



Legislative Council Staff

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Final Fiscal Note

Drafting Number: LLS 21-0605 **Date:** September 9, 2021
Prime Sponsors: Sen. Garcia; Zenzinger **Bill Status:** Signed into Law
Rep. Esgar; Gray **Fiscal Analyst:** Will Clark | 303-866-4720
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Bill Topic: **CREATE FRONT RANGE PASSENGER RAIL DISTRICT**

- Summary of Fiscal Impact:**
- State Revenue
 - State Expenditure
 - State Transfer
 - TABOR Refund
 - Local Government
 - Statutory Public Entity

This bill creates the Front Range Passenger Rail District to implement an interconnected passenger rail system along the Interstate 25 corridor. The bill creates a one-time state transfer in FY 2022-23. On an ongoing basis, it may increase state revenue, and will increase expenditures for the state, local governments, and statutory public entities.

Appropriation Summary: No appropriation is required.

Fiscal Note Status: This revised fiscal note reflects the enacted bill.

Table 1
State Fiscal Impacts Under SB 21-238

		Budget Year FY 2021-22	Out Year FY 2022-23
Revenue		-	-
Expenditures		-	-
Transfers	Cash Funds	at least (\$16,000)	-
TABOR Refund		-	-

Summary of Legislation

The bill creates the Front Range Passenger Rail District, which will extend from Wyoming to New Mexico, including:

- the cities and counties of Denver and Broomfield;
- all areas within Adams, Arapahoe, Boulder, Douglas, El Paso, Huerfano, Jefferson, Larimer, Las Animas, Pueblo, and Weld counties that are located within the territory of a metropolitan planning organization;
- all areas within Huerfano, Las Animas and Pueblo counties that are outside of a metropolitan planning organization but inside a county precinct located within five miles of the Interstate 25 right-of-way; and,
- all areas within Larimer and Weld counties that are outside of a metropolitan planning organization, but inside a county precinct north of the city of Fort Collins and within five miles of the Interstate 25 right-of-way.

District powers. The district is granted authority to plan, design, develop, finance, construct, operate, and maintain a new interconnected passenger rail system. This authority will include the power to exercise taxing authority, levy a sales and use tax of up to 0.8%, collect fares and fees, and issue bonds; exercise eminent domain; create station improvement districts near existing and proposed passenger rail stations; enter into public-private partnerships; provide retail and commercial goods and services at passenger rail stations; and employ its own personnel or contract with other entities for operation and maintenance of the system.

District governance. The new district will be governed by a board of directors with appointees from transportation planning organizations that have jurisdiction in the new district, as well as by the Governor and the Department of Transportation (CDOT). The board must be fully appointed by April 1, 2022, and convene for its first meeting no later than May 15, 2022. The district must work collaboratively with stakeholders identified in the bill, including the Regional Transportation District (RTD) and Amtrak to ensure interconnectivity with their passenger rail systems. By January 31, 2024, the new district must begin publishing annual reports, and present results to the General Assembly.

District taxing proceeds. Upon approval by registered voters within the new district, a sales and use tax may be levied to fund development, financing, construction, operation or maintenance of the new system. The Department of Revenue will collect, administer and enforce any new tax, make monthly distributions from tax collections to the new district, and transmit the rest to the Front Range Passenger Rail District Sales and Use Tax Fund, which will be created by the bill and overseen by the Department of Treasury. No action by the district to create a multiple-fiscal year debt or other financial obligation can take effect unless it is submitted to a vote and approved by a majority of the registered electors of the district. The state auditor must conduct a financial audit of jurisdictions that approve new tax levies once every two years, and the district must pay the state auditor for the costs of each audit.

Repeal of Southwest Chief and Front Range Passenger Rail Commission. The bill repeals the Southwest Chief and Front Range Passenger Rail Commission on May 15, 2022. The State Treasurer is directed to transfer any unencumbered funds remaining in the Southwest Chief Fund to the Front Range Passenger Rail District on July 1, 2022.

Background

Southwest Chief and Front Range Passenger Rail Commission. The Southwest Chief Commission was originally created through House Bill 14-1161 to coordinate and oversee efforts by state and local governments—in cooperation with Kansas, New Mexico, Amtrak, and the BNSF Railway—to ensure completion of track repairs and upgrades required to continue Southwest Chief Rail service in Colorado. Pursuant to Senate Bill 17-153, it issued a Legislative Proposal Regarding the Development of a Front Range Passenger Rail System. The commission is also tasked with extending service to Pueblo and, potentially, Walsenburg, and facilitating the development of a Front Range Passenger Rail system along the I-25 corridor. Online at: <https://www.codot.gov/about/southwest-chief-commission-front-range-passenger-rail>

Transportation Planning Regions and Metropolitan Planning Organizations. There are ten Transportation Planning Regions and five Metropolitan Planning Organizations in Colorado. These planning regions identify transportation priorities within their region, which are incorporated into the Statewide Transportation Plan. One member of each planning region serves on the Statewide Transportation Advisory Committee.

