

**Second Regular Session
Sixty-sixth General Assembly
STATE OF COLORADO**

PREAMENDED

*This Unofficial Version Includes Committee
Amendments Not Yet Adopted on Second Reading*

LLS NO. 08-1028.01 Jason Gelender

SENATE BILL 08-213

SENATE SPONSORSHIP

McElhany, Hagedorn, Renfroe, Romer, Spence, Takis, and Williams

HOUSE SPONSORSHIP

May M., Marostica, McNulty, Rice, and Swalm

Senate Committees

Transportation
Appropriations

House Committees

A BILL FOR AN ACT

101 **CONCERNING AUTHORIZATION FOR THE BOARD OF THE COLORADO**
102 **TOLLING ENTERPRISE TO DESIGNATE A PORTION OF INTERSTATE**
103 **70 AS A TOLL HIGHWAY.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not necessarily reflect any amendments that may be subsequently adopted.)

Authorizes the board of the Colorado tolling enterprise (board) to designate all or any portion of one or more existing or new lanes of Interstate 70 between Floyd hill and the Eisenhower-Johnson memorial tunnel as a toll highway. Requires the board to expend resulting toll revenues to expand the capacity of all or any portion of Interstate 70 between Floyd hill and the Eisenhower-Johnson memorial tunnel and for

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
*Capital letters indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.*

related administration, planning, financing, operation, maintenance, and repair work, but prohibits the expenditure of toll revenues for capacity expansion until the federal highway administration has issued a record of decision approving a preferred alternative for the Interstate 70 mountain corridor.

Specifies the maximum tolls that may be imposed with an allowance for inflation adjustments. Prohibits the imposition of a toll on a motor vehicle registered in Clear Creek, Gilpin, or Summit county by either an individual whose primary residence is in the county in which the vehicle was registered or a business entity that has a permanent place of business in the county in which the vehicle is registered.

Authorizes the board to designate a toll highway only to the extent permitted by federal law and regulations and only if the designation will not disqualify the state from receiving federal highway or transit funds it would otherwise qualify to receive or require the state to refund federal transportation grant funds it has already received. Requires the board, the transportation commission, and the department of transportation to seek waivers of any federal laws, regulations, or other requirements that would prevent the board from designating or limit the ability of the board to designate a toll highway.

Makes legislative findings and declarations. Makes conforming amendments.

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

2 **SECTION 1. Legislative declaration.** (1) The general assembly
3 hereby finds and declares that traffic congestion on Interstate 70 between
4 Floyd hill and the Eisenhower-Johnson memorial tunnel has become
5 increasingly problematic due to substantial growth in the state's
6 population and increased tourist activity and that unless action is taken
7 such traffic congestion will result in:

8 (a) Longer travel delays, especially during peak travel periods, for
9 all motorists who travel on that portion of Interstate 70, including
10 residents of corridor communities and the western slope who use
11 Interstate 70 to commute to work and to travel to and from the front
12 range, tourists and other persons who use Interstate 70 to travel to and
13 from mountain recreational and resort destinations, and commercial truck

1 drivers;

2 (b) Increased safety risks to persons traveling on that portion of
3 Interstate 70 and increased emergency response times in nearby
4 communities due to spillover congestion on frontage roads; and

5 (c) Increased air pollution in the Interstate 70 mountain corridor.

6 (2) The general assembly further finds and declares that it is not
7 the intent of the general assembly to recommend any particular preferred
8 alternative for the Interstate 70 mountain corridor, but that it is necessary
9 and appropriate to authorize the imposition of tolls as authorized by this
10 act in order to provide a source of funding to secure bonds for and
11 support the ongoing operation and maintenance of any preferred
12 alternative that is adopted and approved in the future.

13 **SECTION 2.** Part 8 of article 4 of title 43, Colorado Revised
14 Statutes, is amended BY THE ADDITION OF A NEW SECTION to
15 read:

16 **43-4-806.5. Board - power to toll existing lanes - limitations.**

17 (1) SUBJECT TO THE LIMITATIONS SPECIFIED IN SUBSECTION (2) OF THIS
18 SECTION, THE BOARD MAY DESIGNATE ALL OR ANY PORTION OF ONE OR
19 MORE EXISTING OR NEW LANES OF INTERSTATE 70 BETWEEN FLOYD HILL
20 AND THE EISENHOWER-JOHNSON MEMORIAL TUNNEL AS A TOLL HIGHWAY
21 AND SET TOLLS FOR THE USE OF THE LANES. THE BOARD SHALL CREDIT
22 ALL TOLL REVENUES GENERATED AS A RESULT OF THE DESIGNATION OF
23 ANY LANE OR LANES AS A TOLL HIGHWAY TO A SEPARATE ACCOUNT
24 WITHIN THE SPECIAL FUND AS REQUIRED BY SECTION 43-4-804 (1) AND
25 SHALL EXPEND UP TO TWO-THIRDS OF SUCH TOLL REVENUES TO EXPAND
26 THE CAPACITY OF ALL OR ANY PORTION OF INTERSTATE 70 BETWEEN
27 FLOYD HILL AND THE EISENHOWER-JOHNSON MEMORIAL TUNNEL AND UP

