

**First Regular Session
Sixty-seventh General Assembly
STATE OF COLORADO**

INTRODUCED

LLS NO. 09-0353.01 Esther van Mourik

HOUSE BILL 09-1284

HOUSE SPONSORSHIP

Levy,

SENATE SPONSORSHIP

(None),

House Committees

Transportation & Energy

Senate Committees

A BILL FOR AN ACT

101 **CONCERNING CORRIDOR CAPACITY STRATEGIC PLANNING TO FOSTER**
102 **TRANSPORTATION EFFICIENCY.**

Bill Summary

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

Creates a process whereby the Colorado department of transportation (department), a metropolitan planning organization, and a metropolitan planning organization's member local governments develop a corridor capacity strategic plan in order to preserve the capacity and efficient functioning of the state transportation system in congested areas or areas projected to become congested as a result of future development. Allows a plan to be developed for congested corridors and for those

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.

corridors forecasted to be congested in areas covered by a metropolitan planning organization. Specifies the components of the plan, and establishes certain deadlines.

As a condition of issuance of an access permit, where a corridor capacity strategic plan is not adopted or is adopted but not implemented by a local government, allows the department to require improvements to the state transportation system, and allows the department to require the local government or other entity with authority to approve new development to collect on the department's behalf an impact fee to fund expenditures by the department for transportation infrastructure or operational improvements needed to mitigate impacts from the local development to the state transportation system.

Allows the department to review development plans and provide comments regarding their impact on the efficient functioning of the state transportation system.

Requires plans for new development in areas within a congested corridor to be accompanied by a traffic study examining how the proposals would impact the functioning of the state transportation system.

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

2 **SECTION 1.** 43-1-1102, Colorado Revised Statutes, is amended
3 BY THE ADDITION OF THE FOLLOWING NEW SUBSECTIONS to
4 read:

5 **43-1-1102. Definitions.** For the purposes of this part 11, unless
6 the context otherwise requires:

7 (1.5) "CONGESTED CORRIDOR" MEANS A CORRIDOR THAT
8 FUNCTIONS AT OR BELOW LEVEL OF SERVICE D, OR A CORRIDOR THAT IS
9 FORECASTED TO FUNCTION AT OR BELOW LEVEL OF SERVICE D IN THE
10 MOST RECENTLY ADOPTED REGIONAL TRANSPORTATION PLAN WITHIN A
11 METROPOLITAN PLANNING ORGANIZATION'S METROPOLITAN AREA.

12 (1.7) "CORRIDOR CAPACITY STRATEGIC PLAN" MEANS A PLAN
13 DEVELOPED THROUGH NEGOTIATION AND AGREEMENT BY THE
14 DEPARTMENT AND A METROPOLITAN PLANNING ORGANIZATION TO
15 ALLEVIATE OR PREVENT CONGESTION IN ONE OR MORE SELECTED

1 CORRIDORS.

2 **SECTION 2.** Part 11 of article 1 of title 43, Colorado Revised
3 Statutes, is amended BY THE ADDITION OF A NEW SECTION to
4 read:

5 **43-1-1106. Corridor capacity strategic plans - fund -**
6 **legislative declaration.** (1) (a) THE GENERAL ASSEMBLY HEREBY FINDS
7 AND DECLARES THAT A COLLABORATIVE PROCESS IS NECESSARY WHEREBY
8 THE DEPARTMENT AND A METROPOLITAN PLANNING ORGANIZATION
9 DEVELOP WAYS TO PRESERVE THE CAPACITY AND EFFICIENT FUNCTIONING
10 OF THE STATE TRANSPORTATION SYSTEM WHILE ALLOWING DEVELOPMENT
11 CONSISTENT WITH EXISTING MASTER PLANS ESTABLISHED PURSUANT TO
12 SECTIONS 30-28-106 AND 31-23-206, C.R.S.

13 (b) THE GENERAL ASSEMBLY FURTHER DECLARES THAT THE
14 IMPACT OF LOCAL LAND USE DECISIONS ON THE CAPACITY AND EFFICIENT
15 FUNCTIONING OF THE STATE TRANSPORTATION SYSTEM SHOULD BE
16 UNDERSTOOD AND CONSIDERED BY LOCAL GOVERNMENTS IN THE
17 DEVELOPMENT APPROVAL PROCESS.

