

Transportation Legislation Review Committee

2007 Report to Legislative Council

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Transportation Legislation Review Committee

Committee Charge

Pursuant to Section 43-2-145, C.R.S., the Transportation Legislation Review Committee (TLRC) is authorized to give guidance and direction to:

- the Colorado Department of Transportation (CDOT) in the development of the state transportation system and to provide legislative oversight of such development;
- the Colorado Department of Revenue (DOR) in the licensing of drivers and registration and titling of motor vehicles; and
- any state agency or political subdivision of the state that regulates motor vehicles or traffic, including penalties imposed for violating traffic statutes and rules.

Further, the committee must meet at least once each year to review all transportation, traffic, and motor vehicle legislation, make recommendations for additional legislation as it deems necessary, including recommendations on the financing of the state transportation system. State law authorizes the committee to review any phase of CDOT, public highway authority, or regional transportation authority operations, and allows the committee to require CDOT to prepare and adopt five-, ten-, and fifteen-year state transportation system plans.

Committee Activities

The TLRC held four meetings and toured the I-70 mountain corridor during the 2007 interim. The committee received presentations from DOR, the Colorado State Patrol, the Regional Transportation District (RTD), the Denver Regional Council of Governments (DRCOG), and the Roaring Fork Transportation Authority. The Office of the Governor presented information on energy policy, and representatives of the Governor's Transportation Finance and Implementation Panel briefed the committee on the panel's work. Additionally, the TLRC reviewed the state's taxicab and motor carrier industries and considered railroad crossing safety issues.

Traffic safety and regulation. The committee heard testimony from the Colorado State Patrol relating to the problem of traffic-related crash injuries and fatalities on Colorado roadways. The patrol testified that increasing fines for these traffic violations will save lives and reduce injuries on the state's highways. Prior to recommending an increase in traffic fines, the patrol examined traffic fine levels for eight common hazardous moving violations in selected Colorado cities of medium size. A comparison of fine levels in these cities revealed average fine levels of more than double the state's average traffic fine levels for the same infractions. As a result of the patrol's testimony, the TLRC recommends the introduction of Bill F during the 2008 legislative session.

Concerns regarding the safety of workers in highway construction zones garnered the committee's support for a second bill addressing traffic safety. Bill E would mandate the designation of construction zones, increase fines for traffic infractions within the zones, and authorize the use photo radar within the zones.

High occupancy toll lane enforcement. A high occupancy toll (HOT) lane is a dedicated multi-passenger vehicle lane that allows single-occupant vehicle drivers to use the lane if the driver pays a toll. The only HOT lanes that currently exist in Colorado are the HOT lanes on I-25 from downtown Denver north to Highway 36. The lanes are operated by the Colorado Tolling Enterprise,

a division of CDOT. Current Colorado law provides that HOT lane toll evasion cases be considered by the courts in the municipality or county where the violation occurred. Since photo enforcement of toll violations on the I-25 HOT lanes occurs within Adams County these cases are considered by the Adams County court system.

A representative of CDOT testified that the opening of the I-25 HOT lanes has generated an unanticipated backlog of toll evasion cases in the Adams County court system. The department recommended to the TLRC the adoption of an administrative settlement process for all toll evasion cases under the jurisdiction of the Colorado Tolling Enterprise. The recommended process is similar to that currently used by public highway authorities in Colorado. Under the process, toll evasion cases are considered by a hearing officer, rather than in county or municipal courts. The hearing officer may be an administrative law judge employed by the state, or an independent contractor. As a result of CDOT's testimony, the TLRC recommends Bill A.

Heavy-duty diesel emissions testing. The State of Colorado regulates diesel smoke emissions through its diesel inspection and maintenance program. Current Colorado law requires that heavy-duty diesel vehicles (over 14,000 pounds gross vehicle weight rating) must have certification of emissions control for diesel smoke opacity compliance when the vehicle reaches its fourth model year. The Colorado Motor Carriers Association testified that advances in diesel engine technology have made heavy-duty diesel engines dramatically cleaner in recent decades. The representative noted that 2007 model year heavy-duty trucks are engineered to produce 1/60th of the soot emissions of model year 1988 heavy-duty trucks. According to the association, emissions testing of the newer heavy-duty diesels is no longer productive. As a result of the association's testimony, the committee recommends Bill G.