1 TO ONE-THIRD OF ANY SUCH TOLL REVENUES FOR RELATED
2 ADMINISTRATION, PLANNING, FINANCING, DESIGN, CONSTRUCTION,
3 OPERATION, MAINTENANCE, AND REPAIR WORK AS AUTHORIZED BY
4 SECTION 43-4-804 (3) AND (4); EXCEPT THAT THE BOARD MAY NOT EXPEND
5 TOLL REVENUES FOR CAPACITY EXPANSION UNTIL THE FEDERAL HIGHWAY
6 ADMINISTRATION HAS ISSUED A RECORD OF DECISION APPROVING A
7 PREFERRED ALTERNATIVE FOR THE INTERSTATE 70 MOUNTAIN CORRIDOR.
8 TOLL REVENUES GENERATED AS A RESULT OF THE DESIGNATION OF A TOLL
9 HIGHWAY PURSUANT TO THIS SUBSECTION (1) AND ALL OTHER REVENUES
10 GENERATED BY THE DEPOSIT AND INVESTMENT OF TOLL REVENUES, THE
11 USE OF TOLL REVENUES TO OBTAIN MATCHING MONEYS FROM THE
12 FEDERAL GOVERNMENT OR ANY OTHER SOURCE, OR THE ISSUANCE OF
13 BONDS OR NOTES TO BE REPAID FROM TOLL REVENUES SHALL SUPPLEMENT,
14 AND SHALL NOT SUPPLANT, MONEYS ALLOCATED TO THE INTERSTATE 70
15 MOUNTAIN CORRIDOR THROUGH STATUTORY TRANSPORTATION FUNDING
16 FORMULAS OR OTHERWISE DESIGNATED TO THE CORRIDOR.

17 (2) (a) THE BOARD MAY DESIGNATE A TOLL HIGHWAY PURSUANT
18 TO SUBSECTION (1) OF THIS SECTION ONLY TO THE EXTENT PERMITTED BY
19 FEDERAL LAW AND REGULATIONS AND ONLY IF THE DESIGNATION WILL
20 NOT DISQUALIFY THE STATE FROM RECEIVING FEDERAL HIGHWAY OR
21 TRANSIT FUNDS IT WOULD OTHERWISE QUALIFY TO RECEIVE OR REQUIRE
22 THE STATE TO REFUND FEDERAL TRANSPORTATION GRANT FUNDS IT HAS
23 ALREADY RECEIVED.

24 (b) THE BOARD SHALL ESTABLISH TOLLS SUBJECT TO THE
25 LIMITATIONS AND CONSIDERATIONS SPECIFIED IN SECTION 43-4-806 (1) (d)
26 AND THE FOLLOWING LIMITATIONS:

27 (I) (A) EXCEPT AS OTHERWISE PROVIDED IN SUB-SUBPARAGRAPH

1 (B) OF THIS SUBPARAGRAPH (I), THE MAXIMUM TOLL THAT THE BOARD
2 MAY IMPOSE ON ANY VEHICLE PURSUANT TO THIS SECTION IS FIVE
3 DOLLARS.

4 (B) THE BOARD MAY ADJUST ANY TOLL IMPOSED PURSUANT TO
5 THIS SECTION FOR INFLATION, AS MEASURED BY THE CONSUMER PRICE
6 INDEX FOR THE DENVER-BOULDER-GREELEY METROPOLITAN STATISTICAL
7 AREA; EXCEPT THAT THE BOARD MAY ADJUST A TOLL ONLY IN INCREMENTS
8 OF TWENTY-FIVE CENTS OR ANY WHOLE NUMBER MULTIPLE OF
9 TWENTY-FIVE CENTS AND MAY NOT INCREASE THE VALUE OF THE TOLL,
10 MEASURED IN CONSTANT DOLLARS AS OF THE DATE THE TOLL WAS FIRST
11 IMPOSED, ABOVE THE VALUE OF THE TOLL WHEN IT WAS FIRST IMPOSED.

12 (II) THE BOARD MAY NOT IMPOSE ANY TOLL ON A MOTOR VEHICLE
13 REGISTERED IN CLEAR CREEK, GILPIN, OR SUMMIT COUNTY BY:

14 (A) AN INDIVIDUAL WHOSE PRIMARY RESIDENCE IS IN THE COUNTY
15 IN WHICH THE VEHICLE IS REGISTERED; OR

16 (B) A CORPORATE OR OTHER BUSINESS ENTITY THAT HAS A
17 PERMANENT PLACE OF BUSINESS IN THE COUNTY IN WHICH THE VEHICLE IS
18 REGISTERED.

