

Second Regular Session
Sixty-ninth General Assembly
STATE OF COLORADO

PREAMENDED

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

LLS NO. 14-0857.01 Nicole Myers x4326

HOUSE BILL 14-1350

HOUSE SPONSORSHIP

Ferrandino,

SENATE SPONSORSHIP

Kerr,

House Committees

Finance
Appropriations

Senate Committees

Finance
Appropriations

A BILL FOR AN ACT

101 **CONCERNING MODIFICATIONS TO THE CRITERIA FOR REGIONAL**
102 **TOURISM PROJECTS APPROVED BY THE COLORADO ECONOMIC**
103 **DEVELOPMENT COMMISSION THROUGH THE "COLORADO**
104 **REGIONAL TOURISM ACT", AND, IN CONNECTION THEREWITH,**
105 **MAKING AN APPROPRIATION.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://www.leg.state.co.us/billsummaries>.)

The "Colorado Regional Tourism Act" (act) includes a mechanism

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.*

HOUSE
3rd Reading Unamended
April 21, 2014

HOUSE
Amended 2nd Reading
April 17, 2014

for one or more local governments to undertake a regional tourism project (project), create a regional tourism zone in which the project will be built, and create a regional tourism authority to use tax increment financing based on state sales tax revenue to finance eligible improvements related to the regional tourism project. The bill makes the following modifications to the act:

- ! Changes the definition of "state sales tax increment revenue" to include the revenue that is attributable to the baseline growth rate in the proposed regional tourism zone;
- ! Specifies that the baseline growth rate of a proposed regional tourism zone is the growth that would have occurred in the zone even if the regional tourism project did not occur, as determined by the office of state planning and budgeting and the Colorado office of economic development;
- ! Requires that the local government and third-party analyst retained in connection with a project application use the baseline growth rate in their assumptions and economic analyses for the purpose of calculating the total cumulative dollar amount and the percentage of the state sales tax increment revenue that can be dedicated to the proposed project;
- ! Changes the party directly responsible for paying the third-party analyst that makes assessments in connection with a proposed project from the project applicant to the office of state planning and budgeting;
- ! Specifies additional duties of the third-party analyst in connection with a proposed project;
- ! Changes the requirement that a significant portion of the sales tax revenue to be generated by a proposed project be attributable to transactions with nonresidents of the regional tourism zone to a requirement that a significant portion of the revenue be attributable to transactions with nonresidents of the state;
- ! Clarifies that the Colorado economic development commission (commission) may award a maximum of 2 additional projects and must award such projects within one year of the effective date of the bill;
- ! Specifies that the total cumulative dollar amount and percentage of sales tax increment revenue that can be dedicated to a project as determined by the commission shall not exceed the third-party analyst's calculation of the total cumulative dollar amount and percentage of sales tax increment revenue that can be dedicated to such project by more than 25%; except that the commission may determine

a total cumulative dollar amount and percentage that exceeds those calculated by the third-party analyst by more than 25% by a unanimous vote of all of the members of the commission;

- ! Specifies that the total amount of state sales tax increment revenue dedicated to a project for the duration of the project is capped at the total cumulative dollar amount initially approved by the commission;
- ! Requires the department of revenue to track the annual and cumulative state sales tax increment revenue remitted to the financing entity for the project and to notify the commission when cumulative payments approach the limits set by the commission; and
- ! Requires the department of revenue to notify the commission when it is no longer remitting sales tax increment revenue to the financing entity because the financing entity has reached its total cumulative dollar amount of sales tax increment revenue.

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

2 **SECTION 1.** In Colorado Revised Statutes, 24-46-303, **amend**
3 **as it will be effective July 1, 2014,** (12); and **add** (1.5) as follows:

4 **24-46-303. Definitions.** As used in this part 3, unless the context
5 otherwise requires:

6 (1.5) "BASELINEGROWTHRATE" MEANS THE FORECASTED GROWTH
7 IN STATE SALES TAX REVENUE ABOVE THE BASE YEAR REVENUE THAT
8 WOULD BE COLLECTED IN A PROPOSED REGIONAL TOURISM ZONE IF THE
9 PROPOSED REGIONAL TOURISM PROJECT DID NOT OCCUR, AS DETERMINED
10 PURSUANT TO SECTION 24-46-304 (1.5).