Outdoor advertising along Colorado highways. Current Colorado law prohibits the erection of certain business identification and informational signs known as tourist-oriented directional signs (TODS) along rural four-lane divided highways in the state. A CDOT representative noted that businesses located near these rural highways, and motorists traveling the highways would benefit from the advertising and information that the signs provide. Thus, CDOT proposed to the TLRC that Colorado law be amended to permit the erection of the signs along rural freeways and expressways. The TLRC adopted this CDOT recommendation as Bill C.

The Colorado Outdoor Advertising Act currently allows signs along Colorado highways that do not meet the requirements of the act to continue to be maintained by the sign's owner in the same location at which they were originally built if the signs were erected prior to January 1, 1971. A representative of CDOT testified that elimination of the reference to January 1, 1971, would allow *all* nonconforming signs to be maintained in their current location if the sign's owners have valid CDOT permits. The department representative noted that the removal of signs is costly to businesses that rely on the signs for advertising, as well as to CDOT, which must pay the owner the value of the sign if it is removed. The bill would allow the department to avoid removing signs that they must remove under current law. The TLRC adopted this CDOT recommendation as Bill D.

Colorado Transportation Commission membership. Current Colorado law requires the governor, in appointing members of the Colorado Transportation Commission, to consider appointing one or more individuals with expertise in aviation. The TLRC heard testimony that it is the role of the Colorado Aeronautical Board to provide expertise regarding aviation matters to the commission. Recognizing that the statutory requirement is no longer necessary, the TLRC recommends Bill B, which repeals the requirement.

Railroad crossing safety. The Public Utilities Commission provided information to the committee on railroad crossing safety issues. Primarily, the commission discussed the Highway Crossing Protection Fund, which provides monies for railroad crossing signals. The commission noted that the fund, created in 1965, has not received General Fund appropriations since 1992. The commission proposed legislation to credit insurance premium tax proceeds to the protection fund. The TLRC did not adopt the proposed legislation as an interim bill.

Transportation finance and planning. The committee heard a presentation from the Governor's Transportation Finance and Implementation Panel. Similar to other states, Colorado is seeking new revenue sources for transportation finance. To address the issue, the panel has conducted a transportation forum of public and private participants, and has hosted regional meetings across the state to assess local, regional, and state transportation needs. The panel is evaluating user fees, such as motor fuel taxes, registration fees, and tolling; and general taxes, such as income taxes, severance taxes, and sales taxes as potential funding solutions.

Ports of entry. The TLRC heard testimony regarding the state's ports of entry and the potential transfer of the Ports of Entry Division to the Colorado State Patrol. The Colorado State Patrol in the Department of Public Safety, in conjunction with the DOR, provided historical information on the functions and roles of the Ports of Entry Division, which has been housed in the DOR since the 1980s. The committee discussed the evolving role of the ports to include both enforcement and safety inspection functions. The potential move of the ports to the State Patrol was considered as a means of streamlining port operations and eliminating any duplication of services among state agencies.

I-70 mountain corridor tour. Committee members participated in a two-day tour of the I-70 mountain corridor including:

- tours of the Eisenhower and Hanging Lake tunnels;
- a meeting with the I-70 Coalition, which represents public and private entities interested in the redevelopment of mountainous portions of I-70;
- a visit to areas of Garfield County where roads and highways have been heavily impacted by energy development activities; and
- discussion of the state's newly enacted truck "chain-up" laws, and CDOT rock fall mitigation techniques.

Committee Recommendations

As a result of committee discussion and deliberation, the committee recommends seven bills for consideration in the 2008 legislative session.

