

**FINAL
FISCAL NOTE**

Drafting Number: LLS 10-0747**Date:** May 25, 2010**Prime Sponsor(s):** Rep. Levy
Sen. Mitchell**Bill Status:** Signed into Law**Fiscal Analyst:** Kerry White (303-866-3469)

TITLE: CONCERNING THE SALE BY A RAILROAD COMPANY OF ITS RIGHT-OF-WAY FOR THE OPERATION OF A PUBLIC PASSENGER RAIL SERVICE.**Summary of Legislation**

Under HB10-1276, a railroad company is permitted to sell its right-of-way for the operation of a public passenger rail service. The bill specifies that the right-of-way is to remain a public highway only for the operation of a public passenger rail service irrespective of any actions taken by certain parties to issue an order of abandonment, the technology used to operate the service, or who owns the railroad. Public passenger rail service is defined as that which uses rails or electromagnetic guideways. The Governor signed the bill into law on May 5, 2010, and unless a referendum petition is filed, the bill will take effect August 11, 2010.

Background

A railroad often does not own the land on which their rail line travels. Instead, they own a right-of-way, considered an easement that gives the railroad the right to use all or part of the property for the rail line. When a railroad wishes to cease operating and abandon a specific rail line, they must seek permission from the federal Surface Transportation Board. If the board grants the request, the easement is extinguished and the right-of-way reverts to the property's title holder, a municipality, or, in some cases, to adjoining property title holders. An alternative to abandonment exists under federal law, whereby the railroad may negotiate to have the right-of-way preserved or "rail banked" by converting it to a trail or other public use, such as a highway. Colorado law does not have a provision that allows a right-of-way that is designated as a public highway to be "rail banked." HB10-1276 clarifies that if a railroad sells its right-of-way and it subsequently becomes designated as a public highway by the board, then the easement is preserved by the purchaser that provides public passenger rail service.

Assessment

This bill is assessed as having no fiscal impact. The bill does not create any work or requirements for any state or local entity.

Departments Contacted

Regulatory Agencies

Transportation