11 (12) "State sales tax increment revenue" means the portion of the
12 revenue derived from state sales taxes, INCLUDING ANY REVENUE
13 ATTRIBUTABLE TO THE BASELINE GROWTH RATE AND not including any
14 sales taxes for remote sales as specified in section 39-26-104 (2), C.R.S.,
15 collected within a designated regional tourism zone in excess of the

1 amount of base year revenue.

2 **SECTION 2.** In Colorado Revised Statutes, 24-46-303, **amend**
3 **as it exists until July 1, 2014**, (12) as follows:

4 **24-46-303. Definitions.** As used in this part 3, unless the context
5 otherwise requires:

6 (12) "State sales tax increment revenue" means the portion of the
7 revenue derived from state sales taxes, INCLUDING ANY REVENUE
8 ATTRIBUTABLE TO THE BASELINE GROWTH RATE, collected within a
9 designated regional tourism zone in excess of the amount of base year
10 revenue.

11 **SECTION 3.** In Colorado Revised Statutes, 24-46-304, **amend**
12 (2) (h), (2) (i), and (3) (c); and **add** (1.5) and (4) as follows:

13 **24-46-304. Regional tourism project - application -**
14 **requirements.** (1.5) (a) BEFORE A LOCAL GOVERNMENT SUBMITS AN
15 APPLICATION FOR A REGIONAL TOURISM PROJECT TO THE COLORADO
16 OFFICE OF ECONOMIC DEVELOPMENT PURSUANT TO SUBSECTION (2) OF
17 THIS SECTION, THE LOCAL GOVERNMENT SHALL SUBMIT A MAP SHOWING
18 THE PROPOSED BOUNDARIES OF THE PROPOSED REGIONAL TOURISM ZONE
19 TO THE OFFICE OF STATE PLANNING AND BUDGETING. THE OFFICE OF STATE
20 PLANNING AND BUDGETING, IN CONJUNCTION WITH THE COLORADO OFFICE
21 OF ECONOMIC DEVELOPMENT, SHALL DETERMINE THE BASELINE GROWTH
22 RATE FOR THE AREA INCLUDED IN THE PROPOSED REGIONAL TOURISM
23 ZONE. IN DETERMINING THE BASELINE GROWTH RATE, THE OFFICE OF
24 STATE PLANNING AND BUDGETING AND THE COLORADO OFFICE OF
25 ECONOMIC DEVELOPMENT SHALL CONSIDER THE GROWTH RATE IN THE
26 AREA INCLUDED IN THE PROPOSED REGIONAL TOURISM ZONE DURING THE
27 PREVIOUS FIVE CALENDAR YEARS AT A MINIMUM.

1 (b) THE OFFICE OF STATE PLANNING AND BUDGETING MAY CHARGE
2 A LOCAL GOVERNMENT A SUBMISSION FEE OF UP TO THREE THOUSAND
3 DOLLARS PER SUBMISSION FOR THE COSTS INCURRED IN DETERMINING THE
4 BASELINE GROWTH RATE.

5 (c) THE LOCAL GOVERNMENT AND THE THIRD-PARTY ANALYST
6 RETAINED PURSUANT TO PARAGRAPH (i) OF SUBSECTION (2) OF THIS
7 SECTION SHALL USE THE BASELINE GROWTH RATE IN THEIR ASSUMPTIONS
8 ANDECONOMIC ANALYSES FOR THE PURPOSE OF CALCULATING THE TOTAL
9 CUMULATIVE DOLLAR AMOUNT AND PERCENTAGE OF THE STATE SALES
10 TAX INCREMENT REVENUE THAT CAN BE DEDICATED TO THE PROPOSED
11 REGIONAL TOURISM PROJECT AS REQUIRED BY PARAGRAPHS (h) AND (i) OF
12 SUBSECTION (2) OF THIS SECTION.