18 (c) THE GENERAL ASSEMBLY FURTHER DECLARES THAT A
19 COORDINATED APPROACH TO REGIONALLY PRODUCED CONGESTION IS
20 NECESSARY IN ORDER TO MAINTAIN THE FUNCTIONING OF THE STATE
21 TRANSPORTATION SYSTEM AND FACILITATE PLANNED DEVELOPMENT.

22 (2) (a) THE DEPARTMENT AND ANY METROPOLITAN PLANNING
23 ORGANIZATION MAY DEVELOP A CORRIDOR CAPACITY STRATEGIC PLAN.
24 IN DEVELOPING THE CORRIDOR CAPACITY STRATEGIC PLAN, THE
25 DEPARTMENT AND ANY METROPOLITAN PLANNING ORGANIZATION:

26 (I) SHALL IDENTIFY AND PRIORITIZE STATE HIGHWAY CORRIDORS
27 FOR DEVELOPMENT OF CORRIDOR CAPACITY STRATEGIC PLANS BASED ON

1 THE DEGREE OF EXPECTED CONGESTION AND URGENCY OF PLANNING;
2 (II) MAY CONSIDER, BUT SHALL NOT BE LIMITED TO, THE
3 FOLLOWING:
4 (A) ACCESS MANAGEMENT PLANS;
5 (B) IMPROVEMENTS TO LOCAL STREET NETWORKS;
6 (C) TRANSIT INVESTMENTS;
7 (D) TRANSPORTATION DEMAND MANAGEMENT PROGRAMS;
8 (E) THE ARRANGEMENT, SITING, AND TYPES OF PROPOSED LAND
9 USES; AND
10 (F) THE CREATION OF BIKE OR PEDESTRIAN ROUTES.
11 (b) THE MEMBER LOCAL GOVERNMENTS OF A METROPOLITAN
12 PLANNING ORGANIZATION THAT ADOPT A CORRIDOR CAPACITY STRATEGIC
13 PLAN SHALL USE THEIR BEST EFFORTS TO ADOPT ANY ORDINANCES OR
14 REGULATIONS NECESSARY TO IMPLEMENT THE CORRIDOR CAPACITY
15 STRATEGIC PLAN.
16 (3) (a) AS A CONDITION OF ISSUANCE OF AN ACCESS PERMIT,
17 WHERE A CORRIDOR CAPACITY STRATEGIC PLAN IS NOT ADOPTED OR IS
18 ADOPTED BUT NOT IMPLEMENTED BY A LOCAL GOVERNMENT, THE
19 DEPARTMENT MAY REQUIRE IMPROVEMENTS TO THE STATE
20 TRANSPORTATION SYSTEM AND REQUIRE THE LOCAL GOVERNMENT OR
21 OTHER ENTITY WITH AUTHORITY TO APPROVE NEW DEVELOPMENT TO
22 COLLECT ON THE DEPARTMENT'S BEHALF AN IMPACT FEE OR OTHER
23 SIMILAR DEVELOPMENT CHARGE AS SPECIFIED IN SUBSECTION (4) OF THIS
24 SECTION TO FUND EXPENDITURES BY THE DEPARTMENT FOR
25 TRANSPORTATION INFRASTRUCTURE OR OPERATIONAL IMPROVEMENTS
26 NEEDED TO MITIGATE IMPACTS FROM THE LOCAL DEVELOPMENT TO THE
27 STATE TRANSPORTATION SYSTEM WITHIN THE CORRIDOR.

1 (b) THE DEPARTMENT MAY ONLY REQUIRE THE COLLECTION OF AN
2 IMPACT FEE OR OTHER CHARGE IN A CONGESTED CORRIDOR, AS DEFINED IN
3 SECTION 43-1-1102 (1.5), WHERE NEW DEVELOPMENT OCCURS AND WHERE
4 THE NEW DEVELOPMENT WOULD IMPAIR THE FUNCTIONING OF THE STATE
5 TRANSPORTATION SYSTEM.

