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Revised Fiscal Note

(replaces fiscal note dated March 6, 2024)

Drafting Number: LLS 24-0247 Date: April 24, 2024
Prime Sponsors: Rep. Mabrey; Mauro Bill Status: Senate Transportation & Energy
Sen. Cutter; Exum Fiscal Analyst: Colin Gaiser | 303-866-2677 colin.gaiser@coleg.gov

Bill Topic: RAILROAD SAFETY REQUIREMENTS

Summary of Fiscal Impact: [X] State Revenue [] State Transfer [X] Local Government
[X] State Expenditure [] TABOR Refund [] Statutory Public Entity

The bill establishes new safety requirements on railroads operating in the state and creates the Front Range Passenger Rail District Maintenance and Safety Fund. It increases state and local government expenditures on an ongoing basis.

Appropriation Summary: For FY 2024-25, the bill requires an appropriation of \$91,284 to the Department of Regulatory Agencies.

Fiscal Note Status: This revised fiscal note reflects the reengrossed bill. The bill was recommended by the Transportation Legislation Review Committee.

Table 1
State Fiscal Impacts Under HB 24-1030

Table with 5 columns: Category, Budget Year FY 2024-25, Out Year FY 2025-26, Out Year FY 2026-27. Rows include Revenue, Expenditures (General Fund, Centrally Appropriated, Total Expenditures, Total FTE), Transfers, and Other Budget Impacts (General Fund Reserve).

Summary of Legislation

The bill establishes safety requirements on railroads operating trains in the state, as discussed below.

Railroad safety measures. The bill specifies that, with certain exceptions for class II and III railroads:

- railroads are prohibited from operating trains greater than 8,500 feet in length;
- on or before July 1, 2026, railroads are required to have an operational and properly maintained wayside detector system, including a hot bearings detector and dragging equipment detector installed at least every 10 miles, with certain terrain-based exceptions;
- on or before January 1, 2025, and each year thereafter, railroads must submit a report to the Public Utilities Commission (PUC) on installed wayside detector systems, hot bearings detectors, and dragging equipment detectors;
- railroads must stop a train after receiving a message from a wayside detector system. If an inspection indicates the train is safe for movement, the train must travel no more than 10 miles per hour if the train is carrying a hazardous material or dangerous goods, and no more than 30 miles per hour if the train is not carrying a hazardous material or dangerous goods;
- trains, freight cars, passenger cars, and railroad passenger engines may not obstruct a public crossing for more than 10 minutes, unless they are continuously moving or circumstances beyond the railroad's control prevent them from moving. They must also minimize obstruction of emergency vehicles at highway-rail crossings;
- any crew member of a train may report to the crew member's designated union representative a safety violation, injury, or death that occurred during the operation of a train. Upon receiving notice of a violation, the representative may enter a railroad's place of operation to investigate the report;
- each railroad must conduct an oil or hazardous substance containment exercise each year and at least one full-scale exercise every five years, in coordination with local emergency management organizations and fire chiefs. The PUC must develop rules concerning training content, safety drills, and railroad incident response requirements;
- the PUC may impose a fine for a railroad's denying a union representative access to a railroad's place of operation ranging from \$10,000 to \$25,000 for each day of a continuing violation, and a fine of up to \$100,000 for repeated and/or intentional violations related to union activities; and
- the PUC must develop guidelines for determining, imposing, and appealing fines.

Front Range Passenger Rail District Maintenance and Safety Fund. The bill creates the Front Range Passenger Rail District Maintenance and Safety Fund, which will receive fines imposed by the PUC for violations of this bill's safety requirements. The money is continuously appropriated to the state treasurer for the purpose of safety planning and development during the research, development, and construction of a passenger rail system; maintaining a passenger rail system; and completing capital development projects to improve the safety of a passenger rail system.

