Fields, Ginal, Kagan, Lebsock, Pettersen, Priola, Rosenthal, Ryden, Saine, Salazar;
also SENATOR(S) Scott, Todd, Garcia, Cooke.

AN ACT**CONCERNING THE HIGHWAY MAINTENANCE DIVISION OF THE DEPARTMENT OF TRANSPORTATION.**

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

SECTION 1. In Colorado Revised Statutes, 24-1-128.7, **amend** (3) introductory portion and (3) (a) as follows:

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

(a) ~~Highway operations and maintenance division, the head of which shall be the chief engineer~~ **DIRECTOR OF THE HIGHWAY MAINTENANCE DIVISION.** ~~The highway operations and maintenance division and the office of the chief engineer~~ **DIRECTOR THEREOF,** created by part 1 of article 1 of title 43, C.R.S., and their powers, duties, and functions are transferred by a **type 2** transfer to the department of transportation.

SECTION 2. In Colorado Revised Statutes, 40-4-106, **amend** (2) (b) as follows:

40-4-106. Rules for public safety - crossings - allocation of expenses. (2) (b) Whenever the commission orders in any proceeding before it, regardless of by whom or how such proceeding was commenced, that automatic or other safety appliance signals or devices be installed, reconstructed, or improved and operated at any crossing at grade of any public highway or road over the tracks of any railroad corporation, the commission shall also determine and order, after notice and hearing, how the cost of installing, reconstructing, or improving such signals or devices shall be divided between and paid by the interested railroad corporation whose tracks are located at the crossing on the one hand and the ~~highway operations~~

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

~~and maintenance division~~ CHIEF ENGINEER and the interested city, city and county, town, county, or other political subdivision of the state on the other hand. In determining how much of the cost shall be paid by the railroad corporation, consideration shall be given to the benefit, if any, that will accrue from the signals or devices to the railroad corporation, but in every case the part to be paid by the railroad corporation shall be not less than twenty percent of the total cost of the signals or devices at any crossing, and the orders shall provide that every signal or device installed ~~shall~~ WILL be maintained by ~~such~~ THE railroad corporation for the life of the crossing to be so signalized. In order to compensate for the use of the crossings by the public generally, the commission shall also order that such part of the cost of installing, reconstructing, or improving the signals or devices as will not be paid by the railroad corporation be divided between the highway-rail crossing signalization fund and the city, town, city and county, county, or other political subdivision in which the crossing is located, and the commission shall fix in each case the amount to be paid from the highway-rail crossing signalization fund and the amount to be paid by the city, town, city and county, county, or other political subdivision. Any order of the commission under this section for the payment of any part of any such costs from the highway-rail crossing signalization fund ~~shall be~~ is authority for the state treasurer to pay out of said fund to the person, firm, or corporation entitled thereto under the commission's order the amount so determined to be paid from said fund. The requirement of notice and hearing in this section is deemed to have been complied with by the commission's giving notice of and holding a hearing upon the question of whether any such signals or devices are required at any crossing; but in such cases the notice shall state that the question of how the costs will be borne and paid will be considered at and determined as a result of the hearing for which the notice is given. This paragraph (b) shall not apply to any grade crossing when all or any part of the cost of the installation, reconstruction, or improvement of the signals or devices at the crossing will be paid from funds available under any federal or federal-aid highway act.

SECTION 3. In Colorado Revised Statutes, 43-1-104, **amend** (1) introductory portion and (1) (a) as follows:

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

(a) The highway ~~operations and~~ maintenance division, created in section 43-1-114;

SECTION 4. In Colorado Revised Statutes, 43-1-105, **add** (6) as follows:

43-1-105. Powers and duties of the executive director. (6) WHENEVER THE DEPARTMENT OR ANY DIVISION OF THE DEPARTMENT OTHER THAN THE AERONAUTICS DIVISION IS AUTHORIZED OR REQUIRED BY LAW TO HOLD A HEARING, THE EXECUTIVE DIRECTOR OR THE EXECUTIVE DIRECTOR'S DESIGNEE, WHO MAY BE, BUT IS NOT LIMITED TO, THE CHIEF ENGINEER OR AN ADMINISTRATIVE LAW JUDGE APPOINTED PURSUANT TO PART 10 OF ARTICLE 30 OF TITLE 24, C.R.S., SHALL PRESIDE OVER THE HEARING TO TAKE EVIDENCE AND MAKE FINDINGS AND REPORT THEM TO THE EXECUTIVE DIRECTOR AND TO THE COMMISSION; EXCEPT THAT, WHENEVER THE CHIEF ENGINEER IS AUTHORIZED OR REQUIRED BY LAW TO ADOPT RULES OR REGULATIONS FOR THE ENGINEERING, DESIGN, AND CONSTRUCTION DIVISION, THE

CHIEF ENGINEER, HIS OR HER DESIGNEE FOR RULE-MAKING, OR AN ADMINISTRATIVE LAW JUDGE APPOINTED PURSUANT TO PART 10 OF ARTICLE 30 OF TITLE 24, C.R.S., SHALL PRESIDE OVER ANY HEARING HELD PURSUANT TO ARTICLE 4 OF TITLE 24, C.R.S.