6 (4) (a) THE DEPARTMENT MAY REQUIRE A LOCAL GOVERNMENT OR
7 OTHER ENTITY WITH AUTHORITY TO APPROVE NEW DEVELOPMENT TO
8 COLLECT ON THE DEPARTMENT'S BEHALF AN IMPACT FEE OR OTHER
9 SIMILAR DEVELOPMENT CHARGE TO FUND EXPENDITURES BY THE
10 DEPARTMENT ON TRANSPORTATION DEMAND MANAGEMENT PROGRAMS,
11 TRANSPORTATION INFRASTRUCTURE, TRANSIT, OR OTHER FACILITIES
12 NEEDED TO MITIGATE THE IMPACTS OF THE NEW DEVELOPMENT ON THE
13 FUNCTIONING OF THE STATE TRANSPORTATION SYSTEM. NO IMPACT FEE
14 OR OTHER SIMILAR DEVELOPMENT CHARGE SHALL BE IMPOSED EXCEPT
15 PURSUANT TO A SCHEDULE THAT IS:

16 (I) ADOPTED BY THE DEPARTMENT; AND

17 (II) INTENDED TO DEFRAY THE PROJECTED IMPACTS ON
18 TRANSPORTATION INFRASTRUCTURE CAUSED BY PROPOSED DEVELOPMENT.

19 (b) THE DEPARTMENT SHALL QUANTIFY THE REASONABLY
20 PROJECTED IMPACTS OF PROPOSED DEVELOPMENT ON EXISTING
21 TRANSPORTATION INFRASTRUCTURE, TAKING INTO CONSIDERATION THE
22 MITIGATION MEASURES IN THE CORRIDOR CAPACITY STRATEGIC PLAN, AND
23 ESTABLISH THE IMPACT FEE OR DEVELOPMENT CHARGE AT A LEVEL NO
24 GREATER THAN NECESSARY TO DEFRAY ANY IMPACTS DIRECTLY RELATED
25 TO THE PROPOSED DEVELOPMENT. NO IMPACT FEE OR OTHER SIMILAR
26 DEVELOPMENT CHARGE SHALL BE IMPOSED TO REMEDY ANY DEFICIENCY
27 IN TRANSPORTATION INFRASTRUCTURE THAT EXISTS WITHOUT REGARD TO

1 THE PROPOSED DEVELOPMENT.

2 (c) ANY IMPACT FEE OR OTHER SIMILAR DEVELOPMENT CHARGE
3 IMPOSED PURSUANT TO THIS SUBSECTION (4) SHALL BE COLLECTED BY THE
4 LOCAL GOVERNMENT AND SHALL BE TRANSMITTED TO THE STATE
5 TREASURER, WHO SHALL CREDIT THE SAME TO THE CORRIDOR CAPACITY
6 STRATEGIC PLANNING FUND, WHICH FUND IS HEREBY CREATED. THE
7 MONEYS IN THE FUND SHALL BE SUBJECT TO ANNUAL APPROPRIATION BY
8 THE GENERAL ASSEMBLY TO THE DEPARTMENT FOR ALLOCATION BY THE
9 TRANSPORTATION COMMISSION, CREATED IN SECTION 43-1-106, TO FUND
10 THE IMPLEMENTATION OF TRANSPORTATION DEMAND MANAGEMENT
11 PROGRAM STRATEGIES, TRANSIT AND ALTERNATIVE MODE FACILITIES, OR
12 CAPACITY EXPANSION FOR STATE AND LOCAL ROADS IN THE CORRIDOR
13 FROM WHICH THE FEE WAS GENERATED. ALL INTEREST DERIVED FROM THE
14 DEPOSIT AND INVESTMENT OF MONEYS IN THE FUND SHALL BE CREDITED
15 TO THE FUND. ANY UNEXPENDED AND UNENCUMBERED MONEYS
16 REMAINING IN THE FUND AT THE END OF A FISCAL YEAR SHALL REMAIN IN
17 THE FUND AND SHALL NOT BE CREDITED OR TRANSFERRED TO THE
18 GENERAL FUND OR ANY OTHER FUND.

19 (d) NO IMPACT FEE OR OTHER SIMILAR DEVELOPMENT CHARGE
20 SHALL BE IMPOSED ON ANY DEVELOPMENT OR ACCESS PERMIT FOR WHICH
21 THE APPLICANT SUBMITTED A COMPLETE APPLICATION BEFORE THE
22 ADOPTION OF A SCHEDULE OF IMPACT FEES OR OTHER SIMILAR
23 DEVELOPMENT CHARGES BY THE DEPARTMENT PURSUANT TO THIS
24 SECTION.