Bill A — Administrative Toll Enforcement Process for High Occupancy Toll Lanes. Bill A makes available to the Colorado Tolling Enterprise (CTE) an administrative settlement process for toll enforcement that is currently used by public highway authorities in Colorado. Under the administrative settlement process, toll evasion cases may be considered by a hearing officer, rather than in county or municipal courts. Decisions of the hearing officer may be appealed to the county court in the county in which the violation occurred. Bill A also prohibits the assessment of points against driver licenses for CTE toll violations.

Bill B — Repeal the Requirement to Consider Aviation Experience in Transportation Commission Appointments. Bill B repeals the requirement that the governor consider appointing persons to the Colorado Transportation Commission with knowledge or experience in aviation.

Bill C — Tourist-Oriented Directional Signs Along Rural Highways. Bill C authorizes the Colorado Department of Transportation to issue permits and adopt rules for the erection, administration, and maintenance of tourist-oriented directional signs on rural freeways and expressways.

Bill D — Elimination of the Provisions of the "Outdoor Advertising Act" Relating to Dates Prior to Which Nonconforming Advertising Devices Must have Been Erected. Current Colorado law allows signs along Colorado highways that do not conform with the Colorado Outdoor Advertising Act to continue to be maintained by their owners in the same location at which they were erected, if the signs were erected prior to January 1, 1971. Bill D changes the definition of a nonconforming sign in Colorado law to eliminate the link to the date January 1, 1971, thus increasing the flexibility of the Colorado Department of Transportation regarding the removal of nonconforming signs. The bill will allow all nonconforming signs, not just those nonconforming signs erected prior to 1971, to be maintained in their current location if the signs have a valid Colorado Department of Transportation permit.

Bill E — Prevention of Dangerous Conditions on Roadways. Bill E requires the Colorado Department of Transportation and local governments to designate a roadway as a maintenance, repair, or construction zone when such activities are occurring on the roadway, or up to four hours before the activities occur. The bill doubles fines for certain traffic infractions that occur within the zones. The bill would also authorize the Colorado State Patrol and local governments to use photo radar to detect speeding violations within the zones as long as maintenance, repair, or construction work is occurring within the zone. The bill requires the Colorado Department of Transportation to reimburse the Colorado State Patrol for the cost of using photo radar.

Further, Bill E requires motorists who are approaching or passing construction vehicles that are moving less than 20 miles per hour to yield the right-of-way to these vehicles and exhibit due care and caution. Finally, the bill requires a driver to move over when approached by an emergency tow vehicle with emergency lights flashing.

Bill F — Fines Imposed for Violations Involving Motor Vehicles. Bill F increases fines imposed for certain traffic violations. The bill:

- raises the minimum fine for a class 2 traffic misdemeanor from \$10 to \$150;
- increases the minimum fine for a class 1 traffic misdemeanor from \$100 to \$300;
- raises the fine for 47 specific traffic infractions;
- reduces from 100 percent to 50 percent the portion of seat belt violation fines that are retained by local jurisdictions for violations occurring on state and federal highways if a peace officer employed by the local jurisdiction issues the citation. The remaining amount of the fine revenue is credited to the Highway Users Tax Fund (HUTF);
- doubles the minimum fine for driving under the influence (DUI), driving while ability impaired (DWAI), underage drinking and driving, and habitual user driving;

- changes the percentage of the fine for DUI, DWAI, and underage drinking and driving offenses that is transmitted to the HUTF from 50 percent to 75 percent if the violation occurred on a state or federal highway; and
- doubles the minimum fine for vehicular eluding of a police officer. Vehicular eluding is a class 5 felony. Vehicular eluding that results in bodily injury is a class 4 felony. Vehicular eluding that results in death is a class 3 felony. Bill F doubles the fine levels for these offenses to \$2,000, \$4,000, and \$6,000, respectively.

Bill G — Emissions Testing for a Heavy-Duty Diesel Vehicle from Model Year 2007 or Newer. Bill G eliminates the requirement for emissions testing of newer heavy-duty diesels, exempting model year 2007 or newer heavy-duty diesel vehicles from the testing program. The bill also repeals the current four-year exemption for heavy-duty diesel vehicles, effective December 31, 2011.