SECTION 5. In Colorado Revised Statutes, 43-1-110, **amend** (1); and **repeal** (2) as follows:

43-1-110. Powers and duties of the chief engineer - hearings - rule-making.

(1) ~~The chief engineer shall be the chief administrative officer~~ DIRECTOR of the ~~highway operations and maintenance division and the engineering, design, and construction division and shall have~~ HAS direct control and management of the functions of ~~such divisions,~~ THE DIVISION subject only to the direction and supervision of the executive director as prescribed in this part 1. The chief engineer shall attend all meetings of the commission and, except as otherwise provided by this part 1 or other law, the chief engineer shall perform all of the duties and exercise all of the powers vested by law in ~~the highway operations and maintenance division and the engineering, design, and construction division,~~ including the awarding, under the supervision of the executive director, of all contracts for the construction or maintenance of state highways and mass transportation projects. ~~The chief engineer shall establish such subdivisions as necessary to carry out the powers and duties of such divisions and shall assign thereto appropriate powers and duties.~~ It is the duty of the chief engineer in the administration of ~~such divisions~~ THE DIVISION to so organize the same that all employees of the division, so far as possible, ~~shall be~~ ARE interchangeable in work assignment ~~so that they~~ AND may be shifted within the division to meet seasonal and emergency demands.

(2) ~~Whenever the department of transportation or any of the divisions of the department other than the aeronautics division is authorized or required by law to hold a hearing, said hearing shall be presided over by the executive director or the executive director's designee, who may be, but shall not be limited to, the chief engineer or an administrative law judge appointed pursuant to part 10 of article 30 of title 24, C.R.S., to take evidence and to make findings and report them to the executive director and to the commission; except that, whenever the chief engineer is authorized or required by law to adopt rules or regulations for the highway operations and maintenance division, the engineering, design, and construction division, or the department of transportation, any hearing held pursuant to article 4 of title 24, C.R.S., shall be presided over by the chief engineer, his or her designee for rule-making, or an administrative law judge appointed pursuant to part 10 of article 30 of title 24, C.R.S.~~

SECTION 6. In Colorado Revised Statutes, **amend** 43-1-114 as follows:

43-1-114. Highway maintenance division - creation. (1) There is hereby created a ~~highway operations and maintenance division~~ in the department of transportation. ~~The chief engineer~~ EXECUTIVE DIRECTOR shall appoint the DIRECTOR of the DIVISION, AND EITHER THE EXECUTIVE DIRECTOR, THE DIRECTOR OF THE DIVISION, OR ANOTHER DESIGNEE OF THE EXECUTIVE DIRECTOR SHALL APPOINT OTHER necessary staff of the ~~highway operations and maintenance division~~ in accordance with the provisions of section 13 of article XII of the state constitution.

(2) The highway operations and maintenance division and the office of chief engineer DIRECTOR OF THE DIVISION shall exercise their powers and perform their duties and functions under the department of transportation and the executive director as if the same were transferred to the department by a type 2 transfer, as such transfer is defined in the "Administrative Organization Act of 1968", article 1 of title 24, C.R.S.

(3) Whenever the chief engineer or the highway operations and maintenance division is authorized to enter into contracts or agreements, such THE contracts or agreements shall MUST be executed in the name of the department of transportation, state of Colorado, by the chief engineer, or his or her designee. whose signature shall be attested by the chief clerk of the division. Whenever the chief engineer or the highway operations and maintenance division is authorized to acquire or convey real or personal property, title thereto shall MUST be acquired or conveyed in the name of the department of transportation, state of Colorado, and all such conveyances shall MUST be executed by the chief engineer, or his or her designee. whose signature shall be attested by the chief clerk of the division. All suits or proceedings brought by or against the chief engineer or the highway operations and maintenance division shall MUST be in the name of the department of transportation, state of Colorado.

(4) It is the duty of the chief engineer DIRECTOR OF THE HIGHWAY MAINTENANCE DIVISION, in the administration of the highway operations and maintenance division, to organize the same DIVISION SO that all employees of the division, DIVISION EMPLOYEES so far as possible, shall be ARE interchangeable in work assignment so that they AND may be shifted within the division to meet seasonal and emergency demands.

SECTION 7. In Colorado Revised Statutes, amend 43-1-222 as follows:

43-1-222. Cash available for small payments. In order that the chief engineer may make immediate cash payment to laborers and in other instances where, in his OR HER judgment, it is advantageous or necessary for the conducting of the work of the highway operations and maintenance division SUPERVISED BY THE CHIEF ENGINEER to make such payments, there shall be deposited by the state treasurer SHALL DEPOSIT in some A bank in the city and county of Denver, Colorado, from the state highway fund, the sum of twenty-five thousand dollars, which shall MUST be made payable upon order of the chief engineer in the form of a voucher check, the voucher to show to whom and for what payment is made. A duplicate of all such vouchers shall be retained in the office of the highway operations and maintenance division CHIEF ENGINEER. An amount equal to the checks returned and found in proper form shall thereupon be deposited by the state treasurer to the credit of such special fund from the state highway fund. Voucher checks drawn upon the special fund shall not be used to pay salaries of officers or regular employees of the division DEPARTMENT.