25 (e) IF ANY PROVISION OF THIS SUBSECTION (4) IS HELD INVALID,
26 SUCH INVALIDITY SHALL INVALIDATE THIS SUBSECTION (4) IN ITS
27 ENTIRETY, AND TO THIS END THE PROVISIONS OF THIS SUBSECTION (4) ARE

1 DECLARED TO BE NONSEVERABLE FROM ONE ANOTHER.

2 (5) PRIOR TO THE ADOPTION OF THE NEXT STATE TRANSPORTATION
3 IMPROVEMENT PLAN, THE DEPARTMENT AND EACH METROPOLITAN
4 PLANNING ORGANIZATION SHALL IDENTIFY THE CORRIDORS FOR WHICH A
5 CORRIDOR CAPACITY STRATEGIC PLAN SHALL BE ADOPTED AND SHALL
6 PRIORITIZE AND DEVELOP A TIMELINE FOR UNDERTAKING THE PLANNING
7 PROCESS BASED ON NEED AND AVAILABLE RESOURCES. CAPACITY
8 IMPROVEMENTS IN ANY CONGESTED CORRIDOR IDENTIFIED FOR
9 DEVELOPMENT OF A CORRIDOR CAPACITY STRATEGIC PLAN SHALL NOT
10 COMMENCE UNTIL A CORRIDOR CAPACITY STRATEGIC PLAN IS ADOPTED.

11 (6) IN ADDITION TO ANY LOCAL TRAFFIC STUDY REQUIREMENTS,
12 ANY NEW DEVELOPMENT APPLICATIONS OCCURRING WITHIN A CONGESTED
13 CORRIDOR SHALL BE ACCOMPANIED BY A TRAFFIC STUDY THAT MEETS THE
14 CRITERIA DEVELOPED BY THE DEPARTMENT AND THAT EXAMINES HOW THE
15 PROPOSED DEVELOPMENT IMPACTS THE EFFICIENT FUNCTIONING OF THE
16 STATE TRANSPORTATION SYSTEM.

17 (7) THE DEPARTMENT IS AUTHORIZED TO REVIEW ALL LAND USE
18 PLANS AND APPLICATIONS FOR REZONING AND SUBDIVISION APPROVAL
19 SUBMITTED TO A LOCAL GOVERNMENT WITHIN A METROPOLITAN PLANNING
20 ORGANIZATION AND TO SUBMIT COMMENTS TO THE LOCAL GOVERNMENT
21 ON ANY IMPACT THE PROPOSAL WILL HAVE ON THE EFFICIENT
22 FUNCTIONING OF THE STATE TRANSPORTATION SYSTEM.

23 **SECTION 3.** 29-20-104, Colorado Revised Statutes, is amended
24 BY THE ADDITION OF A NEW SUBSECTION to read:

25 **29-20-104. Powers of local governments.** (2) LOCAL
26 GOVERNMENTS SHALL REQUIRE TRAFFIC STUDIES CONSISTENT WITH THE
27 PROVISIONS OF SECTION 43-1-1106 (6), C.R.S.

1 **SECTION 4.** 29-20-104.5, Colorado Revised Statutes, is
2 amended BY THE ADDITION OF A NEW SUBSECTION to read:

3 **29-20-104.5. Impact fees.** (10) A LOCAL GOVERNMENT MAY
4 IMPOSE AN IMPACT FEE OR OTHER SIMILAR DEVELOPMENT CHARGE ON
5 BEHALF OF THE DEPARTMENT OF TRANSPORTATION AS SPECIFIED IN
6 SECTION 43-1-1106 (4) (a), C.R.S. ANY LOCAL GOVERNMENT IMPOSING
7 AN IMPACT FEE OR OTHER CHARGE PURSUANT TO THIS SUBSECTION (10)
8 SHALL TRANSMIT THE FEE TO THE STATE TREASURER AS SPECIFIED IN
9 SECTION 43-1-1106 (4) (c), C.R.S.

10 **SECTION 5. Act subject to petition - effective date.** This act
11 shall take effect at 12:01 a.m. on the day following the expiration of the
12 ninety-day period after final adjournment of the general assembly that is
13 allowed for submitting a referendum petition pursuant to article V,
14 section 1 (3) of the state constitution, (August 4, 2009, if adjournment
15 sine die is on May 6, 2009); except that, if a referendum petition is filed
16 against this act or an item, section, or part of this act within such period,
17 then the act, item, section, or part, if approved by the people, shall take
18 effect on the date of the official declaration of the vote thereon by
19 proclamation of the governor.