13 (2) A local government shall submit an application for a regional
14 tourism project to the Colorado office of economic development in a form
15 and manner to be determined by the commission. The office shall provide
16 the commission with each application received after the director's review
17 pursuant to section 24-46-305. The application shall include, but need not
18 be limited to, the following:

19 (h) The proposed financing term, THE TOTAL CUMULATIVE
20 DOLLAR AMOUNT OF REVENUE THAT CAN BE ALLOCATED TO THE
21 FINANCING ENTITY, the percentage of state sales tax increment revenue to
22 be allocated to the financing entity, and the portion of the financing term
23 during which such percentage is to be allocated to the financing entity.
24 No single debt issuance of the financing entity shall have a maturity date
25 in excess of thirty years; except that the financing term may exceed thirty
26 years to the extent that the financing entity anticipates issuing a series of
27 bonds or other forms of debt and provided that the financing entity shall

1 have the ability to consolidate or refinance previously issued debt or
2 bonds with a maturity date for such consolidated or refinanced debt or
3 bonds not to exceed thirty years.

4 (i) Along with the economic analysis submitted with the
5 application, a report by a third-party analyst who is an expert in the field
6 of economic or public financial analysis calculating the TOTAL
7 CUMULATIVE DOLLAR AMOUNT AND percentage of the state sales tax
8 increment revenue that ~~will~~ CAN be dedicated to the regional tourism
9 project to be set by the commission pursuant to section 24-46-305 (3) (d).
10 The applicant shall share its data and reasoning with the third-party
11 analyst, and the analyst shall rely on such data and reasoning as it deems
12 appropriate in the exercise of its independent judgment. An applicant
13 dissatisfied with such report may revise its application and request report
14 revisions. The reviewing third-party analyst shall be chosen through a
15 request for proposals issued by the office of state planning and budgeting
16 to ensure an independent and thorough analysis, and the third-party
17 analyst shall report to that office. ~~The costs of such report shall be paid~~
18 ~~by the applicant directly to the third-party analyst.~~ THE OFFICE OF STATE
19 PLANNING AND BUDGETING SHALL CHARGE AN APPLICATION FEE TO THE
20 APPLICANT TO PAY THE COSTS FOR THE THIRD-PARTY ANALYST TO:

21 (I) ASSESS THE ASSUMPTIONS USED IN THE APPLICATION TO
22 ESTIMATE NET NEW TOURISM REVENUES TO COLORADO;

23 (II) CALCULATE THE TOTAL ANTICIPATED SALES TAX INCREMENT
24 REVENUE IN THE PROPOSED REGIONAL TOURISM ZONE;

25 (III) CALCULATE THE AMOUNT AND PERCENTAGE OF THE TOTAL
26 REGIONAL TOURISM ZONE SALES TAX INCREMENT REVENUE THAT EACH
27 COUNTY AND MUNICIPALITY THAT IS A PARTY TO A MULTI-PARTY

1 APPLICATION IS ELIGIBLE TO RECEIVE; AND

2 (IV) ASSESS THE PROBABILITY OF THE PROPOSED PROJECT MOVING
3 FORWARD WITHOUT FUNDING FROM TAX INCREMENT FINANCING.

4 (3) An application by a local government for designation as a
5 regional tourism project shall be approved by the commission upon a
6 finding by the majority of the commissioners participating in the review
7 of the application that the application demonstrates that each of the
8 following criteria are materially met:

9 (c) A significant portion of the sales tax revenue generated by the
10 project is reasonably anticipated to be attributable to transactions with
11 nonresidents of the ~~regional tourism zone~~ STATE. AN EXCEPTION TO THIS
12 REQUIREMENT MAY APPLY IF A SIGNIFICANT PORTION OF THE SALES TAX
13 REVENUE GENERATED BY THE PROJECT IS REASONABLY ANTICIPATED TO
14 BE ATTRIBUTABLE TO RESIDENTS OF THE STATE BUT THE REVENUE WOULD
15 OTHERWISE LEAVE THE STATE DUE TO A LACK OF A SIMILAR PROJECT OR
16 FACILITY IN THE STATE.