19 (3) THE BOARD, THE COMMISSION, AND THE DEPARTMENT ARE
20 HEREBY REQUIRED TO SEEK WAIVERS OF ANY FEDERAL LAWS,
21 REGULATIONS, OR OTHER REQUIREMENTS THAT WOULD PREVENT THE
22 BOARD FROM DESIGNATING OR LIMIT THE ABILITY OF THE BOARD TO
23 DESIGNATE ALL OR ANY PORTION OF ONE OR MORE LANES OF INTERSTATE
24 70 BETWEEN FLOYD HILL AND THE EISENHOWER-JOHNSON MEMORIAL
25 TUNNEL AS A TOLL HIGHWAY PURSUANT TO SUBSECTION (1) OF THIS
26 SECTION.

27 **SECTION 3.** 43-4-802 (10), Colorado Revised Statutes, is

1 amended to read:

2 **43-4-802. Definitions.** As used in this part 8, unless the context
3 otherwise requires:

4 (10) "Toll highway" means a new highway, ~~or~~ additional lane
5 capacity, OR, TO THE EXTENT PERMITTED BY SECTION 42-4-1012, C.R.S.,
6 OR 43-4-806.5 ONLY, CONVERSION OF PREVIOUSLY EXISTING HIGHWAY
7 LANES THAT HAVE SERVED VEHICULAR TRAFFIC ON A TOLL-FREE BASIS TO
8 TOLL LANES, and related highway improvements and services. A toll
9 highway may, as the board determines, consist of improvements and
10 services, including, but not limited to, paving, grading, landscaping,
11 curbs, gutters, culverts, sidewalks, bikeways, lighting, bridges,
12 overpasses, underpasses, rail crossings, frontage roads, access roads,
13 interchanges, drainage facilities, mass transit lanes and services,
14 park-and-ride facilities, other multimodal improvements and services, toll
15 collection facilities, service areas, administrative or maintenance
16 facilities, gas, electric, water, sewer, and other utilities located or to be
17 located in the right-of-way for a toll highway, and other real or personal
18 property, including easements, rights-of-way, open space, and other
19 interests therein, relating to the financing, construction, operation, or
20 maintenance of a toll highway. A toll highway cannot eliminate
21 previously existing highway lanes that have served vehicular traffic on a
22 toll-free basis except pursuant to section 42-4-1012, C.R.S., OR
23 43-4-806.5.

24 **SECTION 4.** 43-4-804 (4), Colorado Revised Statutes, is
25 amended to read:

26 **43-4-804. Statewide tolling enterprise special revenue fund -**
27 **creation - separate toll highway system accounts.** (4) Notwithstanding

1 any other provision of this section, toll revenues shall be expended only
2 for purposes authorized by subsection (3) of this section and only in the
3 toll highway system in which they were collected; except that the board
4 may use toll revenues to pay a proportional share of the costs and
5 expenses of operating the enterprise. Once the enterprise has paid the
6 costs of constructing the toll highways located within the system,
7 including sufficient contingencies, paid all debt service on all bonds
8 issued to finance the toll highways, and reimbursed the state highway
9 fund for the amount of any state highway fund moneys transferred to the
10 statewide tolling enterprise operating fund plus interest in accordance
11 with section 43-4-805, the board shall adjust toll rates in each toll
12 highway corridor so that the amount of toll revenues to be generated is as
13 close as possible to the amount required for the ongoing operation,
14 maintenance, renewal, and replacement of the toll highway within the toll
15 highway corridor. A toll highway cannot eliminate previously existing
16 highway lanes that have served vehicular traffic on a toll-free basis except
17 pursuant to section 42-4-1012, C.R.S., OR 43-4-806.5.

18 **SECTION 5.** 43-4-806 (1) (k) and (2), Colorado Revised
19 Statutes, are amended to read:

20 **43-4-806. Powers and duties of the board - annual report.**

21 (1) The board has the following powers and duties:

22 (k) To prepare, or cause to be prepared, detailed plans,
23 specifications, or estimates for the financing, construction, relocation,
24 repair, maintenance, or operation of a toll highway within the state. A toll
25 highway cannot eliminate previously existing highway lanes that have
26 served vehicular traffic on a toll-free basis except pursuant to section
27 42-4-1012, C.R.S., OR 43-4-806.5.

1 (2) The board shall ensure unrestricted access by all vehicles to
2 any toll highway and shall not require that a particular class of vehicles
3 travel upon any toll highway, including a toll highway that provides
4 additional capacity on an existing highway. A toll highway cannot
5 eliminate previously existing highway lanes that have served vehicular
6 traffic on a toll-free basis except pursuant to section 42-4-1012, C.R.S.,
7 OR 43-4-806.5.

8 **SECTION 6. Effective date.** This act shall take effect at 12:01
9 a.m. on the day following the expiration of the ninety-day period after
10 final adjournment of the general assembly that is allowed for submitting
11 a referendum petition pursuant to article V, section 1 (3) of the state
12 constitution, (August 6, 2008, if adjournment sine die is on May 7, 2008);
13 except that, if a referendum petition is filed against this act or an item,
14 section, or part of this act within such period, then the act, item, section,
15 or part, if approved by the people, shall take effect on the date of the
16 official declaration of the vote thereon by proclamation of the governor.