SECTION 8. In Colorado Revised Statutes, 43-2-101, amend (4) (c) as follows:

43-2-101. State highway system. (4) (c) The construction of all improvements authorized pursuant to the provisions of 23 U.S.C. sec. 135, as amended, and section 106 of the "Federal-Aid Highway Act of 1970", and moneys received

therefor, ~~shall be~~ ARE under the supervision and control of the ~~highway operations and maintenance division~~ CHIEF ENGINEER.

SECTION 9. In Colorado Revised Statutes, 43-2-120, **amend** (1), (2) introductory portion, (2) (b), (3), and (4) as follows:

43-2-120. Annual county reports. (1) On or before the thirtieth day of June of each year, the board of county commissioners of each county shall cause to be made and filed with the ~~highway operations and maintenance division~~ a complete report of the expenditures of all moneys applied to county road systems during the calendar year ending on the thirty-first day of December next preceding. The ~~highway operations and maintenance division~~ shall prescribe the form and contents of ~~such~~ THE report.

(2) The report ~~shall~~ MUST contain the following:

(b) A detailed statement of all expenditures during the calendar year covered by the report for street and road purposes, including obligations incurred but not yet paid. The statement ~~shall~~ MUST contain uniform categories ~~to be~~ prescribed by the ~~highway operations and maintenance division~~, ~~such categories to include~~ INCLUDING, but not be limited to, expenditures for rights-of-way or other property, construction, maintenance, acquisition of equipment, and administration. The statement ~~shall~~ MUST also set forth the amount of funds on hand at the beginning of the calendar year covered by the report and any unexpended funds remaining at the close of ~~such~~ THE calendar year. The ~~highway operations and maintenance division~~ shall prescribe such other expenditure categories and such other information as may be deemed necessary by the division to fully disclose the nature and extent of all transactions by any county relating to streets and roads.

(3) The ~~highway operations and maintenance division~~ shall prepare detailed instructions for the uniform reporting of receipts and expenditures of all moneys applied to county streets and roads.

(4) The ~~highway operations and maintenance division~~ shall annually tabulate and compile all such reports and statements received from the counties and shall publish these data in accordance with the provisions of section 24-1-136, C.R.S.

SECTION 10. In Colorado Revised Statutes, **amend** 43-2-121 as follows:

43-2-121. Annual state report. At the same time that the ~~highway operations and maintenance division~~ tabulates the reports and statements from the various counties, ~~said~~ THE division shall also prepare a statement setting forth the amount expended by the division during the preceding calendar year in the same manner as required of counties. Publication of ~~such~~ THE data shall be in accordance with the provisions of section 24-1-136, C.R.S.

SECTION 11. In Colorado Revised Statutes, 43-2-132, **amend** (1), (3), and (4) as follows:

43-2-132. Annual municipal reports. (1) On or before the thirtieth day of June of each year, every city, city and county, and incorporated town shall cause to be

made and filed with the highway ~~operations and~~ maintenance division a complete report of the expenditures of all moneys applied to city street systems during the calendar year ending on the thirty-first day of December next preceding. The ~~highway operations and maintenance~~ division shall prescribe the form and contents of such report.

(3) The highway ~~operations and~~ maintenance division shall prepare detailed instructions for the uniform reporting of receipts and expenditures of all moneys to city streets and roads.

(4) The highway ~~operations and~~ maintenance division shall annually tabulate and compile all such reports and statements received from the cities, city and counties, and incorporated towns and shall publish these data in accordance with the provisions of section 24-1-136, C.R.S.

SECTION 12. In Colorado Revised Statutes, 43-4-206, **amend** (1) (b) introductory portion and (1) (b) (II) as follows:

43-4-206. State allocation. (1) Except as otherwise provided in subsection (2) of this section, after paying the costs of the Colorado state patrol and such other costs of the department, exclusive of highway construction, highway improvements, or highway maintenance, as are appropriated by the general assembly, sixty-five percent of the balance of the highway users tax fund shall be paid to the state highway fund and shall be expended for the following purposes:

(b) Except as otherwise provided in subsection (2) of this section, all moneys in the state highway fund not required for the creation, maintenance, and application of ~~such~~ THE highway anticipation or sinking fund and all moneys in the state highway supplementary fund ~~shall be~~ ARE available to pay for:

(II) All equipment, furniture, and supplies for officers, division offices, and laboratories as may be established by the ~~chief engineer~~ DIRECTOR of the highway ~~operations and~~ maintenance division;

SECTION 13. 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: March 30, 2015