17 (4) THE GENERAL ASSEMBLY SHALL APPROPRIATE FIFTY
18 THOUSAND DOLLARS TO THE OFFICE OF STATE PLANNING AND BUDGETING
19 FOR THE 2014-15 STATE FISCAL YEAR TO BE USED BY THE OFFICE FOR
20 NECESSARY AND ADDITIONAL ANALYTICAL WORK RELATED TO THE
21 PROPOSED REGIONAL TOURISM PROJECTS.

22 **SECTION 4.** In Colorado Revised Statutes, 24-46-305, **amend**
23 (2) (b) and (3) (d); and **add** (2) (c) and (4.5) as follows:

24 **24-46-305. Regional tourism project approval - director -**
25 **commission - review.** (2) (b) ~~(f)~~ The commission shall not approve more
26 than two initial projects pursuant to this subsection (2).

27 ~~(H) In the calendar year succeeding the commission's approval of~~

1 two initial projects pursuant to subparagraph (I) of this paragraph (b), the
2 commission may approve two additional projects pursuant to this
3 subsection (2).

4 (HH) ~~In the calendar year succeeding the commission's approval~~
5 ~~of two additional projects pursuant to subparagraph (H) of this paragraph~~
6 ~~(b), the commission may approve two additional projects pursuant to this~~
7 ~~subsection (2).~~

8 (c) ON OR AFTER THE EFFECTIVE DATE OF THIS PARAGRAPH (c),
9 BUT PRIOR TO JANUARY 1, 2016, THE COMMISSION MAY APPROVE TWO
10 NEW REGIONAL TOURISM PROJECTS.

11 (3) The commission shall hold a public hearing, subject to the
12 provisions of the "Colorado Sunshine Act of 1972", article 6 of this title,
13 to review and consider the application. After the hearing has been held,
14 the commission shall review each application and give consideration to
15 the director's recommendations. The commission shall take action on the
16 application within a reasonable time after submission. If the commission
17 approves the application, it shall adopt a resolution specifying the
18 following:

19 (d) The TOTAL CUMULATIVE DOLLAR AMOUNT AND percentage of
20 the state sales tax increment revenue that will be dedicated to the regional
21 tourism project. Such percentage shall be set at a value that in the best
22 estimation of the commission will result in only the net new revenue
23 likely created by the project and related development being dedicated to
24 the financing entity and shall exclude any sales tax revenue the state
25 would likely have received without the project and development. THE
26 TOTAL CUMULATIVE DOLLAR AMOUNT AND PERCENTAGE OF THE SALES
27 TAX INCREMENT REVENUE THAT CAN BE DEDICATED TO THE REGIONAL

1 TOURISM PROJECT SHALL NOT EXCEED THE THIRD-PARTY ANALYST'S
2 CALCULATION OF THE TOTAL CUMULATIVE DOLLAR AMOUNT AND
3 PERCENTAGE OF SALES TAX INCREMENT REVENUE THAT CAN BE
4 DEDICATED TO THE REGIONAL TOURISM PROJECT, AS REPORTED PURSUANT
5 TO SECTION 24-46-304 (2) (i), BY MORE THAN FIFTY PERCENT; EXCEPT
6 THAT THE COMMISSION MAY DETERMINE A TOTAL CUMULATIVE DOLLAR
7 AMOUNT AND PERCENTAGE OF THE SALES TAX INCREMENT REVENUE THAT
8 CAN BE DEDICATED TO THE REGIONAL TOURISM PROJECT THAT EXCEEDS
9 THE THIRD-PARTY ANALYST'S CALCULATIONS BY MORE THAN FIFTY
10 PERCENT BY A UNANIMOUS VOTE OF ALL MEMBERS OF THE COMMISSION.