Fire department training. The bill requires that by July 1, 2025, and at least once every three years thereafter, railroads offer training to each fire department with jurisdiction along railroad tracks. The training must address hazardous materials and emergency responder strategies for railroad incidents involving hazardous materials.

Hazardous materials. The bill requires railroads that transport hazardous materials to maintain adequate insurance and submit to the PUC a certificate of insurance or similar documentation on or before January 1, 2025, and each year thereafter. By November 1, 2024, the PUC must promulgate rules establishing minimum insurance coverage requirements for railroads transporting hazardous materials. At least once a year, the PUC must also hold a public hearing concerning the implementation of these rules. Railroads that violate these rules are subject to fines of at least \$1,000, but not exceeding \$5,000, for each day of noncompliance.

Background

Railroads are largely regulated by the federal government and do not pay into the Fixed Utility Fund which funds PUC operations. For more information about the PUC's limited involvement in railroad regulation, visit: <https://puc.colorado.gov/rail>.

State Revenue

The bill may increase fine revenue to the newly created Front Range Passenger Rail District Maintenance and Safety Fund. The amount of fine revenue collected will depend on future enforcement actions and cannot not been estimated. Fine revenue is subject to TABOR.

State Expenditures

The bill increases state expenditures in the PUC in the Department of Regulatory Agencies by about \$107,000 in FY 2024-25 and \$174,000 in FY 2025-26, paid from the General Fund. Expenditures are shown in Table 2 and detailed below.

Table 2
Expenditures Under HB 24-1030

	FY 2024-25	FY 2025-26	FY 2026-27
Department of Regulatory Agencies			
Personal Services	\$77,048	\$143,777	\$57,613
Operating Expenses	\$896	\$1,664	\$640
Capital Outlay Costs	\$13,340	-	-
Centrally Appropriated Costs ¹	\$15,274	\$28,430	\$11,152
Total Cost	\$106,558	\$173,871	\$69,405
Total FTE	0.7 FTE	1.3 FTE	0.5 FTE

¹ Centrally appropriated costs are not included in the bill's appropriation.

Department of Regulatory Agencies. The PUC requires 1.3 FTE professional engineering staff to implement the bill (prorated to 0.7 FTE in the FY 2024-25) , and 0.5 FTE beginning in FY 2026-27 after the wayside detector system requirement takes effect. The engineers will review wayside detector reports; impose fines against railroads, officers, agents, or employees for violating the bill's requirements; determine proper levels of insurance coverage; review certificates of insurance showing compliance; conduct stakeholding and develop rules and requirements for railroad safety exercises and other required safety training content; and conduct compliance audits. Expenditures assume a January 1, 2025, start date and include standard operating and capital outlay costs.

Centrally appropriated costs. Pursuant to a Joint Budget Committee policy, certain costs associated with this bill are addressed through the annual budget process and centrally appropriated in the Long Bill or supplemental appropriations bills, rather than in this bill. These costs, which include employee insurance and supplemental employee retirement payments, are shown in Table 2.

Other Budget Impact

General Fund reserve. Under current law, an amount equal to 15 percent of General Fund appropriations must be set aside in the General Fund statutory reserve. Based on this fiscal note, the bill is expected to increase the amount of General Fund held in reserve by the amounts shown in Table 1, decreasing the amount of General Fund available for other purposes.

Local Government

The bill will increase workload for local fire departments and emergency management organizations that participate in the training required by the bill.

Effective Date

The bill takes effect July 1, 2024. The bill includes a severability clause.

State Appropriations

For FY 2024-25, the bill requires a General Fund appropriation of \$91,284 to the Department of Regulatory Agencies, and 0.7 FTE.

The bill currently includes an appropriation of \$11,651 to this agency, with 0.1 FTE.

State and Local Government Contacts

Regulatory Agencies

The revenue and expenditure impacts in this fiscal note represent changes from current law under the bill for each fiscal year. For additional information about fiscal notes, please visit: leg.colorado.gov/fiscalnotes.