

**STATE and LOCAL
FISCAL IMPACT**

Drafting Number: LLS 15-0020
Prime Sponsor(s): Sen. Jones
 Rep. Foote

Date: February 17, 2015
Bill Status: Senate Transportation
Fiscal Analyst: Erin Reynolds (303-866-4146)

BILL TOPIC: HIGH-PERFORMANCE TRANSPORTATION ENTERPRISE ACCOUNTABILITY

Fiscal Impact Summary*	FY 2014-15 Current Year	FY 2015-16	FY 2016-17
State Revenue			
State Expenditures	<u>\$50,000</u>	<u>at least \$5,000</u>	<u>at least \$5,000</u>
Cash Funds	50,000	at least 5,000	at least 5,000
FTE Position Change			
Appropriation Required: None.			

* This summary shows changes from current law under the bill for each fiscal year.

Summary of Legislation

The bill requires the High-Performance Transportation Enterprise (HPTE) in the Colorado Department of Transportation (CDOT) to increase public notice of and participation in any public-private partnership (P3) involving the HPTE in the following ways:

- The HPTE must, in coordination with affected local governments, hold public town hall meetings throughout the P3 contracting process; specifically, at the project visioning stage, the request for proposal (RFP) preparation stage, and the initial RFP draft review stage.
- The HPTE must provide full and timely notice to state legislators, county and municipal governments, and the general public, and consider the feedback it receives.
- After entering into a P3, the HPTE must provide the terms of the agreement to the transportation committees of the General Assembly and post them on the CDOT website.
- The HPTE must also provide public notice of any change in the status of a high-occupancy vehicle (HOV) lane.
- When considering a project related to HOV lanes, high-occupancy toll (HOT) lanes, or managed lanes, the HPTE must evaluate the suitability of express bus service or bus rapid transit service in the project corridor and may consider funding bus service from user fee revenues.

In addition, the bill adds the executive director of the CDOT as an ex officio nonvoting member to the HPTE, and requires all new members (currently four Governor appointments and three Transportation Commission members) to be confirmed by the Senate. Members are limited to two four-year terms.

Finally, the bill allows the State Auditor to audit the HPTE.

Background

The HPTE was created under Senate Bill 09-108, the Funding Advancements for Surface Transportation and Economic Recovery Act of 2009 (FASTER), and signed into law on March 2, 2009. It operates as a government-owned business within the CDOT, working with the CDOT to pursue financing for state transportation projects that include P3s, operating concession agreements, user fee-based project financing, availability payments, and design-build contracting.

A version of HB 15-172 originally passed through the 2014 General Assembly, Senate Bill 14-197, but was vetoed by the Governor. In conjunction with the veto, the Governor issued Executive Order D 2014-010, which directed to the HPTE to adopt additional transparency procedures in future P3 agreements related to surface transportation projects with private parties, including:

- holding a minimum of three town hall meetings for affected communities prior to issuing a Request for Proposal;
- considering transit alternatives when analyzing projects that include any type of managed lane, in coordination with the state Transportation Commission;
- posting P3 agreement terms in plain English on the HPTE website after entering into a P3 agreement;
- providing public notice of any change in managed lane status as it may relate to a P3 project; and
- furnishing the General Assembly with reports and presentations as requested, with reasonable safeguards protecting proprietary information and the negotiating process.

To date, the CDOT has entered into one P3 agreement for the US 36 Express Lane Project.

State Expenditures

The bill is expected to increase expenditures from the Statewide Transportation Enterprise Special Revenue Fund, which is continuously appropriated to the HPTE, in two ways.

Financial analyst – HPTE. The HPTE will be required to modify its contract with its contract financial analyst to include the scope of work outlined in the bill. Based on previous contract modifications, this one-time cost is estimated at \$50,000 in FY 2014-15.

Public meetings. The cost to hold public meetings is estimated to be at least \$5,000 total for the three required meetings for each P3 agreement. Meeting costs include venue, advertising, and security. The HPTE may experience an increase in workload to accomplish the meetings, but the result will likely be a minimal increase and can be accomplished within existing resources.

Assumptions. Because of the bill's effective date, it is assumed that up-front costs for the financial analyst will occur in FY 2014-15. Based on the one P3 contract the HPTE has entered into since 2009, and the two P3 agreements possible in the next three years, this fiscal note assumes that public meetings will take place in FY 2015-16 and FY 2016-17. Costs will only be incurred if a P3 agreement is negotiated.

Local Government Impact

Because of the bill's requirement that the HPTE hold town hall meetings during the visioning stage, the request for proposal (RFP) preparation stage, and the initial RFP draft review stage, interested local governments will have minimal costs associated with activities involved in coordinating these town hall meetings.

Effective Date

The bill takes effect upon signature of the Governor, or upon becoming law without his signature. The bill applies to all P3 agreements entered into on or after the bill is signed into law.

State and Local Government Contacts

Local Affairs
Special Districts

State Auditor
Cities and Counties

Transportation
Regional Transportation District