State Revenue

The bill may increase state revenue to the Office of the State Auditor in the Legislative Department from the Front Range Passenger Rail District. This revenue is subject to TABOR.

State Transfers

Effective July 1, 2022, the bill repeals the Southwest Chief Fund. On that date, the new district must instruct the State Treasurer on transferring the remaining balance of this fund to the district. As of writing, it is estimated that there will be at least \$16,000 transferred at that time.

State Expenditures

Starting in FY 2021-22, the bill increases workload and potential costs for multiple state agencies as described in more detail below.

Department of Transportation. Starting in FY 2021-22, costs in CDOT may increase to participate on the board and collaborate in the new district's operations.

Public Utilities Commission. The Public Utilities Commission (PUC) has authority over rail crossings, and will be involved with plans and specifications of planned rail lines for the new rail district to ensure that their design and construction conform to safety standards. The PUC will require 1.0 FTE for a full-time professional engineer to provide related instruction, guidance and assistance, and to ensure that all necessary applications are filed, noticed and reviewed. Because the timing of project planning for the new district is indeterminate, it is assumed that the PUC will request funding for the new position in future years through the annual budget process when needed.

Department of Revenue and Personnel and Administration. Conditional upon voter approval of sales tax collected on behalf of the new transportation district, costs will increase for the departments to update tax forms. Appropriations to address these expenditures will be addressed through the annual budget process.

Department of Local Affairs. The Division of Property Taxation reviews and approves all forms and notices sent by assessors to property owners. The division will adjust training materials, conduct additional training, and respond to inquiries as a result of this legislation within existing appropriations.

Legislative Department. The Office of the State Auditor will have an increase in workload to conduct financial audits of districts that approve new tax levies every two years, which will be paid for by the districts, as necessary.

TABOR refunds. The bill may increase the amount of state revenue required to be refunded to taxpayers as discussed in the State Revenue section above. TABOR refunds are paid from the General Fund. This estimate is based on the June 2021 LCS revenue forecast, which incorporates the revenue impacts of bills passed during the 2021 session. A forecast of state revenue subject to TABOR is not available beyond FY 2022-23.

Federal ARPA funds. This bill may increase state revenue, which may impact the state's flexibility in spending federal American Rescue Plan Act (ARPA) funds. For more information, see the LCS memo, titled "Legislative Changes and Flexibility in Use of American Rescue Plan Funds," available online at: <https://leg.colorado.gov/node/2211881>.

Local Government

Starting in FY 2021-22, expenditures may increase for local governments within the new transportation district.

Elections for tax increases. Any increase in taxes or special assessments on real property within the new transportation district must be submitted for a vote to the registered electors of the district. County clerks and recorders will assist the new transportation district in conducting elections within each county; however, costs will be paid by the district.

Station and route location siting. Costs and workload may increase for local governments that coordinate with the new transportation district for siting locations of stations and routes within their boundaries.

Statutory Public Entity

The bill terminates the Southwest Chief and Front Range Passenger Rail Commission, creates the Front Range Passenger Rail District, and increases workload and potential costs for the RTD.

Southwest Chief and Front Range Passenger Rail Commission. Effective May 15, 2022, the bill repeals and terminates the commission, and transfers its contractual rights and obligations to the new transportation district. The new district will also take responsibility for pursuing the commission's pending applications for federal grants.

Front Range Passenger Rail District. As described in the Summary of Legislation section, the district will begin meeting no later than May 15, 2022, to operate as an independent political subdivision of the state to research, develop, construct, operate, and maintain an interconnected passenger rail system along the Front Range. The district will have initial expenditures to hold public meetings, hire staff, and create an office. It will have the authority to bond and to levy taxes upon voter approval to construct new rail. The state auditor must conduct a financial audit of jurisdictions that approve new tax levies once every two years, and the district must pay the state auditor for the costs of each audit.

Regional Transportation District. Starting in FY 2021-22, this bill will increase workload for the RTD to coordinate with the new transportation district. To the extent that the RTD modifies its infrastructure and services to connect with the passenger rail system, costs will increase; however, the bill authorizes RTD and the new district to share capital costs for shared infrastructure, which may offset these costs.

Effective Date

The bill was signed into law by the Governor and took effect on June 30, 2021, except that Section 2, which repeals the Southwest Chief and Front Range Passenger Rail Commission, takes effect May 15, 2022.

State and Local Government Contacts

Counties	Economic Development	Governor
Information Technology	Judicial	Law
Local Affairs	Municipalities	Personnel
Regional Transportation District	Regulatory Agencies	Revenue
Secretary of State	Transportation	Treasury