11 (4.5) THE TOTAL AMOUNT OF STATE SALES TAX INCREMENT
12 REVENUE DEDICATED TO THE REGIONAL TOURISM PROJECT FOR THE ENTIRE
13 DURATION OF THE PROJECT SHALL NOT EXCEED THE TOTAL CUMULATIVE
14 DOLLAR AMOUNT SPECIFIED BY THE COMMISSION PURSUANT TO
15 PARAGRAPH (d) OF SUBSECTION (3) OF THIS SECTION. THE DEPARTMENT
16 OF REVENUE SHALL TRACK THE ANNUAL AND CUMULATIVE STATE SALES
17 TAX INCREMENT REVENUE REMITTED TO THE FINANCING ENTITY FOR THE
18 PROJECT AND SHALL NOTIFY THE COMMISSION WHEN CUMULATIVE
19 PAYMENTS APPROACH THE LIMITS SET BY THE COMMISSION FOR THE
20 COMMISSION'S CONCURRENCE REGARDING THE DOLLAR LIMITS. AFTER THE
21 DEPARTMENT OF REVENUE HAS CUMULATIVELY REMITTED SUCH TOTAL
22 CUMULATIVE DOLLAR AMOUNT TO THE FINANCING ENTITY PURSUANT TO
23 SUBSECTION (4) OF THIS SECTION, THE DEPARTMENT OF REVENUE SHALL
24 NOT REMIT ANY ADDITIONAL SALES TAX INCREMENT REVENUE FROM THE
25 STATE TO THE FINANCING ENTITY, EVEN IF THE APPROVED FINANCING
26 TERM IS NOT COMPLETED. THE DEPARTMENT OF REVENUE SHALL NOTIFY
27 THE COMMISSION IF IT IS NO LONGER REMITTING SALES TAX INCREMENT

1 REVENUE TO THE FINANCING ENTITY BECAUSE THE FINANCING ENTITY HAS
2 REACHED ITS TOTAL CUMULATIVE DOLLAR AMOUNT OF SALES TAX
3 INCREMENT REVENUE.

4 **Section 5. Appropriation.**

5 (1) In addition to any other appropriation, there is hereby
6 appropriated, out of any moneys collected pursuant to sections 24-46-304
7 (1.5) (b) and 24-46-304 (2) (i), Colorado Revised Statutes, not otherwise
8 appropriated, to the governor - lieutenant governor - state planning and
9 budgeting, for the fiscal year beginning July 1, 2014, the sum of
10 \$176,454, or so much thereof as may be necessary, to contract with a third
11 party analyst to conduct an economic analysis of regional tourism
12 projects.

13 (2) In addition to any other appropriation, there is hereby
14 appropriated, out of any moneys in the general fund, not otherwise
15 appropriated, to the governor - lieutenant governor - state planning and
16 budgeting, for the fiscal year beginning July 1, 2014, the sum of \$50,000,
17 or so much thereof as may be necessary, to be allocated to the office of
18 state planning and budgeting for additional analytical work related to
19 regional tourism projects.

20 (3) In addition to any other appropriation, there is hereby
21 appropriated, out of any moneys in the general fund, not otherwise
22 appropriated, to the department of revenue, for the fiscal year beginning
23 July 1, 2014, the sum of \$43,260, or so much thereof as may be necessary,
24 for CITA annual maintenance and support related to the implementation
25 of this act.

26 **SECTION 6. Applicability.** This act applies to projects approved
27 on or after the effective date of this act. In no event shall this act be

1 applicable to the three projects and the three local governments that were
2 awarded state sales tax increment revenue by the commission prior to the
3 effective date of this act. Such projects shall not be considered new
4 regional tourism projects for purposes of this act, regardless of any future
5 action considered or undertaken by the commission relating to the project.

6 **SECTION 7. Safety clause.** The general assembly hereby finds,
7 determines, and declares that this act is necessary for the immediate
8 preservation of the public peace, health, and safety.